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WEDNESDAY, FEBRUARY 10, 2016

SESSION OF 2016 200TH OF THE GENERAL ASSEMBLY

No. 8

SENATE

WEDNESDAY, February 10, 2016

The Senate met at 11 a.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Mike Stack) in the Chair.

PRAYER

The Chaplain, Reverend CHARLES W. QUANN, Pastor of Bethlehem Baptist Church, Spring House, offered the following prayer:

Let us pray.

O Thou great and eternal God, Creator, Redeemer, and bountiful benefactor, we come this morning appealing to You to bless this Senate. We ask, O God, Thy blessings upon these men and women. Give them, O God, passion and commitment. We pray, O God, not only for these, Thy servants, but for those who serve in our country and throughout this world. We pray for shalom and peace and we ask, O God, for Your discernment as we are faced with these challenging times. We thank You for these individuals who give of themselves to make life better for all people. So, today, O God, we just ask as we have always done for Your blessings, knowing that You are able to bless us far beyond what we could ask or expect. Cover, O God, each of these individuals. May, O God, at the end of this day they find themselves secure in the knowledge they have done what You have asked them to do. All of these prayers and all of those concerns that we carry in our hearts we place them before You. So bless, empower, and may, O God, we leave from this place today better as a result of our coming to You. We say together within our hearts amen, amen, and amen.

The PRESIDENT. The Chair thanks Pastor Quann, who is the guest today of Senator Greenleaf.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

**APPOINTMENT BY THE
PRESIDENT PRO TEMPORE**

The PRESIDENT. The Chair wishes to announce the President pro tempore has made the following appointment:

Mr. Walter Heine as a member of the Citizens Advisory Council to the Department of Environmental Protection.

BILL REPORTED FROM COMMITTEE

Senator TOMLINSON, from the Committee on Consumer Protection and Professional Licensure, reported the following bill:

HB 31 (Pr. No. 1553)

An Act amending the act of July 10, 1990 (P.L.404, No.98), known as the Real Estate Appraisers Certification Act, further providing for powers and duties of the State Board of Certified Real Estate Appraisers, for application and qualifications, for reciprocity and for certification renewal, licensure renewal and records.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Columbia, Senator Gordner.

Senator GORDNER. Mr. President, I request a legislative leave for Senator White.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, I request a legislative leave for Senator Leach.

The PRESIDENT. Senator Gordner requests a legislative leave for Senator White.

Senator Williams requests a legislative leave for Senator Leach.

Without objection, the leaves will be granted.

LEAVE OF ABSENCE

Senator GORDNER asked and obtained a leave of absence for Senator McILHINNEY, for today's Session, for personal reasons.

JOURNAL APPROVED

The PRESIDENT. The Journal of the Session of November 18, 2015, is now in print.

The Clerk proceeded to read the Journal of the Session of November 18, 2015.

Senator GORDNER. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator GORDNER and were as follows, viz:

YEA-48

| | | | |
|------------|--------------|-------------|------------|
| Alloway | Dinniman | McGarrigle | Tomlinson |
| Argall | Eichelberger | Mensch | Vance |
| Aument | Farnese | Rafferty | Vogel |
| Baker | Folmer | Resenthaler | Vulakovich |
| Bartolotta | Fontana | Sabatina | Wagner |
| Blake | Gordner | Scarnati | Ward |
| Boscola | Greenleaf | Scavello | White |
| Brewster | Haywood | Schwank | Wiley |
| Brooks | Hughes | Smucker | Williams |
| Browne | Hutchinson | Stefano | Wozniak |
| Corman | Kitchen | Tartaglione | Yaw |
| Costa | Leach | Teplitz | Yudichak |

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

GUEST OF SENATOR STEWART J. GREENLEAF PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I appreciate the recognition and the opportunity to introduce a pastor from my senatorial district, Reverend Charles W. Quann. Even though I do not go to his church on a regular basis, I do go to his church once in a while, and I was there a few months ago. We also meet each other occasionally when we are at Memorial Day ceremonies for our veterans or some other ceremonies such as that. Sometimes I do not really like speaking when he is there, and especially not after him. It is very intimidating to follow Pastor Quann's comments, prayers, and also his messages. I respect him tremendously. He has a very large church in the Spring House area.

He has such a record, and I will go over it briefly. He has directed the development of numerous ministries. He was ordained in October of 1977, so he has been active as a pastor for many, many years. He was appointed to the Montgomery County Advisory Council to the Pennsylvania Human Relations Commission. He was elected to the board of trustees of Abington Memorial Hospital. He is a member of the Foreign Mission Board of the National Baptist Convention; former board and moderator of the Philadelphia Baptist Association; board member of the Wissahickon Faith Community; past president of the American Red Cross, Penn Jersey region, and current board member; vice president and member of the board of the Montgomery County Housing Authority; vice president and board member of the Inter-Faith Housing Alliance; member of the Blue Bell Rotary; member of the board of directors of the YMCA in Ambler; a board member of the Inter-Faith Center in Greater Philadelphia; past vice president of Baptist Children's Services; and board member of Tabor Children Services.

He is on a radio show, a TV show called *Visions of Victory*, and he is on there on a regular basis. He has received honors including the Martin Luther King, Jr. Memorial Award, American Cancer Society, United Way, and Wissahickon Faith Community Association. He also preaches extensively across the country and in the continent of Africa in Kenya. Pastor Quann is also the host of the daily morning prayer service at Church Without Walls with over 100 persons from around the country. He

writes a monthly article for the Philadelphia Tribune, the oldest African American newspaper in the nation.

With all of those qualifications, awards, and activities, he is a pastor who nurtures his flock. I am very proud and honored to have him here and to say that he is a pastor of a church in my senatorial district. Thank you.

The PRESIDENT. Pastor Quann is so popular that other Members would also like to welcome him. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, thank you for this moment. I ask for a little more civility on the floor to recognize our guest.

The PRESIDENT. If the Senate would keep the tone to a much lower level so that we can appropriately and properly welcome Pastor Quann, the Chair and the speakers would appreciate it.

Senator WILLIAMS. For those who are interested, this is African American History Month, and frequently we cite individuals who have passed on, their legacy and the extraordinary things that they have done, which is appropriate. It is very rare that we actually have a living legend visit with us. I thought it was very appropriate--unfortunately, I think many of the Members missed it because they were immersed in their conversations--Senator Greenleaf sort of rattled off a number of historic institutions of African American faith, African American interests, and African American information that this Reverend is a part of.

So, while I enjoyed the prayer, I was more uplifted, as Senator Kitchen is, as Senator Haywood is, and as Senator Hughes is, by someone who is not just known in Montgomery County, but is known in Philadelphia and, frankly, across Pennsylvania for the work he has done on behalf of all Pennsylvanians, but particularly those who are underserved Pennsylvanians. He has taken himself out of simply the space of a pastor but has earned his stripes in what we would describe as the Civil Rights Movement and carried it into contemporary times. That is very difficult and challenging to carry that legacy, especially in these times. He has done it with dignity, he has done it with humility, he has done it, frankly, better than I could, with lack of anger and open arms.

So, I thought it was most important that during the course of African American History Month, that we not only welcome our guest, but acknowledge his significance in the rich contribution he has made to that community and the history of that community, and we thank him for being here today.

Thank you, Mr. President.

The PRESIDENT. The Chair thanks the gentleman for his additional welcoming remarks.

Would our guest, Pastor Quann, the guest of Senator Greenleaf and friend of Senator Williams, and the friend of all of us, please rise so that we may welcome you to the Pennsylvania State Senate.

(Applause.)

GUESTS OF SENATOR RICHARD L. ALLOWAY PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Alloway.

Senator ALLOWAY. Mr. President, I rise to introduce guests in the gallery. We have a real special group here today. It is the

debate team from St. Thomas the Apostle in Glen Mills, Pennsylvania. We have a bunch of great young ladies up here. Please welcome them to the Senate.

The PRESIDENT. The debate team is ready to go and they are already standing on their feet. We want to welcome you to the Pennsylvania State Senate. Will the Members please join me in welcoming them.

(Applause.)

CALENDAR

THIRD CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL OVER IN ORDER

SB 1106 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL OVER IN ORDER

HB 57 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 561 (Pr. No. 634) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, in consolidated collection of local income taxes, further providing for definitions.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Vulakovich.

Senator VULAKOVICH. Mr. President, I rise in support of House Bill No. 561. This legislation would exempt active duty military from local income tax, whether it is out-of-State or in-State. Back in 2008, Act 32 changed how Pennsylvania municipalities collect the local income tax. Among those changes was the provision that, starting in 2012, all active duty military pay earned within the Commonwealth would become subject to local income taxes. Since the 2013-14 Session, Senator Baker has introduced legislation to restore this needed exemption, and I am pleased that earlier this Session the Senate passed her Senate Bill No. 652.

The military operations of the Pennsylvania Army and Air National Guard have increased exponentially in the past few years while more and more guard personnel have been ordered to serve active duty, either abroad or at State installations, in support of major deployments. These soldiers are required to take leave from their families and professional careers, often at lower pay, to serve our country, and, I believe, the wages they earn for this service should not become subject to new taxation. Furthermore, with a potential Federal BRAC, it is critical that Pennsylvania demonstrates its full support of our military measures like House Bill No. 561, and this will demonstrate our support.

I commend Senator Baker for her leadership on this, as well as for a great number of measures that she did to strengthen Pennsylvania's military and support for our veterans.

Thank you, Mr. President.

The PRESIDENT. The Chair thanks Senator Vulakovich for his work on behalf of veterans.

And the question recurring,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

| | | | |
|------------|--------------|-------------|------------|
| Alloway | Dinniman | McGarrigle | Tomlinson |
| Argall | Eichelberger | Mensch | Vance |
| Aument | Farnese | Rafferty | Vogel |
| Baker | Folmer | Resenthaler | Vulakovich |
| Bartolotta | Fontana | Sabatina | Wagner |
| Blake | Gordner | Scarnati | Ward |
| Boscola | Greenleaf | Scavello | White |
| Brewster | Haywood | Schwank | Wiley |
| Brooks | Hughes | Smucker | Williams |
| Browne | Hutchinson | Stefano | Wozniak |
| Corman | Kitchen | Tartaglione | Yaw |
| Costa | Leach | Teplitz | Yudichak |

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

BILL OVER IN ORDER

SB 606 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL RECOMMITTED

SB 691 (Pr. No. 677) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, in cigarette sales and licensing, further providing for definitions, for retention of records and for violations and penalties and providing for preemption.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill was recommitted to the Committee on Appropriations.

BILL OVER IN ORDER

HB 837 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 889 (Pr. No. 1519) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law, extending

benefits to certain employees of the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission; and making editorial changes.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

| | | | |
|------------|--------------|-------------|------------|
| Alloway | Dinniman | McGarrigle | Tomlinson |
| Argall | Eichelberger | Mensch | Vance |
| Aument | Farnese | Rafferty | Vogel |
| Baker | Folmer | Resenthaler | Vulakovich |
| Bartolotta | Fontana | Sabatina | Wagner |
| Blake | Gordner | Scarnati | Ward |
| Boscola | Greenleaf | Scavello | White |
| Brewster | Haywood | Schwank | Wiley |
| Brooks | Hughes | Smucker | Williams |
| Browne | Hutchinson | Stefano | Wozniak |
| Corman | Kitchen | Tartaglione | Yaw |
| Costa | Leach | Teplitz | Yudichak |

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

SB 1013, SB 1056, SB 1104 and HB 1199 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

SECOND CONSIDERATION CALENDAR

BILL OVER IN ORDER

SB 50 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL OVER IN ORDER AND LAID ON THE TABLE

HB 400 (Pr. No. 1957) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the Work Experience for High School Students with Disabilities Act; and imposing duties on the Office of Vocational Rehabilitation.

Without objection, the bill was passed over in its order at the request of Senator CORMAN.

Pursuant to Senate Rule 9, the bill was laid on the table.

BILLS OVER IN ORDER

SB 488 and SB 805 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 944 (Pr. No. 2846) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 21, 1998 (P.L.1307, No.174), known as the Community and Economic Improvement Act, further providing for definitions, for powers of municipal corporations, for creation of neighborhood improvement districts, for creation of neighborhood improvement district management associations, for powers of neighborhood improvement district management associations, for annual audit and report and for applicability.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 979, HB 1168 and HB 1229 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION

HB 1484 (Pr. No. 2097) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 30, 1987 (P.L.375, No.75), entitled, "An act providing for the designation of certain trees and land on the grounds of the State Capitol in Harrisburg as "Soldiers' Grove" in honor of war veterans; imposing duties upon the Department of General Services; and making an appropriation," further providing for duties of Department of General Services; and providing for preservation of "Soldiers' Grove" and for construction.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

HB 1660 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of an off-the-floor meeting of the Committee on Rules and Executive Nominations to be held in the Rules room in the back of the Chamber.

The PRESIDENT. For the purpose of an off-the-floor meeting of the Committee on Rules and Executive Nominations, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

ANNOUNCEMENT BY THE PRESIDENT

The PRESIDENT. Pursuant to Senate Rule 21(b), the Chair is giving Senators notice that a photographer from the Associated Press has been granted permission to take still photographs on the floor of the Senate for 20 minutes during consideration of Senate Resolution No. 284.

BILL REPORTED FROM COMMITTEE

Senator CORMAN, from the Committee on Rules and Executive Nominations, reported the following bill:

HB 941 (Pr. No. 2662) (Rereported) (Concurrence)

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, in organization of independent administrative boards and commissions, providing for Pennsylvania Gaming Control Board; in organization, further providing for advisory boards and commissions; in Commonwealth agency fees, further providing for distillery of historical significance license fee reduction; providing for race horse industry reform; conferring duties upon the Joint State Government Commission; making editorial changes; and making related repeals.

RESOLUTION REPORTED FROM COMMITTEE

Senator CORMAN, from the Committee on Rules and Executive Nominations, reported the following resolution:

SR 284 (Pr. No. 1557)

A Resolution addressing the Governor to act under section 7 of Article VI of the Constitution of Pennsylvania to remove Attorney General Kathleen G. Kane from office for reasonable cause.

The PRESIDENT. The resolution will be placed on the Calendar.

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 1**

**SENATE CONCURS IN HOUSE AMENDMENTS
TO SENATE AMENDMENTS**

HB 941 (Pr. No. 2662) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, in organization of independent administrative boards and commissions, providing for Pennsylvania Gaming Control Board; in organization, further providing for advisory boards and commissions; in Commonwealth agency fees, further providing for distillery of historical significance license fee reduction; providing for race horse industry reform; conferring duties upon the Joint State Government Commission; making editorial changes; and making related repeals.

On the question,
Will the Senate concur in the amendments made by the House to Senate amendments to House Bill No. 941?

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator CORMAN.

Senator CORMAN. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate amendments to House Bill No. 941.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-48

| | | | |
|------------|--------------|---------------|------------|
| Alloway | Dinniman | McGarrigle | Tomlinson |
| Argall | Eichelberger | Mensch | Vance |
| Aument | Farnese | Rafferty | Vogel |
| Baker | Folmer | Reschenthaler | Vulakovich |
| Bartolotta | Fontana | Sabatina | Wagner |
| Blake | Gordner | Scarnati | Ward |
| Boscola | Greenleaf | Scavello | White |
| Brewster | Haywood | Schwank | Wiley |
| Brooks | Hughes | Smucker | Williams |
| Browne | Hutchinson | Stefano | Wozniak |
| Corman | Kitchen | Tartaglione | Yaw |
| Costa | Leach | Teplitz | Yudichak |

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

SENATE RESOLUTION No. 284, DEFEATED

Senator CORMAN, without objection, called up from page 1 of Supplemental Calendar No. 1, **Senate Resolution No. 284**, entitled:

A Resolution addressing the Governor to act under section 7 of Article VI of the Constitution of Pennsylvania to remove Attorney General Kathleen G. Kane from office for reasonable cause.

On the question,
Will the Senate adopt the resolution?

POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Rafferty.

Senator RAFFERTY. Mr. President, should Senate Resolution No. 284 come up for a vote before the body, I ask for a ruling of the Chair under Rule 20. Mr. President, I am an announced candidate for the Office of Attorney General, and I am seeking counsel from the Chair as to whether or not I am permitted to vote on this resolution.

Thank you, Mr. President.

The PRESIDENT. Senator Rafferty, under Rule 20, whether you have a conflict or not, the Chair decides that in your particular case, the facts as you have relayed them, there is nothing particularly special or unique about your role in this situation, nor will you receive any benefit which is special or direct to you, but rather you are part of a general class of people who may or may not have some involvement in the particular case that you have addressed to the Chair. So, for that reason, the ruling of the Chair is that you are representing your constituents and you are doing your duty as Senator and not only should you vote, you are required to vote on this particular resolution. That is the Chair's ruling, Senator Rafferty. Thank you for your inquiry.

POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, also pursuant to Rule 20, I ask for a ruling from the Chair. My son is a prosecutor in the child predator section of the Attorney General's Office, and given that this particular resolution specifically deals with the flow of authority from the Attorney General and the like, as I mentioned previously, whether or not it is permissible for me to vote on this particular resolution.

The PRESIDENT. For similar reasons that I have addressed to Senator Rafferty, your son is part of a class of employees, a number of employees, and would not specially benefit or directly benefit, nor would you, from how you voted or considered this legislation. For that purpose, once again, you are in the act of representing your constituents in an important matter, and the Chair rules that not only is it advisable for you to vote on this particular resolution, you must vote on this resolution.

Thank you, Senator Costa.

Senator COSTA. Mr. President, thank you.

And the question recurring,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Columbia, Senator Gordner.

Senator GORDNER. Mr. President, this is certainly a serious matter and I ask all of my fellow Senators over the next couple of hours--you will hear various Senators, and I am sure that you will hear all of the Members of the Special Committee discuss this issue--and, again, I ask that you pay close attention to what those Members have to say before making a final vote and a final decision on this matter.

I am going to start by going directly to the Constitution, and I think that is where we need to start. We had a constitutional expert come before the committee and testify that each provision of the Constitution is there for a specific reason. In the Constitution, there are two different provisions that deal with removal of office. Not one, but two. There is one that we are more familiar with, and that is the one of impeachment. It is Article VI, Section 6, and it says, "The Governor and all other civil officers shall be liable to impeachment for any misbehavior in office...." In fact, that is what impeachment has been used for in the past. When there is an underlying criminal offense, when there is an underlying misbehavior in office, Article VI, Section 6, has been used for impeachment. While I have been in this General Assembly,

there has been one of those with former Justice Rolf Larsen. I was a Member of the House at the time when we approved those articles and it came over to the Senate. I know that Senator Greenleaf, as chair of the Committee on Judiciary, was involved with that, but we did an impeachment here in the General Assembly because of an underlying criminal offense.

We should also know that beginning with the Constitution of 1874, there was another section put in our Constitution, and it is Article VI, Section 7, and it deals with direct removal. That section says, "All civil officers elected by the people, except the Governor, the Lieutenant Governor, members of the General Assembly and judges of the courts of record, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds [vote] of the Senate." So that is a different provision of the Constitution and the one that we are exploring today.

We have a great Special Committee, a very dedicated group of individuals, bipartisan in nature, and at one of the early committee meetings, a couple of the Democratic Members asked, do we have this power to directly remove the Attorney General? They requested that we ask the Legislative Reference Bureau to make a ruling on that. So, the committee, by a unanimous vote, asked the Legislative Reference Bureau to give us a legal opinion as to whether this Senate has the ability to directly remove an Attorney General. That opinion came back on November 17, 2015, and is part of the record, that says: "Yes. Article VI, Section 7 of the Constitution of Pennsylvania allows for the removal of certain elected civil officers from office for reasonable cause, including the Attorney General...." We had a constitutional expert who said it as well, and actually the committee, in its first report, took a vote on that and said, does the Senate have the ability to directly remove the Attorney General? The vote by our bipartisan committee was 7 to 0 saying yes, we have that ability.

So, why are we here? What is the reasonable cause? Can an Attorney General--and let us remove Kathleen Kane--with an indefinitely suspended law license perform the duties of Attorney General? That is the question that has been before the Senate since the end of October. Can an Attorney General with an indefinitely suspended law license perform the duties of Attorney General?

Let me first make a point, and we did a little research about the 50 States and Attorney General. We looked, and if you do not know, half of the States do not require their Attorney General to be a lawyer. Half of the States say that you do not have to be an attorney to be an Attorney General, but, do you know what? In Pennsylvania, we require our Attorney General to be an attorney. Article IV, Section 5, of the Pennsylvania Constitution requires that the Attorney General be a member of the Bar of the Supreme Court of Pennsylvania. Article IV, Section 4.1, of the Pennsylvania Constitution states that the "...Attorney General shall be...the chief law officer of the Commonwealth and shall exercise such powers and perform such duties as may be imposed by law." The word "shall" is significant. It is a mandate. It is a mandate that the Attorney General perform all duties imposed by law, not just certain ones that the Attorney General wants to do or is legally competent to do. When the Commonwealth Attorneys Act was enacted in 1980, the legal duties of the Attorney General were spelled out.

So, what can or cannot a lawyer with a suspended license do? We have many nonlawyers here in the Senate, and maybe even

some lawyers are not fully aware of what a lawyer with a suspended law license can and cannot do. On September 21, 2015, the Supreme Court suspended the law license of Kathleen Kane. So, if we want to know what happens with a lawyer with a suspended law license, we go to the Pennsylvania Rules of Disciplinary Enforcement 217. I apologize, but I am going to read to you what it says in Rule 217. It says that an attorney with a suspended law license is "specifically prohibited" from performing any of the following. So, an individual cannot be:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension.

Number one, an attorney who is working for a law firm or entity who has his or her license suspended can no longer do any law-related activity for that law firm or entity.

Number two, that lawyer cannot be:

(ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full-time basis.

We have asked several ways, including in a subpoena, is there a supervisory attorney out there for Kathleen Kane? And the answer has been no, there is not.

Number three, that lawyer cannot be:

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney.

So, anything, in this case, that Kathleen Kane did prior to September, she is unable to do for any client that she did anything for prior to that date.

You cannot be:

(iv) representing himself or herself as a lawyer or person of similar status.

We had testimony that says you cannot even put out a letterhead or a business card that says in any way that you are an attorney.

You cannot be:

(v) having any contact with clients either in person, by telephone, or in writing...;
 (vi) rendering legal consultation or advice to a client;
 (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body.

You cannot go to any legal proceeding. You cannot be:

(viii) appearing as the representative of the client at a deposition or other discovery matter;
 (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction;
 (x) receiving, disbursing or otherwise handling client funds.

Mr. President, when you have a suspended law license, you cannot do anything in regard to being an attorney that you did

beforehand. Anything. Specifically, you cannot do anything for the entity that you are serving in, or a part of, when you had your license suspended. Nothing.

So, what does the Commonwealth Attorneys Act say? The Commonwealth Attorneys Act was passed in 1980. It was the first time that we had an elected Attorney General, and it spells out what is required. And listen to the "shalls":

Section 201 says, "The Attorney General shall exercise such powers and perform such duties as are hereinafter set forth."

Section 204(a): "Upon the request of the Governor or the head of any Commonwealth agency, the Attorney General shall furnish legal advice concerning any matter or issue..."

Section 204(b): "The Attorney General shall review for form and legality, all proposed rules and regulations of Commonwealth agencies..."

