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Resolutions to Censure the President: Procedure and History

Updated February 1, 2018

Congressional Research Service
https://crsreports.congress.gov
R45087

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Censure is a reprimand adopted by one or both chambers of Congress against a Member of Congress, President, federal judge, or other government official. While Member censure is a disciplinary measure that is sanctioned by the Constitution (Article 1, Section 5), *non*-Member censure is not. Rather, it is a formal expression or "sense of" one or both houses of Congress. As such, censure resolutions targeting non-Members use a variety of statements to highlight conduct deemed by the resolutions' sponsors to be inappropriate or unauthorized.

Resolutions that attempt to censure the President for abuse of power, ethics violations, or other behavior, are usually simple resolutions. These resolutions are not privileged for consideration in the House or Senate. They are, instead, considered under the regular parliamentary mechanisms used to process "sense of" legislation.

Since 1800, Members of the House and Senate have introduced resolutions of censure against at least 12 sitting Presidents. Two additional Presidents received criticism via alternative means (a House committee report and an amendment to a resolution).

The clearest instance of a successful presidential censure is Andrew Jackson. A resolution of censure was approved in 1834. On three other occasions, critical resolutions were adopted, but their final language, as amended, obscured the original intention to censure the President.

In the remaining cases, resolutions remained in committee, without further consideration, or were not adopted in a floor vote. Nevertheless, presidential censure attempts have become more frequent since the Richard Nixon era.

This report summarizes the procedures that may be used to consider resolutions of censure and the history of attempts to censure the President (1st-114th Congresses). It also provides citations to additional reading material on the subject.

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Definition of Censure

Censure is a reprimand adopted by one or both chambers of Congress against a Member of Congress, President, federal judge, or other government official. While the censure of a sitting Member of Congress is considered a formal disciplinary action, *non*-Member censure is simply used to highlight conduct deemed by the House or Senate to be inappropriate or unauthorized.

There is no uniform language used to censure non-Members. This complicates efforts to identify all attempts to censure the President. The presidential censure resolutions listed in this report contain variations of the words or phrases: censure, condemn, unconstitutional, usurp, unauthorized, abuse of power, violation, or disapproval. Early resolutions of censure (Andrew Jackson, 1834; Abraham Lincoln, 1864) criticized the President for acting in "derogation" of the Constitution. More recent resolutions, including the most recent censure resolution submitted, (H.Res. 700, 115th Congress), have used the words "censure and condemn" to reprimand the President.[1]

Congressional Consideration of Censure Resolutions

Two Types of Censure Resolutions

There are two types of censure resolutions: those that target Members of Congress and those that target executive or judicial branch officials. Article 1, Section 5, of the Constitution grants each chamber the ability to "punish its Members for disorderly Behaviour."[2] Resolutions censuring a Senator or Representative are based on this power.

In contrast, Congress has no disciplinary authority over the President except through impeachment. Thus, presidential censure resolutions express the "sense of" the House and/or Senate without additional legal implications.[3]

Both Member and non-Member censure resolutions are usually simple resolutions.[4] As such, they do not have the force of law and are not signed by the President. However, the House and Senate treat the two types of censure resolutions differently in a parliamentary sense.

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[1] Secondary sources on presidential censure attempts include Merrill D. Peterson, *The Great Triumvirate: Webster, Clay, and Calhoun* (New York: Oxford University Press, 1987); Robert V. Remini, *Andrew Jackson and the Course of American Democracy, 1833-1845* (New York: Harper & Row, 1984); Remini, *The House: The History of the House of Representatives* (New York: Smithsonian Books, 2006); Louis Fisher, *Constitutional Conflicts between Congress and the President*, sixth ed. (Laurence, KS: University Press of Kansas, 2014); and essays posted by the Senate Historical Office (senate.gov) and the House Office of the Historian (house.gov). Primary sources include the *House Journal*, *Senate Journal*, *Congressional Globe*, *Annals of Congress*, *Register of Debates*, *Congressional Record*, Congress.gov, the Legislative Information System of the U.S. Congress (LIS), and other congressional documents accessed in ProQuest Congressional.

[2] "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member," U.S. Constitution, Article 1, Section 5.

[3] For more information, see CRS Report 98-825, *"Sense of" Resolutions and Provisions*, by Christopher M. Davis.

[4] Most, but not all, presidential censure resolutions have been simple resolutions. Presidents Harry Truman and Richard Nixon were the subject of proposed concurrent resolutions of censure. (Concurrent resolutions must be adopted by both chambers but do not have the force of law.) President Bill Clinton is the only known President to be the focus of joint resolutions of censure. Had these joint resolutions passed, the President would have had to sign them, veto them, or

Resolutions That Censure a Representative or a Senator

Simple resolutions that censure a Member of Congress for "disorderly behavior"—that is, resolutions carrying out the function of disciplining a Member under the Constitution—are privileged for consideration in both the House and Senate. In the House, privileged resolutions have precedence over the regular order of business; they can be called up on the floor when the House is not considering another matter.[5] In the Senate, the motions to proceed to privileged resolutions are not debatable."[6]

House censure resolutions generally qualify as questions of the privileges of the House under Rule IX.[7] In this context, the censure of a Representative would occur through a formal vote of the House on a resolution disapproving of the Member's conduct. Such resolutions include the requirement that the offending Member stand in the well of the House as the resolution of censure is read aloud by the Speaker.[8] (If the resolution reprimands a Member of the House without using the term censure, this step is not taken.) The most recent instance of a Representative being formally censured in this way by the House occurred in 2010.[9]

In the Senate, the Select Committee on Ethics may recommend disciplinary action against a Senator, including "censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility." The last time a Senator was formally censured by such a privileged resolution was in 1990.[10]

Resolutions that Censure an Executive or Judicial Branch Official

While resolutions censuring a Member of Congress are privileged in the respective chamber, resolutions that censure, condemn, disapprove of, or express a loss of confidence in an executive or judicial branch official are not privileged and do not enjoy a special parliamentary status. Non-

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allow them to become law without his signature. See CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

[5] See CRS Report 98-315, *Privileged Business on the House Floor*, by James V. Saturno.

