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4 RESOLUTION AUTHORIZING ISSUANCE OF A SUBPOENA TO ACTING
5 ATTORNEY GENERAL MATTHEW G. WHITAKER TO SECURE HIS APPEARANCE
6 AND TESTIMONY AT THE HEARING OF THE COMMITTEE REGARDING
7 OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE; AND H.R. 948,
8 THE "NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2019" OR
9 "NOPEC"

10 Thursday, February 7, 2019

11 House of Representatives

12 Committee on the Judiciary

13 Washington, D.C.

14 The committee met, pursuant to call, at 10:00 a.m., in
15 Room 2141, Rayburn Office Building, Hon. Jerrold Nadler
16 [chairman of the committee] presiding.

17 Present: Representatives Nadler, Lofgren, Jackson Lee,
18 Cohen, Johnson, Deutch, Bass, Jeffries, Cicilline, Swalwell,
19 Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia,
20 Neguse, McBath, Stanton, Dean, Mucarsel-Powell, Escobar,

21 Collins, Chabot, Gohmert, Jordan, Ratcliffe, Gaetz, Johnson,
22 Biggs, McClintock, Lesko, Reschenthaler, Cline, and
23 Armstrong.

24 Staff present: Slade Bond, Chief Counsel of
25 Subcommittee on Antitrust, Commercial and Administrative Law;
26 Rachel Calanni, Clerk; Perry Apelbaum, Staff Director; Susan
27 Jensen, Parliamentarian; Aaron Hiller, Chief Oversight
28 Counsel; Arya Hariharan, Oversight Counsel; Matthew Morgan,
29 Counsel; Elizabeth McElvein, Professional Staff Member; David
30 Greengrass, Counsel; Julian Gerson, Staff Assistant; Rosalind
31 Jackson, Professional Staff Member; Brendan Belair, Chief of
32 Staff; Robert Parmiter, Deputy Chief of Staff; Jon Ferro,
33 Parliamentarian; Carlton Davis, Oversight Counsel; Daniel
34 Flores, Chief Counsel, Subcommittee on Antitrust, Commercial
35 and Administrative Law.

36

37 Chairman Nadler. The Judiciary Committee will please
38 come to order, a quorum being present. Without objection,
39 the chair is authorized to declare a recess at any time.

40 Pursuant to Committee Rule 2 and House Rule 11 Clause 2,
41 the chair may postpone further proceedings today on the
42 question of approving any measure or matter, or adopting an
43 amendment for which a recorded vote for the ayes and nays are
44 ordered.

45 Pursuant to notice, I now call up the chair's resolution
46 authorizing the issuance of a subpoena to Acting Attorney
47 General Matthew G. Whitaker to secure his appearance and
48 testimony at the hearing of the Committee regarding oversight
49 of the U.S. Department of Justice.

50 I move that the Committee adopt the resolution. The
51 clerk will report the resolution.

52 Ms. Calanni. Resolution offered by Chairman Jerrold
53 Nadler authorizing issuance of subpoena to Acting Attorney
54 General Matthew G. Whitaker. Resolved with -- on the
55 adoption.

56 Chairman Nadler. Without objection -- without
57 objection, the resolution is considered as read and open for
58 amendment at any time.

59 [The resolution of Chairman Nadler follows:]

60

61 Chairman Nadler. I will begin by recognizing myself for
62 an opening statement.

63 This resolution is important, although I hope not to
64 have to use the subpoena authorized by it. It authorizes the
65 issuance of a subpoena to Acting Attorney General Matthew
66 Whitaker to compel both his appearance and his cooperation at
67 tomorrow's Department of Justice oversight hearing.

68 The resolution does not cause the subpoena to be issued.
69 I hope and expect that the subpoena will not be necessary.
70 But, unfortunately, a series of troubling events over the
71 past few months suggest that we should be prepared.

72 On November 30th of last year, shortly after his
73 appointment as acting attorney general, Mr. Whitaker, on a
74 phone call with Oversight Committee Chairman Elijah Cummings
75 and me, committed to appearing before this Committee for a
76 January oversight hearing on the Department of Justice.

77 In the weeks that followed, however, department
78 personnel tried to convince us that no such promise had been
79 made, that the hearing was unnecessary, and that at the very
80 least we should excuse the department from an oversight
81 hearing until some undefined period after the Senate
82 confirmed Mr. Whitaker's replacement.

83 These delay tactics should be unacceptable to Democrats
84 and Republicans alike. They are certainly unacceptable to
85 me. We told Mr. Whitaker as much over the course of the next

86 few weeks as we worked to secure a commitment for his
87 appearance this Friday -- that is to say, tomorrow, February
88 8th. Not quite the January hearing he originally promised,
89 but a reasonable accommodation.

90 Nevertheless, as late as last week we received reports
91 that some in the department were counseling Mr. Whitaker that
92 he does not need to show up on Friday. Again -- that is
93 tomorrow -- again, such a development should be unacceptable
94 to Democrats and Republicans alike.

95 There is an additional concern. For the first two years
96 of the Trump administration, witnesses have often been
97 allowed a free pass on tough questions in front of
98 congressional committees.

99 For example, when former Attorney General Sessions
100 testified before this committee in 2017, he repeatedly
101 refused to answer questions on the basis that he was, quote,
102 "not able to comment on the conversations or communications
103 the Department of Justice top people have with top people at
104 the White House," closed quote, because the president might
105 want to invoke executive privilege as to the content of those
106 conversations at some point in the future.

107 This excuse, of course, is ridiculous. The president
108 can choose to invoke executive privilege and instruct a
109 government witness not to answer a specific question. The
110 witness cannot speculate that the president might want to

111 assert executive privilege and refuse to answer a question on
112 that basis.

113 The witness can also invoke one of the very few other
114 privileges recognized by Congress, including the Fifth
115 Amendment right against self-incrimination. Otherwise, the
116 Committee can and should a direct answer -- the Committee can
117 and should expect a direct answer to any question.

118 To that end, on January 22nd, a few weeks ago, I
119 provided Mr. Whitaker with a list of questions we may ask him
120 involving communications he may have had with the White House
121 on various topics.

122 I gave him these questions well in advance because he
123 deserves adequate time to consult with the White House
124 counsel about executive privilege.

125 In that letter, I asked Mr. Whitaker to notify the
126 committee if the president chose to assert executive
127 privilege with respect to a specific question or questions
128 and of any privilege issues that he might choose to raise no
129 later than 48 hours prior to the hearing.

130 That deadline has come and gone, and we have not heard
131 from the acting attorney general. Therefore, I expect the
132 acting attorney general to answer all of these questions
133 without equivocation and to the best of his ability and
134 without asserting executive or other privilege.

135 In order to help the acting attorney general to meet

136 these expectations, I am asking the Committee to pass this
137 resolution, which will authorize me to issue a subpoena to
138 compel Mr. Whitaker's testimony tomorrow if he fails to meet
139 this obligation.

140 To be clear, this resolution merely authorizes a
141 subpoena. If Mr. Whitaker appears in the hearing room as
142 scheduled and if he provides direct answers to our questions,
143 then I have no intention of ever actually issuing the
144 subpoena.

145 If he does not -- if he does not show up, although I do
146 expect he will -- but if he refuses to answer questions that
147 he ought to answer, then we will have the tools we need to
148 ensure that we may adequately meet our own responsibilities.

149 My staff and I cannot have been more transparent about
150 our goals here. We explained the possibility of the subpoena
151 to Mr. Whitaker months ago. We provided him with the
152 questions in advance weeks ago.

153 We consulted with Ranking Member Collins and provided
154 him with this -- with a copy of the subpoena days ago, long
155 before the two-business-day deadline contemplated by our
156 Committee rules so that we can schedule this markup if
157 necessary.

158 In fact, we are only voting on this resolution because
159 the ranking member asked us for an up or down vote on the
160 matter, a courtesy we were not afforded in the last Congress

161 when Democrats were in the minority.

162 Congress has the constitutional responsibility to
163 conduct oversight of the executive branch and the key part of
164 that work is to hold government witnesses to a basic standard
165 of conduct applicable to Democrats and Republicans alike.

166 When we invite officials to testify before this
167 Committee, they have to appear. When we ask them questions,
168 they have to provide us with answers or provide us with a
169 valid and clearly articulated reason to withhold certain
170 information.

171 Without a threat -- without the threat of a subpoena, I
172 believe it may be difficult to hold Mr. Whitaker to this
173 standard. Accordingly, and in the -- and in the spirit of
174 caution, I urge my colleagues to support this resolution
175 authorizing but not -- the issuance of a subpoena but not
176 actually issuing the subpoena.

177 It is now my pleasure to recognize the ranking member of
178 the Judiciary Committee, the gentleman from Georgia, Mr.
179 Collins, for his opening statement.

180 Mr. Collins. Thank you, Mr. Chairman, and I thank you
181 agreeing to hold a vote on the subpoena and it is appreciated
182 and I think that is shown that we can work together and I
183 think because this is important and is in keeping with our
184 agreement from the Committee's organization on meeting.

185 I think the reason we are asking for this vote is very

186 specific. It is an issue of why we are doing it and how we
187 are doing it. It is unfortunate this first subpoena is to be
188 issued by this Committee constitutes a departure from the
189 norms that have governed subpoena usage here in Congress.

190 As I have said before, the subpoena is a powerful and
191 coercive tool and is a tool that should be used as a last
192 resort, especially when the use implicates the balance of
193 power that exists between Congress and the other executive
194 branches of office.

195 You asked the attorney general to come testify. He
196 agreed. Both parties engaged in back and forth negotiations
197 and scheduling. That is normal. In fact, your first
198 negotiations, as you just stated, happened before you became
199 chairman and before the new Congress was sworn in.

200 Both parties have worked on this. You and the acting
201 attorney general agreed upon tomorrow's testimony. That is
202 exactly how the process should work.

203 You should not be giving a subpoena today as we are
204 looking at it for hope that it will work as it is supposed
205 to. But we have taken this a step further.

