

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT AND DIRECTING THE ATTORNEY GENERAL TO TRANSMIT, RESPECTIVELY, CERTAIN DOCUMENTS TO THE HOUSE OF REPRESENTATIVES RELATING TO THE ACTIONS OF FORMER FEDERAL BUREAU OF INVESTIGATION ACTING DIRECTOR ANDREW MCCABE

APRIL 4, 2019.—Referred to the House Calendar and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H. Res. 243]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 243) of inquiry requesting the President and directing the Attorney General to transmit, respectively, certain documents to the House of Representatives relating to the actions of former Federal Bureau of Investigation Acting Director Andrew McCabe, having considered the same, report favorably thereon with an amendment and recommend that the resolution as amended be agreed to.

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The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the Attorney General of the United States is directed to transmit, to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of any document, record, audio recording, memorandum, correspondence, or other communication in his possession, or any portion thereof, that refers or relates to the following:

(1) Any meetings or discussions between or among Deputy Attorney General Rod J. Rosenstein and former Federal Bureau of Investigation (FBI) Acting Director Andrew McCabe, regarding conversations with the President, including but not limited to—

(A) any reference concerning wearing a recording device or preparing in any way to record the President; and

(B) any reference concerning the invocation of the 25th Amendment of the U.S. Constitution to remove the President from office.

(2) Any meetings or discussions between or among FBI Acting Director Andrew McCabe and others at the FBI referring or relating to commencing or continuing an obstruction of justice or counterintelligence investigation of the President.

### **Purpose and Summary**

H. Res. 243, as ordered reported, is a non-binding resolution of inquiry directing Attorney General William Barr to transmit to the House of Representatives certain documents and materials pertaining to: (1) meetings or discussions between Deputy Attorney General Rod J. Rosenstein and former Federal Bureau of Investigation (FBI) Acting Director Andrew McCabe regarding certain conversations with President Donald Trump; and (2) any meetings or discussions between or among FBI Acting Director McCabe and others at the FBI regarding certain matters.<sup>1</sup> Specifically, it directs Attorney General Barr to transmit, not later than 14 days after the Resolution is adopted by the House, any such documents and materials that refer or relate to:

(1) Any meetings or discussions between or among Deputy Attorney General Rosenstein and former FBI Acting Director McCabe, regarding conversations with the President, including but not limited to—

(A) any reference concerning wearing a recording device or preparing in any way to record the President; and

(B) any reference concerning the invocation of the 25th Amendment of the U.S. Constitution to remove the President from office.<sup>2</sup>

(2) Any meetings or discussions between or among FBI Acting Director McCabe and others at the FBI referring or relating to commencing or continuing an obstruction of justice or counterintelligence investigation of the President.

<sup>1</sup>Although H. Res. 243's long title states the Resolution requests the President to transmit certain documents to the House relating to the actions of former FBI Acting Director McCabe, the Resolution itself does not appear to incorporate this request.

<sup>2</sup>In pertinent part, the 25th Amendment provides:

Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.  
U.S. Const. amend. XXV, § 4.

## Background and Need for the Legislation

### BACKGROUND

Resolutions of inquiry, if properly drafted, are given privileged parliamentary status in the House. This means that, under certain circumstances, a resolution of inquiry can be considered on the House floor even if the committee to which it was referred has not ordered the resolution reported and the majority party's leadership has not scheduled it for consideration. Clause 7 of Rule XIII of the Rules of the House of Representatives requires the committee to which the resolution is referred to act on the resolution within 14 legislative days, or a motion to discharge the committee from consideration is considered privileged on the floor of the House. In calculating the days available for committee consideration, the day of introduction and the day of discharge are not counted.<sup>3</sup>

Under the Rules and precedents of the House, a resolution of inquiry is a means by which the House may request information from the President or the head of one of the executive departments. According to Deschler's Precedents, it is a "simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch."<sup>4</sup> Such resolutions must ask for facts, documents, or specific information; they may not be used to request an opinion or require an investigation.<sup>5</sup> Resolutions of inquiry are not akin to subpoenas, they have no legal force, and thus compliance by the Executive Branch with the House's request for information is purely voluntary.

