

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

STATE GOVERNMENT  
COMMITTEE HEARING

STATE CAPITOL  
HARRISBURG, PA

IRVIS OFFICE BUILDING  
ROOM G-50

TUESDAY, MAY 6, 2014  
9:00 A.M.

PRESENTATION ON HOUSE RESOLUTION 578  
IMPEACHMENT OF ATTORNEY GENERAL  
KATHLEEN KANE FOR MISBEHAVIOR IN OFFICE

BEFORE:

HONORABLE DARYL METCALFE, MAJORITY CHAIRMAN  
HONORABLE STEPHEN BARRAR  
HONORABLE GEORGE DUNBAR  
HONORABLE ELI EVANKOVICH  
HONORABLE MATT GABLER  
HONORABLE FRED KELLER  
HONORABLE JERRY KNOWLES  
HONORABLE TIM KRIEGER  
HONORABLE DAVID MALONEY  
HONORABLE JOHN MCGINNIS  
HONORABLE BRAD ROAE  
HONORABLE RICK SACCONI  
HONORABLE DAN TRUITT  
HONORABLE MARK COHEN, DEMOCRATIC CHAIRMAN  
HONORABLE MARY JO DALEY  
HONORABLE MARTY FLYNN  
HONORABLE JORDAN HARRIS  
HONORABLE DANIEL MCNEILL  
HONORABLE DAN MILLER  
HONORABLE MICHAEL O'BRIEN  
HONORABLE MICHAEL SCHLOSSBERG  
HONORABLE BRIAN SIMS  
HONORABLE GREG VITALI

\* \* \* \* \*

*Pennsylvania House of Representatives  
Commonwealth of Pennsylvania*

## COMMITTEE STAFF PRESENT:

SUSAN BOYLE

MAJORITY EXECUTIVE DIRECTOR

AMY HOCKENBERRY

MAJORITY RESEARCH ANALYST

KAREN PENICA

MAJORITY RESEARCH ANALYST

PAM NEUGARD

MAJORITY LEGISLATIVE ASSISTANT

I N D E X

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SUBMITTED WRITTEN TESTIMONY

\* \* \*

(See submitted written testimony and handouts online.)

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P R O C E E D I N G S

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MAJORITY CHAIRMAN METCALFE: Good morning. This hearing of the House State Government Committee is called to order.

Before we take the roll call, if I could ask everyone to please rise and Representative Truitt to lead us in the Pledge.

(The Pledge of Allegiance was recited.)

MAJORITY CHAIRMAN METCALFE: Thank you, Representative Truitt.

If I could ask our Member Secretary, Representative McGinnis, to call the roll call, please.

(Roll was taken.)

MAJORITY CHAIRMAN METCALFE: Thank you, Representative McGinnis.

Before we call our first testifier this morning, I'd like to just lay out the way the hearing will proceed. As past hearings and for the benefit of the Members as a refresher, this morning testifiers will have 25 minutes with us, approximately 10 to 15 minutes for their testimony

1 and then the balance of the time for Q&A. I'll go back and  
2 forth between Democrat and Republican on the questions.  
3 We'll take the questions we have time for during that  
4 period of time. When we're at the end of that time, we  
5 will conclude the Q&A with that testifier and move on to  
6 the next testifier.

7 And if you had had a question for that testifier  
8 and you'd like to ask a question of the next testifier and  
9 I didn't recognize you the first time around for the  
10 previous testifier, I'll make sure you're on the beginning  
11 of the list but we might run out of time with various  
12 testifiers. And in the interest of respecting our guests'  
13 time and the Members' time, we're going to stay on track as  
14 much as possible to conclude the hearing before we have to  
15 be up to the Floor for Session starting at 11:00.

16 Also, the individuals who will be testifying  
17 today are here as guests of the Committee and I would ask  
18 the Members to pose your questions, avoid the pontification  
19 as much as possible if you would, please. I know it's hard  
20 for many of us but we'll have more information delivered to  
21 Committee if you ask your questions and allow them to  
22 answer and not turn into a debate. We can debate each  
23 other at a future hearing to follow up on this if we have  
24 that as a kind of informational hearing rather than a  
25 public hearing.

1           Also, just for the Members' information, there  
2 was a previous hearing we held with the Ethics Commission  
3 before us, and at that time I'd asked for them to look into  
4 the actions of two individuals. One of those individuals  
5 was the Attorney General. The Ethics Commission did get  
6 back to us earlier this year. As a result of their  
7 investigation, to read in part -- and I have this letter  
8 available for any Member that would like it; we can provide  
9 it to you later on today or email it over to you -- but in  
10 part what they have said was:

11           "The Commission has determined that there is a  
12 lack of sufficient evidence to establish one of the  
13 required elements of a violation of Section 1103(a),  
14 specifically a use of the authority of your public position  
15 to promote your sister. As such, the Commission has  
16 terminated its inquiry into this matter. However, the  
17 selection process coupled with a lack of documentation  
18 establishing the criteria used to fill the vacancy  
19 concerning the Chief Deputy Attorney General of the Child  
20 Predator Section created a perception that the promotion of  
21 your sister was not free of your influence."