206 As the D.C. Circuit stated in the *United States v.*
207 *American Telephone*, each branch should take cognizant -- be
208 cognizant of the implicit and constitutional mandate to seek
209 optimal accommodation through realistic evaluation of the
210 needs of the conflicting branches in the particular

211 situation.

212 That is not happening in this case. A subpoena should
213 only follow the breakdown of accommodation process and is the
214 last resort against persons seeking to frustrate the
215 legitimate oversight of this Committee. There has been no
216 breakdown here.

217 A subpoena should signal that all avenues to acquire the
218 information and testimony have been exhausted. Those avenues
219 have not been exhausted here. A subpoena should not be used
220 to supplement where the Committee is merely worried that a
221 witness might not testify or might not answer questions to
222 the extent of the Committee's liking.

223 If that was the standard for a subpoena, many on our
224 side, even in the majority, especially when Attorney General
225 Holder sat at that table and offered on the record the
226 executive privilege which he could not claim.

227 Let us be honest about this. You can't anticipate this
228 and that is exactly what we are doing and we understand this.
229 There is no indication at this time whatsoever the attorney
230 general will not show up and answer questions to the best of
231 his knowledge and confined to the law, similar to every
232 attorney general, Republican or Democrat, who has come before
233 him, even when they use privilege, which they don't have --
234 Mr. Holder.

235 It further concerns me that it was originally posed as a

236 general oversight hearing and appears to be actually intended
237 for the sole purpose of embarrassing a witness, asking him
238 these questions the Committee knows he will not be able to
239 answer.

240 These include questions that prior attorney generals
241 have refused to answer and this Committee, like other
242 committees of Congress, have respected the institutional
243 prerogative and privilege afforded to our nation's chief
244 executive.

245 The subpoena is nothing short of political theater. It
246 is being staged with the attorney -- acting attorney general
247 as some mythical protector of secrets. Nothing could be
248 further from the truth.

249 I cannot recall a single instance in which this
250 Committee authorized a subpoena for an attorney general for
251 the sole purpose of forcing him to invoke a privilege, risk
252 revealing a privilege, or conversations with the president.

253 As we have both said before, a subpoena is a powerful
254 and coercive tool and both believe it is a tool that should
255 be used as a last resort. We are nowhere near that place
256 today.

257 But, Mr. Chairman, I also have another interesting
258 question and I was listening to your opening statement. My
259 question is, is if we are doing this precipitatory for any --
260 for Mr. Whitaker on things that he has already agreed to come

261 and we don't know may come, are we going to just do this for
262 every witness?

263 Are we only going to do it for administration witnesses
264 or any other witness? Is the subpoena -- is this subpoena
265 about timing seeing how, by the way, today in the Senate our
266 brother and across the -- and sister across the other side
267 are going to probably bring the next attorney general out of
268 committee. If it is based on reports, as you said, reports
269 that you might hear, where are these reports and what are
270 these reports?

271 Again, I think the interesting issue here is for us --
272 January -- I think for both sides. For freshmen and for all
273 alike, I have been involved in a lot. January is a little
274 bit difficult around here on both sides. Trying to get
275 meetings scheduled and other things through a shutdown was
276 difficult. But having this hearing and having this time for
277 a subpoena in which we are anticipating what might happen --
278 if this is what we are headed down, I am not sure this is the
279 path for a subpoena.

280 I am glad we had this opportunity to talk about it.
281 This is exactly what we should be talking about. But until
282 it is there, until it is necessary, then we should have.

283 If he doesn't do what he says as he has stated, then we
284 can have this argument, not in precipitating because I am
285 concerned about the chilling effect on other witnesses who

286 will be willing to come testify voluntarily and when they see
287 this happen they will just hold out.

288 So at this point, Mr. Chairman, I would just say this is
289 not for prime time playing. We need to go back and think
290 about what we are doing here in the bigger picture of the
291 next -- of this Congress and beyond.

292 With that, I yield back.

293 Chairman Nadler. Thank you. One second. I want to
294 just clarify a point again.

295 We are not voting to issue a subpoena. The subpoena
296 will be issued only if he doesn't show up. As I said before,
297 I expect he will show up so that is not really the issue.

298 The subpoena will really only be issued if he, having
299 failed to -- if he refuses to answer questions on a
300 speculative basis of privilege.

301 We told him -- and we may do this for other witnesses
302 too because we do want witnesses to -- we want to carry on
303 the work of the Committee properly -- we told him a lot of
304 the -- the questions we wanted to ask him. He had plenty of
305 time. We told him in advance.

306 If the president wants to assert privilege, it is the
307 president's to assert, not -- not his. If the president
308 wants to assert privilege, fine. But we want to know that so
309 that we don't have to compel your answer if the president
310 asserted privilege.

311 But you can't, frankly, waste the time of the Committee
312 by speculating, as other witnesses have done -- as Attorney
313 General Sessions did -- that the president might assert
314 privilege. That is not a valid reason to not answer the
315 questions. That is the point for which we would use the
316 subpoena if necessary.

317 Now, we asked the attorney general -- the acting
318 attorney general -- to give us an answer to this a few weeks
319 after we sent him the letter to tell us whether they were
320 going to assert privilege. He has not done this.

321 So that is where we are at and that is why we are doing
322 this. That is why we are authorizing this in case he refuses
323 to answer legitimate questions without, in our judgment, a
324 valid reason for doing it.

325 Mr. Collins. Mr. Chairman?

326 Chairman Nadler. Yes, sir.

327 Mr. Collins. But in going back to that argument,
328 though, this is the very issue that Attorney General Holder
329 -- we keep mentioning Sessions so let us just go back and get
330 the others as we are doing this -- have issued this but also
331 you have issued it to the wrong place. This privilege does
332 not exist with the attorney general. This privilege exists
333 at the White House.

334 Chairman Nadler. That is exactly right.

335 Mr. Collins. But it is not the attorney general's job

336 to go do the White House. If you wanted to talk about the
337 White House, go to the White House.

338 Chairman Nadler. No. No. No. It is --

339 Mr. Jordan. Mr. Chairman?

340 Chairman Nadler. Let me just say this. The privilege
341 does exist at the White House.

342 Mr. Jordan. Mr. Chairman?

343 Chairman Nadler. Only at the White House and,
344 therefore, the attorney general or any witness cannot invoke
345 it. Only the president can assert it, and we have told him
346 in advance if you -- if the president wants to assert it,
347 make that judgment so that the work of the Committee can go
348 forward.

349 Mr. Jordan. Mr. Chairman?

350 Chairman Nadler. Who seeks recognition?

351 Mr. Jordan. Mr. Chairman?

352 Chairman Nadler. Mr. Jordan?

353 Mr. Jordan. I don't understand this. He -- you expect
354 him to come. He has agreed to come and, yet, we are going to
355 issue a subpoena.

356 Chairman Nadler. No, we are not going to issue a
357 subpoena.

358 Mr. Jordan. He has told you he is coming. He has told
359 you he is coming a long time ago. You have said now three
360 times you expect him to be here. And yet, you are -- we are

361 going through this -- I don't -- I mean, I fail to get what
362 we are doing.

363 Chairman Nadler. I will answer your question.

364 Mr. Cicilline. Mr. Chairman?

365 Chairman Nadler. I will answer your question. It is
366 only --

367 Mr. Jordan. And it is even -- it is -- you expect him
368 to come. He has agreed to come. He hasn't changed that in
369 any way, given you no indication that he is not coming
370 tomorrow.

371 Chairman Nadler. Right. But --

372 Mr. Jordan. He has been the acting attorney general
373 for, what, 75 days and he is going to be gone in a week and
374 yet -- yet we still have to issue a subpoena. I don't -- I
375 don't get what we are doing.

376 Chairman Nadler. Okay. To repeat one sentence and then
377 we will go in regular order.

378 Mr. Jordan. All right.

379 Chairman Nadler. The issue is if he refuses to answer
380 legitimate questions. That is why we want the subpoena.

381 Mr. Jordan. How do you know that until he comes
382 tomorrow and he said he is coming?

383 Chairman Nadler. We don't -- sir, I am speaking.

384 We don't know that. He hasn't told us what he will do.
385 We asked him. He refuses to say what --

386 Mr. Jordan. Mr. Chairman, that is actually not
387 accurate. He has told you what he is going to do. He said
388 he is going to be sitting at that table tomorrow morning at
389 10:00 o'clock.

390 Chairman Nadler. No. He hasn't told us about answering
391 questions.

392 Who seeks recognition?

393 Mr. Cicilline. Mr. Chairman?

394 Ms. Jackson Lee. I seek recognition.

395 Chairman Nadler. Ms. Jackson Lee?

396 For what purpose does the gentlelady seek recognition?

397 Ms. Jackson Lee. I move to strike the last word.

398 I thank the chairman.

399 Chairman Nadler. The gentlelady is recognized.

400 Ms. Jackson Lee. I thank the chairman.

401 Let me thank the chairman. Let me thank the ranking
402 member for his opening remarks on the courtesy that the
403 chairman has showed in keeping his word on having a
404 discussion and a presentation, if you will -- I would not
405 call this a hearing -- on the idea of a potential subpoena
406 being issued. And I think the clarity of this is to ensure
407 that my colleagues understand that it is not today that we
408 are issuing the subpoena.

409 But let me just give some groundwork and a foundation
410 for where we are today. From January 20th, 2017, to January

411 3rd, 2019, meaningful congressional oversight has been
412 nonexistent.

413 On one hand, we have had the individual Cabinet officers
414 come to Capitol Hill for my colleagues and they have refused
415 to answer pointed questions legitimately related to this
416 body's constitutional mandated obligation to conduct
417 oversight of its coequal branches of government, citing
418 claims of executive privilege. That has been done without
419 actually asserting the privilege, therefore, thwarting
420 attempts by Congress in ascertaining the truth.