According to a study conducted by the Congressional Research Service (CRS), between 1947 and 2017, 313 resolutions of inquiry were introduced in the House.<sup>6</sup> Within this period, CRS found that "two periods in particular, 1971–1975 and 2003–2006, saw the highest levels of activity on resolutions of inquiry" and that the "Committees on Armed Services, Foreign Affairs, and the Judiciary have received the largest share of references."<sup>7</sup> CRS further found that "in recent Congresses, such resolutions have overwhelmingly become a tool of the minority party in the House."<sup>8</sup>

A committee has a number of choices after a resolution of inquiry is referred to it. It may vote on the resolution as is or it may amend it, and it may report the resolution favorably, unfavorably, or with no recommendation. The fact that a committee reports a resolution of inquiry adversely does not necessarily mean that the committee opposes looking into the matter. In the past, resolutions of inquiry have frequently been reported adversely for several reasons. The two most common reasons are substantial compliance and competing investigations.

<sup>3</sup> Wm. Holmes Brown et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* ch. 49, sec. 6, at 834 (2017) [hereinafter *House Practice*].

<sup>4</sup> Deschler's Precedents of the United States House of Representatives, H. Doc. No. 94–661, 94th Cong., 2d Sess., ch. 24, § 8 (1994).

<sup>5</sup> A resolution that seeks more than factual information does not enjoy privileged status. *House Practice*, at 833–34.

<sup>6</sup> Christopher M. Davis, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2017*, Cong. Res. Serv. R40879, at i (Nov. 9, 2017).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

Over the period of 1947 to the present, 51 resolutions of inquiry (including H. Res. 243) were referred to the Judiciary Committee, according to CRS.<sup>9</sup> Of these, only five (including H. Res. 243) were reported favorably, while 23 were ordered adversely, 22 were not reported, and one was reported without recommendation.<sup>10</sup>

#### NEED FOR THE LEGISLATION

H. Res. 243 directs the Department of Justice to transmit to the House of Representatives certain materials that refer or relate to meetings and discussions that may have occurred between or among Deputy Attorney General Rod Rosenstein and former Federal Bureau of Investigation (FBI) Acting Director Andrew McCabe regarding conversations with President Donald Trump, including discussions concerning wearing a recording device or preparing in any way to record the President, and invoking the 25th Amendment to remove him from office. The Resolution also seeks records related to discussions between or among Mr. McCabe and others at the FBI about launching or continuing an obstruction of justice or counterintelligence investigation of the President.

In essence, this Resolution seeks records relating to concerns expressed at the very highest levels of the Department of Justice and the FBI about President Trump's allegedly illegal conduct, and his fitness for office. It also seeks records about the extraordinary measures that these leaders may have contemplated in view of these concerns.

Congress and the American people would benefit from learning more about whether, in fact, the discussions referred to in this resolution occurred and, if so, what prompted such alarm among Mr. Rosenstein and Mr. McCabe, as well as other FBI officials, that they would consider these unprecedented actions.

According to media reports, Deputy Attorney General Rosenstein became alarmed when the President fired James Comey as FBI Director after it was revealed that the FBI was investigating alleged contacts between individuals associated with the Trump campaign and the Russian government.<sup>11</sup> Other events that reportedly troubled Mr. Rosenstein include President Trump's revealing classified intelligence to Russian officials in the Oval Office,<sup>12</sup> news that the President had asked Mr. Comey to end an investigation into former National Security Advisor Michael Flynn,<sup>13</sup> and reports that the President sought a loyalty pledge from Mr. Comey.<sup>14</sup>

In discussions with various Department of Justice (DOJ) officials, including Mr. McCabe, Mr. Rosenstein is reported to have suggested secretly recording President Trump and invoking the 25th Amendment to remove the President from office "to expose the chaos consuming the administration."<sup>15</sup> Mr. Rosenstein has denied

<sup>9</sup> E-mail from Cong. Res. Serv. (Mar. 27, 2019) (on file with H. Comm. on the Judiciary Democratic staff).

<sup>10</sup> *Id.*

<sup>11</sup> Adam Goldman & Michael S. Schmidt, *Rod Rosenstein Suggested Secretly Recording Trump and Discussed 25th Amendment*, N.Y. Times, Sept. 22, 2018, at A1, <https://www.nytimes.com/2018/09/21/us/politics/rod-rostenstein-wear-wire-25th-amendment.html>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

these conversations ever occurred,<sup>16</sup> but Mr. McCabe's contemporaneous notes describe these discussions,<sup>17</sup> although he later downplayed how serious Mr. Rosenstein was at the time.<sup>18</sup> H. Res. 243 seeks any information the DOJ possesses regarding these discussions.

