

NOT VOTING—5

Lamborn Reed Westerman
Pence Scalise

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1430

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. WESTERMAN. Madam Speaker, had I been present, I would have voted “nay” on rollcall No. 328.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

| | | |
|---------------------------|-------------------------|-----------------|
| Adams (Brown) | Khanna | Payne (Pallone) |
| Burgess (Lucas) | (Bowman) | Rodgers (WA) |
| Cooper (Clark MA) | Kirkpatrick (Stanton) | (Joyce (PA)) |
| DeFazio (Brown) | Lawson (FL) | Rush |
| Frankel, Lois (Clark MA)) | (Evans) | (Underwood) |
| Garcia (TX) | Lynch (Trahan) | Salazar |
| (Escobar) | Meng (Jeffries) | (Cammack) |
| Hice (GA) | Moore (WI) | Sires (Pallone) |
| (Greene GA) | (Beyer) | Tlaib (Omar) |
| Huffman (Stanton) | Napolitano (Correa) | Wasserman |
| | Ocasio-Cortez (Escobar) | Schultz (Soto) |
| | | Wilson (FL) |
| | | (Hayes) |

RECOMMENDING THAT THE HOUSE FIND STEPHEN K. BANNON IN CONTEMPT OF CONGRESS

Mr. THOMPSON of Mississippi. Madam Speaker, by the direction of the Select Committee to Investigate the January 6th Attack on the United States Capitol, I call up the report (H. Rept. 117-152) and accompanying resolution recommending that the House of Representatives find Stephen K. Bannon in contempt of Congress for refusal to comply with a subpoena duly issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol.

The Clerk read the title of the report.

The SPEAKER pro tempore. Pursuant to House Resolution 727, the report is considered read.

The text of the report is as follows:

The Select Committee to Investigate the January 6th Attack on the United States Capitol, having considered this Report, reports favorably thereon and recommends that the Report be approved.

The form of the Resolution that the Select Committee to Investigate the January 6th Attack on the United States Capitol would recommend to the House of Representatives for citing Stephen K. Bannon for contempt of Congress pursuant to this Report is as follows:

Resolved, That Stephen K. Bannon shall be found to be in contempt of Congress for failure to comply with a congressional subpoena.

Resolved, That pursuant to 2 U.S.C. §§ 192 and 194, the Speaker of the House of Representatives shall certify the report of the Select Committee to Investigate the January 6th Attack on the United States Capitol, detailing the refusal of Stephen K. Bannon to produce documents or appear for a deposition before the Select Committee to Investigate the January 6th Attack on the United States Capitol as directed by subpoena, to

the United States Attorney for the District of Columbia, to the end that Mr. Bannon be proceeded against in the manner and form provided by law.

Resolved, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoena.

PURPOSE AND SUMMARY

On January 6, 2021, a violent mob breached the security perimeter of the United States Capitol, assaulted and injured scores of police officers, engaged in hand-to-hand violence with those officers over an extended period, and invaded and occupied the Capitol building, all in an effort to halt the lawful counting of electoral votes and reverse the results of the 2020 election. In the words of many of those who participated in the violence, the attack was a direct response to false statements by then-President Donald J. Trump—beginning on election night 2020 and continuing through January 6, 2021—that the 2020 election had been stolen by corrupted voting machines, widespread fraud, and otherwise.

In response, the House adopted House Resolution 503 on June 30, 2021, establishing the Select Committee to Investigate the January 6th Attack on the United States Capitol (hereinafter referred to as the “Select Committee”).

The Select Committee is investigating the facts, circumstances, and causes of the January 6th attack and issues relating to the peaceful transfer of power, in order to identify how the events of January 6th were planned, what actions and statements motivated and contributed to the attack on the Capitol, how the violent riot that day was coordinated with a political and public relations strategy to reverse the election outcome, and why Capitol security was insufficient to address what occurred. The Select Committee will evaluate all facets of these issues, create a public record of what occurred, and recommend to the House, and its relevant committees, corrective laws, policies, procedures, rules, or regulations.

According to many published reports, and his own public statements, Stephen K. Bannon had specific knowledge about the events planned for January 6th before they occurred. He said on his January 5th podcasts, for example:

It’s not going to happen like you think it’s going to happen. OK, it’s going to be quite extraordinarily different. All I can say is, strap in. [. . .] You made this happen and tomorrow it’s game day. So strap in. Let’s get ready.

All hell is going to break loose tomorrow. [. . .] So many people said, ‘Man, if I was in a revolution, I would be in Washington.’ Well, this is your time in history.

Mr. Bannon appears to have had multiple roles relevant to this investigation, including his role in constructing and participating in the “stop the steal” public relations effort that motivated the attack, his efforts to plan political and other activity in advance of January 6th, and his participation in the events of that day from a “war room” organized at the Willard InterContinental Washington D.C. Hotel (the “Willard Hotel”). Although he was a private citizen not employed by the White House at the time, he reportedly spoke with Mr. Trump directly regarding the plans for January 6th on at least one occasion. In short, Mr. Bannon appears to have played a multi-faceted role in the events of January 6th, and the American people are entitled to hear his first-hand testimony regarding his actions. The Select Committee expects that such testimony will be directly relevant to its report and recommendations for legislative and other action.

On September 23, 2021, Chairman BENNIE G. THOMPSON signed a subpoena for documents and testimony and transmitted it along with a cover letter and schedule to counsel for Mr. Bannon, who accepted service on Mr. Bannon’s behalf on September 24, 2021. The subpoena required that Mr. Bannon produce responsive documents not later than October 7, 2021, and that Mr. Bannon appear for a deposition on October 14, 2021. Subsequent communications between counsel for Mr. Bannon and Chairman THOMPSON, however, failed to reach any accommodation for Mr. Bannon’s appearance for testimony or production of documents. Indeed, counsel for Mr. Bannon on October 7, 2021, flatly stated that Mr. Bannon would not produce any documents or appear at the scheduled deposition, as ordered by the lawful subpoena. Although Mr. Bannon’s counsel referenced vague claims of executive privilege purportedly relayed by the former President, no such claims have been presented by the former President to the Select Committee. And although the Select Committee is confident that such claims could not bar any of its requests, there is no conceivable executive privilege claim that could bar *all* of the Select Committee’s requests or justify Mr. Bannon’s flat refusal to appear for the required deposition. The Chairman’s October 8, 2021, response addressed the legal arguments raised by Mr. Bannon’s counsel and made clear that the Select Committee expected—as the law demands—that Mr. Bannon appear before the Select Committee at his deposition and raise any privilege or other concerns regarding specific questions on the record of that proceeding.

The contempt of Congress statute, 2 U.S.C. § 192, makes clear that a witness summoned before Congress must appear or be “deemed guilty of a misdemeanor” punishable by a fine of up to \$100,000 and imprisonment for up to 1 year. Further, the Supreme Court in *United States v. Bryan* (1950) emphasized that the subpoena power is a “public duty, which every person within the jurisdiction of the Government is bound to perform when properly summoned.” The Supreme Court recently reinforced this clear obligation by stating that “[w]hen Congress seeks information needed for intelligent legislative action, it unquestionably remains the duty of all citizens to cooperate.”

Mr. Bannon did not produce documents by the subpoena’s October 7, 2021, deadline nor did he appear for a deposition scheduled for October 14, 2021, as ordered by the subpoena and in contravention of the clear instructions by the Select Committee Chairman on October 8, 2021, to appear at the deposition and raise any privilege concerns in response to specific questions on the record. Mr. Bannon’s refusal to comply with the Select Committee’s subpoena *in any way* represents willful default under the law and warrants contempt of Congress and referral to the United States Attorney for the District of Columbia for prosecution as prescribed by law. The denial of the information sought by the subpoena impairs Congress’s central powers under the United States Constitution.

BACKGROUND ON THE SELECT COMMITTEE’S INVESTIGATION

House Resolution 503 sets out the specific purposes of the Select Committee, including: to investigate and report upon the facts, circumstances, and causes “relating to the January 6, 2021, domestic terrorist attack upon the United States Capitol Complex”;

to investigate and report upon the facts, circumstances, and causes “relating to the interference with the peaceful transfer of power”;

to investigate and report upon the facts, circumstances, and causes relating to “the

influencing factors that fomented such an attack on American representative democracy while engaged in a constitutional process.”

The Supreme Court has long recognized Congress’s oversight role. “The power of the Congress to conduct investigations is inherent in the legislative process.” Indeed, Congress’s ability to enforce its investigatory power “is an essential and appropriate auxiliary to the legislative function.” “Absent such a power, a legislative body could not ‘wisely or effectively’ evaluate those conditions ‘which the legislation is intended to affect or change.’”

The oversight powers of House and Senate committees are also codified in legislation. For example, the Legislative Reorganization Act of 1946 directed committees to “exercise continuous watchfulness” over the executive branch’s implementation of programs within its jurisdictions, and the Legislative Reorganization Act of 1970 authorized committees to “review and study, on a continuing basis, the application, administration, and execution” of laws.

Pursuant to House rule XI and House Resolution 503, the Select Committee is authorized “to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of books, records, correspondence, memoranda, papers, and documents as it considers necessary.” Further, section 5(c)(4) of House Resolution 503 provides that the Chairman of the Select Committee may “authorize and issue subpoenas pursuant to clause 2(m) of rule XI in the investigation and study” conducted pursuant to the enumerated purposes and functions of the Select Committee. The Select Committee’s authorizing resolution further states that the Chairman “may order the taking of depositions, including pursuant to subpoena, by a Member or counsel of the Select Committee, in the same manner as a standing committee pursuant to section 3(b)(1) of House Resolution 8, One Hundred Seventeenth Congress.”

A. The Select Committee seeks information from Mr. Bannon central to its investigative purposes

Mr. Bannon’s testimony and document production are critical to the Select Committee’s investigation. Among other topics, the Select Committee seeks facts that explain why the events of January 6th turned violent. Statements publicly made by Mr. Bannon on January 5, 2021, suggest that he had some foreknowledge about extreme events that would occur the next day. Mr. Bannon noted on January 5th that the country was facing a “constitutional crisis” and “that crisis is about to go up about five orders of magnitude tomorrow.” He also stated that, “All hell is going to break loose tomorrow. [. . .] It’s not going to happen like you think it’s going to happen. OK, it’s going to be quite extraordinarily different.” Congress, through the Select Committee, is entitled to discover facts concerning the activities leading up to the violence on January 6th. Under House Resolution 503, the Select Committee is directed to investigate those facts, which include “the influencing factors that fomented such an attack.” And after making public statements on January 5th like those quoted above, Mr. Bannon is obliged by law to comply with the reasonable requests of the Select Committee through its subpoena. If any witness so close to the events leading up to the January 6th attack could decline to provide information to the Select Committee, Congress would be severely hamstrung in its ability to exercise its constitutional powers with highly relevant information informing its choices. Information in Mr. Bannon’s possession is es-

sential to putting other witnesses’ testimony and productions into appropriate context and to ensuring the Select Committee can fully and expeditiously complete its work.

Mr. Bannon was the Chief Executive Officer of Mr. Trump’s 2016 presidential campaign and served as then-President Trump’s chief strategist, a White House position, for 8 months in 2017. Mr. Trump fired Mr. Bannon in August 2017, and Mr. Bannon did not thereafter hold a position in the executive branch.

After Mr. Bannon left government service, he remained actively involved in media and politics. In October 2019, Mr. Bannon began a radio show and podcast focused on rallying supporters of Mr. Trump in support of various causes and issues. According to one report, before the election even occurred in 2020, Mr. Bannon made public efforts to explain “his belief that the Democrats are plotting to steal the 2020 election.” One account of conversations involving Mr. Bannon (and Mr. Trump) prior to January 6th describes Mr. Bannon as encouraging Mr. Trump to “focus on January 6th” and articulating a plan to have millions of Americans consider Mr. Biden an illegitimate President. That same reporting suggests that Mr. Bannon was in frequent contact with the White House in late-December and early-January and spoke directly with the President several times. Mr. Bannon is reported to have urged then-President Trump to pressure then-Vice President Michael R. Pence to assist in overturning the results of the 2020 election.

Mr. Bannon was reportedly encouraging President Trump’s supporters to take dramatic action. According to one report, immediately after the November 3rd election, Mr. Bannon began promoting false conspiracy claims that the election had been stolen and referred to the election as “a mass fraud.”

The day before the January 6th attack on the Capitol, Mr. Bannon predicted that “All hell is going to break loose tomorrow.” He told the listeners of his radio show:

It’s not going to happen like you think it’s going to happen. OK, it’s going to be quite extraordinarily different. All I can say is, strap in. [. . .] You made this happen and tomorrow it’s game day. So strap in. Let’s get ready.

He added:

So many people said, “Man, if I was in a revolution, I would be in Washington.” Well, this is your time in history.²⁶

And:

It’s all converging, and now we’re on the point of attack tomorrow.²⁷

Public reporting also suggests that Mr. Bannon was among several prominent supporters of efforts to undermine the election results who gathered at the Willard Hotel, two blocks from the White House, on the days surrounding the January 6th attack.²⁸ The group that assembled at the Willard Hotel is reported to have included members of the Trump campaign’s legal team (including Rudolph Giuliani and John Eastman), several prominent proponents of false election fraud claims that had been promoted by Mr. Trump (e.g., Russell Ramsland, Jr. and Boris Epshteyn), as well as Roger Stone, who left the hotel with Oath Keeper bodyguards, and campaign spokesman Jason Miller.²⁹ It has been reported that the participants in the meetings at the Willard Hotel discussed plans to stop or delay the January 6th counting of the election results and persuade Members of Congress to block the electoral count.³⁰

Mr. Bannon’s statements the day before the January 6th attack, and his association

with both the Trump inner circle and outside groups involved in the “Stop the Steal”³¹ events, make his testimony about the Willard Hotel meetings essential to fully understanding and establishing responsibility for the events of January 6th. In addition to the indications noted above regarding Mr. Bannon’s role in various activities leading up to January 6th, he also reportedly spoke directly to Mr. Trump on one or more occasions regarding what could or should happen on January 6th.³²

B. Mr. Bannon’s refusal to comply with the Select Committee’s subpoena for testimony and documents

On September 23, 2021, Chairman THOMPSON signed and transmitted a subpoena, cover letter, and schedule to Mr. Bannon ordering the production of both documents and testimony relevant to the Select Committee’s investigation into “important activities that led to and informed the events at the Capitol on January 6, 2021.”³³ Chairman THOMPSON’s letter identified public reports describing Mr. Bannon’s activities and past statements, documenting some of the public information that gave the Select Committee reason to believe Mr. Bannon possesses information about matters within the scope of the Select Committee’s inquiry.

The specific documents requested are found in the schedule in the Appendix, Exhibit 1, (pp. 4-5). The schedule included with the subpoena addressed topics including but not limited to Mr. Bannon’s role in planning and promoting the January 6, 2021, rally and march in support of Mr. Trump; Mr. Trump’s participation in the rally and march; Mr. Bannon’s podcast and its use for promoting the rally and march; and Mr. Bannon’s strategic communications with a host of individuals known to be involved with the former President’s 2020 election campaign and subsequent efforts to undermine or cast doubt on the results of that election.

The subpoena required Mr. Bannon to produce the requested documents to the Select Committee on October 7, 2021, at 10 a.m. and required Mr. Bannon’s presence for the taking of testimony on October 14, 2021, at 10 a.m.³⁴ Mr. Bannon had designated Robert J. Costello as his attorney for the purposes of the Select Committee’s inquiry, and Mr. Costello accepted service of the subpoena on behalf of Mr. Bannon on September 24, 2021.³⁵

On October 7, 2021, at 10 a.m., at the designated location identified in the subpoena, Mr. Bannon failed to appear and produce documents. Instead, over 7 hours later, Mr. Costello sent a letter to Chairman THOMPSON via email at 5:04 p.m. reinforcing Mr. Bannon’s refusal to comply.

Mr. Costello’s letter cited an October 6, 2021, letter from former President Trump’s counsel Justin Clark to Mr. Costello that purportedly instructed Mr. Bannon to “invoke any immunities and privileges he may have from compelled testimony,” “not produce any documents concerning privileged material,” and “not provide any testimony concerning privileged material[.]”³⁶ Mr. Costello’s letter then asserted that Mr. Bannon was “legally unable to comply,” with the subpoena for “documents or testimony,” claiming to rely on the instructions of Mr. Trump to not disclose privileged information.³⁷ The two-page letter contained only conclusory statements, no legal analysis, and approximately half of it purported to quote from the letter of October 6, 2021, from the counsel to Mr. Trump.

On October 8, 2021, Chairman THOMPSON responded to Mr. Costello’s October 7, 2021, letter.³⁸ He said that Mr. Trump had not communicated an invocation of privilege either formally or informally to the Select Committee. He further stated that, regardless,

the information the Select Committee seeks from Mr. Bannon concerns his actions as a private citizen and involves a range of subjects not even conceivably reached by any executive privilege assertion. Chairman THOMPSON also noted that—even assuming Mr. Bannon were correct that a privilege applied to his documents and testimony and Mr. Trump had formally invoked a privilege through the long-standing practice of consultation with the current President (which is not the case)—Mr. Bannon does not enjoy anything like the type of absolute immunity his attorney suggested would insulate Mr. Bannon from an obligation to comply with the Select Committee's subpoena. Again, there is no conceivable legal claim to support such an assertion.

The Chairman underscored that Mr. Bannon remained obligated to produce documents and testimony about all non-privileged material that was responsive to the subpoena, was expected to produce a privilege log identifying any documents being withheld based on any specific privilege claims, and that the Select Committee expected Mr. Bannon to appear at the deposition on October 14th and state on the record any privilege concerns raised by specific questions. As made clear by the deposition rules provided to Mr. Bannon by the Select Committee, under House deposition regulation 3, Mr. Bannon may be accompanied at the deposition by a personal, nongovernmental counsel to advise him of his rights.³⁹

The Chairman concluded by saying that Mr. Bannon was therefore not in compliance with the Chairman's duly issued subpoena for documents, and that the Select Committee would view refusal to produce documents and refusal to appear at the October 14th deposition as willful non-compliance with the subpoena. The Chairman warned that this willful non-compliance would put Mr. Bannon in jeopardy of a vote to refer him to the House to consider a criminal contempt referral to a U.S. Attorney pursuant to 2 U.S.C. §§ 192 and 194.⁴⁰

On October 13, 2021, at approximately 12:35 p.m., Select Committee staff emailed Mr. Costello to discuss logistics for the deposition at which Mr. Bannon was compelled to appear on October 14, 2021, at 10 a.m. Approximately an hour later, Select Committee staff and Mr. Costello spoke on the telephone, during which Mr. Costello informed the Select Committee that Mr. Bannon would not appear the next day, and that a letter to that effect was forthcoming. Mr. Costello indicated that he was in contact with Mr. Trump's attorney, and he had informed Mr. Trump's attorney of the Select Committee's explanation of the deficiencies in Mr. Bannon's and Mr. Trump's justifications for Mr. Bannon's defiance of the subpoena.

On that call, Mr. Costello represented to the Select Committee that he had asked Mr. Trump's counsel to identify, with specificity, communications for which executive privilege would apply. Later that day, Mr. Costello transmitted a response to Chairman THOMPSON's October 8, 2021, letter. In that letter, Mr. Costello reiterated his position that Mr. Bannon's refusal to comply with the Select Committee subpoena was based on the former President's "executive and other privileges."⁴¹ Mr. Costello claimed that President Trump's counsel had "exercis[ed] his executive privilege" and "directed Mr. Bannon not to produce documents or testify until the issue of executive privilege is resolved."⁴² He further stated that Mr. Bannon would refuse to produce any documents or appear for testimony until after a court had ruled on, or former President Trump and the Select Committee reached an agreement on, the matter of executive privilege that the

former President had never actually communicated to the Select Committee. In defiance of the clear instructions by the Select Committee to appear at the deposition and state any privilege concerns as they applied to specific questions, Mr. Bannon refused to appear to make any objections in person. Further, he refused to engage at all with the specifics of the document demands, including failing to provide a privilege log identifying any privilege claims regarding specific documents.

