

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT AND DIRECTING
THE ATTORNEY GENERAL TO TRANSMIT, RESPECTIVELY, CERTAIN DOC-
UMENTS TO THE HOUSE OF REPRESENTATIVES RELATING TO COMMU-
NICATIONS WITH THE GOVERNMENT OF RUSSIA

MARCH 31, 2017.—Referred to the House Calendar and ordered to be printed

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

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 184]

[Including Committee Cost Estimate]

The Committee on the Judiciary, to whom was referred the reso-
lution (H. Res. 184) of inquiry requesting the President and direct-
ing the Attorney General to transmit, respectively, certain docu-
ments to the House of Representatives relating to communications
with the government of Russia, having considered the same, re-
ports unfavorably thereon with an amendment and recommends
that the resolution as amended not be agreed to.

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The Amendment

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the President is requested, and the Attorney General of the United States is directed, to transmit, respectively (in a manner appropriate to classified information, if the President or Attorney General determines appropriate), to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of any document, record, memo, correspondence, or other communication in their possession, or any portion of any such communication, that refers or relates to the following:

(1) Any meeting or communication that occurred between Senator Jeff Sessions and any representative of the Russian government, including his meetings with the Russian Ambassador to the United States, Sergey I. Kislyak, on July 18, 2016, and September 8, 2016.

(2) Senator Sessions' testimony before the Senate Committee on the Judiciary on January 10, 2017, including but not limited to his statement that he "did not have communications with the Russians".

(3) Senator Sessions' written response to Senator Patrick Leahy's letter of January 17, 2017.

(4) Attorney General Sessions' letter of March 6, 2017, to the Senate Committee on the Judiciary.

(5) Senator Sessions' preparation for confirmation hearings before the Senate Committee on the Judiciary, with respect to the subject of contact between President Trump's campaign and any representative of the Russian government.

(6) Attorney General Sessions' recusal from any investigation related to the 2016 Presidential election, but not from other related matters, and the implementation of that recusal.

(7) The application of part 600 of title 28, Code of Federal Regulations, to any case involving the 2016 Presidential election or any related matter.

(8) Any meeting that occurred between any employee of President Trump's campaign or transition team and any representative of the Russian government, including any meeting that involved Donald J. Trump, Michael Flynn, Jared Kushner, Carter Page, J.D. Gordon, Richard Burt, Paul Manafort, Roger Stone, or Michael Cohen.

Purpose and Summary

House Resolution 184 is a non-binding resolution of inquiry that requests that the Trump Administration provide the House of Representatives with certain documents related to communications with the government of Russia.

Background and Need for the Legislation

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.¹

Under the Rules and precedents of the House, a resolution of inquiry is a means by which the House may request information from

¹ Wm. Holmes Brown, et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* ch. 49, § 6, p. 834 (2011).

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.”² Such resolutions must ask for facts, documents, or specific information; they may not be used to request an opinion or require an investigation.³ 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 2011, 290 resolutions of inquiry were introduced in the House.⁴ 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.”⁵ CRS further found that “in recent Congresses, such resolutions have overwhelmingly become a tool of the minority party in the House.”⁶

A Committee has a number of choices after a resolution of inquiry is referred to it. It may vote on the resolution up or down 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.

House Resolution 184 essentially seeks two types of information from the Trump Administration. First, it requests documents regarding whether then-Senator Jeff Sessions misled the Senate Judiciary Committee regarding his contacts with Russian officials during the consideration of his confirmation to be Attorney General. Second, the resolution requests documents related to Russia’s interference with the 2016 Presidential election and alleged collusion with the Trump campaign.

In regard to the request for documents related to the allegation that then-Senator Sessions misled the Senate Judiciary Committee, the resolution appears to be a waste of valuable time and resources of the Committee, the House, and, if acted upon by the House, the Trump Administration. The Senate Judiciary Committee has examined Sessions’ testimony and responses to questions for the record and has determined that he has cleared up any confusion regarding his responses to questions regarding his contacts with Russia. After receiving a letter from Attorney General Sessions supplementing

²7 *Deschler's Precedents of the United States House of Representatives*, H. Doc. No. 94–661, 94th Cong., 2d Sess., ch. 24, § 8.

³A resolution that seeks more than factual information does not enjoy privileged status. Brown, *supra* note 1, at 833–34.

⁴Christopher M. Davis, Congressional Research Service, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2011* at i (2012).

⁵*Id.*

⁶*Id.*

his Senate testimony,⁷ Chairman Grassley determined that Sessions took “quick action to clear up confusion about his statement” and that the committee has no plans to ask Sessions to appear before the committee before its annual oversight hearing with the Justice Department.⁸

Moreover, a careful examination of the responses at issue makes clear that while some could allow themselves to be confused by Sessions’ responses, they were not misleading. Senator Leahy asked Sessions whether he had been “in contact with anyone connected to any part of the Russian government *about the 2016 election*.”⁹ Sessions responded that he had not.¹⁰ Senator Franken asked Sessions a question regarding his communications as a campaign “surrogate.”¹¹ Sessions responded that while he has been called a campaign surrogate, he did not have any communications with the Russians as a campaign surrogate.¹²

In other words, Sessions was asked specifically about contacts with Russia regarding, or on behalf of, the Trump campaign. He was not asked about general contacts he may have had with Russia outside of the context of the Trump campaign, such as contacts he may have had as part of his role as a U.S. Senator. Accordingly, the Senate Judiciary Committee concluded that there does not appear to be anything misleading about his answers.