H. Res. 243 also seeks information regarding Mr. McCabe's decisions to launch and continue an obstruction of justice and a counterintelligence investigation of President Trump. According to Mr. McCabe, he initiated these investigations into President Trump after Mr. Comey's dismissal, out of concern that the President was working on behalf of Russia against American interests. He was also concerned that the President fired Mr. Comey as a means of obstructing justice.<sup>19</sup>

In particular, Mr. McCabe was alarmed by President Trump's repeated efforts to mention the Russia investigation in the letter he sent to Mr. Comey firing him as FBI Director.<sup>20</sup> He was also troubled by an interview the President gave to NBC News in which he told Lester Holt that he fired Mr. Comey because of the Russia investigation.<sup>21</sup>

In an interview with 60 Minutes, Mr. McCabe discussed his decision to open the investigations into whether Mr. Trump fired Mr. Comey to hinder the investigation into Russian interference with the 2016 election and, if so, whether Mr. Trump was acting on behalf of the Russian government.<sup>22</sup> He explained, "I was speaking to the man who had just run for the presidency and won the election for the presidency and who might have done so with the aid of the government of Russia, our most formidable adversary on the world stage. And that was something that troubled me greatly."<sup>23</sup>

He further explained that he opened the investigations in order to protect the Russia investigation, stating, "I was very concerned that I was able to put the Russia case on absolutely solid ground in an indelible fashion that were I removed quickly or reassigned or fired that the case could not be closed or vanish in the night without a trace."<sup>24</sup> When asked whether he opened the investigations "because you feared that they would be made to go away," Mr. McCabe answered, "That's exactly right."<sup>25</sup>

According to Mr. McCabe, "if the president committed obstruction of justice, fired the director of the of the FBI to negatively impact or to shut down our investigation of Russia's malign activity

<sup>16</sup> Devlin Barrett & Matt Zapposky, *McCabe memos say Rosenstein considered secretly recording Trump*, Wash. Post, Sept. 21, 2018, [https://www.washingtonpost.com/world/national-security/mccabe-memos-say-rosenstein-considered-secretly-recording-trump/2018/09/21/f4aa9a62-bdca-11e8-8792-78719177250f\\_story.html?utm\\_term=.f6d8d016536f](https://www.washingtonpost.com/world/national-security/mccabe-memos-say-rosenstein-considered-secretly-recording-trump/2018/09/21/f4aa9a62-bdca-11e8-8792-78719177250f_story.html?utm_term=.f6d8d016536f).

<sup>17</sup> Matt Zapposky, *McCabe says Rosenstein was 'thinking off the top of his head' when he brought up 25th Amendment*, Wash. Post, Feb. 21, 2019, [https://www.washingtonpost.com/world/national-security/mccabe-says-rosenstein-was-thinking-off-the-top-of-his-head-when-he-brought-up-25th-amendment/2019/02/21/7f4c150a-35f4-11e9-af5b-b51b7ff322e9\\_story.html?utm\\_term=.805672342a9d](https://www.washingtonpost.com/world/national-security/mccabe-says-rosenstein-was-thinking-off-the-top-of-his-head-when-he-brought-up-25th-amendment/2019/02/21/7f4c150a-35f4-11e9-af5b-b51b7ff322e9_story.html?utm_term=.805672342a9d).

<sup>18</sup> *Id.*

<sup>19</sup> Adam Goldman, Michael S. Schmidt & Nicholas Fandos, *F.B.I. Opened Inquiry Into Whether Trump Was Secretly Working on Behalf of Russia*, N.Y. Times, Jan. 11, 2019, <https://www.nytimes.com/2019/01/11/us/politics/fbi-trump-russia-inquiry.html>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Scott Pelley, *Andrew McCabe: The Full 60 Minutes Interview*, 60 Minutes, Feb. 17, 2019, <https://www.cbsnews.com/news/andrew-mccabe-interview-former-acting-fbi-director-president-trump-investigation-james-comey-during-russia-investigation-60-minutes/>.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

and possibly in support of his campaign, as a counterintelligence investigator you have to ask yourself, ‘Why would a president of the United States do that?’ So all those same sorts of facts cause us to wonder is there an inappropriate relationship, a connection between this president and our most fearsome enemy, the government of Russia?’<sup>26</sup> When asked, ‘Are you saying that the president is in league with the Russians?’ he replied, ‘I’m saying that the FBI had reason to investigate that.’<sup>27</sup>

President Trump has relentlessly attacked Mr. McCabe, accusing him of bias because of his wife’s political ties, and because of his role in the FBI’s investigation into former Secretary of State Hillary Clinton’s private email server.<sup>28</sup> To the extent that questions remain about the origin of the investigations into President Trump’s conduct—conduct that so deeply disturbed senior law enforcement officials that they opened a counterintelligence investigation and an obstruction of justice investigation into his actions, and they may have discussed secretly recording the President and seeking his removal from office under the 25th Amendment—this Resolution would help Congress determine whether DOJ officials acted properly with regard to investigating the President, and would provide a better understanding of the events that led them to take such actions.

