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Congressional Censure and "No Confidence" Votes Regarding Public Officials

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Summary

The House and the Senate have, from time to time in the past, proposed and—on some occasions—adopted a resolution which has expressed the body's disapproval, condemnation, censure, or lack of confidence regarding a particular official in the executive branch of the federal government.

Such actions have not been considered as part of the express impeachment authority of the House within the Constitution (nor the authority to try such impeachments in the Senate), nor have they generally been considered as either part of the inherent contempt authority of either house of Congress or the express constitutional authority of each house of Congress to discipline its own Members. Rather, such actions seem to be in the nature of a "sense of the House" or a "sense of the Senate" resolution, whereby a simple resolution is proposed and adopted by one house of Congress, without the concurrence of the other house of Congress, and without a requirement for a "presentment" to the President (as would be required of a "bill"). Such simple resolutions adopted by one house (or concurrent resolutions adopted by both houses) have come to be recognized by parliamentarians as a vehicle to express the opinion and sense of Congress on a nonlegislative matter; and "sense of" the House, Senate, or Congress resolutions concerning a wide range of subjects have been used frequently in the past by the House and Senate.

The adoption of a simple or concurrent resolution expressing the House's or Senate's "censure," "condemnation," or "no confidence" in a particular officer of the federal government does not have any immediate or binding legal import, but does express a particular moral judgment and may have both symbolic as well as political implications.

This report has been updated from an earlier version, and may be updated in the future to reflect new rulings, practices, or precedents.

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Both the House and the Senate have on occasion in the past introduced and adopted resolutions in which the body has expressed its "censure," "condemnation," "no confidence" in, or other term of disapprobation regarding the conduct of an executive branch official. This report examines the legal, constitutional, and legislative framework of such resolutions of censure or no confidence; discusses precedents and known instances where such resolutions have been introduced and/or adopted; and places such actions in the context of other congressional authority, as well as the meaning of such actions in the context of systems of parliamentary governments which do not reflect this country's system of separated powers.

Propriety of Congressional Censure of Public Officials

The issue of the propriety and the authority of Congress or of either house of Congress to officially express an opinion concerning an executive branch officer—such as an opinion that the President should remove an official, or that a Cabinet official should resign, or to otherwise formally reprimand, "censure," or express disapprobation or loss of confidence concerning an executive official—has been debated and questioned from time to time in the House and the Senate.[1]

In early congressional considerations some Members of Congress, in their opposition to resolutions which declared either an opinion of praise or disapproval of the executive, cited the lack of an express constitutional grant of authority for the House or the Senate to state an opinion on the conduct or propriety of an executive officer in the form of a formal resolution of censure or disapproval.[2] Others have argued, including during the consideration of the impeachment of President William Jefferson Clinton, that impeachment was the proper, and exclusive, constitutional response for Congress to entertain when the conduct of federal civil officers is called into question, rather than a resolution of censure.[3] Resolutions expressing disapproval of executive officials considered in the House in 1867, and in the Senate in 1924,[4] were objected to by some Members as interfering with the President's prerogatives in appointments and removals of executive officials, and as labeling with a "brand of shame" an individual in the government without proper proceedings or due process.[5]

Concerning judicial officers, precedents indicate that the House has on occasion either rejected or not dealt with attempts to consider a "censure" motion of federal judges offered by the Judiciary

[1] II HINDS' PRECEDENTS OF THE HOUSE OF REPRESENTATIVES [hereinafter HINDS' PRECEDENTS], §1569, p. 1029 (1907): "While the House in some cases has bestowed praise or censure on the President or a member of his Cabinet, such action has at other times been held to be improper."

[2] II HINDS' PRECEDENTS, at §1569, pp. 1029-1030: "It was objected that the Constitution did not include such expressions of opinion among the duties of the House ...." (Citing debate and vote on a resolution of approval of the President's conduct, which was laid on the table, 20 ANNALS OF THE CONGRESS, 11th Cong., 2nd Sess., at 92 -118, 134-151, 156-161, 164-182, 187-217, 219 (1809)).

[3] "Censure Option Losing Support in House," *The Hill*, September 16, 1998; "Senators Exploring a Form of Censure Are Bumping Into Obstacles," *Washington Post*, January 2, 1999.