[6] See CRS Report RS21255, *Motions to Proceed to Consider Measures in the Senate: Who Offers Them?*, by Richard S. Beth and Mark J. Oleszek.

[7] "A resolution recommending reprimand, censure, or expulsion of a Member presents a question of privilege, as does one disapproving of the behavior of a Member inside or outside the Chamber. If reported by the Committee on Ethics (or a derivation thereof), the resolution may be called up at any time after the committee has filed its report." U.S. Congress, House, *Constitution, Jefferson's Manual and Rules of the House of Representatives*, prepared by Thomas J. Wickham, Parliamentarian, 114th Cong., 2nd Sess., 2017, H.Doc. 114-192 (Washington: GPO, 2017), sections 62-63, p. 29; CRS Report R44005, *Questions of the Privileges of the House: An Analysis*, by Megan S. Lynch; CRS Report 98-411, *Questions of Privilege in the House*, by James V. Saturno.

[8] Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham, Jr., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington: GPO: 2017), pp. 509-541, https://www.gpo.gov/fdsys/pkg/GPO-HPRACTICE-115/pdf/GPO-HPRACTICE-115-26.pdf.

[9] U.S. Congress, House Committee on Standards of Official Conduct, *Adjudicatory Subcommittee Hearing in the Matter of Representative Charles B. Rangel Opening Statement of Chair Zoe Lofgren*, 111th Cong., 2nd Sess., November 15, 2010, pp. 1-2, http://docs.house.gov/ethics/RangelChairOpeningStatement.pdf.

[10] *United States Senate Election, Expulsion and Censure Cases: 1793-1990*, prepared by Anne M. Butler and Wendy Wolff, U.S. Senate Historical Office, 103rd Cong., 1st Sess., S.Doc. 103-33 (Washington: GPO, 1995).

Member censure resolutions express the formal opinion of the House or Senate.[11] Thus, they are considered under the regular parliamentary mechanisms used to process "sense of" legislation.[12]

The last presidential censure resolution to receive congressional floor consideration occurred in the Senate in 1912 (William Howard Taft). All subsequent resolutions have been referred to House or Senate committees without further action.[13] Nevertheless, the following parliamentary scenarios are possible when considering non-Member censure resolutions.

House Procedure

Should a House committee report a non-Member censure resolution, the full House may consider it by unanimous consent, under the Suspension of the Rules procedure, or under the terms of a special rule reported by the Committee on Rules and adopted by the House.[14] If widespread support exists for the censure resolution, unanimous consent or the Suspension of the Rules procedure may be used. Otherwise, the resolution could be brought to the floor under a special rule reported by the Committee on Rules. All three of these parliamentary mechanisms require, at a minimum, the support of the majority party leadership in order to be entertained.

If the censure resolution was not supported by the House majority party leadership, obtaining floor consideration would likely be difficult. Members could try to employ the House discharge rule (Rule XV, clause 2) to bring a censure resolution (or a special rule providing for its consideration) to the chamber floor.[15]

Senate Procedure

In the Senate, a Member could make a unanimous consent request to consider a censure resolution at the time it was submitted. If any Senator objected to this procedure, consideration of the resolution would effectively be blocked.[16]

A Senator might instead submit the resolution for it to be referred to committee in the usual way. The Senate committee might then report the censure resolution, allowing the measure to be called up on the floor by unanimous consent or by debatable motion.[17] In either case, the resolution and

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[11] See CRS Report RL34037, *Congressional Censure and "No Confidence" Votes Regarding Public Officials*, coordinated by Cynthia Brown.

[12] See CRS Report 98-825, *"Sense of" Resolutions and Provisions*, by Christopher M. Davis.

[13] The most recent presidential censure resolution, H.Res. 700 (115th Congress), has been referred to the House Committee on the Judiciary. "Sense of" Resolutions and Provisions, by Christopher M. Davis.

[14] Under long-standing policies announced by the Speaker, such a unanimous consent request would have to be cleared in advance by the bipartisan committee and floor leadership in order to be entertained. The Suspension of the Rules procedure lays aside any parliamentary barriers to considering the measure but requires a two-thirds vote for passage. CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki, CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

[15] In order to discharge legislation from a committee, at least 218 Members must sign a discharge petition. CRS Report 97-552, *The Discharge Rule in the House: Principal Features and Uses*, by Richard S. Beth.

[16] Should there be an objection to the immediate consideration of such a resolution when it was submitted, the measure would go "over under the rule" and be placed on a special section of the Senate's *Calendar of Business* dedicated to such resolutions. Under current practice, simple resolutions that go "over under the rule" in this way are effectively moot and cannot be considered except by unanimous consent. U.S. Congress, Senate, *Riddick's Senate Procedure Precedents and Practices*, prepared by Floyd M. Riddick and Alan S. Frumin, 101st Cong., 2nd Sess., 1992, S.Doc. 101-28 (Washington: GPO, 1992), pp. 957-967. https://www.gpo.gov/fdsys/pkg/GPO-RIDDICK-1992/pdf/GPO-RIDDICK-1992-93.pdf

[17] See CRS Report RS21255, *Motions to Proceed to Consider Measures in the Senate: Who Offers Them?*, by Richard

any preamble therein would each be separately debatable and amendable, including by non-germane amendment.