421 This is not the way that the three equal branches of
422 government under Article 1, Article 2, and Article 3 work
423 and, therefore, it is important to avoid that in the coming
424 hearing.

425 Voters in November delivered a resounding message. One
426 of them is that we want oversight. By the way, they elected
427 over a hundred women, who as I have met many of them, are
428 astute lawyers, professionals who want the truth for the
429 American people.

430 So we are here today for two reasons -- voting to, in
431 essence, not to talk about issuing a subpoena but to be able
432 to be ready if it is necessary. We have a constitutional
433 obligation to conduct oversight and our main issue deals
434 around Russian interference in the 2016 election, why the
435 former FBI director, James Comey, was fired, what the

436 attorney general assessed when he did not recuse himself as
437 it relates to the Mueller investigation.

438 There are a number of issues -- the allegations at the
439 heart of this case, whether a hostile foreign party subverted
440 our democracy.

441 It is important that we are assured that this attorney
442 general comes prepared to answer legitimate questions. The
443 deadline for lodging any objections or otherwise notifying
444 the Congress a basis for invoking executive privilege was
445 yesterday.

446 We have not heard anything. This is a reasonable
447 response, not a vote today to issue a subpoena but to be able
448 to do so for the American people. Not for individual members
449 of Congress but for the American people.

450 Mr. Whitaker may very well show up, having been called
451 by the White House, and not completely answer our questions
452 or raise the issue of executive privilege on the basis of
453 being told to do so by counsel out of the White House or
454 anyone else.

455 I believe preemptively moving forward is an important
456 step that we should do. Put another way, authorization does
457 not mean issuance. I believe issuance or authorizing a
458 subpoena to Matt Whitaker is entirely appropriate and I am
459 supporting the authorization of such.

460 But I also want to say to our colleagues we are doing

461 exactly what you asked us to do is to bring this forward in a
462 transparent manner. We are relying on the Constitution but
463 we are relying on what is a collegian and a sense of
464 operational courtesy in this committee.

465 Let me just cite, as I submit two documents into the
466 record and ask unanimous consent, a quote from the chairman
467 of the Oversight Committee, Chairman Issa, after Mr. Obama
468 was elected. "We would like to have hundreds of hearings. I
469 want seven hearings a week for 40 weeks." That is the
470 chairman of the Oversight Committee, a Republican.

471 Listen to what happened with Mr. Burton, chairman of the
472 Oversight Committee, during the presidency of Mr. Clinton.
473 Burton issued 1,052 unilateral subpoenas during his five-year
474 chairmanship, according to a calculation by the Committee's
475 minority staff.

476 In 2015, Republicans changed the rules again, expanding
477 unilateral subpoena power to 14 Committee chairmen to help
478 them go after Barack Obama's administration.

479 [The information follows:]

480

481 Here we are, open and transparent, preparing to get the
482 facts on behalf of the American people. I want to thank the
483 chairman for his vision in handling this, but more
484 importantly, I want to thank my colleagues on the other side
485 of the aisle for accepting and recognizing how transparent
486 Democrats newly elected are, and I know they will appreciate
487 working with us on this matter.

488 Mr. Chairman, with that, I yield back my time.

489 Mr. Jordan. Mr. Chairman?

490 Mr. Chabot. Mr. Chairman? Mr. Chairman?

491 Chairman Nadler. The bill -- the resolution is now open
492 for amendment. Are there any amendments?

493 Mr. Chabot. Mr. Chairman?

494 Mr. Jordan. Mr. Chairman?

495 Chairman Nadler. The gentleman from Ohio.

496 Mr. Chabot. Mr. Chairman, I move to strike the last
497 word.

498 Chairman Nadler. The gentleman is recognized.

499 Mr. Chabot. Mr. Chairman, I have been on this committee
500 a long time and most of those years sitting on that side of
501 the aisle rather than this side of the aisle but that is the
502 way things sometimes go, and I am not aware of any precedent
503 on this committee where we have issued a subpoena -- I know
504 you are indicating, well, we are not actually issuing until
505 he doesn't speak but, in essence, it is issuing a subpoena --

506 when a person has already agreed to testify here and from
507 everything we know he is going to be here tomorrow.

508 Chairman Nadler. Would the gentleman yield for a list
509 of such subpoenas?

510 Mr. Chabot. I would be happy to yield. I would be
511 happy to yield.

512 Chairman Nadler. Thank you.

513 The Committee issued a series of subpoenas for voluntary
514 witnesses last Congress under Republican leadership. Under
515 Republican leadership, the committee issued five subpoenas
516 for voluntary witnesses. I can list them there.

517 Mr. Chabot. Okay. Well, we will go through that.
518 Reclaiming my time.

519 Chairman Nadler. And under Republican leadership the
520 Committee threatened to issue an additional seven subpoenas
521 for voluntary witnesses.

522 Mr. Chabot. Reclaiming my time.

523 The government is a very powerful thing. They can -- I
524 mean, we have an agreement with the government, essentially.
525 A lot of our rights we defer for a whole range of reasons.
526 The government -- all levels of government -- they can
527 literally require you to hand over your property in the form
528 of taxes.

529 They can tell you whether -- not the federal level but
530 other forms of government -- they can tell you how -- what

531 speed you have to operate a motor vehicle or whether you can
532 -- this is a motor vehicle that you have purchased yourself
533 with your own money -- they can tell you whether you can
534 operate it, how fast.

535 They can now, under the Affordable Care Act or Obamacare
536 or the Unaffordable Care Act, as a number of us have referred
537 to it over the years, they can tell you what your health care
538 -- what doctor, essentially.

539 They can tell you how much you have to pay your
540 employees. There is a whole range of powers that the
541 government has and they can actually require you to appear at
542 a time that may or may not be convenient to you at a place
543 that may or may not be convenient to you.

544 The subpoena power is one of the more powerful things
545 that the government has and, again, I think in this
546 particular case when you have an individual who has indicated
547 -- and there has not been any indication that he isn't going
548 to appear -- that you are going to subpoena that person, I
549 think it is an abuse of the powers that we have and this
550 Committee has. So I would ask that you reconsider this at
551 this time.

552 Mr. Collins. Would the gentleman yield to me?

553 Mr. Chabot. I would be happy to yield.

554 Mr. Collins. Just a clarification for the majority.

555 Also the ones they listed -- it was just given as an example

556 -- was also for depositions, not for hearings before the
557 Committee by the acting attorney general or any other
558 administration witness at that time. Those were for
559 depositions.

560 I yield back.

561 Mr. Jordan. Would the gentleman yield?

562 Mr. Chabot. I would be happy to yield to the gentleman
563 from Ohio.

564 Mr. Jordan. Two weeks ago in this room the chairman
565 said this: "A congressional subpoena is a powerful and
566 coercive tool. It should be used only when our attempts to
567 reach an accommodation with the witness have reached an
568 impasse."

569 Where the heck is the impasse? New definition of
570 impasse is the witness has agreed to come and that is an
571 impasse? I mean, this is ridiculous. The guy is coming in
572 less than 24 hours -- 23 hours and 25 minutes he is going to
573 be right there and we are going to get to ask him every
574 question we want. And as the chairman has said repeatedly,
575 we expect him to come and yet we are going to through this.

576 Mr. Cicilline. Would the gentleman yield? I am happy
577 to try to answer his question.

578 Mr. Jordan. It is not my time.

579 Mr. Cicilline. Oh.

580 Mr. Jordan. It is the gentleman from Cincinnati's time.

581 Chairman Nadler. Would the gentleman yield?

582 Mr. Chabot. Yeah, I would be happy to yield to the
583 gentleman from New York, Mr. Chairman.

584 Chairman Nadler. Thank you.

585 If, in fact, the attorney general -- as I said before,
586 the real issue is his answering our questions. If he does,
587 the subpoena will not be issued. If he uses a specious thing
588 like maybe the president wants to assert executive privilege
589 when he hasn't checked, although we gave him ample notice to
590 check, then we will have the discussion to use the subpoena.
591 That is the purpose of it -- to make sure we get answers to
592 our questions.

593 Mr. Cicilline. Mr. Chairman?

594 Mr. Chabot. Reclaiming my time.

595 So, in essence, I think you essentially have a Sword of
596 Damocles hanging over this guy's head. It is unnecessary.
597 It is unreasonable. Another power that I didn't mention that
598 used to occur a lot, we literally could draft people into the
599 military and, essentially, require them at cost of going to
600 prison to fight and perhaps die for our country.

601 So this is a committee that we always take serious those
602 powers and not overstepping those powers and I know the
603 chairman, because I have seen him in action before, those
604 things are generally very important to him.

605 I, for six years, was the chair and the gentleman who is

606 now the chair of this full committee was my ranking member
607 for six years in the Constitution Subcommittee. So we
608 investigated these issues. We had 13 hearings on the
609 reauthorization of the Voting Rights Act -- 46, I believe,
610 witnesses.

611 So we have worked together on those things before and I
612 just -- I hate to see the reputation that my colleague, my
613 gentleman -- my friend from New York has damaged
614 unnecessarily by moving ahead. I just think it is
615 unnecessary and I would ask him to reconsider.

616 And I yield back my time.

617 Mr. Cicilline. Mr. Chairman?

618 Chairman Nadler. Who seeks recognition?

619 Mr. Cicilline. Mr. Chairman, I --

620 Chairman Nadler. Who seeks recognition?

621 Mr. Cicilline. Mr. Cicilline here at the end, Mr.

622 Chairman.

623 Chairman Nadler. The gentleman from Rhode Island.

624 Mr. Cicilline. Thank you, Mr. Chairman. I move to
625 strike the last word.

626 Chairman Nadler. The gentleman is recognized.

627 Mr. Cicilline. I want to thank the chairman for his
628 very prudent action in proposing this resolution and make the
629 initial point to my friends on the other side of the aisle.

630 Our oversight responsibilities are not merely satisfied

631 by a witness physically appearing. It is by a witness
632 physically appearing and answering question posed by
633 Congress. That is the actual function.