[4] Note discussion of House resolution in 1867 expressing opinion on the unfitness for the office of Mr. Henry Smyth (II HINDS' PRECEDENTS, at §1581, pp. 1035-1036), and 1924 Senate resolution indicating its sense that the President "immediately request the resignation" of the Secretary of Navy. 65 CONGRESSIONAL RECORD, 68th Cong., 1st Sess., 2223-2245 (1924).

[5] See discussion of these resolutions in Louis Fisher, "Congress and the Removal Power," in CONGRESS & THE PRESIDENCY, Volume 10, at 67-68 (1983).

Committee as an alternative to articles of impeachment. Parliamentarians have noted an apparent disinclination of the House to consider censure as part of the impeachment procedure.[6]

It has, however, become accepted congressional practice to employ a simple resolution of one house of Congress, or a concurrent resolution by both houses, for certain nonlegislative matters, such as to express the opinion or the sense of the Congress or of one house of Congress on a public matter, and a resolution expressing an opinion of "no confidence" in, or other expression of censure or disapproval of an executive branch official within a concurrent or simple resolution would appear to be in the nature of such a "sense of Congress" or "sense of the Senate" (or House) resolution.[7] The absence of express constitutional language that the Congress, or the House or the Senate individually, may state its opinion on matters of public import in a resolution of praise or censure is not necessarily indicative of a lack of capacity to do so, or that such practice is *per se* unconstitutional. It is recognized in both constitutional law and governmental theory that there are, of course, a number of functions and activities of Congress which are not expressly stated or provided in the Constitution, but which are nonetheless valid as either inherent or implied components of the legislative process or of other express provisions in the Constitution, or are considered to be within the internal authority of democratic legislative institutions and elective deliberative bodies generally.[8]

The practice of the House, Senate, or Congress to express facts or opinion in simple or concurrent resolutions has been recognized since its earliest days as an inherent authority of the Congress and of democratic legislative institutions generally, and the adoption of "sense of" the House or Senate resolutions on various subjects and in reference to various people, is practiced with some frequency in every Congress.[9] As noted, precedent exists for the House or Senate on infrequent occasions to adopt such a "sense of" or similar resolution criticizing, censuring, or condemning a particular public official in the executive branch of government, or that official's conduct.[10]

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[6] The censure of U.S. District Court Judge Harold Louderback, recommended in a Judiciary Committee report in 1933 instead of impeachment, was objected to, for example, by Rep. Earl Michener of Michigan, who explained: "I do not believe that the constitutional power of impeachment includes censure." The recommendation was not approved, and the House adopted as a substitute an amendment impeaching the judge. 3 DESCHLER'S PRECEDENTS OF THE U.S. HOUSE OF REPRESENTATIVES [hereinafter DESCHLER'S PRECEDENTS], Ch. 14, §1.3, p. 400 (1977). In other instances recommendations of censure of judges, as alternatives to impeachment, were made by the Judiciary Committee, but not acted on by the House. *Id*. at 400-401; III HIND'S PRECEDENTS, *supra* at §§2519, 2520.

[7] "Simple resolutions are used in dealing with nonlegislative matters such as expressing opinions or facts .... Except as specifically provided by law, they have no legal effect, and require no action by the other House. Containing no legislative provisions, they are not presented to the President of the United States for his approval, as in the case of bills and joint resolutions." 7 DESCHLER'S PRECEDENTS, Ch. 24, §6. "[Concurrent resolutions] are not used in the adoption of general legislation. ... [They] are used in ... expressing the sense of Congress on propositions .... A concurrent resolution does not involve an exercise of the legislative power under article I of the Constitution in which the President must participate." *Id.* at §5. Brown, HOUSE PRACTICE, 108th Congress, 1st Sess., at 168: "Simple or concurrent resolutions are used ... to express facts or opinions, or to dispose of some other nonlegislative matter." See also Riddick & Frumin, RIDDICK'S SENATE PROCEDURE, 1202 (1992).

[8] The most common example of inherent or implied authority of Congress is the oversight and investigatory authority of either house, including the power to compel attendance of witnesses and production of documents. Such authority is not expressly provided in the Constitution, but the ability to collect facts and opinions, and to publish such opinions and facts, are considered inherent in the authority to legislate. McGrain v. Daugherty, 273 U.S. 135 (1927); Watkins v. United States, 354 U.S. 178, 187, 200 (1957).

[9] See note 7, *supra;* Cushing, ELEMENTS OF THE LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES IN THE UNITED STATES OF AMERICA [hereinafter CUSHING] at 314 (1856). In the 105th Congress, for example, the House unanimously adopted a resolution to "condemn" as a "racist act" the alleged actions of three expressly named individuals in Texas who were arrested in connection with what is reported as a racially motivated homicide (H.Res. 466, 105th Cong.).

