On Thursday March 4th, the House of Representatives voted to expel Luke Simons for conduct unbecoming of a member of the Assembly. In the days since, there has been much discussion about the authority for the house to expel a member and the process that was used to do so. Below is a list of talking points regarding both the authority, rules, and process that was followed.

* **House Rules:**
  + Joint rule 1001 is clear that members of the legislative assembly must be held to a higher standard of conduct than the average citizen.
  + 1001 states: “The Legislative Assembly always seeks a high reputation for progressive accomplishment where its members are public officers of integrity and dedication, maintaining high standards of ethical conduct…The public interest will suffer if unduly stringent requirements deprive government of the services of well-qualified citizens.”
  + Further rule 1001 demands that not only do members avoid actions that constitute misconduct, they must also avoid actions which create the appearance of misconduct.
* **The North Dakota Constitution:**
  + The Constitution must be the beginning and the ending point of any proceedings in the House. The Constitution is binding law and must always take precedence.
  + The Constitution is short and clear on expulsion: “each house shall determine its rules of procedure…with the concurrence of two-thirds of its elected members, either house may expel a member.”
  + In other words, the Constitution holds that the House is a sovereign body and therefore has the sole authority to determine its rules and procedures. This means the rules for expelling a member are under the sole discretion of the members of the House.
  + The Constitution further provides that expulsion of a member requires a 2/3 vote. This is in place as an extra protection for the accused such as Simons.
  + There was some discussion about the wording of the Constitution. Specifically, the wording that the House “may punish its members or other persons for contempt or disorderly behavior in its presence.” There was some argument that this language required that expulsion can only occur for conduct done in the presence of the Assembly. This perception does not take into account the context or the intent of the article.
  + Such a rule would actually create an absurd result. For example, it would hold that House cannot punish its own members for conduct occurring in the halls of the capitol building. Punishment could only occur for conduct in the Chamber.
* **Due Process:** 
  + Due process comes into play when a person is deprived of liberty or property.
  + Luke Simons was clearly not deprived of liberty, which is usually at stake in criminal proceedings where a defendant faces imprisonment. Additionally, the Supreme Court has been clear elected officials have no property interest in holding public office.
  + Public offices belong to the people, not the politicians.
* **Masons Manual of Legislative Procedure:**
  + Mason’s Manual states: “When a house has expelled a member in the mode prescribed by the constitution, its action is not generally considered to be a deprivation of office without due process of law, within the meaning of the 14th Amendment to the U.S. Constitution…The overriding need for each house to protect its integrity through the exercise of the expulsion power, the requirement for a two-thirds vote to expel by itself satisfied procedural due process.”
  + On expulsion Mason’s Manual States: “A state legislative body possesses inherent powers of self-protection…A house, in passing upon the question of expelling a member, has the power to adopt any procedure and to change it at any time and without notice.”

It is clear that Luke Simons’ conduct violated joint rule 1001. Sexual harassment is unacceptable has no place in the legislature. Not only does in constitute misconduct, it also creates the appearance of misconduct. Such behavior can erode the public trust in the Assembly. Because of this, the Rules require members to hold each other accountable for their behavior.

Additionally, it is clear the legislature had no duty to provide Luke Simons with any form of constitutional due process. He was not deprived of liberty or property. Rather, the state Constitution and Mason’s Manual give the Assembly full authority to decide its own rules and procedures for expulsion of a member. The Assembly followed the state Constitution by setting its own rules. In doing so, they gave Simons and his supporters the opportunity to tell his side of the story and present his evidence. After a full hearing, an over two-thirds majority voted to expel him.