If a Senator introduces an amendment that contains censorious language or attempts to alter a resolution of censure, that amendment would also be subject to debate. As a result, without unanimous consent, one or more cloture processes, requiring supermajority vote thresholds, might be necessary in order to reach a final vote on censure language in the Senate.[18]

History of Presidential Censure Attempts, 1789-2016, 1st-114th Congresses

As stated earlier, there is no uniform language of censure. Therefore, the designation of censure is somewhat subjective. The censure resolutions identified in this report either contained the word "censure" or explicitly cited an alleged abuse of presidential power.[19]

Using these criteria, CRS identified 13 former Presidents who were the subject of censure attempts while in office: 11 by resolutions of censure, one via a House committee report, and another through an amendment to an unrelated resolution. On four occasions, the House or Senate adopted resolutions that, in their original form, charged the President with abuse of power. Otherwise, presidential censure resolutions have remained in committee without further consideration or were not adopted in a floor vote.

The following sections provide additional information on each censure attempt. The measures are also listed in **Table 1**.

Resolutions Adopted

The four adopted censure-related resolutions were all simple resolutions.[20] As such, they expressed the "sense of" the respective chamber but did not have the force of law or contain any disciplinary authority.

In two cases identified (Presidents Lincoln and Taft), the resolutions were amended on the chamber floor so that they no longer clearly censured the President. In another case (President Buchanan), the resolution's language may have intended a lesser rebuke than censure. The fourth case, President Andrew Jackson, remains the clearest case of presidential censure by resolution, although his censure was subsequently expunged.

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[18] When considering censure resolutions, three-fifths of all Senators (normally 60) must vote to invoke cloture. See CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Valerie Heitshusen and Richard S. Beth. In addition, a Senator might try to trigger a vote *in relation* to censure language by making a motion to Suspend the Rules. When voting on such a motion, the question before the Senate would be whether or not to lay aside any rules blocking floor consideration of censure legislation. U.S. Congress, Senate, *Riddick's Senate Procedure Precedents and Practices*, prepared by Floyd M. Riddick and Alan S. Frumin, 101st Cong., 2nd Sess., 1992, S.Doc. 101-28 (Washington: GPO, 1992), pp. 1266-1272, https://www.gpo.gov/fdsys/pkg/GPO-RIDDICK-1992/pdf/GPO-RIDDICK-1992-134.pdf.

[19] Censure resolutions were identified following a survey of secondary sources, including books on presidential/congressional relationships. Primary source research included a review of congressional documents and database searches using the keyword, President, with: censure, condemn, abuse, disapprove, violation, Constitution, unconstitutional, usurp, or unauthorized.

[20] For more information about the types of resolutions, see CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

Andrew Jackson (1834)

The Jackson case stemmed from a dispute over the Second Bank of the United States. In 1832, Jackson vetoed legislation to renew the Bank's charter and began removing the government's deposits. The following year, some Members of Congress launched an investigation, during which Jackson refused to provide a requested document. In response, on December 26, 1833, Senator Henry Clay of Kentucky (Anti-Jacksonian Party) submitted a resolution of censure. As modified by Clay, the measure resolved, "That the President, in the late Executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."

On March 28, 1834, after three months of intense debate, the Senate agreed to the censure resolution. That April, Jackson submitted an "Executive protest," which argued that the Senate's censure of a non-Senator was "wholly unauthorized by the Constitution, and in derogation of its entire spirit." The Senate countered, on May 7, with resolutions that called the President's protest itself, "a breach of the privileges of the Senate," which could not be recognized or "entered on the Journals." By early 1837, however, pro-Jackson Democrats had gained the Senate majority, and they voted to remove the censure from chamber records. On January 16, the Secretary of the Senate drew black lines around the original resolution in the *Senate Journal*, adding the words, "Expunged by order of the Senate."[21]

James Buchanan (1860)

On June 11, 1860, Representative Robert Hatton of Tennessee (Opposition Party) reported five resolutions on behalf of the Committee on the Expenditures in the Navy Department, a select committee appointed during the previous 35th Congress. All five resolutions charged the Secretary of the Navy, Isaac Toucey, with ethical violations related to military contracts. The fourth resolution also reprimanded the President, alleging that the President and the Secretary awarded contracts based on "party relations" and the "pending elections." By doing so, the resolution stated, "they have set an example dangerous to the public safety, and deserving the reproof of this House." However, the fifth resolution, targeting just Toucey, used the word *censured* to condemn the Secretary's appointment of an engineer with financial interests in Navy projects.[22] Thus, it could be argued that the House chose a weaker reprimand for the President.

On June 13, the House voted to adopt all five resolutions. The fourth resolution, targeting the President and Secretary of the Navy, passed in a 106-61 vote.

Abraham Lincoln (1864)

On May 11, 1864, Senator Garret Davis of Kentucky (Unionist Party) introduced a resolution reprimanding President Lincoln for allowing two generals to return to military service after they won election to the House.[23] Senator Davis' original measure resolved, "That the arrangement

[21] Peterson, pp. 240-241; *Register of Debates in Congress*, 23rd Cong., 1st Sess. (December 23, 1833-March 28, 1834), pp. 58-1187; "The President's Protest," *Register*, (May 5-7, 1834), pp. 1612-1712; "Expunging Resolution," *Register*, (January 12-16, 1837), pp. 379-418, 427-506.