[10] See, for example, CRS Report 98-983, *Censure of Executive and Judicial Branch Officials: Past Congressional*

Relation to Other Forms of Congressional Action

The resolutions or statements both the House and the Senate have adopted in the past concerning a government official, other than a Member of Congress, have expressed disapproval, censure, or opinion that an officer should be removed. Such an expression of opinion, censure, disapproval or lack of confidence in or of a federal officer by the House, the Senate, or the Congress is not an "impeachment" of that civil officer under Article I, Section 2, clause 5 and Section 3, clause 6 of the Constitution;[11] nor is it a "punishment" of one of the House's or Senate's *own* Members under Article I, Section 5, clause 2.

Furthermore, a censure or vote of no confidence would also not, in most cases, be within those inherent or implicit authorities, in the nature of contempt, typically imputed to democratic legislative assemblies to protect the dignity and integrity of the institution, its members and proceedings.[12] Finally, because there is no legal consequence to a resolution expressing an opinion of the Senate or the House, and because such expression in a simple resolution does not appear to technically be a "bill" referred to in the constitutional prohibition on "bills of attainder," it is unlikely that such an expression would violate that constitutional restriction on Congress.[13]

"No Confidence" Votes in a System of Separated Powers

In addition to using words of disapproval such as "condemn" or "censure," the House or the Senate have considered resolutions which have used language expressing a loss of confidence in an official, and which have been described as proposing a vote of "no confidence" in an executive branch official.[14]

The use of the term "vote of no confidence" to reflect a Senate, House or joint congressional action on a resolution concerning an official of the executive branch might be somewhat misleading because of the particular nature and impact of "no confidence" votes in parliamentary democracies. A vote of no confidence has a technical meaning and concrete consequences only in a parliamentary form of government, in which the continuance of the executive in office is dependent on its maintaining majority support in the parliament (or one house thereof). The American system of separated powers, on the other hand, makes no provision for votes of no confidence in the parliamentary sense. Except through the process of impeachment, accordingly,

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Proceedings, by Richard S. Beth (archived, available to congressional clients from the author on request). See discussion of legal propriety of such actions, and precedents, in Bar of the City of New York, Committee on Federal Legislation, *Alternatives to Impeachment: What May Congress Do?* RECORD OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, Vol. 54, No. 1, pp. 13-32 (January/February 1999).

[11] See 3 DESCHLER'S PRECEDENTS, Ch. 14, §1.

[12] As to inherent contempt authority, see Anderson v. Dunn, 19 U.S. 204 (1821). Note, generally, CUSHING, *supra* at 245-255, 255-272. Since such action does not bear upon the proceedings and privileges of the House, and is not part of impeachment, such a resolution might not be considered to be a privileged resolution. See 3 DESCHLER'S PRECEDENTS, Chapter 14, §1, p. 401.

[13] Article I, Section 9, clause 3. See Nixon v. Adm'r. of Gen. Servs., 433 U.S. 425, 468 (1977); note definition of "bill" in 7 DESCHLER'S PRECEDENTS, Ch. 24, §2.

[14] See, for example, H.Res. 324, 98th Cong.;H.Res. 417, H.Res. 803, H.Res. 804, H.Res. 819, S.J.Res. 14, andS.Res. 631, 110th Cong.; H.Con.Res. 76, H.Res. 490, andS.J.Res. 26, 112th Cong.; H.Res. 35, 113th Cong.

no action by the Congress (or of either house) can have any practical effect similar to that of a parliamentary vote of no confidence.

For example, votes of "no confidence" or "votes of censure" in the British Parliament,[15] are votes instituted in Parliament by the opposition party which, if they succeed, indicate that the Government no longer has the support of the majority of Parliament (including the Government's own party members), and thus lead to a dissolution of the Government and new elections.[16] Under the U.S. system of government, with the constitutional scheme of separated powers, the legislature—Congress—does not impact directly the removal of officials in the executive branch of the federal government (other than through impeachments). Adoption of a resolution expressing a lack of confidence could have symbolic effects as an expression of the sense of Congress (or of either house). A vote expressing "no confidence" of the Senate or the House in a particular official of the government, while it may certainly have political implications, would have no specific legal import.