634 And so what the chairman's resolution does is it ensures
635 that we do not have the experience that we have all had on
636 this committee before where witnesses come as they are asked
637 to do voluntarily and they take an oath, and then they avoid
638 answering questions.

639 They say the questions make them uncomfortable -- they
640 are hard -- maybe the president would invoke a privilege if
641 he were here and directing them.

642 And so to avoid a colossal waste of time, the chairman
643 of this Committee did something really extraordinary. He
644 wrote a letter to the witness and said, here are the
645 questions I am going to ask you.

646 Out of respect to the members of this Committee, if you
647 intend to invoke a privilege, make -- take whatever steps you
648 need. Have whatever conversations you need to have with the
649 executive branch so that you do not come before the Committee
650 and flounder around and claim to invoke a privilege that
651 might in fact never be invoked.

652 That is a prudent action by this -- the chairman of this
653 Committee, to respect the role of Congress to do oversight
654 and to be sure that witnesses understand that central to our
655 ability to do oversight is our ability to collect information

656 and it is not up to administration witnesses just to decline
657 to do it because it makes them uncomfortable. We had that
658 experience with the attorney general, Jeff Sessions, and many
659 other witnesses.

660 And so why did the chairman of the Committee think it
661 was prudent? Because the witness originally committed to
662 coming, then tried to back out of the obligation, because the
663 witness did not respond to the chairman's letter at all,
664 which makes you wonder has he in fact had these
665 conversations, and because we have a parade of administration
666 witnesses doing the exact same thing.

667 So this is a sensible responsible thing to do. The
668 chairman has done it in a way which is fully transparent. I
669 don't know of another witness who gets the questions ahead of
670 time. But out of the spirit of cooperation and an effort to
671 really show that we are trying to get at these important
672 facts, the chairman has done that.

673 And, look, we have oversight responsibility. We were
674 elected to do that. Many of us have sat on this committee in
675 incredible frustration that we were not able to get critical
676 questions answered and our Republican colleagues, as I have
677 said before, acted more like defense lawyers for Donald Trump
678 than independent members of the legislative branch with
679 oversight responsibility.

680 And so the purpose of this authorization is to be sure

681 that when that witness comes here the chairman has the
682 ability to compel him to answer questions that he is required
683 to answer by law.

684 We all ought to be interested in that. We all ought to
685 be interested in getting the facts and to doing our
686 oversight, and I just want to applaud not only the long and
687 extraordinary reputation of the chairman but also really
688 applaud him for thinking about ways to ensure that we can do
689 our jobs consistent with our constitutional responsibility to
690 do it in a transparent way, to do it in a way which ensures
691 that we get this information.

692 And I really applaud him for this and I would like to
693 yield to Mr. Swalwell, who has some additional --

694 Mr. Swalwell. I thank the gentleman, and I thank the
695 chairman for having the foresight to anticipate potential
696 issues.

697 Now, if yesterday had never happened, if the days
698 leading up to this hearing had never happened, I could
699 understand the ranking member and my colleagues' concern that
700 this may not be necessary.

701 But for the last two years, we have seen in front of
702 this Committee and I have seen in the Intelligence Committee
703 just effort after effort to either invent privileges that
704 don't even exist, refuse to testify, obstruct lawful
705 investigations.

706 And I think to save time and cut to the chase and make
707 sure that the witness knows that there is recourse for us to
708 get to the bottom of this, this is the appropriate thing for
709 this Committee to do.

710 So I will support this, I support the chairman, and I
711 yield back to the gentleman from Rhode Island.

712 Chairman Nadler. I thank the gentleman for --

713 Mr. Biggs. Mr. Chairman?

714 Chairman Nadler. I thank the gentleman for the
715 sentiments. Who seeks recognition?

716 Mr. Biggs?

717 Mr. Biggs. Thank you, Mr. Chairman. I have an
718 amendment at the desk.

719 Chairman Nadler. You have an amendment at the desk?

720 Mr. Biggs. Yeah.

721 Chairman Nadler. There is an amendment at the desk, Mr.

722 --

723 Mr. Biggs. I have an amendment arriving at the desk.

724 Chairman Nadler. Mr. Cicilline -- what?

725 Mr. Biggs. It is flying there right now as we speak.

726 Mr. Cicilline. Yeah.

727 Mr. Biggs. So, Mr. Chairman --

728 Mr. Cicilline. Mr. Chairman, I reserve a point of order
729 on this amendment.

730 Chairman Nadler. Your point of order is reserved.

731 The clerk will report the amendment.

732 Ms. Calanni. Amendment to resolution authorizing
733 issuance of a subpoena to Acting Attorney General Matthew G.
734 Whitaker, offered by Mr. Biggs of Arizona. Beginning on Page
735 1 after "Acting Attorney General Matthew G. Whitaker" and
736 before "To secure his appearance" insert the following: "and
737 Deputy Attorney General Rod Rosenstein."

738 Chairman Nadler. The author of the amendment is
739 recognized for five minutes to explain his amendment.

740 [The amendment of Mr. Biggs follows:]

741

742 Mr. Biggs. Thank you, Mr. Chairman.

743 I have heard a lot of interesting arguments this morning
744 that I find somewhat bizarre to me. The chairman, in his
745 opening statement, talked about the use of a subpoena as a
746 threat. My colleague from Rhode Island just was talking
747 about how prudent this was because the questions had been
748 provided previously.

749 Well, I am just curious to know, is this all the
750 questions Mr. Whitaker is going to be asked? The answer is
751 no, because each of us will get our chance and we will spend
752 literally hours asking questions.

753 So what the -- what the chairman is asking for is not
754 necessarily to be able to provide a subpoena if his questions
755 aren't answered in a manner that is satisfactory to him. He
756 is leaving it wide open carte blanche if he -- if he is not
757 satisfied with his answers to my questions. That becomes an
758 extremely broad grant of authority to this chairman.

759 And I find myself asking how -- are we going to begin
760 doing this for every witness? Because I think my colleague
761 from Rhode Island just mentioned and my colleague from
762 California -- both just mentioned how frustrating it has been
763 to have people come in here where you are getting answers
764 that don't satisfy you as to your questions.

765 If that is the case, then this is just a process that
766 doesn't make sense. It is absurd because we will always be

767 going to issue a subpoena ahead of time just in case someone
768 doesn't give us the answers we want to get, and that is what
769 -- that is important to understand that that is what this
770 resolution before you is today.

771 My point is when I read the questions you are asking
772 questions specifically dealing with the Mueller
773 investigation. That is what you want to get at. You want to
774 find out what has gone on in the White House with regard to
775 the Mueller investigation and you are asking the guy who has
776 been there for two months.

777 Why not bring in the guy and ask the guy that was over
778 it for 15 months? I have been trying to get that guy in. I
779 will just tell you, we couldn't get him in under the last
780 chairman. You get him in, I will cheer you on.

781 You ought to include Mr. Rosenstein in this if you
782 really want the answers to the questions that you have before
783 you here that are in the letter that you sent to Mr.
784 Whitaker.

785 That makes sense. That is what we ought to be doing.
786 That is why I have introduced my amendment.

787 With that, I will yield to the gentleman from Ohio, Mr.
788 Jordan.

789 Mr. Jordan. I thank the gentleman for yielding.

790 I support the gentleman's amendment. Look, this is --
791 this is simple. Rod Rosenstein -- this -- it has been in the

792 press. It is alleged that he was contemplating wearing a
793 wire -- talked to subordinates at the Justice Department
794 about wearing a wire to record the president of the United
795 States.

796 The New York Times also reported Rod Rosenstein was
797 looking at invoking the Twenty-Fifth Amendment. We heard
798 testimony from the chief counsel -- former chief counsel at
799 the FBI, Jim Baker. He believes that it was actually being
800 contemplated by the deputy attorney general.

801 Rod Rosenstein has threatened staffers, according to
802 media reports -- threatened House Intelligence Committee
803 staffers. And as we all know, Mr. Rosenstein tried to hide
804 information from us. Redacted from information the Judiciary
805 Committee received in the last Congress was the idea that
806 Peter Strzok -- the now-famous Peter Strzok -- was friends
807 with one of the FISA judges. That was redacted and --

808 Mr. Chabot. Would the -- would the gentleman yield?

809 Mr. Jordan. Sure.

810 Mr. Chabot. I just noticed that the gentleman -- there,
811 he is coming back on. I didn't know if it was personal.

812 Mr. Jordan. Say it again.

813 Mr. Chabot. You just disappeared here when you were
814 talking, Jim. I am not quite sure what happened here.

815 Mr. Jordan. Okay.

816 So, Mr. Chairman, I support the gentleman from Arizona's

817 amendment. I think it is exactly -- if we are going to do
818 this, let us add the guy who can answer the questions that we
819 all need answered -- more importantly, that the American
820 people want answers to.

821 Mr. Biggs. Reclaiming my time back. I yield to the
822 ranking member.

823 Mr. Collins. Thank you, and I also support this
824 amendment. Again, this goes back -- again, part of the issue
825 here is we understand what is going on here.

826 The problem is, is the deputy attorney general, who, as
827 the gentleman from Arizona has said, has come here and where
828 people were being frustrated on both sides again at the
829 answers we have not gotten.

830 So I think what we are looking at here is this is the
831 way it should work. He came and he didn't do what we want.
832 These are the answers we didn't get, and I think both sides
833 could actually agree on that.

834 You all got answers you all didn't get either. And so
835 this is the way it actually, you know, should work in the
836 process. If we are going to use a subpoena, let us use the
837 subpoena as it is.

838 The sad part about this is -- is we are also sort of
839 going back, and I think the chairman has talked about this on
840 many occasions already, that previous witnesses here have not
841 complied and not come -- they have come forth and they have

842 used issues that actually were herein used and should have
843 could have been explained.

844 And I just have to remind that when the former Attorney
845 General Lynch was here 74 times would not answer questions.
846 These are the kind of things that are frustrating.