[22] The fifth resolution stated, "That the appointment by the Secretary of the Navy of Daniel B. Martin, chief engineer, as a member of the board of engineers, to report upon proposals for constructing machinery for the United States, the said Martin at the time being pecuniarily interested in some of said proposals, is hereby censured by this House." *Congressional Globe*, 36th Cong., 1st. Sess. (June 13, 1860), p. 2949. For the entire debate on the resolutions, see pp. 2835-2836; 2938-2951.

[23] The generals were expected to resign from military service following their elections to Congress. Thus, if Lincoln

aforesaid, made by the President and the Secretary of War with Generals Schenck and Blair, to receive from them temporarily their commissions of major general, with discretion, on their part, at any time during this session of Congress to resume them, was in derogation of the Constitution of the United States, and not within the power of the President and the Secretary of War, or either of them, to make."[24]

The Senate referred the resolution to the Judiciary Committee. On June 15, the committee reported, and the Senate approved, an amended version of the resolution. The new language affirmed that an officer must be re-appointed "in the manner provided by the Constitution," but no longer overtly censured the President.

William Howard Taft (1912)

On July 15, 1912, Senator Joseph Bailey of Texas (Democratic Party) introduced S.Res. 357 after President Taft was accused of trying to influence a disputed Senate election.[25] The original text resolved, "That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate violates the spirit, if not the letter, of the Constitution, invades the rights of the Senate, and ought to be severely condemned."[26]

In debate, Senator Bailey stated that his resolution targeted a "particular circumstance" involving the current President.[27] Still, he was open to amending his own resolution in order to gain supporters. On July 16, in a 35-23 vote, the Senate adopted the amended version of the resolution. The new text substituted "violates" to "would violate" and removed the final phrase, "and ought to be severely condemned." Thus, as amended, the resolution referred to potential presidential actions without specifically censuring Taft's past behavior.[28]

Censure Attempts (No Resolution Adopted)

Between 1800 and 1952, at least three Presidents were the subject of critical resolutions that were not adopted. In addition, one President (Polk) had his actions condemned by an amendment to a resolution, while another (Tyler) received criticism in a House committee report.

Richard Nixon's years in office (1969-1974) marked a new period in presidential censures. Since 1972, several Presidents have been subject to multiple censure attempts. Most resolutions have used variations of the phrase "censure and condemn" or, in reference to Presidents Nixon and Clinton, called for the President's resignation. In all cases, these resolutions (1972-2016) have been referred to committee with no further action. Information on resolutions dated 1973-present is available from Congress.gov.

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allowed them to reengage in military activities, he was arguably recommissioning them without the consent of the Senate. According to the Constitution, The President "by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States." Article II, Section 2, Clause 2.

[24] *Senate Journal*, 38th Cong., 1st Sess. (May 11-June 15, 1864), pp. 428, 559.

[25] More information on the election case of William Lorimer is available at https://www.senate.gov/artandhistory/history/common/contested_elections/095William_Lorimer.htm.

[26] *Congressional Record*, vol. 48 (July 15, 1912), p. 9062.

[27] *Congressional Record*, (July 16, 1912), p. 9125.

[28] *Congressional Record*, (July 16, 1912), p. 9132.

John Adams (1800)

On February 20, 1800, Representative Edward Livingston of New York (Jeffersonian Republican Party) introduced three resolutions accusing the President of judicial interference. The text described the case of a "fugitive" accused of crimes aboard a British ship. According to the first two resolutions, the President advised a federal judge to release the man into British custody, even though the fugitive claimed to be an American citizen acting in self-defense. The third resolution condemned the President, stating: "his advice and request to the Judge of the District Court ... are a dangerous interference of the Executive with Judicial decisions; and that the compliance with such advice and request on the part of the Judge of the District Court of South Carolina, is a sacrifice of the Constitutional independence of the Judicial power, and exposes the administration thereof to suspicion and reproach."[29] On March 8, the full House voted (61-35) in concurrence with the Committee of the Whole's decision to defeat the three resolutions.[30]

John Tyler (1842)

The Tyler case followed the unexpected death of President William Henry Harrison early in his term of office. Once John Tyler assumed the presidency, he vetoed a number of bills, angering several Members of Congress. On August 10, 1842, the former President, Representative John Quincy Adams of Massachusetts (Whig Party), moved to form a select committee to consider the President's latest veto message and "report thereon."[31] The following week, Representative Adams submitted the committee's report, which recommended a constitutional amendment to lower the threshold to overturn presidential vetoes from a two-thirds vote to a simple majority.[32]

The report itself issued criticism of the President's actions, including his "continual and unrelenting exercise of executive legislation, by the alternate gross abuse of constitutional power and bold assumption of powers never vested in him by any law."[33] On August 17, the House voted (100-80) to approve the report, but did not have the necessary two-thirds support required to adopt the resolution amending the Constitution.[34]

In this case, the House did not approve a censure resolution. Still, the report itself may be considered a form of presidential censure. In response to the criticism, Tyler submitted an official protest, but the House refused to recognize it.[35]

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[29] "Case of Jonathan Robbins," *Congressional Globe*, 6th Cong., 1st Sess. (February 20, 1800), pp. 532-533.

[30] *Congressional Globe*, (March 8, 1800), p. 619.