As to the resolution’s request for information regarding alleged ties between the Trump campaign and transition team and the Russian government, there are multiple investigations into these matters that are ongoing and it would be inappropriate for this Committee or the House to seek documents related to those investigations through a resolution of inquiry at this time. Both the House and Senate Intelligence Committees are conducting investigations into Russian interference in the 2016 election and the alleged ties between the Trump campaign and Russian officials. Moreover, in testimony before the House Intelligence Committee, the Director of the Federal Bureau of Investigation, James Comey, confirmed that the FBI “is investigating the Russian government’s efforts to interfere in the 2016 presidential election and that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russia’s efforts.”¹³ The Judiciary Committee strongly believes that these ongoing investigations by the Legislative and Executive Branches should be allowed to proceed, as warranted, without outside interference.

Given the fact that two congressional committees and our nation’s chief law enforcement agency are investigating this matter, there is no reason for the House to request this information

⁷Letter from the Hon. Jeff Sessions, Attorney General of the United States, to the Hon. Charles E. Grassley and Hon. Diane Feinstein, Senate Committee on the Judiciary (Mar. 6, 2017).

⁸Press Release, Senate Comm. on the Judiciary, Attorney General Clears Confusion on Hearing Testimony (Mar. 6, 2017).

⁹Nomination of Jeff Sessions to be Attorney General of the United States, Questions for the Record from Senator Leahy at 26 (Jan. 17, 2017) (emphasis added).

¹⁰*Id.*

¹¹Sessions, *supra* note 7.

¹²*Id.*

¹³*Hearing on Russian Active Measures Investigation Before H. Permanent Select Comm. on Intelligence*, 115th Cong. (2017) (statement of James Comey, Director, Federal Bureau of Investigation).

through a resolution of inquiry. The Judiciary Committee and the House have more important business to attend to than needlessly requesting information that is already available to those actually investigating this matter. The Judiciary Committee will investigate any credible allegations of misconduct by members of the Executive Branch to the extent such allegations fall within this Committee's jurisdiction. However, the Committee will not do so through politically-charged resolutions of inquiry that could jeopardize the integrity of ongoing investigations.

Hearings

The Committee on the Judiciary held no hearings on H. Res. 184.

Committee Consideration

On March 29, 2017, the Committee met in open session and ordered House Resolution 184 unfavorably reported, with an amendment, by a roll call vote of 15 to 11, 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 votes occurred during the Committee's consideration of H. Res. 184.

1. Motion to report H. Res. 184 unfavorably to the House. Approved 15 to 11.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman	X	.....	.....
Mr. Sensenbrenner, Jr. (WI)	X	.....	.....
Mr. Smith (TX) .....	.....	.....	.....
Mr. Chabot (OH) .....	.....	.....	.....
Mr. Issa (CA) .....	.....	.....	.....
Mr. King (IA) .....	.....	.....	.....
Mr. Franks (AZ)	X	.....	.....
Mr. Gohmert (TX)	X	.....	.....
Mr. Jordan (OH)	X	.....	.....
Mr. Poe (TX) .....	.....	.....	.....
Mr. Chaffetz (UT)	X	.....	.....
Mr. Marino (PA) .....	.....	.....	.....
Mr. Gowdy (SC)	X	.....	.....
Mr. Labrador (ID)	X	.....	.....
Mr. Farenthold (TX) .....	.....	.....	.....
Mr. Collins (GA)	X	.....	.....
Mr. DeSantis (FL) .....	.....	.....	.....
Mr. Buck (CO)	X	.....	.....
Mr. Ratcliffe (TX)	X	.....	.....
Ms. Roby (AL)	X	.....	.....
Mr. Gaetz (FL)	X	.....	.....
Mr. Johnson (LA)	X	.....	.....
Mr. Biggs (AZ)	X	.....	.....

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Conyers, Jr. (MI), Ranking Member		X	.....
Mr. Nadler (NY)		X	.....
Ms. Lofgren (CA)			
Ms. Jackson Lee (TX)			
Mr. Cohen (TN)		X	.....
Mr. Johnson (GA)			
Mr. Deutch (FL)		X	.....
Mr. Gutierrez (IL)			
Ms. Bass (CA)			
Mr. Richmond (LA)			
Mr. Jeffries (NY)		X	.....
Mr. Cicilline (RI)		X	.....
Mr. Swalwell (CA)		X	.....
Mr. Lieu (CA)		X	.....
Mr. Raskin (MD)		X	.....
Ms. Jayapal (WA)		X	.....
Mr. Schneider (IL)		X	.....
Total	15	11	.....

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

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this resolution does not provide new budgetary authority or increased tax expenditures.

Committee Cost Estimate

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementing this non-binding resolution would not result in any significant costs. The Congressional Budget Office did not provide a cost estimate for the resolution.

Duplication of Federal Programs

No provision of H. Res. 184 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.

Disclosure of Directed Rule Makings

The Committee estimates that H. Res. 184 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. § 551.

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. 184 requests certain documents from the Trump administration related to communications with the government of Russia.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H. Res. 184 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

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

H. Res. 184, a non-binding resolution of inquiry, requests that the President and the Attorney General of the United States transmit certain documents and communications to the House of Representatives related to communications with the government of Russia.

Dissenting Views

At his confirmation hearing, then-Senator Jefferson Beauregard Sessions III testified explicitly that he had not met with Russian officials in the past year. In a written response to questions for the record, he reiterated his denial. When the Washington Post reported otherwise, Attorney General Sessions admitted to having met with the Russian ambassador on two occasions but failed to mention a third meeting, clearly documented in the public record.¹ He has since recused himself from any pending investigation related to the presidential campaign. A number of critical questions remain. Why did the Attorney General give false and misleading testimony? Why is his explanation for that testimony incomplete? Is his recusal sufficient to address his ongoing relationship with President Trump? Why have so many individuals in President Trump's immediate orbit made contact with the Russian government? Why have so many of them initially denied it?