Characteristics of Resolutions Proposed Since 1973

These resolutions, expressing the disapproval of Congress (or of either house) with an official of the executive branch, have in the past sometimes been submitted, and occasionally adopted.[17] For recent years, it has been possible to identify resolutions of this kind systematically through a search of the Legislative Information System of the Congress (LIS), which includes a database of introduced measures extending back to the 93rd Congress (1973-1974). An initial search identified simple and concurrent resolutions described with any form of the terms "confidence," "censure," or "condemnation." On the basis of information independently acquired about resolutions offered in the early 1950s against Secretary of State Dean Acheson, the search was also extended to include simple and concurrent resolutions described with any form of the term "resignation." From among the measures identified by these searches, those relating to federal officials other than Members of Congress were selected.[18] These searches together yielded 59 resolutions submitted from the 93rd through 114th Congresses (1973-2016) and directed against federal officials. Information about the subject and form of these measures is presented in the **Appendix**.

Terms of Disapprobation Used

It appears that such resolutions have been more often stated in terms of censure or condemnation, or as calls for resignation. Of the 59 resolutions identified by the search, 30 expressed censure of the official, condemnation of the official or his or her actions, or both. In 26 of the resolutions the official in question was asked to resign or the President called upon to request resignation, often coupled with other forms of disapproval or disapprobation, including censure, condemnation, or no confidence.

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[15] Although the phrase "vote of no confidence" is generally used in the United States to describe the process, in England, the completed vote on a motion introduced by the opposition is referred to as a "vote of censure."

[16] ERSKINE MAY'S TREATISE ON THE LAW, PRIVILEGES, PROCEEDINGS AND USAGE OF PARLIAMENT, Twenty-second edition (Sir Donald Limon and W.R. McKay, editors), at pp. 280-281 (1997). See William Safire, SAFIRE'S POLITICAL DICTIONARY, at 768 (1978): "[I]f a motion of no confidence is introduced by the opposition in the House of Commons and passes, the result is called a *vote of censure* (although it contains the words "no confidence," it is not referred to as a *vote of no confidence*, except in America); in that case, the government is 'upset' or 'falls,' and an election is called."

[17] For examples, see CRS Report 98-983, *Censure of Executive and Judicial Branch Officials: Past Congressional Proceedings*, by Richard S. Beth (archived, available to congressional clients from the author on request).

[18] One of the resolutions included proposes to censure a former official for acts subsequent to leaving office; it was included in the analysis on the principle that borderline cases were better taken into consideration than ignored.

In 11 of the resolutions identified, a loss of or no "confidence" was expressed, coupled with a call for the official to resign or for the President to request the resignation of such official. In only 4 of the recent resolutions has a loss of confidence been stated unaccompanied by reference to any other form of disapprobation. The use solely of this language might suggest a lack of awareness that the reference to a loss of confidence, in the American context, lacks any distinctive or special force not shared by other terms in which resolutions with similar prospective effects have been couched. The use of "no confidence" language would not suffice actually to endow the proposal uniquely with any such distinctive or special force. In none of the recent instances, since the 93rd Congress, has a sense of Congress resolution expressing "no confidence" in an executive official been adopted.

Preambles

Most of the resolutions identified that were submitted in or after 1973 have included a preamble stating the reasons for the congressional disapproval. Of the total number of resolutions, it appears that just five lacked such a preamble.

Inclusion of "Sense" Language

Similarly, 23 of the resolutions identified by electronic search explicitly declared themselves to be statements of the sense of the Congress or of the house acting (usually in those terms, though a few refer instead to the "sentiment" or "judgment" of Congress or either house). This form of language again appears consistent with an understanding that any such measure could have symbolic, rather than determinative, effects.

Form of Measure

The resolutions identified through the electronic search were generally either concurrent resolutions or simple resolutions of one house. In certain more recent instances, however, the form of the measure introduced was a joint resolution. Use of simple and concurrent resolutions suggests awareness that adoption of such a measure would have no imperative force parallel to that of a vote of no confidence or censure in a parliamentary system. By contrast, even though the language in certain proposed joint resolutions appear to disavow any mandatory intent, by stating itself as an expression of the sense of the Senate or House, the measure was couched as a joint resolution. Joint resolutions, however, are normally lawmaking vehicles, and require passage by both chambers and presentation to the President. It is not clear what proponents intended by submitting the measures in this form, which would have the effect of affording the other house of Congress and the President a role in stating what the sense of the Senate or House is.