Section 204(c): "The Attorney General shall represent the Commonwealth and all Commonwealth agencies...and may intervene in any other action..."

Section 204(f): "The Attorney General shall review for form and legality, all Commonwealth deeds, leases and contracts..."

In Section 205 it says: "The Attorney General shall have the power to prosecute in any county criminal..."—cases where there is a conflict with the DAs in a county.

Section 206 says, "The Attorney General shall be the chief law enforcement officer of the Commonwealth..."

That is the Commonwealth Attorneys Act. "The Attorney General shall..." We have an individual as Attorney General who cannot legally do any of those enumerated provisions of the Commonwealth Attorneys Act.

I want to bring to your attention the hearing of November 9, 2015, that the committee had. At that hearing, we asked three district attorneys to come on behalf of the Pennsylvania District Attorneys Association. We did not pick them. We asked them to send three representative district attorneys. They sent the Honorable David Heckler, a Republican from Bucks County; the Honorable John Adams, I believe a Democrat from Berks County; and the Honorable Lisa Lazzari-Strasiser, a Democrat from Somerset County. So, it was made up of different-sized counties, Democrats and Republican, and what did they testify? They testified that as district attorneys, they are the chief law enforcement officers for their counties, much like the Attorney General is the chief law enforcement officer for the Commonwealth. They each testified and were asked individually, could they perform their jobs with a suspended law license? Each one of them said no. Under oath, they said no, that they could not perform their jobs as district attorneys with a suspended law license. They also noted that even administrative tasks such as budgeting and directing subordinates, as well as charging decisions and decisions on investigations, involve what they consider the practice of law.

Now, they were contradicted a bit by the hearing we had on January 12. On January 12, Kathleen Kane authorized Ed Rendell to come and speak on her behalf. Ed Rendell, who was a former Philadelphia district attorney from 1978 to 1986--he was elected while I was a junior in high school--and he said that when he was the district attorney of Philadelphia, that he considered it mostly administrative and policymaking. Now, interestingly, that testimony produced a letter which has been submitted to the Legislative Journal by Senator Baker from the Pennsylvania District Attorneys Association. And that letter, which is a part of our Journal, dated January 27, 2016, was sent on behalf of the executive board of the Pennsylvania District Attorneys

Association. David Arnold from Lebanon County, Seth Williams from Philadelphia County, John T. Adams from Berks County, Peter Johnson from Union County, Richard Goldinger from Butler County, David Heckler from Bucks County, Raymond Tonkin from Pike County, Michael Picuch from Snyder County, Eric Linhardt from Lycoming County, Ed Marsico from Dauphin County, Dave Freed from Cumberland County, and Stephen Zappala from Allegheny County submitted on their behalf, in part, that letter says:

"The Executive Committee of the Pennsylvania District Attorneys Association agrees with the conclusions of District Attorneys Heckler, Adams, and Lazzari-Strasler that the job of an elected prosecutor necessarily involves the practice of law and, therefore, requires us to hold an active law license."

They go on to say, "That work includes: trying cases, weighing in on the decision to charge, providing sentencing recommendations, reviewing appeals...determining whether to seek the death penalty, deciding whether to agree to the granting of relief to a defendant, and deciding whether to seek a search warrant."

It goes on to say, "Each of us also believes that most of what we do that is not explicitly legal in nature is necessarily informed by our experience as attorneys. Most personnel decisions...are based on whether an employee is an effective attorney, has appropriate knowledge of our criminal statutes and caselaw, and understands how to try a case or defend a conviction in court. Most budgetary decisions are based on our view of what the needs of our office are, an analysis that requires us to apply our knowledge of the law."

They go on to say, "We do not undertake these tasks in a vacuum, nor do we check our law licenses and our legal education at the door when we are elected district attorney."

They go on and finally say, "If it were not essential to be an attorney in order to execute the duties of a district attorney, then it would be absurd for the law to require that only an attorney can be elected district attorney."

I am heading toward the end, but I want to share with you what Kathleen Kane did in regard to guidance, when her law license was suspended, to the hundreds of attorneys and employees of the Attorney General's Office, again, back in October. In a subpoena that we sent to Kathleen Kane, we asked, with your law license being suspended, what guidance, what communications, what legal documents did you provide to those hundreds of attorneys who now would be operating in an office with an Attorney General with a suspended law license? The answers we got to that subpoena that we sent to Kathleen Kane were two responses: "No document exists," and "I am not aware of any other documents that exist." So, with her law license being suspended and a whole new world going on in regard to that Attorney General's Office, there was no memorandum from her, no emails from her, no written communications from her as to who would be performing the duties of the Commonwealth Attorneys Act.

So, do you know what happened? The four Deputy Attorneys General, on their own, issued a lengthy memorandum to all of those attorneys and employees to try to provide some guidance because the person at the top had provided none. So, on October 22, 2015, they did a memo entitled, "Procedures During License Suspension." It was from Bruce Beemer, the First Deputy Attorney General; James Donahue, the Executive Deputy Attorney General for Public Protection; Robert Mulle, Executive Deputy Attorney General for Civil Law; and Lawrence Cherba, Executive Deputy Attorney General for Criminal Law. It goes on and says that there are at least six legal decisions that the Attorney General previously made that now must be made by someone

else - the First Deputy Attorney General. In that memo, they specifically said these things that the Attorney General can no longer do that she did before are:

1) a decision on whether to bring a civil or criminal action--**they said she could no longer do that;**

2) decision on whether to settle civil actions--**they said she can no longer do that;**

3) decisions on whether to offer or accept a plea bargain--**they said she can no longer do that;**

4) any decision involving the grand juries--**they said she could no longer do that;**

5) decisions on whether to join amicus briefs--**they said she could no longer do that, and;**

6) decisions on whether to use particular defenses in the cases the office is defending--**they said she could no longer do that.**

All of these things that she was doing beforehand, she could no longer do. Why are the Deputy Attorneys General stepping up to say that?

They also indicated during the hearing that significant additional legal responsibilities normally undertaken by the Attorney General are continuing to be identified and executed as things come up. For instance, Deputy Attorney General Mulle explained that sometimes we issue general obligation bonds. You may have heard of something called PlanCon that we are contemplating on doing. If we do PlanCon, that will be the largest general obligation bond that this Commonwealth has ever enacted. That requires that bond to be signed by the Attorney General. The question is, what happens in the future in regard to that? Indeed, Deputy Attorney General Donahue noted, "But the vast majority of the work is to make legal decisions."

As you know, the Constitution provides for due notice and full hearing. We provided that to Kathleen Kane. We gave her over 30 days' notice to attend a hearing on January 12. She notified us the day beforehand that she chose not to attend. We gave her the ability to send counsel on her behalf. She chose not to send counsel. She authorized her chief of staff, who is a lawyer, has a law license in Wisconsin, is not authorized to practice law in Pennsylvania, to come and testify, as well as Ed Rendell. I thought it was incredible that she did not authorize one single practicing attorney in the Attorney General's Office to testify on her behalf. Not one.

Mr. President, we are here with a serious matter. Let me mention one quote. I was going to mention some other things in regard to commercials from 4 years ago when she was a candidate, but I am going to make mention of one quote that she made as an Attorney General, and this was in 2014 and it had to do with the same-sex marriage issue. If you remember with the same-sex marriage issue, she decided as Attorney General not to--

POINT OF ORDER

Senator COSTA. Mr. President, point of order.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I believe that where the gentleman may be going with comments regarding a decision that the Attorney General made well over many, many months ago relative to pursuing a matter or not is not relevant. This is a very narrow conversation and debate about whether or not, as he stated, and we agree, an Attorney General with a temporarily suspended law license has the ability to perform the duties of the

office. Nothing about what I believe he is going to address and talk about in any way, shape, or form is relevant to that particular question before this body. I ask that those remarks and questions be stricken and that his comments or questions or testimony, I guess it would be called, along those lines be stricken up to this point and not be permitted to go forward.

The PRESIDENT. The Chair thanks the gentleman from Allegheny County. The Chair would comment that for purposes of the debate, and I commend Senator Gordner, the gentleman from Columbia, for his narrow argument. Members should be aware that the argument is a very specific and narrow area of what duties the Attorney General can or cannot do with a suspended law license.

Senator Gordner, you have been meticulous so far in following those guidelines. I ask for courtesy and openness with regard to Senator Costa's remarks, and to the best of your ability, keep this argument, as you have so far, narrow.

Please proceed.

Senator GORDNER. Mr. President, I appreciate the Minority Leader for narrowing not only my remarks but all future remarks by Members who are going to testify. So, I trust that all future remarks will be narrowed as well.

The PRESIDENT. Absolutely.

Senator GORDNER. Thank you, Mr. President.

Then let me conclude. This Special Committee was tasked with the issue of whether an Attorney General--put away Kathleen Kane, it could be John Smith, it could be John Gordner--with a suspended law license can perform the duties of Attorney General. Mr. President, we have collected evidence, we have collected testimony, and we have collected information over the past 4 months. It is a part of the record that has been delivered to all of your offices. The Constitution says that we must give due notice and a full hearing. We did that. We gave over 30 days' notice. The Attorney General responded. We gave her an opportunity to come before us in a hearing, she chose not to. You have heard what the Constitution says. You have heard what the Commonwealth Attorneys Act says. I think it is very clear that there is reasonable cause, because that is ultimately the hurdle that we must reach. Is there reasonable cause?

Let me finish by saying, someone may ask, has this process ever been used before? It has. Back in the 1880s it was used when an individual was removed by the Senate by a two-thirds' vote, and the committee report, which was actually a part of the Legislative Journal back then, talks about that part of the reason was that individual's inability to perform their duties of office. Exactly what it says, that it was because of that individual's inability to perform their duties of office when it was last done, I think, in 1887. Mr. President, we have that situation now. We have a legally incapacitated Attorney General who, since October, has not been able to perform those duties and responsibilities that statute and Constitution says that an Attorney General shall do. For those reasons, I, and I urge you, support the direct removal of our Attorney General.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Erie, Senator Wiley.

Senator WILEY. Mr. President, I rise today not only as the Democratic chairman of the Special Committee on Senate Address, but also as a Member of the General Assembly concerned about fulfilling our constitutional role as a Senate body. The task

of the Special Committee was focused on one issue and one issue alone: Can an Attorney General in the Commonwealth of Pennsylvania fulfill the duties of the office with a temporarily, not an indefinite, but temporarily suspended law license? Again, the purpose of the Special Committee was not to make any determination of guilt or innocence. The committee was also not tasked with determining removal of the Attorney General. Mr. President, this body today will make a historic vote, a vote on whether to remove a duly elected Attorney General whose law license is temporarily suspended. Each Member must weigh the information provided to them by the Special Committee.

After the first set of hearings, there still remained, in my mind, many questions as to whether the Attorney General could fulfill her duties with a temporarily suspended law license. I therefore voted for a full Senate hearing to allow the Attorney General the opportunity to hopefully provide some clarity. Based on the hours of testimony and the months of work, what became clear to me was that reasonable minds could differ on the question of, one, whether the Office of Attorney General of this Commonwealth continues to function; two, whether the majority of the work done by the Attorney General herself is administrative in nature; and three, whether that work is impacted by the temporary suspension of her license. There was not, however, enough concrete evidence to find that the Attorney General of the Commonwealth cannot fulfill the duties of the office with a temporarily suspended law license. There has been plenty of speculation and different interpretations of the Constitution and the Commonwealth Attorneys Act with no real consensus, even within the Special Committee itself. This is all the more reason that I am troubled that this body has found itself today on the precipice of this vote.

During the last phase of our work on the Special Committee, I voted against the full Senate moving forward with a vote on removal. Such a drastic measure to recommend the removal of a statewide elected public official requires more than maybes and speculation. It has been made clear to me that the evidence does not lend itself to moving forward with this vote for removal. Avoidable drama surrounding this matter continues to be a significant distraction to the ongoing work of this Commonwealth. In that vein, there are more appropriate actions to be taken here. For example, beginning with the impeachment proceedings in the House of Representatives under Article VI of our Constitution, or a recognition by the Attorney General herself that she should preserve the integrity of the Office of Attorney General by stepping down from office.

Mr. President, the prior speaker mentioned a couple of points that I would like to highlight. He cited points of the Disciplinary Rules of Enforcement, one of which was discussing the suspension of a law license, attorneys with a suspended law license and how they could not perform certain duties. Well, each one of those attorneys with a suspended law license are still members of the Pennsylvania Bar. That is one of the requirements in the Constitution of Pennsylvania to be the Attorney General. As I said earlier, the drama surrounding this matter continues to be a significant distraction, and I ask for a negative vote based on the testimony that has been provided, the interpretation of the Constitution, and the details surrounding this particular matter.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Jefferson, Senator Scarnati.

The PRESIDENT pro tempore. Mr. President, we are here today to address a very serious and somber matter, removal of a civil officer of the Commonwealth of Pennsylvania. It is truly unfortunate that we are faced with this issue. However, it is our constitutional responsibility and, I believe, duty to insure that the Office of Attorney General is able to function to its full capacity. Today's vote has nothing to do with politics. This is not a Republican or Democratic issue. This is an issue of making sure the chief law enforcement officer of the Commonwealth is able to fully serve the Commonwealth. This discussion and vote today on the floor of the Senate is taking place based on Article VI, Section 7, of the Pennsylvania Constitution. This provision, removal of civil officers, states, "All civil officers elected by the people, except the Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate."

Now, last fall following the suspension of Ms. Kane's law license, it became abundantly clear that review of the Attorney General's ability to function without a current law license was fully warranted. On October 23, 2015, I announced that I would be establishing a Special Committee that would be tasked with examining the question of, can the Attorney General perform the functions of her position with an indefinitely suspended law license? After considerable discussion with the Governor's Office and Senate Leadership from both sides of the aisle, the Special Committee on Senate Address was unanimously established on October 26, 2015. With consultation and collaboration with my colleague, the Senate Democratic Leader Jay Costa, three Democratic Members and three Republican Members were selected to serve on the committee. The four public hearings that the committee held allowed for a total of 12 testifiers to offer their input and provided well-balanced testimony. The due diligence of the committee is to be commended. In addition to each of the hearings, their preliminary and full reports were extremely thorough and well detailed, and today I will be voting "yes" on the removal of the Attorney General.

This decision I did not come to lightly, as I recognize the precedent that this action will set for our Commonwealth moving forward, but I want to say that as long as I am the President pro tempore, this process will not be the norm. It is undoubtedly an extraordinary measure, and I recognize that, but with the unique set of facts before us, it is warranted at this time. After listening to the extensive testimony provided by panels and presented at the Special Committee hearings, it became clear to me that a valid law license is an essential part of serving as the Commonwealth's chief law enforcement officer. In the mission statement on the Attorney General's Web site, it plainly states that the duty of the position of Attorney General is, quote, "To be the Commonwealth's chief law enforcement officer charged with the responsibility for the prosecution of organized crime and public corruption." Folks, prosecution requires an active law license. I am from Brockway and I understand that. I am not an attorney and I understand that. I understand people in my own district who lose a license for whatever reason - a driver's license, license to drive a school bus, license to cut hair. Are we going to have two standards? Are we going to have two sets of rules for those who are in high positions and those who are just common citizens? I cannot support that.

Looking back to 2014, when Ms. Kane was interviewed, she acknowledges the crucial role of the Attorney General, saying, "I am a big proponent of making sure that the attorney general is a prosecutor and not a politician.... I am not just a public official who happens to be a lawyer. I was hired to be the lawyer and I act as a lawyer...." With a suspended law license, it is apparent she cannot live up to the duty.

The Office of Attorney General is one of the most critical offices and must be able to function fully. The fact that the office has not completely collapsed should not be the standard. How do we know there are significant problems? The four Deputy Attorneys General said just that under oath. Remember what Bruce Beemer said under oath, "We have many shortcomings in the office because Attorney General Kane does not have a law license and every day the problems are increasing."

Let me end with this: Those who may claim that this is a partisan war against the Attorney General, I ran for this office back in the year 2000. I ran against my predecessor, a State Senator, who was still on the ballot after resigning due to legal problems. He was actually wearing an ankle bracelet, but still running for reelection. You know, I found something terribly wrong with that, and so I ran for this office because I felt so strongly that it was wrong for this former Senator to continue to serve. Now, that former Senator was a Republican. I believe in doing the right thing. No matter how this vote ends today, this vote to remove the Attorney General is the right tack to take, just as the path I took in 2000.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Haywood.

Senator HAYWOOD. Mr. President, I, too, ran for this office, as did Senator Scarnati, in the midst of another Senator who had a number of issues with respect to compliance with the law. I, too, ran for a similar reason, so we do share the commitment to integrity in public service, and I am glad that we do. I am sure there are many other things that we share, but today I rise to state why I do not support the removal and encourage the entire Senate to join me in voting "no."

Now, what we do know, and it has been said that the Attorney General cannot practice law because the Attorney General has a suspended law license. What we have not really heard is, what does that mean for an Attorney General? You may know that the Attorney General's Office has about 830 persons in it. We were told that about two-thirds of those persons are not lawyers but are investigators, and about one-third are lawyers. We heard from the former Philly District Attorney and former Governor Ed Rendell that, yes, his primary role was managing. He also shared with us that he met with then-Attorney General Tom Corbett on at least 10 occasions, and in each of those conversations, in every one of them, Attorney General Corbett, at that time, had discussions regarding policy matters, not legal matters, about where to put resources, what areas to devote more effort in our Commonwealth for law enforcement.

We also heard earlier of the six "shalls" in the Commonwealth Attorneys Act, and I want to return to those. The first is, the Attorney General shall provide legal advice. Now, we all know that the Attorney General is not a solo law practice. I was in a solo law practice for 10 years and whenever it said "shall," that meant Art Haywood. However, the Attorney General has at least 300 attorneys on her staff, so when it says "shall," it does not just

mean the Attorney General. The Attorney General is not a solo law practice with 830 people on her staff. And it goes to each of the six that were mentioned: Upholding and defending the constitutionality of all statutes. Do we think that is the job of one person, the Attorney General only? Of course not. There is an Office of Attorney General, and the Office of Attorney General has the authority to carry out the work in the Commonwealth Attorneys Act. Otherwise, why would the Commonwealth have an operation with 800 lawyers as opposed to a solo Attorney General? It does not make sense.

Now, I also want to share some analogies that we got that I think really help us see the role of the Attorney General. There was one analogy that the Attorney General is like a barber. A barber loses their license, they have to stop cutting hair. That is true. Now, let us say you have a barber shop with 800 employees. Is the person running a barber shop with 800 employees actually cutting hair? No. They are managing the operation. They are promoting and getting more customers. They are marketing and they are budgeting. You do not need a license to cut hair to manage a barber shop office, nor here.

We have heard that maybe the Attorney General is involved in the practice of law. If that is so, then that is for the Disciplinary Board. The Disciplinary Board is the organization in our Commonwealth to oversee whether a person is practicing law or not. It is the Supreme Court that provided the temporary suspension, so it is the Supreme Court that would make a decision as to whether the temporary suspension is being violated or not. It is not for the supreme Senate, it is for the courts.

We heard from some of the deputies that there was going to be a rash—I think even a nuclear explosion—of litigation related to the Attorney General not having a law license for those who would challenge the office because of the single license of the Attorney General. Court after court after court has knocked that argument down. The Office of Attorney General and the 300 lawyers who work there, they have their own law licenses, not relying on the law license of the Attorney General. They are relying on the Commonwealth Attorneys Act.

Finally, I want to share that the Attorney General is an attorney in Pennsylvania. The Attorney General has not been disbarred. That is a higher standard, and the court has not disbarred the Attorney General. The constitutional requirement, as referred to earlier, is that the Attorney General must be a member of the Bar, and that is what we have. If the Attorney General had been in a car accident and was temporarily incapacitated, would we sit here today and remove him or her? No, we would not.

Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, it is truly regrettable that it has come to this. Whether one is a Republican, a Democrat, one is a conservative, a liberal, or a moderate, the election of Kathleen Kane was a moment of pride for Pennsylvania. By decisively breaching a formidable electoral barrier, she made history, and there was a fair expectation she would continue to do so. So how discouraging then for our citizens to see a tenure begun with such optimism and promise so dramatically deteriorated to this vote today.

I believe the Senate has the constitutional power to act, has been given sufficient cause to act, and a public interest and re-

sponsibility to act. The Constitution writers could not anticipate the specific quandary we are confronting today, but they clearly realized that there would be times when the public interest would be served by utilizing a process apart from impeachment. Moreover, the Constitution is clear: The Senate has the authority to act under Article VI, Section 7, to remove, "All civil officers elected by the people, after due notice and full hearing." While there are exceptions to this power prohibiting the removal of certain specifically enumerated officers, there is, in fact, no exception prohibiting the removal of the Attorney General. The clause is unambiguous.

As a Member of the Special Committee on Senate Address, I had the chance to explore this matter in great depth. As a nonlawyer, I looked at the practical sides of many complications that are involved and pressed a lengthy list of concerns through correspondence that supplemented the record developed through our public hearings. The problem is a grave one. However this vote turns out, a precedent will be set, and there will be legal and political implications for years. The review process was thorough and deliberative. Reasonable and respectful due process was afforded. The committee heard testimony from legal and constitutional experts, prosecutors, and public officials. Although she declined, Ms. Kane herself was given the opportunity to appear before us, to ask questions, and to present evidence. When the possibility of a license restoration was raised, the Senate paused, appropriately, until the Supreme Court determination was made.

Certain things seem quite clear: Kathleen Kane's troubles are of her own making. No one forced her to breach the rules. No one forced her to make declarations that proved untrue. No one forced her to pursue courses of action that were intensely personal when they should have been professional ones. With the resultant loss of her law license, and as the comments of my colleague, Senator Gordner--

POINT OF ORDER

Senator WILLIAMS. Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, I think our Leader was distracted, but with all due respect, we are now going far afield of the question of whether the current Attorney General is capable of carrying on her responsibilities. I think we were very clear in the opening that issues which may relate to her political environment have nothing to do with the question involved, and I respectfully ask that all, and I think Senator Gordner asked that all, he emphasized and underlined "all," follow that process. Thus far, all have followed that process. Currently, we are not. I ask, respectfully, that we return to the decorum and the defined narrow space and the questions to ask.

The PRESIDENT. Senator Baker, you heard the remarks.

Senator BAKER. Mr. President, I will try to refrain from that.

The PRESIDENT. The Chair appreciates your consideration, and please proceed.

Senator BAKER. Mr. President, with the resultant loss of her law license, and as the comments of my colleague, Senator Gordner, appropriately pointed out, Kathleen Kane cannot perform as the Commonwealth's lawyer. What overriding public purpose is there in retaining a title when she is unable to do the essential functions of the job? The list of the duties that she can-

not perform is striking in scope. The circumstance makes her believe she is beyond accountability. What she is permitted to do is too small and too limited compared to what we need the chief law officer to do. Her defenses on her position are irrelevant. She was independently elected and answerable to the voters. Every elected official is subject to a range of sanctions for misconduct up to removal from office using this clause. She is no exception. So I believe a landmark election is a milestone, not an immunity card.