On October 14, 2021, at 10 a.m., Mr. Bannon failed to appear at the designated location to provide testimony relevant to the Select Committee's inquiry in response to questions posed, as was required by the subpoena.⁴³

At 2:05 p.m. on October 15, 2021, Chairman THOMPSON sent a letter to Mr. Costello noting that Mr. Bannon had not even attempted to provide the Select Committee any explanation for refusing to comply with the Select Committee's demand for documents and testimony on a range of subjects that do not involve communications with the former President. The Chairman also reiterated that Mr. Bannon does not enjoy absolute immunity from testifying before the Select Committee. The Chairman reminded Mr. Costello that the Select Committee views Mr. Bannon's conduct as willful non-compliance with the subpoena. He notified Mr. Costello that, accordingly, the Select Committee would meet on October 19, 2021, to consider a criminal contempt referral for Mr. Bannon, and invited Mr. Costello to submit any written materials he believed the Select Committee should consider in its deliberations on this referral.

On October 18, 2021, Mr. Costello wrote Chairman Thompson requesting a "one-week adjournment of our response" to the Chairman's October 15th letter, citing the need to "assess" litigation Mr. Trump filed on October 18, 2021, concerning the Select Committee's request for documents from the National Archives.⁴⁴ The Chairman replied on October 19, 2021, that Mr. Trump's lawsuit was immaterial to the Select Committee's subpoena to Mr. Bannon, and accordingly, no grounds existed for any further delay in Mr. Bannon's compliance with the subpoena.⁴⁵

C. Mr. Bannon's purported basis for non-compliance is wholly without merit

Mr. Bannon has relied on no legal authority to support his refusal to comply in any fashion with the subpoena. Mr. Bannon's refusal to comply with the subpoena is ostensibly based on his decision to "honor [former President Trump's] invocation of executive privilege" and instruction that, "to the fullest extent permitted by law," Mr. Bannon "invoke any immunities and privileges he may have from compelled testimony," "not produce any documents concerning privileged material," and "not provide any testimony concerning privileged material."⁴⁶ Far from being "permitted by law," Mr. Bannon's conduct in response to the Select Committee's subpoena constitutes a violation of the contempt of Congress statutory provisions.

1. Executive privilege has not been invoked

Mr. Trump has had no communication with the Select Committee. In an October 7th letter to the Select Committee, Mr. Bannon's attorney referred to purported correspondence from Mr. Trump's attorney, Justin Clark, in which Mr. Clark asserted that the Select Committee subpoena seeks information that is "potentially protected from disclosure by executive and other privileges, including among others the presidential communications, deliberative process, and attorney-client privileges."⁴⁷ According to Mr. Bannon's attorney, Mr. Clark also stated that, "President Trump is pre-

pared to defend these fundamental privileges in court."⁴⁸

In *United States v. Reynolds*, 345 U.S. 1, 7-8 (1953), the Supreme Court held that executive privilege:

[B]elongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer.⁴⁹

Here, the Select Committee has not been provided with any formal invocation of executive privilege by the President, the former President,⁵⁰ or any other employee of the executive branch.

In fact, in an October 18, 2021, letter to Mr. Bannon's attorney, the White House Counsel's Office specifically stated that "at this point we are not aware of any basis for [Mr. Bannon's] refusal to appear for a deposition." The letter also informed Mr. Bannon's counsel that:

[P]resident Biden determined that an assertion of executive privilege is not justified with respect to a set of documents shedding light on events within the White House on and about January 6, 2021, and with respect to documents and testimony concerning the former President's efforts to use the Department of Justice to advance a false narrative that the 2020 election was tainted by widespread fraud. President Biden's determination that an assertion of privilege is not justified with respect to these subjects applies to [Mr. Bannon's] deposition testimony and to any documents [Mr. Bannon] may possess concerning either subject.⁵¹

With respect to the former President, the Select Committee has not received a formal invocation of executive privilege. Mr. Costello's October 13th letter merely states that the attorney for former President Trump had informed him that "President Trump is exercising his executive privilege." This third-hand, non-specific assertion of privilege, without any description of the documents or testimony over which privilege is claimed, is insufficient to activate a claim of executive privilege.

2. Even assuming an invocation of executive privilege (which is not justified here), assertion of privilege could not bar the Select Committee from lawfully obtaining the documents and testimony it seeks from Mr. Bannon

The Select Committee seeks information from Mr. Bannon on a wide range of subjects that it is inconceivable executive privilege would reach. Mr. Bannon was a private citizen during the relevant time period and the testimony and documents the Select Committee is demanding do not concern discussion of official government matters with the President and his immediate advisors. The law is clear that executive privilege does not extend to discussions between the President and private citizens relating to non-governmental business or among private citizens. In *United States v. Nixon*, 418 U.S. 683, 708 (1974), the Supreme Court recognized a qualified, presumptive privilege for presidential communications. The scope of the so-called "presidential communications privilege" was further defined by the Court to apply only to "communications in performance of [a President's] responsibilities of his office and made in the process of shaping policies and making decisions."⁵²

In *In re Sealed Case (Espy)*, 121 F.3d 729, 752 (D.C. Cir. 1997), the DC Circuit extended the presidential communications privilege to "communications authored or solicited and received by those members of an immediate

White House adviser's staff who have broad and significant responsibility for investigating and formulating the advice to be given the President on the particular matter to which the communications relate." The court stressed that the privilege only applies to communications intended to advise the President "on official government matters."⁵³ In *Judicial Watch, Inc. v. Department of Justice*, 365 F.3d 1108, 1123 (D.C. Cir. 2004), the court reaffirmed that the presidential communications privilege applies only to documents "solicited and received by the President or his immediate advisers in the Office of the President." Relying on *In re Sealed Case* and the principle that "the presidential communications privilege should be construed as narrowly as is consistent with ensuring that the confidentiality of the President's decision-making process is adequately protected,"⁵⁴ the court refused to extend the privilege even to executive branch employees whose sole function was to provide advice to the President in the performance of a "quintessential and nondelegable Presidential power."⁵⁵

Here, neither Mr. Bannon nor former President Trump has asserted that Mr. Bannon's testimony would reveal communications involving the President or members of his immediate White House staff regarding the performance of the President's responsibilities of his office. At no point during the time period under investigation by the Select Committee was Mr. Bannon a government employee, much less a key White House adviser in the Office of the President. Moreover, the matters under review by the Select Committee concern efforts to overturn legitimate election results and an attack on our democratic institutions. Communications regarding these subjects (or any other matter related to the presidential campaign), by definition, would not constitute advice on "official government matters" that could be shielded by executive privilege. In any event, any confidentiality interest in such communications would be far outweighed by the oversight needs for this information that are at stake in the Select Committee's investigation.

In sum: In this instance, there is no reasonable argument that Mr. Bannon's communications with the President regarding January 6th are the type of matters on which privilege can be asserted. Also, the Select Committee is confident that no executive privilege assertion would bar Mr. Bannon's testimony regarding his communications directly with the President regarding January 6th—because the privilege is qualified and could be overcome by an appropriate showing of need. Again, there is no conceivable assertion that privilege could apply to other information sought that does not constitute communications with Mr. Trump during his presidency. Beyond communications between Mr. Bannon and Mr. Trump, the Select Committee seeks documents and testimony from Mr. Bannon regarding his own actions and interactions with other private citizens relating to the events of January 6th. For example, the subpoena to Mr. Bannon includes requests for documents related to many other matters, including:

His presence, purpose, statements, and activities at a meeting with Members of Congress at the Willard Hotel on January 5, 2021, or the presence, purpose, statements, or activities of others in attendance related to that meeting.

Anyone with whom he communicated by any means with respect to any aspect of the planning, objectives, conduct, or participation in the January 6, 2021, rally, including but not limited to Boris Epshteyn.

Anyone with whom he communicated with respect to efforts, plans, or proposals to con-

test the 2020 presidential election results or delay, influence, or impeded the electoral count, including but not limited to communications with Boris Epshteyn, Kashyap Patel, and Ezra Cohen-Watnick.

All public relations, advertising, or other communications efforts to persuade Americans that the election was stolen.

The January 6, 2021, rally on The Mall and Capitol grounds in Washington, DC, in support of President Donald J. Trump and opposition to the counting of the results of the 2020 presidential election, including its permitting, planning, objectives, financing, and conduct, as well as any communications to or from any person or group involved in organizing or planning for the January 6, 2021, rally.

The financing or fundraising to assist any individual's or organization's travel to or accommodation in Washington, DC, to attend or participate in the January 6, 2021, rally.

The "War Room" podcast, insofar as at any time he communicated through it statements referring or relating to the January 6, 2021, rally, including all statements concerning its planning, objectives, purpose, organization, message, or sponsorship.

The organization or group named "March for Trump" and its activities relating to the January 6, 2021, rally, including any communications Mr. Bannon had with any officer or member of "March for Trump" relating in any way to the planning, objectives, organization, message, sponsorship, and participation in the January 6, 2021, rally.

No colorable claim of executive privilege could possibly be made with respect to documents or testimony related to these and other matters sought by the subpoena, or any other topics that were not connected to official decisionmaking by the President.

3. Mr. Bannon is not entitled to absolute immunity

Mr. Bannon has refused to provide any responsive documents or appear for a deposition based on his asserted reliance on Mr. Trump's purported invocation of executive privilege. However, even if Mr. Trump had invoked executive privilege, and even if certain testimony or documents would fall within that privilege, Mr. Bannon would not be immune from compelled testimony before the Select Committee.

The law is clear that even senior White House aides who advise the President on official government business are not immune from compelled congressional process. To the extent there has been a formal invocation of executive privilege by the Office of the President, and in the unlikely event that testimony by Mr. Bannon relates to information covered by that privilege, Mr. Bannon was nonetheless required to appear before the Select Committee to provide testimony and invoke executive privilege where appropriate. If there are responsive documents that Mr. Bannon claims include privileged information, he was required to provide the Select Committee with a privilege log that "identifies and describes the material in a manner 'sufficient to enable resolution of any privilege claims.'" Mr. Bannon did neither. He should be held in contempt.

D. Precedent supports the Select Committee's position to proceed with holding Mr. Bannon in contempt

An individual who fails or refuses to comply with a House subpoena may be cited for contempt of Congress. Pursuant to 2 U.S.C. § 192, the willful refusal to comply with a congressional subpoena is punishable by a fine of up to \$100,000 and imprisonment for up to 1 year. A committee may vote to seek a contempt citation against a recalcitrant witness. This action is then reported to the House. If a resolution to that end is adopted

by the House, the matter is referred to a U.S. Attorney, who has a duty to refer the matter to a grand jury for an indictment.

In his October 8th letter to Mr. Bannon's counsel, the Chairman of the Select Committee advised Mr. Bannon that his claims of executive privilege were not well-founded and did not absolve him of his obligation to produce documents and testify in deposition. The Chairman made clear that the Select Committee expected Mr. Bannon to appear for his scheduled deposition on October 14th and produce the requested documents at that time. The Chairman warned Mr. Bannon that his continued non-compliance would put him in jeopardy of a vote to refer him to the House to consider a criminal contempt referral. Mr. Bannon's failure to appear for deposition or produce responsive documents in the face of this clear advisement and warning by the Chairman constitutes a willful failure to comply with the subpoena.

SELECT COMMITTEE CONSIDERATION

The Select Committee met on Tuesday, October 19, 2021, with a quorum being present, to consider this Report and ordered it and the Resolution contained herein to be favorably reported to the House, with an amendment, by a recorded vote of 9 ayes to 0 noes.

SELECT COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Select Committee to list the recorded votes during consideration of this Report:

1. A motion by Vice Chair CHENEY to report the Select Committee Report for a Resolution Recommending that the House of Representatives find Stephen K. Bannon in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol favorably to the House, as amended, was agreed to by a recorded vote of 9 ayes to 0 noes (Rollcall No. 1).

Select Committee Rollcall No. 1

(Motion by Vice Chair Cheney to Favorably Report, as Amended)
(Agreed to: 9 ayes to 0 noes)

| Members | Vote |
|-----------------------------------|------|
| Ms. Cheney, Vice Chair | Aye |
| Ms. Lofgren | Aye |
| Mr. Schiff | Aye |
| Mr. Aguilar | Aye |
| Mrs. Murphy (FL) | Aye |
| Mr. Raskin | Aye |
| Mrs. Luria | Aye |
| Mr. Kinzinger | Aye |
| Mr. Thompson (MS), Chairman | Aye |

SELECT COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Select Committee advises that the oversight findings and recommendations of the Select Committee are incorporated in the descriptive portions of this Report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Select Committee finds the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, to be inapplicable to this Report. Accordingly, the Select Committee did not request or receive a cost estimate from the Congressional Budget Office and makes no findings as to the budgetary impacts of this Report or costs incurred to carry out the Report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of this Report is to enforce the Select Committee's authority to investigate the facts, circumstances, and causes of the

January 6th attack and issues relating to the peaceful transfer of power, in order to identify and evaluate problems and to recommend corrective laws, policies, procedures, rules, or regulations; and to enforce the Select Committee's subpoena authority found in section 5(c)(4) of House Resolution 503.

ENDNOTES

1. Steve Bannon, "War Room: Pandemic, 'EP 634—Tuesday Special (with Maggie VandenBerghe, Ben Berquam, and Peter Navarro)," (Jan. 5, 2021), available at <https://rumble.com/vch0pu-ep-634-tuesday-special-w-maggie-vandenberghen-benberquam-and-peter-navarro.html>.
2. Aaron Blake, "Who could have predicted the Capitol riot? Plenty of people—including Trump allies," *Washington Post*, (Jan. 28, 2021), available at <https://www.washingtonpost.com/politics/2021/01/28/who-could-have-predicted-capitol-siege-plenty-people/>.
3. See Appendix, Exs. 1, 2 (Subpoena from Chairman BENNIE G. THOMPSON to Stephen K. Bannon and attachments (Sept. 23, 2021)).
4. See Appendix, Ex. 3 (Letter from Robert J. Costello to Chairman BENNIE G. THOMPSON (Oct. 7, 2021)).
5. See Appendix, Ex. 4 (Letter from Chairman BENNIE G. THOMPSON to Robert J. Costello (Oct. 8, 2021)).
6. The prison term for this offense makes it a Class A misdemeanor. 18 U.S.C. § 3559(a)(6). By that classification, the penalty for contempt of Congress specified in 2 U.S.C. § 192 increased from \$1,000 to \$100,000. 18 U.S.C. § 3571(b)(5).
7. *United States v. Bryan*, 339 U.S. 323, 331 (1950).
8. *Trump v. Mazars USA LLP*, 140 S.Ct. 2019, 2036 (2020) (emphasis in original; internal quotation marks removed). See also *Watkins v. United States*, 354 U.S. 178, 187–88 (1957) (stating of citizens that "It is their unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees, and to testify fully with respect to matters within the province of proper investigation.").
9. *Mazars*, 140 S.Ct. at 2031 (2020) (citing *Watkins*, 354 U.S. at 187) (internal quotation marks removed).
10. *Mazars*, 140 S.Ct. at 2031 (2020) (citing *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927)).
11. *Ashland Oil, Inc. v. FTC*, 409 F.Supp. 297, 305 (D.D.C. 1976), aff'd, 548 F.2d 977 (D.C.Cir. 1976) (quoting *McGrain*, 273 U.S. at 175).
12. Pub. L. 79–601, 79th Cong. § 136, (1946).
13. Pub. L. 91–510, 91st Cong. § 118, (1970).
14. Steve Bannon, "War Room: Pandemic, 'EP 634—Tuesday Special (with Maggie VandenBerghe, Ben Berquam, and Peter Navarro)," (Jan. 5, 2021), available at <https://rumble.com/vch0pu-ep-634-tuesday-special-w-maggie-vandenberghen-benberquam-and-peter-navarro.html>.
15. *Id.*
16. Brian Bennett, "You Got to Be the Last Guy He Talks To." The Rise and Fall of Trump Adviser Steve Bannon," *Time*, (Aug. 21, 2020), available at <https://time.com/5882072/rise-and-fall-of-steve-bannon/>.
17. Jeff Mason and Steve Holland, "Trump fired adviser Bannon," Reuters, (Aug. 18, 2017), available at <https://www.reuters.com/article/us-usa-trump-bannon/trump-fires-adviser-bannon-idUSKCN1AY205>.
18. Daniel Lippman, "Steve Bannon launches radio show and podcast on impeachment," *Politico*, (Oct. 24, 2019), available at <https://www.politico.com/news/2019/10/22/steve-bannon-radio-show-podcast-impeachment-055167>.
19. E.g., KUSI Newsroom, "Steve Bannon explains how the Democrats are plotting to steal the 2020 election," KUSI, (Oct. 1, 2020), available at <https://www.kusi.com/steve-bannon-explains-how-the-democrats-are-plotting-to-steal-the-2020-election>.
20. Bob Woodward and Robert Costa, *Peril*, (New York: Simon & Schuster, 2021), p. 207.
21. *Id.*, pp. 207, 233–234.
22. *Id.*, p. 207.
23. Rob Kuznia, et al., "Stop the Steal's massive disinformation campaign connected to Roger Stone," CNN (Nov. 14, 2020), available at <https://www.cnn.com/2020/11/13/business/stop-the-steal-disinformation-campaign-invs/index.html>.
24. Aaron Blake, "Who could have predicted the Capitol riot? Plenty of people—including Trump allies," *Washington Post*, (Jan. 28, 2021), available at <https://www.washingtonpost.com/politics/2021/01/28/who-could-have-predicted-capitol-siege-plenty-people/>.
25. Steve Bannon, "War Room: Pandemic, 'EP 634—Tuesday Special (with Maggie VandenBerghe, Ben Berquam, and Peter Navarro)," (Jan. 5, 2021), available at <https://rumble.com/vch0pu-ep-634-tuesday-special-w-maggie-vandenberghen-benberquam-and-peter-navarro.html>.
26. Aaron Blake, "Who could have predicted the Capitol riot? Plenty of people—including Trump allies," *Washington Post*, (Jan. 28, 2021), available at <https://www.washingtonpost.com/politics/2021/01/28/who-could-have-predicted-capitol-siege-plenty-people/>.
27. *Id.*
28. Woodward and Costa, pp. 233–234; Andre J. Ellington, "Steve Bannon Confirms His Involvement in January 6 Insurrection on 'War Room' Podcast," *Newsweek*, (Sept. 22, 2021), available at <https://www.newsweek.com/steve-bannon-confirms-his-involvement-january-6-insurrection-war-room-podcast-1631667>.
29. Woodward and Costa, pp. 233–234; Michael Wolff, "Donald Trump's January 6; The view from inside the Oval Office," *New York*, (June 28, 2021), available at <https://nymag.com/intelligencer/article/michael-wolff-landslide-final-days-trump-presidency-excerpt.html>; Seth Abramson (@SethAbramson), Twitter (June 12, 2021, 10:51 a.m.), <https://twitter.com/SethAbramson/status/1403726643722547200/photo/3>.
30. Woodward and Costa, p. 233.
31. There were a number of events organized to take place on January 5th and January 6th at which supporters of President Trump gathered, and made and heard speeches, in support of the position that Congress should not affirm that Joe Biden had won the 270 or more electoral college votes necessary to be elected President.
32. See, e.g., Woodward and Costa, p. 207.
33. See Appendix, Exs. 1, 2.
34. See Appendix, Ex. 1.
35. See Appendix, Ex. 2 (Emails between Select Committee staff and Robert J. Costello (Sept. 23–24, 2021)).
36. See Appendix, Ex. 3 (Letter from Robert J. Costello to Select Committee staff (Oct. 7, 2021)).
37. *Id.*
38. See Appendix, Ex. 4 (Letter from Chairman BENNIE G. THOMPSON to Robert J. Costello (Oct. 8, 2021)).
39. U.S. House of Representatives, "117th Congress Regulations for Use of Deposition Authority," 167 Cong. Rec., (Jan. 4, 2021), p. H41.
40. See Appendix, Ex. 4 (Letter from Chairman BENNIE G. THOMPSON to Robert J. Costello (Oct. 8, 2021)).
41. See Appendix, Ex. 5 (Letter from Robert J. Costello to Chairman BENNIE G. THOMPSON (Oct. 13, 2021)).
42. *Id.*
43. See Appendix.
44. Letter from Robert J. Costello to Chairman THOMPSON, (Oct. 18, 2021).
45. Letter from Chairman THOMPSON to Robert J. Costello, (Oct. 19, 2021).
46. See Appendix, Ex. 3 (Letter from Robert J. Costello to Select Committee staff (Oct. 7, 2021)).
47. *Id.*
48. *Id.*
49. See also *United States v. Burr*, 25 F. Cas. 187, 192 (CCD Va. 1807) (ruling that President Jefferson had to personally identify the passages he deemed confidential and could not leave this determination to the U.S. Attorney). In *Reynolds*, the Court addressed the "state secrets privilege," which can be viewed as a subset of executive privilege.
50. The Supreme Court has held that a former President may assert executive privilege on his own, but his claim should be given less weight than that of an incumbent President. *Nixon v. Administrator of General Services*, 433 U.S. 425, 451 (1977) (the "expectation of the confidentiality of executive communications thus has always been limited and subject to erosion over time after an administration leaves office"). The Supreme Court in *Nixon v. GSA* made note of the fact that neither President Ford nor President Carter supported former President Nixon's assertion of privilege, which, the Court said, "detracts from the weight of his contention [that the disclosure of the information at issue] impermissibly intrudes into the executive function and the needs of the Executive Branch." *Id.*, p. 449.
51. Letter to Robert J. Costello from Jonathan C. Su, Deputy Counsel to the President, (Oct. 18, 2021).
52. *Nixon v. Administrator of General Services*, 433 U.S. at 449 (internal citations and quotations omitted).
53. *Id.* (Italics added.)
54. *Id.*, p. 1116.
55. *Id.*, p. 1111. See also *Committee on the Judiciary v. Miers*, 558 F. Supp.2d 53, 100 (D.D.C. 2008) (privilege claimants acknowledged that executive privilege applies only to "a very small cadre of senior advisors").
56. See Appendix, Ex. 1.
57. See also *Committee on the Judiciary v. McGahn*, 415 F.Supp.3d 148, 214 (D.D.C. 2019) (and subsequent history) ("To make the point as plain as possible, it is clear to this Court for the reasons explained above that, with respect to senior-level presidential aides, absolute immunity from compelled congressional process simply does not exist."); *Committee on the Judiciary v. Miers*, 558 F. Supp.2d 53, 101 (D.D.C. 2008) (holding that White House counsel may not refuse to testify based on direction from the President that testimony will implicate executive privilege).
58. See *Comm. on Oversight and Gov't Reform v. Holder*, 2014 U.S. Dist. LEXIS 200278 at *7 (D.D.C., Aug. 20, 2014) (quoting *Miers*, 558 F. Supp. 2d at 107).
59. *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 505, 515 (1975).
60. See *supra* note 6. The prison term for this offense makes it a Class A misdemeanor. 18 U.S.C. § 3559(a)(6). By that classification, the penalty for contempt of Congress specified in 2 U.S.C. § 192 increased from \$1,000 to \$100,000. 18 U.S.C. § 3571(b)(5).
61. See 2 U.S.C. § 192.

