

RPTR BRYANT

EDTR HOFSTAD

MARKUP OF RESOLUTION FOR INVESTIGATIVE PROCEDURES

Thursday, September 12, 2019

House of Representatives,

Committee on the Judiciary,

Washington, D.C.

The committee met, pursuant to call, at 8:11 a.m., in Room 2141, Rayburn House Office Building, Hon. Jerrold Nadler [chairman of the committee] presiding.

Present: Representatives Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass, Richmond, Jeffries, Cicilline, Swalwell, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia, Neguse, McBath, Stanton, Dean, Mucarsel-Powell, Escobar, Collins, Sensenbrenner, Chabot, Gohmert, Jordan, Buck, Ratcliffe, Roby, Gaetz, Johnson of Louisiana, Biggs, McClintock, Lesko, Reschenthaler, Cline, Armstrong, and Steube.

Staff Present: Aaron Hiller, Deputy Chief Counsel; Arya Hariharan, Deputy Chief Oversight Counsel; David Greengrass, Senior Counsel; John Doty, Senior Advisor; Madeline Strasser, Chief Clerk; Moh Sharma, Member Services and Outreach Advisor; Susan Jensen, Parliamentarian/Senior Counsel; Julian Gerson, Staff Assistant; Priyanka

Mara, Professional Staff Member; Sophie Brill, Counsel, Subcommittee on the Constitution, Civil Rights, and Civil Liberties; Will Emmons, Professional Staff Member, Subcommittee on the Constitution, Civil Rights, and Civil Liberties; Matt Morgan, Counsel, Subcommittee on the Constitution, Civil Rights, and Civil Liberties; Brendan Belair, Minority Staff Director; Bobby Parmiter, Minority Deputy Staff Director/Chief Counsel; Jon Ferro, Minority Parliamentarian/General Counsel; Carlton Davis, Minority Chief Oversight Counsel; Ashley Callen, Minority Oversight Counsel; Danny Johnson, Minority Oversight Counsel; Jake Greenberg, Minority Oversight Counsel; Erica Barker, Minority Chief Legislative Clerk; and Andrea Woodward, Minority Professional Staff Member.

Chairman Nadler. The Judiciary Committee will please come to order, a quorum being present.

Without objection, the chair is authorized to declare a recess at any time.

Pursuant to committee rule 2 and House rule XI, clause 2, the chair may postpone further proceedings today on the question of approving any measure or matter or adopting an amendment for which a recorded vote for the yeas and nays are ordered.

Pursuant to notice, I now call up the chair's Resolution for Investigative Procedures for purposes of markup and move that the committee agree to the resolution.

The clerk will report the resolution.

Ms. Strasser. "Resolution for Investigative Procedures Offered by Chairman Jerrold Nadler.

"Whereas the Committee on the Judiciary beginning on March 4, 2019 has issued multiple discovery requests to individuals with potential information relevant to its investigation 'into the alleged obstruction of justice, public corruption, and other abuses of power by President Trump, his associates, and members of his administration';

"Whereas Special Counsel Robert Mueller's Report released on April 18, 2019 found that the Russian government interfered" --

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

[The resolution follows:]

\*\*\*\*\* INSERT 1-1 \*\*\*\*\*

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

The resolution before us represents the necessary next step in our investigation of corruption, obstruction, and abuse of power.

This committee has already covered the central findings of the special counsel's investigation. The President's 2016 campaign asked for and received the assistance of the Russian Government. Key figures from the campaign then lied to Federal investigators about it. The special counsel found that at least 10 times the President took steps to interfere with the investigation. In at least five of those incidents, the special counsel concluded that all of the elements necessary to charge obstruction of justice had been met.

Our investigation is not only about obstruction. Our work must also extend beyond the four corners of the Mueller report. We have a responsibility to consider allegations of Federal election crimes, self-dealing, violations of the Constitution's Emoluments Clause, and the failure to defend our Nation from current and future attacks by foreign adversaries.

And, of course, this committee and others have gone to court to secure evidence that has been withheld from Congress on indefensible legal grounds.

Former White House counsel Donald McGahn is not, quote, "absolutely immune," unquote, from appearing before this committee. We require his testimony for our obstruction investigation. But the President has vowed to, quote, "fight all of the subpoenas," unquote, and this, too, is conduct that requires a congressional response.

As Members of Congress and, in particular, as members of the House Judiciary Committee, we have a responsibility to investigate each of these allegations and to determine the appropriate remedy.

That responsibility includes making a judgment about whether to recommend

Articles of Impeachment. That judgment cannot be based on our feelings about President Trump. It should not be a personal reaction to misguided policies or personal behavior. It must be a decision based on the evidence before us -- the evidence that keeps coming in.

Now, there has been a good amount of confusion in the press and elsewhere about how we should talk about this work. Some have said that, absent some grand moment in which we pass dramatically from concerned about the President's conduct to actively considering Articles of Impeachment, it is hard to know exactly what the committee is doing here.

Others have argued that we can do none of this work without first having an authorizing vote on the House floor. But a House vote is not required by the rules of the House or by the Constitution, and the argument ignores ample precedents in which no such votes were taken.

There should be no doubt about our purpose. We have been open about our plans in this committee for many months. The record is recounted in the preamble of the resolution before us now.

On March 4, 2019, we sought information from many sources related to, quote, "alleged obstruction of justice, public corruption, and other abuses of power by President Trump."

On May 8, we recommended that the House hold Attorney General Barr in contempt. As part of that recommendation, the committee was clear that our work, quote, "includes whether to approve Articles of Impeachment with respect to the President," close quote.

On June 11, the House approved H. Res. 430, authorizing this committee to enforce its subpoenas in court. The committee report stated explicitly that our work

includes whether to approve Articles of Impeachment with reference to the President.

Pursuant to that resolution, on July 26, we asked the Federal court for access to grand jury information, and we told the court that it falls to this committee to, quote, "exercise a constitutional power of the utmost gravity, approval of Articles of Impeachment," close quote.

On August 7, we filed suit to enforce our subpoena for Mr. McGahn. There again, we told the court that we require his testimony in order to help decide whether to recommend Articles of Impeachment.

In each of these documents, we have been explicit about our intentions. This committee is engaged in an investigation that will allow us to determine whether to recommend Articles of Impeachment with respect to President Trump. That is what we are doing.

Some call this process an impeachment inquiry. Some call it an impeachment investigation. There is no legal difference between these terms, and I no longer care to argue about the nomenclature.

But let me clear up any remaining doubt: The conduct under investigation poses a threat to our democracy. We have an obligation to respond to this threat, and we are doing so.

Under the procedures outlined in this resolution, we will hold hearings that allow us to further consider the evidence against the President. At those hearings, in addition to member questioning, we will allow staff counsel to participate for 1 hour per witness, evenly divided between the majority and the minority. This will allow us to develop the record in ways that the 5-minute rule does not always permit.

We will also allow the President to respond to the evidence in writing and on the record. No matter how we may disagree with him, President Trump is entitled to

respond to the evidence in this way.

And we will treat certain sensitive evidence, such as grand jury information, as being received in executive session.

Under these procedures, when we have finished these hearings and considered as much evidence as we are able to gather, we will then decide whether to refer Articles of Impeachment to the House floor.

We have a constitutional, historical, and moral obligation to fully investigate these matters and to make that decision. Let us take the next step in that work without delay. I urge my colleagues to adopt this resolution.

And I yield back.

I now recognize the ranking member of the Judiciary Committee, the gentleman from Georgia, Mr. Collins, for his opening statement.

[The statement of Chairman Nadler follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Collins. Thank you, Mr. Chairman. I appreciate that.

Welcome to everybody here who was expecting one thing and getting another.

Last week, I was driving to a great event. It is the opening of football season at the University of Georgia. We were going between the hedges. The day was starting. It was our first home game. My wife and I are driving down the road, and she is looking at her phone, she is bored, she is looking at it as it goes forward. And she is in her Instagram account.

And she looks over at me, and she shows me this picture of a person that is a family member, is a close family member. She looks over, and she says -- and a friend who was staying with us -- she said, Megan told me about filters that you can use to make your appearance look better.

And I said, yeah. I said, what are you talking about? She said, well, look at this picture. This looks nothing like our family member. What did she do? And I said, well, Lisa, I don't know. I said, undoubtedly, she used one of the filters.

What has happened today is great. The Judiciary Committee has become a giant Instagram filter to make you appear that something is happening that is not. It is a really interesting -- and I hope he will come back at this. The difference between formal impeachment proceedings and what we are doing today is a world apart, no matter what the chairman just said.

And what we are looking at here is a filter to make you believe something. It is great, though, because I love this. I have not seen this much press up at 8 o'clock in the morning in a long time.

When we look at this, though, let's look at the facts. Nothing we have here is anything that could not have been handled 5 minutes before a hearing of any time that we have. The filter may make you think something is happening, but really what we



have is a walk down the yellow brick road.

In fact, if you want to see the yellow brick road, let's go to the "whereas" clauses. The Emerald City is impeachment, and my colleagues are desperate to get there. They have been desperate since last November when they won the majority. And they have started this path, they have walked. Look at the "whereas" clauses on what they are doing and how they are doing it.

In fact, what is really interesting, though, and is very disturbing to me is the "whereas" clause in the second paragraph, when it admits that the Russian Government interfered in the 2016 election and yet we have had no hearings and no bills brought forward in this committee that deals with that issue.

And now that we acknowledge it, like we have done a lot of things in this committee, but we don't want to solve it, because we would rather talk about it. So we continue the "whereas" clauses. We continue the "whereas this," the yellow brick road.

What is interesting is, all along they thought people were coming along with them and that the public was happy with this and that other Members in their own party were happy with this, but somewhere down the yellow brick road they looked around and said, there is not all of us here. People aren't following anymore.

And then we come to today, the "resolved" part, which is actually the real part of this resolution, which, again, for all of the folks covering this, this is not anything special. In fact, let's talk about it.

Number one: The Chairman may designate a full committee or subcommittee hearing for the purpose of presentation of information to this committee.

Oh, my goodness, you could do that anytime you wake up. The chairman could wake up this morning and say, this is what we are doing today. Why do we need a "resolved" clause for that? I didn't know we needed to define the chairman's authority

into saying what we are going to do today. He has made it very clear for a whole year this is what he wants to do.

The second one: If a witness is called to testify, the committee staff -- here we are again, because we know it looks more impeachment-like if we have staff asking questions.

I don't know what it is like on the other side of the aisle here, but staff meetings must be heck around here, because I have never seen a majority bunch of members who desperately want to give away their authority to staff to do something. I have never seen this. With the brand of lawyers that you have on your side of the aisle, I am amazed that you just don't ask for more member questioning and let some of these brilliant lawyers go at it, because they are good.

But yet, undoubtedly, like I said, I am not sure what is happening on that side, but this desperation to get staff to be in the spotlight to ask questions is just something that is, again, Instagram filter. Let's put it in there to look like something that it is really not.

And for some lawyers -- and I am looking at one right here. Mr. Raskin is amazing.