Legislative Action

As of this writing, in only one instance has the House or Senate, or the Congress (for a concurrent resolution), finally adopted any of the resolutions identified in the present search (from the 93rd Congress on), and on none but three did any floor action occur at all. In 1997 (105th Congress), the House adopted H.Con.Res. 197, declaring that Sara A. Lister, Assistant Secretary of the Army for Manpower and Reserve Affairs, should resign or be removed. However, since this was a concurrent resolution (which needed both houses to approve), it was not adopted by Congress as the Senate took no action. In 1999 (106th Congress), the Senate rejected an attempt to bring to the floor S.Res. 44, censuring President Clinton. In 2014 the House adopted a simple resolution (H.Res. 644, 113th Congress), which—although not censuring or condemning a particular

individual—did state that the House "condemns and disapproves of the failure of the Obama administration" to give the required 30-day notice to Congress concerning the prisoner swap from the detention center at Guantanamo Bay, Cuba.

Examples of Earlier Resolutions

No feasible means appeared of comprehensively identifying similar measures for the period preceding the availability of electronically searchable data. In the historical period before that covered by the LIS database, nevertheless, several instances are known in which the House or the Senate expressed a specific opinion disapproving of conduct of an executive official, or suggesting that a particular executive officer resign or be removed by the President.[19]

The instances discussed in this section constitute only examples of congressional actions. They are known not to compose a comprehensive list of all resolutions to censure executive (and judicial) officials that may have been adopted or considered by either house. Accordingly, available information can permit no definite assertion whether a vote of no confidence fully similar to that proposed, for example, by S.J.Res. 14 has ever previously occurred in American history. It might be considered unlikely, however, that resolutions critical of officials during earlier periods of history would have been couched solely in terms of "no confidence," because proponents would likely have understood that these terms have a technical meaning only in a parliamentary system of government.

Censure and Condemnation

The earliest attempt to censure an official found thus far concerned a series of resolutions proposing the censure and disapproval of Secretary Alexander Hamilton in 1793, the texts of which were considered by historians to have been drafted by Thomas Jefferson for introduction by Representative William Branch Giles of Virginia.[20]

In 1860, the House of Representatives adopted a resolution stating that the conduct of the President, and his Secretary of the Navy, was deserving of its "reproof," in a matter concerning the alleged conduct of President Buchanan and his Secretary of the Navy in allowing political considerations and alleged campaign contribution "kickbacks" to influence the letting of government contracts to political supporters, rather than the lowest bidder.[21] After debating both the substance of the charges and the authority of the House to adopt such a resolution,

[19] The examples discussed in the section on "Censure and Condemnation" are drawn from CRS Report 98-983, *Censure of Executive and Judicial Branch Officials: Past Congressional Proceedings*, by Richard S. Beth (archived, available to congressional clients from the author on request). For additional examples, see also Bar of the City of New York, Committee on Federal Legislation, *Alternatives to Impeachment: What May Congress Do?* RECORD OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, Vol. 54, No. 1, pp. 13-32 (January/February 1999).

[20] Sheridan, Eugene R., "Thomas Jefferson and the Giles Resolutions," WILLIAM AND MARY QUARTERLY, Third Series, Volume 49, Issue 4, at 589-608 (October 1992). The resolutions did not pass.

[21] *"Resolved*, That the President and Secretary of the Navy, by receiving and considering the party relations of bidders for contracts with the United States, and the effect of awarding contracts upon pending elections, have set an example dangerous to the public safety, and deserving the reproof of this House." CONGRESSIONAL GLOBE, 36th Congress, 1st Sess., 2951 (June 13, 1860).

characterized by one Member as "censur[ing] indiscriminately the President of the United States and the Secretary of Navy,"[22] the House adopted the resolution 106-61.[23]

The Senate adopted a resolution in 1886 in which it expressed its "condemnation" of President Cleveland's Attorney General A.H. Garland concerning his refusal to provide certain records and papers to the Senate about the removal from office of a district attorney by the President.[24]

In 1896, the House adopted a resolution where it found that a United States Ambassador, by his speech and conduct "has committed an offense against diplomatic propriety and an abuse of the privileges of his exalted position," and therefore, "as the immediate representatives of the American people, and in their names, we condemn and censure the said utterances of Thomas F. Bayard."[25]