847 But I do support the gentleman's amendment and, with
848 that, I yield back to the gentleman from Arizona.

849 Mr. Biggs. I am out of time.

850 Chairman Nadler. Thank you.

851 Does the gentleman from Rhode Island insist on his point
852 of order?

853 Mr. Cicilline. Yes, I do, Mr. Chairman.

854 Chairman Nadler. The gentleman will state the point of
855 order.

856 Mr. Cicilline. Thank you, Mr. Chairman.

857 I would argue that this amendment goes beyond the scope
858 of the resolution before us, which deals with a single
859 individual, Matthew Whitaker, responsible for oversight of
860 the Department of Justice and is therefore not germane.

861 As the acting attorney general, he is the one individual
862 at the Department of Justice who has the responsibility for
863 the actions of the entire department.

864 In addition, Mr. Whitaker is the only individual
865 currently charged with oversight of Special Counsel Mueller's
866 investigation and because of the manner in which he was

867 appointed and the issues which have come up with respect to
868 whether he should recuse himself from that matter, his -- he
869 has a unique perspective on many important issues before this
870 committee.

871 So the appointment of Mr. Whitaker, the reason for his
872 appointment, the conversations he had with the administration
873 relative to his supervision of this investigation is
874 critical.

875 With regard to the deputy attorney general, I would note
876 in passing that both former Chairman Goodlatte and the
877 ranking member at the time had the opportunity to question
878 Mr. Rosenstein on several occasions last Congress.

879 He appeared before the committee on several occasions.
880 He has been the subject of numerous document requests by the
881 Committee in the last Congress and that has in itself led to
882 a variety of subpoenas and responses.

883 So while I wouldn't rule out that we may have some
884 interest in bringing Mr. Rosenstein before the Committee
885 before, his addition to this resolution is not germane,
886 expands the scope of this for the individual charged with the
887 oversight of the Department of Justice, and therefore, I ask
888 that you rule it out of order.

889 Mr. Collins. Would the gentleman yield?

890 Mr. Biggs. Mr. Chairman?

891 Mr. Cicilline. I am sorry. I am sorry. I would like

892 to yield to Mr. Lieu from California.

893 Mr. Lieu. Thank you.

894 Let me first say I appreciate that Republicans on this
895 committee understand that we want witnesses to answer
896 questions, which is why they are including Rod Rosenstein in
897 this amendment, and that leads me to think that if both sides
898 are having problems because we don't like it when witnesses
899 don't answer questions, let us just do an amendment that
900 authorizes the chair to simply issue subpoenas whenever he
901 wants when witnesses don't answer questions.

902 So that would be my proposal. It would solve both
903 sides' problems. Let us just give this authority to the
904 chair instead of doing it on a one off basis, and that is my
905 request.

906 Mr. Biggs. Mr. Chairman?

907 Mr. Cicilline. Thank you. Reclaiming my time. I don't
908 think anyone else -- I would yield to the chairman if he has
909 --

910 Chairman Nadler. No. No.

911 Mr. Cicilline. Oh. Then I yield back.

912 Mr. Biggs. Mr. Chairman?

913 Chairman Nadler. Thank you. Does the -- does the
914 gentleman from Arizona, the sponsor of the amendment, wish to
915 be heard on the point of order?

916 Mr. Biggs. Yes, I do. Thank you, Mr. Chairman.

917 Chairman Nadler. The gentleman is recognized.

918 Mr. Biggs. Thank you.

919 What I find -- do I get a full five minutes?

920 Chairman Nadler. You get five minutes.

921 Mr. Biggs. Okay. Just want to -- Mr. Chairman, thank
922 you. Here is what I see -- two points I want to make on the
923 -- on the issue of germaneness.

924 Number one is while the initial resolution mentioned Mr.
925 Whitaker by name, what we have heard here today, which gives
926 us the scope of what this resolution is to be, what the
927 chairman has said, what the gentleman from California, the
928 gentleman from Rhode Island have all talked about questions
929 and the answers to those questions.

930 That is where they begin to move. That allows, I think,
931 an opening of the door because we are now talking about the
932 scope of the subpoena, not just the named individual.

933 So when we talk about the scope of this subpoena and we
934 are now talking about what the hearing is going to be about
935 tomorrow, and that is going to be Mr. Whitaker and his
936 answers to questions.

937 I think that broadens this thing way, way, way beyond
938 the idea that it is just going to an individual. So when we
939 start talking about the scope of this, we get back to the
940 questions that the chairman so, and I think appropriately,
941 provided to Mr. Whitaker, and what those do is they broaden

942 what we are going to be and I think that gets to the
943 germaneness and that broadens it, and I will tell you why.

944 Because under the rules of any parliamentary body, this
945 group determines what is germane. This group determines what
946 is germane. We are going to vote on germaneness in just a
947 second and that means you have to consider what our chairman
948 has said his point is -- why is he doing this.

949 He is doing -- he wants to have the authority to issue a
950 subpoena in case, what, not because he is not coming. We
951 know he is coming. It is because he is afraid he is not
952 going to give him the answers to questions that he wants.

953 And if that is it, now you have moved to the scope of
954 the hearing, in my opinion, and that means that we go right
955 into bringing people that we want to hear, and I think you
956 can broaden it and that is the point.

957 Mr. Gohmert. Will the gentleman yield? Right here.

958 Mr. Biggs. Yes, I will yield.

959 Mr. Gohmert. I would like to also add in response to
960 the point of order that it is extremely germane. You are
961 basically pointing out you want to get into the integrity of
962 the Department of Justice, the FBI, and Special Counsel
963 Robert Mueller's investigation and you have a guy who was
964 deputy attorney general who, as U.S. attorney, was overseeing
965 the Russian investigation that really was, from all
966 appearances, criminal in the nature of Russia paying bribes

967 and they had a man on the inside.

968 Robert Mueller was -- was head of the FBI during that,
969 and all of a sudden he ends up -- Mueller does --
970 investigating a Russia connection with the president and
971 being supervised by the U.S. attorney that was over the
972 Russia investigation that they sat on.

973 So this -- if we are going to talk about the integrity
974 of the Department of Justice, FBI, Special Counsel Robert
975 Mueller's investigation, we sure by golly ought to get into
976 those very issues. It is as germane as it gets.

977 So let us be fair. It is germane just simply on the
978 words in the letter the chairman offered.

979 I yield back.

980 Chairman Nadler. Would the gentleman yield? Would the
981 gentleman yield?

982 Mr. Biggs. Who is asking? Yes, I will yield.

983 Chairman Nadler. There is this -- the chair is prepared
984 to rule on the point of order.

985 Mr. Biggs. I am reclaiming my time and I am yielding to
986 the gentleman from Ohio.

987 Mr. Jordan. I would just point out this. You want to
988 issue a subpoena for a guy who has already agreed to come
989 because you want to ask him questions about his 70 days of
990 overseeing the special counsel.

991 We want to bring the guy in who was overseeing the

992 special counsel for a year and a half, who we know has said
993 he contemplated -- told subordinates he was thinking of
994 wearing a wire to record the commander in chief and was
995 talking about invoking the Twenty-Fifth Amendment.

996 All we are saying is add his name. If you are going to
997 go through with this, add Mr. Rosenstein's name so we can ask
998 him some important questions that the American people need to
999 know. I support the gentleman's amendment.

1000 Chairman Nadler. The chair is prepared to rule --
1001 Mr. Biggs. I would like to reclaim my time and just
1002 finish with one last statement if I can, Mr. Chairman.

1003 Thank you.

1004 So the point here -- the reason that I have proposed
1005 adding Mr. Rosenstein is not because we are trying to
1006 suppress Mr. Whitaker from coming and testifying. It is
1007 because we want to add Rod Rosenstein to get at the heart of
1008 the matter of the questions that the chairman has said is the
1009 heart of the hearing tomorrow.

1010 Well, then let us -- let us subpoena in the guy who
1011 could probably answer those questions more thoroughly than
1012 anybody else.

1013 And with that, Mr. Chairman, I urge that you rule
1014 against my friend's motion on germaneness -- point of order
1015 on germaneness.

1016 Chairman Nadler. The chair is now prepared to rule on

1017 the point of order.

1018 The amendment deals with a different subject matter and
1019 purpose and would broaden the measure beyond the current
1020 scope. The resolution we are voting on today is quite
1021 explicit in that it authorizes a subpoena with respect to a
1022 specific individual -- the acting attorney general, Matthew
1023 Whitaker.

1024 Adding an additional individual, even one who serves at
1025 the Justice Department, would clearly change the purpose of
1026 the hearing and take us beyond that scope. Allow me to add
1027 that there may well be -- there may well be an opportunity
1028 for our committee to pose further questions to Mr. Rosenstein
1029 during this Congress. But that can and should be dealt with
1030 separately from the resolution we are considering today.

1031 Therefore, pursuant to House Rule 16 Clause 7 and
1032 related precedent -- precedents, the chair rules the
1033 amendment to be not germane to the measure.

1034 Mr. Biggs. Mr. Chairman -- I will hold off. I will
1035 hold off.

1036 I would like to appeal the ruling of the chair.

1037 Chairman Nadler. You appeal --

1038 Mr. Biggs. Yes.

1039 Mr. Jordan. Mr. Chairman?

1040 Mr. Cicilline. Mr. Chairman?

1041 Mr. Chabot. Mr. Chairman? Mr. Chairman?

1042 Chairman Nadler. The appeal -- the member has stated an
1043 appeal of the ruling of the chair.

1044 Mr. Cicilline. I move to table the ruling.

1045 Chairman Nadler. A motion to table the appeal of the
1046 ruling of the chair is heard. The question is on the motion
1047 to table. Motion to table is not debatable. The question is
1048 on the motion to table. All those in favor shall signify by
1049 saying -- that is in favor of the motion to table shall
1050 signify by saying aye.

1051 [Chorus of ayes.]

1052 Chairman Nadler. Opposed?

1053 [Chorus of noes.]