H. Res. 184 directs the White House and the Department of Justice to transmit information related to the Attorney General's testimony, the precise scope of his recusal, and contacts between Trump campaign officials and the Russian government. The Resolution is designed to help our Committee answer those questions. As Rep. Hakeem Jeffries (D-NY), the sponsor of this Resolution, explained, the "House is a separate but coequal branch of government. We do not work for the Trump administration; we work for the American

¹ Adam Entous *et al.*, *Sessions met with Russian envoy twice last year, encounters he later did not disclose*, Wash. Post, Mar. 1, 2017.

people. And the American people deserve to know if the Trump team colluded with Putin’s Russia. That includes Jeff Sessions.”²

In complete disregard of these concerns, the Majority refuses to conduct routine oversight over the Trump Administration and, instead, offers various excuses for voting against H. Res. 184: the resolution “does not seem to be very bipartisan;”³ it is “inappropriate” for our Committee to seek documents that may have been requested by the intelligence committees and the Federal Bureau of Investigation (FBI) as they investigate President Trump’s various connections to the Russian government;⁴ and resolutions of inquiry are a “waste of time.”⁵ Each of these arguments, however, is an abdication of this Committee’s responsibility to oversee the integrity of the Executive Branch and, in particular, the United States Department of Justice.

For these reasons and those discussed below, we respectfully dissent.

DESCRIPTION AND BACKGROUND

DESCRIPTION

H. Res. 184 directs the President and the Attorney General to transmit to the House, not later than 14 days after the enactment of the resolution, copies of any document, record, memo correspondence, or other communication of the White House or the Department of Justice, respectively, that refers or relates to:

(1) Any meeting or communication between Attorney General Sessions and any representative of the Russian government, including his meetings with the Russian Ambassador to the United States, Sergey I. Kislyak;

(2) The Attorney General’s testimony before the Senate Committee on the Judiciary on January 10, 2017, including but not limited to his statement that he “did not have communications with the Russians”;

(3) The Attorney General’s written response to questions posed by Senator Patrick Leahy (D-VT) in a letter dated January 17, 2017;

(4) The Attorney General’s letter of March 6, 2017, to the Senate Committee on the Judiciary;

(5) The Attorney General’s preparation for his confirmation hearings, with respect to the subject of contact between President Trump’s campaign and any representative of the Russian government;

(6) The Attorney General’s decision to recuse himself from investigation related to the 2016 presidential election, but not from other matters;

(7) The application of the federal regulations governing the appointment of special counsel by the Department of Justice; and

²Unofficial Tr. of Markup of H.R. 1667; H.R. 1695; H. Res. 184; and H. Res. 203 before the H. Comm. on the Judiciary, 115th Cong. (Mar. 29, 2017) (statement of Rep. Hakeem Jeffries) [hereinafter Markup Tr.].

³*Id.* (statement of Rep. F. James Sensenbrenner).

⁴*Id.* (statement of Chairman Robert Goodlatte).

⁵*Id.*

(8) Any meeting that occurred between any employee of President Trump’s campaign or transition team and any representative of the Russian government.

The Resolution expressly permits the White House and the Department of Justice to transmit this information in a classified format if necessary.

BACKGROUND

Under the rules and precedents of the House, a resolution of inquiry is used to obtain information from the executive branch. A resolution of inquiry is directed at the President of the United States or the head of a Cabinet-level agency, requesting facts within the control of the executive branch.⁶ As a “simple resolution,” designated by “H. Res.,” a resolution of inquiry does not carry the force of law. “Compliance by the executive branch with the House’s request is voluntary, resting largely on a sense of comity between co-equal branches of government and a recognition of the necessity for Congress to be well-informed as it legislates.”⁷

House Rules afford resolutions of inquiry a privileged parliamentary status. A Member files a resolution of inquiry like any other legislation. The resolution is then referred to the proper committee of jurisdiction. If the committee does not report the resolution to the House within 14 legislative days of its introduction, however, a motion to discharge the resolution from committee can be made on the House floor.⁸ In practice, then, even when the Majority opposes a resolution of inquiry, a committee may mark it up and report it—perhaps adversely—to prevent its sponsor from making a privileged motion to call up the legislation on the House floor.⁹

The Resolution is a simple request for information from the White House and the Department of Justice. By its nature, a resolution of inquiry cannot draw conclusions about the Attorney General’s testimony or the Administration’s meetings with Russian officials. Our Committee has primary responsibility for oversight of the Department of Justice. No aspect of that responsibility is more important than ensuring the independence and integrity of the Office of the Attorney General.

REASONS WHY H. RES. 184 IS NEEDED

Given the events of the past few months, at least three matters merit the Committee’s immediate attention. First, Attorney General Sessions has not fully explained his false testimony before the Senate Judiciary Committee. Second, the scope of the Attorney General’s recusal from matters related to his testimony may not be sufficient to address his ongoing conflicts of interest. Finally, the Attorney General is one of several individuals involved in the Trump campaign to have concealed his meetings with a representative of the Russian government. H. Res. 184 would have helped Members to obtain the information they need to investigate these issues in earnest as it asks for information about the Attorney General’s meetings with Russian officials, his testimony before the Sen-

⁶Christopher M. Davis, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2011*, Cong. Research Service, May 15, 2012 (R40879).

⁷*Id.* at 2.

⁸House Rule XIII, clause 7.

⁹Davis, *supra* note 6, at 1.

ate Judiciary Committee, his later “clarification” of that testimony, and his preparation for his confirmation hearings with respect to reports of communications between the Trump campaign and the Russian government. This information is critical to understanding why the Attorney General twice gave false testimony, and whether his attempt to correct that false testimony is adequate.