22           As I said, that letter would be available for  
23 Members in the future if you'd like to have a copy of that.

24           Representative Cohen for a brief opening  
25 statement before we get started.

1           MINORITY CHAIRMAN COHEN: Yes. Thank you. Thank  
2 you, Mr. Chairman for this opportunity.

3           As you know, I delivered a letter to you  
4 yesterday asking that you consider cancelling today's  
5 hearing not just in the best interest of the House of  
6 Representatives as an institution but also in the best  
7 interest of democracy in Pennsylvania. Let me repeat my  
8 reasons for that request.

9           We have seen how the politicization of almost  
10 every aspect of the U.S. Congress has led to endless  
11 conflict and constant partisan gridlock, and while  
12 legislators in Pennsylvania certainly engage in strident  
13 political debate on partisan issues and policy, we've  
14 avoided turning these political debates into Constitutional  
15 crisis. This has allowed our Legislature, while we engage  
16 in healthy debate, to maintain our focus on the real issues  
17 the people of Pennsylvania sent us here to address.

18           Today's hearing is a departure from that spirit  
19 and that precedent. Impeaching for political reasons is  
20 never a good idea. Using this Committee and this  
21 Legislature to settle political grievances is even worse.  
22 The impeachment measure before us today is not based on any  
23 violation of law or ethics by the Attorney General but by  
24 the very political and partisan disagreements with Attorney  
25 General Kane. Examining the background of these witnesses

1 shows they have little to no expertise in the issues  
2 relevant to impeachment, Constitutional law, the ethical  
3 conduct of attorneys or prosecutorial discretion.

4           Contrary to the rules and standards procedures of  
5 this House, neither the Attorney General nor anyone with  
6 relevant experience or expertise on the issues of  
7 impeachment have been asked to testify before this  
8 Committee, nor was the opportunity given to testify to any  
9 of the witnesses of the Democratic Members' committee staff  
10 offered.

11           The process by which impeachment has been raised  
12 is also improper based on precedent in the Legislature for  
13 cases of impeachment. According to a memo from the  
14 Parliamentarian of the House, a petition for impeachment is  
15 to be presented to the House containing the charges and  
16 asking for an investigation. The Speaker is to refer the  
17 petition to a standing committee or special committee for  
18 investigation which determines whether the charges are  
19 well-founded.

20           The Committee is to report its findings to the  
21 full House. Only if that report recommends that articles  
22 of impeachment should be prepared are those articles to be  
23 presented to the full House for adoption or rejection. The  
24 entire process is being bypassed by a proposed amendment to  
25 our House Resolution originally commending the Attorney

1 General. We have no investigation, we have no report, we  
2 have no basis to proceed with this hearing.

3 Mr. Chairman and Members of this Committee,  
4 Pennsylvania is currently facing a budget that is out of  
5 balance by more than \$500 million. We have less than two  
6 months to address this budget crisis to begin once again to  
7 grow jobs and the economy of Pennsylvania, start the  
8 process of restoring proper focus on investment in  
9 education, improve tax fairness, provide access to  
10 healthcare for more than half-a-million Pennsylvanians who  
11 have none, and address other critical issues that the  
12 people of Pennsylvania tell us are important. Surely we  
13 have better things to do than spend time and tax dollars on  
14 this investigation.

15 For these reasons and the interest of preserving  
16 the proper role of the Committee and preserving the proper  
17 role of the House and serving the people of Pennsylvania in  
18 the manner all of us were elected to do, I move that this  
19 committee meeting be adjourned.

20 MAJORITY CHAIRMAN METCALFE: Representative  
21 Cohen, I think it's a little misleading to say that you  
22 want to make an opening statement and include in that a  
23 Motion to Adjourn.