[31] *Congressional Globe, 27th Cong.*, 27th Cong., 2nd Sess. (August 10, 1842), p. 874.

[32] U.S. Constitution, Article I, Section 7, Clause 2: "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law."

[33] *House Journal*, 27th Cong., 2nd Sess. (August 17, 1842), p. 1349.

[34] *Journal*, p. 1346. At the time, it was considered unusual for the House to approve a report separately from accompanying legislation. However, Representative John Botts successfully moved to divide the question, enabling a separate vote on the report. According to the *Congressional Globe*, "Whilst it was impracticable to carry into effect the object of the resolution, he wished to see who were in favor of the report." *Globe*, 27th Cong, 2nd Sess., (August 17, 1842), p. 907. In current practice, neither house votes to approve a report accompanying a bill or resolution.

[35] "The Protest," *Congressional Globe*, (August 30, 1842), pp. 973-975.

James K. Polk (1848)

On January 3, 1848, the House considered a resolution congratulating Generals Zachary Taylor and Winfield Scott for their military service during the Mexican-American War. Representative George Ashmun of Massachusetts (Whig Party) offered an amendment to a motion to refer the resolution to the Committee on Military Affairs. The amendment instructed the committee to add the phrase, "in a war unnecessarily and unconstitutionally begun by the President" to the resolution. In an 85-81 vote, the House approved the amendment.[36] However, the underlying resolution was never adopted. Instead, both chambers passed a joint resolution in praise of the generals, and this one included no criticism of Polk or the war.[37]

Ulysses S. Grant (1871)

The Grant case followed months of acrimony between the President and Senator Charles Sumner of Massachusetts (Republican Party), who previously served as chairman of the Foreign Relations Committee. As chairman, Senator Sumner led efforts to defeat the President's treaty to annex the Dominican Republic. However, the conflict subsequently led to Sumner's replacement as chairman at the start of the 42nd Congress (March 4, 1871).[38] On March 24, Senator Sumner introduced an eight-part resolution that addressed the President's recent deployment of ships along the Dominican coast. Section five of the resolution called the action, without the authority of Congress, "an infraction of the Constitution of the United States and a usurpation of power not conferred upon the President."[39] On March 27, Senator Sumner modified his own resolution to insert additional text: this "belligerent intervention ... [was] unauthorized violence, utterly without support in law or reason, and proceeding directly from that kingly prerogative which is disowned by the Constitution of the United States."[40] Two days later, the Senate voted 39-16 to table the resolution.[41]

Harry S. Truman (1952)

During the Korean War, steel workers were scheduled to strike on April 9, 1952. However, hours before the scheduled walkout, President Truman issued an executive order directing the Department of Commerce to seize control of steel mills associated with the United Steelworkers

[36] *Congressional Globe*, 30th Cong., 1st Sess. (January 3, 1848), p. 95.

[37] *Congressional Globe*, (February 7, 1848), p. 304; (May 4, 1848), p. 725.

[38] Sumner's stance on the treaty damaged his relationship with Secretary of State Hamilton Fish. According to biographer Frederick J. Blue, pro-Grant Republican senators "used Sumner's break with Fish as proof that his usefulness as chair of the Foreign Relations Committee has been seriously impaired," prompting the Republican Conference to vote, 26 to 21, for Sumner's removal as chairman. Frederick J. Blue, *Charles Sumner and the Conscience of the North* (Arlington Heights, IL: Harlan Davidson, Inc., 1994), p. 194; David T. Canon et al., *Committees in the U.S.* Congress: 1789-1946, vol. 2 (Washington, D.C.: CQ Press, 2002), p. 118.

[39] *Senate Journal*, 42nd Cong., 1st Sess. (March 24, 1871), p. 90.

[40] *Senate Journal*, (March 27, 1871), p. 96.

[41] *Senate Journal* (March 29, 1871), p. 98.

of America.[42] In response, Representative Burr Powell Harrison of Virginia (Democratic Party) introduced H.Con.Res. 207, condemning the seizure as "without authority in law."[43]

The measure marked the first known attempt to reprimand a President with a concurrent resolution. Such measures require the agreement of both houses of Congress. However, on April 9, the resolution was referred to the House Committee on the Judiciary and received no further consideration.[44]

Richard M. Nixon (1972/1973/1974)

Beginning in 1972, President Nixon was the subject of several House resolutions (simple and concurrent) that either sought his censure or called for his resignation. Introduced on January 18, 1972, H.Con.Res. 500 (92nd Congress) addressed the President's conduct during the Vietnam War.[45] It was referred to the House Foreign Affairs Committee. All other resolutions pertained to the President's conduct related to the Watergate break-in (June 17, 1972) and were referred to the House Judiciary Committee.

The first group of Watergate resolutions, submitted between October 23, 1973, and December 4, 1973, followed the firing of special prosecutor Archibald Cox on October 20. The second set, H.Res. 1288 and H.Con.Res. 589 (August 2 and 8, 1974), were submitted after the Judiciary Committee adopted articles of impeachment (July 27-30, 1974).[46]

Three resolutions, H.Res. 684, H.Con.Res. 376, and H.Res. 734, stated that the President "should resign" but did not cite a specific abuse of power. Thus, they arguably could be considered "no confidence" resolutions, not measures explicitly expressing censure.[47]

Nixon resigned on August 9, 1974, one day after the last censure resolution, H.Con.Res. 589, was submitted.