I don't understand this one, but, hey, again -- again, though, let me think. This could have been done at any hearing -- at any hearing we do. The chairman just has to bring it up as a motion. It is in the rules. We don't have to be doing this as a resolution. But it looked really good over the weekend when we said, we are going to start inquiries into impeachment and we are going to put regulations in place to do that. And then it went off the track completely through the week, because even their own leadership didn't know what they were doing.

Then number three, now, this one's a problem. It talks about executive session and how they are going to handle information. Because here is the problem: They

already promised in court filings that they had these procedures in place. In fact, I wrote a letter to the chairman saying, no, you really don't have these in place, in the copy of the letter I have here, you don't have these in place.

And so what is really interesting, maybe this is a time, maybe they thought the judges would miss it. Well, right now the TV camera is on. Judges, you might want to look at this. They didn't have the procedures in place. You may have a filing saying you did, but you don't.

And, also, let me also say for anybody listening here, this can't be kept strictly in -- these rules cannot contradict House rules. Any Member of the House can see this material. Any Member of the House can.

The last one, this one is the most amazing. I mean, we have been building up -- one, two, three, four. I am so happy that this resolution says that the President's counsel may respond in writing to information and testimony presented in the committee in open session after the fact.

Everybody in this room, everybody in this country, everybody outside this country can do this. Anybody who has an email address, anybody who has a pen and paper can write a letter to this committee. We are now letting the President -- we are telling him that he can do this? As if this President has a hard time expressing himself? I think he understands this, and his counsel.

And then the chairman, after consultation with me, can invite the President to review. This is -- again, this shows you how, frankly, unfortunately, silly we have gotten today, to actually put in, number four, a resolution to say that the President and his counsel can write a letter to this committee. Have we gotten to that point yet? Really?

So, look, the Instagram filter is applied. Make sure it looks good, spruce up the

parts, make your story look good. The press is here. We have been -- you know, I have wanted a long time to be able to say this: Welcome to Fantasy Island, because we are here. It may all look good. The unfortunate part is, when the screen goes down, you just see a simple procedure issue -- a simple procedure issue that doesn't deal with impeachment, that doesn't deal with anything else. It just simply gives another press release for whatever we are doing now.

So it is early, it is 8 o'clock. The popcorn is on, and, as I have said, let the show begin.

I yield back.

[The statement of Mr. Collins follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Nadler. Thank you, Mr. Collins.

Without objection, all other opening statements will be included in the record.

[The statements follow:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Nadler. Are there any amendments to the resolution?

Mr. Buck. Mr. Chairman?

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

Mr. Buck. I have an amendment at the desk.

Chairman Nadler. The clerk will report the amendment.

Ms. Lofgren. Mr. Chairman, I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order.

Ms. Strasser. "Amendment Offered by Mr. Buck of Colorado to a Resolution for Investigative Procedures Offered By Chairman Jerrold Nadler.

"On Page 4, beginning on line 97, strike the following: 'or subcommittee'."

[The amendment of Mr. Buck follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Nadler. The gentleman is recognized to explain his amendment.

Mr. Buck. Thank you, Mr. Chairman.

Mr. Chairman, my amendment --

Ms. Lofgren. I withdraw my point of order.

Chairman Nadler. The gentlelady withdraws her point of order.

The gentleman is recognized.

Mr. Buck. Mr. Chairman, my amendment is very simple. It strikes the word "subcommittee" from the first procedure of this investigation.

Impeachment is a serious matter, Mr. Chairman. The American people deserve to have these proceedings play out in the full committee, where we can more fully examine the evidence and charges brought against the President, not shoved away in some special subcommittee where only a hand-selected few members can gather evidence and question witnesses.

This matter is so serious, in fact, that the full House has historically authorized the Judiciary Committee to open an impeachment inquiry and provided this committee with the specific instructions for opening the inquiry.

In fact, as Lawfare notes in an article from earlier this week, quote, "The major difference between this resolution and prior procedural documents in connection with the last two impeachment proceedings is that this resolution is not connected to a vote by the full House directing the committee to begin a formal impeachment inquiry of the President," end quote.

The historical precedent is clear. On February 6, 1974, the full House voted to approve House Resolution 803, which authorized the Judiciary Committee to investigate whether to impeach President Nixon. This resolution also detailed how the Judiciary Committee could accept information and granted specific funds for the investigation.

Then, only after the full House had spoken, the Judiciary Committee unanimously adopted its procedures to handle material gathered during the inquiry on February 22, 1974. The committee then unanimously adopted procedures for presentation of evidence during the impeachment inquiry 3 months later on May 2nd, 1974.

This committee also received instructions from the full House before leaping into the Clinton impeachment inquiry. On October 5, 1998, the Judiciary Committee adopted impeachment inquiry procedures and reported a resolution authorizing the inquiry to the full House. The full House then affirmed the committee's decision to open an inquiry, approving House Resolution 581 on October 8, 1998.

By jumping the gun and refusing to put this resolution before the full House, you are fundamentally denying both this Congress and the American people the ability to fully participate in this inquiry.

You even stated in a court brief dated July 22, 2019, quote, "Although the House has not considered a formal resolution structuring any particular proceedings by this committee, such a resolution is not a necessary predicate to consideration of Articles of Impeachment." This also contradicts statements by Speaker Pelosi and Majority Leader Hoyer, who have said that the House isn't opening an impeachment inquiry.

Mr. Chairman, having been here during the Clinton impeachment -- Mr. Chairman, having been here during the Clinton impeachment proceedings, I would have expected you would understand the gravity of this inquiry and would not cut this House's knees out from under it or potentially keep members of this committee from being involved in the proceedings by sequestering business to the subcommittee level. You at least owe it to the American people to have this inquiry be on display in front of the full Judiciary Committee.

For that reason, I urge adoption of this amendment.



And I yield back.

Mr. Collins. Does the gentleman yield?

Mr. Buck. Oh, I am sorry. I yield to the ranking member.

Mr. Collins. I appreciate it.

You just brought out an interesting point, because I have right here, the chairman was here and was very vocal in the Clinton-era impeachment issues on how this is supposed to go about and how you are actually supposed to do this. And it is really interesting to see that, you know, what was needed back then is not needed now, because, frankly, there is a serious problem: They don't have the votes to go to the floor. And so now we are having to make it up as we go.

But you bring out a very good point. I mean, I have got, like, eight, nine pages here of the contradictions of where we are at today and where we would be at. You bring that up. I disagree with doing anything with impeachment, but if they are going to imply it, we at least need to point out the inconsistencies here as we go forward. And I appreciate the gentleman's amendment.

I yield back.

Chairman Nadler. The gentleman yields back.

I will recognize myself --

Mr. Buck. Mr. Chairman, I yield back also.

Chairman Nadler. Thank you.

I will recognize myself in opposition to the amendment.

The amendment essentially says that the chairman can designate a full committee hearing as being for the purpose of presentation of an impeachment investigation but a subcommittee hearing cannot. Whereas the resolution says committee or subcommittee hearing, the amendment would say only a full committee hearing.

I would make two points. Number one, there are so many instances of misconduct and allegations of misconduct that we may very well, in order to do a complete and thorough job, have to use subcommittee as well as committee hearings, there not being enough days otherwise for the task.

Number two, there is ample precedent for subcommittees being used in this fashion. And I was on the committee during the Clinton impeachment, as the gentleman states. And the committee, under then-Republican leadership, under Chairman Hyde, used subcommittees to hold hearings on the subject. I remember, in particular, one subcommittee hearing in the Constitution Subcommittee on the question of what is an impeachable offense.

But subcommittees were used for impeachment hearings as part of the impeachment investigation. The committee held hearings. At least the Constitution Subcommittee, maybe other subcommittees -- I don't remember -- also did. And there is no reason why we can't parcel out the work that is necessary to be done to subcommittees, if necessary.

So I oppose the amendment.

Is there any other discussion on the --

Mr. Collins. I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Collins. Mr. Chairman, you just made my point. This is -- I go back to my very first statement on my Snapchat filter. You are using your Snapchat filter here. You went basically to say that -- what now?

Chairman Nadler. Instagram you said.

Mr. Collins. Instagram, Snapchat. I missed it. Darn it. I mean, we are so in Fantasyland here nobody knows what is going on. I tell you, well, this is the problem.

You just went back to what we said. Instagram, Snapchat, Twitter, it doesn't matter, we are not in an impeachment inquiry. It doesn't matter what we are doing here.

This is what -- I don't care if you -- I mean, here is my problem. The chairman could do this at any time. The chairman could do this at any time. He just don't do it, because he wants the appearance of something that it is not. And he just gave the answer to the gentleman from Colorado saying that we did this in an impeachment inquiry. You are not in an impeachment inquiry.

And so you can continue to call it whatever you want. I think, just be honest. What we are looking at is saying, let's just talk about what is here and what is not here.

With that, I yield back.

Chairman Nadler. Is there any further discussion on the amendment?

The gentleman from Texas.

Mr. Gohmert. Thank you, Mr. Chairman.

I do support the amendment of the gentleman from Colorado. It is sound. If we are going to do something, it ought to be in the full committee.

But I want to direct you to the second paragraph of this resolution. It says, and I am quoting from the resolution: The Mueller Report, quote, "found that the Russian government interfered in the 2016 election in 'sweeping and systematic fashion.'" And I am going, yeah, okay; and what has that got to do with President Trump or impeaching President Trump?

And then we jump -- I mean, I had thousands and thousands of felony indictments come through my court from grand juries. This would be thrown out of court in any legitimate court because you jump clear from "the Russian Government interfered in the 2016 election" and then say not that President Trump or the Trump campaign was involved, oh, no, but that there were at least 10 episodes of President Trump using his

official powers to thwart or attempt to thwart the special counsel's investigation, unquote.

It is trying to make it appear -- yeah, Russia tried to interfere with our election. They have been doing that for many decades. They want to create as much chaos in America as they can.

But then to jump over and make it appear, oh, well, President Trump was involved. No, he was not involved. And it is a fraudulent, deceptive paragraph, because this is supposed to be about the wrongdoing of President Trump, yet the resolution makes a statement about Russia that Donald Trump conclusively had nothing to do with.

We had people at CNN, MSNBC, all of the regular suspects, fraudulently asserting that there was no question the Trump campaign colluded with Russia and that surely they just knew that President Trump was going to be indicted for it, while information was fraudulently withheld on these channels that the Clinton campaign had colluded, conspired with Fusion GPS, Christopher Steele, and conspired with Russian agents to create a fraudulent dossier that they could use to attempt to affect the election to defeat candidate Donald Trump, while we still had people like Comey and Rosenstein committing fraud upon the FISA court, swearing to information they knew was fraudulently deceptive. And they knew it was not only not verified, but the information had no basis in fact, while their own information was that it was completely untrustworthy.

Now comes this resolution that is supposed to be setting up a basis for impeachment, or, as we would say in Texas, this is fixing to be an impeachment. It isn't now, but maybe it is fixing to be.

It starts out by stating a deceptive and fraudulent paragraph, that Russia did a

wrong, even though the report and the testimony made clear there was no evidence of the Trump campaign participating in that whatsoever.

Further, we know that President Trump knew he had not colluded nor conspired with Russia. He knew the effort to say otherwise was the real fraud. So he kept trying to ensure that he was not framed by the conspiracy involving Fusion GPS, Christopher Steele, and some others within the DOJ. In other words, he was not obstructing justice; he did everything he could to make sure that there was justice, not a frame-up, not injustice. And there was no fraud -- except there was fraud, just not from his campaign.