Since losing her law license, Ms. Kane has failed or refused to follow the procedures and safeguards set forth by the Executive Deputies Attorney General in the office. She has failed to follow the procedures set forth by the First Deputy Attorney General in a memo that he has provided to us. That memo and First Deputy Beemer's letter responding to questions demonstrate her determination to take action that she is currently not permitted to do. The First Deputy makes it very clear in his letter that he and the other Executive Deputies Attorney General are extremely concerned that she is not only jeopardizing the operations of the Office of Attorney General, but also may herself have committed crimes in taking these actions. All of this represents a pattern of conduct that I believe is incurable. Given the immense duties vested in the Office of Attorney General, given the extreme challenges facing Pennsylvania law enforcement and consumer protection, why should our Commonwealth have to muddle through? She is attempting to make herself bigger than the system.

Some have recently contended that being Attorney General is just a super-administrative position, sort of playing traffic cop on personnel and paperwork. If that were remotely true, why did some of the best legal minds of our generation pour so much effort into making it a constitutionally elected office? They did as part of a reform movement that arose from an earlier wave of corruption. Making the Attorney General independent of the Governor would increase authority and make the position a larger player and a more prominent example. There are those who would say that some of the things that Kathleen Kane does can be done by a nonlawyer; that her status as a lawyer with a suspended license is not fatal. At least one Pennsylvania court, however, has said that is immaterial. When a lawyer draws upon their professional capabilities and performs services directly related to their distinct legal training, they are practicing law. Kathleen Kane, as an attorney with a suspended license, is not permitted to practice law. Yet, the Attorney General's own chief of staff testified, "There are always legal implications..." to the decisions she makes. The point is that being the Attorney General for Pennsylvania is the practice of law. That is the case no matter what the elected officer is doing as part of the job. The Constitution recognizes that requirement; the courts recognize that requirement. The Attorney General has persistently pointed the finger of blame for her troubles in multiple directions - the good old boys' network, those who will not tolerate or excuse corruption, and those who fear aggressive women--

POINT OF ORDER

Senator WILLIAMS. Mr. President.

The PRESIDENT. Senator Williams, I know your point. Your point is well-taken.

Senator WILLIAMS. Mr. President, I want to say this for the record. I mean no disrespect to those who present their positions, but if we are truly going to go through a process that we have respected, then let us respect the process. Let us not just try to sneak it in the back door and make political points. That is not what it is supposed to be about. So, I hope I do not have to stand here again, but I will. I will continue to stand here.

POINT OF ORDER

Senator CORMAN. Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman, for a point of order.

Senator CORMAN. Mr. President, I would like to make a point of order that I believe the gentleman was trying to make a point of order, and lectures are not part of a point of order. If he wants to make a point of order, let him make it and allow you and us to respond, but I do not expect a lecture during a point of order request. That is not within our rules.

The PRESIDENT. Senator Corman, your point is well-taken. Please suspend for one minute, Senator Williams. The Members have been excellent so far in keeping the argument well-tailored and narrow. The tone has been respectful. I ask Senators to continue with that positive momentum.

Senator Williams, your point is well-taken. Nonetheless, we want you also, when you wish to make a comment, we are having a debate, so we ask you, if you need to make a point of order, please make it. The Chair understands when you feel strongly about something; nonetheless, Members sometimes react to that as though they are being lectured. I know you can tailor your remarks to take that into consideration.

Senator WILLIAMS. Mr. President, I suggest that those of us who take responsibly to lead in the Senate, all of us, and I include myself in that, are subject to not being lectured. It is unfortunate that we would result in a personal affirmation of my motivation. I am not here to lecture anybody. We are full-grown adults.

POINT OF ORDER

Senator CORMAN. Mr. President.

Senator WILLIAMS. Mr. President, I would like to finish my comment, if I could.

Senator CORMAN. Mr. President, point of order.

Senator WILLIAMS. Mr. President, if I could finish my comment.

The PRESIDENT. It is a point of order, Senator Williams.

As a point of order, the Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I believe that Senator Baker has the floor. If the gentleman wants to make a point of order, he is more than welcome within the rules to do so. Otherwise, the floor should go to Senator Baker.

The PRESIDENT. You are correct, Senator Corman.

Senator Williams, Senator Baker has the floor.

POINT OF ORDER

Senator WILLIAMS. Mr. President, I make a point of order then. My point is very simple. I am more than open and patient to sit here all day long to hear what everybody has to say, but I, too, will not be lectured to, and my comment was simply out of

frustration. That was reflected in the fact that everything was moving along and I was sitting there quietly minding my own business. I stood up appropriately, initially, did not lecture anybody, and said what I said. Yes, there was frustration, not lecturing. Frustration reflected in my body language, and I do not mean that to be disrespectful to anybody making comments, including Senator Baker, in that process--

POINT OF ORDER

Senator CORMAN. Mr. President, point of order.

Senator WILLIAMS. With that said--

Senator CORMAN. Mr. President, point of order.

Senator WILLIAMS. --I will continue to make my comments as we move forward.

The PRESIDENT. Please suspend.

Senator Corman, I understand your point of order. Let me say this. I am going to conduct the business of guiding this debate as the Chair. I appreciate your input. I understand where you are going. From now on, I will tell you what, any questions of decorum or tone or whether it is a lecture or not, I will make that ruling.

Please proceed, Senator.

Senator BAKER. Mr. President, my vote is to recommend her removal based on an extensive look at her record, on a lot of questions asked, for which responses were unconvincing or very troubling, and on due consideration of the views of those who have argued her case. My conclusion is that she is impaired beyond redemption in her ability to satisfy the immense, weighty responsibilities of the office by virtue of the State Constitution, by virtue of the rulings of the State Supreme Court, by virtue of the complications of her diminished capacity to hold for future cases and litigation, and her remaining in office without a license, I believe, is untenable. As a result, I believe she should be removed pursuant to Article VI, Section 7, of the Constitution.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Berks, Senator Schwank.

Senator SCHWANK. Mr. President, since the criminal charges were filed against the Attorney General, I have said she should step down. What I cannot say is that the Senate should remove her. There is a difference between what she should do and what we may do. The action we may take today to remove the Attorney General from her office flies in the face of the law, the facts, and every Senate precedent. I will try to keep my remarks brief and on point. Most Members generally know how they are going to vote before debate begins anyway, and I do not want to waste time and pointless argument, but for those still considering whether we should vote to remove the Attorney General, and particularly for the public watching today and for the public and Senators of the future who will wonder why we did what we will end up having done, here is why it should not be to vote to remove the Attorney General.

First, this is not just an extraordinary step. I am at a loss for words to describe how important this is, how extraordinary this action may be, but perhaps this may be the most extraordinary action any of us will take as being a Senator. It is so extraordinary that the last time the Senate tried it, the West was still considered the frontier, women did not have the right to vote, and Ellis Island had not even received one immigrant. It is so extraor-

inary that, although it applies to every official elected in Pennsylvania, except for the Members of the Senate and House, judges and the Governor and Lieutenant Governor, a number that since its adoption in 1874 could possibly include millions of people, because some of those people might be school board members, they would be row officers, they would be county officers, or municipal officers. It could be millions of people. Despite that, it has only been attempted five times, and successfully only three times. It is most extraordinary because we are attempting to do it today in direct contradiction of every criteria the Senate has previously required for it.

A little history is important here, I think, Mr. President. The three previous cases where it was used to remove an elected official involved a judge, a sheriff, and a magistrate between 1885 and 1891. In each of those cases, the officer was someone with an incurable mental or physical condition that for a long time, many months, had prevented the functions of their office from being performed, to the general detriment of the public. Those Senates that considered their cases, Mr. President, were Senates well within the living memory of the persons who actually drafted the language we are acting under. I believe, in fact, that it may have even included some of them who had helped to draft it. Those Senates considered each of those three elements: the failure in official functions, the injury to the public as a result, and the cause being incurable to be critical to using this provision.

Mr. President, the Special Committee did not hear or receive evidence to conclusively, and I will underline that word and emphasize it, to conclusively establish all three of those elements. In fact, it did not hear or receive evidence to establish any of those elements. The evidence heard or received by the committee established clearly that all of the functions of the Attorney General's Office are being performed and have been every day since the Attorney General's license was suspended. Concerns even suggested with regard to potential legal challenges have since been disproven. The only evidence heard or received by the committee regarding the impact of the illness, in this case the suspension, is that it is simply not clear whether an emergency suspension disqualifies the Attorney General from her post. It is important to note that the suspension facing the Attorney General is one based on allegations she has not yet had the chance to even respond to and that have not yet been determined to even be valid. It is certainly conceivable that when that would happen, the suspension will be lifted, either because grounds for it have been disproven or possibly because the interim suspension itself might be determined to have been a sufficient sanction for any improper conduct the court would determine the Attorney General committed.

However, as it stands right now, none of this is resolved. So, all of it is entirely speculative, and nothing more than that. Never has the Senate accepted, nor was it ever suggested in the drafting of this provision, that mere speculation alone could justify removing an elected officer. It is simply not appropriate at this time to take this action. I strongly suggest and urge, Mr. President, that to do so now would properly be considered a great outrage against the right of voters to elect candidates of their choice. That basically would mean a Senate supermajority of a single party could negate election outcomes pretty much on their own whim. Little could be more damaging to democratic processes than that.

Finally, Mr. President, I have not yet addressed the two cases which the Senate previously rejected. They are similar or remarkable not for their differences from this case, but for their obvious similarities. In those cases, still 125 years ago, two State-level officers, the Treasurer and Auditor General, were subjected to the proceedings of a Senate with a Republican Majority based on their alleged criminal conduct. That Senate Republican Majority concluded that the removal process could not be applied where the underlying grounds were criminal because the process of impeachment was available and intended for such circumstances. That is exactly where we are today, Mr. President. In fact, the House already has initiated the proceedings that could lead to an impeachment. Mr. President, I am a lay person. I am not a lawyer or legal scholar, but I urge the Members to follow this law as it was understood by those so close to it and prove that we are, as is so often claimed, a nation of laws, not of men and women. I particularly urge those Members who claim to support the concept of original intent in interpreting constitutional language to prove it by their vote here.

Finally, Mr. President, this is an election year, and I know that some Members are being advised to keep that in mind in considering their vote today. I think that is sound advice. I think so because the very principles of democracy are at stake with the right of Pennsylvanians, rather than majorities in the Senate, to choose whether to keep or throw out elected officials. The only reasonable vote, Mr. President, on the facts, on the law, and on principle, is one that rejects this motion. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lycoming, Senator Yaw.

Senator YAW. Mr. President, I would like to start off by saying I do not like the position that I am being put in personally, but as a Member of the Senate, we have a constitutional provision that has been presented to us and I think that we have an obligation to make a decision. I know that this sounds trite, but it is almost one of those things that we have to play the cards we are dealt. Maybe I do not like it, maybe other people do not like it, but I think that there is an obvious decision here that has to be made.

Now, I am a country lawyer, and when I look at this thing, the sole question that we have before us is whether a person elected as an Attorney General of Pennsylvania can perform the constitutional and statutory duties of the office with a suspended law license. That is the only issue that we have before us. It is not a question of how well other people in the Attorney General's Office are doing their job or how many investigators they have or how many cases they are prosecuting. I certainly hope that they are doing their job, because that is what they are being paid to do. The sole question is whether or not the Attorney General, without a license to practice, can perform the duties of the office, and I think the first place we need to start, and this has been mentioned before, but I would like to expand on it a little bit. Under the Constitution, an Attorney General shall be chosen by the qualified electors. It goes on then to say, "...he shall be the chief law officer of the Commonwealth and shall exercise such powers and perform such duties as may be imposed by law." The reference, the way that this is worded, the Attorney General is elected by the people and "he shall," is important. I think that we need to go then and take a look at some of the provisions specifically in the Commonwealth Attorneys Act. Clearly, there is a distinction drawn between the Attorney General and the Office

of Attorney General. Section 201 states, "The Office of Attorney General shall be an independent department and shall be headed by the Attorney General." There is no question. That follows the constitutional provision that the Attorney General is elected and he shall perform the duties.

I want to point out some other provisions in the Commonwealth Attorneys Act. Under Section 204, it provides that legal advice can be given by the Attorney General upon the request of the Governor. Well, our Attorney General cannot do that, because with a suspended law license you cannot give legal advice. The same thing with anybody, any agency may request a ruling from the Attorney General about the constitutionality of any piece of legislation or any proposal. That cannot be done today. The Governor cannot rely on the Attorney General for that information because our Attorney General, right now, does not have a license to practice law. Continuing, another part of Section 204 states this: "Before the Attorney General shall render any opinion interpreting any appropriation act, or any act authorizing the expenditure of money, he shall notify the Departments...." Now, some of these were written at a time when that is probably not the proper pronoun in today's world, but it is consistent with the constitutional provision stating "he."

Further in that section, it says that, "If the Attorney General determines that a rule or regulation is in improper form, not statutorily authorized or unconstitutional, he shall notify in writing...." It does not say the Office of Attorney General. Remember, at the beginning of the statute it drew a distinction between the Office of Attorney General and the Attorney General. These clearly indicate that the person who holds that office is the person looked to for the advice, not the office as a whole. The provision also continues that, "The Commonwealth agency may revise a rule or regulation to meet the objections of the Attorney General and submit the revised version for his review." Once again, it is the Attorney General who holds this position. It further provides that if a rule or regulation has been submitted to the Attorney General and he has not approved it -- once again, he has not approved it; the section further continues that, "The Attorney General shall approve all settlements over such maximum amounts as he shall determine...." Clearly, the responsibility for making these decisions rests with the Attorney General, it is not spread out through the office.

There is another provision in the Commonwealth Attorneys Act providing for deeds, leases, and contracts, and it specifically says, "The Attorney General shall review for form and legality...." That cannot be done. Our Attorney General, any Attorney General with a suspended law license, cannot fulfill that duty because they cannot practice law and they cannot make any legal determination. There are many, many other provisions in the Commonwealth Attorneys Act like that, that specifically designate that the Attorney General is the person who must make the decisions.

It is interesting in Section 205(d), it provides that the "Powers when prosecuting.--Whenever the Attorney General prosecutes a criminal action, or appeal, he may employ such special deputies as are necessary for that purpose...." Clearly, it designates the duties of the Attorney General. With respect to investigation, it is interesting because Section 206 provides that, "The Attorney General shall have the power to investigate any criminal offense which he has the power to prosecute...." Once again, it is the Attorney General who has the power to prosecute.

We heard, as part of the panel, from district attorneys. District attorneys operate very much like the Attorney General's Office or under the same provision of the law, and by saying, okay, in my particular county I am going to be an administrator; or in my county, I am going to go to court every day and try cases; or there may be something in the middle, a hybrid, partially administrative and partially in court, but the most important factor that everybody agreed to is that they had to have the legal authority to go to court to represent their respective municipality or their governmental entity. That is the touchstone here. They have to have the power to do it. Do they do it? Maybe not, but they have to have the ability to do it.

I think, Mr. President, the evidence is absolutely overwhelming based upon the duties that the Attorney General with a suspended law license cannot do, that a person in that particular category cannot perform the duties of the Attorney General under the Pennsylvania Constitution and Pennsylvania statutes.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, I remind people of the word that our Chaplain used today, and that word is "discernment." We are not talking about just a bill that we do on a day when we are in Session. We are talking about the Constitution of the Commonwealth. By occupation, I am a professor, and a professor of history, and I want to remind Members that when you are voting, this is not just a simple, ordinary bill. You are establishing a historic record, and each of your comments is on that record. You are establishing precedence, and that precedence will be used from generation to generation. So, I know that often in this Chamber we end up voting one way or the other because our Leaders want us to or because of the politics or because of geography, or whatever reason there may be, but this is one vote where we have to use what the Chaplain said. We have to use that discernment to make sure that we preserve the integrity of the Constitution and the integrity of our process as a legislative body.

I am going to be brief, which is unusual for me--I see the smiles--but I simply want to use an analogy, if I may. In my circles as an educator, a doctorate degree, a Ph.D., is considered to be important if one is going to head, say, a university, or to be a superintendent of the public schools, or to be in a high position as Secretary of Education. Why do we say a doctorate is important? We say because unless you have been involved in scholarship yourself, how could you possibly lead an institution that is supposed to be based on that scholarship? We make all kinds of exceptions, do we not, when it comes to the same rule. If we can make an analogy between the Attorney General and the law when it comes to education, the current Chancellor of the State System of Higher Education does not have a doctorate degree. I have never heard anyone get on this floor to question his ability to lead a 14-member university. The Secretary of Education of this Commonwealth does not have a doctorate degree, but I never heard anyone say that person is incapable of leading the Commonwealth in terms of education policy and does not have the ability to lead us in terms of 40 percent of our own budget.

In fact, this very body voted a piece of legislation in which, what we did was this, we said that you could be a superintendent of schools--if you remember late Senator Waugh's bill, and we voted it unanimously--you could be a superintendent of schools

and you do not worry about the letter of superintendency, which is issued by the department, because if you had military experience or if you had business experience, it was okay to be a superintendent. In fact, this very body had said when it came to charter schools, that do not worry if 20 percent of your teachers do not have teacher certification.

So, what I am trying to say is this, Mr. President, it seems when it comes to the Attorney General, it is very convenient, is it not, to say that person has to have a law degree in order to do their job, but when it comes to the education of 130,000 students in the State System of Higher Education, or the hundreds of thousands of students who we teach and comprise 40 percent of our budget, everyone is willing to overlook what certification, what licensure means, what a Ph.D. means in higher education and why you should have it.

So listen, what is good for the goose is good for the gander, as they say, and if you are going to do it for the Attorney General, it seems to me that then do it for every State officer. And those of us who rose on the floor and said, how could this person possibly lead, the law officer without a law degree, I say to you, then answer me, how does a Chancellor of the State System, how does a Secretary of Education, how does a superintendent of schools lead it without a degree? Now, you are going to make all kinds of statements, I can see you standing up already, and God bless you, but--

POINT OF ORDER

Senator CORMAN. Mr. President, point of order.

Senator DINNIMAN. --but I still, this is a fundamental question that we have today.

Senator CORMAN. Mr. President, point of order.

The PRESIDENT. Will the gentleman yield?

Senator DINNIMAN. --the fundamental question--

Senator CORMAN. Mr. President, point of order.

Senator DINNIMAN. Oh, Senator Corman, do your point of order. You are going to do it. All right, go ahead, please. Let me show respect to you as you are showing respect to me. Make your point of order, sir.

Senator CORMAN. Mr. President, point of order.

The PRESIDENT. Senator Dinniman, I am going to hit the mic.

The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I tried to let that go as far as I could, but obviously we are now not arguing whether it is appropriate for different fields of work, whether they have licenses or not. This is an argument today about whether the Attorney General needs to have a law license, and I think the gentleman has gone far afield.

The PRESIDENT. Thank you, Senator Corman. I have to say I am with you.

Senator Dinniman, I know you had a head of steam there, but you look like you are ready to sum it up. Please proceed, to the best of your ability.

Senator DINNIMAN. Mr. President, I will sum it up quite quickly, and I thank you, Senator Corman, for your point of order. You have every right to make it and I respect it.

The situation is this: if the lawyer cannot practice law, therefore she cannot lead the Attorney General's Office; the analogy

I am making is, how does someone who does not have a doctorate degree in education, how does someone who can be a superintendent be that superintendent, be that teacher without doing it?

POINT OF ORDER

Senator CORMAN. Mr. President, point of order.

Senator DINNIMAN. Mr. President, thank you. You do not have to go on, Senator Corman. I am stopping.

Mr. President, I appreciate the courtesy you have extended to me.

The PRESIDENT. Thank you. And, Senator Corman, I appreciate your comments.

Once again, Members, please, I still think we are doing a marvelous job of keeping this well-tailored and focused. Members, keep in mind to the best of your ability, the question is whether the Attorney General can serve in her constitutional capacity with or without a law license, and do your best to keep your focus on that particular argument.

The Chair recognizes the gentleman from Lebanon, Senator Folmer.

Senator FOLMER. Mr. President, back when I became elected to the General Assembly, to the Senate of Pennsylvania actually, I ran because I believed that the Constitution was being railroaded. That we, once again, were just arbitrarily changing the Constitution to fit the very needs of us, of the then-elected officials. It was that famous midnight pay raise ordeal in which I believe Article II, Section 8, of our State Constitution was violated, and the State Supreme Court later upheld the fact that the unvouchered expense was. I am saying all of this because of this: I do not believe there is a Member of this General Assembly who takes this document more seriously than I do. I do not think there is a Member who cares about and fights for the individual rights, whether they are Second Amendment rights, Fourth Amendment rights, Fifth Amendment rights, or Sixth Amendment rights. I believe that this whole issue, sir, is very simple. The Constitution is very clear on what the Attorney General needs to be to be Attorney General.

Now, if we want to change this Constitution and we want to say that you do not have to be a practicing or licensed attorney in the State of Pennsylvania to be the Attorney General, well, then let us have the amendment process and let us change it, but then let us make sure that it is the amendment process so we put it in front of the people to change that. Right now what it says is this: That the Attorney General is the chief law officer and has to be a member of the Bar to be able to do their job. I did not ask for this. The Attorney General could have easily taken a leave of absence and stepped aside and things could go on as meant to be constitutionally, but I do not believe she can do her job constitutionally.

I weighed this out heavily in my heart. I am not taking this lightly. I do not like the position I am in, but here I am, and I believe it is our constitutional duty as sworn Members. We each took an oath of office to uphold this document. I believe that it is our responsibility now. This is not about innocence or guilt, this is not about, whatever. What this is really about is this document, the Constitution of Pennsylvania.

Thank you very much, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Mr. President, I rise to oppose the use of this outdated, antiquated provision to remove our current Attorney General. Regardless of whatever you might think of our Attorney General, regardless of what you think about her, this is not the time, and it certainly is not the way to remove an elected official from office. Mr. President, this outdated direct address provision dates back to the deepest and dustiest confines of our Constitution. It harkens us back to the old gentry days of when the upper Chamber were deemed smarter and more capable than the general public. While I do not question the diligence of the Special Committee, its work is clouded by a very dangerous public perception and even more troubling precedent. The voters elected this Attorney General to office by a wide margin. She has not been convicted of anything. She is not even disbarred. Like any American citizen, she is entitled to due process. Some might not like it, but she is entitled to due process. Mr. President, this action today chisels away at the foundation of our democracy. It disenfranchises the many voters who voted for her, all to satisfy a political vendetta. We already have low voter turnout, voter apathy, and suffer from low turnout elections. This provision sends a message to the voters that your vote does matter, but only if the Harrisburg elite agree with it. Is it any wonder why people think their vote does not matter?

Mr. President, today we are being asked to unearth an archaic provision and wield a report authored by the oppositional political party as a means to circumvent due process and our system of justice. The Majority party of this Chamber is also the Majority party in the House. It is not as though the lower Chamber is blocking impeachment articles from moving forward. No, Mr. President, to the contrary, the House is proceeding with impeachment procedures. So, why would we not allow that process to take place? Apart from how this sets a very troubling precedent, I also question the necessity of acting so quickly and recklessly. The Attorney General has willingly taken a more administrative role in that office while her legal issues run their course. I am not aware of any crisis in the operation of that office that would warrant such action today.

Mr. President, this is not the right time, and most certainly, this is not the right way. I urge a "no" vote.

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Teplitz.

Senator TEPLITZ. Mr. President, I rise to discuss my upcoming vote on this very serious issue, but first I want to thank and commend all of the Members of the Special Committee. You had a very tough job. I do not think any of us who did not serve on the committee envy the job that you had, and we appreciate your service. In listening to the conversation today, I could tell you that I would not want to be prosecuted by a lawyer such as John Gordner or Gene Yaw, and I certainly would want to be defended by a lawyer such as Art Haywood, and I mean that as compliments to all involved. I am proud to be a lawyer and a fellow member of the Bar with the three of you and the others in this Chamber.