24 MINORITY CHAIRMAN COHEN: Motion to Adjourn is  
25 always in order, Mr. Chairman.

1 MAJORITY CHAIRMAN METCALFE: Representative  
2 McGinnis, call the roll on a Motion to Adjourn.

3 REPRESENTATIVE MCGINNIS: Chair Metcalfe?

4 MAJORITY CHAIRMAN METCALFE: No.

5 REPRESENTATIVE MCGINNIS: Barrar?

6 REPRESENTATIVE BARRAR: No.

7 REPRESENTATIVE MCGINNIS: Dunbar?

8 REPRESENTATIVE DUNBAR: No.

9 REPRESENTATIVE MCGINNIS: Evankovich?

10 REPRESENTATIVE EVANKOVICH: No.

11 REPRESENTATIVE MCGINNIS: Everett?

12 REPRESENTATIVE EVERETT: [No response]

13 REPRESENTATIVE MCGINNIS: Gabler?

14 REPRESENTATIVE GABLER: [No response]

15 REPRESENTATIVE MCGINNIS: Keller?

16 REPRESENTATIVE KELLER: No.

17 REPRESENTATIVE MCGINNIS: Knowles?

18 REPRESENTATIVE KNOWLES: [No response]

19 REPRESENTATIVE MCGINNIS: Krieger?

20 REPRESENTATIVE KRIEGER: No.

21 REPRESENTATIVE MCGINNIS: Maloney?

22 REPRESENTATIVE MALONEY: No.

23 REPRESENTATIVE MCGINNIS: McGinnis?

24 No.

25 Roae?

1 REPRESENTATIVE ROAE: No.

2 REPRESENTATIVE MCGINNIS: Saccone?

3 REPRESENTATIVE SACCONE: No.

4 REPRESENTATIVE MCGINNIS: Simmons?

5 REPRESENTATIVE SIMMONS: [No response]

6 REPRESENTATIVE MCGINNIS: Truitt?

7 REPRESENTATIVE TRUITT: No.

8 REPRESENTATIVE MCGINNIS: Chair Cohen?

9 MINORITY CHAIRMAN COHEN: Yes.

10 REPRESENTATIVE MCGINNIS: Daley?

11 REPRESENTATIVE DALEY: Yes.

12 REPRESENTATIVE MCGINNIS: Flynn?

13 REPRESENTATIVE FLYNN: Yes.

14 REPRESENTATIVE MCGINNIS: Harris?

15 REPRESENTATIVE HARRIS: Yes.

16 REPRESENTATIVE MCGINNIS: McNeill?

17 REPRESENTATIVE MCNEILL: Yes.

18 REPRESENTATIVE MCGINNIS: Miller?

19 REPRESENTATIVE MILLER: Yes.

20 REPRESENTATIVE MCGINNIS: O'Brien?

21 REPRESENTATIVE O'BRIEN: Yes.

22 REPRESENTATIVE MCGINNIS: Schlossberg?

23 REPRESENTATIVE SCHLOSSBERG: Yes.

24 REPRESENTATIVE MCGINNIS: Sims?

25 REPRESENTATIVE SIMS: Yes.

1 REPRESENTATIVE MCGINNIS: Vitali?

2 REPRESENTATIVE VITALI: Yes.

3 REPRESENTATIVE MCGINNIS: Chair Metcalfe, we have  
4 11 against, 10 in favor. The Motion does not carry.

5 MAJORITY CHAIRMAN METCALFE: Thank you,  
6 Representative McGinnis.

7 Our first testifier this morning will be---

8 REPRESENTATIVE O'BRIEN: Mr. Chairman.

9 MAJORITY CHAIRMAN METCALFE: ---Mr. Michael  
10 Bekesha---

11 REPRESENTATIVE O'BRIEN: Mr. Chairman, point of  
12 order.

13 MAJORITY CHAIRMAN METCALFE: No. Right now,  
14 we're proceeding with the hearing. This is not a voting  
15 meeting. We're proceeding with the hearing.

16 Mr. Michael---

17 REPRESENTATIVE O'BRIEN: Mr. Chairman, I'm about  
18 to call a Privileged Motion---

19 MAJORITY CHAIRMAN METCALFE: If you continue---

20 REPRESENTATIVE O'BRIEN: ---under Rule 55---

21 MAJORITY CHAIRMAN METCALFE: You are not  
22 recognized to make any Motion or to be recognized to make  
23 any comments.

24 REPRESENTATIVE O'BRIEN: Mr. Chairman, a  
25 Privileged Motion---

1 MAJORITY CHAIRMAN METCALFE: You are not in order  
2 and I will have you removed---

3 REPRESENTATIVE O'BRIEN: ---is always in order.

4 MAJORITY CHAIRMAN METCALFE: ---from the hearing  
5 if you do not stop---

6 REPRESENTATIVE O'BRIEN: It is always in order.

7 MAJORITY CHAIRMAN METCALFE: It is not in order  
8 now---

9 REPRESENTATIVE O'BRIEN: Rule 55---

10 MAJORITY CHAIRMAN METCALFE: ---because you're  
11 not recognized.

12 REPRESENTATIVE O'BRIEN: ---Privileged Motions  
13 are always in order---

14 MAJORITY CHAIRMAN METCALFE: You are not  
15 recognized.

16 REPRESENTATIVE O'BRIEN: Mr. Chairman, I would  
17 like to make---

18 MAJORITY CHAIRMAN METCALFE: Security, please  
19 remove Representative O'Brien---

20 REPRESENTATIVE O'BRIEN: ---a Motion---

21 MAJORITY CHAIRMAN METCALFE: ---from this hearing  
22 now.

23 UNIDENTIFIED REPRESENTATIVE: Mr. Chairman, you  
24 do not have the authority to remove---

25 MAJORITY CHAIRMAN METCALFE: I have---

1 UNIDENTIFIED REPRESENTATIVE: ---a sitting Member  
2 of this Committee.

3 MAJORITY CHAIRMAN METCALFE: I have the  
4 authority. Go check with the Speaker. Please remove  
5 Representative O'Brien from this hearing.