Resignation and No Confidence

Some congressional resolutions over the years have merely found misconduct on the part of an executive officer and urged the President to seek the officer's resignation, without expressing a specific term of censure or condemnation, or a specific expression of loss of "confidence." For example, after having conducted investigations into the conduct of the administration of the New York custom-house by Mr. Henry Smyth, and finding that "there is not sufficient time prior" to adjournment to finish the matter, the House expressed in a resolution "Henry A. Smyth's unfitness to hold the office," and recommended that he "should be removed from the office of collector."[26]

Similarly, the Senate in 1924, during the Teapot Dome investigation passed a resolution indicating its sense that the President "immediately request the resignation" of the Secretary of Navy.[27]

In the 81st and 82nd Congresses (1949-1952), six resolutions were submitted containing demands for the resignation of Secretary of State Dean Acheson, and one seeking that of Secretary of Defense George C. Marshall. All of these resolutions, unlike many more recent measures, lacked preambles setting forth the reasons for the action. These measures provide one of the few earlier instances known that were described as proposing votes of no confidence in the respective officials. Three of the seven resolutions explicitly stated a popular loss of confidence along with (but not instead of) the calls for resignation (although one did so only in the preamble). Several of these resolutions, apparently including those whose text did not contain this explicit phrase, were also described, in public discussion, as declarations of no confidence. Finally, during the same time period, a loss of public confidence in Secretary Acheson was declared by votes of the Republican Conference in at least one chamber. These events illustrate that a resolution may be described as a "no confidence" measure without having the characteristics that would make it equivalent to an actual vote of no confidence in a parliamentary system.

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[22] *Id.* at 2951. (Mr. Clark of Missouri).

[23] *Id.* at 2951.

[24] 17 CONGRESSIONAL RECORD, 49th Cong., 1st Sess., pp. 1584-1591, 2784-2810 (March 26, 1886): "*Resolved,* That the Senate hereby expresses its condemnation of the refusal of the Attorney-General, under whatever influence, to send to the Senate copies of papers called for by its resolution of the 25th of January, and set forth in the report of the Committee on the Judiciary, is in violation of his official duty and subversive of the fundamental principles of the Government and of a good administration thereof."

[25] 28 CONGRESSIONAL RECORD, 54th Cong., 1st Sess., p. 3034 (March 20, 1896).

[26] CONGRESSIONAL GLOBE, 40th Cong., 1st Sess., pp. 255-256, 282-285, 394-395 (1867).

[27] 65 CONGRESSIONAL RECORD, 68th Cong., 1st Sess., 2223-2245 (February 11, 1924).

Concluding Observations

Although there has been discussion in both houses of Congress of the appropriateness of such actions, resolutions have been introduced and considered in each house of Congress in the past, and on occasion have been adopted, wherein the House or the Senate has expressed the "sense" of the institution that an official in the executive branch has engaged in conduct worthy of censure, condemnation, or other expression of disapprobation; should resign or be removed by the President; and, in a few circumstances, expressly stating in the preamble or the operative portion of the resolution that the public or the particular house of Congress has lost "confidence" in the official. Such actions and proposals would appear to be in the nature of "sense of Congress" or "sense of the Senate" (or House) resolutions in which it has been the practice for the Senate or the House to address certain nonlegislative matters, such as to express the opinion or the sense of Congress or of one house of Congress on a public matter.[28] Aside from obvious symbolic, political, or publicity implications, there are no specific legal consequences in the passage of such a resolution, nor is there any legal significance or consequence for the Senate or the House to choose one phrase of disapprobation or condemnation over another, or to include or not to include the concept or expression of a loss of "confidence" in an official.

To the extent that a resolution containing a "vote of no confidence" purports to present a proposition functionally similar to a vote of no confidence in a parliamentary system, present knowledge does not permit identifying any similar proposition as having been offered in the past. On the other hand, to the extent that such resolution purports to present such a proposition, it cannot, under the American constitutional system, succeed in doing so. Instead, the proposition actually presented by a resolution of this nature can only be that of expressing congressional disapproval of a federal official, and in that general respect the resolution is not dissimilar from a number of others that have been offered, from time to time, throughout American history.

[28] 7 DESCHLER'S PRECEDENTS, Ch. 24, §6; Riddick & Frumin, RIDDICK'S SENATE PROCEDURE, 1202 (1992).