That may be a good place to begin. I am a proud lawyer. It is at the core of my identity and who I am in ways that I cannot articulate, and my law license is more than a piece of paper, it is more than an asset. It is something that I worked hard for and hold on to, and it is extremely important to me. So I speak from that perspective. I am not speaking today in order to persuade anyone to my position or to criticize anyone with a different

view; rather, I feel it is important to put on the record how at least one Member of this body approached this unique issue. My goal is to provide future legislators, when considering a similar decision, with more to go on than what we have before us today, but I do hope that it will be another 100 years before this body makes this kind of decision again.

Let me start by making clear what this vote is not about. This is not a vote about whether Kathleen Kane is competent or incompetent to perform her duties. It is not a vote as to whether Kathleen Kane is the victim of a legal or political process or whether she has violated the law herself. It is not a vote as to whether Kathleen Kane should run for reelection, whether she should be renominated by her party, or whether she should ultimately be reelected. Significantly, this is not a vote about whether this body should have the power to remove a public official from her elected position under a specific, unique, and rarely used procedure. That power already exists, whether we like it or not. I do not. The exercise of that power is being considered today, whether we like it or not. I do not. And I really do not like the idea that three dozen people could overturn the will of 3 million voters.

I also note that this vote today is not whether or not Kathleen Kane meets the State constitutional requirement for eligibility to serve as Attorney General. Our Constitution requires that the Attorney General be, quote, "a member of the Bar," end quote. Based on court orders, rules, and case law, it is clear that an attorney is still a member of the Bar despite the temporary suspension of her law license. If temporary suspension meant disbarment, we would all be required to vote for removal because Kathleen Kane would be constitutionally ineligible to serve as Attorney General. That would be an easy decision, but that is not the decision that we must make today.

Rather, what we have before us is a much narrower, some might say more creative or even more ingenious question, and that is this: Whether an Attorney General whose license has been temporarily suspended can still perform the duties of that office, and if not, whether that person should be removed from office by this body. That is the question before us, and each of us must decide how to answer it.

Let us be absolutely clear, an appropriate answer to that question has nothing to do with job performance or political vendettas or porn emails. On the question presented, reasonable people can disagree, and none of us can be 100-percent certain that we know how to navigate these uncharted waters. I do not think that anyone here takes this lightly, and I do not think that anyone here is casting this as a political vote. There is a school of thought that an Attorney General without a law license can still perform the many administrative duties involved in running any large government agency, like overseeing the personnel office, the comptroller's office, the purchasing office, the press office, maybe even the legislative office, and that an unlicensed Attorney General can be walled off from the legal decisions that need to be made and the actions that only a licensed lawyer can take. There was certainly testimony before the Special Committee to support that position, but that is a very narrow view of the job of Attorney General. It is not consistent with other testimony before the committee, and it is not consistent with the expectations of the families and taxpayers of Pennsylvania who, let us not forget, are the clients of the Attorney General.

I have given this matter a tremendous amount of thought and attention, and I am informed, in part, by my own experience as a practicing lawyer in Pennsylvania for over 20 years, including 8 years as the top lawyer for a large State government agency. I just cannot escape the conclusion that when people vote for an Attorney General, they are not voting for someone merely to oversee the administrative offices of that agency. They are voting for someone to use her legal experience, judgment, and skills and then to act, to pursue the mission of that agency in the best interest of the public, and to do so for the entirety of a 4-year term. Quite simply, the position is not attorney and/or general, it is Attorney General. Try as I might, I cannot separate the two. The public deserves more than a general running the office. The public deserves a licensed, practicing attorney.

I feel no joy in reaching this conclusion, and I am extremely concerned about the precedent we are setting today. My preference, which I stated last summer under different circumstances, was for Kathleen Kane to resign voluntarily. That, obviously, has not occurred. There is another process, impeachment, which has clear rules, standards, and burdens of proof and which is viewed as much more credible than removal. The impeachment process is already beginning, and there is no urgency that requires us to use the removal process here today. That would be my strong preference, and that would serve the interest of all parties involved in this unfortunate drama. There are some who feel that the Attorney General is being railroaded by this removal process, and I have more than a little sympathy for that view.

While I did not choose to get on this train, I feel compelled, for the reasons already stated, not to pull the emergency brake. Whether we like it or not, the question of removal has been brought before us today, and I will reluctantly vote "yes."

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, there have been many arguments already made and many discussions, so I will try to be as brief as I possibly can and get through this. Clearly, Mr. President, this is a body of laws and a body of rules. We make laws here, we debate laws here, and essentially the very parameters, the very guidelines which we use each and every day to pass those laws are encompassed in a set of rules. I believe that, in many ways, what we are asking or what we are saying today is that we are seeking to hold the Attorney General to the rule of law. Many folks in this Chamber believe that when we read our Constitution and our laws, that we must do so with a strict interpretation. In my opinion, Mr. President, a vote for removal today is to abandon that principle. Removing the Attorney General under Article VI, Section 7, is not warranted by the Constitution and it is not warranted by statute. Thus, a vote in favor of removal would be to impose a rule of law where none exists, an exercise that I would say is more akin to what some people call judicial activism. Judicial activism in this very Chamber has been railed against time and time again. To impose a rule of law where none exists has been advocated against many, many times, not only in this body, but in committees.

I think we are all very familiar, Mr. President, with the facts. I am not going to go through any of those, but the report of the Special Committee suggests that the power to conduct the vote we are faced with today comes from the direct removal provision of the Pennsylvania Constitution. We know that the Attorney

General is not specifically enumerated in the list of high-ranking elected officials who are exempt from removal under Article VI, Section 7, and that is because the Attorney General was not elected until 1978. Importantly, however, is the fact that the direct removal provision exempts high-ranking elected officials from its scope. It is undeniable that the Attorney General is a high-ranking elected official akin to the Governor, the Lieutenant Governor, and Members of the General Assembly. Because of this, the Attorney General should be subject to the same means of removal as a member of the excluded offices - impeachment.

The precedent also supports the notion that this removal provision, Mr. President, does not apply in the case before us. Now, as has been said many times, the only time that this direct removal provision was used was in 1891. In that case, the Governor requested that the Senate move to remove Auditor General Thomas McCamant because he was accused of fraud and accepting bribes. I think it is interesting to go back and review the transcripts and materials that were provided by the committee with regard to that action. During that process, the Auditor General pointed out the serious flaws in the removal process. Number one, that there was no fair trial by an impartial jury. Number two, that there was no tribunal bound by oath. Number three, there were no rules of evidence. Rather, it was a political tribunal convened to circumvent the constitutional methods in place for removal of office. The Senate agreed, Mr. President, with the Auditor General, finding that the basis for removal were charges of misdemeanor in office and the Senate had no jurisdiction to hear and determine charges of official misconduct under the direct removal provision.

Now, today we are asked to do the same thing that the Senate refused to do 125 years ago. The reason, Mr. President, that the Attorney General had her license temporarily suspended was because of criminal allegations she is facing. It is impossible to separate the two. You need to look no further than the debate on this floor over the last several hours as Member after Member has tried unsuccessfully to untangle a knot that simply cannot be undone. If the Attorney General had her law license temporarily suspended for failing to pay her dues or completing her CLEs, we would not be here. The reason for temporary suspension matters, whether they were formally addressed or not, and they cannot be ignored. We should follow the precedent that was set in the case of the Auditor General and refuse to use this removal provision against the Attorney General because the only reason she is said to be unable to perform her duties is because of the criminal allegations she faces, or, in other words, because her license is temporarily suspended. By ignoring the precedent created by the Senate in 1891, we are becoming, like I said earlier, an activist court. Such activism is frowned upon by many Members in this room. But a vote to remove the Attorney General today is exactly that. It is a vote to create the power in one Chamber of the legislature to oust a high-ranking elected official quickly and on a whim. It is a vote to silence the voices of the people of this Commonwealth.

Mr. President, I submit to you that is the direct definition of activism. There is no legitimate need for this vote today. There are fairer, more appropriate ways to achieve a similar result. As has been noted earlier, our colleagues in the House are ready to move forward with an impeachment process.

Now, Mr. President, many speakers have talked about the issue of reasonable cause. Well, I know there are some scholars

here in this room, there are some folks for whom I have the utmost respect who follow the Constitution to the letter, but when you look in the Constitution, Mr. President, you do not see the definition of reasonable cause defined therein. That is because the meaning was addressed in the 1891 removal proceedings of the Auditor General. At that time he testified that during the debates of the direct removal provision, reasonable cause was intended to apply to situations when impeachment was not applicable. Let me say that again, reasonable cause was intended to apply to situations where impeachment was not applicable, such as instances of insanity, senility, incompetency, and protracted illness or absence. The purpose of the direct removal provision is to provide a method for removal when an elected official is physically or mentally incapable of fulfilling his or her duties, where impeachment is not applicable. Again, if this body today is to expand reasonable cause to include instances where an elected official is temporarily prevented from adequately fulfilling her duties, we are again creating an unintended consequence. We are changing the law. We, in many respects, are acting as an activist court.

The report of the Special Committee contends that reasonable cause to remove the Attorney General exists because the Attorney General cannot perform the duties of her office with a temporarily suspended license. The requirement that the Attorney General has a Pennsylvania law license comes from Article IV, Section 5, of the PA Constitution, which states, "No person shall be eligible to the office of Attorney General except a member of the bar of the Supreme Court of Pennsylvania." Now, during one of the Special Committee hearings, Mr. Antkowiak presented to the committee the legislative history of this constitutional amendment, and he testified during the debate of the amendment that the maker of the resolution stated that the Attorney General needs to be learned in the law and subject to Pennsylvania's disciplinary rules. Quite simply, Mr. President, membership in the Bar insures that.

Now, contrary to assertions made here today and contrary to assertions made by Members of the Special Committee, there is no constitutional requirement that the Attorney General be, quote, "in good standing," end quote, within the Pennsylvania Bar. There is no such requirement. There is no such requirement in the Constitution. An individual with a suspended law license, whether you like it or not, is still a member of the Bar of the Commonwealth of Pennsylvania. That is all, Mr. President, that the Constitution requires. To read anything else is yet another example of what I consider to be an exercise of activism. Call it legislative activism, call it judicial activism, but it is reading a rule of law where one does not exist.

The Commonwealth Attorneys Act, Mr. President, provides for certain duties and obligations of the Attorney General. These duties include, as folks have already said, giving legal advice to the Governor and heads of agencies, reviewing agency regulations, representing the Commonwealth in civil matters, and prosecuting criminal cases and conducting investigations. Certainly, many of these duties, Mr. President, are law related, but the Attorney General has and always will delegate those duties. It is not practical nor is it realistic, Mr. President, to think that the Attorney General carries out each and every obligation of the office individually, and delegation does not require an active law license. None of the testimony, Mr. President, received by the committee provided any evidence or rule of law that leads to the

conclusion that the Attorney General is prohibited from delegating certain duties during the temporary suspension of her law license. I can tell you, Mr. President, we read everything we were given.

If Members vote to remove the Attorney General on the grounds that she is unable to perform the duties prescribed by the Commonwealth Attorneys Act, we are essentially mandating that each of the duties of the Commonwealth Attorneys Act is performed by the Attorney General herself. Again, we are requiring something that is not required in the law. We are exercising what is akin to judicial activism. A temporarily suspended law license, Mr. President, does not mean that the Attorney General cannot step foot in her office. The initial report of the Special Committee issued to Members of this body highlighted the duties that a lawyer with a suspended license may not perform, but failed to acknowledge the list of law-related activities that are permitted to be conducted by a lawyer with such license temporarily suspended. I think it is important, if you go back and you read Rule 217, it is clear that while the permissible duties are limited, certain law-related functions can be undertaken by a lawyer with a temporarily suspended license. Now, Mr. President, this makes sense and it is within the spirit of the law because we want lawyers who can have their license reinstated to stay involved and keep their skills sharp.

I can tell you this, and it was alluded to by one of the former speakers, do not take lightly--and I know it is the butt of many jokes--the education requirements to become an attorney at law. It is 4 years of college. It is 3 years, maybe more, of law school. Many people do it at night while they are raising families. It is 4 years, sometimes even more. It is then to study for a Bar exam, sometimes two, and then in addition to that, it requires yearly credits to keep up with that license. I know we joke about lawyers in this building, but you do not forget how to be a lawyer because your license is temporarily suspended. You do not forget what you have learned and the hours you have put in and the dedication you have done to get that degree because your license is temporarily suspended.

The Commonwealth Attorneys Act lists law-related duties of the Attorney General, but we know from testimony at the hearings that the duties of the Attorney General are not exclusively law related. The Special Committee hearings did not show that law-related duties cannot be delegated and did not give appropriate weight to the nonrelated duties of the Attorney General. Therefore, Mr. President, in my opinion, reasonable cause for removal has not been shown.

So, in conclusion, I ask that this body reflect on the extensive judicial activism--whatever word you want to use, you may use--that is required if Members vote in favor of removal. A vote for removal requires Members to read the Constitution and read the laws and then ignore them and write in a provision that fits an intended purpose. We are requiring Attorney General Kane to abide by the rule of law. I respectfully ask that Members of this Chamber do the same.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, before I vote upon this measure, I ask that a couple of Members stand for a brief period of interrogation so I can understand something that was written.

One is departing the floor, so I ask him to remain. I ask that Senator Folmer stand for a moment of interrogation.

The PRESIDENT. The gentleman from Philadelphia requests of his colleague, Senator Folmer, that Senator Folmer stand for interrogation. Will Senator Folmer agree to the interrogation?

Senator FOLMER. Mr. President, I will.

The PRESIDENT. The Senator has indicated to the Chair that he is willing to stand for interrogation from Senator Williams.

Senator Williams, proceed.

Senator WILLIAMS. Mr. President, and to my friend, if I go afield and I inappropriately sound like I am offending you, please let me know.

Senator FOLMER. Okay, Mr. President.

The PRESIDENT. I advise both gentlemen that the practice and procedure of interrogation is to direct the question to the Chair and the Chair will relay it to the recipient, and that is how we will conduct the interrogation.

Senator Williams, proceed.

Senator WILLIAMS. Mr. President, I ask the gentleman, who I greatly respect for his understanding of the Constitution, to work with me on what I believe I heard, and that was, he stated that in the Constitution it requires that the Attorney General be a practicing attorney. I want to make sure that I did hear that correctly.

The PRESIDENT. The gentleman has stated his question. Senator Folmer, do you understand the question? You may answer whenever you are ready.

Senator FOLMER. Mr. President, well, my answer to that, sir, and I respect you deeply, is that my interpretation is that, and I believe that what the Founders think of this, who wrote this in here, meant that they needed to be licensed practicing attorneys so that they could stand before the courts and do their job. Now, I am not an attorney, but I try to keep it simple, and that is how I interpret it.

Senator WILLIAMS. Mr. President, so, I ask him to take out his document, the Constitution, and I believe his is similar to mine. On page 36, Article IV, Section 5, and if he would be so kind as to read the last sentence.

The PRESIDENT. Does the gentleman understand?

Senator FOLMER. Mr. President, actually, I did not think this was an interrogation. What does he want me to read?

Senator WILLIAMS. Mr. President, I will tell him the section to return to.

POINT OF ORDER

Senator CORMAN. Mr. President, point of order.

The PRESIDENT. Senator Corman, state your point.

Senator CORMAN. Mr. President, I think the rules of interrogation are to ask questions and get responses. I do not believe the rules of interrogation are to ask Members to read things.

The PRESIDENT. Senator Corman, you are correct.

Senator Williams, the correct format is to ask individual questions. I think I understand what you are trying to do. Nonetheless, you should focus on clear -- ask a question, get an answer, ask a question, get an answer. That is the way to proceed appropriately.

Senator WILLIAMS. Mr. President, well, I ask this question for purposes of accuracy. I ask the gentleman to read the Constitution, which he alluded to earlier in his comments. I ask him to

reflect upon a specific item in the Constitution, which gives clarity to his comments, so we are not subject to interpretation.

The PRESIDENT. Senator, why do you not read it and ask him to comment?

Senator WILLIAMS. Certainly, Mr. President. Thank you.

As I read the Constitution under qualifications of Governor, Lieutenant Governor, and Attorney General, Section 5, last sentence, which I do not think is open to interpretation, reads as follows with regard to the Attorney General: "No person shall be eligible to the office of Attorney General except a member of the bar of the Supreme Court of Pennsylvania." I do not see anything in here that alludes to an attorney. So, I ask him, with all due respect to his interpretation, if I am accurate or if there is something that I missed that he could add. That is why I simply asked him to read it.

Senator FOLMER. Well, first, my answer is--

The PRESIDENT. Senator, please direct your comment to the Chair.

Senator FOLMER. Mr. President, I am sorry.

The PRESIDENT. We will keep it under control. Thank you, Senator Folmer.

Senator FOLMER. Mr. President, first of all, as far as the removal, I was referring to Article VI, Section 7, of our State Constitution on the removal of civil officers. As far as his interpretation of being a member of the Bar, my interpretation of being a member of the Bar is that they need to be a member of good practice so that they could go to court, so they could represent clients or do their job. That is my interpretation.

The PRESIDENT. Thank you, Senator Folmer.

Senator Williams, is that satisfactory?

Senator WILLIAMS. Mr. President, well, I ask that the gentleman explain to me his interpretation. To my knowledge, I do not think that the gentleman is an attorney, so I would like to know where his interpretation of this comes from.

The PRESIDENT. Senator, I will jump in with regard to that. I believe the gentleman answered with his background. He did not indicate that he was an attorney. He indicated his reading and understanding of the Constitution, that is what he understands.

So, I ask you to tailor or get more specific if you have a question. Other than that, I believe he answered the question.

Senator WILLIAMS. Well, Mr. President, I will close with this. I ask the gentleman, does he agree with my reading of the last sentence, and that is, "No person shall be eligible to the office of Attorney General except a member of the bar of the Supreme Court of Pennsylvania."

The PRESIDENT. Senator, is that an affirmative or negative answer?

Senator FOLMER. Mr. President, I am just going to sound like a broken record and I am going to reaffirm my answer. As I cited the Constitution, as Mike Folmer does, and I am not an attorney, I understand that, Mr. President, but my point is, as I understand it, is that to be a member of the Bar, and he is only quoting Article IV, Section 5. Article IV, Section 4.1, states that they are the chief law enforcement officer. So, as I am interpreting it, I believe they need to be an attorney in good standing, that they are going to be able to go to court, do all of the things they have to do, sign off on bonds, and so forth. Right now, under the suspension, that person is not able to do that.

The PRESIDENT. Thank you, Senator.

The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, I thank the gentleman.

I ask that my other colleague, Senator Gordner, if he would be so kind as to stand for interrogation.

The PRESIDENT. Senator Gordner, are you agreeable to standing for interrogation? He indicates he will not.

Senator WILLIAMS. Mr. President, so then I will ask one of the other Members of the committee to stand for a period of interrogation. If Senator Haywood would be so kind as to stand?

The PRESIDENT. Senator Williams has asked Senator Haywood to stand as a Member of the committee, and Senator Haywood has indicated that he will.

Senator Williams.

Senator WILLIAMS. Mr. President, there has been a lot discussed today with regard to the Constitution, and I recognize you as an attorney, and I have read this several times to make sure my understanding is complete and thorough. Is there something in the Constitution that speaks specifically to the Attorney General being required to be an active member or not, or having a suspended license, that prohibits the Attorney General from holding that position?

The PRESIDENT. Senator Haywood, do you understand the question and are you ready to respond? If not, I can try to seek further inquiry.

Senator HAYWOOD. Mr. President, I believe I do understand the question and I am ready to respond. The provisions of the Constitution have been read and they clearly do not include more than being a member of the Bar. However, it is really for the Supreme Court to interpret the language of the Constitution. I am reluctant to take the role of Supreme Court to interpret what the Constitution means. Know that there are hundreds of decisions by the State court and the national Supreme Court interpreting the very language in our national and our State Constitutions, so there is often meaning beyond the exact words in the Constitution. So, beyond a simple reading, exactly what has been stated, I am very reluctant to say if there is some kind of hidden meaning that may or may not be present, given that I am not willing to stand in the shoes of the Supreme Court of Pennsylvania.

Senator WILLIAMS. Mr. President, I ask, and it is unfortunate that my colleague would not stand to answer this simple question, but I heard a number of legal terms as I would understand them - due process, evidence, and then reasonable cause - all to be understood as legal terminology, not normally lay terminology. So, I want to understand as we take this vote, is this to be understood from the perspective of a legislator in the Senate or as a potential juror who is reviewing evidence? I can only ask Senator Haywood because Senator Gordner does not choose to stand.

The PRESIDENT. Senator Haywood, do you understand the question and are you prepared to answer?

Senator HAYWOOD. Mr. President, I believe that I do, but if my answer demonstrates that I do not, then obviously I do not. It appears to me that the question is related to what I call the standard of review. What kind of approach do we have to reviewing it? Of course, there have been a number of legal issues raised today which would put a Senator in a position of making a decision on what the Constitution means or what the Constitution does not mean, what the Commonwealth Attorneys Act means and what it does not mean. I have said earlier I think that

is the role of the courts, and personally, I am very uncomfortable with getting in front of the courts as to what some of these laws mean.

So I think in terms of our role as a legislature, although we have to make a decision given that we have a resolution on the table, and so it would appear to me that in the end our decision has to be as a legislator. I hope that was helpful. If it was not, I apologize.

The PRESIDENT. Senator, those answers indicate that you are certainly a lawyer, sir.

The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, thank you.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I want to take a few moments to sort of address some of the issues that have been raised and comments made and maybe try to bring some clarity from a number of the, as I mentioned, issues that were raised. First, let me say I certainly appreciate all of the comments of Members of this Chamber about this very important issue, and I know that the Members have gone through a painstaking process to review the evidence and make determinations on their own accord in terms of how they feel about what needs to be done in this particular situation. As some of my colleagues have said, and I agree, I think the preference would have been to allow the process that has already begun in the House of Representatives, the impeachment process, to work its way through and make its way here. That is our preference, but I recognize that is not what we are faced with today, and what we are faced with today is a very narrow question about whether or not an Attorney General can perform the duties and functions of the Office of Attorney General with a temporarily suspended law license.

I think what we need to do is go back and start with the initial incident or initial order that really set us on this path, and that was the order issued by the Pennsylvania Supreme Court. Certainly, the Pennsylvania Supreme Court, in its order that said she would be temporarily suspended, also included a phrase that they did not intend to remove her from the office of Attorney General. It is a very specific purpose. They put those words in there for a purpose. If they wanted to suspend her beyond the temporary suspension or wanted to limit the functions of what she could or could not do with respect to a law license, it could have been done at that point in time, but it was not. Later, that particular order was appealed or asked for reconsideration with a different court in place and other circumstances that developed over the course of time, a second time went back to the court and asked for that order to be removed or allow her to be able to gain her law license back. That court, as we now know, which triggered a provision in our committee's report, finds us here today.