6 REPRESENTATIVE O'BRIEN: I would like to make a  
7 Motion to Adjourn---

8 MAJORITY CHAIRMAN METCALFE: Sir, you are not  
9 recognized---

10 REPRESENTATIVE O'BRIEN: ---to a date certain of  
11 June 3<sup>rd</sup>, 2014 under---

12 MAJORITY CHAIRMAN METCALFE: The microphone is  
13 not on for you to be recognized.

14 REPRESENTATIVE O'BRIEN: That's it. We're out of  
15 here.

16 MAJORITY CHAIRMAN METCALFE: You are out of  
17 order.

18 UNIDENTIFIED REPRESENTATIVE: We're all leaving.

19 REPRESENTATIVE O'BRIEN: We're out of here.

20 UNIDENTIFIED REPRESENTATIVE: [inaudible] your  
21 own meeting, Mr. Metcalfe.

22 REPRESENTATIVE O'BRIEN: Have your kangaroo  
23 court, pal.

24 MAJORITY CHAIRMAN METCALFE: Members that want to  
25 leave on their own, you're more than welcome to.

1           Mr. Bekesha, I apologize for the actions of the  
2 Minority Members that didn't want to stay here and be  
3 involved in actually a conversation on the comments that  
4 Representative Cohen made and the comments that I think  
5 that many of our testifiers will make and the disagreement  
6 that is a very basic disagreement that I have with the  
7 Minority leader. He doesn't believe that the Attorney  
8 General has violated the laws of this State and the  
9 Constitution. I believe she has. That's why I introduced  
10 an impeachment resolution.

11           My dispute with the Attorney General is not  
12 policy; it's the law. I have a dispute with her regarding  
13 the Constitution and the law. I think she's in violation  
14 of both, and as such, I think she should be removed from  
15 the Office of Attorney General since she doesn't want to  
16 fulfill the duties of that office.

17           But the spectacle the Minority Chair tried to  
18 make with his Members, it was sort of anticipated. My  
19 understanding was that he and all the Democratic Members  
20 asked to have their names removed from their resolution,  
21 the resolution they introduced they asked to have their  
22 names removed from in order to try and stop this hearing  
23 today. That failed so they would walk out in protest.

24           But we will continue with the hearing and the  
25 viewers will be able to decide for themselves if the

1 information makes the case or not.

2 So you can begin when you're ready, sir.

3 MR. BEKESHA: Thank you very much.

4 Good morning. I'm Michael Bekesha, an attorney  
5 at Judicial Watch. Judicial Watch is a Washington, D.C.-  
6 based educational foundation dedicated to promoting  
7 transparency, integrity, and accountability in government  
8 and fidelity to the rule of law.

9 Thank you, Chairman Metcalfe, for inviting me  
10 here today. Although it is always an honor for me on  
11 behalf of Judicial Watch to be here and appear before this  
12 Committee, it also comes with mixed emotions. Last time I  
13 was here, about three years ago, I testified on behalf of  
14 your "National Security Begins at Home" legislative  
15 package. At that time, it saddened me to report that the  
16 Federal Government had decided to not enforce the Nation's  
17 immigration laws. However, you and your colleagues sought  
18 to protect the citizens of the Commonwealth even though the  
19 President refused to do so. I thank you for that.

20 Today, I am here to testify about another public  
21 official who refuses to uphold her Constitutional and  
22 statutory duties. However, this time the Federal  
23 Government is not at fault. Although I could spend hours  
24 talking about how President Obama and his cabinet continue  
25 to disregard their oaths of office and cause

1 "complications" -- as the Commonwealth Court of  
2 Pennsylvania recently described it -- I am here to discuss  
3 a public official who was directly elected by the people of  
4 Pennsylvania and who was sworn in to office a little over  
5 one year ago.

6 On January 15, 2013, Attorney General Kane placed  
7 her hand on the Bible and stated:

8 "I do solemnly swear that I will support, obey  
9 and defend the Constitution of the United States and the  
10 Constitution of this Commonwealth and that I will discharge  
11 the duties of my office with fidelity."