Appendix. Examples of Congressional Resolutions Expressing Disapprobation of Executive Branch Officials, 1973-2016

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics) Floor Action*
				Loss of Confidence	Resignation	Censure	
93	H.Con.Res. 371 10/20/1973	President Richard M. Nixon	Preamble; sense of Congress			Censure	Each resolution also states that this action carries no prejudice to impeachment
93	H.Con.Res. 365 10/23/1973	President Richard M. Nixon	Preamble; sense of Congress			Censure, condemn	
93	S.Res. 191 10/23/1973	Solicitor General (Acting Attorney General) Robert Bork	Preamble			*In title:* censure; *in body:* condemn	
93	H.Con.Res. 376 11/7/1973	President Richard M. Nixon	Preamble; sense of Congress		Should resign		
93	H.Res. 684 11/6/1973	President Richard M. Nixon	Preamble; Judgment of House		Should resign		Identical resolutions also ask that Nixon first nominate someone other than Gerald Ford to be Vice President
93	H.Res. 734 12/4/1973	President Richard M. Nixon	Preamble; Judgment of House		Should resign		
93	H.Res. 1288 8/4/1974	President Richard M. Nixon	Preamble			Censure	
93	H.Con.Res. 589 8/6/1974	President Richard M. Nixon	Preamble; sense of Congress			Censure	Also sense of Congress that if Nixon resigns, impeachment not be pursued

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics)* *Floor Action*
				Loss of Confidence	Resignation	Censure	
96	H.Con.Res. 146 6/26/1979	Secretary of Energy James Schlesinger			Should resign		
96	H.Con.Res. 161 7/12/1979	Secretary of Energy James Schlesinger	Preamble		Should resign		
97	H.Con.Res. 242 12/16/1981	Environmental Protection Agency Director Anne Gorsuch	Preamble; sense of Congress		Should resign		
97	H.Con.Res. 247 1/26/1982	Federal Reserve Board Chairman Paul Volcker	Preamble; sense of Congress		Should resign		
98	H.Res. 321 9/28/1983	Secretary of the Interior James Watt	Sense of House		President should ask		
98	H.Res. 324 9/29/1983	Secretary of the Interior James Watt	Preamble; sense of House	*in preamble:* people lost	President should ask		
98	H.Con.Res. 249 2/2/1984	Secretary of Defense Caspar Weinberger	Sense of Congress		Should resign		
103	H.Res. 545 9/23/1994	Surgeon General Jocelyn Elders	Preamble; sense of House		President should ask		
103	H.Con.Res. 297 9/26/1994	Surgeon General Jocelyn Elders	Preamble; sense of Congress		President should ask		
104	H.Res. 283 11/28/1995	Secretary of Energy Hazel O'Leary	Preamble; sense of House		President should ask		Also provisions on reimbursement

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics)* *Floor Action*
				Loss of Confidence	Resignation	Censure	
104	H.Res. 308 12/15/1995	Secretary of Energy Hazel O'Leary	Preamble; sense of Congress		President should ask		Also provisions on investigation and reimbursement
105	H.Con.Res. 197 11/13/1997	Assistant Secretary of the Army for Manpower and Reserve Affairs Sara E. Lister	Preamble		Should resign or be removed		*House adopted, 11/13/1997.* *No action in Senate.*
105	H.J. Res.139 12/17/1998	President William Jefferson Clinton	Preamble; sense of Congress			President to acknowledge censure and condemnation	
105	H.J. Res. 140 12/17/1998	President William Jefferson Clinton	Preamble			Censure and condemn	
105	H.Res. 531 9/11/1998	President William Jefferson Clinton	Preamble		House calls upon to resign		
106	H.J. Res. 12 1/6/1999	President William Jefferson Clinton	Preamble; sense of Congress			President to acknowledge censure and condemnation	
106	S.Res. 44 2/12/1999	President William Jefferson Clinton	Preamble			Censure; condemn conduct	*Senate rejected attempt to bring to floor, 2/12/1999*
106	H.Res. 416 2/7/2000	U.S. District Judge Alan McDonald	Preamble			Condemn conduct	
108	H.Res. 419 10/28/2003	Deputy Undersecretary of Defense Lieutenant General William Boykin	Preamble			President should censure	

