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Dear Chairman Sessions, Ranking Member Slaughter, and Members of the House Rules Committee:

I regret that scheduling conflicts prevented me from accepting the invitation to testify before this Committee on July 16, 2014, regarding the effort of the Speaker of the House to win the approval of the House for the Speaker to initiate on its behalf a federal civil action for declaratory or injunctive relief against the supposed failure of the President faithfully to execute the laws of the United States under Article II. The particular focus of that lawsuit, as the Speaker has publicly described it, would be the President's directive that the Internal Revenue Service delay for a relatively brief transitional period the imposition of tax penalties against those employers with between 50 and 99 employees who do not provide insurance coverage for all those employees pursuant to the Patient Protection and Affordable Care Act (hereinafter, the ACA).

I have read and studied with care the prepared statements that Professors Elizabeth Price Foley and Jonathan Turley have submitted to the Committee. Professor Foley's cautious conclusion that "Congressional standing is possible under the right circumstances" hardly establishes that such standing for the U.S. House of Representatives exists here. Nor am I persuaded by Professor Turley's impassioned plea that our survival as "a nation of laws" requires the House of Representatives to authorize the filing of this unprecedented lawsuit by one House of Congress against the President for merely slowing the implementation of a massive federal overhaul of a large segment of the American economy in accord with a federal statute authorizing the Internal Revenue Service to grant such temporary regulatory relief. I cannot believe that a fully briefed federal court would succumb to such blandishments.

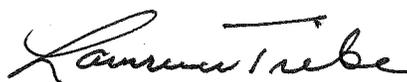
I am entirely persuaded, based on nearly a half-century of study and writing about our Constitution, that the proposed lawsuit would represent a wholly meritless attempt to invoke the jurisdiction of the federal judiciary at the behest of an institution that cannot plausibly allege, much less demonstrate, any distinctive injury to itself or its members and that therefore lacks standing under settled Article III principles to litigate this matter. I am persuaded as well that, quite apart from the palpable lack of standing on the part of the House, the contemplated lawsuit would seek to vindicate a claim that manifestly lacks any legal merit. Finally, I am convinced that the lawsuit the Speaker asks this body to authorize would invoke the jurisdiction of the federal courts to entertain an obviously non-justiciable political question with respect to which the political branches are more than capable of defending their respective prerogatives without the interference of the judicial branch.

Because both Walter Dellinger and Simon Lazarus have ably marshalled the relevant judicial and scholarly documentation for these conclusions, I will not belabor the obvious with footnotes and citations.

This is not a difficult question. The Speaker seeks authorization, as illustrated by his sample complaint about the administration's reasoned and entirely reasonable delays in implementing the employer mandate, for litigation that simply does not belong in our federal courts.

Whatever might be motivating this misguided and potentially costly effort, I would urge the House not to facilitate it and thereby distort the carefully calibrated system of checks and balances that has stood our Republic in good stead for over two centuries.

Yours truly,

A handwritten signature in cursive script, appearing to read "Laurence H. Tribe". The signature is written in dark ink and is positioned to the right of the typed name.

Laurence H. Tribe

\*For identification purposes only