12 Although she placed her hand on the Bible and  
13 recited this oath, she apparently did not mean it. She  
14 must have had her fingers crossed because less than six  
15 months later, she openly defied her most important duty as  
16 Attorney General: upholding and defending the duly enacted  
17 laws of the Commonwealth.

18 Before I discuss how the Attorney General failed  
19 the people of Pennsylvania and harmed the Commonwealth in  
20 the process, I will briefly address the Attorney General's  
21 duties, what they mean, and why they are in place. The  
22 Commonwealth Attorneys Act states:

23 "It shall be the duty of the Attorney General to  
24 uphold and defend the constitutionality of all statutes so  
25 as to prevent the suspension or abrogation in the absence

1 of a controlling decision by a court of competent  
2 jurisdiction."

3           What this means in plain English is that the  
4 Attorney General cannot decide which laws she wants to  
5 uphold and defend. She must uphold all laws passed by the  
6 Legislature and signed by the Governor. Importantly, you  
7 do not need to take my word for it. In 1973, seven judges  
8 of the Commonwealth Court of Pennsylvania stated in  
9 unequivocal terms:

10           "The Attorney General is without statutory  
11 authority to implement his opinion as to constitutionality.  
12 The only branch of government that has the power to declare  
13 the law unconstitutional is the Judiciary."

14           The Court further stated that the Attorney  
15 General had the power to suspend a statute by declaring it  
16 unconstitutional, "he would seriously evade and encroach  
17 upon this area of judicial responsibility and possess an  
18 effective veto over legislation."

19           The Court therefore concluded that "the Attorney  
20 General is without power or authority, even if he is of the  
21 opinion that a statute is unconstitutional, to implement  
22 his opinion in such a manner as to effectively abrogate or  
23 suspend such statute which is presumptively Constitutional  
24 until declared otherwise by the Judiciary."

25           The rationale for this conclusion is the basic

1 principle of separation of powers, which first appeared in  
2 Pennsylvania as early as 1776. In 1938, the Pennsylvania  
3 Supreme Court explained:

4 "When the Constitution of 1873 was adopted, the  
5 people acted in the light of generations of experience with  
6 the operation of the doctrine of the separation of powers,  
7 and with the resulting necessity for judicial review to  
8 resolve differences of opinion between the legislative,  
9 executive, and judicial departments."

10 As James Madison warned in Federalist 47, "The  
11 accumulation of all powers, legislative, executive, and  
12 judiciary, in the same hands, whether of one, a few, or  
13 many...may justly be pronounced the very definition of  
14 tyranny."

15 Attorney General Kane's announcement on July  
16 11th, 2013 makes it clear that she believes that she has  
17 the authority to create, enforce, and interpret the law.  
18 In Attorney General Kane's view, Pennsylvania is a tyranny  
19 of one, not a democracy. This is because Attorney General  
20 Kane declared a duly enacted Pennsylvania law  
21 unconstitutional and announced that she would not uphold  
22 and defend it. Although her action in itself may not have  
23 suspended the law, the result of her declaration was just  
24 that. Less than two weeks after her announcement, the  
25 Montgomery County Register of Wills stated that he was

1 prepared to violate the law based in part on the Attorney  
2 General's belief that Pennsylvania's marriage laws are  
3 unconstitutional.

4           Now, the Attorney General and others may argue  
5 that because the Office of General Counsel is defending the  
6 law in court, "no harm, no foul." However, that viewpoint  
7 misses the forest for the trees. Kathleen Kane ran for and  
8 was elected to Attorney General of the Commonwealth of  
9 Pennsylvania. If she wanted to only uphold and defend some  
10 laws, she should not have run for Attorney General or at a  
11 minimum she should have been honest enough to campaign on  
12 the slogan, "I will uphold and defend the laws of this  
13 Commonwealth when I want to." The people then could have  
14 made a choice between a candidate who would take her oath  
15 seriously and fight for Pennsylvania and a candidate who  
16 only wanted to play Attorney General on television.

17           To be clear, Kathleen Kane plays Attorney General  
18 on TV. I say that because when she decided that the law  
19 was unconstitutional, she held a press conference. If she  
20 sincerely believed that the Commonwealth was enforcing an  
21 unconstitutional law, she could have taken one of two  
22 legitimate actions. As the Commonwealth Court explained in  
23 1973, if an Attorney General is in the opinion that a  
24 statute is unconstitutional, he has the right and indeed  
25 the duty to initiate a legal action and obtain a judicial

1 determination of the issue or prepare for submission to the  
2 General Assembly a revision to the statute. Surely the  
3 Attorney General knew she had these options. Instead of  
4 doing what was right, she went on TV.