So how can someone be guilty of obstructing justice when the very goal they have is to do what they can to avoid a major fraudulent miscarriage of justice?

It is time to put this aside, let the Democratic candidates for President run on their own, and let's get back to being judicious.

I yield back.

Chairman Nadler. The gentleman yields back.

Is there further discussion on the amendment?

Mr. Sensenbrenner. Mr. Chairman?

Chairman Nadler. For what purpose does the gentleman from Wisconsin seek recognition?

Mr. Sensenbrenner. Mr. Chairman, I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Sensenbrenner. Mr. Chairman, I think everybody assumes that this is the next step, you know, relative to the potential of impeaching President Trump. And I am going to address that issue now, even though the text of the resolution doesn't specifically apply to that.

We have heard from the other side of the aisle that the President wants to be

above the law. I would respond by saying, this committee wants to be above the law too. And two wrongs don't make a right. Everybody should be equal in the eyes of the law. We should be fair. We should be giving due process to people, you know, who are being investigated.

And this resolution doesn't do that, and here is why: We will have all of these witnesses; we will get all of this stuff that might be given to us that has to be dealt with in executive session. And the committee has attempted to sue that. But it only allows the President to respond in writing, either in person or by counsel.

And as the ranking member has said, anybody can write a letter to the committee. We get lots of letters on that. And the President, if he wants to respond to something, can write a letter, just as any other citizen of the United States can write a letter, because that is protected by the First Amendment.

But the difference between what is being proposed here and what happened both in 1974 and 1998 -- and I have a little bit of familiarity with that -- is that both in 1974 the Democratic majority allowed President Nixon's counsel to summon witnesses and to cross-examine other witnesses and in 1998 the Republican majority allowed President Clinton's counsel to do the same thing.

And not allowing the President's counsel the same kind of rights as was done in the two previous Presidential impeachments that have been put before this committee is a gross denial of due process. And we are the committee that is supposed to stand up and protect the constitutional rights of everybody, and that includes whoever happens to be the President of the United States at the time.

Now, let me say that I was scrolling the internet news. I do a lot of that when I am back home over the weekends. And there was one headline that said that this committee should either go bold or go home.

This charade has been going on now since March 4th. You haven't gotten enough evidence to convince a majority of the House of Representatives to even authorize an impeachment inquiry. And that is probably why the committee hasn't gone to the floor to ask for one: The votes aren't there.

Also, even if the votes are there to authorize an inquiry and to impeach President Trump, he will not be kicked out of office by the Senate. I think that that has been painfully evident ever since the beginning of what this exercise has been.

We ought to be legislating, not continuing an investigation that hasn't come up with a smoking gun. The headline on the internet news said, "Go bold or go home." It is time to go home.

I yield back.

Chairman Nadler. The gentleman yields back.

Does anyone else seek recognition?

The gentleman from Ohio.

Mr. Chabot. Thank you, Mr. Chairman.

This is yet another resolution put forth by Democrats on this committee to keep this so-called impeachment chatter alive and well to look for something that isn't there. They lack the facts, and they know it.

Instead of focusing on the opioid crisis or keeping families safe at the borders or rebuilding our crumbling infrastructure or lowering prescription drug prices, they have been busy on this committee pursuing a faux impeachment, a fake impeachment. What do I mean by a faux impeachment? It is absolutely not happening. This is a charade. Absolutely is.

Well, it seems like every week the majority is issuing subpoena after subpoena, holding hearing after hearing, and passing resolution after resolution regarding an

investigation that has already been completed by Special Counsel Robert Mueller at a cost of tens of millions of dollars, all so the Democrats on the committee can keep talking about the possibility of impeachment without actually authorizing a formal impeachment inquiry.

Today, we have yet another resolution that wastes more of this distinguished committee's time to ostensibly give this committee the power to do something that is already in this committee's power to do. And, still, committee Democrats haven't scheduled such a vote, nor has this committee marked up anything to authorize formal impeachment proceedings.

Here are the facts: Special Counsel Mueller, after a lengthy and thorough 22-month investigation, indicated in his report and then sat before this very committee and testified that the President did not collude with the Russians in their efforts to interfere in our 2016 elections. And the Attorney General determined that the President did not obstruct justice -- period, end of story.

The Democrats on this committee know that, and they know that the American people know that, and that is why they won't pursue formal impeachment proceedings.

But they also know that most Democrats hate this President. They have decided that he is guilty, regardless of what the facts say. And so, instead, the committee Democrats feel no choice but to investigate and investigate and investigate until they find something that looks like a crime.

Well, this resolution we are spending valuable committee time on today is nothing more than smoke and mirrors. And this is despite the fact that, right before we returned from the August recess, the DOJ inspector general issued a scathing report detailing the many ways that then-FBI-Director Comey violated department rules in the way he handled sensitive information, potentially jeopardizing our national security in



what appears to be yet another effort by the left to undermine President Trump.

But Democrats on this committee are much more interested in continuing to relitigate the Mueller investigation rather than considering issues long awaiting consideration before this committee. This morning, we could have used this committee's time to bring in and question Inspector General Horowitz about his recent report, but we aren't. And we likely never will, which is a shame. Because Americans, our constituents, deserve to know exactly what happened and what can be done to prevent future leaks at the FBI.

I hope that after today Democrats can finally move past this fake impeachment strategy and on to more pressing matters pending consideration before this committee. But I suspect that next week, when we return from our respective districts, they will find yet another way to continue down this rabbit hole.

And I yield back.

Chairman Nadler. The gentleman yields back.

Is there further discussion on this amendment?

For what purpose does the gentleman from Arizona seek recognition?

Mr. Biggs. I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Biggs. Thank you, Mr. Chairman.

I support the Buck amendment. I think the gentleman from Colorado is exactly right. This is something that, if we are going to take up and move on, we should do this in the full committee. I think that is appropriate.

The desire to maybe limit some of this to a subcommittee -- you know what? We are a self-governing body, we can change the rules, we can apply the rules as the majority sees fit, because you are the majority.

But I point to something that I think is important, and it is the way this resolution is going forward and the importance of the Buck amendment. But this is happening -- the way this is developing needs some context.

On July 26, the chairman told the D.C. District Court that he had issued grand jury handling procedures for the House Judiciary Committee. Such procedures did not previously exist. So the same day, dated July 26, these new rules were handed down, with no prior authorization from the House, no open hearing, no committee vote. But we told -- the chairman told the district court that we had these rules.

Those rule changes deserved a vote in an open hearing just like any other rule change, just like what we are doing today. Instead, those rule changes were drafted behind closed doors and implemented without the committee's input. That is a norm-breaking process.

According to the court filing, the new grand jury procedures would prevent any Member not on Judiciary or Intelligence from viewing the grand jury material. And I refer you to page 25. "The grand jury handling procedures require any grand jury materials obtained by the committee to be stored in a secure area, with access limited to members of the committee, certain designated staff, and members of HPSCI and their designated staff."

Refer to page 38. I won't quote that.

House rule XI states that no Member may be excluded from the records of this committee. That rule cannot be set aside without a full vote of the House. The rule is clear.

So one of two things might happen. Either the chairman is going to say that we are somehow reading it wrong and the procedures don't prevent noncommittee members from viewing it. But then he better correct his application to the court, hadn't

he? Or we are reading his procedures right and they violate the rules of the House, in which case he needs to clarify to the court that he misrepresented his authority.

Either way, that is an example of the problems that we see going forward in the fashion that we are doing in the committee today.

Now, that rule has been set aside in the past, of course, but how? By a vote of the whole House of Representatives. During the Clinton impeachment, for instance, the House passed H. Res. 525, which suspended that provision of rule XI. But it wasn't done in a Judiciary Committee hearing, it was done in the full House, because that is a rule of the House.

In the rush to attack the President, the chairman continues to do serious and lasting damage to the integrity of this committee and this institution. The majority won't let anything stand in the way of their rush to impeachment.

So when we get back to the amendment, the amendment brings this back to the full committee. And that is where this should be. That is where this should be.

And so, Mr. Chairman, I realize that there is some confusion. CNN said just yesterday, are Democrats conducting an impeachment inquiry, and it depends on who you ask. The chairman said, "It has been an impeachment inquiry and it continues to be." Another representative on this committee said, "It is not impeachment, which is what I think everybody wants to jump to right away. There is some confusion, I wish it were clear." It is not clear.

And that is the point that the gentleman from Wisconsin and also the ranking member were making. This resolution is designed to pursue an investigation into impeachment. That would normally take place after a resolution of the whole House. But we just had one of those 2 months ago, and it was defeated by two-thirds of the Members of this body.

So, Mr. Chairman, it is obvious to me that you can't get the impeachment going the way you want to; you are telling the court we are doing an impeachment inquiry; yet the body itself, the House of Representatives, has rejected resolution to impeach. So here we are with massive contradictions, where members of the majority have told CNN just yesterday that it is unclear what we are doing.

With that, I yield back.

Mrs. Lesko. Mr. Chairman?

Chairman Nadler. The gentleman yields back.

The gentlelady from Arizona is recognized. For what purpose does the gentlelady seek recognition?

Mrs. Lesko. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Mrs. Lesko. Thank you. And I support the Buck amendment.

In Chairman Nadler's opening statement, I believe I heard him say that some of the media is saying it is hard to know what we are doing here. And that is exactly what I want to know: What are we doing here?

The Judiciary Committee, in its 206-year history, has never reported Articles of Impeachment against a President without first conducting an impeachment inquiry authorized by the full House vote. There has been no authority given.

This resolution is yet another example of the majority utilizing this taxpayer-funded committee to influence the 2020 Presidential election. That is all it is. It is a show. It is just one more example of the same time-wasting, resource-wasting, media-seeking activity that has become way too common in this committee.

Let's go back. First, the Democrats erroneously claimed that there was Russian collusion with Trump. And then they were wrong. Because after 2 years, almost 2

years, at least \$25 million spent of taxpayer money, 2,800 subpoenas, 500 warrants, the special counsel stated there was no collusion, no conspiracy with the Russians and President Trump or his campaign or, for that matter, any U.S. citizen.

So, after realizing that their 2-year claims that Trump was colluding with Russia flopped and that they were dead-wrong, then they switched automatically to saying, "Oh, we are doing obstruction of justice. That is it. That is the next one." So we carried in witness after witness. You had in John Dean; you had in Robert Mueller. Those flopped. They totally flopped.

And now I don't know what we are doing here. Just more theatrics, more show, without getting anything done, nothing signed into law of any significance from this great committee.

And, with that, I yield back my time.

Chairman Nadler. The gentlelady yields back.

Mr. Jordan.

Mr. Jordan. Thank you, Mr. Chairman.

Two days ago, Democrats on the House Judiciary Committee voted to take away an American citizen's Second Amendment rights. You voted to do that even though that citizen had committed no crime. And you voted to allow their rights to be taken in a court proceeding that that citizen doesn't even get to show up to defend themselves.

Now, today, you are changing the rules to make it easier for you to pursue impeachment of the President of the United States, changing the rules 9 months into the new Congress.