William J. Clinton (1998/1999)

The Clinton resolutions concerned the President's testimony before a grand jury in August 1998. The testimony was alleged to contradict an earlier deposition that the President had given in January. In response, some Members of Congress considered either censuring or impeaching the President for perjury and obstruction of justice.

Introduced between September 1998 and February 1999, five resolutions considered alternatives to impeachment proceedings. H.Res. 531 (September 11, 1998) called for the President's immediate resignation. The resolution, however, also stated that he "abused the office."

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[42] For more information about the steel mill seizure, see Maeva Marcus, *Truman and the Steel Seizure Case: The Limits on Presidential Power* (Durham, NC: Duke University Press, 1994). In June 1952, the Supreme Court ruled that the seizure was not authorized under the Constitution or laws of the United States. U.S. Supreme Court, *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

[43] H.Con.Res. 207 (82nd Congress).

[44] "Steel Plant Seizure." In *CQ Almanac 1952*, 8th ed., 320-25. Washington, DC: Congressional Quarterly, 1953. http://library.cqpress.com/cqalmanac/cqal52-1379437.

[45] According to the resolution, President Nixon violated the law and the "will of Congress," by "failing and refusing" to withdraw American troops from Indochina as directed by the "Mansfield amendment" (Section 601, P.L. 92-156).

[46] For more information on the House's reaction to the President Nixon's Watergate-related conduct, see Remini, *The House*, pp. 437-442.

[47] See CRS Report RL34037, *Congressional Censure and "No Confidence" Votes Regarding Public Officials*, coordinated by Cynthia Brown.

Therefore, the measure might be considered both a resolution of "no confidence" and one of censure. All other resolutions used variations of the phrase, "censure and condemn," in reference to the President's conduct.[48]

H.J.Res. 139 and H.J.Res. 140 were introduced on December 17, 1998, two days before the House approved two articles of impeachment, while H.J.Res. 12 (January 6, 1999) was introduced one day before the start of the President's Senate impeachment trial. The final resolution, S.Res. 44, was introduced on February 12, 1999, the same day that the Senate voted to acquit the President of all charges.

Note that H.J.Res. 139, H.J.Res. 140, and H.J.Res. 12 were joint resolutions.[49] Unlike simple and concurrent resolutions, final approval of joint resolutions requires passage by both houses of Congress, and then the President must sign them or allow them to become law without his signature.[50] These specific joint resolutions also mandated that the President, by his signature, agree to the following conditions: acknowledge censure and condemnation, donate $500,000 to the Treasury, not deliver in person any State of the Union address, not involve himself in Democratic Party or campaign activities, and not serve in public office after his term as President concluded. The joint resolutions' procedural and policy requirements made them the most controversial of the Clinton censure resolutions.[51] However, like the other censure resolutions, H.Res. 531 and S.Res. 44, the joint resolutions were referred to committee without further consideration.[52]

George W. Bush (2005/2006/2007)

The George W. Bush resolutions addressed the Administration's response to the September 11, 2001, attack on the United States and its prosecution of the global war on terrorism. S.Res. 398 charged the "unlawful authorization of wiretaps of Americans." S.Res. 303 and H.Res. 626 targeted President Bush and Attorney General Alberto R. Gonzales; both measures resolved to censure and condemn them for "disregarding statutes, treaties, and the Constitution." The remaining four resolutions, H.Res. 636, H.Res. 530, S.Res. 302, and H.Res. 625 sought to censure either President Bush alone, or in addition to Vice President Richard Cheney, for actions related to the war in Iraq.

S.Res. 302 was referred to the Senate Foreign Relations Committee. The other resolutions were referred to either the House or Senate Judiciary Committees.[53] While no resolutions were reported

[48] For more information on the President Clinton investigation and congressional response, including impeachment proceedings, see Remini, *The House*, pp. 489-495.

[49] See CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by Richard S. Beth.

[50] If a President vetoes a resolution, Congress may attempt to override the veto. Veto overrides require a two-thirds vote in each chamber.

[51] Had the joint resolutions passed, they may have prompted constitutional concerns. See the debate on joint resolutions of censure in the Committee on the Judiciary: U.S. Congress, House Committee on the Judiciary, *Impeachment Inquiry: William Jefferson Clinton, President of the United States*, committee print, 105th Cong., 2nd Sess., December 10, 1998, Ser. No. 18 (Washington: GPO, 1999), p. 646. The Constitution does not give Congress the authority to punish the President outside of impeachment proceedings; furthermore, Congress may not enact "bills of attainder," which are defined by the Supreme Court as legislation that "determines guilt and inflicts punishment upon an identifiable individual without provision of the protections of a judicial trial." United States v. Brown, 381 U.S. 437, 468 (1965); CRS Report R40826, *Bills of Attainder: The Constitutional Implications of Congress Legislating Narrowly*, by Kenneth R. Thomas (out of print; available to congressional clients from the author upon request).

[52] The House resolutions were referred to the Judiciary Committee. The Senate resolution was referred to the Rules and Administration Committee.

[53] H.Res. 530, H.Res. 625, and H.Res. 626 were subsequently referred to the House Subcommittee on the Constitution,

out of committee, the Senate Judiciary Committee, on March 31, 2006, held hearings on S.Res. 398.

Barack Obama (2013/2014/2016)

The five Obama censure resolutions contained a variety of charges. H.Res. 425 (November 20, 2013) charged a failure to execute laws, as well as the "usurpation of the legislative power of Congress." H.Res. 652 (June 26, 2014) charged "actions beyond the laws of the United States." H.Res. 582 (January 7, 2016) cited usurpation of Congress, while H.Res. 588 (January 13, 2016) stated that the President failed to fulfill the duties of Commander in Chief. The final resolution, H.Res. 607 (February 4, 2016), again charged actions beyond the laws and usurpation of Congress.

