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GENERAL ASSEMBLY
STATE OF ILLINOIS
HOUSE OF REPRESENTATIVES

SELECT COMMITTEE ON DISCIPLINE OF THE NINETY-SEVENTH GENERAL ASSEMBLY

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Minority Spokesman

Rep. Chapin Rose

Members

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Rep. Michael G. Connelly
Rep. Kimberly du Buclet
Rep. Greg Harris
Rep. Renée Kosel
Rep. Camille Y. Lilly
Rep. Sidney H. Mathias
Rep. Chris Nybo
Rep. Al Riley
Rep. Joe Sosnowski

MINORITY REPORT
OF THE
SELECT COMMITTEE ON DISCIPLINE
DISSENTING FROM RECOMMENDED
PENALTY

Dissent of Representative Al Riley as to Recommended Penalty:

At the July 19, 2012 meeting of the House Select Committee on Discipline, I voted “aye” on the Charges and Specifications against Rep. Derrick Smith. I voted “nay” on the recommendation of the punishment of expulsion for Rep. Smith, proffered by the House Managers. My “no” vote was not an indication on my part that no punishment was warranted in this case. Indeed, had our individual votes for one of the four possible options been solicited, mine would have been for censure. My choice of censure is now in the public record after numerous inquiries by the print and electronic media. My thoughts were that censure was the more appropriate punishment for a number of basic reasons. First, notwithstanding the fact that Rep. Smith has yet to be convicted for anything, the situation he finds himself in does warrant a strong, formal public rebuke by, and before his colleagues. The second reason is, in my opinion, the electoral franchise should not be taken away from the people of the 10th Representative District so close to the General Election of 2012. The vagaries of the electoral process that the people of the 10th Representative District have recently faced, or suffered through, are also a matter of public record. It was thus my belief that, at this time, they should be the arbiters of their political future.

During the course of the entire disciplinary process, many differing opinions on aspects of these proceedings have been advanced in the public arena. One was whether the House Select Committee on Discipline (the “Committee”), ergo the full House, had the right to discipline a member at all. Even though I took a contrarian view on expulsion, I fully affirm that we do have that right. We have that right and indeed duty, by statute and by rule. We should have the right to discipline one of our members; decorum and conduct being important and expected in our role of proxies for the people of the State of Illinois. Again, my concerns revolved around what punishment would be appropriate given the totality of circumstances concerning this particular case.

On numerous occasions throughout this hearing, “member’s discretion” was mentioned in the context of the latitude that we would have in making a decision on punishment. In my mind, that discretion has many meanings. It may denote the uncharted nature of this sort of proceeding due to its rarity. It might point to the wide latitude that we would have individually as to levying a sanction against a member. Most importantly, it may indicate the need for additional work on clarifying or making more succinct our rules, procedures and parameters in invoking these hearings and meting out of punishment, if warranted. One hundred seven years have elapsed since the last expulsion of a member of the House. That was the now-famous Comerford case where a Representative was expelled after, ironically, accusing fellow members of bribery. In my own examination of Comerford, many felt that his expulsion was capricious in nature. But some thought that his statements at the law school were libelous and rose to the level of warranting expulsion. Bringing more clarity to our procedures and sanctions, analogous to sentencing guidelines, would greatly improve the process, in my opinion. If structured correctly, concerns about arbitrary or frivolous invocation of disciplinary proceedings could also be

addressed. In addition, a determination regarding other breaches of decorum or violations to the public trust could also be addressed. To be fair, there have been a number of transgressions by House members in the last few years that arguably, could be viewed as violations of their oaths of office or the public trust. In addition, one could say that the health, safety and welfare of the citizenry may have been put in jeopardy due to the actions of some of these members. I respect the final report of the Committee because I respect the process and the hands that crafted it, especially my fellow colleagues. But it attempts to make a distinction between the “bad and the worst” as far as breaches to our sworn duties are concerned. Bringing disfavor to one’s oath, the House, your district or its people by any other name would be just as malevolent. Wide latitude in discretion means that those prior member transgressions would have been subject to investigation and disciplinary proceedings, had someone thought of invoking them. So again, a thoughtful, non-rigid process would bring more clarity and fairness to this serious process.

Finally, in my mind, this was a disciplinary hearing convened to determine punishment, if any, for a member of the House. Our rules make it so, indeed our very name indicates our charge. One thing that I am certain, is that all of my colleagues on this committee were proud to serve on it, and did their level best to be fair and impartial. But there is no reason to obfuscate what this committee was convened to do. Were we protecting, and acting in the best interest of the people of the State of Illinois by our actions? Indeed we were. But we should always have the people in mind when we advance a bill, pass a law, convene a committee hearing or appropriate funds (or not). Sadness? We did our jobs on behalf of the people of this state. These proceedings spoke more to our procedures in these rare cases rather than the fate of one person. Actions that this body takes that adversely affect the livelihood or future of many residents of this State are more worthy of the word “sad”. In the end, the system worked. Everyone had their say. We will move on from this just as we have in the past. We will be better off as a result of all of this? I think we will be, because the very people we represent across this state will demand it.

A handwritten signature in cursive script that reads "Albert Riley". The signature is written in dark ink and is positioned above the printed name.

Representative Al Riley