APPENDIX

The official transcript that memorialized Mr. Bannon's failure to appear at his deposition as ordered by subpoena, along with exhibits included in that record, is as follows:

SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, DC DEPOSITION OF: STEPHEN K. BANNON (NO-SHOW)

THURSDAY, OCTOBER 14, 2021 WASHINGTON, DC

The deposition in the above matter was held in *** commencing at 10:00 a.m.

PRESENT: Representative SCHIFF.

APPEARANCES:

FOR THE SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

***, ***

Sean Tonolli, Senior Investigative Counsel ***, *** ***, *** ***, *** ***, ***

Mr. TONOLLI. So we are on the record. Today is October 14, 2021. The time is 10:00 a.m. We are convened in *** for the deposition of Stephen K. Bannon to be conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol.

My name is Sean Tonolli. I am the designated Select Committee staff counsel for this proceeding. And I'd ask everyone else to please go around the room and introduce themselves.

***, ***, ***, ***, ***, ***, ***, ***

Mr. TONOLLI. For the record, it is 10:01 a.m., and Mr. Bannon is not present. The person transcribing this proceeding is the House stenographer and notary public authorized to administer oaths.

On September 23, 2021, Chairman BENNIE THOMPSON issued a subpoena to Mr. Bannon both to produce documents by October 7, 2021, and to testify at a deposition today, October 14, 2021, at 10:00 a.m.

The subpoena is in connection with the Select Committee's investigation into the facts, circumstances, and causes of the January 6th attack and issues relating to the peaceful transfer of power, in order to identify and evaluate lessons learned and to recommend to the House and its relevant committees corrective laws, policies, procedures, rules, or regulations.

This inquiry includes examination of how various individuals, to include Mr. Bannon, and entities coordinated their activities leading up to the events of January 6, 2021. Mr. Bannon has not produced any documents or appeared today to testify.

I will mark as exhibit 1 and enter into the record the Select Committee's subpoena to Mr. Bannon, included with which are the materials that accompanied the subpoena, namely, a letter from the chairman, a document scheduled with accompanying production instructions, and a copy of the deposition rules.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

Stephen K. Bannon c/o Robert Costello, Esq., Davidson, Huthcher and Citron, LLP To

You are hereby commanded to be and appear before the Select Committee to Investigate the January 6th Attack on the United States Capitol of the House of Representatives of the United States at the place, date, and time specified below.

[X] to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: * * * Date: October 7, 2021 Time: 10:00 a.m.

[X] to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: * * * Date: October 14, 2021 Time: 10:00 a.m.

[] to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____ Date: _____ Time: _____

To any authorized staff member or the United States Marshals Service _____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 23rd day of September, 2021.

BENNIE G. THOMPSON Chairman or Authorized Member.

Attest: CHERYL L. JOHNSON Clerk.

PROOF OF SERVICE

Subpoena for Stephen K. Bannon c/o Robert Costello, Esq., Davidson, Huthcher and Citron, LLP Address * * *

before the Select Committee to Investigate the January 6th Attack on the United States Capitol U.S. House of Representatives 117th Congress

Served by (print name) * * * Title * * * Manner of service * * * Date 7/23/21 Signature of Server * * * Address * * *

SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE UNITED STATES CAPITOL, September 23, 2021.

Mr. Stephen K. Bannon c/o Mr. Robert J. Costello * * *

DEAR MR. BANNON: Pursuant to the authorities set forth in House Resolution 503 and the rules of the House of Representatives, the Select Committee to Investigate the January 6th Attack on the United States Capitol ("Select Committee") hereby transmits a subpoena compelling you to produce the documents set forth in the accompanying schedule by October 7, 2021, and to appear for a deposition on October 14, 2021.

The Select Committee is investigating the facts, circumstances, and causes of the January 6th attack and issues relating to the peaceful transfer of power, in order to identify and evaluate lessons learned and to recommend to the House and its relevant committees corrective laws, policies, procedures, rules, or regulations. This inquiry includes examination of how various individuals and entities coordinated their activities leading up to the events of January 6, 2021.

The Select Committee has reason to believe that you have information relevant to understanding important activities that led to and informed the events at the Capitol on January 6, 2021. For example, you have been identified as present at the Willard Hotel on

January 5, 2021, during an effort to persuade Members of Congress to block the certification of the election the next day, and in relation to other activities on January 6.¹ You are also described as communicating with then-President Trump on December 30, 2020, and potentially other occasions, urging him to plan for and focus his efforts on January 6.² Moreover, you are quoted as stating, on January 5, 2021, that "[a]ll hell is going to break loose tomorrow."³ Accordingly, the Select Committee seeks both documents and your deposition testimony regarding these and multiple other matters that are within the scope of the Select Committee's inquiry.

A copy of the rules governing Select Committee depositions, and a copy of document production definitions and instructions are attached. Please contact staff for the Select Committee at 202-225-7800 to arrange for the production of documents.

Sincerely, BENNIE G. THOMPSON, Chairman.

¹E.g., BOB WOODWARD & ROBERT COSTA, PERIL at 233 (2021).

²Id. at 207. Rub Kuznia, Curt Devine, & Drew Griffin, How Trump Allies Stoked the Flames Ahead of Capitol Riot, CNN (Jan. 18, 2021), https://www.cnn.com/2021/01/18/politics/trump-bannon-stone-giuliani-capitol-riot-invs-index.html.

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Stephen K. Bannon, are hereby required to produce all documents and communications in your possession, custody, and control—including any such documents or communications stored or located on personal devices (e.g., personal computers, cellular phones, tablets, etc.), in personal or campaign accounts, and/or on personal or campaign applications (e.g., email accounts, contact lists, calendar entries, etc.)—referring or relating to referring or relating to the following items. If no date range is specified below, the applicable dates are for the time period April 1, 2020–present:

- 1. The January 6, 2021, rally on the mall and Capitol grounds in Washington, D.C., in support of President Donald J. Trump and opposition to certification of the results of the 2020 presidential election, including any permitting, planning, objectives, financing, and conduct, as well as any communications to or from any person or group involved in organizing or planning for the January 6, 2021, rally.
- 2. Then-President Trump's participation in the January 6, 2021, rally, including any communications with President Trump or any paid or unpaid attorney, advisor, aide, or assistant to President Trump relating to the nature, context, or content of President Trump's intended or actual remarks to those attending the January 6, 2021, rally.
- 3. Communications referring or relating to the nature, planning, conduct, message, context, or participation in the January 6, 2021, rally between or among any person who, during the administration of President Donald J. Trump, worked in the White House complex, including any employee or detailee.
- 4. Documents or other materials referring or relating to the financing or fundraising to assist any individual or organization's travel to or accommodation in Washington, D.C., to attend or participate in the January 6, 2021, rally.
- 5. "The 'War Room' podcast," insofar as at any time you communicated through it statements referring or relating to efforts to contest the election results, including planning for the January 6, 2021, rally, including all statements concerning its planning, objectives, purpose, organization, message, or sponsorship.

6. The organization or group named “March for Trump” and its activities relating to the January 6, 2021, rally, including any communications you had with any officer or member of “March for Trump” relating in any way to the planning, objectives, organization, message, sponsorship, and participation in the January 6, 2021, rally.

7. Your presence, purpose, statements, and activities at a meeting at the Willard Hotel on January 5, 2021, or the presence, purpose, statements, or activities of others in attendance, related to that meeting.

8. Your communications with President Donald J. Trump concerning events on January 6, 2021, including but not limited to communications on December 30, 2020.

9. Your communications with President Donald J. Trump between November 3 and January 20, 2021, concerning efforts to contest the election results or delay or impede the electoral count.

10. Anyone with whom you communicated by any means with respect to any aspect of the planning, objectives, conduct, or participation in the January 6, 2021, rally, including but not limited to Boris Epshteyn, Kashyap Patel, and Ezra Cohen-Watnick.

11. Anyone with whom you communicated by any means with respect to efforts, plans, or proposals to contest the 2020 Presidential election results or delay, influence, or impede the electoral count, including but not limited to communications with Boris Epshteyn, Kashyap Patel, and Ezra Cohen-Watnick.

12. All public relations, advertising, or other communications efforts to persuade Americans that the election was stolen or to attend the rally on January 6.

13. The role of the Vice President as the Presiding Officer in the certification of the votes of the electoral college.

14. Any communication with any employees of President Trump’s 2020 presidential campaign, the Republican National Committee, or any Trump Administration personnel including appointees, employees, and interns, about any of the foregoing topics.

15. Any communication regarding any of the foregoing topics with Proud Boys, Oath Keepers, Three Percenters, and Alex Jones.

16. Any communications with Representative Scott Perry and/or other Members of Congress about any of the foregoing topics.

17. Any communications with Rudolph Giuliani, John Eastman, Michael Flynn, Jenna Ellis, or Sydney Powell about any of the foregoing topics.

DOCUMENT PRODUCTION DEFINITIONS AND INSTRUCTIONS

1. In complying with this request, produce all responsive documents, regardless of classification level, that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Select Committee to Investigate the January 6th Attack on the United States Capitol (“Committee”).

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.

4. The Committee’s preference is to receive documents in a protected electronic form

(i.e., password protected CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions. With specific reference to classified material, you will coordinate with the Committee’s Security Officer to arrange for the appropriate transfer of such information to the Committee. This includes, but is not necessarily limited to: a) identifying the classification level of the responsive document(s); and b) coordinating for the appropriate transfer of any classified responsive document(s).

5. Electronic document productions should be prepared according to the following standards:

a. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

b. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

8. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee’s letter to which the documents respond.

9. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

10. The pendency of or potential for litigation shall not be a basis to withhold any information.

11. In accordance with 5 U.S.C. 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

12. Pursuant to 5 U.S.C. 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

13. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production, as well as a date certain as to when full production will be satisfied.

14. In the event that a document is withheld on any basis, provide a log containing the following information concerning any such document: (a) the reason it is being withheld, including, if applicable, the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the withholding.

15. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipi-

ents), and explain the circumstances under which the document ceased to be in your possession, custody, or control. Additionally, identify where the responsive document can now be found including name, location, and contact information of the entity or entities now in possession of the responsive document(s).

16. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

17. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

18. All documents shall be Bates-stamped sequentially and produced sequentially.

19. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of classification level, how recorded, or how stored/displayed (e.g. on a social media platform) and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, computer or mobile device screenshots/screen captures, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, through a social media or online platform, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term “including” shall be construed broadly to mean “including, but not limited to.”

5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.

7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, assignee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, sub-contractor, or any other type of service provider.

9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

[From the Congressional Record—House,
Page H41, Jan. 4, 2021]

* * * health, safety, and well-being of others present in the Chamber and surrounding areas. Members and staff will not be permitted to enter the Hall of the House without wearing a mask. Masks will be available at the entry points for any Member who forgets to bring one. The Chair views the failure to wear a mask as a serious breach of decorum. The Sergeant-at-Arms is directed to enforce this policy. Based upon the health and safety guidance from the attending physician and the Sergeant-at-Arms, the Chair would further advise that all Members should leave the Chamber promptly after casting their votes. Furthermore, Members should avoid congregating in the rooms leading to the Chamber, including the Speaker’s lobby. The Chair will continue the practice of providing small groups of Members with a minimum of 5 minutes within which to cast their votes. Members are encouraged to vote with their previously assigned group. After voting, Members must clear the Chamber to allow the next group a safe and sufficient opportunity to vote. It is essential for the health and safety of Members, staff, and the U.S. Capitol Police to consistently practice social distancing and to ensure that a safe capacity be maintained in the Chamber at all times. To that end, the Chair appreciates the cooperation of Members and staff in preserving order and decorum in the Chamber and in displaying respect and safety for one

another by wearing a mask and practicing social distancing. All announced policies, including those addressing decorum in debate and the conduct of votes by electronic device, shall be carried out in harmony with this policy during the pendency of a covered period.

117TH CONGRESS REGULATIONS FOR USE OF DEPOSITION AUTHORITY

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 4, 2021.

HON. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

MADAM SPEAKER: Pursuant to section 3(b) of House Resolution 8, 117th Congress, I hereby submit the following regulations regarding the conduct of depositions by committee and select committee counsel for printing in the Congressional Record.

Sincerely,

JAMES P. MCGOVERN,
Chairman, Committee on Rules.

REGULATIONS FOR THE USE OF DEPOSITION AUTHORITY

1. Notices for the taking of depositions shall specify the date, time, and place of examination. Depositions shall be taken under oath administered by a member or a person otherwise authorized to administer oaths. Depositions may continue from day to day.

2. Consultation with the ranking minority member shall include three days’ notice before any deposition is taken. All members of the committee shall also receive three days written notice that a deposition will be taken, except in exigent circumstances. For purposes of these procedures, a day shall not include Saturdays, Sundays, or legal holidays except when the House is in session on such a day.

3. Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness’s counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend.

4. The chair of the committee noticing the deposition may designate that deposition as part of a joint investigation between committees, and in that case, provide notice to the members of the committees. If such a designation is made, the chair and ranking minority member of the additional committee(s) may designate committee staff to attend pursuant to regulation 3. Members and designated staff of the committees may attend and ask questions as set forth below.

5. A deposition shall be conducted by any member or committee counsel designated by the chair or ranking minority member of the Committee that noticed the deposition. When depositions are conducted by committee counsel, there shall be no more than two committee counsel permitted to question a witness per round. One of the committee counsel shall be designated by the chair and the other by the ranking minority member per round.

6. Deposition questions shall be propounded in rounds. The length of each round shall not exceed 60 minutes per side, and shall provide equal time to the majority and the minority. In each round, the member(s) or committee counsel designated by the chair shall ask questions first, and the member(s) or committee counsel designated by the ranking minority member shall ask questions second.

7. Objections must be stated concisely and in a non-argumentative and non-suggestive manner. A witness’s counsel may not in-

struct a witness to refuse to answer a question, except to preserve a privilege. In the event of professional, ethical, or other misconduct by the witness’s counsel during the deposition, the Committee may take any appropriate disciplinary action. The witness may refuse to answer a question only to preserve a privilege. When the witness has refused to answer a question to preserve a privilege, members or staff may (i) proceed with the deposition, or (ii) either at that time or at a subsequent time, seek a ruling from the Chair either by telephone or otherwise. If the Chair overrules any such objection and thereby orders a witness to answer any question to which an objection was lodged, the witness shall be ordered to answer. If a member of the committee chooses to appeal the ruling of the chair, such appeal must be made within three days, in writing, and shall be preserved for committee consideration. The Committee’s ruling on appeal shall be filed with the clerk of the Committee and shall be provided to the members and witness no less than three days before the reconvened deposition. A deponent who refuses to answer a question after being directed to answer by the chair may be subject to sanction, except that no sanctions may be imposed if the ruling of the chair is reversed by the committee on appeal.

8. The Committee chair shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness’s testimony is transcribed, the witness or the witness’s counsel shall be afforded an opportunity to review a copy. No later than five days after the witness has been notified of the opportunity to review the transcript, the witness may submit suggested changes to the chair. Committee staff may make any typographical and technical changes. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness’s reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

9. The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, DC. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken once filed there with the clerk of the committee for the committee’s use. The chair and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

10. The chair and ranking minority member shall consult regarding the release of deposition testimony, transcripts, or recordings, and portions thereof. If either objects in writing to a proposed release of a deposition testimony, transcript, or recording, or a portion thereof, the matter shall be promptly referred to the committee for resolution.

11. A witness shall not be required to testify unless the witness has been provided with a copy of section 3(b) of H. Res. 8, 117th Congress, and these regulations.