First, you vote to take away Americans' firearms, then you vote to impeach the guy they elected President, all in 1 week -- actually, all in less than 48 hours in the House Judiciary Committee, the committee that is supposed to protect the rules, supposed to

protect constitutional rights. All in less than 48 hours, you are doing it.

And why are you changing the rules? Why are you changing the rules? The gentlelady from Arizona was right: Because nothing else has worked for you. The Michael Cohen hearing was a flop. The John Dean hearing was a flop. And everyone in the country knows the Bob Mueller hearing -- they saw it -- that was a flop. So let's change the rules in the middle of the game because we got to find something. We are out to get this -- we got to find something.

Never forgot how this whole thing started. Never forgot how this whole thing started. A false accusation about the President of the United States, saying the President coordinated with a foreign country to influence the election. Jim Comey investigated that for 10 months. Guess what? He found nothing. And we know he found nothing, because we deposed him and he told us after 10 months they didn't have a thing.

But that didn't stop it. Twenty-two months later, Bob Mueller does a special counsel investigation. He investigates it for 22 months, and what does he tell us? Other members have already said this. He found nothing, no coordination between the Trump campaign and Russia to impact the election.

Thirty-two months of investigations, they find nothing. But what do Democrats want to do? What do they want to do now? Change the rules, keep investigating, because we got to find something so we can impeach this President.

Maybe the country would be better served, maybe the constituents we represent would be better served if we actually figured out how the false accusation happened. And the good news is, as I have said before on this committee, the good news is that is exactly what the Attorney General of the United States is doing. And thank God for Bill Barr. That is exactly what he is doing.

But you know what? We can do the same thing. We can do the same thing. And a great place to start is right where Mr. Chabot just said. Why don't we start with the inspector general? Not just any inspector general, the inspector general for the Justice Department, which we have jurisdiction over, just issued a report 2 weeks ago, a scathing report, on the guy who is most responsible for this 3-year saga that our country has had to live through: Jim Comey -- Jim Comey, the guy who opened the investigation July of 2016; Jim Comey, the guy who allowed Peter Strzok to run that investigation after that guy had ran the Clinton investigation, after that guy had said to Lisa Page, another FBI employee, "Don't worry, Lisa, we will stop Trump"; Jim Comey, the guy who allowed the dossier to go to the secret court to be used to spy on a fellow American associated with the Trump campaign; Jim Comey, who leaked the information to The New York Times through his friend so we would get the special counsel; Jim Comey, the guy who on January 6 goes to Trump Tower trying to trap the President while he is telling the President he is not under investigation.

Scathing report by the inspector general on that guy. And when I asked the chairman 2 days ago, 2 days ago, when he was busy taking away people's Second Amendment rights, when I asked him 2 days ago when we might have a chance to question the inspector general, his response, the chairman of the Judiciary's response was: "I don't know. We haven't thought about that."

That is scary. That is scary, when you have the inspector general issue that kind of report and the chairman of the Judiciary Committee doesn't even know a thing about it, hasn't even thought about when we are going to bring him in so we can talk to him.

This is the Judiciary Committee, for goodness' sake. And think about what has happened in 48 hours in this committee. This is scary.

And everyone in the country knows, and everyone who said this earlier, they know

that there aren't the votes to do this. There aren't the votes to do this right, so you are playing this game in the Judiciary Committee, of all places.

Maybe if you were a little less focused on taking people's Second Amendment rights and impeaching the guy they made President, we could actually do what this committee is supposed to do.

I yield back.

Chairman Nadler. The gentleman yields back.

Who else seeks recognition?

The gentleman from Virginia. For what purpose do you seek recognition?

Mr. Cline. Thank you, Mr. Chairman. I move to strike the last word.

Mr. Chairman, I support the Buck amendment. When I was in the Virginia legislature, we had a process of killing bills in subcommittee that weren't ready for primetime. A lot of times, they didn't have recorded votes in subcommittees, so they were sent there in the hopes that they would die by a voice vote, never to see the light of day at full committee. But I actually forced our rules to change to require recorded votes at subcommittees. So I think that the sunshine of the full committee is important, and that is why I support the Buck amendment.

But this is time to consider something greater. I am so proud to be a member of the Judiciary Committee. It is the most serious, the most substantive, the committee historically of the highest integrity.

But what we have seen over the last 6 months is a J.V. version of the Judiciary Committee that I know, that I saw when I was a staffer for Congressman Bob Goodlatte, the former chairman of this committee, back in 1998.

And what we have seen over the past 6 months is an embarrassment. It is a recognition that an impeachment resolution could not pass the full House. So this



committee is trying to have its cake and eat it too, trying to have the authority of an official impeachment inquiry but without the support of the full House.

And why is that? It is because, from the beginning, the hearings and actions of this committee have been some of the most partisan actions that we have seen.

And it is my hope that we can recognize the seriousness of the moment, the task of monumental and historic proportion that the gentleman cited back in 1998 when he was on this committee. And I will quote your statement from this committee:

"The issue in a potential impeachment is whether to overturn the results of a national election, the free expression of the popular will of the American people. That is an enormous responsibility and an extraordinary power. It is not one we should exercise lightly. It is certainly not one which should be exercised in a manner which either is or would be perceived by the American people to be unfair or partisan. If our conduct in this matter does not earn the confidence of the American people, then any action we take, especially if we seek to overturn the result of a free election, will be viewed with great suspicion and could divide our Nation for years to come."

Mr. Chairman, those are your words from 1998. I heard them myself.

I would ask that we take this matter with the seriousness that it deserves and not go down this road we are going down today.

Chairman Nadler. Would the gentleman yield?

Mr. Cline. Mr. Chairman, I yield back.

Chairman Nadler. Would the gentleman yield?

Mr. Cline. I yield.

Chairman Nadler. Thank you. I agree with what I said 20 years ago.

I yield back.

Mr. Cline. And I yield back, Mr. Chairman.

Chairman Nadler. The gentleman yields back.

Who else seeks recognition?

The gentleman from California. For what purpose does the gentleman seek recognition?

Mr. McClintock. To strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. McClintock. Mr. Chairman, as I understand the chair's opening comments, it was, in essence, since the rules are silent, that gives us the ability to make them up as we go along. Well, no, when the rules are silent, precedent governs. And the precedent is clear, as my colleague from Arizona pointed out.

In the 206 years that this committee has sat, it has never conducted an impeachment proceeding without first being authorized to do so by a vote of the full House. And that is because the power of impeachment belongs to the whole House and the whole House has not delegated that power to any of its committees. It must first make that delegation, and to this date, it has not.

Committees are creatures of the House. Their only powers are those that are delegated by the House. Committees can't freelance.

If the majority wants to exercise the House's power of impeachment, all you have to do is ask the House to do so. All you have to do is ask the House that it direct and authorize this committee to conduct an impeachment inquiry. That is all you have to do. Resolve that the House authorizes the Judiciary Committee to conduct an inquiry into the impeachment of the President. It is that simple.

I dare you to do it. In fact, I double-dog-dare you to do it. Have the House vote on those 18 words, and then go at it.

Why won't you do that? It is because you want to give the allusion of

impeachment without the reality of it. You are duping that portion of your base that is clamoring for impeachment into thinking you are when you aren't. Some Democrats can tell their constituencies they are conducting an impeachment inquiry, while others can tell their constituencies that they aren't. You can have your impeachment and deny it too. That is why you won't pass that resolution.

If this President is guilty of such heinous crimes as you irresponsibly charge, why are you so reluctant to impeach him? If you can actually prove these accusations, well, as Joseph Welch once said, why don't you do so before the sun goes down? You won't do so because you can't.

And if you want to know what an abuse of power truly looks like, it looks like what is unfolding right now.

I yield back.

Chairman Nadler. The gentleman yields back.

Does anyone else seek recognition?

The question occurs on the amendment.

All in favor will say aye.

Opposed, no.

The noes have it. The amendment is not agreed to.

Mr. Sensenbrenner. Roll call, please.

Chairman Nadler. A roll call is requested. The clerk will call the roll.

Ms. Strasser. Mr. Nadler?

Chairman Nadler. No.

Ms. Strasser. Mr. Nadler votes no.

Ms. Lofgren?

Ms. Lofgren. No.

Ms. Strasser. Ms. Lofgren votes no.

Ms. Jackson Lee?

[No response.]

Ms. Strasser. Mr. Cohen?

[No response.]

Ms. Strasser. Mr. Johnson of Georgia?

Mr. Johnson of Georgia. No.

Ms. Strasser. Mr. Johnson of Georgia votes no.

Mr. Deutch?

Mr. Deutch. No.

Ms. Strasser. Mr. Deutch votes no.

Ms. Bass?

Ms. Bass. No.

Ms. Strasser. Ms. Bass votes no.

Mr. Richmond?

Mr. Richmond. No.

Ms. Strasser. Mr. Richmond votes no.

Mr. Jeffries?

Mr. Jeffries. No.

Ms. Strasser. Mr. Jeffries votes no.

Mr. Cicilline?

Mr. Cicilline. No.

Ms. Strasser. Mr. Cicilline votes no.

Mr. Swalwell?

[No response.]

Ms. Strasser. Mr. Lieu?

Mr. Lieu. No.

Ms. Strasser. Mr. Lieu votes no.

Mr. Raskin?

Mr. Raskin. No.

Ms. Strasser. Mr. Raskin votes no.

Ms. Jayapal?

Ms. Jayapal. No.

Ms. Strasser. Ms. Jayapal votes no.

Mrs. Demings?

Mrs. Demings. No.

Ms. Strasser. Mrs. Demings votes no.

Mr. Correa?

Mr. Correa. No.

Ms. Strasser. Mr. Correa votes no.

Ms. Scanlon?

Ms. Scanlon. No.

Ms. Strasser. Ms. Scanlon votes no.

Ms. Garcia?

Ms. Garcia. No.

Ms. Strasser. Ms. Garcia votes no.

Mr. Neguse?

Mr. Neguse. No.

Ms. Strasser. Mr. Neguse votes no.

Mrs. McBath?

Mrs. McBath. No.

Ms. Strasser. Mrs. McBath votes no.

Mr. Stanton?

Mr. Stanton. No.

Ms. Strasser. Mr. Stanton votes no.

Ms. Dean?

Ms. Dean. No.

Ms. Strasser. Ms. Dean votes no.

Ms. Mucarsel-Powell?

Ms. Mucarsel-Powell. No.

Ms. Strasser. Ms. Mucarsel-Powell votes no.

Ms. Escobar?

Ms. Escobar. No.

Ms. Strasser. Ms. Escobar votes no.

Mr. Collins?

Mr. Collins. Yes.

Ms. Strasser. Mr. Collins votes yes.

Mr. Sensenbrenner?

Mr. Sensenbrenner. Aye.

Ms. Strasser. Mr. Sensenbrenner votes aye.

Mr. Chabot?

Mr. Chabot. Aye.

Ms. Strasser. Mr. Chabot votes aye.

Mr. Gohmert?

Mr. Gohmert. Aye.

Ms. Strasser. Mr. Gohmert votes aye.

Mr. Jordan?

Mr. Jordan. Yes.

Ms. Strasser. Mr. Jordan votes yes.

Mr. Buck?

Mr. Buck. Aye.