1054 Chairman Nadler. In the opinion of the chair, the ayes
1055 have it.

1056 Mr. Collins. Roll call.

1057 Chairman Nadler. The ayes have it and the motion to
1058 table is agreed to.

1059 Mr. Collins. Roll call.

1060 Chairman Nadler. The gentleman asked for a roll call
1061 vote. As your name is called, all those in favor of the
1062 motion to table shall signify by saying aye. Opposed, no.

1063 The clerk will call the roll.

1064 Ms. Calanni. Mr. Nadler?

1065 Chairman Nadler. Aye.

1066 Ms. Calanni. Mr. Nadler votes aye.

1067 Ms. Lofgren?
1068 Ms. Lofgren. Aye.
1069 Ms. Calanni. Ms. Lofgren votes aye.
1070 Ms. Jackson Lee?
1071 Ms. Jackson Lee. Aye.
1072 Ms. Calanni. Ms. Jackson Lee votes aye.
1073 Mr. Cohen?
1074 Mr. Cohen. Aye.
1075 Ms. Calanni. Mr. Cohen votes aye.
1076 Mr. Johnson?
1077 Mr. Johnson of Georgia. Aye.
1078 Ms. Calanni. Mr. Johnson votes aye.
1079 Ms. Bass? Mr. Deutch? My apologies.
1080 Mr. Deutch. Aye.
1081 Ms. Calanni. Mr. Deutch votes aye.
1082 Ms. Bass?
1083 Ms. Bass. Aye.
1084 Ms. Calanni. Ms. Bass votes aye.
1085 Mr. Richmond?
1086 Mr. Jeffries?
1087 Mr. Jeffries. Aye.
1088 Ms. Calanni. Mr. Jeffries votes aye.
1089 Mr. Cicilline?
1090 Mr. Cicilline. Aye.
1091 Ms. Calanni. Mr. Cicilline votes aye.

1092 Mr. Swalwell?

1093 Mr. Swalwell. Aye.

1094 Ms. Calanni. Mr. Swalwell votes aye.

1095 Mr. Lieu?

1096 Mr. Lieu. Aye.

1097 Ms. Calanni. Mr. Lieu votes aye.

1098 Mr. Raskin?

1099 Mr. Raskin. Aye.

1100 Ms. Calanni. Mr. Raskin votes aye.

1101 Ms. Jayapal?

1102 Ms. Demings?

1103 Mr. Correa?

1104 Mr. Correa. Aye.

1105 Ms. Calanni. Mr. Correa votes aye.

1106 Ms. Scanlon?

1107 Ms. Scanlon. Aye.

1108 Ms. Calanni. Ms. Scanlon votes aye.

1109 Ms. Garcia?

1110 Ms. Garcia. Aye.

1111 Ms. Calanni. Ms. Garcia votes aye.

1112 Mr. Neguse?

1113 Mr. Neguse. Aye.

1114 Ms. Calanni. Mr. Neguse votes aye.

1115 Ms. McBath?

1116 Ms. McBath. Aye.

1117 Ms. Calanni. Ms. McBath votes aye.
1118 Mr. Stanton?
1119 Mr. Stanton. Aye.
1120 Ms. Calanni. Mr. Stanton votes aye.
1121 Ms. Dean?
1122 Ms. Dean. Aye.
1123 Ms. Calanni. Ms. Dean votes aye.
1124 Ms. Mucarsel-Powell?
1125 Ms. Mucarsel-Powell. Aye.
1126 Ms. Calanni. Ms. Mucarsel-Powell votes aye.
1127 Ms. Escobar?
1128 Ms. Escobar. Aye.
1129 Ms. Calanni. Ms. Escobar votes aye.
1130 Mr. Collins?
1131 Mr. Collins. No.
1132 Ms. Calanni. Mr. Collins votes no.
1133 Mr. Sensenbrenner?
1134 Mr. Chabot?
1135 Mr. Chabot. No.
1136 Ms. Calanni. Mr. Chabot votes no.
1137 Mr. Gohmert?
1138 Mr. Gohmert. No.
1139 Ms. Calanni. Mr. Gohmert votes no.
1140 Mr. Jordan?
1141 Mr. Buck?

1142 Mr. Ratcliffe?
1143 Mr. Ratcliffe. No.
1144 Ms. Calanni. Mr. Ratcliffe votes no.
1145 Ms. Roby?
1146 Mr. Gaetz?
1147 Mr. Gaetz. No.
1148 Ms. Calanni. Mr. Gaetz votes no.
1149 Mr. Johnson?
1150 Mr. Johnson of Louisiana. No.
1151 Ms. Calanni. Mr. Johnson votes no.
1152 Mr. Biggs?
1153 Mr. Biggs. No.
1154 Ms. Calanni. Mr. Biggs votes no.
1155 Mr. McClintock?
1156 Mr. McClintock. No.
1157 Ms. Calanni. Mr. McClintock votes no.
1158 Ms. Lesko?
1159 Ms. Lesko. No.
1160 Ms. Calanni. Ms. Lesko votes no.
1161 Mr. Reschenthaler?
1162 Mr. Reschenthaler. No.
1163 Ms. Calanni. Mr. Reschenthaler votes no.
1164 Mr. Cline?
1165 Mr. Cline. No.
1166 Ms. Calanni. Mr. Cline votes no.

1167 Mr. Armstrong?

1168 Mr. Armstrong. No.

1169 Ms. Calanni. Mr. Armstrong votes no.

1170 Mr. Steube?

1171 Mr. Jordan?

1172 Mr. Jordan. No.

1173 Ms. Calanni. Mr. Jordan votes no.

1174 Chairman Nadler. Are there any members of the Committee

1175 who haven't voted who wish to vote?

1176 The clerk will report.

1177 Ms. Calanni. Mr. Chairman, 21 members voted yes, 13

1178 members voted no.

1179 Chairman Nadler. The majority having voted in favor,

1180 the motion to table is agreed to. Are there any other

1181 amendments?

1182 If not, a reporting quorum being present, the question

1183 is on the motion to adopt the resolution. I think a recorded

1184 vote is appropriate in this instance.

1185 Therefore, the clerk will call the roll on the

1186 resolution.

1187 Ms. Calanni. Mr. Nadler?

1188 Chairman Nadler. Aye.

1189 Ms. Calanni. Mr. Nadler votes aye.

1190 Ms. Lofgren?

1191 Ms. Lofgren. Aye.

1192 Ms. Calanni. Ms. Lofgren votes aye.
1193 Ms. Jackson Lee?
1194 Ms. Jackson Lee. Aye.
1195 Ms. Calanni. Ms. Jackson Lee votes aye.
1196 Mr. Cohen?
1197 Mr. Cohen. Aye.
1198 Ms. Calanni. Mr. Cohen votes aye.
1199 Mr. Johnson?
1200 Mr. Johnson of Georgia. Aye.
1201 Ms. Calanni. Mr. Johnson votes aye.
1202 Mr. Deutch?
1203 Ms. Bass?
1204 Ms. Bass. Aye. Aye.
1205 Ms. Calanni. Ms. Bass votes aye.
1206 [Laughter.]
1207 Ms. Calanni. Mr. Richmond?
1208 Mr. Jeffries?
1209 Mr. Jeffries. Aye.
1210 Ms. Calanni. Mr. Jeffries votes aye.
1211 Mr. Cicilline?
1212 Mr. Cicilline. Aye.
1213 Ms. Calanni. Mr. Cicilline votes aye.
1214 Mr. Swalwell?
1215 Mr. Swalwell. Aye.
1216 Ms. Calanni. Mr. Swalwell votes aye.

1217 Mr. Lieu?
1218 Mr. Lieu. Aye.
1219 Ms. Calanni. Mr. Lieu votes aye.
1220 Mr. Raskin?
1221 Mr. Raskin. Aye.
1222 Ms. Calanni. Mr. Raskin votes aye.
1223 Ms. Jayapal?
1224 Ms. Jayapal. Aye.
1225 Ms. Calanni. Ms. Jayapal votes aye.
1226 Ms. Demings?
1227 Ms. Demings. Aye.
1228 Ms. Calanni. Ms. Demings votes aye.
1229 Mr. Correa?
1230 Mr. Correa. Aye.
1231 Ms. Calanni. Mr. Correa votes aye.
1232 Ms. Scanlon?
1233 Ms. Scanlon. Aye.
1234 Ms. Calanni. Ms. Scanlon votes aye.
1235 Ms. Garcia?
1236 Ms. Garcia. Aye.
1237 Ms. Calanni. Ms. Garcia votes aye.
1238 Mr. Neguse?
1239 Mr. Neguse. Aye.
1240 Ms. Calanni. Mr. Neguse votes aye.
1241 Ms. McBath?

