

Censure threatens separation of powers – The Framers' decision to confine legislative sanctioning of executive officials to removal upon impeachment was carefully considered. By forcing the House and Senate to act as a tribunal and trial jury, rather than merely as a legislative body, they infused the process with notions of due process. The requirement of removal upon conviction accentuates the magnitude of the procedure, encouraging serious deliberation among members of Congress. Most importantly, by refusing to include any consequences less serious than removal as outcomes of the impeachment process, the Framers made impeachment into such an awesome power that Congress could not use it to harass executive officials or otherwise interfere with the operations of coordinate branches of government.

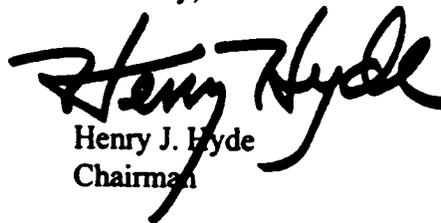
Censure fails to meet constitutional muster – The Constitution clearly contemplates a single procedure for Congress to address the derelictions of a civil officer -- impeachment by the House, and subsequent trial by the Senate. Article II of the Constitution also specifies the necessary consequence of conviction in an impeachment case: "The President, the Vice-President and all civil officers shall be removed from Office on Impeachment for, and, Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors."

Article I states that "Judgment in cases of Impeachment will not extend further than removal from office, and disqualification to hold and enjoy any Office of honor, Profit or Trust under the United States." This provision, however, does not authorize Congress to impose legislative punishments short of removal. Read together, the impeachment clauses require removal upon conviction, but allow the Senate at its discretion to impose a single additional penalty -- disqualification from future office.

In addition, any Resolution of Censure that seeks to impose a fine or other punitive remedy would be constitutionally suspect as violating the prohibition on Bills of Attainder contained in Article I, Section 9, clause 3.

In conclusion, the Framers of the Constitution carefully laid out a clear plan for Congress to address the issue of executive misconduct – impeachment by the House and subsequent trial by the Senate. It is my strong recommendation that we work within that context by allowing the House to consider the recommendation of the Committee in accordance with the rules and precedents of the House.

Sincerely,



Henry J. Hyde
Chairman

cc: Honorable John Conyers, Jr.