Ms. Strasser. Mr. Buck votes aye.

Mr. Ratcliffe?

[No response.]

Ms. Strasser. Mrs. Roby?

Mrs. Roby. Aye.

Ms. Strasser. Mrs. Roby votes aye.

Mr. Gaetz?

Mr. Gaetz. Aye.

Ms. Strasser. Mr. Gaetz votes aye.

Mr. Johnson of Louisiana?

[No response.]

Ms. Strasser. Mr. Biggs?

Mr. Biggs. Aye.

Ms. Strasser. Mr. Biggs votes aye.

Mr. McClintock?

Mr. McClintock. Aye.

Ms. Strasser. Mr. McClintock votes aye.

Mrs. Lesko?

Mrs. Lesko. Aye.

Ms. Strasser. Mrs. Lesko votes aye.

Mr. Reschenthaler?

Mr. Reschenthaler. Aye.

Ms. Strasser. Mr. Reschenthaler votes aye.

Mr. Cline?

Mr. Cline. Aye.

Ms. Strasser. Mr. Cline votes aye.

Mr. Armstrong?

Mr. Armstrong. Yes.

Ms. Strasser. Mr. Armstrong votes yes.

Mr. Steube?

Mr. Steube. Yes.

Ms. Strasser. Mr. Steube votes yes.

Chairman Nadler. The gentlelady from Texas.

Ms. Jackson Lee. No.

Ms. Strasser. Ms. Jackson Lee votes no.

Chairman Nadler. The gentleman from Tennessee.

Mr. Cohen. No.

Ms. Strasser. Mr. Cohen votes no.

Chairman Nadler. Has anyone else not voted who wishes to vote?

The clerk will report.

Ms. Strasser. Mr. Chairman, there are 15 ayes and 23 noes.

Chairman Nadler. The amendment is not agreed to.

Are there any further amendments?

For what purpose does the gentleman from Florida seek recognition?



Mr. Gaetz. Mr. Chairman, I have an amendment at the desk.

Chairman Nadler. The gentleman has an amendment at the desk. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order.

Ms. Strasser. "Amendment to the Resolution for Investigative Procedures Offered By Mr. Gaetz of Florida.

"Page 4, line 104: Strike 'staff' and insert 'Members.'"

[The amendment of Mr. Gaetz follows:]

\*\*\*\*\* INSERT 1-3 \*\*\*\*\*

Chairman Nadler. The gentleman is recognized for the purpose of explaining his amendment.

Ms. Lofgren. I withdraw my point of order.

Mr. Gaetz. Thank you, Mr. Chairman.

Chairman Nadler. The gentlelady withdraws her point of order.

The gentleman is recognized.

Mr. Gaetz. Thank you, Mr. Chairman.

I don't know what the majority's obsession is with having staff members ask questions to witnesses in these important proceedings. I have made the point previously and sincerely that I do believe that some of the most rhetorically talented members of the Democratic Caucus are seated just on this Judiciary Committee.

As a matter of fact, when Democrats come together to decide who will speak for them on the floor on important issues like nominating the Speaker of the House, they chose my friend, the gentleman from New York, Mr. Jeffries.

We have talented litigators, even Presidential candidates, who serve on -- or, I guess, former Presidential candidates -- who serve on the Judiciary Committee. And I don't understand why this important task would be delegated to those who have not run for office, been elected, and been asked to serve on this august body.

And I know, having talked to a number of my Democratic colleagues, that there is some regret over the chairman's decision to place committee staff's ability to ask questions over having the Attorney General come and testify to our committee.

I actually think it is quite disappointing that we have not heard from the Attorney General during our time. And I think we would have, had the majority been willing to allow the Attorney General to come and merely respond to questions from members of the committee.

But this kind of paradigm of hiring CNN contributors onto the staff and then trying to turn our committee hearings into, like, some sort of a reenactment of a CNN show is probably less productive than allowing our members to ask pointed and substantive questions.

And if we zoom out a little bit and sort of ask ourselves why we are here, it may be important to note that, throughout all the majority's theatrics, they have failed to move the needle at all when it comes to the people in this country. In fact, it was a Monmouth University poll on August 23 that found that only 35 percent of Americans support impeachment and 59 percent of Americans oppose impeachment.

So, if we just check the scoreboard, my friends, we will find that you are losing and you are not making up any ground, despite the fact that over and over again you try to smear the President of the United States with false accusations.

RPTR MERTENS

EDTR SECKMAN

[9:10 a.m.]

Mr. Gaetz. I don't know quite what to call this. The chairman mentioned that he wouldn't be debating the lexicon as to whether or not this was an impeachment inquiry or an impeachment investigation. I have called it impeachment in drag because we have sort of dressed up impeachment like an oversight hearing. Perhaps it is low-T impeachment or low-energy impeachment.

But I would suggest that perhaps -- or I would hope at least that these proceedings are not more about the chairman's upcoming primary challenge than about the important work of the committee and about the country. Because if we look at -- moan and groan all you want because, I mean, look, we have got circumstances here where you guys can't move the country, right. You don't have any support for this endeavor, and so we kind of lurch along with -- you know, it is like a Seinfeld hearing. It is a hearing about nothing. It is a hearing about whether or not, when we have people come and give testimony afterwards, the President can write us a letter in response. This is more about defining our penpal strategy than defining any sort of legitimate investigation.

But there are legitimate investigations that we should be conducting. We should be determining what corrupt entities within the Obama White House fanned the flames of the lies that President Trump was engaged in a criminal conspiracy. We should investigate how someone like Joseph Mifsud can make things up, can launch us into this bizarre fact pattern and then disappear, like, out of thin air without any desire to find out why that happened. And we most certainly should be investigating the FISA abuses where Jim Comey and other actors within a very corrupt deep state perpetrated a fraud

on the FISA court. They went before a judge with no defense attorney, and they didn't present all the evidence, and they did that so that they could shoehorn a secret court into giving them authorities that no government should have to weaponize political opposition research within the confines of our really important investigative work.

What Brennan and Comey and Clapper and McCabe have done to our country is deeply damaging, and it was my hope that, as members of the Judiciary Committee, we could come together, we could root out this corruption, and we could ensure that it never happens again to another President.

But in the meantime, can we at least adopt this amendment, and can we at least be willing to stand behind our own arguments and our own questions as Members of the United States Congress and members of the Judiciary Committee, or is it the desire of the majority to delegate and slough off this important task to members of your CNN staff? I certainly hope that is not the case, and I yield back.

Chairman Nadler. The gentleman yields back.

I recognize myself in opposition to the amendment. I want to make two points.

One, permitting committee staff to question witnesses is consistent with both House rules and past precedent. Under House rule XI, 2(j)(2)(c), a committee may adopt a rule or motion permitting committee staff of its majority and minority party members questions to question a witness for equal specified periods. This has been a standing rule of the House since the mid-1990s when a then Republican majority adopted it.

Second, the staff questioning of witnesses at a congressional hearing is far from unprecedented. Examples include hearings related to alleged involvement of the CIA in Watergate in the 1970s, Iran-Contra hearings, hearings on Attorney General Janet Reno's implementation of the Independent Counsel Act, and the impeachment of President Clinton in the 1990s, the impeachment of Judge Porteous, and then a hearing to examine

allegations of misconduct by FBI agents in the Boston field office in the 2000s.

Most recently, under Republican majority, House Judiciary Committee staff participated in questioning senior Department of Justice officials. In the last Congress, during the Republican-led investigation into the FBI's handling of the Hillary Clinton email investigation, staff questioned several FBI and DOJ officials, including then Deputy FBI Director Andrew McCabe, former FBI Director James Comey, and former Attorney General Loretta Lynch.

Lastly, the committee is adopting these procedures to facilitate its ongoing investigation to determine whether to recommend Articles of Impeachment against the President.

The second point I want to make is to the objection that we have heard from several of the Republican members that this is not a real impeachment because the House has not voted to authorize the committee to conduct an impeachment inquiry. The committee's ongoing investigation to consider Articles of Impeachment, which is what we are doing, is fully consistent with the Constitution, House rules, and past precedent with regard to impeachment.

First, as to the Constitution, Article I, section 2, clause 5, grants the House the sole power of impeachment. It does not say anything about a particular procedure that the House or any committee of the House must follow.

Second, there is no House rule requiring the House to take a full vote before a committee engages in an investigation to determine whether to recommend Articles of Impeachment. In fact, a rule like that would be inconsistent with House rule XI, clause 1(b)(1), which states that, quote, each committee may conduct at any time such investigations and studies as it considers necessary and appropriate in the exercise of its responsibilities, close quote.

Third, House precedent clearly demonstrates that the Judiciary Committee's jurisdiction includes consideration of Articles of Impeachment. The Judiciary Committee has conducted every impeachment investigation that has occurred in the House since 1900.

Fourth, the Judiciary Committee has frequently conducted investigations to consider Articles of Impeachment without express authorization from the full House. Modern examples include impeachment investigations of Justice William O. Douglas in 1970; Judge Harry Claiborne, 1986; Judge Walter Nixon, 1989; IRS Commissioner John Koskinen, 2016, under the last Republican majority.

In fact, following the Legislative Reorganization Act of 1946, the majority of impeachment resolution investigations conducted in the House have occurred without -- and let me repeat that -- the majority of impeachment investigations conducted in the House have occurred without the full House specifically authorizing a, quote, impeachment inquiry.

In light of this precedent, the committee and the House have made clear that the committee has full authority to conduct its current investigation for the purpose of determining whether to recommend Articles of Impeachment.

In May, when the committee voted to recommend that Attorney General Barr be held in contempt, the report approved by the committee made clear that one of the purposes of its investigation was to determine, quote, whether any of the conduct described in special counsel's report warrants the committee to take any further steps under Congress Article I powers. That includes whether to approve Articles of Impeachment with respect to the President, close quote.

In June, the full House voted to approve H.Res. 430, which affirms that this committee and all other committees have, quote, any and all necessary authority under

Article I of the Constitution, close quote, to conduct investigations. The accompanying report by the Rules Committee expressly states that this authority is intended to facilitate the Judiciary Committee's ongoing investigation, including its assessment of, quote, whether to recommend Articles of Impeachment with respect to the President, close quote.

I myself have also noted on several occasions that Articles of Impeachment against the President have been introduced during the current Congress, and they are under consideration by the committee. I do not agree with the argument that the full House must authorize an impeachment investigation simply because the House did so for investigations of President Clinton and President Nixon.

In fact, in the case of President Nixon, the House Judiciary Committee had already begun considering Articles of Impeachment and holding hearings for more than 6 months before the full House formally authorized an impeachment inquiry. As the Members at the time noted on the House floor, the resolution passed by the House merely reaffirmed the committee's authority to conduct its then ongoing -- its already ongoing investigation.

In the cases of both Presidents Nixon and Clinton, the House's authorizing resolutions served a specific purpose. They granted the committee additional investigative powers, such as the authority to issue subpoenas and conduct depositions. Under the House's current rules, the Judiciary Committee already has those investigative powers and all investigative powers necessary to conduct its work.

We are conducting that investigation. We do not need a full House resolution to authorize it. It is authorized, and we are doing so, and I yield back the balance of my time.

Who else seeks recognition on the amendment?