REMOTE COMMITTEE PROCEEDINGS
REGULATIONS PURSUANT TO HOUSE
RESOLUTION 8, 117TH CONGRESS

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 4, 2021.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

MADAM SPEAKER: Pursuant to section 3(s) of House Resolution 8, 117th Congress, I hereby submit the following regulations regarding remote committee proceedings for printing in the CONGRESSIONAL RECORD.

Sincerely,

JAMES P. MCGOVERN,
Chairman,
Committee on Rules.

REMOTE COMMITTEE PROCEEDINGS REGULATIONS PURSUANT TO HOUSE RESOLUTION 8

A. PRESENCE AND VOTING

1. Members participating remotely in a committee proceeding must be visible on the software platform's video function to be considered in attendance and to participate unless connectivity issues or other technical problems render the member unable to fully participate on camera (except as provided in regulations A.2 and A.3).

2. The exception in regulation A.1 for connectivity issues or other technical problems does not apply if a point of order has been made that a quorum is not present. Members participating remotely must be visible on the software platform's video function in order to be counted for the purpose of establishing a quorum.

3. The exception in regulation A.1 for connectivity issues or other technical problems does not apply during a vote. Members participating remotely must be visible on the software platform's video function in order to vote.

4. Members participating remotely off-camera due to connectivity issues or other technical problems pursuant to regulation A.1 must inform committee majority and minority staff either directly or through staff.

5. The chair shall make a good faith effort to provide every member experiencing connectivity issues an opportunity to participate fully in the proceedings, subject to regulations A.2 and A.3.

Mr. TONOLLI. I will mark as exhibit 2 and enter into the record an email exchange between * * * and Robert Costello, Mr. Bannon's attorney.

From: Costello, Robert J. * * *
Sent: Friday, September 24, 2021 1:24 PM
To: * * *

Subject: Re: subpoena to Mr. Bannon

In response to your email of yesterday, this will advise you that I have been authorized by Steve Bannon to accept service of the subpoena from the House Select Committee on his behalf.

Very truly yours,

ROBERT J. COSTELLO.

Sent from my iPhone

On Sep 23, 2021, at 6:38 PM, * * * wrote:

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST

DEAR MR. COSTELLO,

I am following up on our conversation today in which you confirmed that you represent Stephen Bannon. I understand that you are checking with Mr. Bannon regarding whether he will authorize you to accept service of a subpoena on his behalf. The Select Committee to Investigate the January 6th Attack on the United States Capitol is today issuing the attached subpoena to Mr. Bannon for his testimony and the production of documents to the Committee. In the event that

you will accept service, I am attaching to this email the subpoena, along with a letter from Chairman Bennie Thompson, a document schedule with accompanying production instructions, and a copy of the deposition rules.

Please confirm whether you will accept service of this subpoena on Mr. Bannon's behalf.

Thank you,
* * *

<Bannon, Stephen K. Subpoena 9.23.21.attachments.pdf>

IMPORTANT NOTICE: Beware of Cyber Fraud. You should never wire money to any bank account that our office provides to you via email without first speaking with our office. Further, do not accept emailed wiring instructions from anyone else without voice verification from a known employee of our office. Even if an email looks like it has come from this office or someone involved in your transaction. Please call us first at a number you know to be correct for this office to verify the information before wiring any money. Be particularly wary of any request to change wiring instructions you already received.

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify us immediately by email reply to sender or by telephone to Davidoff Hutcher & Citron LLP at (800) 793-2843, ext. 3284, and destroy all copies of this message and any attachments.

IRS DISCLOSURE NOTICE

In accordance with Internal Revenue Service Circular 230, we inform you that any discussion of a federal tax issue contained in this communication (including any attachments) is not intended or written to be used, and it cannot be used, by any recipient for the purpose of (i) avoiding penalties that may be imposed on the recipient under United States federal tax laws, or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

Mr. TONOLLI. On September 23, 2021, * * * * emailed Mr. Costello the subpoena to Mr. Bannon and the accompanying materials included in exhibit 1 and asked whether Mr. Costello was authorized to accept service of the subpoena on Mr. Bannon's behalf.

Mr. Costello replied to * * * * on September 24, 2021, that he was authorized to accept service of the subpoena on Mr. Bannon's behalf.

I will mark as exhibit 3 and enter into the record a letter Mr. Costello sent to * * * * on October 7, 2021.

DAVIDOFF HUTCHER & CITRON LLP,
ATTORNEYS AT LAW, * * *
Washington, DC, October 7, 2021.

* * *

Re: The Subpoena for Stephen K. Bannon dated September 23, 2021.

DEAR * * *

I write today on behalf of Stephen K. Bannon with respect to the above referenced subpoena, which I accepted on behalf of Mr. Bannon. On the afternoon of October 6, 2021, I received a letter from Justin Clark, as counsel for then President of the United States Donald J. Trump. That letter references the subpoena that your Committee served upon Mr. Bannon, and notes that the subpoena:

“seeks records and testimony purportedly related to the events of January 6th, 2021, including but not limited to information which

is potentially protected from disclosure by executive and other privileges, including among others the presidential communications, deliberative process, and attorney-client privileges. President Trump is prepared to defend these fundamental privileges in court.

Therefore, to the fullest extent permitted by law, President Trump instructs Mr. Bannon to: (a) where appropriate, invoke any immunities and privileges he may have from compelled testimony in response to the Subpoena; (b) not produce any documents concerning privileged material in response to the Subpoena; and (c) not provide any testimony concerning privileged material in response to the Subpoena.”

It is therefore clear to us that since the executive privileges belong to President Trump, and he has, through his counsel, announced his intention to assert those executive privileges enumerated above, we must accept his direction and honor his invocation of executive privilege. As such, until these issues are resolved, we are unable to respond to your request for documents and testimony.

We will comply with the directions of the courts, when and if they rule on these claims of both executive and attorney client privileges. Since these privileges belong to President Trump and not to Mr. Bannon, until these issues are resolved, Mr. Bannon is legally unable to comply with your subpoena requests for documents and testimony.

Very truly yours,

ROBERT J. COSTELLO.

Mr. TONOLLI. In sum and substance, the letter states that Mr. Bannon is, “legally unable to comply with your subpoena requests for documents and testimony,” because President Trump's attorney informed Mr. Costello by letter, dated October 6, 2021, that President Trump is invoking executive privilege, “to the fullest extent permitted by law,” and instructing Mr. Bannon not to provide documents or testimony, “concerning privileged material,” in response to the Select Committee's subpoena.

I will mark as exhibit 4 and enter into the record a letter that Chairman THOMPSON sent to Mr. Costello in response on October 8, 2021.

SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE
UNITED STATES CAPITOL,

October 8, 2021.

Mr. Robert J. Costello,
Davidoff Hutcher & Citron LLP
* * *

DEAR MR. COSTELLO, I write in response to your October 7, 2021 letter which states that your client, Stephen Bannon, is “legally unable to comply” with the September 23, 2021 subpoena (the “Subpoena”) issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol (the “Select Committee”). Your letter relies on an apparent instruction from former President Donald Trump that appears limited to requesting that Mr. Bannon not disclose privileged information. Despite this limited instruction, your letter takes the inappropriate position that Mr. Bannon will not comply with any request for information or testimony sought by the Select Committee. Moreover, Mr. Trump's stated “intention to assert those executive privileges” that may or may not belong to him, does not provide a legal basis for Mr. Bannon's refusal to comply with the Subpoena.

You accepted service of the Subpoena for documents and testimony on Mr. Bannon's behalf on September 24, 2021. The Subpoena required that, by October 7, 2021 at 10:00 a.m., Mr. Bannon produce certain documents and

other records referring or relating to the matters described in the Subpoena's schedule. All the requested documents relate directly to the inquiry being conducted by the Select Committee, serve a legitimate legislative purpose, and are within the scope of the authority expressly delegated to the Select Committee pursuant to House Resolution 503. In the letter accompanying the Subpoena, the Select Committee set forth the basis for its determination that the documents and records sought by the Subpoena and Mr. Bannon's deposition testimony are of critical importance to the issues being investigated by the Select Committee.

Your letter indicates that the sole basis for defiance of the Subpoena is Mr. Trump's "direction" to your client and his decision to "honor [Mr. Trump's] invocation of executive privilege." That position has no basis in law, and your letter does not cite any statute, case law, or other legal precedent for support.

First, virtually all the documents and testimony sought by the Subpoena concern Mr. Bannon's actions as a private citizen and involve a broad range of subjects that are not covered by executive privilege. You have provided no basis for Mr. Bannon's refusal to comply with those portions of the Subpoena not covered by any privilege. Furthermore, blanket assertions of the deliberative process and attorney-client privileges, such as those apparently requested by Mr. Trump, have been rejected by courts as "unsustainable" even when—unlike the situation with Mr. Bannon—the subpoena recipient is an Executive Branch agency. See *Comm. on Oversight and Gov't Reform v. Holder*, 2014 WL 2662665, at *2 (D.D.C. 2014) (rejecting DOJ's assertion of deliberative process privilege on all documents after a particular date and noting that the "Attorney General has not cited any authority that would justify this sort of blanket approach").

Second, the Select Committee has not received any assertion, formal or otherwise, of any privilege from the Mr. Trump. Even assuming that, as a former President, Mr. Trump is permitted to formally invoke executive privilege, he has not done so. At most, Mr. Trump has "announced his intention to assert those executive privileges." The Select Committee is not aware of any legal authority, and your letter cites none, holding that the mere intention to assert a privilege absolves a subpoena recipient of his duty to comply.

Third, your letter indicates that Mr. Trump has requested that your client "to the fullest extent permitted by law . . . not provide any testimony concerning privileged material in response to the Subpoena." Even if your client had been a senior aide to the President during the time period covered by the contemplated testimony, which he was most assuredly not, he is not permitted by law to the type of immunity you suggest that Mr. Trump has requested he assert. To the contrary, every court that has considered the absolute immunity Mr. Trump alludes to has rejected it. See, e.g., *Harlow v. Fitzgerald*, 457 U.S. 800 (1982); *Comm. on the Judiciary v. Miers*, 558 F. Supp. 2d 53, 106 (D.D.C. 2008) (rejecting former White House counsel's assertion of absolute immunity from compelled congressional process). *Miers* made clear that even the most senior Presidential advisors may not resist a congressional subpoena "based solely on their proximity to the President." *Id.* at 101 (citing *Harlow*, 457 U.S. at 810). If there is no absolute immunity for senior Presidential advisors, then there certainly can be no such immunity for private citizens, such as Mr. Bannon, who occasionally communicate with the President on nonofficial, non-governmental, or campaign-related matters.

Regardless of any purported privilege assertion by Mr. Trump, Mr. Bannon has an ongoing obligation to produce documents to the Select Committee. Accordingly, please produce all responsive documents and records identified in the Subpoena. Should Mr. Bannon seek to withhold specific responsive documents, consistent with the Subpoena instructions, he must provide the Select Committee with a privilege log that "identifies and describes the material in a manner 'sufficient to enable resolution of any privilege claims.'" See *Comm. on Oversight*, 2014 WL 12662665 at *2 (quoting *Miers*, 558 F. Supp. 2d at 107). Such a privilege log should, at a minimum, provide the author(s) and recipient(s), indicate the general subject matter of each document being withheld, and the specific basis for withholding it.

Finally, the Select Committee expects Mr. Bannon's appearance at the time and place designated in the Subpoena for a deposition and respond fully to questions by the Select Committee. If there are specific questions at that deposition that you believe raise privilege issues, Mr. Bannon should state them at that time for the deposition record for the Select Committee's consideration and possible judicial review.

Please be advised that the Select Committee will view Mr. Bannon's failure to respond to the Subpoena as willful non-compliance with the Subpoena. His willful non-compliance with the Subpoena would force the Select Committee to consider invoking the contempt of Congress procedures in 2 U.S.C. §§192, 194—which could result in a referral from the House to the Department of Justice for criminal charges—as well as the possibility of having a civil action to enforce the Subpoena brought against Mr. Bannon in his personal capacity.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

¹It is also worth noting that the court in *Miers* rejected the former White House Counsel's claim of absolute immunity from congressional testimony even though the sitting President had formally invoked executive privilege. *Id.* at 62.

Mr. TONOLLI. And I'll take a brief pause to recognize that Mr. SCHIFF has joined us.

Turning back to the letter that Chairman THOMPSON sent on October 8th, in sum and substance, the response states that Mr. Costello's, "letter relies on an apparent instruction from former President Donald Trump that appears limited to requesting that Mr. Bannon not disclose privileged information. Despite this limited instruction, your letter takes the inappropriate position that Mr. Bannon will not comply with any request for information or testimony sought by the Select Committee. Moreover, Mr. Trump's stated 'intention to assert those executive privileges' that may or may not belong to him does not provide a legal basis for Mr. Bannon's refusal to comply with the subpoena."

The letter states the Select Committee's expectation that Mr. Bannon would appear today for the deposition and respond fully to the Select Committee's questions and to state for the record any objections to particular questions for the Select Committee's consideration and possible judicial review.

The letter concludes by advising that the Select Committee will view Mr. Bannon's failure to respond to the subpoena as, "willful noncompliance," that would force the Select Committee to consider invoking the contempt of Congress procedures entitled to United States Code, sections 192 and 194, which could result in a referral from the House to the Department of Justice for criminal charges as well as the possibility of

a civil action against Mr. Bannon personally to enforce the subpoena.

I will mark as a final exhibit, exhibit 5, and enter into the record a reply letter that Mr. Costello sent to Chairman THOMPSON, the evening of October 13, 2021.

DAVIDOFF HUTCHER & CITRON LLP,
ATTORNEYS AT LAW, * * *

Washington, DC, October 13, 2021.

Hon. BENNIE G. THOMPSON,
Chairman, House Select Committee to Investigate the January 6th Attack

* * *

Re: The Subpoena for Stephen K. Bannon dated September 23, 2021

DEAR CONGRESSMAN THOMPSON: I write on behalf of Stephen K. Bannon to respond to some of the inaccurate statements made in your letter to me dated October 8, 2021, which purports to address the positions taken by Mr. Bannon with respect to the above-referenced subpoena.

As an initial matter, your use of the word "defiance" is inappropriate. Mr. Bannon's position is not in defiance of your Committee's subpoena; rather, Mr. Bannon noted that President Trump's counsel stated that they were invoking executive and other privileges and therefore directed us not to produce documents or give testimony that might reveal information President Trump's counsel seeks to legally protect. Mr. Bannon has testified on three prior occasions, before the Mueller Investigation, the House Intelligence Committee and the Senate Intelligence Committee. In each of those instances, when President Trump waived his invocation of the executive privileges, Mr. Bannon testified.

As recently as today, counsel for President Trump, Justin Clark Esq., informed us that President Trump is exercising his executive privilege; therefore, he has directed Mr. Bannon not to produce documents or testify until the issue of executive privilege is resolved. Your Committee will have the right to challenge that exercise or its scope. That is an issue between the Committee and President Trump's counsel and Mr. Bannon is not required to respond at this time. See *Comm. on the Judiciary v. McGahn*, 415 F. Supp. 3d 148, FN 34 (D.D.C. 2019) ("The President can certainly identify sensitive information that he deems subject to executive privilege, and his doing so gives rise to a legal duty on the part of the aide to invoke the privilege on the President's behalf when, in the course of his testimony, he is asked a question that would require disclosure of that information.")

Until such time as you reach an agreement with President Trump or receive a court ruling as to the extent, scope and application of the executive privilege, in order to preserve the claim of executive and other privileges, Mr. Bannon will not be producing documents or testifying. As noted previously, Mr. Bannon will revisit his position if President Trump's position changes or if a court rules on this matter.

Mr. Bannon's communications with President Trump on the matters at issue in the Subpoena are well within the scope of both the presidential communications and deliberative process executive privileges. See *In re Sealed Case (Espy)*, 121 F.3d 729 (D.C. Cir. 1997) (holding that the presidential communications privilege covers communications made or received by presidential advisors in the course of preparing advice for the President even if those communications are not made directly to the President); *Coastal States Gas Corp. v. U.S. Dep't of Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980) (finding that deliberative process privilege applies to "recommendations, draft documents, proposals, suggestions, and other subjective documents

which reflect the personal opinions of the writer rather than the policy of the agency.”)

Very truly yours,

ROBERT J. COSTELLO.

Mr. TONOLLI. In sum and substance, the letter reiterates that Mr. Bannon is abiding by President Trump’s invocation of executive privilege and direction to Mr. Bannon not to produce documents or testify.

In support of Mr. Bannon’s position, the letter cites several judicial opinions on executive privilege, including a 2019 decision of the United States District Court in Washington in the case of *Committee on the Judiciary v. McGahn*.

In particular, the letter cites the following sentence from the court’s opinion: “The President can certainly identify sensitive information that he deems subject to executive privilege, and his doing so gives rise to a legal duty on the part of the aide to invoke the privilege on the President’s behalf when, in the course of his testimony, he is asked a question that would require disclosure of that information.”

However, Mr. Bannon is not here today to assert executive privilege on a question-by-question basis. He chose instead not to appear at all, just as he chose not to produce any documents at all or even a log of responsive documents that he is withholding based on the claim of executive privilege.

With that, I will note for the record that it is 10:06 a.m., and Mr. Bannon still has not appeared or communicated to the Select Committee that he will appear today as required by the subpoena.

Accordingly, the record is now closed as of 10:06 a.m.

[Whereupon, at 10:06 a.m., the deposition was concluded.]

Mr. THOMPSON of Mississippi. Madam Speaker, by direction of the Select Committee to Investigate the January 6th Attack on the United States Capitol, I call up the resolution (H. Res. 730) recommending that the House of Representatives find Stephen K. Bannon in contempt of Congress for refusal to comply with a subpoena duly issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 727, the resolution is considered read.

The text of the resolution is as follows:

H. RES. 730

Resolved, That Stephen K. Bannon shall be found to be in contempt of Congress for failure to comply with a congressional subpoena.

Resolved, That pursuant to 2 U.S.C. §§ 192 and 194, the Speaker of the House of Representatives shall certify the report of the Select Committee to Investigate the January 6th Attack on the United States Capitol, detailing the refusal of Stephen K. Bannon to produce documents or appear for a deposition before the Select Committee to Investigate the January 6th Attack on the United States Capitol as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Mr. Bannon be proceeded against in the manner and form provided by law.

Resolved, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoena.

The SPEAKER pro tempore. The resolution shall be debatable for 1 hour equally divided and controlled by the gentleman from Mississippi (Mr. THOMPSON), the gentlewoman from Wyoming (Ms. CHENEY), and an opponent, or their respective designees.

The gentleman from Mississippi (Mr. THOMPSON), the gentlewoman from Wyoming (Ms. CHENEY), and the gentleman from Indiana (Mr. BANKS) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, since Speaker PELOSI asked me to chair the January 6th Select Committee, I have spent a lot of time thinking about the importance of what we are doing, the weight of it, the urgency. We need to give the American people answers about what happened. There needs to be swift accountability. But there are longer-term considerations, too.

Madam Speaker, I am a grandfather, and when I talk to my grandkids about that horrific attack on our democracy on January 6, my mind jumps ahead to the future in store for them—questions about whether American democracy, as we know it now, will remain strong, whether it will withstand future tests.

That has to be the legacy of this committee’s work. To be sure, we are going to answer questions about what happened on that day. But we also need to draw a roadmap for making sure our democracy remains strong tomorrow.

We will look backward at what happened and try to explain how and why the insurrection came about. But we will also look forward and generate recommendations for legislative policy and process changes that will help ensure that nothing like this ever happens again.

