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February 20, 2018

The Hon. Dominick Ruggerio
Senate President
State House
Providence, RI 02903

BY EMAIL

Dear President Ruggerio:

I am writing in response to the controversy surrounding the criminal charges filed against Sen. Kettle and his decision not to resign his seat. The ACLU of Rhode Island appreciates the severity of the allegations that have been leveled against him in Friday's indictment. At the same time, we are alarmed at the apparent haste by which the Senate is considering the possibility of seeking his expulsion from the Senate under Article VI, Section 7 of the state Constitution. Some news reports have indicated that the expulsion vote could take place as early as next week.

As serious as the criminal charges are, so too is the act of expelling a democratically elected legislator from the seat he earned from the voters of his district.

It is our understanding that the Senate has not used Article VI, Section 7 in modern history to expel a member. We therefore believe it is essential that there be clear standards and measures in place before engaging in such an historic effort. To vote to expel a sitting Senator without any formal, carefully-considered procedures establishes a dangerous practice. In the absence of clear due process standards, the Senate's actions in this case will set a precedent that could be used for less principled purposes in the future.

Rather than rush an expulsion vote, we believe it is critical for the Senate to first consider the ground rules for this novel process. For example, how will the evidence against Sen. Kettle be presented? Will the indictment itself serve as the sole basis for a vote? Will Sen. Kettle have an opportunity to present a defense to the expulsion if he chooses to do so, and if so, through what procedure?

The presumption of innocence remains a fundamental component of our criminal justice system, and while the same standard of "proof beyond a reasonable doubt" may not necessarily also apply to a setting like a Senate's consideration for expelling a member, it is nonetheless worth emphasizing that Sen. Kettle has been charged with, not convicted of, these crimes.

In short, while the Constitution clearly gives the Senate the power to establish the rules for punishing its members, it is a power that must be exercised cautiously and with care lest the mere

Page Two
The Hon. Dominick Ruggerio
February 20, 2018

fact that a sitting member has been charged with any crime can serve as the basis for removal, or a duly-elected Senator can be expelled without any opportunity to contest the basis for his expulsion.

The ACLU of Rhode Island therefore respectfully calls upon you and the Senate to decelerate plans for an expulsion vote, and to instead carefully consider the procedures that should be used before seeking to exercise this awesome power against one of your fellow members.

Thank you for considering our views.

Sincerely,

Steven Brown
Executive Director

cc: Senate Members