For what purpose does the gentleman from Wisconsin seek recognition?

Mr. Sensenbrenner. I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Sensenbrenner. Chairman, let's get back to the amendment offered by the gentleman from Florida, Mr. Gaetz. What the amendment does is say only members and not staff can and examine and cross-examine the witnesses that are brought before the committee. Now, I, you know, agree that the chairman has stated the precedents that have occurred in the past, but we are talking potentially about impeaching the President of the United States. And when we deal with something that is this serious and has only actually been seriously considered three times before in the Nation's history, I think it is important that only the members, who are elected and who are accountable for their actions here in Congress to their own constituents, do the questioning, not unelected staff, who can go all over the place and not suffer any type of electoral problems because of what they say or what they do.

This amendment is a question of accountability. It is a question of accountability of the 48 of us -- or 38 of us -- who have been chosen to serve on this committee knowing full well what the committee's jurisdiction is. I think that this committee owes it that only members in hearings like this when witnesses come before us question members. And the constituents in each of the districts that we represent can judge whether their Member is acting responsibly and in the public interest or not, not the unelected staff, which I don't think we should be doing when we are dealing with an impeachment that is as serious as one as the President of the United States. So let's be accountable. Let's adopt the amendment.

And I yield back.

Chairman Nadler. The gentleman yields back.

Does anyone else seek recognition on this amendment?

For what purpose does the gentleman from Georgia seek recognition?

Mr. Collins. Thank you, Mr. Chairman.

Look, I think, you know, all the things aside -- and I think we have talked about a lot of things -- this is important because the confusion that is out there, the discussion has been in the press, everything that has been talked about about saying -- you know, and you even acknowledged in your opening statement that there is confusion out there about what this is. And if you look at any of the Hill papers or even across the country, there has been this discussion: Are we in impeachment, or are we not in impeachment?

So I appreciate your reading this long list of discussions on when we have done this and when we have not done this. I would not use any judge or judicial impeachments in this because that is actually within our purview. It doesn't need anything else. That is where it is supposed to be anyway. That is not new. So putting judicial in here is really not -- I mean, it is nice to throw in, but it is not in the same vein.

Also, you talked about procedures mattering, and I made this point at the very beginning: Nothing that we are doing today could not be done on any regular day. The problem that is coming up today is it is starting from last Friday on until we settle this, it was this discussion also in formal court filings in which there had been the demand that a formal inquiry has started, and that means a whole different thing to anybody that is wanting to discuss this.

Now, in this building, we discuss, and on this committee in particular, we will debate, you know, the commas and everything else, and that is what we should be doing. But the general public does not. The general public just sees the press release. They see the discussion, and they take it from there, and they believe something that is not

actually happening, and it does matter. Words matter here in how we deal with this.

You talked about procedures and coming up into impeachment. Here, right here, are 900 pages of procedures if we were actually in an impeachment inquiry. This is from the 1974 and from Clinton, 900 pages of procedure. So to say that procedure doesn't matter or that these three procedures are actually determining, you know, if we are looking into an inquiry, in fact, if you go back to 1974, Peter Rodino actually determined that they didn't -- they wasn't in an impeachment inquiry and that they actually went back to the House to gain more subpoena authority for that. If we want to be historical here, let's be historical. And I think that this is why it comes down to this issue of staff questions. It comes down to the issue that we have talked about all along here.

In fact, you brought up the June vote, and the June vote was interesting because it actually had to go back and have that June vote because there was questions from the court about the actual authority to do what we were doing. So I think that is where this is becoming a really interesting issue here is that we are not addressing the head-on conclusion here, and the head-on conclusion is that you can't have this discussion in two veins because, again, it is not what we are discussing here.

And we can all, you know, maybe agree on one point or the other point from a very fine legal term, but when it is out in the general public, when it is out there for the headline of the news or a media where they have to condense down to 600 or 800 words what is happening here, and they do so, really not with 800 words; they do it with a headline. Whether it is -- you know, whatever broadcast it is, they do it with a tag across the bottom on TV. They do it with a headline in their news articles or their paper or blogs or wherever they put it, is they put out -- and it is from this own committee -- saying we are in a formal impeachment inquiry. That connotes

something completely different and triggers a completely different response from this committee, a completely different overall -- and we can agree to disagree on why we are here, but at least let's get the terms straight. Let's at least acknowledge why it matters. You may want to impeach this President all day long and twice on Sunday. Fine. Do it the right way. But that is not what is happening here. We want to have it as a subtle backing saying: Here is what we are doing. We are inching toward it, but we are making sure that everybody understands that we are trying to hold the President accountable, but we can't there because we know we don't have 218 votes on the floor.

Nobody has denied that you are not trying to find a reason to impeach the President -- nobody on our side or anywhere else. You have been talking about it for a long time. We get that. But don't hide regulations -- or not regulations but rules of this committee, which you could have done at any point, at any time, on any hearing. These are already part of our rules.

So, you know, from our side who, you know, discuss and say this, you know, is something forward, going forward. We have got to make sure this is wrong, no. And from your side, let's deal in the reality. We want -- have as many of these hearings as you want to have them, acknowledge that you are still looking for your answer. You know, U2 said it best: I still haven't found what I am looking for.

And that is what we are doing, and that is okay. But at least acknowledge that there is a reason why these are not formal impeachment inquiries. There is a reason why the House has set this up. And for you who have served on it and spoke very eloquently -- by the way, I read all of your comments or most of your comments from the late 1990s and the Clinton impeachment. You agree with me. This is sort of interesting. We have similar conversations here that you would have agreed with me now in your -- in the previous comments that are in the record from the Clinton

impeachment.

So I think, as we move forward, this is why we are making a big deal of this. This is not -- we just need to make sure that -- you could have done all of this that you wanted to in a regular setting. But the problem is you are wanting it packaged as if it is something it is not. That is why we are -- that is why this concern is here. That is why we will continue to speak out against it, and I yield back.

Mr. Johnson of Louisiana. Mr. Chairman.

Chairman Nadler. The gentleman yields back.

The gentleman from Louisiana. For what purpose does the gentleman seek recognition?

Mr. Johnson of Louisiana. I want to just ask -- maybe it is a point of parliamentary inquiry regarding your opposition to the amendment, and it is a serious question, Mr. Chairman. I just wonder if you would answer.

You are opposing members doing the additional hour of questioning, and I am wondering, and I don't mean to be flippant. Are we concerned about the time commitment or the competency of members of the committee and why they would not be able to fulfill that extra hour?

Chairman Nadler. It is not a parliamentary inquiry. The reason I am smiling is that it reminds me of a question I asked a senior member of the state assembly when I was a freshman, and I have always regretted asking, but that is a separate discussion.

Mr. Johnson of Louisiana. Well, I don't regret asking this one.

Chairman Nadler. Let me just say. The reason for staff is not -- remember, this is after the 5-minute rule. And it is very clear, and that is why, in various inquiries when Democrats were in the majority, when Republicans were in the majority, and I listed some of those inquiries, not all of them, it has often been done that staff or staff counsel

could ask questions because the 5-minute rule can be disjointed. And we will observe the 5-minute rule, but after that, we may elect to have counsel for the majority and the minority question up to half an hour so you can pursue questions of the witness, and it has been observed many times that that is a very effective -- I won't say more effective -- but it is an effective way of getting at the truth and eliciting facts. And that is why we want to do it, and that is why others have done it.

Mr. Johnson of Louisiana. Mr. Chairman, it is within the rules. It is within your authority.

Chairman Nadler. The gentleman still has recognition.

Mr. Johnson of Louisiana. Well, I just want to suggest --

Chairman Nadler. Do you move to strike the last word?

Mr. Johnson of Louisiana. Strike the last word, yes, sir.

Chairman Nadler. The gentleman is recognized.

Mr. Johnson of Louisiana. We could allow for additional time for members to do more questions. If the 5-minute rule is unruly, let's allow for more time.

As has been stated so eloquently by my colleagues, this is a big deal. You are talking about impeaching a President. I am sure that we can find the time in our schedules, and I am quite confident in the competence of every member of this committee. Most of us are attorneys. We have all questioned witnesses before. This is well within our scope of competence, and the reason we are on this committee is to perform important duties like this one. We do not need to delegate this to staff. We can handle it, Mr. Chairman. Why are we not allowed to do it?

I yield to Mr. Collins.

Mr. Collins. Thank you, and I appreciate the gentleman.

What he is saying here is the exact same rule allows for what you just said.

Mr. Johnson of Louisiana. Right.

Mr. Collins. The exact same rule allows members to have that time and to extend that time. And if the concern is time, fine. Then we can do that. In fact, that is what we will probably end up doing. But the same rule that we are using here to allow staff to have that extra 30 minutes is the same rule that can be allowed for us to have the same time.

I yield back to Mr. Johnson.

Mr. Johnson of Louisiana. I yield to Mr. Biggs.

Mr. Biggs. Thank you for yielding to me.

I just want to point out. In other hearings that are momentous like this, you will see an extension of time to 10 minutes. We could do that. We could change the rule. This is a self-governing body. We can change that rule. But, moreover, we could allow for multiple rounds. We could allow for multiple rounds for members to ask the questions. We don't have to designate to staff. We don't have to remove the responsibility that each one of us took upon us when we ran for office, when we were elected, when we were appointed to this important committee facing an important, historical decision whether we overturn an election. We don't have to settle on saying: Okay. We are going to just give it to the staff.

We can do multiple rounds. We can extend the time. We can do that, Mr. Chairman. I think we have perfectly capable people on both sides of the aisle. If the object is to really get to the bottom of this, to get the truth so we can make an informed decision, the people that are making that decision ought to be allowed to ask those questions.

And, with that, I yield back to Mr. Johnson.

Mr. Johnson of Louisiana. And I would just suggest this is not unprecedented to

allow members additional time. We were talking back here on the bench about our memory of the Benghazi hearing, for example, where I think all members got three rounds of questions, perhaps -- I think it was as long as 10 minutes each. This is certainly as important as the Benghazi hearing. Why would we not be allowed to do that? I would argue we have the most competent committee in Congress. These are attorneys, everybody on this dais. We should have the ability to do that.

I yield to Mr. Gohmert.

Mr. Gohmert. I don't want to sound like Pollyanna here, but I take it as a great compliment that they would rather have Republican staff members ask the questions than any of us ask the additional questions.

So I yield back.

Mr. Collins.

Mr. Collins. Let's clarify something. The House rules is 5 minutes. So we get -- the 5-minute rule is 5 minutes. Now, we can go multiple rounds, and then we can do that, but what we are asking here is, in the same rule, that we can go outside of that 5 minutes by doing this with staff and then also with members. And I think that is, again, the very same rule as what we are dealing with here as we go forward here.

So, with that, I yield back to you.

Mr. Johnson of Louisiana. I yield back, Mr. Chairman.

Chairman Nadler. The gentleman yields back.

The question occurs on the amendment.

Mr. Biggs. I move to strike the last word.

Thank you, Mr. Chairman.

I was struck when I -- first of all, I think that the gentleman from Florida's amendment is rational. It is purposeful. It is something we should do. I think it



further the cause of getting at the truth here and allowing the American people to see what their Representatives are doing. This would be a momentous hearing. Let's just be honest. This would be a momentous hearing and investigation if it becomes such.

