

Quick Thoughts on the Enforce the Law Act - 031614

Not much time today, or any day for that matter, so here are some quick thoughts on “Enforce the Law Act”, H.R. 4138, click [HERE](#), which was sponsored by Congressman Trey Gowdy (R., S.C.) and passed in the Congressional House on 031214.

First, the effort, which included co-sponsorship by Congressmen Goodlatte, Issa, Forbes, Sessions, Rigell,, and Labrador, as well as many others, should be congratulated. It followed two Committee of the Judiciary hearings on 120313 (click [HERE](#)) and 022614 (click [HERE](#)) on “The President’s Constitutional Duty to Faithfully Execute the Laws” and markup on 030514, click [HERE](#).

Second, although congratulations are in order it is my opinion that the bill will not see daylight in the Senate. I have to assume the bill was an effort by the Republicans to follow up on the two hearings with action to put pressure on the Democrats and bring the issue to the attention of the Public. [The formal reason given was that the bill, should it pass both chambers of Congress and be signed by Obama, would enable either the House or the Senate to take the President to a 3-Judge panel in the D. C. District Court without delay and any appeal would then immediately go to the front of the line for a SCOTUS Hearing.]

Third, since the “Enforce the Law Act” will most likely die in the Senate I think the more realistic method of taking President Obama to task is to use the method that Elizabeth Price Foley, J.D., Florida International University College of law, put forth in here testimony at the 022614 House Judiciary Hearing, click [HERE](#).

What Dr. Foley prescribed was the use of a Subpoena. She provided the case law from SCOTUS hearings that established that a failure to respond to a Subpoena would provide “standing” for the House to take Obama to Court. The PDF of her testimony, click [HERE](#), presents how it would be done and why it is a sufficient method. [The drawback to the procedure is that it could, and likely would, be a drawn-out procedure involving court reluctance for a trial and counter measures by the executive Branch to delay.]

But the bottom line is that it would provide a certainty for the House to take the Executive Branch to court and eventually something would be heard and thus a precedent established.

[Note: There does seem to be some disagreement on whether or not a President can be subpoenaed to testify before a House Committee, click [HERE](#) and [HERE](#). Given that Congress did successfully subpoena President Nixon it seems reasonable the same could be done in regards to President Obama.

The other available Choice is the House to call for Impeachment. That does not seem likely for a host of silly reasons.