5           Sadly, this is not the only time that Attorney  
6 General Kane has taken an action that diminishes her  
7 office. In January 2014, the State Ethics Commission  
8 concluded that the promotion of the Attorney General's  
9 sister "created a perception that the promotion of [her]  
10 sister was not free from [her] influence." Again, the  
11 Attorney General and others could argue "no harm, no foul."  
12 But we know that isn't true. The process is as important  
13 if not more important than the results. As lawyers and  
14 judges regularly say, just the appearance of impropriety or  
15 misbehavior damages the office. Whether it was technically  
16 illegal or unethical, it is irrelevant. Her actions show  
17 the people of Pennsylvania how little she thinks of them  
18 and the office that she was elected to serve.

19           I believe that another witness will testify about  
20 the Attorney General's attack on the people's Second  
21 Amendment rights. I just briefly want to say that based on  
22 records received by Judicial Watch, Attorney General Kane,  
23 shortly before taking office, received a "Gun Policy Memo"  
24 from then-Mayor Bloomberg's Mayors Against Illegal Guns  
25 group. One can only wonder who and what money is

1 influencing her decisions concerning the Second Amendment.

2           Then, we have Attorney Kane's decision not to  
3 prosecute certain elected officials for allegedly accepting  
4 cash and other gifts in exchange for voting "no" on the  
5 Pennsylvania Voter ID bill. I know for a fact that my  
6 colleague Christian Adams will be testifying on how the  
7 Attorney General has ignored her prosecutorial  
8 responsibilities imposed by the Commonwealth Attorneys Act.  
9 However, this action is personally troubling to me because  
10 I was here three years ago testifying before this Committee  
11 in support of that bill. At the time, I had no idea that  
12 the opposition may have been receiving cash and jewelry.  
13 It is disheartening to learn that the process may have been  
14 corrupted and nothing is being done about it.

15           Unfortunately, there is a second part to this  
16 story and it is more troubling than the first. After the  
17 *Philadelphia Inquirer* broke the story, Attorney General  
18 Kane in her individual capacity hired an attorney to defend  
19 her decision not to prosecute these elected officials.

20           In March 2014, the *Philadelphia Inquirer* reported  
21 that the Office of the Attorney General set up a meeting  
22 with the newspaper to discuss the story. When Attorney  
23 General Kane arrived at the meeting, she was accompanied by  
24 two attorneys. According to the *Inquirer*, the attorney  
25 said that they "would launch an investigation into the

1 conduct of the prosecutors who ran that sting operation."  
2 Also, the Attorney General indicated to the *Inquirer* that  
3 she hired the attorneys to represent her in any possible  
4 defamation suits arising from the newspaper's story.

5           Because the Office of the Attorney General set up  
6 the meeting and the attorneys stated that they were going  
7 to investigate the conduct of the prosecutors, Judicial  
8 Watch assumed that the Attorney General, in her official  
9 capacity, had hired them. Judicial Watch therefore sent a  
10 records request to the Office of the Attorney General under  
11 Pennsylvania's Right-to-Know law. Just last week, we  
12 received a response indicating that no records of  
13 contracts, agreements, or communications existed between  
14 the Office of the Attorney General or of the Attorney  
15 General herself and the attorneys. In other words,  
16 Kathleen Kane hired these attorneys in her personal  
17 capacity, yet she's giving them access to records of the  
18 Office of the Attorney General. Apparently, Attorney  
19 General Kane has little respect for her office and the  
20 people of Pennsylvania.

21           I have gone on for a while now. Simply put,  
22 Attorney General Kane is lawless. To quote U.S. Supreme  
23 Court Justice Felix Frankfurter, "If one man can be allowed  
24 to determine for himself what is law, every man can. That  
25 means first chaos, then tyranny."

1           Thank you, Chairman Metcalfe, for continuing the  
2 fight for the rule of law and for amending House Resolution  
3 578. I'll now answer any questions.

4           MAJORITY CHAIRMAN METCALFE: Thank you,  
5 Mr. Bekesha.

6           The first Member with a question is  
7 Representative Saccone.

8           REPRESENTATIVE SACCONI: Yes. Thank you for your  
9 testimony.

10           I think this is really difficult sometimes for  
11 the public to understand this but I think the argument  
12 boils down to this: Is there prosecutorial discretion for  
13 an Attorney General? And I just want to kind of add that  
14 because some people are going to claim that even in the  
15 military -- and I'm a former military officer -- if you're  
16 given an order that you feel is unconstitutional or is  
17 unjust, you have a duty not to obey it. Is there the same  
18 kind of thing for an Attorney General? Can an Attorney  
19 General say I don't think it's is right; I'm not going to  
20 do it?

21           MR. BEKESHA: There is. In the Pennsylvania  
22 laws, as I said in my testimony, there appears to be a  
23 mechanism for an Attorney General if she believes that a  
24 statute is unconstitutional to do something about it but  
25 she didn't do it properly. She hasn't initiated any court

1 action, she hasn't asked the General Assembly to change the  
2 law. So is there a mechanism? Yes. Has she followed that  
3 mechanism? No. As I said, she just went on TV, issued a  
4 press release, and said I have this duty. It's my duty to  
5 uphold and defend the laws of Pennsylvania but I don't feel  
6 like doing it at this time.