I. Attorney General Sessions Failed To Provide an Adequate Explanation for His False Testimony Before the Senate Judiciary Committee.

On January 10, 2017, at the Attorney General’s confirmation hearings before the Senate Judiciary Committee, Senator Al Franken (D–MN) engaged in an exchange with then-Senator Sessions:

Franken: CNN just published a story alleging that the intelligence community provided documents to the president-elect last week that included information that, quote, “Russian operatives claimed to have compromising personal and financial information about Mr. Trump.” The documents also allegedly say, quote, “There was a continuing exchange of information during the campaign between Trump’s surrogates and intermediaries for the Russian government.”

Now, again, I’m telling you this as it’s coming out, so you know. But if it’s true, it’s obviously extremely serious and if there is any evidence that anyone affiliated with the Trump campaign communicated with the Russian government in the course of this campaign, what will you do?

Sessions: I’m not aware of any of those activities. I have been called a surrogate at a time or two in that campaign and I did not have communications with the Russians, and I’m unable to comment on it.¹⁰

Attorney General Sessions later responded to several questions for the record posed by Senator Patrick Leahy. With respect to any contact with the Russian government, the Attorney General’s response was categorical:

Several of the President-Elect’s nominees or senior advisers have Russian ties. Have you been in contact with anyone connected to any part of the Russian government about the 2016 election, either before or after election day?

RESPONSE: No.¹¹

Both of these statements are demonstrably false.

Then-Senator Jeff Sessions formally endorsed Donald Trump for president on February 28, 2016.¹² On March 3, 2016, Mr. Trump named Senator Sessions as chairman of his campaign’s national security advisory committee.¹³ From that point forward, the Attorney General was a senior adviser to and surrogate for the Trump campaign.

On July 18, 2016, on the first day of the Republican National Convention, the Heritage Foundation hosted a panel conversation

¹⁰ *Attorney General Nomination*, Hearing before the S. Comm. on the Judiciary, 115th Cong (2017) (exchange between Sen. Al Franken and Sen. Jeff Sessions) (emphasis added).

¹¹ *Id.* (response to questions for the record from Sen. Patrick Leahy, submitted Jan. 17, 2017).

¹² Eli Stokols, *Sen. Jeff Sessions endorses Trump*, Politico, Feb. 28, 2016.

¹³ Philip Bump, *What Jeff Sessions said about Russia, and when*, Wash. Post, Mar. 2, 2017.

on European relations. One delegate wrote: “Much of the discussion focused on Russia’s incursions into Ukraine and Georgia,” and “[s]everal ambassadors asked for names of people who might impact foreign policy under Trump.”¹⁴ At the conclusion of this event, contrary to his testimony, Attorney General Sessions met and spoke with Russian Ambassador Sergey Kislyak.¹⁵

On September 8, 2016, the Attorney General met again with Ambassador Kislyak in his Senate office.¹⁶ According to the Attorney General, he and the Ambassador discussed terrorism and Russian activity in Ukraine, but no “specific political discussions.”¹⁷ By September 2016, reports that Russian hackers had gained access to servers at the Democratic National Committee had been in the news for months.¹⁸ However, according to his own account, Attorney General Sessions made no mention of this Russian operation to the Russian ambassador.

The Attorney General testified—in person and in writing—that he had made no contacts with Russian officials during the course of the campaign. That testimony was clearly false. His later attempts to reconcile his testimony to the facts are equally puzzling. As Rep. Pramila Jayapal (D-WA) pointed out, “as a lawyer and a long-term Member of Congress who has participated in many confirmation hearings, Jeff Sessions should know better.”¹⁹

In several statements after the Washington Post reported on his two meetings with Ambassador Kislyak, the Attorney General argued: “I never had meetings with Russian operatives or Russian intermediaries about the Trump campaign.”²⁰ That phrasing does not reflect the testimony given by the Attorney General at his confirmation hearing: “I did not have communications with the Russians.”

Later, a spokesperson for the Trump Administration claimed that the Attorney General was asked “about communications between Russia and the Trump campaign—not about meetings he took as a senator and a member of the Armed Services Committee.”²¹ The Washington Post contacted the other 26 members of the Senate Armed Services Committee in 2016. Of the 20 who responded, none had met with the Russian Ambassador.²² The Attorney General was both associated with the Trump campaign and aware of the Russian government’s efforts to influence the election during both of the meetings he later acknowledged. It is not clear how his also being a sitting Senator would give the Attorney General license to give the unqualified impression that he “did not have communications with the Russians.”

¹⁴ Victor Ashe, *Delegate diary: Side events more interesting than the convention*, Knoxville News Sentinel, July 19, 2016.

¹⁵ Adam Entous *et al.*, *Sessions met with Russian envoy twice last year, encounters he later did not disclose*, Wash. Post, Mar. 1, 2017.

¹⁶ *Id.*

¹⁷ Aaron Blake, *Transcript of Jeff Sessions’ recusal news conference, annotated*, Wash. Post, Mar. 2, 2017.

¹⁸ See, e.g., Ellen Nakashima, *Russian government hackers penetrated DNC, stole opposition research on Trump*, Wash. Post, June 14, 2016.

¹⁹ Markup Tr. (statement of Rep. Pramilla Jayapal).

²⁰ Aaron Blake, *Transcript of Jeff Sessions’ recusal news conference, annotated*, Wash. Post, Mar. 2, 2017.

²¹ Adam Entous *et al.*, *Sessions met with Russian envoy twice last year, encounters he later did not disclose*, Wash. Post, Mar. 1, 2017.