But let us be clear about what that subsequent order said. It did not rule on the merits of her contention that there were intervening issues that were taking place that should have been considered but were not. It was not that they were looking, again, to remove her from the office of Attorney General, because they did not. The court determined that particular application for relief was denied because it was not timely filed. That was the basis for the second order that denied her request to have that order taken away. So, I think that is important. It was not on the substance of what was presented to the court, but rather on the timeliness

along those lines. I submit that if they wanted to change the direction of what that person could do in that particular office, that was the opportunity to do so.

Mr. President, there have been a lot of concerns raised by folks who testified at some of the hearings along the lines, in particular the reference to the testimony of the Deputy Attorneys General. There were concerns that were raised particularly with respect to the prosecution of various cases and whether or not the Attorney General had the ability to continue to prosecute cases at various stages of prosecution, and those issues actually became irrelevant in court cases across Pennsylvania, one in my home county of Allegheny County, but a second one in Armstrong County. In Armstrong County, there were three cases that were at different phases of their prosecution. One was post-jury, where a conviction was rendered by a jury but before sentencing, and there were others that were in different stages of that conversation and legal proceedings. That issue was raised by two defense attorneys in Pennsylvania who raised the issue, specifically about what we are talking about today, whether or not the Attorney General has the authority with a suspended law license to continue to prosecute those cases. Now, that issue was briefed by both sides, the Commonwealth and the defense attorneys. There were oral arguments along those lines, and there was an opinion rendered by a court of competent jurisdiction of Armstrong County specifically addressing the issues that we are talking about here today.

Now, I recognize a decision from the Court of Common Pleas of Armstrong County does not necessarily have statewide binding authority. It certainly provides for guidance to other courts across Pennsylvania, the Courts of Common Pleas, that they must look at, at least in terms of their rationale or reasoning if there are, in fact, any other cases raising this defense, but there really are none to my knowledge that I have heard of or have seen along those lines. Most importantly, the question we are faced with here today, a court has already looked at that issue and has said the Attorney General has the ability to delegate cases and has the ability to perform the functions of the office.

That is the case in *Commonwealth vs. Joshua R. Cramer*, and it is case No. CP-03-CR-0000601-2014 in Armstrong County. In that case, Mr. President, it talks about a couple of things. Certainly, about the applicable law that needs to be applied, and it looks to the Commonwealth Attorneys Act that we talked about. It also looks, certainly, to provisions of our Constitution as well, but at the end of the day, when it does its analysis it says a couple of things which I think are relevant here. It certainly says that the Attorney General is a member of the Bar Association and thus has the ability to serve and function as the Attorney General, given that criteria, so she meets that condition or that criteria.

Most importantly, Mr. President, and I understand some of the things that were stated in the testimony from the Deputy Attorneys General, who are all competent and good lawyers and individuals who run an exceptional office, in many instances despite some of the things that are going on, but this is a court decision that clearly talks about provisions of the Commonwealth Attorneys Act that says that the Attorney General has the ability to delegate in all of the things that were mentioned previously by my colleague. My colleague, Senator Gordner, talked about a whole litany of issues or a whole litany of charges or responsibilities that the Attorney General shall do. What is important is that the language that is contained in the Commonwealth Attorneys

Act that was obviously done and enacted by this General Assembly post-1968 when we did our most recent revision of the Constitution, you presume that it incorporates the Constitution and the provisions of the Constitution and granted through the Commonwealth Attorneys Act the ability to delegate the things that were talked about on this floor. That is precisely what the Attorney General did in her process with respect to this particular delegation of her authority.

As was said earlier by some of my colleagues, it is impractical and simply not possible for the Attorney General to make every decision relative to every single case and to prosecute every case. It is just not practical, as my colleague, Senator Farnese, talked about. I also think, Mr. President, there were a couple of other issues that my colleagues talked about. One, I think, is the absence, in my view, of how we proceed in this process with a number of issues. I believe that it was Senator Teplitz who talked about the preference for an impeachment process, which we agree, specifically, though, for the reasons of what it provides. It provides a process that the House and Senate participate in, but it provides a process of due process, standards of proof. Who has the burden of proof, first and foremost? Who has the burden of demonstrating whether or not this person has the ability to perform the duties of their office? It talks about what standards must we apply in a case along those lines? What should the standard be? Should it be a magistrate standard or the local district justice level? More likely than not, a very low bar to reach. Should it be a preponderance of the evidence? Should it be clear and convincing, or should it be reasonable doubt? We do not have any of that information before us in terms of the process that we are going forward with.

So, I submit to you that is a major issue that needs to be addressed through the impeachment process. The clear standards of law, the burden of proof, as well as the standards that we need to apply with respect to what level we need to reach to convict somebody is what we are trying to establish here, essentially along those lines.

A couple of my colleagues said on the floor today that they simply do not like the position we are in, and I do not think any of us do. This is a provision that has not been used, I believe, in 125 years. I do believe there is a reason for that, because I think it is a process and a provision that makes it very, very difficult for anybody, whether it be the Senate, a future Senate or past Senate, to be able to put its arms around some of the things that need to be done to reach an appropriate conclusion when you are removing somebody from office. That, to me, is a pretty high bar, and I do not necessarily believe, in my case and in my view, that we have reached that bar where it is appropriate for us to be able to remove somebody from office under this provision given the weight of the evidence that we see before us today.

I find it interesting that nobody talked today about the Armstrong County case. To me, I think it disposes of the issue, in many respects. It basically says that the Attorney General, a court order, by the way, in a court of competent jurisdiction required to interpret the Constitution, interpret the relevant statutory law and other case law that is available and render a decision, that is what this court did in Armstrong County. It is a 16- or 15-page opinion that I think deals with this issue, as I mentioned to folks earlier. At the end of the day, I do not believe there is sufficient evidence for us to be able to remove this Attor-

ney General or any Attorney General on this evidence through this process and concluding it with the removal of office.

So, Mr. President, I thank the Members for their testimony. I want to thank the committee Members as well for the hard work that they did. I know they reviewed volumes of evidence, and I think it was important. I am going to vote "no" on this particular resolution, and I ask my colleagues to do the same.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I am quite often asked what it is like to be a State Senator when I go around to visit classrooms, or young kids in different settings, even on the street with friends, and my response is always the same: It is like any other job, there are things you like to do, things you do not necessarily like to do, but you do the things you do not necessarily like to do so you can do the things you like to do. We are no different than anybody else out there in the professional world. This is one of those days that this is probably not something any of us would like to do. This is not something that we looked for or that we wanted to have happen here. This is not something that was an initiative of anyone's. This is something that was put in our laps, so to speak, here in the Senate. Whether we like it or not, it is our job. This is our job. In my now 18th year here in the Senate, I cannot think of a more profound vote that I am going to have to cast than the one that we are going to cast here today.

So, when this whole issue first came around, before the suspension of the Attorney General's law license, when charges were filed by the district attorney in Montgomery County, my reaction was I did not call for her resignation. I said that is a personal decision for her to make, that she deserves due process. If she thinks she can still do the job while she is under these charges, then that is a decision for only her to make. I stand by that. You all may know I spent a lot of time over the past year talking about due process. There was an incident in my community that I did not think my community received due process. Those words are very, very important to me. They are very personal to me. So, my decision was to allow the process to unfold.

Obviously, when the Supreme Court made the motion or made the order to suspend the Attorney General's law license, that changed the dynamic significantly. When this whole Special Committee on Senate Address came about, one of the things I counseled all of us to do, as the Majority Leader, was that we are setting new precedent here, and we had to be very mindful of that. This could not be a partisan witch hunt, this could not be an attack, this could not be politically motivated, and there are no political calculations that should be taken in this case. I have had people outside say, "Gee, what are you doing this for? Let her out there as a candidate. That is terrible for the Democratic party." No, we are not dealing with political motivation. This is too profound. As was stated, this was someone who was elected by the people of Pennsylvania, and to remove someone from office is not an insignificant vote for us to make. We wanted to make sure that we were mindful that this is precedent setting.

So, the President pro tempore and I worked with the Minority Leader to set up a process that they could buy into and a process that we could buy into to get to a final conclusion. The process was set up, I think, very fairly, was conducted in a bipartisan fashion, and all Members of the committee are to be commended for their hard work. At the end of the day, most of the votes they

made were unanimous through the process. As it came down to conclusions, as can happen, people had different opinions, which is certainly understandable and respectful. The process was a fair one. The process was done that, as someone said, I hope it is another hundred years before this part of the Constitution is triggered again. Nevertheless, we have set a precedent here in Pennsylvania in the Senate that people can follow and get to a conclusion that Members can make an intelligent vote and go from there.

So, I am proud of the Senate today. I am proud of the way that this very, very difficult issue has been handled. Reasonable people can come up with different conclusions. The Senator from Dauphin County and I politically do not necessarily agree on a whole lot. We have had many debates here back and forth on different issues. I respect the comments he made today. It was a difficult decision for himself, as it is for all of us, to come to a conclusion on how you read the Constitution, how you read the provisions of the Attorney General, and what the requirements are to be the Attorney General. So, we are all making a personal decision today.

I got an email last night from a friend who was not particularly supportive of this process. In the email to me she wrote, history is going to look at you and what are your children going to think of your decision here today? I am a proud father of three. In fact, my oldest is my daughter. My daughter, in a lot of ways, as I think was mentioned earlier, when the Attorney General won her election, even though she was of a different party, that was a nice moment for me and for my daughter, that another glass ceiling had been broken, that my daughter can be anything that she wants to be in her life, and that election proved it, that another place that a woman had not achieved in Pennsylvania politics was now achieved. So, that was in a lot of ways a nice moment. My daughter and my sons come here every 4 years for our swearing-in ceremony. It is always festive and a fun event for all of the families when we get to do that. As we all know, when we stand up there at that rostrum, and actually, in 2002, I held my daughter when I took that oath, that is an extremely important moment, not just a festive moment. It is a moment where we not only swear to uphold the Constitution but we swear to do our jobs and perform them in a way that is appropriate.

So, I feel confident that as history looks at this someday, and as my children, as well as my daughter, look at this someday, that they will know that their father upheld the proper precedent and that he did what he believed was correct. I know one Senator said earlier that the only principled vote is a "no" vote today. Well, I respect a "no" vote today. That is certainly maybe what they believe, but I think other people are making principled votes, as the gentleman from Dauphin County mentioned, who will vote "aye" today. So, this is a tough issue for all of us. I think it was handled in a proper fashion with very little political calculations, with one that will get to a decision here in a few moments. I do think that history, and my children, will be proud of the way we acted here in the Senate today.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, very briefly, I made reference to an Armstrong County case. I submit the Memorandum and Order that I referenced as part of the record.

The PRESIDENT. Without objection, the document will be spread upon the record.

(The following Memorandum and Order was made part of the record at the request of the gentleman from Allegheny, Senator COSTA:)

**IN THE COURT OF COMMON PLEAS OF
ARMSTRONG COUNTY, PENNSYLVANIA**

MEMORANDUM and ORDER

**IN THE COURT OF COMMON PLEAS OF
ARMSTRONG COUNTY, PENNSYLVANIA**

COMMONWEALTH OF)
PENNSYLVANIA,)
vs.) No. CP-03-CR-0000601-2014
JOSHUA R. CRAMER,)
Defendant.)

MEMORANDUM

VALASEK, P.J.

Before the Court for disposition is Defendant Joshua R. Cramer's Motion for Disqualification of Attorney General and for Dismissal of Criminal Information, in which he asks this Court to disqualify Pennsylvania Attorney General Kathleen Granahan Kane from prosecuting this case and dismiss, with prejudice, the criminal information. The Court held argument on the motion on December 29, 2015,¹ and the matter is now ripe for decision. For the reasons that follow, we will deny the motion in its entirety.

I. RELEVANT PROCEDURAL HISTORY

On July 15, 2014, Trooper Duane E. Tabak of the Pennsylvania State Police filed a criminal complaint charging Defendant with four counts of sexual abuse of children, dissemination of child pornography, 18 Pa. Cons. Stat. Ann. § 6312(c), six² counts of sexual abuse of children, possession of child pornography 18 Pa. Cons. Stat. Ann. § 6312(d), and one count of criminal use of communication facility, 18 Pa. Cons. Stat. Ann. § 7512(a). All charges were waived for court. On August 26, 2014, Deputy Attorney General Anthony M. Marmo entered his appearance on behalf of the Commonwealth. The District Attorney of Armstrong County filed an information on August 27, 2014, after which the Office of Attorney General filed an information on September 5, 2014. The cover page of this second information indicates that it was filed on behalf of Kathleen Kane, Attorney General, by Anthony M. Marino, Deputy Attorney General. It is signed by Chief Deputy Attorney General Laura A. Ditka, Esq., whose deputization letter from Ms. Kane, dated May 29, 2013, is attached.

On September 21, 2015, the Supreme Court of Pennsylvania issued an order pursuant to Rule 208(f) of the Pennsylvania Rules of Disciplinary Enforcement that temporarily suspends Ms. Kane's license to practice law. The order goes on to qualify that it "should not be construed as removing [Ms. Kane] from elected office and is limited to the temporary suspension of her license to practice law." (Commw. Ex. "A"). It also preserves Ms. Kane's rights pursuant to Rules 208(f)(4) and 208(f)(6), which permit a suspended attorney to petition for dissolution of the suspension order and/or seek accelerated disposition of the disciplinary proceedings. Pursuant to Pa. R. D. E. 217(d)(1), the Supreme Court's order took effect 30 days after its issuance, or on October 21, 2015.³

The case proceeded to jury trial on October 5, 2015. On October 7, 2015, the jury returned verdicts of guilty on the possession and communication facility counts and not guilty on the dissemination counts. Deputy Attorney General Jesse' A. Costa, III represented the Commonwealth at trial.⁴ Defendant was then ordered to undergo an assessment by the Pennsylvania Sexual Offenders Assessment Board and was scheduled to be sentenced on December 15, 2010. Defendant filed the instant motion on December 10, 2015, after which the Court stayed his sentencing pending resolution of the motion.

II. DISCUSSION

Defendant argues that, because Ms. Kane's license to practice law temporarily has been suspended by the Pennsylvania Supreme Court, neither she nor any of the deputies employed in the Office of the Attorney General ("OAG") are now qualified to prosecute criminal cases. Accordingly, Defendant argues that any continued prosecution of this case by anyone from the OAG would be unlawful and, therefore, the case should be dismissed with prejudice. The Commonwealth asserts several arguments to the contrary, which we address below.

A. APPLICABLE LAW

Several Pennsylvania constitutional and statutory provisions govern our determination of whether, and to what extent, the Attorney General may prosecute criminal cases. We begin with the Pennsylvania Constitution.

Article IV, § 5 of the Pennsylvania Constitution provides, in relevant part, that "[n]o person shall be eligible to the office of Attorney General except a member of the bar of the Supreme Court of Pennsylvania." Pa. Cons. art. IV, § 5.⁵ The Commonwealth Attorneys Act, 71 P.S. § 732-101 et seq. ("CAA"), establishes the scope of the powers of the OAG, which is an independent Commonwealth department. Id., § 732-201(a). The CAA further provides the Attorney General with the authority to appoint other "deputies, officers, and employees who may, at any time, exercise such powers and perform such duties as may be prescribed by the Attorney General." Id., § 732-201(c). Deputies may be employed specifically for the purpose of prosecuting criminal cases. Id., § 732-205(d).

Section 732-202 of the CAA prescribes the procedure to be followed when a vacancy occurs in the Attorney General position. It provides as follows:

In the event of a vacancy in the position of Attorney General, the Governor shall nominate, in accordance with the provisions of the Constitution of Pennsylvania and, by and with the advice and consent of two-thirds of the members elected to the Senate, appoint a person to fill the position for the balance of the unexpired term of the Attorney General. Whenever there shall be a vacancy in the position of Attorney General, the first deputy shall exercise the powers and perform the duties of the Attorney General until the vacancy is filled.

71 P.S. § 732-202. Further, 71 P.S. § 762 prescribes the procedures to be followed in the event of an absence or vacancy of the head of any Commonwealth department:

Whenever, by reason of the absence, incapacity, or inability of the head or chief of any of the departments of the State Government to perform the duties of his office, or whenever a vacancy in the office of the head or chief of any of the departments of the State Government occurs, the duties of the head or chief of such department shall be performed by the deputy, chief clerk, or other person next in authority, until such disability is removed or the vacancy filled.

71 P.S. § 762.

B. ANALYSIS

We are not aware of, and have not been presented with, any Pennsylvania appellate decisions from either the Superior or Supreme Courts that control our decision in this matter. Thus, the pertinent statutory and constitutional provisions govern. With regard to statutory interpretation, our duty is as follows:

The purpose of statutory interpretation is to ascertain the General Assembly's intent and give it effect. 1 Pa.C.S. § 1921(a). In discerning that intent, the court first resorts to the language of the statute itself. If the language of the statute clearly and unambiguously sets forth the legislative intent, it is the duty of the court to apply that intent to the case at hand and not look beyond the statutory language to ascertain its meaning. See 1 Pa.C.S. § 1921(b) ("When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit."). Relatedly, it is well established that resort to the rules of statutory construction is to be made only when there is an ambiguity in the provision.

Mohamed v. PennDOT, Bureau of Motor Vehicles, 40 A.3d 1186, 1193 (Pa. 2012)(certain internal citations and quotations omitted). Our Supreme Court has gone on to admonish that

[t]he intention and meaning of the Legislature must primarily be determined from the language of the statute itself, and not from conjectures aliunde. When the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning. This principle is to be adhered to notwithstanding the fact that the court may be convinced by extraneous circumstances that the legislature intended to enact something very different from that which it did enact.

Id. at 1194 (quoting *Commonwealth ex re. Cartwright v. Cartwright*, 40 A.2d 30, 33 (Pa. 1944)). Further, "[i]n constitutional interpretation, our ultimate touchstone is the actual language of the constitution itself. We interpret constitutional language as the average person would understand it when they voted on its adoption, and avoid strained or technical interpretations." *Buckwalter v. Borough of Phoenixville*, 985 A.2d 728, 730 (internal citations and quotations omitted).

The Commonwealth argues that the temporary suspension of Ms. Kane's law license does not preclude the continuation of criminal prosecutions by the OAG either generally or in this particular case. It proffers three bases for its argument: 1) that Article IV, § 5 of the Pennsylvania Constitution does not strip Ms. Kane of her bar membership and thus, does not, in and of itself, preclude her from serving as Attorney General; 2) that Ms. Kane has made legitimate deputizations of other attorneys since taking office, and those deputies, who remain lawfully appointed, can prosecute criminal cases; and 3) that, by operation of law, the currently-sitting First Deputy Attorney General assumed all legal duties performed by Ms. Kane when her law license was temporarily suspended and is qualified to oversee and supervise the legal operations of the office.

1. Article IV, § 5 of the Pennsylvania Constitution

Article IV, § 5 requires that the Attorney General be a "member of the bar of the Supreme Court of Pennsylvania." On its face, this provision does not contain any requirement that the Attorney General possess an active license to practice law. Defendant argues that such a requirement should be read into, or is implied by, the bar membership requirement, essentially equating the two. However, bar membership and licensure are not the same thing. The Pennsylvania Supreme Court has distinguished the two on multiple occasions, chiefly in disciplinary proceedings brought against attorneys for acts of misconduct. That Court has stated as follows:

The essential difference between suspension and disbarment is that although both sanctions involve the withdrawal of the privilege of practicing law, an attorney who is suspended may resume practice at the end of the period of suspension upon demonstration of his fitness to practice, whereas an attorney who is disbarred may not apply for admission to the bar for a period of five years, and in disbarment, there is no basis for an expectation by the disbarred attorney of the right to resume practice at some future point in time. When reinstatement is sought by the disbarred attorney, the threshold question must be whether the magnitude of the breach of trust would permit the resumption of practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

Office of Disciplinary Counsel v. Czmus, 889 A.2d 1197, 1203 (Pa. 2005) (quoting *In the Matter of Renfro*, 695 A.2d 401, 403 (Pa. 1997)). Further,

[d]isbarment is an extreme sanction and it is properly reserved for the most egregious matters, because it represents a termination of the privilege to practice law without any promise of ultimate reinstatement. In contrast, suspension is a withdrawal of the privilege for a defined period of time not to exceed five years; an attorney will be reinstated at the expiration of the period of suspension where he demonstrates his fitness to resume the practice of law.

Office of Disciplinary Counsel v. Cappuccio, 48 A.3d 1231, 1238 (Pa. 2012).

Both the Pennsylvania Rules of Disciplinary Enforcement and the Disciplinary Board Rules also make a distinction between disbarment and suspension based on their differing severities. This is not a distinction without a difference. Temporary suspension presumes that the attorney will resume practice at the end of the suspension term, provided he or she can demonstrate fitness to do so. One need not again apply for bar membership. A disbarred attorney, however, has no basis for any expectation that he or she will once again practice law in the future. We do not have any basis on which to conclude that the drafters of Article IV, § 5, although they wrote in terms of bar membership, actually meant licensure. Instead, it is entirely reasonable to conclude that bar membership was included as the requirement for holding office because continued membership, even with temporarily-suspended law license, carries with it an expectation that legal duties will once again be assumed.

In sum, there is nothing in the text of Article IV, § 5 that indicates, as Defendant suggests, that the temporary suspension of Ms. Kane's law license completely bars her from exercising the statutorily-granted powers of the Attorney General. It precludes her only from the practice of law, which ability is derived not from statute or constitutional provision, but from the Supreme Court of Pennsylvania. To the extent that Ms. Kane's license suspension would prevent her from prosecuting cases herself or supervising others doing so, we address those issues below. We simply conclude here that the clear language of Article IV, § 5 does not act as a prophylactic bar to Ms. Kane's eligibility to act as Attorney General, which is the only issue that particular section addresses. Accordingly, we find Defendant's argument in this regard to be without merit.

2. Delegation of Duties

Sections 732-201(c) and 732-205(d) of the CAA make specific provision for the appointment of deputy attorneys general, who shall "be clothed with all the powers, and subject to all the liabilities imposed by law upon district attorneys, including the power to sign informations or indictments." 71 P.S. § 732205(d). In the instant case, Deputy Attorney General Ditka, who signed the charging information, was deputized long before the investigation of Defendant's activity began. Similarly, although there is no paper record of Deputy Attorney General Marmo's appointment in the record, it appears that he was deputized at least prior to the filing of the initial criminal complaint. Deputy Attorney General Costa was deputized in June 2015, four months before trial. And, importantly, Ms. Kane's temporary license suspension did not take effect until October 21, 2015, after trial had been completed and verdicts rendered by the jury.

To the extent that the suspension of Ms. Kane's law license would preclude her from directly prosecuting criminal cases or supervising others doing so, there is no support in the law for the proposition that the qualified and duly-appointed deputies in this or any other criminal case thereby also lost their ability to continue practicing law and prosecute on behalf of the OAG. For that reason, and because Ms. Kane's deputization powers derive from the CAA and not from her law license, we conclude that the continued prosecution of this case by lawfully-appointed deputy attorneys general is in no respect unlawful or inappropriate. To hold otherwise, in the absence of any legal authority for doing so, is untenable and would produce absurd results.⁶

3. Vacancy and/or Incapacity of the Attorney General

Section 732-202 of the CAA provides for the contingency of a "vacancy" in the position of Attorney General. Although that term is not defined in the statute, the plain language of section 732-202 contemplates that a vacancy occurs when the Attorney General is no longer in office, for whatever reason.⁷ Although, based on our analysis supra, we think it plain that a temporary suspension of Ms. Kane's law license does not create a "vacancy" in the OAG (and Defendant seems to concede this much), to the extent that such temporary suspension creates a de facto vacancy specifically with regard to the duties and powers associated with the practice of law, the Pennsylvania legislature has provided an automatic remedial procedure.