All measures were simple House resolutions, which were referred to the Judiciary Committee, and subsequently by the committee to its Subcommittee on the Constitution and Civil Justice. The resolutions received no action.[54]

Civil Rights, and Civil Liberties.

[54] In addition to the resolutions attempting to censure President Obama, two additional resolutions sought to "condemn" (but not censure) the Obama Administration: S.Con.Res. 11 (112th Congress) and H.Res. 644 (113th Congress). S.Con.Res. 11 was referred to the Senate Committee on the Judiciary with no further consideration. Introduced on June 25, 2014, H.Res. 644 was referred to the House Committee on Armed Services, ordered reported on July 29, 2014, and adopted in a 249-163 vote on September 9, 2014.

Table 1. Presidential Censure Attempts

(1789-2016, 1st - 114th Congresses)

President (Party)	Congress	Chamber	Date Introduced	Measure(s)	Sponsor (Party)	Language	Final Action
John Adams (Federalist)	6th (1799-1801)	House	February 20, 1800	3 simple resolutions	Edward Livingston (Jeffersonian Republican)	"a sacrifice of the Constitutional independence of the Judicial power, and exposes the administration thereof to suspicion and reproach"	Defeated in Committee of the Whole, March 8, 1800
Andrew Jackson (Democratic Republican)	23rd (1833-1835)	Senate	December 26, 1833	1 simple resolution	Henry Clay (Anti-Jacksonian)	"has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both"	Agreed to on March 28, 1834 (expunged by Senate vote on January 16, 1837)
John Tyler (Whig)	27th (1841-1843)	House	August 17, 1842	House committee report	John Quincy Adams (Whig)	"gross abuse of constitutional power and bold assumption of powers never vested in him by any law"	Report adopted on August 17, 1842
James K. Polk (Democratic)	30th (1847-1849)	House	January 3, 1848	Amendment to a motion to refer a resolution	George Ashmun (Whig)	"a war unnecessarily and unconstitutionally begun by the President"	Amendment adopted January 3, 1848 (underlying resolution did not pass)
James Buchanan (Democratic)	36th (1859-1861)	House	June 11, 1860	5 simple resolutions	Robert Hatton (Opposition)	"the President and Secretary of the Navy ... have set an example dangerous to the public safety, and deserving the reproof of this House"	Agreed to on June 13, 1860
Abraham Lincoln (Republican)	38th (1863-1865)	Senate	May 11, 1864	1 simple resolution	Garret Davis (Unionist)	"the arrangement aforesaid, made by the President and the Secretary of War ... was in derogation of the Constitution of the United States, and not within the power of the President and the Secretary of War, or either of them, to make" (original text)	Amended resolution agreed to on June 15, 1864

President (Party)	Congress	Chamber	Date Introduced	Measure(s)	Sponsor (Party)	Language	Final Action
Ulysses S. Grant (Republican)	42nd (1871-1873)	Senate	March 24, 1871	1 simple resolution	Charles Sumner (Republican)	"an infraction of the Constitution of the United States and a usurpation of power not conferred upon the President"	Tabled on March 29, 1871
Harry S. Truman (Democratic)	82nd (1951-1952)	House	April 9th, 1952	H.Con.Res. 207	Burr Powell Harrison (Democratic)	"without authority in law ... without due process of law" (the resolution's summary uses stronger language: "condemning as unlawful")	Referred to House Committee on the Judiciary
Richard M. Nixon (Republican)	92nd (1971-1972)	House	January 18, 1972	H.Con.Res. 500	Bella Savitzky Abzug (Democratic)	"the aforementioned conduct of the President and the United States should be, and hereby is disapproved and censured"	Referred to the House Foreign Affairs Committee
Nixon	93rd (1973-1974)	House	October 23, 1973	H.Con.Res. 365	Clarence D. Long (Democratic)	"hereby censured and condemned for his publicly announced defiance of the judicial branch"	Referred to House Judiciary Committee
Nixon	93rd (1973-1974)	House	October 30, 1973	H.Con.Res. 371	Clarence D. Long (Democratic)	"hereby censured for his break of public trust and obstruction of the judicial process"	Referred to House Judiciary Committee
Nixon	93rd (1973-1974)	House	November 6, 1973	H.Res. 684	Charles B. Rangel (Democratic)	"should resign from office"*	Referred to House Judiciary Committee
Nixon	93rd (1973-1974)	House	November 7, 1973	H.Con.Res. 376	Clarence D. Long (Democratic)	"should resign from the Office of President"*	Referred to House Judiciary Committee
Nixon	93rd (1973-1974)	House	December 4, 1973	H.Res. 734	Charles B. Rangel (Democratic)	"should resign from office"*	Referred to House Judiciary Committee