²² *Id.*

On March 6, 2017, Attorney General Sessions wrote to the Senate Judiciary Committee to supplement his testimony. “My answer was correct. . . . I was surprised by the allegations in [Senator Franken’s] question, which I had not heard before.”²³ It strains belief to suggest that a U.S. Senator, active in the campaign and nominated to be Attorney General, first learned of widely reported allegations of contact between the Trump campaign and the Russian government while sitting at his confirmation hearing.

The Attorney General’s supplemental testimony discloses two meetings with the Russian ambassador—at the convention in July 2016 and in his office in September 2016.²⁴ It does not, however, acknowledge the possibility of a third meeting with Ambassador Kislyak. On April 27, 2016, President Trump gave a foreign policy speech at the Mayflower Hotel in Washington, DC, stating, “I believe an easing of tensions, and improved relations with Russia—from a position of strength only—is possible, absolutely possible. Common sense says this cycle, this horrible cycle of hostility must end and ideally will end soon. Good for both countries.”²⁵ Ambassador Kislyak sat in the front row for that speech.²⁶ The Attorney General was also in attendance. According to one account, “at a reception in the Senate Room of the Mayflower, a number of politicians and Trump advisers, such as Senator Jeff Sessions and ambassadors, congregated before the event.”²⁷ Neither the Attorney General’s initial testimony nor his supplementary statement account for any conversation that may have taken place at this April meeting.

In the House of Representatives, our Committee has primary responsibility for overseeing the Department of Justice. It is incumbent on the Committee to seek the information necessary to fill the gaps in the Attorney General’s account. H. Res. 184 addresses several lingering questions: How could the Attorney General possibly have been surprised that the topic of Russia would come up at his confirmation hearing? Why did he give the impression that he had never met with the Russian Ambassador? Why did it take three weeks to even attempt to correct the record? Is the record now complete, given the possibility of additional meetings between the Attorney General and the Russian Ambassador?

Although Chairman Goodlatte asserts that “a resolution of inquiry is an inappropriate and really ineffective method for conducting effective oversight,”²⁸ we cannot defer our oversight responsibilities to any other agency or congressional committee. By voting to report H. Res. 184 unfavorably, the Majority has blocked the measure from reaching the House floor and signaled an unwillingness to even ask about the Attorney General’s false testimony.

²³ Letter from U.S. Attorney General Jefferson Sessions to Sen. Charles Grassley (R-IA), Chairman, S. Comm. on the Judiciary, and Sen. Dianne Feinstein (D-CA), Ranking Member, S. Comm. on the Judiciary (Mar. 6, 2017).

²⁴ *Id.*

²⁵ *Transcript: Donald Trump’s Foreign Policy Speech*, N.Y. Times, Apr. 27, 2016.

²⁶ Greg Miller *et al.*, *National security adviser Flynn discussed sanctions with Russian ambassador, despite denials, officials say*, Wash. Post, Feb. 9, 2017.

²⁷ Jacob Heilbrunn, *Why I Hosted Trump’s Foreign Policy Speech*, Politico, Apr. 27, 2017.

²⁸ Markup Tr. (statement of Chairman Bob Goodlatte).

II. The Attorney General's recusal from matters related to the 2016 campaign is, at best, incomplete.

H. Res. 184 also requests information related to the Attorney General's decision to recuse himself from any matter related to the Trump campaign, as well as the Administration's analysis of the regulations governing the appointment of special counsel. This information will help the Committee assess the particular phrasing of the Attorney General's recusal, and the extent to which he plans to be involved in other ongoing investigations of President Trump.

Attorney General Sessions has recused himself "from any existing or future investigations of any matters in any way related to the campaigns for President of the United States."²⁹ He has "taken no actions regarding any such matters," and his recusal "should not be interpreted as confirmation of the existence of any investigation or suggestive of the scope of any such investigation."³⁰

Federal regulations provide that no employee of the Department of Justice, including the Attorney General:

shall participate in a criminal investigation or prosecution if he has a personal or political relationship with:

(1) Any person or organization substantially involved in the conduct of the investigation or prosecution; or

(2) Any person or organization which he knows a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.³¹

The regulations define "political relationship" as "a close identification with an elected official . . . arising from service as a principal adviser thereto or principal official thereof."³²

Attorney General Sessions clearly has a "political relationship" with President Trump. He therefore should be disqualified from any investigation or prosecution in which President Trump is "substantially involved" or in which the President has "a specific and substantial interest." Out of the many possible investigations of direct interest to President Trump, it is not clear why the Attorney General chose to limit his recusal solely to matters "related to the campaigns for President of the United States."

The recusal does not appear to reach matters that pre-date the campaign. For example, the Department apparently has been investigating the business dealings of former Trump campaign manager Paul Manafort long before he became manager of the Trump campaign.³³ According to reports, this investigation centers on Mr. Manafort's work for former Ukrainian President Viktor Yanukovich.³⁴ This matter is not "related to the campaigns for President," but President Trump has a "specific and substantial interest" in any decision to charge his one-time campaign manager with a federal crime.

The recusal also may not reach events that occurred after the campaign had ended. Attorney General Sessions concedes that the

²⁹ *Attorney General Sessions Statement on Recusal*, U.S. Dept. of Justice, Office of Public Affairs, Mar. 2, 2017.

³⁰ *Id.*

³¹ 28 C.F.R. § 45.2(a) (2016).

³² *Id.* § 45.1(c)(1).

³³ Steven Lee Myers & Andrew E. Kramer, *How Paul Manafort Wielded Power in Ukraine Before Advising Donald Trump*, N.Y. Times, July 31, 2016.