And I find it -- the inconsistency here, trying to move it to the staff, is consistent somehow ironically with the inconsistencies that I heard in the chairman's -- in our august chairman's opening statement, and so -- and then the response that he gave to the gentleman from Florida. So he used this notion that -- and he provided many instances where there had been no resolution by the House in toto prior to the Judiciary Committee conducting an investigation, but he could never list an impeachment proceeding against the President of the United States.

He said a bunch of judges. Now, remember, judges are pointed by the Senate. For practical purposes, they have devolved into this lifetime appointment, even though the Constitution calls it a term of good behavior. They are unelected. They don't face the people. They have not been elected by the people.

Instead, and the reason that this is so critical, and the precedent has been that it goes to the House first is because the President is elected, subject to a vote by the people, who will be responding to people within a maximum of 4 years, depending on when the impeachment gets. That is important. That is the distinction. That is why you typically will take this to the House floor first.

Right now, you have almost 60 percent of Americans opposed to impeachment. That same Monmouth study, Monmouth University study cited by my colleague from Florida, also indicates that a majority of the country opposes the opening of an impeachment inquiry by this committee. The Speaker of the House, the Senate minority leader have issued conflicting statements, but they seem to indicate opposition to an impeachment.

Less than 2 months ago, the entire body voted on an impeachment resolution, and it was tabled. It failed by a vote of 332-95. Think about that. 332-95. 137 Democrats, a majority of the Democratic conference, voted against that bill.

There are strange articles that are coming out in opinion pieces, one by The Washington Post, wondering what is driving the chairman, and the title of that article on July 29th was "Could concerns about a primary challenger be behind Nadler's impeachment posturing?" I don't know if that is true or not. I don't know if that is true or not. I am reading -- I am just citing an article that came from The Washington Post. That is something to be considered. I mean, something interesting. Don't you think?

Ms. Lofgren. Mr. Chairman? Mr. Chairman?

Mr. Biggs. There is nothing shameful about it.

Ms. Lofgren. Mr. Chairman, I would like to make a point of order.

Chairman Nadler. The gentlelady will state a point of order.

Ms. Lofgren. That the committee rules prohibit questioning the motives of other members.

Mr. Biggs. I am not --

Ms. Lofgren. I would hope -- and I never do that, and I would hope that members will be --

Mr. Biggs. I don't know.

Ms. Lofgren. -- members will be conscious of the rule, and I thank the gentleman.

Mr. Biggs. Thank you.

Chairman Nadler. All members will be mindful of committee rules.

Mr. Biggs. Thank you for reminding me of that. I was not unaware of it. That

is why I said, look, I am just reading the title of an article that came out. That is all.

But I will to talk about inconsistencies yet again. When the chairman cites to the court that any such materials, meaning grand jury materials, will be stored in a secure location with access restricted to committee members, HPSCI, so Judiciary and HPSCI only, that is inconsistent with rule XI of the House. And he cited rule XI just moments ago, so I know he is familiar with it. Those inconsistencies must be cleared up.

And, with that, Mr. Chairman, I support the Gaetz amendment. I think it is critical. I think it is important, and I yield.

Chairman Nadler. All in favor, say aye.

Opposed, no.

The amendment is not agreed to. Are there any further amendments?

Mr. Buck. Mr. Chairman.

Chairman Nadler. The gentleman from Colorado is recognized.

Mr. Buck. I have an amendment at the desk.

Mr. Nadler. The gentleman from Colorado has an amendment at the desk.

The gentlelady requests a point of order.

Ms. Strasser. The amendment offered by Mr. Buck of Colorado to a Resolution for Investigative Procedures offered by Chairman Gerald Nadler.

Beginning on page 1, line 11, strike "using his official powers to thwart or attempt to thwart the special counsel's investigation" and replace with: allegedly attempting to obstruct justice under 18 U.S.C. 1503, 1504, 1512(b)(3) and 1512(c)(2) but as to those allegations the Office of Special Counsel did not draw ultimate conclusions about the President's conduct and furthermore acknowledge that the Office of Special Counsel did not conclude that the President committed a crime and nevertheless.

[The amendment of Mr. Buck follows:]

\*\*\*\*\* INSERT 2A-1 \*\*\*\*\*

Chairman Nadler. The gentleman is recognized to explain his amendment.

Mr. Buck. Thank you, Mr. Chairman.

Mr. Chairman, most of the members of this committee are lawyers or were previously --

Chairman Nadler. The gentleman will suspend. The gentlelady withdraws, will not insist on a point of order. The gentleman will proceed.

Mr. Buck. Thank you.

Most of the members of this committee are lawyers or previously in law enforcement. Because of that, we should act like lawyers. Because we are the Judiciary Committee, we should seek justice. And because we represent the American people, we should be fair. For these reasons, our committee has an obligation to use legal terms correctly. My amendment clarifies the second "whereas" clause in the resolution to ensure it uses proper legal terminology, reflects the constitutional presumption of innocence, and accurately characterizes the Mueller report.

Why is my amendment necessary? This resolution fails to convey Special Counsel Mueller's conclusions. The chairman's resolution makes a similar -- or makes an error by using words that are not, in fact, a crime. Where in the United States Code does it say that thwarting is a crime? What is thwarting? If anything, the correct and proper terms would be "obstruction" and "attempted obstruction." We are the Judiciary Committee, and we should use the correct terminology.

In terms of those crimes, this resolution suggests the report found the President improperly used his official powers. Mr. Mueller's report, however, makes clear that there were no such findings. The Mueller report said the Office of Special Counsel, quote, did not draw ultimate conclusions, end quote, and, quote, did not conclude that the President committed a crime, end quote.

By falsely suggesting a criminal conclusion was reached, this resolution fails to provide the President with a presumption of innocence guaranteed by the Constitution. I believe it is important that this resolution stay true to the law, the Constitution, and the findings of the Mueller report. It does not. My amendment corrects for these oversights and inadequacies.

In summary, my amendment deletes references to "thwarting" and "attempting to thwart" as these simply are not legal terms, replacing these terms with the correct legal terminology. It identifies the exhaustive list of obstruction statutes that the special counsel considered. And, finally, it accurately characterizes the report's conclusions about obstruction, quoting directly from the Mueller report, which is consistent with what Mr. Mueller has said publicly at a press conference and before the House Permanent Select Committee on Intelligence.

This committee should seek the truth in all that we do. My amendment is a necessary amendment to ensure this resolution reflects the truth of the information we have reviewed. I would urge the committee to adopt my amendment.

And I yield to my friend from Texas.

Mr. Gohmert. I was just wanting to ask a question. You have obviously looked at this a great deal. So, if the President thwarts Iran, thwarts North Korea, that would not be a crime.

Mr. Buck. I am unaware of any crime using the term "thwart." I am not even aware of what "thwart" is. I am aware of a wart, which is what this resolution contains many of, but I am unaware of the term "thwart."

Mr. Gohmert. So it is apparently not a high crime or misdemeanor to be a thwarter.

Mr. Buck. No.

Mr. Gohmert. Fine. Thank you for yielding or clarifying.

Mr. Buck. I yield back, Mr. Chairman.

Chairman Nadler. The gentleman yields back. I recognize myself in opposition to the amendment. I will simply make two points.

Number one, an impeachable offense does not have to be a crime. And a crime, by the way, may not be an impeachable offense. Those are two separate matters. And I will repeat: an impeachable offense or an offense for which someone should be impeached need not be a crime.

The second point I want to make is that we believe that the description found in the resolution accurately and adequately portrays the findings of the special counsel's report, and, therefore, I oppose the amendment.

Is any further -- I yield back. Is there any further discussion?

Mr. Biggs. Thank you, Mr. Chairman. Before I weigh in on the Buck amendment, I just want to apologize because I was not trying to ascribe any motivation when I was quoting that. I want you to understand that, and I apologize if it was misconstrued and if I misspoke.

But I support the Buck amendment. I think it is important to have clarity here, and I think that Mr. Buck is right on the money here.

I also want to point out another issue with the resolution on page 4, line 108. It says: Information pertaining to the committee's investigation shall be deemed received in executive session.

Now, typically under House rule XI, clause 2(g)(1), it states that all committee meetings and, thus, all evidence taken shall be open unless the committee itself has voted in open session that the meeting will be in executive session.

Effectively, what is happening, then, by deeming all information obtained to be

received in executive session, effectively not only are we delegating interviewing to and questioning to our staff, we are taking away a lot of the committee's right to vote on the pieces of information, whether they should be concealed from the public. This clause, instead, allows all information to be concealed in this amorphous quasi-impeachment process that we are engaged in.

The rules say you can only go into executive session if disclosure of the material would, one, endanger national security; two, compromise law enforcement; defame or incriminate someone; or, four, violate the law of the rule or rule of the House. This clause is not limited, for instance, to grand jury information. This clause would conceal all information, and I am referring to the clause on page 4, line 108. It would conceal all information from the public without a vote from the committee, without us taking that vote in committee on each piece of evidence.

So my staff has worked with CRS, and CRS could not identify any instance in the published precedents of the House where this committee has taken away the members of the committee's right to vote on whether to go into executive session.

So this becomes a bit of a problem. Taking away the members' right to vote on whether to accept a particular piece of information in executive session appears to violate rule XI, clause 2(g)(1). Certainly, it is at least not in the spirit of the rule, which is meant to keep all committee records public and available unless a specific exception is met. So this is problematic to prevent the committee members from viewing the committee's records, and we are voting today to actually prevent the public from having access to committee records as well without any of the particular sections and exceptions.

And so, with that, I am going to yield to the gentleman from Colorado, Mr. Buck.

Mr. Buck. I thank my friend from Arizona for yielding.



Mr. Chairman, I am stunned that you don't agree with me on this amendment and saddened also. I just want to point out that -- and I am sure a staff member wrote this and that the chairman, while reading it carefully, I am sure, missed this one point, but what the second "whereas" finds -- says is that Special Counsel Mueller's report found that the Russian Government interfered and that President Trump used his official powers to thwart or attempt to thwart. The word "thwart" doesn't appear in the special counsel's report. The idea that the Mueller report found that President Trump tried to thwart or thwarted or attempted to thwart, it just does not -- is not consistent with that report. The truth is that the Mueller report did not make findings as to the 10 allegations.

All I am asking this committee to do is put in this "whereas" accurate, legal language that is cited in the Mueller report so that the American public is not misled by this "whereas." And I think it is only fair that this committee not impugn the integrity of the President of the United States until such time as it has evidence that it wants to charge the President with.

This is false, and it should be clarified, and I would ask for the chairman to reconsider his opposition, and I hope that members on the other side of the aisle agree that we should have an accurate document.

And I yield back to my friend from Arizona.

Mr. Biggs. With that, I yield.

Chairman Nadler. The gentleman yields.

For what purpose does the gentleman from Pennsylvania seek recognition?

Mr. Reschenthaler. To strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Reschenthaler. Thank you, Mr. Chairman.

I support my colleague's amendment because it calls for a clarification. Talking about clarification, I do have one question for my Democrat colleagues, and that is, are you conducting an investigation or an impeachment investigation or not? Because the resolution we are considering today does not authorize a formal impeachment inquiry, despite what the press might report today. It is nothing more than an inquiry into whether to start an inquiry.