### **Hearings**

The Committee on the Judiciary held no hearings on H. Res. 243.

### **Committee Consideration**

On March 26, 2019, the Committee met in open session and ordered H. Res. 243 favorably reported, with an amendment, by a roll call vote of 22 to 0, a quorum being present.

### **Committee Votes**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call vote occurred during the Committee’s consideration of H. Res. 243.

1. Motion to report H. Res. 243, as amended, favorably to the House was approved by a vote of 22 to 0.

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Caitlin Oprysko, *McCabe says he opened investigations into Trump to put Russia probe ‘on solid ground’*, Politico, Feb. 14, 2019, <https://www.politico.com/story/2019/02/14/fbi-investigation-trump-russia-1169846>.

Roll Call No.

Date: 02/6/19

COMMITTEE ON THE JUDICIARY

House of Representatives

116<sup>th</sup> Congress

Final Passage on Motion to report H. Res. 243 as amended  
favorably to the House

PASSED

FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)			
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-02)	✓		
Karen Bass (CA-37)	✓		
Cedric Richmond (LA-02)			
Hakeem Jeffries (NY-08)	✓		
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)			
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)			
Lucy McBath (GA-06)			
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)			
Debbie Mucarsel-Powell (FL-26)			
Veronica Escobar (TX-16)			
	AYES	NOS	PRES.
Doug Collins (GA-27)	✓		
James F. Sensenbrenner (WI-05)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Jim Jordan (OH-04)			
Ken Buck (CO-04)			
John Ratcliffe (TX-04)			
Martha Roby (AL-02)			
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)			
Tom McClintock (CA-04)			
Debbie Lesko (AZ-08)	✓		
Guy Reschenthaler (PA-14)	✓		
Ben Cline (VA-06)	✓		
Kelly Armstrong (ND-AL)	✓		
Greg Steube (FL-17)	✓		
TOTAL	22	0	

### **Committee Oversight Findings**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

### **New Budget Authority and Tax Expenditures and Congressional Budget Office Cost Estimate**

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

### **Duplication of Federal Programs**

No provision of H. Res. 243 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

### **Performance Goals and Objectives**

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H. Res. 243 would direct Attorney General William Barr to transmit to the House of Representatives certain documents and materials pertaining to: (1) meetings or discussions between Deputy Attorney General Rod J. Rosenstein and former Federal Bureau of Investigation (FBI) Acting Director Andrew McCabe regarding certain conversations with President Donald Trump; and (2) any meetings or discussions between or among FBI Acting Director McCabe and others at the FBI regarding certain matters.

### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H. Res. 243 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

### **Section-by-Section Analysis**

The following discussion describes the Resolution as reported by the Committee.

H. Res. 243 directs the Attorney General to transmit to the House, not later than 14 days after the Resolution is adopted, any such documents and other materials that refer or relate to:

(1) Any meetings or discussions between or among Deputy Attorney General Rod J. Rosenstein and former FBI Acting Director Andrew McCabe, regarding conversations with the President, including but not limited to—

(A) any reference concerning wearing a recording device or preparing in anyway to record the President; and

(B) any reference concerning the invocation of the 25th Amendment of the U.S. Constitution to remove the President from office.<sup>29</sup>

(2) Any meetings or discussions between or among FBI Acting Director McCabe and others at the FBI referring or relating to commencing or continuing an obstruction of justice or counterintelligence investigation of the President.

### **Additional Views**

For more than two years, the American people suffered from rampant speculation that President Trump had conspired (or “colluded”) with the Russian Federation to steal the 2016 presidential election. This narrative had escalated to the point of wild conjecture among a cabal inside the FBI that President Trump could in fact be a Russian agent.

However, Special Counsel Robert Mueller has finally and formally debunked the media and Democrat narrative that Vladimir Putin’s minions infiltrated the presidential campaign of Donald Trump.

This should come as a great relief to the American people. However, the nation must also heal from this farce and fully expose its origins so such a tragedy is never repeated in the future.

On May 9, 2017, President Trump fired FBI Director James Comey, who oversaw the debacle that was the investigation into Hillary Clinton’s mishandling of classified information. For his conduct in relation to that investigation, Director Comey was later deemed “insubordinate” by the DOJ Inspector General.