When we get to the end of this process and look back, we are going to ask ourselves: Did we do everything in our power to uncover every fact? Did we use the tools at our disposal to get a full accounting, or did we let someone stand in our way without facing consequences? Did we learn what we needed to know for Congress to forge legislation to help ensure we never experience another January 6 again?

That is why we are taking up this resolution today, citing Steve Bannon with criminal contempt and referring him for prosecution by the Justice Department.

We didn’t choose to be here. This isn’t about punishing Steve Bannon.

The select committee would prefer and, frankly, expect all witnesses to fully cooperate. But Steve Bannon has led us down this path by refusing to cooperate in any way with our investigation.

We believe Mr. Bannon has information valuable to our probe. He was deeply involved in the so-called stop the steal campaign. He was reportedly in a war room meeting the day before the riot and had been pressuring the former President to try to stop the counting of the electoral college ballots.

He himself warned that “all hell” would break loose on January 6. We believe he can help inform our inquiry as to how the riot came together and what it was intended to achieve. He is clearly an important witness.

We subpoenaed him. And unlike other witnesses who have engaged and worked with our team to find a way to cooperate, Mr. Bannon told us he wouldn’t comply because the former President told him not to. He hid behind vague and baseless claims of privilege. That is just not acceptable.

The select committee told Mr. Bannon several times that he would face the consequences if he didn’t change course. Well, he didn’t change course, and his actions have brought us to this point.

Madam Speaker, we need to make it clear that no person is above the law. We need to take a stand for the integrity of the select committee’s investigation and for the integrity of this body.

What sort of precedent would it set for the House of Representatives if we allow a witness to ignore us flat out without facing any kind of consequences? What message would it send to other witnesses in our investigation?

I am not willing to find out. I am not willing to get to the end of the select committee’s work and look back wishing we had done more to uncover all the facts, not when we know what is on the line, when we know that our democracy isn’t yet out of danger, when we know that the forces that tried to overturn the election persist in their assault on the rule of law.

Our investigation is going forward. We are hearing from witnesses, reviewing documents, and analyzing data. Mr. Bannon stands alone in his defiance, and we will not stand for it. We will not allow anyone to derail our work because our work is too important: helping ensure that the future of American democracy is strong and secure.

Madam Speaker, I reserve the balance of my time.

Ms. CHENEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, a year ago today, the election was still a couple of weeks off. We knew it would be a tight race. Most of us did not anticipate that President Trump, or any President, frankly, would ever simply reject the outcome of the vote.

President Trump had the right to challenge the outcome in our State and Federal courts, which have an appropriate and constitutional role in resolving election claims. But what he did thereafter has no precedent in our history. He rejected the courts' rulings in dozens of cases, including the rulings of judges President Trump himself appointed.

He rejected what his own Department of Justice officials told him over and over again, that they found no evidence of widespread fraud sufficient to overcome the election. He rejected the conclusions of both the Department of Justice and the intelligence community that the Dominion Voting machines had not secretly changed the election outcome.

President Trump had no factual or constitutional basis for his claims. And the lawyers he found who would carry his false claims forward have paid the consequences. Rudy Giuliani's license to practice law has been suspended, and Sidney Powell has been sanctioned by a Federal judge.

But Donald Trump persisted, attempting through every manner he could imagine to try to overturn the outcome of the election. We all saw what happened. The people who attacked this building have told us on video, on social media, and now before the Federal courts exactly what motivated them. They believed what Donald Trump told them, that the election was stolen and that they needed to take action.

Today, Madam Speaker, we are here to address one witness, Mr. Steve Bannon. I urge all Americans to watch what Mr. Bannon said on his podcast on January 5 and 6. It is shocking and indefensible. He said, "All hell is going to break loose." He said, "We are coming in right over the target. This is the point of attack we have always wanted."

Madam Speaker, there are people in this Chamber right now who were evacuated with me and with the rest of us on that day during that attack; people who now seem to have forgotten the danger of the moment, the assault on the Constitution, the assault on our Congress; people who you will hear argue that there is simply no legislative purpose for this committee, for this investigation, or for this subpoena.

In fact, there is no doubt that Mr. Bannon knows far more than what he said on the video. There is no doubt that all hell did break loose. Just ask the scores of brave police officers who were injured that day protecting all of us. The American people deserve to hear his testimony.

Let me give you just four examples of the legislative purpose of this investigation.

First, the plot we are investigating, involving Mr. Eastman, Mr. Giuliani, Mr. Bannon, President Trump, and many others, their plot attempted to halt or delay our count of electoral votes and reverse the outcome of the

2020 election. The 1887 Electoral Count Act is directly at issue, and our investigation will lead to recommendations to amend or reform that act.

□ 1445

Second, while the attack was underway, President Trump knew it was happening; indeed, he may have been watching it all unfold on television, and yet he took no immediate action to stop it. This appears to be a supreme dereliction of duty by President Trump, and we are evaluating whether our criminal laws should be enhanced to supply additional and more severe consequences for this type of behavior.

Third, we know from our investigation to date that President Trump was pressuring the Department of Justice in late December 2020 to support his false claims that the election was stolen. Several brave and honorable Trump appointees at the department flatly refused to go along with this fraud and threatened to resign. We are evaluating what, if any, additional laws may be required to prevent a future President from succeeding in such an effort.

Fourth, we know that President Trump made efforts to persuade State election officials to "find votes" to change the election outcome in his favor. We are evaluating whether the criminal laws of the United States should be enhanced to make the penalty for this type of behavior even more severe, and, if so, in what manner.

Mr. Bannon's own public statements made clear he knew what was going to happen before it did, and thus he must have been aware of and may well have been involved in the planning of everything that played out on that day.

The American people deserve to know what he knew and what he did.

Madam Speaker, I reserve the balance of my time.

Mr. BANKS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, 3 months ago, for the first time in the history of Congress, Speaker PELOSI vetoed JIM JORDAN and me from serving on the Select Committee to Investigate the January 6th Attack on the United States Capitol.

Not all firsts are worth celebrating. It was a shameful and divisive decision with real consequences. Today, because of that decision, there is no committee conducting a legitimate investigation into January 6. Congress is prohibited from conducting criminal investigations, period.

But that is exactly what the select committee is doing, conducting an illicit, criminal investigation into American citizens. Steve Bannon was a private citizen before, after, and during January 6.

So why is the select committee interested in Steve Bannon?

It is simple. He is a Democratic Party bogeyman. The select committee despises Steve Bannon's politics, so

they are abusing their power to put him in jail.

The committee explained it is seeking documents from Mr. Bannon because he helped "construct and participated in" the permitted and legal Stop the Steal rally.

To date, the select committee has subpoenaed 11 other private citizens for organizing the Stop the Steal rally.

Here, in the land of the free, 12 American citizens are under congressional investigation for the sole crime of planning a legal political protest. Never in the history of Congress has a committee or a political party stooped so low.

Congress has no authority to conduct criminal investigations. Congress can only issue subpoenas to serve a legislative purpose.

The question that the committee must answer is: Why are they seeking information about a permitted political rally?

What legislative purpose does that serve?

Is the committee considering laws to limit Americans' right to political protest?

It is clear that the select committee doesn't give a lick about Congress' subpoena authority.

Does the committee share the same disdain for the First Amendment?

I wouldn't put it past them. As we all know, the Department of Justice has a highly active criminal investigation into the January 6 attack. They have made something like 600 arrests—as I said, very active, even hyperactive, compared to the Biden Department of Justice's typical reaction to political violence. But the Department of Justice's investigation isn't comprehensive.

There are still questions that only Congress can answer. Congress still has a role to play, but the select committee has completely abandoned that role.

Why else does the select committee want to hear from Mr. Bannon?

Because on January 5, Mr. Bannon warned that "all hell was going to break loose tomorrow."

So according to the select committee, no person could have predicted that violence might occur that day. According to the committee, that because Mr. Bannon warned of violence on the 5th is proof that Mr. Bannon had "foreknowledge" of the attack on the 6th.

Never mind that the FBI found that the attack wasn't coordinated. Never mind that the Capitol Police received actionable intelligence about potential violence occurring weeks before the 6th. Never mind that every Member of Congress, every single D.C. resident, and every American with internet access knew that violence was a possibility on January 6.

The question the committee should be asking is this: How did the United States Capitol Police, the D.C. Metropolitan Police, and the FBI all have no

clue that “all hell was going to break loose?”

Steve Bannon, a private citizen, knew.

So why didn't the Capitol Police have enough riot shields?

Why did it take multiple hours to deploy the National Guard?

These are worthwhile questions, and Congress has a duty to answer them because January 6 was an enormous intelligence failure. There was a breakdown in security, a breakdown that was repeated on Good Friday when Officer Billy Evans was brutally murdered.

The issues that plagued the Capitol Police on January 6 have not been fixed. In fact, according to a Capitol Police whistleblower, the officers most responsible for the intelligence failure on the 6th were promoted by Speaker PELOSI's team.

To be clear, the select committee is engaged in an unconstitutional, political investigation. It is a sham investigation conducted by a sham committee that refuses to answer real questions about what happened on January 6.

The Capitol was attacked, and instead of figuring out what went wrong, the committee launched its own attack on Congress' norms.

The Select Committee's politicization of January 6 cuts both ways. The committee's inaction has made the Capitol less secure, and the committee's actions have further separated Congress from its constitutional role.

The American people and the United States Capitol Police deserve a real investigation into the 6th, and the select committee has abandoned them.

Madam Speaker, I urge all of my colleagues to make the moral vote. Do the right thing. I urge Members to vote for the rule of law, for the institution of Congress, and against the select committee's dangerous abuse of Congress' oversight authority.

Madam Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Speaker, I heard the gentleman opposing this resolution. We are not actually seeking information from Mr. Bannon because of his opinions. We issued the subpoena because we believe he has knowledge of relevant facts that we need to discover. We are not violating anything and, certainly, not Mr. Bannon's First Amendment rights. The only violation we can talk about is the violation of this building on January 6, and Mr. Bannon's claim that the election was stolen helped foment that attack. Investigating that is also part of our charter.

Madam Speaker, I reserve the balance of my time.

Ms. CHENEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I wanted to correct the RECORD. The gentleman from Indiana asserted that the FBI has found

there was no coordination. That is just simply not true.

The gentleman also said that he is not on the committee. He noted that the Speaker had determined that he wouldn't be on the committee.

Madam Speaker, I have a number of letters the gentleman from Indiana has been sending to Federal agencies, and I include in the RECORD one dated September 16, 2021, for example, signing his name as the ranking member of the committee he has just informed the House he is not on and that, in fact, he is not on.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 16, 2021.

HON. DEB HAALAND,
Secretary, Department of the Interior,
Washington, DC.

DEAR SECRETARY HAALAND: You are receiving this letter because the House of Representatives Select Committee to Investigate the events of January 6th may have sent you a request for information. The House Republican Leader Kevin McCarthy appointed me to serve as the Ranking Member of the Select Committee. Yet, House Speaker Nancy Pelosi refused to allow me to fulfill my duties as Ranking Member.

Pursuant to the rules of the House of Representatives, the minority party in Congress retains rights to the same information that is provided to the majority party. For those reasons, I ask that you provide me any information that is submitted to the Select Committee. Additionally, please include me on any update or briefing that you provide. If you have questions, please do not hesitate to contact my staff.

Sincerely,

JIM BANKS,
Ranking Member.

Ms. CHENEY. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Madam Speaker, I would note that the gentleman from Indiana is incorrect. We are not pursuing a law enforcement investigation. Only the DOJ can do that.

What we are doing is taking the steps that are provided for under the congressional contempt statute that has existed for many decades because the select committee's charge is to get to the bottom of what happened on January 6, who planned it, who paid for it, what was the intent, and what legislative steps can we recommend to remove future threats to our Constitution.

To do that, we need information, both documents and testimony; and to get that we issue subpoenas.

Now what is a subpoena?

Is it just a suggestion, a mere request, an encouragement to testify?

No. A subpoena is a writ issued by a government agency, in this case the Congress, to compel testimony or production of evidence. When you get a subpoena, Madam Speaker, the law requires you to comply. If you think there may be some valid reason that excuses you from telling the truth under oath, then you have to come in and make your case to the committee.

Steve Bannon is the only person who has outright refused to engage with the committee. He thinks that if he simply

obstructs Congress by not showing up he will escape the consequences. But as Theodore Roosevelt said, “No man is above the law and no man is below the law.”

If you get a subpoena, you cannot hide behind vague and immaterial claims of privilege.

The cases make it clear—Judicial Watch, Nixon v. GSA, and the McGahn case—executive privilege is limited to immediate White House advisers on government policy. Bannon is a private citizen. His extravagant claims can't shield his conversations and plotting with other private citizens. His status, according to the cases, doesn't get executive privilege protection. He has no absolute immunity.

Madam Speaker, what would happen if an American received a subpoena from Congress or a court?

Do you think they could get away with just saying: Go fly a kite? They would be held accountable.

And so should Mr. Bannon be held to account for defying the law regarding this subpoena.

Madam Speaker, to defend the rule of law, we must vote “yes” on this resolution.

Mr. BANKS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, no one has said that the select committee doesn't have a legislative purpose.

Let's be very clear. There is important work that, frankly, we wish they were doing; like answering, why was this campus left unprotected? And what are we doing to keep it from happening again? That hasn't happened yet.

What we are saying is that the subpoenas that have so far been issued do not ask for information that would meet any legitimate legislative purpose.

Madam Speaker, I yield such time as he may consume to the gentleman from the great State of Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I thank my friend and colleague from Indiana (Mr. BANKS) for yielding.

I can tell you, when I got elected to serve in this body almost 9 years ago, I didn't expect to be standing here today to talk about such an important issue.

I spent 16 years as a congressional staffer working for a Member of Congress whom I looked up to and who respected this institution for what it was and what it meant to our country.

When I came to Congress to serve with him, I had the utmost respect for this institution at the same time. That is why I wanted to be part of the House Administration Committee because I wanted to make this Congress and this House work better, act in a much more bipartisan manner, and make sure that we protect those who run this campus, but also at the same time protect those who protect us.

Madam Speaker, we are now months and months in, months and months

post January 6. From my many conversations with U.S. Capitol Police officers and those who work on this campus, they have the same concerns I have.

The question they ask is: Why were we so unprotected on January 6? And what has changed since then?

□ 1500

Getting to the bottom of those questions should be the top priority for all of us in this House. There are serious security vulnerabilities that have not been addressed by this House in nearly 11 months after January 6. And this is what the majority has decided to spend its time on, holding a private citizen, who wasn't even part of the administration at the time, in contempt for refusing to comply with House Democrats' subpoenas. This is after more than 600 people have been arrested for their role in the tragedies we saw on January 6.

When I get the article, I will submit for the RECORD, Madam Speaker, a Reuters article that talks about senior officials stating at the FBI that there was no organized effort to overthrow the government on January 6. So I will submit it once I get a copy of that. I did not bring it with me.

But our job, again, is to secure this Capitol. We have never seen a breach like the one that we saw that day. And it is our responsibility to make sure it doesn't happen again.

But that hasn't been done under the leadership of this House. We have had two independent reports regarding January 6, one bipartisan report in the Senate and another one commissioned by the Speaker herself, and that came out in March. These have never been acted on. But this is what the select committee has been working on?

The Capitol Police IG has released seven reports related to January 6, making recommendations on what is needed to secure this Capitol. To my disappointment, the majority has not acted in a meaningful way to ensure that all 103 IG findings are implemented.

These reports have all told us what the problems are and the recommendations on how to fix them. But Congress, us, have failed to even debate these changes, let alone act on them.

We know massive changes to intel, perimeter protection training, leadership structure, decisionmaking processes, and many, many more are needed, but neither the select committee, nor the Committee on House Administration, seem at all interested in ensuring these changes are made.

The Committee on House Administration, which has oversight of security, hasn't held a single hearing since August 5, with no upcoming hearings scheduled according to the majority's website.

The select committee, right now, as we see, is just purely focused on political subpoenas.

Madam Speaker, I include in the RECORD the articles I previously mentioned.

[From Reuters, Aug. 20, 2021]

EXCLUSIVE: FBI FINDS SCANT EVIDENCE U.S. CAPITOL ATTACK WAS COORDINATED—SOURCES
(By Mark Hosenball and Sarah N. Lynch)

WASHINGTON, Aug 20 (Reuters).—The FBI has found scant evidence that the Jan. 6 attack on the U.S. Capitol was the result of an organized plot to overturn the presidential election result, according to four current and former law enforcement officials.

Though federal officials have arrested more than 570 alleged participants, the FBI at this point believes the violence was not centrally coordinated by far-right groups or prominent supporters of then-President Donald Trump, according to the sources, who have been either directly involved in or briefed regularly on the wide-ranging investigations.

"Ninety to ninety-five percent of these are one-off cases," said a former senior law enforcement official with knowledge of the investigation. "Then you have five percent, maybe, of these militia groups that were more closely organized. But there was no grand scheme with Roger Stone and Alex Jones and all of these people to storm the Capitol and take hostages."

Stone, a veteran Republican operative and self-described "dirty trickster", and Jones, founder of a conspiracy-driven radio show and webcast, are both allies of Trump and had been involved in pro-Trump events in Washington on Jan. 5, the day before the riot.

FBI investigators did find that cells of protesters, including followers of the far-right Oath Keepers and Proud Boys groups, had aimed to break into the Capitol. But they found no evidence that the groups had serious plans about what to do if they made it inside, the sources said.

Prosecutors have filed conspiracy charges against 40 of those defendants, alleging that they engaged in some degree of planning before the attack.

They alleged that one Proud Boy leader recruited members and urged them to stockpile bulletproof vests and other military-style equipment in the weeks before the attack and on Jan. 6 sent members forward with a plan to split into groups and make multiple entries to the Capitol.

But so far prosecutors have steered clear of more serious, politically-loaded charges that the sources said had been initially discussed by prosecutors, such as seditious conspiracy or racketeering.

The FBI's assessment could prove relevant for a congressional investigation that also aims to determine how that day's events were organized and by whom.

Senior lawmakers have been briefed in detail on the results of the FBI's investigation so far and find them credible, a Democratic congressional source said.

The chaos on Jan. 6 erupted as the U.S. Senate and House of Representatives met to certify Joe Biden's victory in November's presidential election.

It was the most violent attack on the Capitol since the War of 1812, forcing lawmakers and Trump's own vice president, Mike Pence, to scramble for safety.

Four people died and another died the following day, and more than 100 police officers were injured.

TRUMP'S SPEECH

Trump made an incendiary speech at a nearby rally shortly before the riot, repeating false claims that the 2020 election was stolen and urging supporters to march on the Capitol to pressure lawmakers to reject Biden's victory.

In public comments last month to the Democratic-led congressional committee formed to investigate the violence, police of-

ficers injured in the mayhem urged lawmakers to determine whether Trump helped instigate it. Some Democrats have said they want him to testify.

But the FBI has so far found no evidence that he or people directly around him were involved in organizing the violence, according to the four current and former law enforcement officials.

More than 170 people have been charged so far with assaulting or impeding a police officer, according to the Justice Department. That carries a maximum sentence of 20 years.

But one source said there has been little, if any, recent discussion by senior Justice Department officials of filing charges such as "seditious conspiracy" to accuse defendants of trying to overthrow the government. They have also opted not to bring racketeering charges, often used against organized criminal gangs.

Senior officials had discussed filing such charges in the weeks after the attack, the sources said.

Prosecutors have also not brought any charges alleging that any individual or group played a central role in organizing or leading the riot. Law-enforcement sources told Reuters no such charges appeared to be pending.