None of these provisions are unique to the impeachment proceedings. Anyone at any time can send a letter to the committee. Every committee in the House can allow for staff questioning. What we are doing today is meaningless. You already have this power as a committee. So which is it? Are you starting an impeachment investigation or not? Is this just more smoke and mirrors so you can appease the far left while doing absolutely nothing about this issue, or is this so you can avoid talking about an agenda that includes banning airplanes, throwing Americans off their health insurance plans, eliminating our borders, maybe other parts of the platform, like defunding ICE, giving illegal immigrants free healthcare, maybe banning oil and gas exploration? I mean, is that what this is about? Is this about distracting from the real platform of the party?

Ms. Scanlon. Would the gentleman yield?

Mr. Reschenthaler. No.

Since November 2016, the Democratic Party has desperately tried to undo the will of the people. I can tell you that, in southwestern Pennsylvania, people want Congress to move on. They want us to work together. They want us to solve real issues that are facing America. They want their roads and bridges repaired. They want help fighting the opioid epidemic. And they want more money in their pockets to feed their families.

So, again, I ask, are you conducting an impeachment inquiry or not? If you are, just be honest with the American people. Be honest with your colleagues. If you

aren't, then let's stop these political games and let's go to work for the American people.

I have got a bipartisan bill on clean slate. Again, this bill is bipartisan. It would help millions of Americans get away from the stigma of having a nonviolent criminal record -- on their record. It would help them reenter the workplace, increase their wages. This is bipartisan. We could actually do this. I am friends with a lot of my colleagues. I have talked to them privately. We want to do something to help the American people, and we can start with criminal justice reform and a slew of other issues.

But, Mr. Chairman, let's do something. Let's stop the political theater. Our country deserves better.

With that, I yield back.

Mr. Cicilline. Would the gentleman yield so we can answer his question?

Mr. Reschenthaler. I yield to my --

Mr. Cicilline. The answer is yes. We are engaged in an impeachment investigation, and in addition to that, we have moved aggressively forward on our For the People agenda. This is about driving down healthcare costs, driving down the cost of --

Ms. Lofgren. A point of order --

Mr. Cicilline. -- corruption --

Chairman Nadler. The gentleman was not recognized. The gentleman from Pennsylvania has the time.

Mr. Reschenthaler. Thank you, Mr. Chairman.

And I do thank my -- and I mean this with sincerity. I thank my friend and colleague from Rhode Island. Thank you.

And, with that, I yield to my friend and colleague from Virginia.

Mr. Cline. Mr. Chairman, I do also want to thank the gentleman from Rhode Island for admitting what we all know is happening. This chairman, this committee is

trying to have impeachment without actually putting a resolution before the people, before this House.

I want to thank Mr. Buck for his amendment revealing what a farce this process is, this resolution, which is, again, amateur hour when it comes to legal drafting. I have great respect for the chairman. I have great respect for members of this committee. They are accomplished attorneys. This committee should remember that words mean something, and what we are just revealing in this one amendment is just how these words are not legally accurate. We want this resolution, any product of this committee, to be legally accurate. Let's be better. Let's do better. Or do my colleagues on the other side actually recognize that, in fact, as I questioned the special counsel, his interpretation of the obstruction statutes was incorrect and is not a normal and reasoned understanding of our obstruction statutes?

So, if they want to vote to reject that this is, in fact, obstruction as alleged, let them go ahead, but I appreciate the gentleman from Rhode Island's admission that this is, in fact, an impeachment process.

Chairman Nadler. Does the gentleman yield back?

Mr. Cline. I yield to Mr. Buck.

Mr. Buck. I thank the gentleman for yielding.

I saw the gentleman from Rhode Island leave. I didn't know if you were put in time out because nobody on the Democrat side so far has voiced any answers to us, and I appreciate the gentleman's answer.

And I yield back.

Chairman Nadler. The gentleman yielded back.

The gentlelady from Pennsylvania? For what purpose does she seek recognition?

Ms. Scanlon. The gentleman -- sorry. Move to strike the last word.

Chairman Nadler. The lady is recognized.

Ms. Scanlon. You know, the gentleman from Rhode Island got before me, but I too would answer, yes, we are in an impeachment investigation. Have you not been reading the proceedings? I don't think there is a question. It is an investigation.

Chairman Nadler. Does the gentlelady yield back?

The question occurs on the amendment -- for what purpose does the gentleman from Texas seek recognition?

Mr. Gohmert. Strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Gohmert. Now that it has been publicly admitted this is an impeachment investigation, then these amendments are even more critical because words do matter. And this would be litigated, and going back to my days as a chief justice where we really had to dig on individual words. What does this word mean? And for whatever reason, the majority in this impeachment investigation chose to use twice the word "thwart." And I could see this going up -- if this were a successful impeachment and removal from office, clearly it would go up to the highest court, and they would be stuck with the question of the President being a thwarter. They would have to deal with issues like, does thwarting involve moral turpitude because we have already heard it is not a crime to thwart that any of us are aware of, so -- and the chairman has said: Oh, it doesn't have to be a crime.

Well, does thwarting involve moral turpitude? There are so many issues that would be raised on appeal by the misuse of proper legal terminology, this would be litigated for time immemorial, and it is just unfortunate. If you are going to try to remove a man from office for seeking justice and trying to stop himself from being

framed by an unjust group within the Justice Department, then you really -- this committee, of all committees, ought to use proper terminology and not create unnecessary litigation.

I yield back.

Chairman Nadler. The gentleman yields back.

The question occurs on the amendment.

All in favor of the amendment, say aye.

Opposed, no.

The amendment is not agreed to.

Are there any further amendments?

If there are no further amendments, then a reporting quorum being present, the question is on the motion to agree to the resolution.

All those in favor, respond by saying aye.

Opposed, no.

In the opinion of the chair, the ayes have it, and the resolution is agreed to.

Mr. Collins. Roll call.

Chairman Nadler. A roll call is requested.

The clerk will call the roll.

Ms. Strasser. Mr. Nadler?

Chairman Nadler. Aye.

Ms. Strasser. Mr. Nadler votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

Ms. Strasser. Ms. Lofgren votes aye.

Ms. Jackson Lee?

Ms. Jackson Lee. Aye.

Ms. Strasser. Ms. Jackson Lee votes aye.

Mr. Cohen?

Mr. Cohen. Aye.

Ms. Strasser. Mr. Cohen votes aye.

Mr. Johnson of Georgia?

Mr. Johnson of Georgia. Aye.

Ms. Strasser. Mr. Johnson of Georgia votes aye.

Mr. Deutch?

Mr. Deutch. Aye.

Ms. Strasser. Mr. Deutch votes aye.

Ms. Bass?

[No response.]

Ms. Strasser. Mr. Richmond?

Mr. Richmond. Aye.

Ms. Strasser. Mr. Richmond votes aye.

Mr. Jeffries?

Mr. Jeffries. Aye.

Ms. Strasser. Mr. Jeffries votes aye.

Mr. Cicilline?

Mr. Cicilline. Aye.

Ms. Strasser. Mr. Cicilline votes aye.

Mr. Swalwell?

Mr. Swalwell. Aye.

Ms. Strasser. Mr. Swalwell votes aye.

Mr. Lieu?

Mr. Lieu. Aye.

Ms. Strasser. Mr. Lieu votes aye.

Mr. Raskin?

Mr. Raskin. Aye.

Ms. Strasser. Mr. Raskin votes aye.

Ms. Jayapal?

[No response.]

Ms. Strasser. Mrs. Demings?

Mrs. Demings. Aye.

Ms. Strasser. Mrs. Demings votes aye.

Mr. Correa?

Mr. Correa. Aye.

Ms. Strasser. Mr. Correa votes aye.

Ms. Scanlon?

Ms. Scanlon. Aye.

Ms. Strasser. Ms. Scanlon votes aye.

Ms. Garcia?

Ms. Garcia. Aye.

Ms. Strasser. Ms. Garcia votes aye.

Mr. Neguse?

Mr. Neguse. Aye.

Ms. Strasser. Mr. Neguse votes aye.

Mrs. McBath?

Mrs. McBath. Aye.



Ms. Strasser. Mrs. McBath votes aye.

Mr. Stanton?

Mr. Stanton. Aye.

Ms. Strasser. Mr. Stanton votes aye.

Ms. Dean?

Ms. Dean. Aye.

Ms. Strasser. Ms. Dean votes aye.

Ms. Mucarsel-Powell?

Ms. Mucarsel-Powell. Aye.

Ms. Strasser. Ms. Mucarsel-Powell votes aye.

Ms. Escobar?

Ms. Escobar. Aye.

Ms. Strasser. Ms. Escobar votes aye.

Mr. Collins?

Mr. Collins. No.

Ms. Strasser. Mr. Collins votes no.

Mr. Sensenbrenner?

Mr. Sensenbrenner. No.

Ms. Strasser. Mr. Sensenbrenner votes no.

Mr. Chabot?

Mr. Chabot. No.

Ms. Strasser. Mr. Chabot votes no.

Mr. Gohmert?

Mr. Gohmert. That is a no.

Ms. Strasser. Mr. Gohmert votes no.

Mr. Jordan?

Mr. Jordan. No.

Ms. Strasser. Mr. Jordan votes no.

Mr. Buck?

Mr. Buck. No.

Ms. Strasser. Mr. Buck votes no.

Mr. Ratcliffe?

Mr. Ratcliffe. No.

Ms. Strasser. Mr. Ratcliffe votes no.

Mrs. Roby?

Mrs. Roby. No.

Ms. Strasser. Mrs. Roby votes no.

Mr. Gaetz?

Mr. Gaetz. No.

Ms. Strasser. Mr. Gaetz votes no.

Mr. Johnson of Louisiana?

Mr. Johnson of Louisiana. No.

Ms. Strasser. Mr. Johnson of Louisiana votes no.

Mr. Biggs?

Mr. Biggs. No.

Ms. Strasser. Mr. Biggs votes no.

Mr. McClintock?

Mr. McClintock. No.

Ms. Strasser. Mr. McClintock votes no.

Mrs. Lesko?

Mrs. Lesko. No.

Ms. Strasser. Mrs. Lesko votes no.

Mr. Reschenthaler?

Mr. Reschenthaler. No.

Ms. Strasser. Mr. Reschenthaler votes no.

Mr. Cline?

Mr. Cline. No.

Ms. Strasser. Mr. Cline votes no.

Mr. Armstrong?

Mr. Armstrong. No.

Ms. Strasser. Mr. Armstrong votes no.

Mr. Steube?

Mr. Steube. No.

Ms. Strasser. Mr. Steube votes no.

Chairman Nadler. The gentlelady from California.

Ms. Strasser. Ms. Bass votes aye.

Chairman Nadler. The gentlelady from Washington.

Ms. Strasser. Ms. Jayapal votes aye.

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

The clerk will report.

Ms. Strasser. Mr. Chairman, there are 24 ayes and 17 noes.

Chairman Nadler. The ayes have it. The resolution is agreed to.

This concludes our business for today. Thanks to all the members for attending.

Without objection, the markup is adjourned.

[Whereupon, at 9:59 a.m., the committee was adjourned.]