In response to Comey’s firing, the FBI appears to have opened at least two investigations into President Trump. One investigation pertained to counterintelligence, involving incredible theories such as the possibility that President Trump was an asset controlled by Vladimir Putin. The other investigation considered the possibility that the firing of Director Comey itself constituted obstruction of justice, despite Comey’s clear mishandling of the Hillary Clinton investigation and the President’s clear authority to relieve a subordinate of his or her duties.

Soon after the initiation of these two investigations, it was reported high-ranking officials in the Department of Justice and the FBI had begun discussing methods to remove President Trump

<sup>29</sup>In pertinent part, the 25th Amendment provides:

Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.  
U.S. Const. amend. XXV, § 4.

from office. One of these methods involved gaining the approval of the Vice President and the Cabinet to invoke the 25th Amendment to remove the President from office, despite the fact that the 25th Amendment was originally intended to handle situations of presidential incapacitation. It was also reported Deputy Attorney General Rod Rosenstein and Andrew McCabe, then-Acting FBI Director, discussed plans to surreptitiously record the President of the United States.

On March 24, 2019, the House Judiciary Committee received a letter from Attorney General William Barr, outlining the principal conclusions reached by Special Counsel Mueller. Among those conclusions are that “the Special Counsel’s investigation did not find that the Trump campaign or anyone associated with it conspired or coordinated with Russia in its efforts to influence the 2016 U.S. presidential election.” The Special Counsel’s report, therefore, demonstrates all the conspiracy theories of President Trump’s purported collusion with the Russians represented nothing more than the fevered imaginations of the President’s political opponents.

However, the American people were nevertheless bombarded with ridiculous and false allegations against President Trump for the past several years. The investigation cast a cloud over this administration, and diminished the American people’s faith in their government. It is therefore insufficient to simply tell them to move on and put the entire saga behind them. The American people deserve a full accounting of how a subset of individuals inside the FBI and DOJ were able to get away with opening and running these ill-founded investigations, over a period of years, involving millions of taxpayer dollars spent to investigate a political candidate, his campaign, and eventually, the duly-elected President of the United States.

Imagine the uproar from Democrats and the media had there been an indication that a faction of FBI and DOJ officials with demonstrated biases against President Obama had proposed recording him, opened obstruction of justice and counterintelligence investigations against him, and discussed the possibility of removing him from office via the 25th Amendment.

There must be accountability for what transpired inside our law enforcement and intelligence communities before, during, and following the 2016 presidential election. Ranking Member Collins’ Resolution of Inquiry, approved unanimously by Republicans and Democrats on the Judiciary Committee, intends to achieve just that.

### *The ROI*

The ROI seeks documents related to conversations—whose existence was confirmed by the Committee’s interviews—concerning surreptitiously recording President Trump and invoking the 25th Amendment to remove him from office. No duly-elected president, whether Republican or Democrat, should be placed in a position where his or her Department of Justice and Federal Bureau of Investigation are engaged in an attempt to overturn the will of the American people simply because they hate the man or woman who won the election. Such an effort, which many Members have characterized as an attempted coup, defies belief in the United States of America. Yet testimony provided to Congress by multiple indi-

viduals confirmed that many viewed such conversations as completely serious.

It is imperative that Congress understand the origins of this effort. Deputy Attorney General Rosenstein and former Acting Director McCabe have offered conflicting accounts of their alleged conversations about invoking the 25th Amendment. The conflicts are profound enough that both accounts cannot be true, which raises questions as to who has lied, including to Congress. Lying to Congress and impeding a congressional investigation are, of course, felonies. Congress must, therefore, have access to documents related to conversations surrounding this planned surveillance and possible invocation of the 25th Amendment, to ensure American history books relay the extent of DOJ and FBI wrongdoing.

Testimony before the Judiciary Committee indicates Andrew McCabe, who was fired from the FBI and referred for criminal prosecution, kept memoranda memorializing high-level DOJ and FBI plans to secretly record President Trump and invoke the 25th Amendment to remove him from office. Just as Comey's memos were released (partially redacted), Congress must have access to the so-called "McCabe memos," to promote transparency and Americans' trust in our government. Congress is fully capable of protecting classified and other sensitive information, as part of its constitutional oversight responsibilities. There is no good reason to keep this information from the people's representatives.

Accordingly, on September 27, 2018, former Chairman Bob Goodlatte subpoenaed the Department of Justice to produce the McCabe memos. The Department of Justice has therefore been on notice for many months that the House Judiciary Committee seeks production of the McCabe memos. Nevertheless, DOJ managed to delay their response to the subpoena until this Congress, when the subpoena was no longer viable. Running out the clock has thus protected the agencies' interest in secrecy, but doesn't protect the American people's interest in transparency.

Sincerely,

DOUG COLLINS.

○