President (Party)	Congress	Chamber	Date Introduced	Measure(s)	Sponsor (Party)	Language	Final Action
Nixon	93rd (1973-1974)	House	August 2, 1974	H.Res. 1288	Paul Findley (Republican)	"should be and he is hereby censured for said moral insensitivity, negligence, and maladministration"	Referred to House Judiciary Committee
Nixon	93rd (1973-1974)	House	August 8, 1974	H.Con.Res. 589	Dale Milford (Democratic)	"severely censured for moral insensitivity, gross negligence, maladministration, and the violation of his oath of office"	Referred to House Judiciary Committee
William J. Clinton (Democratic)	105th (1997-1998)	House	September 11, 1998	H.Res. 531	George Radanovich (Republican)	"has abused the Office of President ... should immediately resign"*	Referred to House Judiciary Committee
Clinton	105th (1997-1998)	House	December 17, 1998	H.J.Res. 139	Amo Houghton (Republican)	"fully deserves, the censure and condemnation of the American people and the Congress"	Referred to House Judiciary Committee
Clinton	105th (1997-1998)	House	December 17, 1998	H.J.Res. 140	Paul McHale (Democratic)	"censure and condemn William Jefferson Clinton for having engaged in a pattern of deceitful and dishonest conduct"	Referred to House Judiciary Committee
Clinton	106th (1999-2000)	House	January 6, 1999	H.J.Res. 12	Amo Houghton (Republican)	"by his conduct has brought upon himself, and fully deserves, the censure and condemnation of the American people and the Congress"	Referred to House Judiciary Committee
Clinton	106th (1999-2000)	Senate	February 12, 1999	S.Res. 44	Dianne Feinstein (Democratic)	"censure William Jefferson Clinton ... and does condemn his wrongful conduct in the strongest terms"	Referred to Senate Rules and Administration Committee
George W. Bush (Republican)	109th (2005-2006)	House	December 18, 2005	H.Res. 636	John Conyers, Jr. (Democratic)	"does hereby censure President George W. Bush"	Referred to House Judiciary Committee

President (Party)	Congress	Chamber	Date Introduced	Measure(s)	Sponsor (Party)	Language	Final Action
Bush	109th (2005-2006)	Senate	March 31, 2006	S.Res. 398	Russell Feingold (Democratic)	"does hereby censure George W. Bush, President of the United States, and does condemn his unlawful authorization of wiretaps"	Referred to Senate Judiciary Committee (hearings held)
Bush	110th (2007-2008)	House	July 10, 2007	H.Res. 530	Robert Wexler (Democratic)	"does hereby censure George W. Bush ... and does condemn his ... unconscionable abuse of his authority"	Referred to House Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Civil Liberties
Bush	110th (2007-2008)	Senate	August 3, 2007	S.Res. 302	Russell Feingold (Democratic)	"censures President George W. Bush and Vice President Richard B. Cheney for misleading the American people"	Referred to Senate Foreign Relations Committee
Bush	110th (2007-2008)	Senate	August 3, 2007	S.Res. 303	Russell Feingold (Democratic)	"censures George W. Bush, President of the United States, and Alberto R. Gonzales, Attorney General of the United States, and condemns their lengthy record of undermining the rule of law and the separation of powers"	Referred to Senate Judiciary Committee
Bush	110th (2007-2008)	House	August 4, 2007	H.Res. 625	Maurice D. Hinchey (Democratic)	"censures President George W. Bush and Vice President Richard B. Cheney for misleading the American people"	Referred to House Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Civil Liberties
Bush	110th (2007-2008)	House	August 4, 2007	H.Res. 626	Maurice D. Hinchey (Democratic)	"censures George W. Bush, President of the United States, and Alberto R. Gonzales, Attorney General of the United States, and condemns their lengthy record of undermining the rule of law and the separation of powers"	Referred to House Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Civil Liberties

President (Party)	Congress	Chamber	Date Introduced	Measure(s)	Sponsor (Party)	Language	Final Action
Barack Obama (Democratic)	113th (2013-2014)	House	November 20, 2013	H.Res. 425	Ron DeSantis (Republican)	"disapproves of the President's usurpation of the legislative power of Congress"	Referred to House Judiciary Committee's Subcommittee on the Constitution and Civil Justice
Obama	113th (2013-2014)	House	June 26, 2014	H.Res. 652	Randy K. Weber, Sr. (Republican)	"condemns the President and the executive branch of Government for actions and acts that are beyond the clearly defined laws of the United States"	Referred to House Judiciary Committee's Subcommittee on the Constitution and Civil Justice
Obama	114th (2015-2016)	House	January 7, 2016	H.Res. 582	Steven M. Palazzo (Republican)	"does hereby censure and condemn Barack Obama for having willfully disregarded the legislative powers of the duly elected Congress provided by the Constitution of the United States through his executive actions"	Referred to House Judiciary Committee's Subcommittee on the Constitution and Civil Justice
Obama	114th (2015-2016)	House	January 13, 2016	H.Res. 588	Ted S. Yoho (Republican)	"does hereby censure and condemn President Barack Obama for having willfully disregarded the President's constitutional responsibilities as Commander in Chief of the United States"	Referred to House Judiciary Committee's Subcommittee on the Constitution and Civil Justice
Obama	114th (2015-2016)	House	February 4, 2016	H.Res. 607	Dennis A. Ross (Republican)	"does hereby condemn and censure President Barack Obama"	Referred to House Judiciary Committee's Subcommittee on the Constitution and Civil Justice

Source: *House Journal*, *Senate Journal*, *Annals of Congress*, *Congressional Globe*, *Register of Debates*, *Congressional Record*, *ProQuest Congressional*, and *Congress.gov*.

Notes: * Entries marked with an asterisk called for the President's resignation. If the resolution did not include additional language reprimanding the President or his conduct, it is arguably not a resolution of censure. H.Res. 531 (105th Congress) is both a resolution of "no confidence" and a resolution of censure because it included the phrase, "abused the office."

As of January 2018, two additional resolutions of presidential censure have been referred to committees: H.Res. 496 and H.Res. 700 (115th Congress).

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