7 MAJORITY CHAIRMAN METCALFE: Representative Roae.

8 REPRESENTATIVE ROAE: Thank you, Mr. Chairman.

9 Before I ask my question, I thought it was  
10 interesting before the meeting started they were back there  
11 talking about whether they need 9 or 10. I couldn't figure  
12 out what they were talking about but I think they were  
13 trying to figure out if they had enough votes to adjourn  
14 the meeting. So that was all planned ahead of time.

15 But anyway, my question is when you look at  
16 somebody that's in government, I think that people in  
17 government should follow the law. So I guess my question  
18 is just for the sake of argument, say the Department of  
19 State decided that they thought it wasn't right that you  
20 had to be 18 to vote and they started registering people to  
21 vote when they were 16, or say some County Sheriff decided  
22 that people shouldn't have to be subject to a background  
23 check before they get a permit to carry so they just start  
24 issuing permits because I don't agree with that law, or  
25 some state trooper decided that, well, DUI laws, we don't

1 really need them, I'm not going to enforce the DUI laws, do  
2 you have any thoughts? What would our society be like if  
3 people that are in government could just pick and choose  
4 what laws they support as part of their jobs and what laws  
5 they don't?

6 MR. BEKESHA: It would be chaos. It would be  
7 tyranny. And I think in Pennsylvania the precedent is now  
8 set for government officials to decide which laws they want  
9 to enforce and which ones they don't. I mean Attorney  
10 General Kane, as the chief law enforcement officer in  
11 Pennsylvania, has made it clear that she believes  
12 Pennsylvania public officials can choose what laws to  
13 enforce. And I think, based on her decision about a little  
14 over a year ago, you may see more public officials in  
15 Pennsylvania doing just that.

16 REPRESENTATIVE ROAE: All right. Thank you.

17 MAJORITY CHAIRMAN METCALFE: Thank you,  
18 Representative Roae.

19 Representative Knowles.

20 REPRESENTATIVE KNOWLES: Thank you very much,  
21 Mr. Chairman.

22 This would be more of a statement, just looking  
23 for a response from you. Does it start with the Attorney  
24 General who decides that there are specific laws that she's  
25 not going to enforce? What do we do if the District

1 Attorney in Montgomery County decides that there's a law  
2 that he doesn't like so he's not going to enforce that?  
3 What do we do if a police officer in the city of  
4 Philadelphia decides there's a law that he doesn't like?  
5 He's not going to enforce that law.

6 My point, Mr. Chairman, is we are going down a  
7 slippery slope. Whether you be an officer of the court or  
8 whether you be a law enforcement officer, you have a  
9 responsibility to enforce each and every law. Whether you  
10 agree or you disagree with that law, as the gentleman had  
11 indicated, there is a way to change it. So if you don't  
12 agree, do it the right way. And I just think it's  
13 unconscionable that the Attorney General refuses to enforce  
14 things that she doesn't like.

15 Thank you, Mr. Chairman.

16 MAJORITY CHAIRMAN METCALFE: Thank you,  
17 Representative Knowles.

18 Mr. Bekesha, Representative Knowles is kind of  
19 looking for some feedback on that thought.

20 MR. BEKESHA: He's absolutely correct. There's a  
21 right way in going about challenging what you believe is  
22 unconstitutional. Attorney General Kane didn't go about it  
23 the right way and now the question is what other government  
24 officials are going to follow her lead and decide that a  
25 law should not be enforced and therefore not enforce it?

1           And it's concerning, it's disappointing, and who  
2 knows where it's going to end, but it's definitely a  
3 slippery slope that has started in Pennsylvania but also  
4 around the country. Attorney General Holder has decided  
5 what laws he wants to enforce, which once he doesn't. The  
6 Attorney General in Virginia has done the same. It's  
7 usually always happened in California but California is a  
8 little bit of its own beast. But now we have this problem  
9 in Pennsylvania. Something needs to be done about it, and  
10 when it comes to the Attorney General, really the only way  
11 to prevent her from continuing to decide which laws she  
12 will uphold and defend is to impeach her.

13           MAJORITY CHAIRMAN METCALFE: Thank you,  
14 Mr. Bekesha. Thank you, Representative Knowles.

15           Representative Truitt.

16           REPRESENTATIVE TRUITT: Thank you, Mr. Chairman.  
17 Thank you, Mr. Bekesha.

18           You just actually partially answered my question.  
19 I wanted to know if there were any other instances that we  
20 are aware of of a State's Attorney General choosing which  
21 laws to uphold in which ones not to uphold. And the second  
22 part of the question is has any other State ever taken any  
23 action in that regard?