Conspiracy charges that have been filed allege that defendants discussed their plans in the weeks before the attack and worked together on the day itself. But prosecutors have not alleged that this activity was part of a broader plot.

Some federal judges and legal experts have questioned whether the Justice Department is letting defendants off too lightly.

Judge Beryl Howell in July asked prosecutors to explain why one defendant was allowed to plead to a misdemeanor charge carrying a maximum sentence of six months, rather than a more serious felony charge.

Spokespeople for the Justice Department and U.S. Attorney's office in Washington, which is leading the Jan. 6 prosecutions, declined to comment.

The congressional committee investigating the attack will talk with the FBI and other agencies as part of its probe.

[From Business Insider, Aug. 20, 2021]

FBI FINDS NO EVIDENCE THAT TRUMP AND HIS ALLIES WERE DIRECTLY INVOLVED WITH ORGANIZING THE VIOLENCE OF THE CAPITOL RIOT: REPORT

(By Bryan Metzger)

The FBI has found no evidence that Trump was directly involved in organizing Capitol-riot violence.

It also found little evidence of an organized plot to overturn the election results.

Ninety to ninety-five percent of these are one-off cases," said one former official.

See more stories on Insider's business page.

The FBI hasn't found any evidence that the January 6 assault on the US Capitol was part of an organized plot to overturn the election results, Reuters reported, citing law-enforcement officials.

The officials also said that the FBI has "so far found no evidence" that former President Donald Trump or "people directly around him were involved in organizing the violence," Reuters reported.

"Ninety to ninety-five percent of these are one-off cases," a former law-enforcement official familiar with the investigation told Reuters. "There was no grand scheme with Roger Stone and Alex Jones and all of these people to storm the Capitol and take hostages."

More than 570 participants have been arrested by federal officials. Investigators have found that groups such as the Oath Keepers

and Proud Boys did plan ahead of time to break into the Capitol, but they didn't engage in much planning beyond that step. Reuters reported that 40 percent of the defendants are being prosecuted on conspiracy charges, implying a certain amount of planning and coordination.

But prosecutors have generally shied away from alleging a broader plot. Senior Department of Justice officials do not intend to bring forward seditious-conspiracy charges or even racketeering charges, which are commonly used against organized criminal gangs.

A Democratic congressional source told Reuters that senior lawmakers who have been briefed on the FBI's investigation find the results credible.

Though the FBI has not found an organized plot or direct involvement by Trump, that doesn't mean that Trump didn't play an important role in instigating the violence. Earlier this year, the House of Representatives impeached Trump on the charge of "incitement of insurrection" after he spent weeks promoting conspiracy theories about the results of the 2020 election. On January 6, Trump gave a speech on The Ellipse where he urged supporters to march on the Capitol.

Read the original article on Business Insider.

Mr. RODNEY DAVIS of Illinois. Additionally, a number of questions from that day still remain unanswered. I am still waiting for the Speaker of the House to answer a letter I sent her back in February that asked why the National Guard, requested by Police Chief Sund, were denied? And why was the Speaker's office and the Speaker involved in eventually approving the request? Why has the House Sergeant at Arms refused to comply with preservation and production requests from my office?

We have many, many more questions about why the Capitol was so unprepared that day. Our top priority should be ensuring our Capitol is never as vulnerable as it was on January 6, but this majority has done absolutely nothing to make the security changes needed to make this Capitol safer.

Madam Speaker, we must do better. We have not fixed the institutional problems with our security apparatus that led to the lack of preparation, the danger that our brave officers were put in on that day and any other possible day like that in the future. That is a failure of leadership in this institution.

We must fix the problems that led to the terrible security posture here—and I will tell you, after witnessing what we saw a few different days and security postures that this House was put into a couple of other days since January 6—and I urge you to talk to the brave officers that stand around these buildings and protect all of us every day; ask them the same question I do. Ask them if we have put them in a better position than they were in on January 6? And the answer out of every single officer I asked that question to is "no."

What is stopping this House from fixing the problems? It is a lack of will. It is a lack of focusing on the true issues that led for them to be put in a dangerous spot on January 6. Instead, we

are talking politics. It is wrong, and we must do better.

I have said this time and time again, I stand willing to work with my Democrat colleagues to make this House, this Capitol, safer for everyone. Instead, it is all about political points like the one being scored today.

I am disappointed. You can tell. My frustration is going to continue to boil over until we are in a position to fix the problems that I have laid out and that we know exist.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in response to the gentleman from Illinois' statement, the first hearing of the select committee that we actually held interviewed four officers who put their lives on the line defending all of us who work here in this body. So I assure you, my directions to the committee have always been, we will look at all of the facts and circumstances surrounding what occurred.

We are genuinely interested in getting to the facts. We are working to get the answers. And that is why we are on the floor today, to get answers from Steve Bannon about what he knew, what he did leading up to January 6.

Also, to the gentleman from Indiana, I am glad he finally agrees that the select committee has a legitimate legislative purpose and that is why we are here today, pursuing that legislative purpose. So I am happy that the RECORD will reflect his comments.

Madam Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MURPHY), a valiant member of the select committee.

Mrs. MURPHY of Florida. Madam Speaker, I rise in support of this resolution to refer Stephen Bannon to the Department of Justice for prosecution for contempt of Congress.

It didn't have to be this way. Mr. Bannon, a self-professed patriot, could have done the patriotic thing and cooperated with our bipartisan committee.

If Mr. Bannon was proud of the role he played in connection with January 6, he should be eager to tell his side of the story. Instead, he is acting like a man who has something to hide. Our committee seeks only the truth. That is our legal charge and our moral obligation. We cannot let any individual impede our inquiry, and we will not tolerate Mr. Bannon's evasion.

Why must we be so unrelenting in our pursuit of truth? Because on January 6, the greatest Nation on Earth came under attack. And this attack wasn't carried out by officials in Beijing, Moscow, or Tehran, or by foreign terrorists even. It was an attack conducted by our fellow citizens, regular Americans who were radicalized because they believed outrageous lies fed to them by other Americans in positions of power and influence.

The attack was launched against the seat and symbol of our Republic. It was

designed to disrupt the certification of the Presidential election results, to defy the will of the voters. This was no peaceful protest in a proud American tradition. It was violent and vicious. Members of the mob wielded weapons. They called for the death of the Vice President. They hunted Members of Congress. They caused severe harm to law enforcement officers. And the real disservice to the police comes from those who want to whitewash the violence of January 6 and pretend that the riot of that day was anything short of the violent attack it was, aimed at derailing the peaceful transfer of power.

America is not just a place; it is an idea. And on January 6, there was an attack on the very idea of America. I believe that patriots of all political stripes should want to protect our Capitol, this country, and her Constitution. Our committee will make a full accounting of what happened, and we will make recommendations to ensure it never happens again.

Ms. CHENEY. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. AGUILAR).

Mr. AGUILAR. Madam Speaker, I thank the vice chair for yielding.

Like many of my colleagues, I was right here on the House floor when the violent mob attacked our Capitol. I saw those doors shaking, nearly overrun with rioters attempting to enter. I saw my colleagues shed their jackets and roll up their sleeves preparing for the eventuality. And I saw Capitol Police acting quickly and thoughtfully to conduct a successful evacuation of Members from this Chamber. Their actions, undoubtedly, saved lives.

What we didn't know at the time was that on the steps of the Capitol, the Capitol Police and the Metro PD officers were engaged in brutal hand-to-hand combat. Officer Michael Fanone told us he was grabbed, beaten, and tased, all while being called a traitor to this country.

This is what officers dealt with to defend our democracy. Some lost their lives; many are still living with both the physical wounds and the trauma that they suffered that day. This is what our officers dealt with to defend democracy.

Officer Harry Dunn told us more than 6 months later, January 6 still isn't over for me. These officers are heroes. I want to thank the chair and the vice chair for their leadership in making our first order of business hearing directly from those heroes in their own words.

We wanted to hear and make sure that all of our colleagues and this country heard firsthand what we experienced on the ground that day. We asked them to explain the violence they had to endure to protect our democratic process, and in return, they made one simple request: to get to the bottom of this.

They want answers, and, quite frankly, they deserve answers. So far, both the Metro PD and the Capitol Police

have been excellent allies in this investigation. They have cooperated, shared their stories and expertise, and provided us with key evidence and accounts of the violence they endured that day. And we owe it to them to see this investigation through.

The vote we take today is a crucial step toward removing a roadblock in our investigation. We owe it to every officer who put their life on the line that day and every day to protect us here in the Capitol. We owe them answers. And this committee intends to get to those answers by all means necessary.

Madam Speaker, I urge my colleagues to vote "yes" on this resolution.

Mr. BANKS. Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. KINZINGER), an Iraq and Afghanistan Air Force veteran and a lieutenant colonel in the Air National Guard.

Mr. KINZINGER. Madam Speaker, I thank the chairman for yielding. Let me just say first, Madam Speaker, as a Republican, don't let my side use the security posture as the straw-man argument in this. The reality is that that is the equivalent of blaming the victim of a crime for the crime. And while it is important, that is not what we are here to talk about today.

Madam Speaker, voting on a criminal contempt resolution is not the position we had hoped to be in, but Steve Bannon went out of his way to earn this resolution before us and now we must approve it.

Mr. Bannon's willful disregard for the select committee's subpoena demonstrates his utter contempt for the American people's right to know how the attacks on January 6 came about. He has advanced a ludicrous legal argument in support of his decision not to corroborate or comply, a decision that defies the rule of law and rejects the will of the American people.

Mr. Bannon's reported actions put him near the center of the investigation into the events surrounding January 6. His own words strongly suggest that the actions of the mob that stormed the Capitol and invaded this very Chamber came as no surprise to him. He and a few others were, by all accounts, involved in planning that day's events, and encouraged those who attacked the Capitol, our officers, and our democracy.

I have no doubt that Mr. Bannon's scorn for our subpoena is real. But no one—and I repeat, no one—is above the law, and we need to hear from him.

As the select committee's contempt report states, it was Mr. Bannon who on January 5 predicted with chilling accuracy: "All hell is going to break loose tomorrow."

On his radio show that day he stated: "It's not going to happen like you think it's going to happen. Okay. It's going to be quite extraordinarily dif-

ferent. All I can say is, strap in. You made this happen and tomorrow it's game day. So strap in. Let's get ready."

And it was Mr. Bannon, who was recorded as saying: "It's all converging, and now we're on the point of attack tomorrow."

□ 1515

Mr. Bannon said these things publicly, as a private citizen, someone deeply involved with the Stop the Steal movement, and he said them nearly 3 years after leaving his job at the White House.

Mr. Bannon was also reportedly among the small group of Trump confidants assembled at the Willard Hotel to discuss plans to stop or delay the January 6 count.

Is it any wonder that the select committee needs to hear from him; that we want to see related materials that he has?

Furthermore, does anyone really believe Mr. Bannon's actions are covered by a blanket, no-questions-asked claim of executive privilege? One the former President has never actually made.

Madam Speaker, Steve Bannon is a key witness to the select committee's probe. He has yet to say or produce anything in response to the subpoena. His assertion of executive privilege is farfetched in the extreme and not his to make.

I urge my colleagues to join me to support the contempt resolution.

Ms. CHENEY. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. RASKIN).

Mr. RASKIN. Madam Speaker, today, Donald Trump said the insurrection took place on November 3. No, Mr. Trump. I am sorry. That is what we call an election in America; an election that was validated by more than 60 Federal or State courts, including before eight judges nominated to the bench by President Trump himself, and all the way up to the United States Supreme Court, all of them rejecting every claim of electoral fraud and corruption that was advanced.

We know an insurrection when we see one in this body, because we lived through one. Under the banner of this continuing and deranged big lie, the Stop the Steal movement brought down a violent insurrection against this Congress in an attempted coup against Vice President Mike Pence. They interrupted the counting of electoral college votes for the first time in American history. They caused the worst attack on Congress since the War of 1812; and they injured and wounded more than 140 police officers, Capitol Police officers, Metropolitan Police Department officers, and others, breaking their noses, breaking their necks, breaking their vertebrae, breaking their arms, breaking their legs, breaking their hearts and their spirits.

We are investigating the attack on American democracy because we are Americans. We are investigating the

attack on Congress by domestic enemies of our Constitution because we are sworn to do so by our oaths of office.

But now, the big lie has become a big coverup. After being impeached twice by the House, after losing in 61 different courts, after seeing a 57-43 vote against him in the U.S. Senate, in the most sweeping bipartisan Senate Presidential conviction vote in American history, Trump now tries to get his followers, like Steve Bannon, not to testify here and not to turn over evidence that they have about this vicious assault on American democracy.

In America, when you are subpoenaed to testify in court or in Congress, you show up, period. You can invoke your Fifth Amendment privilege against self-incrimination to specific questions if you think you committed a crime. You can claim executive privilege to specific questions if you think you are President of the United States. But you cannot blow off a subpoena in America. You cannot sit on your couch and defy the people's representatives in Congress.

So we must enforce the rule of law here, my colleagues. We must do it. If you act deliberately, with sneering, cavalier contempt for the American people and their representatives, we will hold you in contempt. We will get to the truth of the violent assault on America.

Mr. BANKS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, you don't have to look far to realize the absurdity of what is happening in Congress today. In fact, Politico just reported moments ago that the Capitol Police whistleblower is telling us—telling Politico—that they have not been contacted by the January 6 select committee.

The Capitol Police whistleblower said that the United States Capitol Police deserves more scrutiny than it has gotten so far and that he would talk to investigators if they reach out to him. And the select committee has not reached out to the Capitol Police whistleblower.

Yet, here we are today focused on holding a private citizen in contempt, an unprecedented action by this sham committee and their sham investigation.

Madam Speaker, I yield 2 minutes to my colleague from Florida (Mr. GAETZ).

Mr. GAETZ. Madam Speaker, why are we here on the floor of the House of Representatives listening to the Democrats and socialists and their Republican puppets reviewing Steve Bannon's podcast?

I can't imagine that that would be the case if they actually had a bill, a reconciliation deal, legislation to help the American people. We are not here because of democracy. Save me the alligator tears on that. These are the folks who assaulted our democracy for 2 years under the specter of the Russia hoax. It is sure not about violence, because they didn't seem to give a damn

when our country was being engulfed in flames during the riots of the summer of 2020.

It is not about Congressional process. If it was about Congressional process, Democrats would be doing what they have done in other cases; they would go to court. But the reason they haven't gone to court, like they did for Trump's taxes, in the Deutsche Bank subpoenas, in the Mazars matter, or in the Don McGahn matter, is because in each of those circumstances, they did not prevail in court. The courts realized that their subpoenas were overly broad.

So instead of using the real process, here we are just enduring this politics. And because they can't build back better, they have just decided to build back meaner.

Mr. THOMPSON of Mississippi. Madam Speaker, just for the record, again, the gentleman from Indiana referenced the whistleblower. We have not talked to the whistleblower, but we have talked to the whistleblower's lawyer. We are doing our work. So, clearly, since he is quoting Politico, I want him to just get the record straight.

Madam Speaker, I yield 2½ minutes to the gentlewoman from Virginia (Mrs. LURIA), who served two decades in the Navy and was among the first women to serve in the Navy's nuclear power program.

Mrs. LURIA. Madam Speaker, to "support and defend the Constitution of the United States against all enemies, foreign and domestic."

We reaffirmed that oath on January 3. Yet only 3 days later in this very Chamber, this body was assaulted while carrying out the peaceful transfer of power, the very hallmark of our democracy.

I first took that oath when I was 17 years old and entered the Naval Academy. I was willing to put my life on the line to serve my country and protect the foundation of this republic, a foundation that was shaken but not broken on January 6.

Mr. Bannon, a former naval officer like me, at one point understood this oath. He took it multiple times. He served his country honorably in the Navy.

I don't know what happened between the time Lieutenant Bannon left the Navy and today. What forces corrupted his understanding of this oath?

Mr. Bannon has been given the opportunity to voluntarily provide information relevant to the work of our committee, but he has not complied.

Truly, this is larger than Mr. Bannon, this is larger than this investigation, and this is larger than the tragic and horrific events of January 6.

This vote is a test of that oath. To my colleagues who chose to vote against enforcing the subpoena, you are saying to all future men and women who are called before this body that they can ignore a subpoena from Congress without consequence.

You can make that choice today. But that will be a vote to abdicate the

power of the legislative branch in which you are elected to serve. That will be a vote to undermine the government and the Constitution which you took an oath to support and defend.

The consequences of that vote won't be limited to this investigation and this subpoena alone. Your vote will do serious, long-lasting damage to Congress as an institution. That, in turn, will do serious damage to our country, which we all love so dearly.

We ask our young men and women in uniform to go forth every day and protect us, to protect this republic, to protect our form of government. I am asking you to do the same, to protect our democracy from those forces seeking to destroy it from within.

Ms. CHENEY. Madam Speaker, I reserve the balance of my time.

Mr. BANKS. Madam Speaker, I yield as much time as he may consume to the gentleman from Ohio (Mr. JORDAN).

Mr. JORDAN. Madam Speaker, I thank the gentleman for yielding.

Look, we have seen the worst 10 months of any administration in history. We went from a secure border to chaos. We went from safe streets to violent crime. We have seen stable prices turn into inflation and empty shelves. The respect around the world we had has now turned into the debacle that was the exit from Afghanistan. And we went from peace in the Middle East with the Abraham Accords to thousands of rockets being fired on our friend and ally, Israel; not to mention, energy independence to now the spectacle of the President of the United States begging OPEC to increase production.

But what scares me most is what this administration and Democrats are doing to freedom. Every right we enjoy under the First Amendment has been assaulted over the last year.

Your right to practice faith. There are still places today in the country where a full congregation can't meet on Sunday morning.

Your right to petition your government, your right to assemble, freedom of the press, freedom of speech—every single one has been attacked.

We just learned in the Judiciary Committee from the Attorney General that the National School Boards Association last month, September 29, sends a letter to the President of the United States asking the FBI to get involved in local school board matters. Five days later, the Attorney General issues a memo to do just that.

The first sentence of the Attorney General's memo says this: In recent months, there has been a disturbing spike in harassment, intimidation, and threats at school board meetings.

We asked him a simple question: What is the evidence for a spike in threats? What is the data? What did you review?

Guess what his answer was. His only evidence, the only thing he reviewed, was the letter from the school boards association, from a political organiza-

tion. Now, they are going to target parents at school board meetings.

And we have the January 6 committee issuing subpoena after subpoena. Eleven of the people they have issued subpoenas to were names on an application asking the government for permission to hold a rally. Individuals exercising their First Amendment right to assemble, asked the government for permission, the government granted them permission, and now these 20- and 30-year-olds, whose names are on that application, they are going to be deposed by these guys for simply exercising their First Amendment right.

Here is what they are asking them, we want to know who the speakers were and how were they selected. We want to know any communications these people—who put their names on a permit, got permission from the government—we want to know any Member of Congress you talked to.

Wow. Your right to petition your government, that is why they are subpoenaing these people? This is scary, where they want to go.

These questions—coordination of speakers, discussions of contents—this sounds like what the IRS did to people 10 years ago when they were asking 501(c) groups applying for tax-exempt status, do you pray at the start of your meeting?

First, it is school boards, then it is people applying for a permit. We saw what the IRS did to people just a few years ago; not to mention what else the committee is doing; preservation letters to all of the carriers, all of the companies; preserve every call, every email, every text. Think about that. Every call someone made to—hundreds and hundreds, supposedly, according to news reports. They have done this for texts to your spouse, calls to your mom. Preserve it all. And this is just what we know about. This is just what has been reported.