"[T]he first deputy shall exercise the powers and perform the duties of the Attorney General until the vacancy is filled." 71 P.S. § 732-202. In this circumstance, the First Deputy Attorney General becomes the acting Attorney General and derives his or her powers, authority, and responsibility directly from the CAA, and not from the individual formerly in office. The acting Attorney General, then, would have supervisory, delegation, and appointment powers, together with the ability to practice law, in all pending and newly-initiated criminal prosecutions.

Defendant's argument, i.e., that the temporary suspension of Ms. Kane's law license creates an unprovided-for doomsday scenario and supervisory power vacuum in the OAG that effectively incapacitates the entire office from doing anything in any pending criminal case, simply is nonsensical.

Moreover, 71 P.S. § 762 governs all heads of Commonwealth departments, which would include the Attorney General. It provides that, when any department head or chief cannot, due to "absence, incapacity, or inability," perform the duties of his or her office, or when a "vacancy" occurs in the office, then the duties of the department head "shall be performed by the deputy . . . next in authority, until such disability is removed or the vacancy filled." 71 P.S. § 762. This provision, enacted long before section 732-202⁸ and entirely consistent with it, provides the general procedures for temporarily filling the position of a Commonwealth department head when that person either leaves office or remains in office but is unable for any reason to perform his or her duties.

Again, to the extent that the temporary suspension of Ms. Kane's law license constitutes an "absence, incapacity, or inability" to perform the legal duties of Attorney General, there is not thus created a total absence of prosecutorial power in the OAG. Ms. Kane's law license was suspended as to new criminal cases as of September 21, 2015, and as to pending criminal cases on October 21, 2015. By operation of law, the First Deputy Attorney General, under § 762, assumed the legal authority to prosecute, and supervise the prosecution by others of, criminal cases as of both of those dates. In this instance, the First Deputy's powers come not from Ms. Kane, but from the legislature.⁹

Finally, even if the temporary suspension of Ms. Kane's law license rendered the OAG incapable of initiating or further prosecuting any criminal cases, the appropriate remedy would be to 1) stay or continue generally this and any other Attorney General case pending as of October 21, 2015, and 2) require the re-filing of new informations filed after September 21, 2015. Blanket dismissal with prejudice, particularly where, as here, the trial of a defendant is already completed, manifestly is inappropriate. Thus, we find both the substance of Defendant's motion and his requested remedies to be without merit, and we accordingly will deny the motion in its entirety.¹⁰

An appropriate Order follows.

FOOTNOTES:

¹ The Court heard argument in three cases on December 29, 2015. Motions virtually identical to the instant one were filed by the defendants in *Commonwealth v. Jeramie Platt*, CP-03-CR-0000212-2015, and *Commonwealth v. Shawn Eugene Kunkle*, CP-03-CR-0000754-2015. The Court's legal analysis in ruling on each of the three motions is uniform, notwithstanding certain inconsequential discrepancies in the facts of the cases.

² Although the offense description of the possession charge indicates that five counts were filed, both the charge itself and the resulting informations filed in the Court of Common Pleas list six counts, which number corresponds with the number of files described in the affidavit of probable cause.

³ Rule 217(d)(1) of the Pennsylvania Rules of Disciplinary Enforcement provides as follows:

Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective within 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date. Pa. R. D. E. 217 (d) (1).

⁴Attorney Costa was deputized by Ms. Kane on June 22, 2015. (Commw. Ex. "B1"). He subsequently also was given authority to issue administrative subpoenas in furtherance of criminal investigations. (Commw. Ex. "B2").

⁵Article IV, § 4.1 of the Pennsylvania Constitution provides that the Attorney General shall be the "chief law officer of the Commonwealth and shall exercise such powers and perform such duties as may be im-

posed by law." Pa. Cons. art. IV, § 5. Thus, the office of Attorney General is created by the Pennsylvania Constitution and its powers and duties are delineated by the legislature.

⁶ If we were to follow Defendant's argument to its logical, necessary conclusion, all OAG criminal cases pending as of October 21, 2015, at least where "jeopardy" has attached, must also be dismissed. This would include cases in the trial, post-trial, sentencing, appellate, and post-conviction relief stages.

⁷ When a vacancy occurs, section 732-202 prescribes the procedure for the appointment of an interim Attorney General to fill the position for the "balance of the unexpired term . . ." 71 P.S. 732-202. Thus, a "vacancy" appears to involve the complete abdication or removal of the Attorney General from office.

⁸ Section 732-202 of the CAA was enacted in 1980 and took effect January 21, 1981. Section 762 was enacted in 1917.

⁹ The current goings-on in the OAG and the issue of whether Ms. Kane's activities would constitute the unauthorized practice of law are of no moment to the Court. Those are issues properly addressed to either the Disciplinary Board of the Supreme Court of Pennsylvania or the Pennsylvania legislature, or both. The only issue now before the Court is whether the temporary suspension of Ms. Kane's law license legally precludes the OAG from prosecuting this case.

¹⁰ Defendant submitted to the Court transcripts from hearings held before the Pennsylvania Senate Special Committee on Senate Address on November 17 and 18, 2015. At those hearings, several individuals testified with regard to Ms. Kane's ability to continue performing her duties as Attorney General with a temporarily-suspended law license. Witnesses included an attorney, law professors, and several deputies from the OAG. Defendant also submitted a copy of the final report of the Pennsylvania General Assembly's Joint State Government Commission with regard to the Office of Elected Attorney General, dated September 1, 1978. This report presumably was submitted in preparation for the enactment of the CAA. Because the Court concludes that the language of the pertinent provisions of both the Pennsylvania Constitution and the CAA are clear and free from ambiguity, we did not consider what, if any, relevance these documents would have in discerning drafters' intent. Additionally, the Court was provided with an incomplete copy of the hearing testimony. Only volumes I and II of what appears to be a three-volume transcript were submitted.

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA

COMMONWEALTH OF)
PENNSYLVANIA,) No. CP-03-CR-0000212-2015
vs)
JERAMIE PLATT,)
Defendant.)

ORDER

AND NOW, this 8th day of January, 2016, upon consideration of Defendant's Motion for Disqualification of Attorney General and for Dismissal of Criminal Information, and after argument on the same, for the reasons set forth in the foregoing Memorandum, it is **ORDERED** that the motion be and hereby is **DENIED** in its entirety.

By the Court:
KENNETH G. VALASEK

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA

COMMONWEALTH OF)
PENNSYLVANIA,) No. CP-03-CR-0000754- 2015
vs)
SHAWN EUGENE KUNKLE,)
Defendant.)

ORDER

AND NOW, this 8th day of January, 2016, upon consideration of Defendant's Motion for Disqualification of Attorney General and for Dismissal of Criminal Information, and after argument on the same, for the reasons set forth in the Court's memorandum entered on even date herewith in the case of Commonwealth v. Joshua R. Cramer, CP-03-CR-0000601-2014, it is **ORDERED** that the motion be and hereby is **DENIED** in its entirety.

By the Court:

KENNETH G. VALASEK

And the question recurring,
Will the Senate adopt the resolution?

The **PRESIDENT**. To perhaps wrap it up, the Chair recognizes the gentleman from Columbia, Senator Gordner, for the second time.

Senator **GORDNER**. Mr. President, I also take this opportunity to thank the Special Committee on Senate Address. A diverse group, a great group, a very dedicated group, a group that took this incredibly seriously and put in the time and effort, almost there for a while on a weekly basis, to make sure that we were doing this the right way. So to my Democratic chair, Senator Wiley; to Senator Baker, Senator Yaw, Senator Haywood, and Senator Schwank, I thank them for their duty as being a part of this Special Committee.

I want to respond to a couple of comments that were made by previous speakers, and then wrap it up. A previous speaker mentioned about this antiquated provision. I want to mention that the Constitution of 1874 put in two sections. The Constitution of 1874 put in Article VI, Section 6, for impeachment, and the 1874 Constitution put in Article VI, Section 7, for direct removal. They were put in the same Constitution. Interestingly enough, the provision dealing with impeachment has been used as rarely as the provision dealing with direct removal. I think that is a good thing. I think our Founders did not expect us to use it very often, but both of those provisions, over the last 140 years, have been used only a handful of times. I think that is good.

A previous speaker mentioned about the 1891 case, and there was a lot of publicity about that maybe 4 or 5 months ago. That is fascinating. I encourage anyone to go back and read the transcripts of that 1891 case. If you do not know what happened in that case, a Democratic Governor called a Special Session of the legislature, which was controlled by the Republicans in the Senate, and demanded that the Senate take up this case against two Republican State officials, a State Treasurer and the Auditor General, because of underlying criminal offenses. Ultimately, the decision was that this was a Senate decision and that the Democratic Governor should not have called a Special Session of the Senate to demand that the Senate take this up. Now, again, fascinating, it was I think in September or October, weeks before an election, and ultimately--and I am a Republican--the Republicans punted until after the election occurred. They took a couple of procedural motions so that it stayed alive until the election occurred, and after the election was over, only then did the Republican Senate decide that the matter should not be subject to direct removal and should be subject to impeachment instead because there was an underlying criminal offense. There were a lot of

political maneuvers back then, but I do not think any that gives us guidance today.

A previous speaker said that there has been at least three different successful cases under direct removal. That is correct. This has been successfully used in the past, at least three different times. It has been referred to the fact that it was used for physical or mental incapacity. I want to read, since I like committee reports, obviously, as Chair of the committee, the committee report from the last time it was successfully used in 1887. The committee report says, "It is the evident intention of the Constitution by this section to empower the Governor, on the address of the Senate, to remove all officers elected by the people...for...*incapacity or inability to perform the duties of an office.*" That comes from that Special Committee back in 1887. "[F]or *incapacity or inability to perform the duties of an office.*"

We had a previous speaker talk about how I mentioned all of the things that an attorney with a suspended license cannot do, and I did not mention the things that an attorney with a suspended license can do, and there are a number of things that an attorney with a suspended license can do under the supervisory attorney. Very clear, you can do certain things under a supervisory attorney. Our committee asked in a subpoena and we asked people under oath, is there a supervisory attorney? The answer has been no. So, all of the provisions under Rule 217 that talk about what an attorney can do under a supervisory attorney do not apply here.

Finally, I mention this as an attorney, we had a reference to an Armstrong County case. For you nonlawyers, you should know that a Common Pleas Court decision does not set precedent outside that county. So, I am from Columbia County, it does not set precedent outside of that county, it is only within that county. That is why each county -- not each county, but I can tell you that the decision is being made in Northumberland County, and Northumberland County judges do not need to take as precedent the decision from the Armstrong County judge.

I believe, and I used the word before, I will finish it this way, I believe that in this case the Attorney General is legally incapacitated because of the division of the Supreme Court, and let me reference that. It was brought up during our hearings that the Supreme Court, in their initial decision back in September, specifically said we are not removing the Attorney General from office. There is a constitutional reason why they did that, because the Supreme Court cannot remove someone from office. They cannot, and that is specifically why that language is in there. Can the Supreme Court suspend a lawyer? Absolutely. I am a lawyer. They can suspend me. They can revoke my license. They have that authority. Can they remove one of us from office? No, they cannot. Our Framers came up with checks and balances, and one of the checks and balances was that the House could start the impeachment process and the Senate can do direct removal, not the Supreme Court.

Senators, I am very proud of the last 3 hours. I am proud that you have paid attention. I am proud of the prior speakers and the various opinions they have had. I believe that we have had a good discussion this afternoon, and I ask you to think about the arguments and think about what has been said as you make that final vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa, for the second time.

Senator COSTA. Mr. President, I will be brief. There are two things that I want to make clear. I, in no way, shape, or form, implied or tried to mislead folks by saying that the Armstrong County case was legal precedent for other counties. What I did say, though, was there was a court of competent jurisdiction that rendered an opinion that reviewed case law, the Constitution, and the Commonwealth Attorneys Act and made a decision that is certainly relevant to Armstrong County, but not binding on any other county in the Commonwealth. I recognize that and I believe I made that clear in my remarks.

The second point I will make, while the previous speaker referenced the issue of the Supreme Court not being able to remove the Attorney General, and that was the language in the order, I agree with that. But what they could have done, and they did not do, was disbar her, because I think clearly had she been disbarred, it would have been a barrier for her to continue to serve in that office. So, again, I reiterate, there was a specific purpose of what they said and what they did with respect to that particular phrasing and terminology of that order. It was a temporary suspension. It was not a disbarment. If you look at the order that I submitted in the record, it talks specifically about disbarment versus suspension. I think Senator Teplitz raised that issue as well. That was the point I was trying to make. The court could have made a very specific finding of disbarment that would not have allowed us to even be in this position, because at the end of the day, she would not have been able to continue to stay in office.

Thank you, Mr. President.

The PRESIDENT. The Chair thanks the Members for an outstanding debate in both decorum and the content of the Members' arguments.

And the question recurring,
Will the Senate adopt the resolution?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-29

| | | | |
|------------|---------------|-----------|------------|
| Alloway | Eichelberger | Scarnati | Vulakovich |
| Argall | Folmer | Scavello | Wagner |
| Aument | Gordner | Smucker | Ward |
| Baker | Hutchinson | Stefano | White |
| Bartolotta | McGarrigle | Teplitz | Yaw |
| Brooks | Mensch | Tomlinson | |
| Browne | Rafferty | Vance | |
| Corman | Reschenthaler | Vogel | |

NAY-19

| | | | |
|----------|-----------|-------------|----------|
| Blake | Farnese | Kitchen | Wiley |
| Boscola | Fontana | Leach | Williams |
| Brewster | Greenleaf | Sabatina | Wozniak |
| Costa | Haywood | Schwank | Yudichak |
| Dinniman | Hughes | Tartaglione | |

Less than a constitutional two-thirds majority of all the Senators having voted "aye," the question was determined in the negative.

RECONSIDERATION OF SR 284

RESOLUTION RECOMMITTED TO COMMITTEE

SR 284 (Pr. No. 1557) -- Senator CORMAN. Mr. President, although there is no intention at any near point to revisit this issue, this story obviously has had quite a few chapters. I do think it is important that we allow the Senate to have the ability to revisit this if the dynamics change, the situation we are we facing. So, I move that we reconsider the vote by which Senate Resolution No. 284, Printer's No. 1557, just failed on final passage.

On the question, Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I ask for a negative vote on the motion for reconsideration. As the gentleman said, while I believe and trust that we will not have any further votes on this matter, I do not think this is an instance where a resolution should be given the benefit of a special recognition. This was a Special Committee that was created for one very specific purpose, and that purpose was to determine whether or not the Attorney General had the ability to perform the functions of the office with a suspended law license. This body rendered a decision moments ago that she apparently can do that. That was our charge, that was our task.

I believe this whole matter should now be put to rest and not be hanging over the head of the Attorney General, or the people who work in that office or the people of the Commonwealth. We resolved the issue, we went through the process, we rendered a vote, it has been duly recorded, the motion failed. We should move on, and I believe that this whole matter should be put to rest at this point in time so it does not hang over people's heads. I ask for a negative vote on whether or not we should entertain a motion for reconsideration or even being able to bring this matter before this body as we go forward.

And the question recurring, Will the Senate agree to the motion?

The PRESIDENT. Senator Corman has made a motion to reconsider the vote on Senate Resolution no. 284. All those in favor of the motion say "aye"; those opposed, "no."

Senator COSTA. Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I recommend, and folks feel strongly, that we take a roll-call vote.

The PRESIDENT. Senator Costa has asked for a roll-call vote.

Senator COSTA. Mr. President, we strongly believe that the matter should be put behind us. We have addressed the issue, we have expended a considerable number of hours working on this issue, we put a lot of time and effort into it, we have more important things we should be talking about in this Commonwealth. Specifically, let us start talking about a Budget Address, and some of the important matters that are before Pennsylvania,

whether or not we are going talk about minimum wage, whether or not we are going to talk about unemployment compensation--

POINT OF ORDER

Senator CORMAN. Mr. President, point of order.

The PRESIDENT. Senator Costa, please sustain for one moment.

Point of order, Senator Corman.

Senator CORMAN. Mr. President, I made a motion to reconsider the vote. I am happy to do a roll-call vote, as the Minority Leader has requested. I do not think that other activities are pertinent to the situation right now.

The PRESIDENT. We will do a roll-call vote on the motion.

And the question recurring, Will the Senate agree to the motion?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-29

Table with 4 columns of names: Alloway, Argall, Aument, Baker, Bartolotta, Brooks, Browne, Corman, Eichelberger, Folmer, Gordner, Greenleaf, Hutchinson, McGarrigle, Mensch, Rafferty, Resenthaler, Scarnati, Scavello, Smucker, Stefano, Tomlinson, Vance, Vogel, Vulakovich, Wagner, Ward, White, Yaw.

NAY-19

Table with 4 columns of names: Blake, Boscola, Brewster, Costa, Dinniman, Farnese, Fontana, Haywood, Hughes, Kitchen, Leach, Sabatina, Schwank, Tartaglione, Teplitz, Wiley, Williams, Wozniak, Yudichak.

A majority of the Senators having voted "aye," the question was determined in the affirmative.

And the question recurring, Will the Senate adopt the resolution?

SENATE RESOLUTION No. 284 RECOMMITTED

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I move to recommit Senate Resolution No. 284 to the Committee on Rules and Executive Nominations.

On the question, Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I do not want to be complicit in the continuation of this procedure and ask for a negative vote in terms of moving the resolution to the Committee on Rules and Executive Nominations. I recognize that it is something that is

typically done in the normal course of business here, but I certainly ask my colleagues to vote "no" on a motion to move the matter to the Committee on Rules and Executive Nominations.

And the question recurring,
Will the Senate agree to the motion?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-29

| | | | |
|------------|--------------|---------------|------------|
| Alloway | Eichelberger | Reschenthaler | Vulakovich |
| Argall | Folmer | Scarnati | Wagner |
| Aument | Gordner | Scavello | Ward |
| Baker | Greenleaf | Smucker | White |
| Bartolotta | Hutchinson | Stefano | Yaw |
| Brooks | McGarrigle | Tomlinson | |
| Browne | Mensch | Vance | |
| Corman | Rafferty | Vogel | |

NAY-19

| | | | |
|----------|---------|-------------|----------|
| Blake | Farnese | Leach | Wiley |
| Boscola | Fontana | Sabatina | Williams |
| Brewster | Haywood | Schwank | Wozniak |
| Costa | Hughes | Tartaglione | Yudichak |
| Dinniman | Kitchen | Teplitz | |

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The resolution is recommitted to the Committee on Rules and Executive Nominations.

**UNFINISHED BUSINESS
SENATE RESOLUTIONS ADOPTED**

Senators BAKER, GREENLEAF, WOZNIAK, BROWNE, SCAVELLO, DINNIMAN, FONTANA, SCHWANK, ARGALL, RAFFERTY, VULAKOVICH, EICHELBERGER, SABATINA, FARNESE, YUDICHAK, WHITE, HUTCHINSON and MENSCH, by unanimous consent, offered **Senate Resolution No. 285**, entitled:

A Resolution observing March 1, 2016, as "St. David's Day" in Pennsylvania and honoring the many Pennsylvanians of Welsh heritage.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, my first resolution pertains to the naming of March 1 as "St. David's Day" here in the Commonwealth of Pennsylvania. Those of us of Welsh heritage particularly celebrate this and it pays tribute and honor to William Penn, our Pennsylvania Founder. So I ask for a unanimous vote for this important resolution.

And the question recurring,
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators BAKER, GREENLEAF, SCAVELLO, RAFFERTY, AUMENT, DINNIMAN, TEPLITZ, SABATINA, TARTAGLIONE, SCHWANK, WOZNIAK, EICHELBERGER, BREWSTER, VULAKOVICH, BARTOLOTTA, HAYWOOD, FONTANA, BLAKE, COSTA, WARD, WHITE, FARNESE, BOSCOLA, MENSCH, RESCHENTHALER and HUGHES, by unanimous consent, offered **Senate Resolution No. 286**, entitled:

A Resolution designating the week of February 14 through 20, 2016, as "Cardiac Rehabilitation Week" in Pennsylvania.

Which was read, considered, and adopted by voice vote.

Senators GREENLEAF, TEPLITZ, SABATINA, EICHELBERGER, COSTA, DINNIMAN, SCAVELLO, FOLMER, ARGALL, VULAKOVICH, AUMENT, SCHWANK, WOZNIAK, FONTANA, McILHINNEY, BARTOLOTTA, HAYWOOD, YUDICHAK, WARD, RAFFERTY, HUTCHINSON, WHITE, FARNESE, BOSCOLA, MENSCH and RESCHENTHALER, by unanimous consent, offered **Senate Resolution No. 287**, entitled:

A Resolution commemorating the birth of George Washington and honoring the contributions he made to this country.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I rise to offer this resolution recognizing our first President, George Washington, and his contributions to our country. His birthday was February 22, 1732, and on February 22 we are not in Session, so I am offering this resolution now. It is the 284th anniversary of his birth, and the resolution goes over all of his accomplishments and sacrifices and is quite the story of a man who risked all - life, fortune, family - to establish our nation.

I want to concentrate, out of this resolution, on one particular area that most people do not know. It is an interesting and heartwarming story about one of the many things that George Washington did. During the Revolutionary War, he commissioned and also funded what they call six cruisers commissioned under his authority as Commander in Chief of the Continental Army, because the Continental Congress did not provide for a navy, and of course England was sending over ships with all kinds of supplies with impunity. Those cruisers were used to intercept those ships, and at least on one occasion took control over one of the English supply ships, and that was used for our soldiers and our military.

One of the things that they did not have, they wanted a flag, and the flag at that time, there were a number of flags that were being used, but Washington asked a colonel under him, Joseph Reed, to come up with a flag that would be capable of being used by the cruisers. What he came back with, and this is a quote from the colonel, a flag with a white background, a tree in the middle and the motto "Appeal to Heaven" to be used for the ships that Washington commissioned. In addition, the Massachusetts General Court, on July 26, 1776, also issued a resolution indicating that they were adopting that flag. There were two items in this

flag. The first was a pine tree, and it is quite an interesting story about the pine tree. England was using pine trees for the construction of their ships, particularly the masts of the ship. The pine trees in the New World were very suitable for this use, and in fact, the King issued an order that they could not be cut down, even though they were on a person's private land. Those types of orders resulted in what they called the Pine Tree Riot, where the Colonists rose up several years before the Boston Tea Party and rioted about that deprivation of their rights.

So the other symbol on the flag was the words, "Appeal to Heaven." That was a phrase that was used commonly in Colonial days, and it was written by a man named John Locke, who was an English philosopher, educator, government official, and theologian, and he spoke about tyranny and about how people can obtain their freedom over and above the tyranny of a monarch. He was well respected, quoted in England and in the Colonies, and our Founding Fathers quoted him on a number of occasions. Benjamin Franklin said he was one of the best English authors for the study of history, rhetoric, logic, moral and natural philosophy. James Monroe, the fifth President of the United States, indicated that we should have a three-part government. John Quincy Adams pronounced that the Declaration of Independence was founded upon one of the same theories of government expounded in the writings of Locke. It is in our Declaration of Independence.