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics) Floor Action*
				Loss of Confidence	Resignation	Censure	
108	H.Res. 420 10/28/2003	Deputy Undersecretary of Defense Lieutenant General William Boykin	Preamble			Condemn rhetoric	
108	H.Con.Res. 323 11/7/2003	Secretary of Defense Donald Rumsfeld	Preamble		President should ask		
109	H.Con.Res. 470 9/13/2006	Secretary of Defense Donald Rumsfeld	Preamble; sense of Congress		Effect resignation		"Replace" in title; not found by search
109	S.Res. 262 9/30/2005	former Secretary of Education William J. Bennett	Preamble			Condemn statement	
109	H.Res. 636 12/18/2005	President George W. Bush	Preamble			Censure	
109	H.Res. 637 12/18/2005	Vice President Richard B. Cheney	Preamble			Censure	
109	S.Res. 398 3/13/2006	President George W. Bush	Preamble			Censure; condemn actions	
110	H.Res. 417 5/21/2007	Attorney General Alberto Gonzalez	Preamble	House and American people have	Urge President to request		
110	H.Res. 530 7/10/2007	President George W. Bush	Preamble			Censure and condemn decision	
110	H.Res. 625 8/4/2007	President George W. Bush and Vice President Richard B. Cheney	Preamble			Censure	

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics) Floor Action*
				Loss of Confidence	Resignation	Censure	
110	H.Res. 626 8/4/2007	President George W. Bush and Attorney General Alberto Gonzalez	Preamble			Censure and condemns	
110	H.Res. 803 11/6/2007	Consumer Product Safety Commission Chair Nancy Nord	Preamble; sense of House	House has lost confidence	Urge President to request		
110	H.Res. 804 11/6/2007	Consumer Product Safety Commission Chair Nancy Nord	Preamble; sense of House	House has lost confidence	Urge President to request		
110	H.Res. 819 11/13/2007	Consumer Product Safety Commission Chair Nancy Nord	Preamble; sense of House	House has lost confidence	Urge President to request		
110	S.J.Res. 14 5/24/2007	Attorney General Alberto Gonzalez		Sense of Senate, no longer holds confidence of Senate and American people			Cloture vote failed, 6/11/2007
110	S.Res. 302 8/3/2007	President George W. Bush and Vice President Richard B. Cheney	Preamble			Censure	
110	S.Res. 303 8/3/2007	President George W. Bush and Attorney General Alberto Gonzalez	Preamble			Censure	
110	S.Res. 631 7/29/2008	Environmental Protection Agency Administrator Stephen L. Johnson	Preamble; sense of Senate	Senate lost confidence	Should resign		

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics) Floor Action*
				Loss of Confidence	Resignation	Censure	
111	H.Res. 1732 11/18/2010	Chairman of the Nuclear Regulatory Commission	Preamble			Condemns unilateral decision of	
112	H.Con.Res. 25 3/3/2011	Obama Administration	Preamble			Condemns Administration's action	
112	H.Con.Res. 76 9/8/2011	Secretary of the Treasury Timothy Geithner		Sense of Congress; no longer holds confidence of Congress or the people			
112	H.Res. 490 12/12/2011	Attorney General Eric Holder	Preamble	Sense of the House that Congress has lost confidence			
112	H.Res. 635 4/27/2012	EPA Administrator for South Central Region Mr. Al Armendariz	Preamble		Not suitable to secure domestic energy development; should resign		
112	S.Con.Res. 11 4/6/2011	Obama Administration	Preamble; sense of Congress			Condemns Administration's action	
112	S.J.Res. 26 9/7/2011	Secretary of the Treasury Timothy Geithner		Sense of Congress; no longer holds confidence of Congress or the people			

Congress	Measure Number and Date of Introduction	Official	Framing	Provisions on			Notes and *(in italics) Floor Action*
				Loss of Confidence	Resignation	Censure	
113	H.Res. 35 1/18/2013	Attorney General Eric Holder	Preamble	Sense of the House that Congress has lost confidence	Should resign		
113	H.Res. 644 6/25/2014	Obama Administration	Preamble			Condemns and disapproves of "Obama administration" failure to give Congress required notice on prisoner swap.	*Passed House, 9/9/2014*
113	H.Res. 652 6/26/2014	President and executive branch	Preamble			Condemns for actions	
114	H.Res. 582 1/7/2016	President Barack Obama	Preamble			Censure and condemn	
114	H.Res. 588 1/13/2016	President Barack Obama	Preamble			Censure and condemn	
114	H.Res. 607 2/4/2016	President Barack Obama	Preamble			Censure and condemn	
114	H.Res. 737 5/18/2016	IRS Commissioner John A. Koskinen	Preamble	`	Should resign	Censure and condemn	Should forfeit federal pension annuity *Reported from H. Oversight & Gov't Reform Comm. 6/15/2016*

Source: Legislative Information System of the U.S. Congress; *Congressional Record*.

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