And now Steve Bannon. Now Steve Bannon. Mr. Bannon is a target of the investigation, for the investigation, because—and this is the select committee's own report—"His efforts to plan political activity."

That is the standard. If you are involved in political activity, they are going to investigate you.

We know what this is really about. This is about getting at President Trump. They tried to stop President Trump before he was even elected with the Russia investigation; tried to remove President Trump from office twice while he was in office. And now they are trying to get him after the fact, after he has left, all because this guy cut taxes, reduced regulation, gave us the greatest economy in 50 years, lowest unemployment, all because he built the wall, got us out of the Iran deal, put the embassy in Jerusalem. When President Trump was President, Americans got their Christmas presents on time. But they are coming after him.

The Reuters story said this: The FBI has found no evidence that President Trump, or people directly around him, were involved in organizing the violence.

They don't care. They don't care that the FBI has no evidence. The Senate report said no evidence of a coordinated plan. They don't care. They are going to drag these 11 people in for depositions with subpoenas, because they are so determined to get their political enemies.

The SPEAKER pro tempore. The time of the gentleman from Indiana has expired.

□ 1530

Mr. THOMPSON of Mississippi. Madam Chair, the vice chair of the committee put in the RECORD the fact that the FBI and Department of Justice declared no such thing in terms of January 6, so the assertion that somehow they have conducted an investigation is just not true.

Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. SCHIFF), the distinguished chairman of the House Intelligence Committee.

Mr. SCHIFF. Madam Speaker, we are here this afternoon to test a proposition as old as the country's founding: Are we a nation of laws?

We are here because one man has decided that we are now only a nation of men and that rich and powerful men need not follow the law. And the question we must confront is nothing less than this: Is he right?

Are some people now truly above the law, beholden to nothing and no one, free to ignore the law and without consequence?

Congress is investigating the worst attack on our Capitol in over a century, made worse still by the fact that it was carried out by our own people, people who had been misled to believe that their election had been stolen and that violence was now justified, people who are still being misled by a dangerous lie that may lead to even more bloodshed.

This is not some theoretical matter. We were here. We heard the doors breaking, the glass shattering, the cries from outside the Chamber. And we saw the bloody results, the officers injured, and those who died.

And in the wake of the horrors of that day, a day in which the Capitol Police put their lives on the line to defend our democracy, it falls on us to defend that same democracy, albeit at far less risk to ourselves.

The Founders intended that ambition should be made to check ambition. If we fail to uphold Congress' power to compel information, then we cease to be a coequal branch of government, unable to perform our oversight or check any abuses of executive power.

Take away a court's power to subpoena witnesses, and it fails to be a court. Take away the Congress' ability to do the same, and it fails to be a Congress, becoming instead a mere plaything for a corrupt executive.

Do not believe for one moment that if we fail to hold Steve Bannon accountable that he will be the exception. He will become the rule—not a rule of law, but the misrule of men.

Either we are all equal before the law or none of us is. This is the essence of our democracy.

As Lincoln said, "Whatever differs from this, to the extent of the difference, is no democracy."

Ms. CHENEY. Madam Speaker, may I inquire as to how much time is remaining.

The SPEAKER pro tempore. The gentlewoman from Wyoming has 5½ minutes remaining. The gentleman from Mississippi has 2 minutes remaining. The gentleman from Indiana has no time remaining.

Ms. CHENEY. Madam Speaker, I yield myself the balance of my time to close.

Madam Speaker, just outside this Chamber, over the north door in Statuary Hall, which was the old House Chamber, stands a statue of Clio, the muse of history. She is one of the oldest works of art in our Capitol. She stands in a winged chariot, the chariot of time, and she takes notes in her book, reminding all of us that our words and our actions will be judged by history. History will particularly judge those of us in positions of public trust for what we are doing today.

In the immediate aftermath of the attack, Madam Speaker, we all recognized how profoundly wrong January 6 was. The gentleman from Ohio (Mr. JORDAN), who just suggested that we were here because we opposed President Trump's policies, seems to have forgotten that actually on January 6 he, himself, said, "What happened today is wrong and is not what America is about."

The next day Mr. JORDAN said, "What happened Wednesday is a tragedy. Everyone knows that. It is as wrong as wrong can be."

And today, Madam Speaker, the former President suggested that the violence was justified.

My colleagues in the Republican Party, the Republican Members of this body, have to understand, have to recognize, that there is a moment when politics must stop if we want to defend and protect our institutions.

A violent assault on the Capitol to stop the constitutional process of counting electoral votes is that moment. They all knew that on that day.

In fact, the minority leader himself stood in this Chamber and said, "The President bears responsibility for Wednesday's attack on Congress by mob rioters. He should have immediately denounced the mob when he saw what was unfolding."

Mr. MCCARTHY was right then. The President bears responsibility.

We need to know what happened. This body must have the ability to understand what caused the attack, to understand who was responsible, and to take legislative action to ensure that it never happens again.

Madam Speaker, I urge my colleagues to support this motion for contempt for Mr. Steve Bannon. I urge them to do so because it is right; it is morally right; it is constitutionally right; and it is all of our duty.

Madam Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield myself the balance of my time to close.

Over the last hour, we have heard a lot about what we are not debating today. The select committee is charged with investigating a deadly attack on the seat of our democracy and making recommendations to ensure it never happens again. I can't think of anything more serious, but many of our colleagues would rather talk about anything else.

I think I know why. I think they are performing for an audience of one.

I do, however, want to commend my colleagues on the select committee for laying out clearly why the House must cite Mr. Bannon for contempt. If our investigation is to succeed, if the House's constitutional authority to investigate and legislate is to remain robust, then we cannot let this man flout the laws with impunity.

The select committee is made up of people of character, of profound commitment to public service and our Constitution. They all elevate the committee's work.

I especially want to thank and acknowledge our vice chair, the gentlewoman from Wyoming (Ms. CHENEY), for her leadership and partnership. There is no doubt in my mind that history will record her courage in stark relief.

History will record all of what we do here today. We can be on the right side or the wrong side. I urge all my colleagues to remember that as we cast this vote.

Madam Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Madam Speaker, today the House has been deliberating on the criminal contempt of Congress citation of Steven K. Bannon reported from the Select Committee to Investigate the January 6th Attack on the United States Capitol on Tuesday, October 19, 2021. This is a grave matter and not one the House takes lightly.

As I have said on many occasions, the Select Committee would prefer not to be in this position. We expect—and the law (2 U.S.C. § 192) demands—witnesses comply with duly issued, lawful subpoenas of Congress. We lay out the factual record of Mr. Bannon's willful defiance of the Select Committee's September 23, 2021, subpoena in House Report 117–152.

There have been developments since the Report was written and adopted, and I memorialized some of those at the Select Committee's business meeting. To perfect the factual record in this case, I now include in the CONGRESSIONAL RECORD correspondence between myself and Mr. Bannon's attorney, Robert J. Costello, and further correspondence between the Office of White House Counsel and Mr. Costello, which states President Biden's position on issues relating to the subpoena to Mr. Bannon.

First, on Friday, October 15, 2021, I wrote Mr. Costello to reiterate to him and his client that the Select Committee would view Mr. Bannon's decision not to appear for his deposition as willful defiance that would lead to a business meeting of the Select Committee to consider a contempt report. I include that letter in the RECORD.

SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE
UNITED STATES CAPITOL,

October 15, 2021.

MR. ROBERT J. COSTELLO,
Davidoff Hutcher & Citron LLP,
* * *

DEAR MR. COSTELLO: The Select Committee to Investigate the January 6th Attack ("Select Committee") is in receipt of your October 13, 2021 letter (the "October 13 letter"), in which you reassert that your client, Stephen Bannon, will not comply with the September 23, 2021 Subpoena to him for documents and deposition testimony (the "Subpoena"). As you know, the Subpoena demanded that Mr. Bannon produce documents by October 7, 2021 and appear on October 14, 2021 before the Select Committee to provide deposition testimony on a wide range of issues relating to the January 6, 2021 attack on the United States Capitol, as well as plans to interfere with the count of the 2020 Electoral College results. Mr. Bannon has now willfully failed to both produce a single document and to appear for his scheduled deposition. The Select Committee believes that this willful refusal to comply with the Subpoena constitutes a violation of federal law.

As justification for Mr. Bannon's complete failure to comply with any portion of the Subpoena, you continue to rely on ex-President Trump's stated intention to invoke executive privilege with respect to Mr. Bannon, and Mr. Trump's purported request that Mr. Bannon not produce documents to or testify before the Select Committee. As was explained in the Select Committee's October 8, 2021 letter (attached), the former President has not communicated any such assertion of privilege, whether formally or informally, to the Select Committee. Moreover, we believe that any such assertion of privilege—should it be made by the former President—will not prevent the Select Committee from lawfully obtaining the information it seeks.

Further, your letter makes no attempt to justify Mr. Bannon's failure to comply with the Subpoena's demand for documents and testimony on a range of subjects that do not involve communications with the former President. As is clear from the Subpoena and accompanying letter, and as underscored in the Select Committee's October 8, 2021 response letter, the Select Committee seeks documents and testimony on numerous other matters, including Mr. Bannon's communications with Members of Congress, presidential campaign representatives, and other private parties concerning the events of January 6, 2021, that could not conceivably be barred by a privilege claim.

Moreover, even if the Select Committee were inclined to accept the unsupported premise that executive privilege reaches communications that the Select Committee seeks to examine between President Trump and Mr. Bannon, Mr. Bannon does not enjoy any form of absolute immunity from testifying or producing documents in response to a Congressional subpoena. Your citation to *Committee on Judiciary v. McGahn*, 415 F. Supp. 3d 148 (D.D.C. 2019) actually supports the Select Committee, not your client. In *McGahn*, the district court unequivocally held that even senior White House aides are not entitled to absolute immunity from tes-

tifying in response to a Congressional subpoena. *Id.* at 214 ("To make the point as plain as possible, it is clear to this Court . . . that, with respect to senior-level presidential aides, absolute immunity from compelled congressional process simply does not exist."). Indeed, the footnote in *McGahn* that you selectively quote makes clear that a President lacks legal authority to order an aide not to appear before Congress based on a claim of executive privilege. *See Id.* at 213, n. 34 ("But the invocation of the privilege by a testifying aide is an order of magnitude different than DOJ's current claim that the President essentially owns the entirety of a senior-level aide's testimony such that the White House can order the individual not to appear before Congress *at all.*" (Emphasis in original)).

Accordingly, the Select Committee views Mr. Bannon's failure to produce documents by the October 7, 2021 deadline as willful non-compliance with the Subpoena. Mr. Bannon has persisted in his refusal to produce any documents to the Select Committee, and he has failed to provide a privilege log identifying specific, asserted privileges. Mr. Bannon has now further compounded his non-compliance by refusing to appear on October 14, 2021 at the Select Committee deposition to which he was summoned to provide testimony. The Select Committee will therefore be meeting on Tuesday, October 19, 2021 to consider invoking the contempt of Congress procedures set forth in 2 U.S.C. §§ 192, 194.

If Mr. Bannon believes that there are any additional issues relating to his non-compliance with the Subpoena that have not been addressed, please submit them in writing to the Select Committee by 6:00 p.m. E.S.T. on Monday, October 18, 2021 for the Select Committee's consideration in its deliberations.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

Mr. THOMPSON of Mississippi. Madam Speaker, at 6 p.m. on Monday, October 18, 2021, Mr. Costello replied to that letter and requested a 1-week "adjournment" to respond. Mr. Bannon's attorney said they needed time to "assess" the Select Committee's requests for documents and testimony in light of litigation filed by former President Trump in DC District Court. I include Mr. Costello's letter in the RECORD.

DAVIDOFF HUTCHER & CITRON LLP,
ATTORNEYS AT LAW, * * *,
October 18, 2021.

Re: The Subpoena for Stephen K. Bannon dated September 23, 2021.

Hon. BENNIE G. THOMPSON,
Chairman, House Select Committee to Investigate the January 6th Attack.

DEAR CONGRESSMAN THOMPSON: We write on behalf of Stephen Bannon. We have just been advised of the filing of a lawsuit in federal court for the District of Columbia entitled *Donald J. Trump v. Bennie Thompson*, et al., 21-Civ-02769 (D.D.C. 2021). In light of this late filing, we respectfully request a one-week adjournment of our response to your latest letter so that we might thoughtfully assess the impact of this pending litigation.

Very truly yours,

ROBERT J. COSTELLO.

Mr. THOMPSON of Mississippi. Madam Speaker, the former President's lawsuit, however, is immaterial to Mr. Bannon's defiance of our lawful subpoena. As House Report 117-152 makes clear, Mr. Bannon had a duty to produce documents and appear before the Select Committee. His flat refusal to comply with the subpoena is unacceptable. I made

that clear in a letter to Mr. Costello before the Select Committee's business meeting on Tuesday, October 19, 2021. I include in the RECORD my response to Mr. Costello's October 18th letter.

SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE
UNITED STATES CAPITOL,

October 19, 2021.

MR. ROBERT J. COSTELLO,
Davidoff Hutcher & Citron LLP,

DEAR MR. COSTELLO: The Select Committee to Investigate the January 6th Attack on the United States Capitol ("Select Committee") is in receipt of your October 18, 2021, letter requesting a one-week "adjournment" of your response to my October 15, 2021, letter. The only basis for your request is yesterday's filing of litigation by former President Trump against the Chairman, Select Committee, Archivist of the United States, and the National Archives and Records Administration. That litigation relates to the Select Committee's requests for documents in the possession of the National Archives and is immaterial to the Select Committee's demand for documents and testimony from Mr. Bannon. The investigation of the Select Committee is extremely important and urgent for the nation, and further delay in compliance by Mr. Bannon undermines the ability of the Committee to timely complete its essential responsibilities. Accordingly, no grounds exist for any "adjournment" or other delay and your request is denied.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

Mr. THOMPSON of Mississippi. Madam Speaker, meanwhile, with regard to Mr. Bannon's claims that executive privileges somehow precluded his production or appearance pursuant to the Select Committee's subpoena, on Monday, October 18, 2021, the Office of White House Counsel wrote a letter to Mr. Costello and specifically stated that "at this point we are not aware of any basis for [Mr. Bannon's] refusal to appear for a deposition." It further stated that President Biden "has already determined that an assertion of executive privilege is not in the public interest, and therefore is not justified, with respect to certain subjects within the purview of the Select Committee." I include the full White House letter in the RECORD.

THE WHITE HOUSE,
Washington, DC, October 18, 2021.

ROBERT J. COSTELLO,
Davidoff Hutcher & Citron LLP,
* * *

DEAR MR. COSTELLO: I write regarding the subpoena for documents and deposition testimony issued on September 23, 2021, by the House Select Committee to Investigate the January 6th Attack on the United States Capitol (the "Select Committee") to your client, Stephen K. Bannon.

As you are aware, Mr. Bannon's tenure as a White House employee ended in 2017. To the extent any privileges could apply to Mr. Bannon's conversations with the former President or White House staff after the conclusion of his tenure, President Biden has already determined that an assertion of executive privilege is not in the public interest, and therefore is not justified, with respect to certain subjects within the purview of the Select Committee. Specifically, President Biden determined that an assertion of executive privilege is not justified with respect to a set of documents shedding light on events within the White House on and about January 6, 2021, and with respect to documents

and testimony concerning the former President's efforts to use the Department of Justice to advance a false narrative that the 2020 election was tainted by widespread fraud. President Biden's determination that an assertion of privilege is not justified with respect to these subjects applies to your client's deposition testimony and to any documents your client may possess concerning either subject.

Please contact me if you have questions about the matters described herein. Please note, however, that at this point we are not aware of any basis for your client's refusal to appear for a deposition.

Sincerely,

JONATHAN C. SU,
Deputy Counsel to the President.

Mr. THOMPSON of Mississippi. Madam Speaker, after the Select Committee's October 19th business meeting, I wrote to Mr. Costello yet again to urge Mr. Bannon to change course and comply with the Select Committee's subpoena of September 23, 2021. I reiterated that Mr. Costello's stated reasons for Mr. Bannon's flat refusal to provide documents and appear at a deposition have no legal basis or support. I provided him with a link to the Select Committee's adopted report on a contempt citation to review the detailed basis for our recommendation to the House. I include my October 19th letter in the RECORD.

SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE
UNITED STATES CAPITOL,

October 19, 2021.

Mr. ROBERT J. COSTELLO,
Davidoff Hutcher & Citron LLP,
* * *

DEAR MR. COSTELLO: I write yet again to urge your client Stephen K. Bannon to change course and comply with the September 23, 2021, subpoena from the Select Committee to Investigate the January 6th Attack on the United States Capitol ("Select Committee").

As explained in our prior correspondence, your stated reasons for Mr. Bannon's flat refusal to provide documents and appear at a deposition have no legal basis or support. Because of Mr. Bannon's continued refusal to comply with the subpoena, the Select Committee has unanimously voted to recommend that the House of Representatives find Mr. Bannon to be in contempt of Congress. The detailed basis for that recommendation is contained in the Select Committee's report, a copy of which is available at the following link: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=114156>. Should the House of Representatives agree with that recommendation, the Speaker of the House will certify the relevant statement of facts to the United States Attorney for the District of Columbia, "whose duty it shall be to bring the matter before the grand jury for its action." See 2 U.S.C. §194.

Additionally, President Biden's recently communicated views relating to your client's reliance on executive privilege as a basis for his non-compliance provide further support for the Select Committee's position. As you know, in its October 18, 2021, letter, the Office of the White House Counsel concluded that "at this point we are not aware of any basis for [Mr. Bannon's] refusal to appear for a deposition." The letter further noted that President Biden has "already determined that an assertion of executive privilege is not in the public interest, and therefore is not justified, with respect to certain subjects within the purview of the Select Committee." In short, the current President's statements should remove any doubt regarding the inappropriateness of Mr.

Bannon's reliance on assertions of executive privilege as grounds for his noncompliance with the subpoena. Mr. Bannon has no basis in law to continue to defy the appropriate use of congressional subpoena authority.

These developments underscore the folly of any continuing defiance of the Select Committee subpoena by Mr. Bannon. The Select Committee remains focused on expeditiously obtaining the testimony and documents necessary to meet our responsibilities and we continue to expect immediate compliance by Mr. Bannon. Should Mr. Bannon choose to change his posture, please notify Select Committee staff * * *.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

Mr. THOMPSON of Mississippi. Madam Speaker, the importance of our investigation, and the recommendations we make for legislative and other policy changes that result from our investigation, require the participation of witnesses who have clear knowledge of the events leading up to and during the January 6th attack. Mr. Bannon's own actions in defiance of our lawful subpoena for a valid legislative purpose demand the consequences reflected in the House resolution citing him with contempt and referring his case to the Department of Justice.

Mr. DANNY K. DAVIS of Illinois. Madam Speaker, Congress has a long-recognized and essential role in conducting oversight. The Select Committee to Investigate the January 6th Attack on the United States Capitol has the solemn responsibility to investigate and report upon the facts, circumstances, and causes related to the attack on January 6, 2021. This domestic terrorist attack sought to interfere with the peaceful transfer of power and undermine American representative democracy during the exercise of a constitutional process.

Mr. Bannon reportedly held multiple roles and had specific knowledge relevant to the investigation of the January 6th attack on the Capitol. Mr. Bannon has defied a lawful Congressional subpoena. The investigation by the Select Committee is fundamental to our democracy, and I will vote today to hold Mr. Bannon in contempt of Congress for his failure to comply with a Congressional Subpoena. Mr. Bannon has a duty to cooperate with the Congressional investigation into the fundamental attack on our democracy on January 6th. Therefore, I will vote in support of finding Stephen K. Bannon in contempt of Congress for failure to comply with a Congressional subpoena.