1242 Ms. McBath. Aye.

1243 Ms. Calanni. Ms. McBath votes aye.

1244 Mr. Stanton?

1245 Mr. Stanton. Aye.

1246 Ms. Calanni. Mr. Stanton votes aye.

1247 Ms. Dean?

1248 Ms. Dean. Aye.

1249 Ms. Calanni. Ms. Dean votes aye.

1250 Ms. Mucarsel-Powell?

1251 Ms. Mucarsel-Powell. Aye.

1252 Ms. Calanni. Ms. Mucarsel-Powell votes aye.

1253 Ms. Escobar?

1254 Ms. Escobar. Aye.

1255 Ms. Calanni. Ms. Escobar votes aye.

1256 Mr. Collins?

1257 Mr. Collins. No.

1258 Ms. Calanni. Mr. Collins votes no.

1259 Mr. Sensenbrenner?

1260 Mr. Chabot?

1261 Mr. Chabot. No.

1262 Ms. Calanni. Mr. Chabot votes no.

1263 Mr. Gohmert?

1264 Mr. Gohmert. No.

1265 Ms. Calanni. Mr. Gohmert votes no.

1266 Mr. Jordan?

1267 Mr. Jordan. No.

1268 Ms. Calanni. Mr. Jordan votes no.

1269 Mr. Buck? Mr. Buck?

1270 Mr. Ratcliffe?

1271 Mr. Ratcliffe. No.

1272 Ms. Calanni. Mr. Ratcliffe votes no.

1273 Ms. Roby?

1274 Mr. Gaetz?

1275 Mr. Gaetz. No.

1276 Ms. Calanni. Mr. Gaetz votes no.

1277 Mr. Johnson?

1278 Mr. Johnson of Louisiana. No.

1279 Ms. Calanni. Mr. Johnson votes no.

1280 Mr. Biggs?

1281 Mr. Biggs. No.

1282 Ms. Calanni. Mr. Biggs votes no.

1283 Mr. McClintock?

1284 Mr. McClintock. No.

1285 Ms. Calanni. Mr. McClintock votes no.

1286 Ms. Lesko?

1287 Ms. Lesko. No.

1288 Ms. Calanni. Ms. Lesko votes no.

1289 Mr. Reschenthaler?

1290 Mr. Reschenthaler. No.

1291 Ms. Calanni. Mr. Reschenthaler votes no.

1292 Mr. Cline?

1293 Mr. Cline. No.

1294 Ms. Calanni. Mr. Cline votes no.

1295 Mr. Armstrong?

1296 Mr. Armstrong. No.

1297 Ms. Calanni. Mr. Armstrong votes no.

1298 Mr. Steube?

1299 Chairman Nadler. Are there any other members who
1300 haven't who wish to vote?

1301 If not, the clerk will report.

1302 Mr. Deutch. Aye.

1303 Ms. Calanni. Mr. Deutch votes aye.

1304 Chairman Nadler. Any other?

1305 The clerk will report.

1306 Ms. Calanni. Mr. Chairman, 23 members voted aye, 13
1307 members voted no.

1308 Chairman Nadler. The ayes have it. The ayes have it.

1309 Mr. Gohmert. Mr. Chairman?

1310 Chairman Nadler. For what purpose does the gentleman
1311 seek recognition?

1312 Mr. Gohmert. I rise to commend the chairman on the way
1313 in which he ruled on the germaneness issue. We know that to
1314 rule before giving this side a chance to respond on a
1315 germaneness objection would be a sign of partisan railroading
1316 and whoever it is that waited until after all arguments were

1317 made, typed up your answer, and had it instantaneously at the
1318 very moment we finished our argument in front of you so you
1319 could read it really needs to be commended how quickly --
1320 where so fast we couldn't even see it. They typed it, got it
1321 to you so you could read your ruling the moment we finished
1322 stating our positions. So I commend the chairman.

1323 Mr. Cicilline. Will the gentleman yield?

1324 Chairman Nadler. I thank -- I thank -- I thank the
1325 gentleman for his -- I thank the gentleman for his comments.

1326 Pursuant to notice, I now call up H.R. 948, the No Oil
1327 Producing and Cartels Act of 2019 for purposes of markup and
1328 move the Committee report the bill favorably to the House.
1329 The clerk will report the bill.

1330 Ms. Calanni. H.R. 948, to amend the Sherman Act to make
1331 oil-producing and exporting cartels illegal. The enacted --

1332 Chairman Nadler. Without objection, the bill is
1333 considered as read and open for amendment at any point.

1334 [The bill follows:]

1335

1336 Chairman Nadler. I will begin by recognizing myself for
1337 an opening statement.

1338 The Organization of Petroleum Exporting Countries, or
1339 OPEC, is an international cartel whose members deliberately
1340 collude to limit crude oil production as a means of fixing
1341 prices, unfairly driving up the price of crude oil to satisfy
1342 the greed of oil producers.

1343 Such behavior, if done by private companies, would be
1344 illegal per se under U.S. anti-trust law. Because of a
1345 series of court decisions, however, our nation's anti-trust
1346 enforcers are unable to protect American consumers and
1347 businesses from the direct harm caused by OPEC's blatantly
1348 anti-competitive conduct.

1349 H.R. 948, the No Oil Producing and Exporting Cartels
1350 Act, or NOPEC, addresses these decisions by expressly
1351 authorizing the Justice Department to pursue anti-trust
1352 enforcement actions against OPEC members should it choose to
1353 do so and by ensuring that American courts have jurisdiction
1354 to hear such cases.

1355 I am pleased to join my colleague, the gentleman from
1356 Ohio, Mr. Chabot, as an original co-sponsor of this
1357 legislation along with the Antitrust Subcommittee chairman,
1358 Mr. Cicilline, and the Subcommittee ranking member, Mr.
1359 Sensenbrenner.

1360 NOPEC would amend the Sherman Anti-Trust Act to add a

1361 new section that explicitly makes it illegal for any foreign
1362 state to act collectively with others to limit production,
1363 fix prices, or otherwise restrain trade with respect to oil,
1364 natural gas, or other petroleum products.

1365 This provision could be enforced only by the Justice
1366 Department. The bill also creates an exemption under the
1367 Foreign Sovereign Immunities Act to allow litigation against
1368 foreign countries to the extent that they are engaged in
1369 price fixing and other anti-competitive activities in
1370 violation of this new section.

1371 Finally, this legislation clarifies that the act of
1372 state doctrine, which generally disfavors judicial review of
1373 certain actions by foreign governments, does not prevent
1374 courts from deciding anti-trust cases brought against foreign
1375 governments under this act.

1376 NOPEC strikes an appropriate balance between allowing
1377 aggressive enforcement of U.S. anti-trust law against OPEC to
1378 keep oil prices in check and respecting the separation of
1379 powers by deferring to the executive branch to determine
1380 whether litigation is appropriate given any foreign policy or
1381 national security concerns there may be.

1382 In 2007, I voted for legislation virtually identical to
1383 this measure, which passed the House with overwhelming
1384 bipartisan support. Although 11 years have passed since
1385 then, many of the reasons for supporting that legislation

1386 back in 2007 remain valid today.

1387 OPEC controls more than 80 percent of global oil
1388 reserves, 40 percent of the world's oil production, and more
1389 than 60 percent of the petroleum that is traded
1390 internationally.

1391 When acting collectively, OPEC countries can greatly
1392 influence crude oil prices. This effort to increase crude
1393 oil prices directly impacts American consumers because the
1394 price of crude oil is the largest single determinant of
1395 retail gasoline prices.

1396 According to one estimate, crude oil prices accounted
1397 for 50 percent of the cost of retail gasoline in 2017 and as
1398 much as 70 percent of the cost of gasoline in 2011.

1399 And the retail price of gasoline touches almost every
1400 aspect of Americans' daily lives, from the cost of commuting
1401 to the price of food and almost every consumer good to the
1402 extent that such prices reflect the cost of transporting
1403 those goods. High gas prices, in addition to raising these
1404 costs and cutting into Americans' income, can also cause a
1405 vicious cycle of negative economic effects.

1406 For example, when higher prices cause consumers to cut
1407 back on purchases and limit their travel, businesses lose
1408 revenue and may be forced -- and they may be forced to lay
1409 off employees or to reduce their employees' salaries.

1410 This, in turn, unleashes another loop of negative

1411 economic effects as those employees have less money in their
1412 pockets to spend.

1413 I support this legislation because it would provide the
1414 federal government with one tool to address unfair retail gas
1415 prices. Nevertheless, I caution that it would be a mistake
1416 to think that enacting this legislation alone will fix the
1417 problem.

1418 Congress and the Trump administration should explore
1419 other factors that also drive up gas prices including an
1420 anti-competitive level of concentration among oil refiners,
1421 our society's excessive petroleum consumption, and the
1422 heightened risk of war and instability in the Middle East.

1423 Passing NOPEC, however, would help keep gas prices in
1424 check.

1425 I thank the sponsor of this legislation. I urge my
1426 colleagues to support this measure and I yield back the
1427 balance of my time.

1428 It is now my pleasure to recognize the ranking member of
1429 the Judiciary Committee, the gentleman from Georgia, Mr.
1430 Collins, for his opening statement.

1431 Mr. Collins. Thank you, Mr. Chairman, and moving to now
1432 actually legislation that actually is productive and moves
1433 forward, I am excited to go in with you in recognizing this
1434 piece of legislation and moving it forward.

1435 Because OPEC has manipulated the supply and price of

1436 oil, this bill -- this has created a great uncertainty for
1437 many Americans who rely on oil to run their households and
1438 businesses.

1439 Many would argue that OPEC operates like a cartel so the
1440 Sherman Anti-Trust Act should apply. But the courts,
1441 however, have allowed OPEC to escape liability.

1442 The No Oil Producing or Exporting Cartels Act, NOPEC,
1443 would actually fix that problem. It is a bill with a long
1444 history of bipartisan and bicameral support and today's
1445 markup begins consideration of the bill in the 116th Congress
1446 and I look forward to working with my colleagues on this
1447 issue.

1448 And I have to commend the sponsor of this bill, Mr.
1449 Chabot, who has been working at this tirelessly for years and
1450 making improvements, I think, along the way of taking input,
1451 and that is the -- that is the mark of a legislator on both
1452 sides of the aisle -- taking input and making a bill better
1453 and I am glad to see that.

1454 And with that, I yield the rest of my time to my
1455 colleague from Ohio.

1456 Mr. Chabot. Thank you very much, Mr. Ranking Member,
1457 and I want to thank the chairman, Mr. Nadler. I very seldom
1458 get to say that I agree with everything that you said before
1459 and we have been working on this together.

1460 And I also want to indicate I would like to enter into

1461 the record a letter of support for NOPEC from the Securing
1462 America's Future Energy. It is an organization comprised of
1463 retired military officers and Fortune 500 CEOs.

1464 Chairman Nadler. Without objection, the letter will be

1465 --

1466 Mr. Chabot. Thank you.

1467 Chairman Nadler. Without objection, the letter will be

1468 entered into the record.