³⁴ Andrew E. Kramer et al., *Secret Leger in Ukraine Lists Cash for Donald Trump's Campaign Chief*, N.Y. Times, Aug. 14, 2016.

scope of his recusal includes “Russian contacts with the Trump transition team and administration.”³⁵ It is less clear that his recusal extends to any collateral matters. For example, the Attorney General is presumably recused from any investigation into former National Security Advisor Michael Flynn’s discussions with the Russian Ambassador.³⁶ But any investigation into Mr. Flynn’s decision to lie about those discussions—including, possibly, to any federal investigators who may have interviewed him—is predicated on events that occurred entirely after “the campaigns for President” had concluded.³⁷

The recusal certainly does not reach other widely-reported matters that may be pending at the Department of Justice. President Trump has potentially unorthodox business relationships in some of the most corrupt countries in the world.³⁸ Although the President denies having any business dealings in Russia, he has sought and received funding from Russian oligarchs, “especially after most American banks stopped lending to him following his multiple bankruptcies.”³⁹ He has called the Foreign Corrupt Practices Act a “horrible law” that “puts us at a huge disadvantage.”⁴⁰ In Azerbaijan, the President and his family worked with a notoriously corrupt Minister of Transportation on a building project that appears to have been a front for Iran’s Revolutionary Guard.⁴¹ If these cases, or anything like them, appear before the Department of Justice, Attorney General Sessions remains the senior official in charge—even though he has a direct political relationship with the target of the investigation.

Given the substantial likelihood that President Trump and his associates have been, and will continue to be, the subject of investigation by the Department of Justice, one option for Attorney General Sessions is to appoint a special counsel to handle the matter. Federal regulations permit the Attorney General to do so “when he or she determines that a criminal investigation is warranted” and that “investigation or prosecution . . . would present a conflict of interest for the Department.”⁴² H. Res. 184 directs the Attorney General to transmit his analysis of these regulations to the House—so that Members can examine what steps he has taken, if any, to avoid an ongoing conflict of interest. Rep. Darrell Issa (R-CA) was one of the first Republicans to suggest that the Attorney General is “going to have to use the special prosecutor statute.”⁴³

Unfortunately, the Majority has shown little interest in assessing whether the current scope of the Attorney General’s recusal is appropriate, or whether the appointment of a special counsel is in order. By voting to report H. Res. 184 unfavorably and block the

³⁵ Letter from U.S. Attorney General Jefferson Sessions to Sen. Charles Grassley, Chairman, S. Comm. on the Judiciary, and Sen. Dianne Feinstein, Ranking Member, S. Comm. on the Judiciary, Mar. 6, 2017.

³⁶ See Adam Entous *et al.*, *Justice Department warned White House that Flynn could be vulnerable to Russian blackmail, officials say*, Wash. Post, Feb. 13, 2017.

³⁷ See Greg Miller *et al.*, *National security adviser Flynn discussed sanctions with Russian ambassador, despite denials, officials say*, Wash. Post, Feb. 9, 2017.

³⁸ See Richard C. Paddock *et al.*, *Potential Conflicts Around the Globe for Trump, the Businessman President*, N.Y. Times, Nov. 26, 2016.

³⁹ Max Boot, *Trump’s Opposition Research Firm: Russia’s Intelligence Agencies*, L.A. Times, July 25, 2016.

⁴⁰ *Trump: Dimon’s Woes & Zuckerberg’s Prenuptial*, CNBC, broadcast May 15, 2012.

⁴¹ Adam Davidson, *Donald Trump’s Worst Deal*, New Yorker, Mar. 13, 2017.

⁴² 26 C.F.R. § 600.1 (2012).

⁴³ Melanie Mason, *GOP Rep. Darrell Issa tells Bill Maher a special prosecutor should investigate Russian election interference*, L.A. Times, Feb. 24, 2017.

measure from reaching the House floor, the Majority has abandoned its responsibility to conduct oversight of the Department of Justice, and to follow the facts wherever they may lead us.

III. Attorney General Sessions is one of several associates of President Trump to have concealed his contacts with the Russian government.

Although the majority of H. Res. 184 is directed at the Attorney General's false testimony and his subsequent recusal, the resolution also requests information about any meeting that occurred between any employee of President Trump's campaign or transition team and any representative of the Russian government.

Rep. Adam Schiff (D-CA), Ranking Member of the House Permanent Committee on Intelligence and a leader of that Committee's investigation into the President's connections to the Russian government, put the problem succinctly: "At the outset of the investigation, there was circumstantial evidence of collusion. There was direct evidence, I think, of deception."⁴⁴

At the markup of H. Res. 184, Rep. Eric Swalwell (D-CA) also helped to put the Attorney General's false testimony into context:

[A]s members of the Judiciary Committee, we have an opportunity right now to do a small piece of this investigation to understand why, when asked under oath, the Attorney General misled his Senate confirmation panel about prior contacts with Russia. And perhaps just one person in the Administration misleading about prior contacts with Russia could be excused with an innocent explanation. I think we are all willing to accept that. However, when you put this in context you do not see coincidences; you see a pattern of deception. . . .

And what this Committee should seek to do is to understand what does that pattern mean.⁴⁵

Attorney General Sessions was just one of the President's associates to have hidden or lied about his contacts with Russian officials. H. Res. 184 asks about some of them by name.

On December 29, 2016, the same day that President Obama imposed sanctions on certain Russian officials in response to Russian interference in the presidential campaign, former National Security Advisor Michael Flynn spoke with the Russian ambassador to the United States about lifting those sanctions once Donald Trump took office.⁴⁶ In public—and apparently also in private conversations with Vice President Mike Pence—Mr. Flynn flatly denied having any such discussions. On February 9, 2017, the Washington Post reported that Mr. Flynn had, in fact, discussed lifting sanctions in his conversations with the Russian ambassador.⁴⁷ Three

⁴⁴ Kailani Koenig, *Rep. Schiff: "Circumstantial Evidence of Collusion" Between Trump Campaign, Russia*, NBC News, Mar. 19, 2017.