Ms. JACKSON LEE. Madam Speaker, as a senior member of the Committees on the Judiciary, on Homeland Security, and on the Budget, I rise in support of the rule governing debate for H. Res. 730, "Resolution Recommending that the House of Representatives Find Stephen K. Bannon in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol."

On January 6th the domestic terrorists who beat law enforcement officers and breached the Citadel of democracy of the United States wore insignias of White Supremacist groups, waved confederate flags, hung a noose on the lawn, and they were shouting racial epithets.

According to published reports and his own public statements, Mr. Bannon had specific knowledge about the events planned for January 6th before they occurred: just before the

day of the attack, Mr. Bannon told his listeners:

All hell is going to break loose tomorrow . . . It's not going to happen like you think it's going to happen. OK, it's going to be quite extraordinarily different. All I can say is, strap in . . . You made this happen and tomorrow it's game day. So strap in. Let's get ready. So many people said, 'Man, if I was in a revolution, I would be in Washington.' Well this is your time in history.

At 12:15 p.m. on January 6th he said to the assembled multitude on the Ellipse: "You will never take back our country with weakness."

Less than an hour later, at 1:10 p.m., he admonished the crowd: "We fight like hell, and if you don't fight like hell you will not have a country anymore."

Madam Speaker, the assault on the U.S. Capitol by domestic terrorists and insurrectionists rightly takes its place as one of the darkest moments in our nation's history since the Civil War.

Madam Speaker, the January 6 insurrection caused tragic loss of life and many injuries, while leaving behind widespread physical damage to the Capitol Complex and emotional trauma for Members, Congressional employees, and the Capitol Police.

It bears repeating often that the Congress and the nation owe undying gratitude to the men and women who answered the call of constitutional duty and heroically won the day on that bloody and deadly afternoon.

Madam Speaker, the domestic terrorists and secessionists who attacked the Capitol Building on January 6, 2021 were not, as some of their ardent defenders and apologists across the aisle have stated falsely, on a "normal tour visit"; nor was their effort to lay siege to the Capitol and disrupt the processes of government an act of persons who love their country.

And it is absurd to suggest that it was a celebration of the United States and what it stands for when the leading edge of terrorists desecrated the Capitol by offensively parading the treasonous Confederate flag through the building and when, because of their insurrection, several members of law enforcement made the supreme sacrifice and scores more were seriously injured.

Madam Speaker, we owe it not just to those who lost their lives during that day, but to all Americans to figure out exactly what happened and how that day came to be.

We must understand that day in order to prevent the intended purpose of the January 6 insurrection—to disrupt the Joint Meeting of Congress to tally the votes of presidential electors and announce the results to the nation and the world—from every occurring again, because it was the greatest threat to the American Experiment since the Civil War when the pro-slavery forces decided to make war rather than let the nation survive. and the pro-freedom forces would accept war rather than let the nation perish.

The Select Committee has diligently continued in their duty to determine the causes and events that transpired during the insurrectionist attack.

Specifically, the Select Committee's purposes include:

To investigate and report upon the facts, circumstances, and causes "relating to the January 6, 2021 domestic terrorist attack upon the United States Capitol Complex;"

To investigate and report upon the facts, circumstances, and causes “relating to the interference with the peaceful transfer of power;” and

To investigate and report upon the facts, circumstances, and causes relating to “the influencing factors that fomented such an attack on American representative democracy while engaged in a constitutional process.”

In line with these purposes, the Select Committee requested information from Mr. Bannon central to its legislative purpose:

On September 23, 2021, Chairman Thompson signed and transmitted a subpoena to Mr. Bannon, ordering the production of both documents and testimony relevant to the January 6th attack on the Capitol.

The subpoena required Mr. Bannon to produce the documents on October 7 and required his presence for deposition testimony on October 14.

Mr. Bannon simply defied the subpoena—failing to produce the documents on October 7 and failing to show up for the deposition on October 14.

In a letter to Mr. Bannon’s counsel on October 15, Chairman Thompson noted that Mr. Bannon had not even attempted to provide the Select Committee any explanation for refusing to comply with the Select Committee’s demand for documents and testimony on a range of subjects that do not involve communications with the former President.

An individual who fails or refuses to comply with a House subpoena may be cited for contempt of Congress, and in his October 8th letter to Mr. Bannon’s counsel, Chairman Thompson warned Mr. Bannon that his continued non-compliance would put him in jeopardy of a vote to refer him to the House to consider a criminal contempt referral.

Mr. Bannon’s failure to appear for deposition or produce responsive documents in the face of this clear advisement and warning by the Chairman constitutes willful failure to comply with the subpoena.

The purpose behind seeking this information is because Mr. Bannon played a central role in organizing January 6th attack on the Capitol, and understanding this role is essential to understanding the context in which the January 6th attack occurred.

Mr. Bannon constructed and participated in the “stop the steal” public relations effort that motivated the January 6th attack.

Mr. Bannon planned political and other activities in advance of January 6th.

Mr. Bannon participated in a “war room” of promoters and prominent supporters of the “stop the steal” movement that met on January 5th.

Mr. Bannon communicated with President Trump several times in advance of the January 6th attack, urging him to take measures to interfere with the count of electoral votes and to make January 6th a day of reckoning.

In fact, according to published reports and his own public statements, Mr. Bannon had specific knowledge about the events planned for January 6th before they occurred: just before the day of the attack, Mr. Bannon urged his listeners:

All hell is going to break loose tomorrow. . . . It’s not going to happen like you think it’s going to happen. OK, it’s going to be quite extraordinarily different. All I can say is, strap in. You made this happen and tomorrow it’s game day. So strap in. Let’s get

ready. So many people said, ‘Man, if I was in a revolution, I would be in Washington.’ Well this is your time in history.

In sum, Mr. Bannon appears to have played a multi-faceted role in the events of the January 6th attack and the American people are entitled to hear his first-hand testimony regarding his actions.

As recognized by the Supreme Court, “The power of the Congress to conduct investigations is inherent in the legislative process,” and that the subpoena power is a “public duty, which every person within the jurisdiction of the Government is bound to perform when properly summoned.”

Rather than comply with Congress’ inherent powers, and help heal the trauma this nation witnessed on January 6th, Mr. Bannon has simply refused to comply with the Select Committee’s subpoena.

Madam Speaker, this should not be a partisan issue; it is the very power of Congress to investigate matters of issue that is at stake.

For this reason, I rise in support of the rule governing debate for H. Res. 370, “Resolution Recommending that the House of Representatives Find Stephen K. Bannon in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol,” and I encourage my colleagues to do the same.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the rule, the previous question is ordered on the resolution.

The question is on adoption of the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BANKS. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 202, not voting 1, as follows:

[Roll No. 329]
YEAS—229

| | | |
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| Adams | Chu | Espallat |
| Aguilar | Ciциlline | Evans |
| Allred | Clark (MA) | Fitzpatrick |
| Auchincloss | Clarke (NY) | Fletcher |
| Axne | Cleaver | Foster |
| Barragán | Clyburn | Frankel, Lois |
| Bass | Cohen | Gallego |
| Beatty | Connolly | Garamendi |
| Bera | Cooper | Garcia (IL) |
| Beyer | Correa | Garcia (TX) |
| Bishop (GA) | Costa | Golden |
| Blumenauer | Courtney | Gomez |
| Blunt Rochester | Craig | Gonzalez (OH) |
| Bonamici | Crist | Gonzalez, |
| Bourdeaux | Crow | Vicente |
| Bowman | Cuellar | Gottheimer |
| Boyle, Brendan | Dauids (KS) | Green, Al (TX) |
| F. | Davis, Danny K. | Grijalva |
| Brown | Dean | Harder (CA) |
| Brownley | DeFazio | Hayes |
| Bush | DeGette | Herrera Beutler |
| Bustos | DeLauro | Higgins (NY) |
| Butterfield | DelBene | Himes |
| Carbajal | Delgado | Horsford |
| Cárdenas | Demings | Houlahan |
| Carson | DeSaulnier | Hoyer |
| Carter (LA) | Deutch | Huffman |
| Cartwright | Dingell | Jackson Lee |
| Case | Doggett | Jacobs (CA) |
| Casten | Doyle, Michael | Jayapal |
| Castor (FL) | F. | Jeffries |
| Castro (TX) | Escobar | Johnson (GA) |
| Cheney | Eshoo | Johnson (TX) |

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| Jones | Meng | Schrader |
| Kahele | Mfume | Schrier |
| Kaptur | Moore (WI) | Scott (VA) |
| Katko | Morelle | Scott, David |
| Keating | Moulton | Sewell |
| Kelly (IL) | Mrvan | Sherman |
| Khanna | Murphy (FL) | Sherrill |
| Kildee | Nadler | Sires |
| Kilmer | Napolitano | Slotkin |
| Kim (NJ) | Neal | Smith (WA) |
| Kind | Neguse | Soto |
| Kinzinger | Newman | Spanberger |
| Kirkpatrick | Norcross | Speier |
| Krishnamoorthi | O’Halloran | Stansbury |
| Kuster | Ocasio-Cortez | Stanton |
| Lamb | Omar | Stevens |
| Langevin | Pallone | Strickland |
| Larsen (WA) | Panetta | Suozi |
| Larson (CT) | Pappas | Swalwell |
| Lawrence | Pascrell | Takano |
| Lawson (FL) | Payne | Thompson (CA) |
| Lee (CA) | Pelosi | Thompson (MS) |
| Lee (NV) | Perlmutter | Titus |
| Leger Fernandez | Peters | Tlaib |
| Levin (CA) | Phillips | Tonko |
| Levin (MI) | Pingree | Torres (CA) |
| Lieu | Pocan | Torres (NY) |
| Lofgren | Porter | Trahan |
| Lowenthal | Pressley | Trone |
| Luria | Price (NC) | Underwood |
| Lynch | Quigley | Upton |
| Mace | Raskin | Vargas |
| Malinowski | Rice (NY) | Veasey |
| Maloney, | Ross | Vela |
| Carolyn B. | Roybal-Allard | Velázquez |
| Maloney, Sean | Ruiz | Wasserman |
| Manning | Ruppersberger | Schultz |
| Matsui | Rush | Waters |
| McBath | Ryan | Watson Coleman |
| McCollum | Sánchez | Welch |
| McEachin | Sarbanes | Wexton |
| McGovern | Scanlon | Wild |
| McNerney | Schakowsky | Williams (GA) |
| Meeks | Schiff | Wilson (FL) |
| Meijer | Schneider | Yarmuth |

NAYS—202

| | | |
|---------------|----------------|---------------|
| Aderholt | Fallon | Joyce (PA) |
| Allen | Feenstra | Keller |
| Amodei | Ferguson | Kelly (MS) |
| Armstrong | Fischbach | Kelly (PA) |
| Arrington | Fitzgerald | Kim (CA) |
| Babin | Fleischmann | Kustoff |
| Bacon | Fortenberry | LaHood |
| Baird | Foxo | LaMalfa |
| Balderson | Franklin, C. | Lamborn |
| Banks | Scott | Latta |
| Barr | Fulcher | LaTurner |
| Bentz | Gaetz | Lesko |
| Bergman | Gallagher | Letlow |
| Bice (OK) | Garbarino | Long |
| Biggs | Garcia (CA) | Loudermilk |
| Bilirakis | Gibbs | Lucas |
| Bishop (NC) | Gimenez | Luetkemeyer |
| Boebert | Gohmert | Malliotakis |
| Bost | Gonzales, Tony | Mann |
| Brady | Good (VA) | Massie |
| Brooks | Gooden (TX) | Mast |
| Buchanan | Gosar | McCarthy |
| Buck | Granger | McCaul |
| Bucshon | Graves (LA) | McClain |
| Budd | Graves (MO) | McClintock |
| Burchett | Green (TN) | McHenry |
| Burgess | Greene (GA) | McKinley |
| Calvert | Griffith | Meuser |
| Cammack | Grothman | Miller (IL) |
| Carl | Guest | Miller (WV) |
| Carter (GA) | Guthrie | Miller-Meeks |
| Carter (TX) | Hagedorn | Moolenaar |
| Cawthorn | Harris | Mooney |
| Chabot | Harshbarger | Moore (AL) |
| Cline | Hartzler | Moore (UT) |
| Cloud | Hern | Mullin |
| Clyde | Herrell | Murphy (NC) |
| Cole | Hice (GA) | Nehls |
| Comer | Higgins (LA) | Newhouse |
| Crawford | Hill | Norman |
| Crenshaw | Hinson | Nunes |
| Curtis | Hollingsworth | Oberholte |
| Davidson | Hudson | Owens |
| Davis, Rodney | Huizenga | Palazzo |
| DesJarlais | Issa | Palmer |
| Diaz-Balart | Jackson | Perry |
| Donalds | Jacobs (NY) | Pfleger |
| Duncan | Johnson (LA) | Posey |
| Dunn | Johnson (OH) | Reed |
| Ellzey | Johnson (SD) | Reschenthaler |
| Emmer | Jordan | Rice (SC) |
| Estes | Joyce (OH) | Rodgers (WA) |

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| Rogers (AL) | Smucker | Van Duyne |
| Rogers (KY) | Spartz | Wagner |
| Rose | Stauber | Walberg |
| Rosendale | Steel | Walorski |
| Rouzer | Stefanik | Waltz |
| Roy | Steil | Weber (TX) |
| Rutherford | Steube | Webster (FL) |
| Salazar | Stewart | Wenstrup |
| Scalise | Taylor | Westerman |
| Schweikert | Tenney | Williams (TX) |
| Scott, Austin | Thompson (PA) | Wilson (SC) |
| Sessions | Tiffany | Wittman |
| Simpson | Timmons | Womack |
| Smith (MO) | Turner | Young |
| Smith (NE) | Valadao | Zeldin |
| Smith (NJ) | Van Drew | |

NOT VOTING—

Pence

□ 1609

Messrs. SIMPSON and FULCHER changed their vote from “yea” to “nay.”

Mr. GOMEZ changed his vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

| | | |
|----------------------------|-------------------------|--------------------|
| Adams (Brown) | Kirkpatrick (Stanton) | Rodgers (WA) |
| Cooper (Clark (MA)) | Lawson (FL) | Rush (Underwood) |
| DeFazio (Brown) | (Evans) | Salazar (Cammack) |
| Frankel, Lois (Clark (MA)) | Lynch (Trahan) | Sires (Pallone) |
| Garcia (TX) | Meng (Jeffries) | Stewart (Crawford) |
| (Escobar) | Moore (WI) | Tlaib (Omar) |
| Hice (GA) | (Beyer) | Wasserman |
| (Greene (GA)) | Napolitano (Correa) | Schultz (Soto) |
| Huffman (Stanton) | Ocasio-Cortez (Escobar) | Wilson (FL) |
| Khanna (Bowman) | Payne (Pallone) | (Hayes) |

□ 1615

PROVIDING ACCOMMODATIONS FOR NURSING MOTHERS IN THE WORKPLACE

(Ms. BOURDEAUX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BOURDEAUX. Mr. Speaker, I rise today in support of the PUMP for Nursing Mothers Act, which will be considered by the House later this week.

As a working mother, I strongly support this bipartisan bill to provide reasonable accommodations to nursing mothers in the workplace.

The PUMP for Nursing Mothers Act, among other critical changes, would extend the break time and space protections to workers who are currently excluded from overtime protections, including teachers, transportation workers, and agriculture workers.

I was proud to work as part of a bipartisan group along with the bill’s sponsor, Representative CAROLYN B. MALONEY, to offer an amendment which maintains the undue hardship exemption threshold at its current level of 50 employees.

The PUMP for Nursing Mothers Act is supported by a broad coalition of stakeholders, including the National Retail Federation, the U.S. Chamber of

Commerce, the National Education Association, and the American Civil Liberties Union.

Mr. Speaker, I enthusiastically support this bill and urge all Members to do the same when it comes before the House this week.

IRS DATA COLLECTION PROPOSAL BAD FOR FAMILIES, BUSINESSES

(Mr. GUEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUEST. Mr. Speaker, I rise today to encourage my colleagues to join me in opposition to the proposed IRS reporting plan that would intrude on the bank accounts of Americans and impose new regulations on our already overregulated banking system.

First, it is not apparent that the IRS has any constitutional authority to monitor Americans in this way.

Second, the American public does not support the expansion of IRS bank data collection. Recent polling shows bipartisan opposition, with 67 percent of those polled opposed to the IRS collecting bank deposit and withdrawal information.

Finally, this would add another regulatory burden to our financial institutions after a historic year when banks and credit unions provided lifelines to families, businesses, and communities during the COVID-19 pandemic.

This proposal imposes upon our right to privacy and is bad for families, small businesses, and financial institutions. I hope my colleagues across the aisle will reconsider their support for this unwarranted expansion of government.

BUILD BACK BETTER FOR HEALTHCARE

(Mr. KAHELE asked and was given permission to address the House for 1 minute.)

Mr. KAHELE. Mr. Speaker, for far too long, America’s broken for-profit healthcare system has left millions of Americans uninsured or underinsured.

While out-of-pocket costs and corporate profits continue to rise, 8 million Americans have turned to a new form of health insurance, online fundraisers like GoFundMe, to pay their medical bills.

My nephew, Sean Day, was one of them. He passed away from cancer earlier this month at just 22 years of age.

Mr. Speaker, we live in the richest country in the world. No one should be priced out of the healthcare that they need or delay seeing a doctor just because they can’t afford it. No one should be forced to ask strangers online to crowdfund their medical bills. It is simply not right.

This is why we must pass the Build Back Better Act. The Build Back Better Act will invest in our communities’ healthcare, expand medical coverage for our kupuna, and lower prescription drug prices. It will save lives.

During the deadliest pandemic in U.S. history, we must deliver the care that American families deserve. We must leave no one behind.

BIDEN’S BANK SURVEILLANCE SCHEME IS POWER GRAB

(Mr. LAMALFA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMALFA. Mr. Speaker, the Biden proposed surveillance scheme is an ill-advised power grab, which is turning trusted local financial institutions into IRS reporting agents infringing upon the privacy of everyday Americans.

The IRS already knows how much you earn. Now they want to know exactly how you spend it. This is a total breach of personal financial privacy with a presumption of guilt that I am not okay with.

How can we expect our citizens to place trust in their government when their government is keeping tabs on their every single transaction?

A lot of people wonder how people come to Congress and become millionaires while they are serving in Congress.

This is just another push by the government to exercise control over our everyday lives. It is also a disincentive for people to save and keep money in banks and credit unions because they don’t want to have every single thing tracked. Do we want to have our savings kept in coffee cans or mattresses? That is a pretty bad way to go.

Whether it is \$600 per transaction or up to \$10,000 per year cumulative, it is an invasion of privacy. We don’t need another 80,000 IRS agents tracking us when we have a border that is like a sieve and other problems of much greater magnitude than what you or I are saving or spending our personal wealth on.

It is a wrongheaded policy. The Biden administration and this House needs to take back such ideas.

RECOGNIZING DR. RENEE F. WASHINGTON GARDNER

(Mr. ESPAILLAT asked and was given permission to address the House for 1 minute.)

Mr. ESPAILLAT. Mr. Speaker, I rise today to honor a woman of many firsts, an upstanding member of our community, and someone I am blessed to call a constituent. Her name is Dr. Renee F. Washington Gardner.

She is the longest-serving female pastor of Harlem’s Memorial Baptist Church in its entire history, dedicating decades of her life in service to church, her community, and God. This past Sunday marked her 17th year of service.

She is the first woman to also be named a moderator of the United Missionary Baptist Association in the group’s 60-year history. Pastor Gardner