

## Coalition Letter to Members of Congress Urging Passage of the Protecting Our Democracy Act to Prevent Future Abuses of the Pardon Power

Dear Member of Congress,

We write to you as a cross-partisan coalition of thirteen organizations to urge passage of the Protecting Our Democracy Act (H.R. 8363, S.B. 4880) in order to prevent future abuses of the President's pardon power. While we are very supportive of all of the components of this legislation, from dealing with power of the purse abuse to resolving DOJ independence issues, this letter focuses on the Act's provisions preventing pardon overreach in light of President Trump's recent abuses of the pardon power.

The pardon power was meant as a safety valve to offer mercy, justice, and second chances to those ensnared by a justice system that is sometimes too harsh.<sup>1</sup> Instead of using the pardon power for this noble purpose, President Trump has abused it to protect himself and subvert the rule of law. For example, in stark contrast to correcting a miscarriage of justice, the President's recent pardon of Michael Flynn--who twice pleaded guilty to lying to the FBI--seeks to discredit DOJ's Russia probe and to reward Mr. Flynn's fealty to the President. Mr. Flynn's pardon follows the President's commutation of his friend Roger Stone's sentence after Mr. Stone's conviction by a federal jury for lying to Congress. Alarming, the President has [signaled](#) that Mr. Flynn's pardon may be the first in a litany of self-protective pardons to his family members, friends, aides and potentially himself--even before criminal charges are filed.

Such significant abuses of the pardon power are not only unprecedented in American history but also unconstitutional. Additionally, such abuses directly undermine the investigative powers of both Congress and the Department of Justice.<sup>2</sup> Equally alarming, these pardons may be criminal if they obstruct justice or are received in exchange for a bribe. If these pardons go unchecked, and Congress fails to respond, they will set a dangerous precedent by immunizing future Presidents and their advisors from legal accountability--even if they knowingly and purposefully commit crimes while in office.

Passage of the Protecting Our Democracy Act will ensure that these dangerous abuses of the pardon power are not repeated by future Presidents, help facilitate future investigations into abuses of the pardon power, and help restore faith and dignity in the presidency. Specifically, the Act:

- Requires the Department of Justice and White House to provide materials to Congress concerning any self-serving presidential pardon or commutation in cases involving the President or his/her relatives, contempt of Congress, or

---

<sup>1</sup> See, e.g., Alexander Hamilton, *The Federalist Papers*: No. 74.

<sup>2</sup> For example, President Trump's lawyers reportedly discussed pardons with the attorneys for Mr. Flynn and Paul Manafort during the Russia investigation. See Michael S. Schmidt, et al., *Trump's Lawyer Raised Prospect of Pardons for Flynn and Manafort*, N.Y. Times (Mar. 28, 2018), available at <https://www.nytimes.com/2018/03/28/us/politics/trump-pardon-michael-flynn-paul-manafort-john-dowd.html>.

obstruction of Congress, which will deter abusive pardons by ensuring that misconduct will be exposed;

- Clarifies that the federal bribery statute prohibits offering or granting a pardon in exchange for a bribe; and
- Prohibits self-pardons by the President.

These protections will serve as a crucial check on future Presidents of any political party and help prevent abuses of the pardon power for personal gain or corrupt ends.

Although there are many issues on which Americans disagree, we can all agree that the presidency is no place for corruption and self-dealing. At pivotal moments in our nation's history, Congress has united to prevent such presidential abuses and restore faith in our democratic institutions. The time has come for Congress to act again. For these reasons, we urge Congress to pass the Protecting Our Democracy Act and the President to sign it into law.

Respectfully,

CREW

Coalition to Preserve, Protect and Defend

DemCast USA

Demand Progress

Democracy 21

Free Speech for People

Government Accountability Project

Lawyers Allied to Uphold the Rule of Law

Lawyers Defending American Democracy

Protect Democracy

Public Citizen

Republicans for the Rule of Law

Stand Up America