⁴⁵ Markup Tr. (statement of Rep. Eric Swalwell).

⁴⁶ Adam Entous *et al.*, *Justice Department warned White House that Flynn could be vulnerable to Russian blackmail, officials say*, Wash. Post, Feb. 13, 2017.

⁴⁷ Greg Miller *et al.*, *National security adviser Flynn discussed sanctions with Russian ambassador, despite denials, officials say*, Wash. Post, Feb. 9, 2017.

weeks after the White House learned of this duplicity, Mr. Flynn resigned.⁴⁸

Jared Kushner—President Trump’s son-in-law and senior adviser—participated in a meeting with Ambassador Kislyak in December.⁴⁹ It may be entirely proper for a senior transition team official to meet with a foreign leader, but Mr. Flynn’s participation in that meeting was not disclosed until after he resigned as National Security Adviser.⁵⁰ The Senate Select Committee on Intelligence recently asked to question Mr. Kushner about a number of other previously undisclosed meetings with Russian officials. At least one such meeting included a conversation with the head of a Russian bank that has been subject to U.S. sanctions since Russia’s invasion of Crimea and Ukraine.⁵¹

According to reports, the FBI has questioned Carter Page, a foreign policy advisor to the Trump campaign, for his frequent trips to Moscow and alleged contacts with Russian officials subject to U.S. sanctions.⁵² In an interview on February 15, 2017, Mr. Page claimed that he had participated in “no meetings” with Russian officials in the past year.⁵³ On March 2, 2017, USA Today reported that both Mr. Page and J.D. Gordon, director of the national security advisory committee for the Trump campaign, met with the Russian ambassador at the Republican National Convention in July 2016.⁵⁴ Mr. Page admitted his earlier misstatement in an interview broadcast later that evening.⁵⁵

Richard Burt, a former U.S. Ambassador to Germany and a lobbyist for interests controlled by the Russian government, helped to write President Trump’s first foreign policy speech even as he was earning hundreds of thousands of dollars to build a gas pipeline for Russian gas giant Gazprom.⁵⁶ As the chairman of the Trump campaign’s national security advisory committee, then-Senator Jeff Sessions invited Mr. Burt “to discuss issues of national security and foreign policy, and wrote white papers for Sessions on the same subjects.”⁵⁷

Former Trump campaign manager Paul Manafort once worked as a pro-Kremlin political consultant in Ukraine.⁵⁸ He reportedly oversaw the softening of the Republican National Committee’s platform on Russia.⁵⁹ While working for the Trump campaign, he appears to have been the target of a blackmail attempt by a Ukrain-

⁴⁸ Maggie Haberman et al., *Michael Flynn Resigns as National Security Adviser*, N.Y. Times, Feb. 13, 2017.

⁴⁹ Evan Osnos et al., *Trump, Putin, and the New Cold War*, New Yorker, Feb. 26, 2017.

⁵⁰ Michael S. Schmidt, *Kushner and Flynn Met With Russian Envoy in December, White House Says*, N.Y. Times, Mar. 2, 2017.

⁵¹ Jo Becker et al., *Senate Committee to Question Jared Kushner Over Meetings With Russians*, N.Y. Times, Mar. 27, 2017.

⁵² Michael Isikoff, *U.S. intel officials probe ties between Trump advisor and Kremlin*, Yahoo! News, Sept. 24, 2016.

⁵³ *Former Trump adviser says he had no Russian meetings in the past year*, PBS News Hour, Feb. 15, 2017.

⁵⁴ Steve Reilly, *Exclusive: Two other Trump advisers also spoke with Russian envoy during GOP convention*, USA Today, Mar. 2, 2017.

⁵⁵ “I am not going to deny that I talked to him. I will say I never met him anywhere outside of Cleveland.” *All in with Chris Hayes*, MSNBC, broadcast Mar. 2, 2017 (interview with Carter Page).

⁵⁶ Ben Schreckinger & Julia Ioffe, *Lobbyist advised Trump campaign while promoting Russian pipeline*, Politico, Oct. 7, 2016.

⁵⁷ *Id.*

⁵⁸ Amber Philips, *Paul Manafort’s complicated ties to Ukraine, explained*, Wash. Post, Aug. 19, 2016.

⁵⁹ Josh Rogin, *Trump campaign guts GOP’s anti-Russia stance on Ukraine*, Wash. Post, July 18, 2016.

ian politician—who claimed to have “bulletproof” evidence related to certain financial arrangements between Mr. Manafort and Ukraine’s former president, pro-Russian strongman Viktor Yanukovich.⁶⁰ The FBI has been investigating his business dealings in Russia and Ukraine for some time.⁶¹ Other recent reporting has raised questions about Mr. Manafort’s use of shell corporations to purchase real estate in New York City,⁶² money laundering through Cypriot banks,⁶³ and a secret deal with one Russian oligarch to influence politics in the United States to “greatly benefit the Putin government.”⁶⁴

Trump campaign advisor Roger Stone has been swept into similar investigations.⁶⁵ During the campaign, he bragged about “back-channel” communications with WikiLeaks and appeared to know that WikiLeaks would publish emails from Clinton Campaign chairman John Podesta—emails exfiltrated from the Democratic National Committee by Russian state actors—months before those emails became public.⁶⁶ On March 4, 2017, Mr. Stone again claimed a “perfectly legal back channel” to WikiLeaks founder Julian Assange—and then deleted the statement from Twitter.⁶⁷