1469 [The information follows:]

1470

1471 Mr. Chabot. Thank you.

1472 And I want to thank you, Mr. Nadler. I want to thank
1473 Mr. Cicilline. I want to thank Mr. Collins, Mr.
1474 Sensenbrenner, Ms. Jackson Lee for their support on this
1475 common sense legislation to stop anti-competitive behavior in
1476 the oil market broad, as I mentioned, in the Regulatory
1477 Reform, Commercial and Antitrust Law Subcommittee hearing
1478 last year.

1479 I first introduced this legislation back in 2000. So
1480 it has, literally, been almost two decades ago along with our
1481 colleague then from Michigan, Mr. Conyers, who fought for
1482 this for a long time, too.

1483 And since then, it has been introduced seven times.
1484 Last year, we were able to report it favorably out of
1485 committee and I hope that this year we can get it to the
1486 president's desk, who has indicated at various times support
1487 for this and even in a book that he wrote.

1488 And while Congress has been considering this legislation
1489 over the better part of the last two decades, we have seen
1490 gas prices rise and fall largely at the whims and influence
1491 of OPEC.

1492 The average U.S. household pays over \$2,000 a year in
1493 gas costs, and back in my district in Cincinnati and Warren
1494 County that is a big chunk of their paycheck.

1495 Given that 60 percent of the world's oil is controlled

1496 by OPEC nations, my constituents and the constituents of lots
1497 of other folks in this room and the American consumers often
1498 have difficult reliably filling their tanks up every week --
1499 cars, trucks, et cetera -- because the prices are oftentimes
1500 too arbitrary.

1501 Additionally, as former chair of the House Small
1502 Business Committee and now the ranking member of the House
1503 Small Business Committee, also recognize the impact that
1504 rising gas prices have on small businesses all across our
1505 nation.

1506 As the price of gas increases, so does the price of
1507 shipping goods throughout the United States, putting pressure
1508 on already razor-thin bottom line for business owners and
1509 ultimately having a negative impact on our overall economy,
1510 although the economy is doing quite well, as we all know,
1511 right now.

1512 International oil cartels regularly attempt to
1513 manipulate the price of crude oil by limiting production,
1514 thereby driving gas prices arbitrarily high in the United
1515 States.

1516 Ultimately, this legislation allows us to fight back
1517 against such artificial market manipulation by holding
1518 foreign countries and entities accountable for violating U.S.
1519 anti-trust law.

1520 This legislation is simple. It authorizes the attorney

1521 general and only the attorney general -- that is one of the
1522 changes that was made -- to bring lawsuit against oil cartel
1523 nations for anti-competitive behavior in federal court and,
1524 further, it ensures that nations will have to defend their
1525 actions and anti-competitive behavior by removing their
1526 ability to use active state, foreign sovereign compulsion, or
1527 political question doctrines as defenses or sovereign
1528 immunity in such cases.

1529 In closing, it is high time that we act to pass NOPEC to
1530 put an end to OPEC's anti-competitive behavior and I would
1531 just finally note that whereas we are a committee that
1532 naturally battles over everything from guns to abortion to
1533 subpoenas and perhaps in the future at some point even to
1534 impeachments, as we have done in the past, this is one item,
1535 one instance, in which we can work in a truly bipartisan
1536 fashion.

1537 I thank my colleagues on both side of the aisle for
1538 their support on this. I urge them to support this
1539 legislation, and yield back my time.

1540 Chairman Nadler. I thank the gentleman.

1541 I would now like to recognize the chair of the
1542 Subcommittee on Antitrust, Commercial and Administrative Law,
1543 Mr. Cicilline, for his opening statement.

1544 Mr. Cicilline. Thank you, Mr. Chairman.

1545 Since 1960, the Organization of the Petroleum Exporting

1546 Countries, or OPEC, has colluded to manipulate the supply and
1547 price of crude oil with total impunity under our laws.

1548 In recent years, OPEC members have entered into an anti-
1549 competitive agreement with 11 non-OPEC countries, including
1550 Russia, to manipulate oil prices by reducing production.

1551 In other words, this means that working people in our
1552 country end up paying more for gas for their car or heat for
1553 their homes. Cartel behavior like this is considered a hard-
1554 core criminal violation of the anti-trust laws because it is
1555 an explicit agreement to collude in order to fix prices,
1556 reduce output, or allocate markets.

1557 The Supreme Court has referred to this anti-competitive
1558 conduct, which has no pro-competitive justification, as the
1559 supreme evil of anti-trust.

1560 But unlike other cartels, foreign oil cartels are free
1561 to engage in anti-competitive conduct to fix the price of oil
1562 due to legal doctrines of sovereign immunity and act of
1563 state, which place firm limitations of the judicial process
1564 when it comes to resolving legal disputes with foreign
1565 governments.

1566 It is time for this to end, and I am proud to join
1567 Congressman Chabot and the chairman of the committee and the
1568 ranking member in introducing the NOPEC Act. This
1569 legislation will give meaningful relief to millions of
1570 Americans by authorizing the Justice Department to

1571 investigate and prosecute foreign oil cartels.

1572 It would do so by clarifying that commercial activity by
1573 other countries to limit the production or set the price of
1574 oil and other petroleum products is not exempt under the
1575 Foreign Sovereign Immunities Act or judicial doctrines.

1576 While I strongly support the goals of the NOPEC Act, it
1577 is important to keep several caveats in mind as we consider
1578 this legislation.

1579 First, merely removing barriers to anti-trust
1580 enforcement against foreign oil cartels by the Justice
1581 Department, as this bill would do, does not compel law
1582 enforcement in this area or constrain the department's
1583 enforcement strategies.

1584 Instead, the NOPEC Act authorizes the department to
1585 investigate and potentially bring these types of cases which
1586 alone may be enough to discourage collusion by foreign oil
1587 cartels. Put another way, this bill gives the executive
1588 branch a tool to speak softly and carry a big stick.

1589 Second, this legislation is designed to serve as a
1590 complement, not a substitute, to diplomacy and thoughtful
1591 engagement with OPEC members and other countries that collude
1592 to withhold oil supply.

1593 The NOPEC Act is an invitation for any administration,
1594 Republican or Democrat -- is not an invitation for any
1595 administration, Republican or Democrat, to politicize anti-

1596 trust enforcement or pick geopolitical winners and losers.

1597 With this concern in mind, I look forward to including

1598 language in the committee report to make this point clear.

1599 And, finally, the use of anti-trust enforcement in this

1600 area if used at all should be part of a broader strategy

1601 toward energy independence. Anti-trust enforcement alone is

1602 not a silver bullet to lowering oil prices. It must be a

1603 national priority to deploy and expand our capacity for clean

1604 energy production.

1605 I firmly believe that addressing oil consumption rather

1606 than oil production is critical to ensuring America's energy

1607 independence. Developing alternatives to oil consumption

1608 isn't just about combating climate change, lowering energy

1609 prices, or decreasing the market power of oil cartels.

1610 It is also about creating economic opportunity. My home

1611 state, Rhode Island, is already hard at work to deploy

1612 innovative, clean, efficient energy solutions to deliver

1613 clean energy and address climate change.

1614 This investment in our clean future is an engine of

1615 opportunity in our communities that should also serve as a

1616 model for federal policy. It is also important to

1617 acknowledge that there are additional forces at play that

1618 necessitate passage of this bill immediately.

1619 In November 2016, OPEC announced that 11 of its members

1620 would cut supplies by nearly 5 percent for each member,

1621 resulting in a \$10 increase in oil prices per barrel for
1622 Brent crude oil.

1623 A year later, OPEC agreed to extend these cuts along
1624 with an additional 11 nonmember states including Russia to
1625 further reduce supply. During this period, OPEC's secretary
1626 general expressed a desire to add these additional 11 member
1627 countries as permanent members, stating that OPEC should have
1628 a permanent framework to sustain this platform.

1629 Yesterday, the Wall Street Journal reported that Russia
1630 is in advanced talks to formally join OPEC, dramatically
1631 expanding the cartel. These countries will meet on February
1632 17 to ratify this collusive agreement.

1633 As my Republican colleagues have referenced and as I
1634 have noted in this report, the ability of such of an alliance
1635 to put a floor on oil prices would run counter to President
1636 Trump's goal of lowering gasoline prices for U.S. consumers
1637 ahead of presidential elections next year.

1638 There can be no doubt that the expansion of this cartel
1639 will come at the expense of American families, workers, and
1640 businesses. We will see higher prices at the pumps, which,
1641 as Chairman Nadler noted in his opening statement, affects
1642 our country from top to bottom on an economy wide basis.
1643 This would dramatically increase the cost of getting to work,
1644 taking our kids to school, and rebuilding our nation's
1645 crumbling infrastructure, and we should all be concerned

1646 about it.

1647 So I want to, again, just thank Congressman Chabot,
1648 Chairman Nadler, and Ranking Member Collins for their
1649 commitment to taking on foreign oil cartels and for its quick
1650 consideration of the NOPEC Act.

1651 This legislation is really a testament to this
1652 committee's longstanding bipartisan tradition of
1653 investigating and addressing anti-competitive conduct that
1654 harms working families, and I look forward to continuing this
1655 work with my colleagues to ensure that our economy is working
1656 for everyone.

1657 And with that, I yield back with zero time left.

1658 Chairman Nadler. I thank the gentleman.

1659 Without objection, the opening statements of all other
1660 members will be included in the record. Are there any
1661 amendments?

1662 Seeing no amendments, a reporting quorum being present,
1663 the question is on the motion to report the bill, H.R. 948,
1664 favorably to the House.

1665 Those in favor, say aye.

1666 [Chorus of ayes.]

1667 Chairman Nadler. Opposed, no.

1668 The ayes have it and the bill is ordered reported
1669 favorably.

1670 Members will have two days to submit views.

1671 [The information follows:]

1672

1673 Chairman Nadler. This concludes our business for today.

1674 I want to thank all of our members for attending.

1675 The markup is adjourned.

1676 [Whereupon, at 11:20 a.m., the committee was adjourned.]