So, that flag was then referred to in different ways. It was the Pine Tree Flag, the Cruiser Flag, a number of ways, but I have taken the liberty of celebrating the 284th anniversary of George Washington's birth and laid on each of the Members' desks a replica of this flag, which is a little known yet important piece of our national history. Washington's Secret Navy was so successful that it inspired the creation of the United States Navy as we know it today. Maybe this is something that we should keep in mind when we are dealing with tough issues like the one today, our budget issues, and justice issues, where maybe it would be a good idea, I think, to follow the paths of our Founding Father and other Founding Fathers, and I ask for a positive vote.

The PRESIDING OFFICER (Senator Michael J. Folmer) in the Chair.

And the question recurring,
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators BLAKE, SABATINA, TEPLITZ, BROWNE, BREWSTER, GREENLEAF, DINNIMAN, KITCHEN, COSTA, MENSCH, RAFFERTY, BARTOLOTTA, VULAKOVICH, AUMENT and SCAVELLO, by unanimous consent, offered **Senate Resolution No. 288**, entitled:

A Resolution designating the month of February 2016 as "Turner Syndrome Awareness Month" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lackawanna, Senator Blake.

Senator BLAKE. Mr. President, Turner Syndrome is a noninheritable chromosomal disorder that affects 1 in 2,500 live female births annually. Earlier diagnosis will help the girls and women get a complete cardiac screening, facilitate prevention or remediation of growth failure, hearing problems, and other learning difficulties. Individuals with Turner Syndrome have an increased risk of nonverbal learning disorders and can cause problems in math, visual/spatial skills, executive function skills, and retention. A disproportionately small amount of funding is available to deal with this syndrome in terms of research and support. With the help of medical specialists and a good social support system, a woman with Turner Syndrome can live a happy and healthy life, like Carly Joy Bozym from my district, a brave 8-year-old from the 22nd Senatorial District. I had a chance to be with her and her mom this past year. We consider Carly a miracle because only 1 percent of female births with Turner Syndrome survive to full-term pregnancy. For little Carly Joy and other miracles out there, let us join the host of other States that have declared February as "Turner Syndrome Awareness Month." I will leave the resolution at the desk for additional Members who wish to cosponsor.

Thank you, Mr. President.

And the question recurring,
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDENT (Lieutenant Governor Mike Stack) in the Chair.

Senators BOSCOLA, COSTA, BREWSTER, SABATINA, TEPLITZ, WOZNIAK, GREENLEAF, RAFFERTY, RESCHENTHALER, VULAKOVICH, AUMENT, SCAVELLO, YUDICHAK and TARTAGLIONE, by unanimous consent, offered **Senate Resolution No. 289**, entitled:

A Resolution recognizing March 8, 2016, as "International Women's Day" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Mr. President, each year the United Nations recognizes March 8 as "International Women's Day." Since we are not in Session on March 8, I rise today to offer this resolution recognizing International Women's Day here in the Commonwealth of Pennsylvania as well. International Women's Day has been recognized since the early 20th century. It is aimed to bring awareness to the struggles of women and what they have had to overcome throughout history, such as the right to an education, voting, and proper working conditions. Around the world on March 8, men and women alike celebrate the progression toward fairness and equity in women's economic, political, and social opportunities without regard to national boundaries, ethnicity, language, or status. This day commemorates those individuals tirelessly and visibly working to advance women's rights and supporting women around the world as they steadfastly pur-

sue their dreams and goals despite hurdles such as economic recession, war, domestic violence, disease, oppression, poverty, income inequality, and other challenges.

For 2016, the International Women's Day theme is Planet 50/50, "Pledge for Parity." Gender-balanced leadership is needed, as well as respect and value for our differences, as we develop more inclusive and flexible cultural practices and root out workplace biases. Mr. President, I ask the Senate to join me, along with the global community, in recognizing the strides and achievements women have made throughout these years, and let us not forget the adversity that many women still face on a daily basis, especially today, and the violence against them. I ask my colleagues to join me in support and recognition of March 8 as International Women's Day here in the Commonwealth of Pennsylvania.

The PRESIDENT. The Chair thanks the gentlewoman for being a global voice for women.

And the question recurring,
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators TEPLITZ, DINNIMAN, FONTANA, SCHWANK, HUGHES, FARNESE and BREWSTER, by unanimous consent, offered **Senate Resolution No. 290**, entitled:

A Resolution designating February 23, 2016, as "Housing Awareness Day" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Teplitz.

Senator TEPLITZ. Mr. President, this resolution designates February 23, 2016, as "Housing Awareness Day" in Pennsylvania. Pennsylvania provides more than 200,000 subsidized, assisted, or affordable rental dwelling units funded through State and Federal programs. However, there continues to be a demand for even more affordable housing for low-income families, senior citizens, veterans, and those with physical and mental challenges. Affordable housing provides individuals and families with the opportunity to improve their quality of life and allows seniors and individuals with disabilities to maintain their independence. It also improves the socioeconomic climate of the Commonwealth by benefitting not only the residents of these homes, but also their neighbors, the local businesses, employers, and the communities as a whole. In 2016, the focus of Housing Awareness Day is to meet the challenge to end veteran homelessness.

It is important that we recognize the hard work of the Pennsylvania Association of Housing and Redevelopment Agencies in partnership with the Housing Alliance of Pennsylvania. They work with their members and industry partners to build, develop, support, and provide suitable housing and related services. So, Mr. President, I ask my colleagues to join me in recognizing their efforts and the positive impact of affordable housing on hundreds of thousands of Pennsylvanians by designating February 23, 2016, as Housing Awareness Day in Pennsylvania.

Thank you, Mr. President.

And the question recurring,
Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Kathryn E. Poe by Senator Alloway.

Congratulations of the Senate were extended to Benjamin Gipe by Senator Argall.

Congratulations of the Senate were extended to Dr. Albert F. Giallorenzi by Senator Blake.

Congratulations of the Senate were extended to J. Brad Jones by Senator Blake and others.

Congratulations of the Senate were extended to Patrick Allan Alfieri, Todd Heffelfinger and to the citizens of the City of Bethlehem by Senator Boscola.

Congratulations of the Senate were extended to Chief Gary L. Thomas, Brooke Lewandowski, Ronald L. Williams, Susan E. Tau, Volunteer Emergency Medical Service Alliance of Crawford County and to Mercer Area Library by Senator Brooks.

Congratulations of the Senate were extended to Josephine M. Ritz by Senator Browne.

Congratulations of the Senate were extended to the Miller family by Senators Browne, Boscola, and Scavello.

Congratulations of the Senate were extended to Mr. and Mrs. Jerry L. Baker by Senator Corman.

Congratulations of the Senate were extended to the Honorable Raymond G. Bodnar and to Helen Nettie Semethy by Senator Costa.

Congratulations of the Senate were extended to Jason Yaletchko, Chester County Emerald Society Pipe Band and to Victory Brewing Company by Senator Dinniman.

Congratulations of the Senate were extended to Mr. and Mrs. Gerald Bernard Ogden and to Donald Waldorff by Senator Fontana.

Congratulations of the Senate were extended to Colin J. Hill and to Sons of the American Legion, Squadron 44 by Senator Gordner.

Congratulations of the Senate were extended to New Beginnings Pentecostal Church by Senator Haywood.

Congratulations of the Senate were extended to Mr. and Mrs. Thomas Weaver by Senator Hutchinson.

Congratulations of the Senate were extended to Joseph Mark Pomeroy, Fahad Manzoor and to William Porter Durham by Senator Leach.

Congratulations of the Senate were extended to Saveria Spica and to Rosemary J. Bradley by Senator McGarrigle.

Congratulations of the Senate were extended to Peter Lande by Senator McIlhinney.

Congratulations of the Senate were extended to Charles J. Tornetta and to Justin Andrew Mitchell by Senator Rafferty.

Congratulations of the Senate were extended to Robert Hill, Helen Pransky, Steven John Bressan and to the citizens of the Borough of Renovo by Senator Scarnati.

Congratulations of the Senate were extended to Mr. and Mrs. Thomas Cesare, Helen Ann Cesare and to Thomas Clyde Cesare by Senator Scavello.

Congratulations of the Senate were extended to Nicholas Michael Hanson, Dylan Paul Haas and to Joshua Aaron Mutzel by Senator Schwank.

Congratulations of the Senate were extended to Benjamin Robert Bryce and to Joshua William Horn by Senator Smucker.

Congratulations of the Senate were extended to Ford Business Machines, Inc., by Senator Stefano.

Congratulations of the Senate were extended to the Reverend Dr. Arthur L. Brown, Nathaniel Shawn Clugston, Zachery Sassaman and to Centre Presbyterian Church of Loysville by Senator Teplitz.

Congratulations of the Senate were extended to Stephen R. Castle and to Paul W. Schmid by Senator Tomlinson.

Congratulations of the Senate were extended to Mr. and Mrs. Graham Munkittrick, Adam E. Young, Perry P. Heath and to Jacob Samuel Ross by Senator Vance.

Congratulations of the Senate were extended to Kyle Andrew Watkins by Senator Wagner.

Congratulations of the Senate were extended to Chief Greg Stutz, Tom Stutz, Alex Tabor, Jordan Rees, Jeffery Hensell, Nathan Peddicord, Scott Shoaf, Tim Yost, Tim Miller, Ralph Hensell, Stephen Gongaware, Terry Walter and to Henry Yost by Senator Ward.

Congratulations of the Senate were extended to Stephen R. Anthony by Senator White.

Congratulations of the Senate were extended to WJET-TV by Senator Wiley.

Congratulations of the Senate were extended to Shawn Shaw by Senator Yaw.

Congratulations of the Senate were extended to Matthew James Carlson by Senator Yudichak.

CONDOLENCE RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Alice M. Tupper by Senator Baker.

Condolences of the Senate were extended to the family of the late Dr. Leslie Howard Sperling and to the family of the late Stephen P. Curto by Senator Boscola.

Condolences of the Senate were extended to the family of the late Reverend Ceotis L. Pryor by Senator Haywood.

Condolences of the Senate were extended to the family of the late Frank J. Bonfield by Senator Vogel.

POSTHUMOUS CITATIONS

The PRESIDENT laid before the Senate the following citations, which were read, considered, and adopted by voice vote:

Posthumous citations honoring the late Laura Szepesi and the late Nancy Henry were extended to the families by Senator Stefano.

BILL ON FIRST CONSIDERATION

Senator WAGNER. Mr. President, I move that the Senate do now proceed to consideration of the bill reported from committee for the first time at today's Session.

The motion was agreed to by voice vote.
The bill was as follows:

HB 31.

And said bill having been considered for the first time,
Ordered, To be printed on the Calendar for second consideration.

ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, FEBRUARY 16, 2016

| | | |
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| 10:00 A.M. | TRANSPORTATION and VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS (joint public hearing to consider the emergency response to snow storm Jonas) | Hrg. Rm. 1 North Off. |
| 1:30 P.M. | TRANSPORTATION (public hearing to consider reliable alternatives to funding the Pennsylvania State Police) | Hrg. Rm. 1 North Off. |

MONDAY, FEBRUARY 22, 2016

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| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Governor's Office/Governor's Budget Office/Executive Offices) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - Independent Fiscal Office - Economic Outlook & Revenue Overview) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Health) | Hrg. Rm. 1 North Off. |

TUESDAY, FEBRUARY 23, 2016

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| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Judiciary) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - Treasury Department) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Auditor General) | Hrg. Rm. 1 North Off. |

WEDNESDAY, FEBRUARY 24, 2016

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| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Department of Conservation and Natural Resources) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - State Police/Homeland Security) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Drug & Alcohol Programs) | Hrg. Rm. 1 North Off. |

THURSDAY, FEBRUARY 25, 2016

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| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Department of Environmental Protection) | Hrg. Rm. 1 North Off. |
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| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Community & Economic Development) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Attorney General) | Hrg. Rm. 1 North Off. |
| <u>MONDAY, FEBRUARY 29, 2016</u> | | |
| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Department of Corrections/Board of Probation and Parole) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Transportation) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Aging) | Hrg. Rm. 1 North Off. |
| <u>TUESDAY, MARCH 1, 2016</u> | | |
| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Department of General Services) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Labor & Industry) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Agriculture) | Hrg. Rm. 1 North Off. |
| <u>WEDNESDAY, MARCH 2, 2016</u> | | |
| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - State Related Universities) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - PA State System of Higher Education) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - PA Emergency Management Agency/Fire Commissioner) | Hrg. Rm. 1 North Off. |
| <u>MONDAY, MARCH 7, 2016</u> | | |
| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Department of Human Services) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Revenue/Lottery) | Hrg. Rm. 1 North Off. |
| 3:00 P.M. | APPROPRIATIONS (Budget Hearing - Department of Military and Veterans Affairs) | Hrg. Rm. 1 North Off. |
| <u>TUESDAY, MARCH 8, 2016</u> | | |
| 10:00 A.M. | APPROPRIATIONS (Budget Hearing - Department of Education) | Hrg. Rm. 1 North Off. |
| 1:00 P.M. | APPROPRIATIONS (Budget Hearing - PA Liquor Control Board) | Hrg. Rm. 1 North Off. |

PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Folmer.

Senator FOLMER. Mr. President, I want to take a few moments to inform you and other Members of this body about a report from *NBC News* on a recent government study that finds alcohol is linked to 75,000 deaths in the United States each year, the number three leading cause of mortality in our country. It shortens the lives of people by an average of 30 years. Yes, Mr.

President, excessive alcohol consumption is the third-leading cause of preventable deaths in the United States after tobacco and poor eating and exercise habits. The Centers for Disease Control and Prevention, which published this study, estimated in 2001 that 34,833 people died from cirrhosis of the liver, cancer, and other diseases linked to drinking too much beer, wine, and spirits, while another 40,933 people died from car crashes and other mishaps caused by excessive alcohol abuse. CDC researchers considered any man who averaged more than two drinks per day or more than four drinks per occasion to be an excessive drinker. For women, it was more than one drink per day or more than three drinks per occasion.

The CDC study said these results emphasize the importance of adopting effective strategies to reduce excessive drinking, including an increase in alcohol excise taxes and screening for alcohol misuse in clinical settings. While I am not a fan of any taxes, I do agree that they can have an impact on consumers and consumer habits. Just consider cigarette taxes and smoking. Regardless, returning to the CDC study, men accounted for 72 percent of the excessive drinking deaths in 2001, and those 21 and younger made up 6 percent of this death toll. Mr. President, the study also notes light or moderate drinking can benefit a person's health, but heavy drinking increases the risk of high blood pressure, heart disorders, certain cancers and liver disease, and excessive drinkers are also more likely to die in car accidents.

I note this government study, Mr. President, because I continue to be amazed by the contradiction of those who want to expand consumers' access to alcohol while opposing my Senate Bill No. 3 to allow for the use of a God-given, non-toxic plant to help sick people with their disease and medical challenges. Senate Bill No. 3 sits in the House awaiting action because of the fear its impact might have on people and especially what message we are sending to our children. Mr. President, we recently watched the Super Bowl, and leading up to the Super Bowl, there had been numerous commercials glorifying alcohol use. Even the one player, the star quarterback of the winning team, Peyton Manning, said that he was going to go out and have a bunch of Budweisers with his friends. My question is, what type of message is that sending to our youth? The reason I am saying that, Mr. President, is because Senate Bill No. 3 sits in the House despite all of the protections that have been built to insure that cannabis would be used only for medical purposes. It would be used for protections like licensing, testing, tracking, State oversight, rigorous reporting requirements, and other restrictions on the use of medical cannabis. Meanwhile, Mr. President, several bills have been passed by the House to expand alcohol while the Centers for Disease Control and Prevention is telling us that people are dying from cirrhosis of the liver, cancer, and other diseases linked to drinking too much beer, wine, and spirits.

Mr. President, I do not get it. Honestly, I really do not get it. Maybe Ralph Waldo Emerson was correct when he said, "...foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines." All I know, Mr. President, is there is no consistency among those who support the expansion of alcohol yet oppose medical cannabis. It is the height of hypocrisy. In closing, Mr. President, I point out that Patrick Henry said, "Give me liberty, or give me death!" He did not say, give me liquor, or give me death.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Wagner.

Senator WAGNER. Mr. President, good afternoon. It is good I do not have a complex, because the Chamber is empty and there are just a few people and the Majority Leader.

The PRESIDENT. There are plenty watching on television though, Senator.

Senator WAGNER. Mr. President, I started out the morning in York having breakfast with a friend and constituent who has a business. We talked about the Governor's Budget Address yesterday, and my friend told me how his business has been impacted the last couple of years and that he has stepped back in as a very active owner, and my friend is 75 years old. You would think at age 75 that a business owner in Pennsylvania would be thinking about retirement or selling his business. He really struggles with selling his business because, really, the only buyer out there might be a strategic buyer, or a private equity group that would buy his business, and it would impact about 400 employees. So, we talked a little bit about what is happening here in Harrisburg and we talked about the Budget Address. My friend today, I can assure you, went to his business after we finished breakfast, he went to his office and got out his trusty putty knife, as probably millions of business owners do in Pennsylvania, and he went around his company scraping pennies off of the floor. In business, I talk about this a lot, that we scrape pennies, nickels, dimes, and quarters off of the floor, and very seldom do you ever find a dollar bill on the floor.

So, with that, I would like to talk about the Governor's Budget Address yesterday. Governor Wolf yesterday painted a doom-and-gloom picture as a means to convince the people of Pennsylvania, or maybe himself, that massive tax increases are needed to address the Commonwealth's fiscal problems. Governor Wolf even reflected back on his time as a private sector business owner and he made the statement, you have to take a clear-eyed look at how the problem arose and then you have to solve it. You have to do it fast or you will not be in business long. I agree with Governor Wolf on that. Besides failing to identify the real problem, Governor Wolf's only solution is to raise taxes on Pennsylvanians. I say this to Governor Wolf and Pennsylvanians, how dare he? How dare the Governor ask for more money from the people of Pennsylvania without taking basic steps to control costs? How dare Governor Wolf ask Pennsylvanians to give him more money without doing anything to reform the pension system that is driving costs and property taxes through the roof? How dare Governor Wolf ask Pennsylvanians to give him more money without reforming our archaic liquor distribution system to maximize not only customer convenience but also revenue to the State? How dare Governor Wolf ask Pennsylvanians to give him more money without implementing a real hiring and wage freeze on State workers? How dare Governor Wolf ask Pennsylvanians to give him more money without asking for concessions from State employees who enjoy pay and benefits unmatched in the private sector? How dare Governor Wolf ask Pennsylvanians to give him more money without asking for concessions from the money managers that get paid hundreds of millions of dollars to manage the State pension funds?

The State of Pennsylvania, Mr. President, pays almost a billion dollars to have our pension management fees managed. Mr. President, I would like to ask you, do you own a home in the Hamptons? Because, Mr. President, I do not own a home in the

Hamptons, but a lot of the Wall Street money managers own a home in the Hamptons. So, why did Governor Wolf not work on the concessions last year or renegotiating fees, as he talked about? Nothing happened. How dare Governor Wolf ask Pennsylvanians to give him more money without using savings from innovations and efficiencies to shrink the looming budget deficit? Even the Governor stated in his Budget Address that we are going to have to stop closing our eyes and hoping our problems go away.

The Governor said yesterday, we are going to have to face the facts. Well, Mr. President, I will tell you, I agree with Governor Wolf on his comments regarding the deficit, but what is Governor Wolf's solution? Governor Wolf's solution is simply, let us raise taxes. I have a solution. I am a private sector business guy. My solution is, and listen very closely, Mr. President, to identify opportunities to reduce costs, enhance revenue, not raise taxes but enhance revenue, there are many ways to do this and get people--there are people out doing business in Pennsylvania who do not pay the taxes that they are supposed to pay. There are businesses out there that pay sales tax. I heard from a constituent who has a lawn and landscaping business in my district. He called me up 2 months ago and said, Senator Wagner, I want you to be aware of something I find troubling. I have people who call me all the time and want a price for me to come in and do their lawn mowing and landscaping. I give them a price and I tell them it is, say, \$300 a month plus 6 percent Pennsylvania sales tax. The person on the other end of the line says, well, I do not pay sales tax now. What is wrong with that system? There are people not paying their fair share of taxes.

So, when I talk about identifying opportunities, there are ways, there are a lot of efficiencies to be had up here and there are many ways to reduce costs. I am talking about enhancing revenue and capturing taxes that should be faced or paid. But the Governor has to face the facts. He has to stop using the taxpayers of Pennsylvania as his personal slush fund to funnel more money into systems that we all know are not working efficiently or effectively.

Governor Wolf acknowledges that property taxes are a problem, but instead of wanting to address the cost driver, mainly pensions, he wants taxpayers to send more money to Harrisburg to keep funding an unsustainable pension system. Trust me, Mr. President, this pension system is very, very bad. We hear about the \$60 billion pension crisis. Well, I would love to know the numbers as of January 31, when the stock market experienced its worst month in the history of the stock market. The stock market is down today. The first 10 days of this month have been unbelievable. So, I can tell you, as people pay attention, I think the problem is getting worse. The Governor claims, and he claimed yesterday, that the money is going to go for education. Yes, the money is going to go to school districts, just as property taxes do, and property taxes are increasing, but the schools in turn have to use the money that Governor Wolf is telling people is going into the classrooms but will in fact go toward wage increases for employees at the school district, mainly the schoolteachers, wages and benefits. When I talk about benefits, I am talking about health insurance. Teachers pay somewhere in the neighborhood of 25 percent of their monthly healthcare costs versus what the private sector employee would pay. The pension obligations are going to rise until we solve this problem.

What I heard yesterday was something very troubling. When it comes to education funding, Governor Wolf is attempting to pit the taxpayers of Pennsylvania against students, which is totally unacceptable. It is mind-boggling to me. Yesterday, Governor Wolf said if we do not pass this budget and the taxes he is looking for, that the State system is going to have to lay off 23,000 teachers. Scare tactics. I do not believe this at all, and Governor Wolf needs to start telling everybody the truth.

In Governor Wolf's Budget Address yesterday he stated, I can accept we disagree about the importance of education. Well, who disagrees about the importance of education? I do not think anyone in Pennsylvania disagrees that education is key, and I can tell you right now, I do not disagree. I think education is very, very important. It is the future of our State and our country. But what I disagree with is that we continue to throw money at a broken education system. It is a system monopolized by pension obligations that are choking this Commonwealth and taxpayers. So, again, I tell Pennsylvania and Pennsylvanians, do not be fooled into thinking that more education dollars translate into more money for our students and going into the classroom. It is quite the opposite.

I have already referenced a couple of things from the Governor's budget speech, but this was one of my favorite lines. When Governor Wolf said someone in Harrisburg has to start telling the people of Pennsylvania the truth about the mess we are in, the financial mess. I can tell you, I have been here almost 2 years, and I have been telling this same story for 2 years. We do have a problem. I am a private sector business guy. I know how to read financial statements. We do have a problem, but the solution is not just raising taxes. So, I am going to call on Governor Wolf to start telling the truth. When Governor Wolf ran for governor, he told people that he was a private sector business person. He turned his family business around. Well, we need somebody to help turn around Pennsylvania. We need a leader, but I do not see Governor Wolf as that person. The truth is that Governor Wolf wants more taxpayer money. The truth is that pensions are the real reason education costs are going up every year. The truth is that State workers, teachers, and college professors have lavish benefits private sector workers could only dream of.