Michael D. Cohen, President Trump’s private attorney, is working to bring “peace” to Ukraine through a Ukrainian lawmaker associated with Paul Manafort.⁶⁸ The peace plan, which Mr. Cohen reportedly hand-delivered to Mr. Flynn in the days before his resignation, appears to turn on lifting sanctions on the Russian government and recognizing Crimea as part of Russia—both to the obvious gain of Vladimir Putin.⁶⁹ Mr. Cohen has denied making a separate trip to the Czech Republic during the campaign to meet with Russian officials.⁷⁰

Finally, there remain unanswered questions about the Attorney General’s direct contacts with the Russian government. At his confirmation hearings, he testified: “I did not have communications with the Russians.”⁷¹ That testimony was, at best, inaccurate. Steven Hall, a former head of Russia operations at the Central Intelligence Agency, notes that the Russian government would have incentive to cultivate a relationship with Senator Sessions, because of his role on key Senate committees and as an early adviser to the President. “The fact that he had already placed himself at least ideologically behind Trump would have been an added bonus for

⁶⁰ Kenneth P. Vogel *et al.*, *Manafort faced blackmail attempt, hacks suggest*, Politico, Feb. 23, 2016.

⁶¹ Ken Dilanian *et al.*, *FBI Making Inquiry into Ex-Trump Campaign Manager’s Foreign Ties*, NBC News, Nov. 1, 2016.

⁶² Ilya Marritz & Andrea Bernstein, *Paul Manafort’s Puzzling New York Real Estate Purchases*, WNYC News, Mar. 28, 2017.

⁶³ Aggelos Petropoulos & Richard Engel, *Manafort-Linked Accounts on Cyprus Raised Red Flag*, NBC News, Mar. 29, 2017.

⁶⁴ Jeff Horwitz & Chad Day, *AP Exclusive: Before Trump job, Manafort worked to aid Putin*, Assoc. Press, Mar. 22, 2017.

⁶⁵ Michael S. Schmidt, *Intercepted Russian Communications Part of Inquiry into Trump Associates*, N.Y. Times, Jan. 29, 2017.

⁶⁶ Alexa Ard, *Donald Trump ally Roger Stone admits “back-channel” tie to WikiLeaks*, McClatchy, Oct. 12, 2016.

⁶⁷ Marina Fang, *Former Trump Advisor Roger Stone Admits Collusion with WikiLeaks, Then Deletes It*, Huffington Post, Mar. 5, 2017.

⁶⁸ Megan Twohey and Scott Shane, *A Back-Channel Plan for Ukraine and Russia, Courtesy of Trump Associates*, N.Y. Times, Feb. 19, 2017.

⁶⁹ Julia Ioffe, *The Mystery of the Ukraine Peace Plan*, The Atlantic, Feb. 20, 2017.

⁷⁰ Hunter Walker, *Trump attorney Michael Cohen: I have no Russian Kremlin connections*, Yahoo! News, Jan. 11, 2017.

⁷¹ *Attorney General Nomination*, hearing before the S. Comm. on the Judiciary, Jan. 10, 2017 (exchange between Sen. Al Franken and Sen. Jeff Sessions).

Kislyak.”⁷² Michael McFaul, former U.S. ambassador to Russia, did not find it unusual for the Attorney General to have met with Ambassador Kislyak. “The weird part is to conceal it. That was at the height of all the discussions of what Russia was doing during the election.”⁷³

Each of the Trump campaign officials named in H. Res. 184 appears to have had contact with the Russian government. Many of these officials served as national security advisors to the campaign—and Attorney General Sessions served the campaign as chair of its national security advisory committee. Whether or not he engaged in any wrongdoing, the Attorney General sat in the center of a group of individuals who met with Russian officials and then attempted to obscure those meetings.

The Committee has an obligation to investigate this pattern of behavior. In particular, we have an obligation to investigate how that pattern may implicate the sitting Attorney General of the United States. By voting to report H. Res. 184 unfavorably and block it from consideration by the full House, the Majority chooses to ignore that obligation.

CONCLUSION

At the markup of H. Res. 184, Rep. Jeffries raised a key question about an unexplained shift in the Attorney General’s outlook:

Before hooking up with Donald Trump, then-Senator Sessions was quite clear on the systematic fraud and corruption in Putin’s Russia. But something changed after joining the Trump team. And in March of last year, days after his official endorsement of Donald Trump, he said, “I think an argument can be made that there is no reason for the U.S. and Russia to be at this loggerheads. We ought to be able to break that logjam.”

Why did Jeff Sessions suddenly forget that Putin’s brutal and corrupt regime undermines America’s democratic values? The American people deserve to know.⁷⁴

By itself, there is nothing untoward about a shift in a sitting Senator’s foreign policy. In isolation and after a good faith attempt at correction, a case of mistaken testimony before a congressional committee would be little cause for concern. Taken all together, however, the evidence suggests that the Attorney General and his associates from the Trump campaign have engaged in a pattern of behavior that raises too many questions to ignore.

We are disappointed, but not surprised, that the Majority refuses to ask these critical questions of the Department of Justice and the White House. We will continue to press the Trump Administration for answers, with or without the Majority.

Accordingly, we strongly support H. Res. 184 and respectfully dissent from the Majority’s motion to report it unfavorably.

MR. CONYERS, JR.

MR. NADLER.

MS. LOFGREN.

⁷² Adam Entous, *et al.*, *Sessions met with Russian envoy twice last year, encounters he later did not disclose*, Wash. Post, Mar. 1, 2017.

⁷³ *Id.*

⁷⁴ Markup Tr. (statement of Rep. Hakeem Jeffries).

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