

115TH CONGRESS
2D SESSION

H. CON. RES. 132

Expressing the sense of Congress that the President does not have the authority under the Constitution to grant himself reprieve or pardon for offenses against the United States.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2018

Ms. MAXINE WATERS of California (for herself, Ms. BASS, Mr. JOHNSON of Georgia, Mr. MEEKS, Ms. CLARKE of New York, Mr. CARSON of Indiana, Mr. DANNY K. DAVIS of Illinois, Mr. COHEN, Mr. MCGOVERN, Mr. SERRANO, and Ms. LEE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Expressing the sense of Congress that the President does not have the authority under the Constitution to grant himself reprieve or pardon for offenses against the United States.

Whereas while article II, section 2 of the Constitution vests in the President the power to grant reprieves and pardons for offenses against the United States, there is an overriding fundamental common law rule, *nemo iudex in causa sua*, which holds that no one may be a judge in his own case;

Whereas the Constitution and laws of the United States, and any actions pursuant thereto, must adhere to fundamental and common sense principles of law;

Whereas one of the Framers of the Constitution, James Madison, declared in the 10th essay of the Federalist Papers that “[n]o man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity”;

Whereas another Framers of the Constitution, Alexander Hamilton, wrote in the 74th essay of the Federalist Papers that the pardon power exists as a matter of “humanity and good policy”, and that the President must reflect on “the fate of a fellow-creature depended on his sole fiat”, which clearly suggests that the President is the grantor of pardons to another, and exercises this power to the benefit of another and not to the benefit of himself;

Whereas understanding the fundamental rules of law, no President in the history of the United States has ever attempted to pardon himself;

Whereas the executive branch, through the Department of Justice Office of Legal Counsel, itself opined in an August 5, 1974, legal opinion that the Executive, the President, cannot pardon himself;

Whereas when faced with the prospect of criminal prosecution, President Richard Nixon appeared to acknowledge the limitations of the President’s pardon power as expressed in the August 5, 1974, Department of Justice Office of Legal Counsel memorandum when he resigned without attempting to act contrary to the memorandum;

Whereas if a President were to pardon himself, such an action would directly and inherently violate the common law, as well as the President's duty under article II, section 3 of the Constitution to take care that the laws be faithfully executed;

Whereas no reasonable rationale exist for the Framers of the Constitution to have intended to bestow upon the President the power to exempt himself from accountability to the law; and

Whereas the rule of law is meaningless if any person or entity, including the President, is beyond the law's reach: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
 2 *concurring)*, That it is the sense of Congress that the
 3 President does not have the authority under the Constitu-
 4 tion to grant himself reprieve or pardon for offenses
 5 against the United States.

○