This past Monday the noise outside of my office was so loud with college students who were demanding more and more money into their system. When I did an analysis last year, the college professors in the PASSHE system, which are Millersville, Shippensburg, Mansfield, the average college professor who has health insurance in that system, the cost to the Commonwealth or that system is \$28,000 a year. It is mind-boggling for health insurance. Again, the truth is that taxpayers help money managers buy vacation homes with the millions we pay in fees for managing pension funds. We need to be telling that story.

So, Mr. Wolf, please stop pitting the taxpayers against the students and stop hiding behind the gloom-and-doom numbers that you created. I sat through the whole address yesterday and it was tough, but what I heard was Governor Wolf demanding from the people of Pennsylvania to pay more taxes without bringing accountability for the money that we already send here to Harrisburg. Mr. President, I cannot go back to my constituents and look them in the eye and tell them that Harrisburg is doing everything we can to control costs, and then turn around and ask them to send more taxes to Harrisburg. It is their hard-earned

money. I am criticized a lot that I do not care about the middle class. If you come to my company in York today, I employ middle-class people. I started the company. I was not handed the company. I did not buy it from my father or my grandfather. I started it from scratch and I employ several hundred middle-class employees. That is why I am here in Harrisburg, to represent those people, and they are all across Pennsylvania.

I believe we are in the midst of a recession. You go to western and northern PA, there is no oil or gas drilling being done at all in Pennsylvania. Go to Monessen Borough, Donora Borough, southwestern Pennsylvania, 20 percent of the homes in those two municipalities are boarded up and vacant. It looks like a ghost town. What the Governor wants, this is the number, Mr. President, he wants \$3.6 billion, to be exact. That is the amount that he wants Pennsylvanians to send to him to fund his tax-and-spend budget. Again, I ask, how dare Governor Wolf?

Let me break down this \$3.6 billion. There are approximately 3.1 million middle-class families in Pennsylvania. It equates to, if you divide the \$3.5 billion or \$3.6 billion by roughly 3 million families, you are talking \$1,130 a year, but let us round it off to \$100 a month. That is \$1,200 a year. That \$100 a month might mean that a family of four, parents and their children, go out for dinner one time a month, and I can tell you, it is pretty tough. You would have to go to Chic-fil-A or McDonald's to not spend a million dollars. But if you wanted to go to a nice, family-style restaurant, it is going to cost at least \$100. That \$1,200 could be a vacation home or motel for one week at a modest beach location for a family of four.

I could tell you what I have seen here in the last 2 years makes me sick. It is like driving through an orchard, there is so much low-hanging fruit to be pulled off the trees before we start imposing taxes. Two weeks ago, Mr. President, I learned of a story and I reported it last week, that in November and December, Auditor General Eugene DePasquale did an audit of the Pittsburgh School District, and, Mr. President, the Auditor General had a press conference on Wednesday, December 16. He announced to the public that the Pittsburgh School District had the largest cash balance of any school in the State of Pennsylvania, and there are 500 districts. He went on to say that the people in that district should be proud of what the school administrators have done, how they have managed their money. It was a pat on the back. At the conclusion of the press conference, the Auditor General was approached by four school board members, and I called the Auditor General last week four times to get the story and its accuracy correct. The Auditor General told me that four school board members approached him at the end of the press conference in total disbelief. They said, are you sure you have your facts correct? Are you sure you found \$129 million? Because tonight--the Auditor General could not remember whether it was that night or the next night--the school board was going to vote on a tax increase. Amazing, \$129 million. I asked the Auditor General, do you believe that the school district was actually hiding that money? His comment was, absolutely yes. I find that appalling.

We want more money? We have to audit every account in the State of Pennsylvania. Actually, last week when I sent my email out, I got a response from one of my school district business managers and he appreciated my email, but he was somewhat insulted and upset that I would maybe lead on that they were not doing the finances or enough audits in their district. I think there

are a lot of good school districts in Pennsylvania, but we have a right to know how much money is in every bank account in the State of Pennsylvania.

For 40 years-- let us go back to 1970. I think this all started in 1970, 45 years ago. Mr. President, by the way, 45 years is almost half a century. The problems started: lack of accountability, zero courage to make change, transparency. I was elected to the Senate almost 2 years ago and sometimes I have to file Right-to-Know requests as a Senator to get information from the State of Pennsylvania, the place from which I actually receive a paycheck, my employer, which is pretty amazing.

So, I would like to throw five words out, and I am getting close to my conclusion. There needs to be absolute accountability for every dollar that comes to Harrisburg. I would reach out with this message to my coworkers, colleagues, staff, and anybody who works for the State of Pennsylvania. You need to have courage, because you need to have courage to make change. Once you finally make change, you realize you have the courage to do it, but I can tell you this place needs a lot of change. There needs to be more transparency.

I will tell you a story from Allentown. Air Products, 2 weeks ago, announced they were laying off 435 employees in their Allentown operation, 13 percent of their workforce. The article was very interesting because Air Products made a statement that they were not laying off any plant workers. They were, in fact, laying off white-collar workers who they identified were performing tasks that were no longer needed. I mean, Mr. President, we do not make buggy whips anymore, there are computers, and I think the State of Pennsylvania has warehouses full of buggy whips and we need to restructure and we need to retool Pennsylvania. Enough is enough, it is time to get down to business.

I leave you with this. A lot of people look at me and make comments--and I appreciate all of the comments--that I am full of negativity and I am an obstructionist, but you know what, Mr. President, I was elected by the people in my district in an unprecedented situation. I only draw my salary, and for the people listening, I do not get healthcare insurance, I do not get a pension, I pay all my own expenses, and I actually turned back money 2 weeks ago from my Senate account to Senate operations because we did not need the money, because we are conservative in our office. I believe in honesty and accomplishment. So, I may be seen as an obstructionist and I may be seen as negative or a troublemaker, but I am here to do a job and I am going to do my job one way or another. There are many good people here in Harrisburg, but I will tell you one thing that this building is just starving for: it is starving for someone, a leader who has vision. It is starving for someone who has real-world experience, and someone who is a leader. Unfortunately, Governor Wolf had an opportunity to provide vision, experience, and leadership, and he has failed in the first year.

The Budget Address yesterday was, for me, I would like to use the word "insulting," but when he told everybody they have a responsibility to do their jobs or go find another job, this is a tough place to do your job. It really is. There are firewalls everywhere. So we all need to work together, and it is going to be a long 3 years, I can assure you, but if the Governor wants to talk about ways to reform government and create savings to reduce the deficit, I will be the first person to sit at the table. However, until that time, Governor Wolf has no business asking Pennsyl-

vanians to send more money to Harrisburg until we get our house in order.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, I want to dovetail on the comments regarding the budget. The Chamber is now almost completely empty. The press has gone, the reporters have departed. All the lights, camera, and actions of our momentary attention to a matter of significance, those who have reported have now departed.

Twelve million-plus Pennsylvanians held their breath this week to see if we could have the political will and bipartisanship to figure out what to do with regard to a budget. They are asking us to complete the budgetary process with a balanced and complete budget. Somehow we found the political will to sit here for 4 hours, have a bipartisan panel of Democrats and Republicans, I guess over a 3-month or 2-month period of time, to discuss an issue of importance to Pennsylvania, which is the integrity and the ability of the Attorney General. At the end of the day, we did not necessarily agree, but what we did do was finish a process, we reached a conclusion. Twelve million-plus Pennsylvanians now have the ability to say, you had your debate, you had your moment, you had your reflection--and by the way, Democrats and Republicans both agreed that we should arrive at that decision, whether we agree with it or not, regardless of the spectrum of Democrat versus Republican.

I heard the previous speaker use the word "disappointment." I think he is right to use the word "disappointment" regarding the budget. It is disappointing that for schools across Pennsylvania, there will be those that close because they can no longer borrow money. There are real people with real children who look to this week to figure out how we get past our differences of Democrat and Republican to a point of where we can actually resolve those differences, to put them in front of our political agendas. Somehow we found the ability to do that around Kathleen Kane, one person who has an office of employees who are all getting paid. Yes, they are all going to get paid. That office is still open, but we spent 2 months, a lot of money, taxpayers' money, and we debated on this floor, reached a conclusion, and that office will still be open and operating whether the people agree whether it is appropriate or not, and people will still get paid and justice will still be applied. Someone who commits a crime in Pennsylvania will get prosecuted because there is an Attorney General's Office which is open and operating today because they have a budget.

But 12 million-plus Pennsylvanians - women, children, and poor folks - have to wonder whether their homeless shelter will continue to be open, whether those shelters that protect women from domestic violence will be open, whether publicly funded hospitals that save lives will be able to continue to provide services, or whether our public universities will continue on. Community college students, will they have the ability to have staff in front of them? And infrastructure, which is declining because we have not fixed the gas tax phenomena where we send money to the State Police as opposed to the crumbling bridges. I am disappointed. But guess what? It really does not matter whether I am disappointed or anybody else in this building is disappointed, because once you are in this building, you are part of the establishment. The establishment is not popular for the very rea-

sons that we see here today and that it does not work. We can disagree with Governor Wolf's proposal, we can agree with my dear friend Scott Wagner's perspective. It does not really matter. What matters is that we reach a conclusion and we commit ourselves to stay here until we do.

So we turned off the lights, cameras went away, and guess what? We will be gone for a month. I want to assure you of one thing: every Member in this Senate will have some aspect of revenue sent to them. Whether it is personal or not, it is part of the institution. This train keeps chugging along, burning up the taxpayers' money, doing all sorts of provocative things, and turning their backs on the 12 million-plus Pennsylvanians who want one thing that -- by the way, there were lots of conversations about the Constitution. A thing that we are constitutionally required to do is deliver a balanced budget. For some reason, we allow ourselves the hypocrisy, if you will, to suggest that every time we come back here that we are doing the people's business and bidding. Until this budget gets resolved, we are not doing the people's business, we are not doing the people's bidding, and we have not done it for a long time.

Certainly, what we spent our time on today, while it may be significant, does not top the priority of that woman who seeks shelter because she cannot find a place, does not have a job because the economy is not working, and we can debate whether it is working or not because of the Governor's policy, but the bottom line, she does not really care. What she cares about is somebody getting out of the political skirmishes that we see all across America and getting in front of the conversation. I watched the Presidential debates, as many people did, and I have my choice, and at some point in time people will know about that, but what is clear to me is that there is a national fervor, and Pennsylvania is not excluding that. There is a national fervor for an appetite to get back to a table and find resolutions. So you find elections where there are 21 percent, 25 percent, 27 percent, 30 percent of the people participating, 70 percent of those do not because they do not believe that we have their best interest in mind.

By the way, I do not claim that I am better than anybody else and I do not have manna from heaven or some perspective that is going to guide us though this, but I am clear I am part of the problem because I am in this building and I cannot find a way to keep us all at the table to figure this out. I am not pointing fingers at a Democrat or a Republican today. I honestly am not, because we all share the responsibility of getting this budget done and we all share the failure of not getting this budget done, because the word "compromise" seems to be an impediment to the political environment in which we are elected. It seems that every outsider, the moment they become elected, becomes an insider because they want it their way. Donald Trump is characterized as an entertainment person and Bernie Sanders is a socialist, and all of the extremes, by the way, are leading the polls. The majority of people who are involved are so disgusted, because those of us who are sent here to compromise and find a path, for what all of us know needs to be done, cannot find a way to do it.

So, I am disappointed. I am not angry, I am not pointing fingers, I honestly do not think that there is a more righteous person in this conversation, but I am drawing attention to all of our hypocrisy. Democrats and Republicans spent 4 hours on this floor debating an office that exists and is funded. Two months or 3 months, whatever it is, with hearings, and for almost a year we have allowed the general public to go without appropriate fund-

ing for health and human services that give the dignity of what Pennsylvania is about. For our veterans, for our police officers, for our State Troopers, for moms, for dads, for Little Leagues, whatever it is, they deserve better than what we did today. They deserve much better than what we did today. So, while I will accept the critiquing and even criticism of the budget that was delivered by the Governor, that is your right; but what I cannot accept is that in the moment of criticism that we do not drive that general energy into the additional 4 hours, at least, that we should spend on what we are going to do about it.

I am a huge sports fan, and what drives me crazy is when I hear these prognosticators on television, all of the analysts who tell us what went wrong and what they would do, why he did not throw the pass, and what happened. But what they do not tell you is that they do not have a clue what they would do themselves if they were playing the game. So, I respect the fact that people can critique, complain, and criticize. What I do not respect is that we do not commit ourselves to that moment of resolution. I am honest about it. I am the Democrat who has reached across the aisle. I am the Democrat who gets in trouble on occasion on tax policy or educational forums. I am the person who opens the door for conversation about a variety of issues.

We talked about pension reform. We do need to reform pensions in Pennsylvania. My mother, who is a retired public schoolteacher, will tell you we need to fix the pension process because she is paying for it. Veterans who believe in municipal unions and have been a part of them will tell you that we need to fix it because it is eating up their paychecks or the miserable returns that they have. There is an arm extended, but there has to be leadership in that moment. Leadership sometimes means that you have to go back to your friends, sometimes your Caucus, and tell them the truth: this is the best it is going to be. Nobody is going to get 100 percent, and frankly, in the legislative process, change is one brick at a time. Twenty-five percent is a triple, 50 percent is a grand slam.

We need to be honest about what we are doing here, which is not much. It pains me that I have to go home to a district where 12 million Pennsylvanians, some of whom are in the 8th Senatorial District, will be looking to me in community meetings and they are not going to talk about a budget, they are simply going to say to me, Senator, how am I going to feed my family? Where am I going to send my child, because I cannot afford private school? My dad has a tumor but does not have the necessary hospital open to him in his community. That woman who I talked about, that is not an example, she is a real human being in my district who does not have a shelter to protect her. By the way, the law enforcement that should expect us to be delivering a lot more than we are delivering rather than arguing about the gas tax and whether we fund them or not, we should be getting to the table to protect everybody - those who want to fix the bridges and those who protect us on the highways. It is not them versus us. The confusion in this conversation is, we are all Pennsylvanians and we are all suffering.

I implore and I hope that the 4 weeks--count them, public, 4--that we are supposed to be away from this building, something happens during the 4 weeks that does not relate to the next budget but relates to this budget. That those of strong values--and we have Democrats and Republicans in this building who have strong values of understanding and compromise--that we stand together, we push the naysayers out of the way, and we get about

the business of delivering much needed support for those most vulnerable Pennsylvanians.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I certainly appreciate the previous speaker's comments. He is a good friend, a man of passion and principle who fights for his district, and that is, hopefully, what all of us do here in Harrisburg. Whether we are from urban Pennsylvania or rural Pennsylvania or suburban Pennsylvania, we are a Commonwealth. If Philadelphia is successful, then Pennsylvania is successful; if State College is successful, then Pennsylvania is successful. I certainly want to lend my efforts to help all corners of the Commonwealth, because that is what "commonwealth" means, we are all common in our abilities.

I share his frustration and disappointment, I guess, was the word of the day. Maybe it is not the politically correct thing to do, but I will defend the establishment a little bit, the best I can. This has been a tough process and we have had fits and starts. There were times where I thought we were getting close and times we got further away. We did pass a budget here in December, and that budget, although it was not everything that the Governor wanted, certainly had significant new investments, particularly in education, \$100 million new dollars in the basic education formula, a change in the formula to more fairly drive out the money; \$50 million new dollars for the block grant program; special ed, another \$30 million; another \$25 million for pre-K, and that is on top of the \$25 million we did the year before; and another \$5 million for Head Start.

Now, I know the Governor wanted more than that, and I respect that. The Governor has a passion for investment in education, and he chose to sign a good bit of the budget, but he chose to veto a good bit of the education budget. I think his exact words in December were, I signed the budget because I did not want to hold the students hostage. Well, I hope that applies for March as well as December, that we do not want to hold them hostage in March either. Even though this is not maybe everything the Governor wanted, or some of the people in the Chamber, on both sides of the aisle, but it is a significant new investment by the taxpayers. Pennsylvania ranks in the top 10 of investment in public education per student basis. I think we spend roughly \$14,000-plus per student, which is about \$3,000 more than the median in this country. Now, there are certainly arguments to be made on whether the State is not putting in enough and the local property tax owners are paying too much, that is a fair debate to have, and we have had property tax debates here on this floor and how to shift that around so that maybe the State is picking up a bigger share. And I am sure we will continue to have that debate. There is debate whether the money is driven out equally or fairly across the Commonwealth. That is another debate that we have had. We had a bipartisan commission look at that formula and change it and we were going to adopt those new changes in this current formula to hopefully more fairly drive out those dollars.

So, I think the taxpayers of Pennsylvania, whether they be local or State, are putting up their fair share of investment in our school system. Although I applaud and understand the Governor's desire for more, this new budget that was passed that he vetoed had a significant increase in education spending here in

Pennsylvania by the taxpayers, but as the gentleman said, we are not done and I do not have any claims that we are. Anyone who thinks that we are done, we are not. We have more work to do.

Some Members may be going home for a month and a lot of Members will be here for hearings of the Committee on Appropriations over the next 4 weeks trying to get a better understanding of the Governor's proposal to fix the structural deficit by adding \$3 billion in new spending. That is an interesting proposal to try to get your head around and understand that we have this big deficit of too many expenditures and not enough revenue and we are going to add \$3 billion more in expenditures. So, he will get his fair chance over the next few weeks to explain that and, hopefully, put us on a path with the General Assembly to get to some sort of resolution for next year's budget, but we do have to finish out this year's budget.

I represent Penn State University. Obviously, for whatever reason, the Governor has decided he does not want those four institutions - Penn State, Pitt, Temple, and Lincoln - to get their money just yet. I guess those students can be held hostage. So, that is a problem, because parents and students who pay tuition bills may have to see those tuition bills go up significantly if the State no longer wants to partner with those universities and make them public universities. That will mean a significant increase in tuition. So, hopefully, that can be resolved quickly. I live about an hour and a half from here, so I am here quite often. December, unfortunately, I did not buy one Christmas present, other than my wife's. My wife did all of the Christmas shopping. I did not put up one decoration because I was here 21 out of the first 23 days of December trying my best, with everyone else, to bring this thing to resolution. We got close, but we are not there yet. We need to continue to work, as the Senator said, to finish this process, but we can finish it without holding people hostage, the Governor's words exactly. We do not need to hold people hostage. Let us get the money to the universities. Let us get the money to the schools. We can continue our debate. It is a big debate.

We continue to have that debate, but understand, the budget we passed spent about \$30.3 billion in December that the Governor vetoed. What the Governor had hoped for, and an agreement where we thought we were close, was \$30.8 billion. That is a \$500 million difference. That is 1.5-percent difference. That is not such a significant difference that one is irresponsible and one is the Promised Land, so to speak. A percent and a half of a difference in spending. We can close that. If we do not get it all, fine, we will take it on the next debate. There is still a significant new investment in education that the Governor can take credit for. Over \$200 million in new dollars for basic education, public education, new dollars that were in that budget that he could take credit for, and he would deserve credit for it because he pushed that agenda.

So, I am here. We will be here during these 4 weeks. We will be here to work with my good friend from Philadelphia County, who represents part of Delaware County as well, and we will work together to get to, hopefully, some resolution. I do think there is effort being put in. As frustrating and maddening as it is, I think all parties are coming to the table, but I would agree that compromise is not a bad word. It is not a four-letter word. We certainly have done that and will continue. I know the Governor has made some compromise. We just have not gotten to that sweet spot, for whatever reason. The commitment is here, and

will continue to be here, to get the job done for the people of Pennsylvania. I wish the Governor would have signed the entire budget. Maybe over the next few weeks we will pass supplemental bills to give him an opportunity to do it again, because I do not think we should hold students hostage anymore. I think we ought to release them, allow the schools to be funded, make sure the schools stay open, that they do not have to borrow money and pay interest on what could be going into buying books, could be going into buying services for needy children and our schools. Let us not give money to the banks in interest. Let us get it to the classroom, and the sooner we do that, the better, and, hopefully, the Governor can agree with that and let these hostages loose and let us move forward on a 2016-17 budget debate.

I look forward to working with the Minority Whip in this Chamber. He is a great friend and we have worked together many times in the past and, hopefully, not too much longer in the future. We came in together in 1998, and maybe it is time we let somebody else do these jobs, but I look forward to working with him in the future and keeping up the effort to make sure Pennsylvania has a budget that allows the Commonwealth to grow in all parts of the Commonwealth.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, I apologize, it is my nature. So, I want to make sure for the record that we understand a few things. I appreciate the comments by the Majority Leader. Genuinely, I do, because I think that he does get it. I think he does work hard at his job balancing a very complicated political landscape these days, be it Democrat or Republican, to get to a point. So, frankly, most of my comments, as he probably knows, are directed to--is that the west where the House is, or the east? The part of the building that is not attached to us--but also to some of the heart and soul of the Members of the Senate who have a strong disagreement with the Governor. They have a right to have a disagreement with the Governor, but my perspective is simply this: that all we are doing is debating, delaying, and continuing the pain of many Pennsylvanians.

I also have to say for the record, and I will close on this and not comment anymore, the \$3 billion which is common, I think we all know about \$1.6 billion of that is mandatory costs - \$800 million to the Department of Human Services, \$500 million to pensions, \$178 million to Corrections, and \$100 million in debt obligations. So, before you get to \$3 billion, there is about \$1.6 billion of it which is mandatory in terms of spending. By the way, we could certainly argue that is the problem with Harrisburg, that those numbers should not be so big. I am more than happy to work on reducing them. I am more than happy about what my other friend and colleague talks about, Senator Wagner, finding cost-saving measures of significance, because I think all of us agree that bureaucracy has grown so significantly large that sometimes the accounting firms within certain bureaucracies do not keep up. The reality is, we have to pay the bill. Further, a structural deficit of about \$1.86 billion, and to fix that, if we are going to move that, we would have to close about 15 agencies, which include the Attorney General, Auditor General, DCED--I can go down the whole list.

I am not commenting for us, because we all know this, but the public needs to know this stuff. So, it is not simply waving a magic wand and becoming a fiscal conservative or, frankly, be-

coming a moderate or progressive. It requires people who are committed to, once they get here, understanding the details of what it means to operate this building. I am not, certainly, only having this conversation with my dear friend across the aisle, but I am having it with the rank-and-file Members who drive us to do our jobs and who allow us to do our jobs. I will continue to say, not so much in this Chamber, because I think we have done some exceptional work under a very challenging set of circumstances, even though, apparently, I tend to lecture rather than just talk on occasion. That said, we give consideration and respect to each other.

I would hope that, again, during these 4 weeks, that there will be conversations that will be able to move the process forward so that those of us who are not so privileged as to at least have a business of 400 people where those folks--he does a tremendous job, he has a great business but, unfortunately, 400 jobs are dwarfed by the probably 15 million jobs that we need. We need to grow an economy, and I think all of us understand that, and there will be ideas to do that. Right now, we need to get this budget done. I encourage us all to come to the table again, and I encourage my friend to do what he always does and lead the other side and I will be here to try to figure out how to meet him. Then we can tackle some House Members to get it done and close that loop.

Thank you, Mr. President.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I move that the Senate do now recess until Monday, March 14, 2016, at 1 p.m., Eastern Daylight Saving Time, unless sooner recalled by the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed at 4:01 p.m., Eastern Standard Time.