24           MR. BEKESHA: I'm not sure if other States have.  
25 I know everybody looks at it and thinks about what can be

1 done, but impeachment in every State is different. It's  
2 always a challenge. The easiest way is to have the  
3 citizens of the State or the Commonwealth vote the person  
4 out of office short of impeachment. There are other  
5 mechanisms in place.

6           Judicial Watch as an organization litigates  
7 around the country in support of the rule of law. It looks  
8 at bringing what's known as taxpayer standing challenges to  
9 various actions. Judicial Watch has done so in Cook  
10 County, Illinois, against the sheriff there because he  
11 decided not to enforce the rule of law there.

12           But besides that it's very difficult. We see  
13 that with Attorney General Holder and the President and all  
14 of his decisions not to enforce the rule of law. So I  
15 think it's great that this Committee is taking the first  
16 step, holding a hearing, and figuring out what can be done  
17 next.

18           REPRESENTATIVE TRUITT: Thank you, Mr. Chairman.

19           MAJORITY CHAIRMAN METCALFE: Thank you,  
20 Representative Truitt.

21           Mr. Bekesha, the Minority Chair, before he  
22 stormed out of the room with his Members in protest, had  
23 gone into quite a long explanation of his thoughts on the  
24 hearing today. And one of the points that he tried to make  
25 was that we shouldn't impeach somebody over policy

1 differences, which I would agree with. We shouldn't  
2 impeach somebody over differences in policy. That's what  
3 we fight campaigns over. But I do think that we have a  
4 responsibility to make sure that when somebody is in office  
5 that they are abiding by the law and that they are  
6 complying with the law as it spells out the duties of their  
7 office.

8           And the sponsor of the resolution, he's a  
9 previous sponsor; he withdrew his name last week, but he  
10 had sponsored a resolution to commend the Attorney General  
11 about the same time that I sponsored the original  
12 resolution to impeach the Attorney General. We've since  
13 then updated our language and offered as an amendment to  
14 his resolution today and it's what brought about the  
15 hearing.

16           And in that amendment, which is the impeachment  
17 language, we spelled out that she would be impeached for  
18 misbehavior in office, not policy. We also noted that she  
19 refused to comply with the Commonwealth Attorneys Act,  
20 which states that "it shall be the duty of the Attorney  
21 General to uphold and defend the constitutionality of all  
22 statutes so as to prevent their suspension or abrogation in  
23 the absence of a controlling decision by a court of  
24 competent jurisdiction." So that's a mandatory duty that  
25 we've imposed in the law, as our Constitution allows us to

1 do for the Attorney General.

2 She refused to comply with that so for me that's  
3 not a policy dispute; that's a dispute on the law, whether  
4 somebody is going to comply with it or not. Do you have  
5 any thoughts on that?

6 MR. BEKESHA: Absolutely. I'm not here today to  
7 talk about disagreements in policy. I'm here to talk about  
8 what the Attorney General's obligations, duties, and  
9 requirements are under the law. And as you just said,  
10 Chairman Metcalfe, she has a duty and obligation to uphold  
11 and defend all statutes, all laws of the Commonwealth,  
12 until the courts deem those statutes unconstitutional. In  
13 this case she decided to be the judiciary. She decided to  
14 be the court and say I believe this law is  
15 unconstitutional. Therefore, I will not defend it. She  
16 doesn't have that option. She doesn't have that choice. I  
17 guess she was making up law as she was going along because  
18 it she believed she had that option, had that choice.

19 But there is no policy dispute. This is about  
20 the rule of law and what the Attorney General is required  
21 to do as Attorney General, which is the office that she  
22 ran for and was elected to.

23 MAJORITY CHAIRMAN METCALFE: From the perspective  
24 of Judicial Watch, we here in Pennsylvania of course become  
25 focused on a lot of State issues but I don't think the

1 Nation can miss the fact that Attorney General Holder has  
2 acted in a similar manner it seems, which from my  
3 perspective seemed to kind of play out as a role model of  
4 misbehavior in office for our Attorney General, which then  
5 played out for the clerk down in Montgomery County with his  
6 actions. Have you noticed this? Because I think it's very  
7 dangerous for us to see elected officials that have sworn  
8 to uphold and defend the Constitution and have  
9 responsibilities under the law to ignore the Constitution,  
10 ignore the law, and advance their own objectives outside of  
11 the law. Have you seen that occurring in other States with  
12 other Attorney Generals? Have you been keeping an eye on  
13 some of this activity?

14 MR. BEKESHA: Unfortunately, we have seen this  
15 starting with Attorney General Holder. It is very  
16 concerning that other Attorney Generals around the country  
17 are starting to look at his actions and decide, well, if he  
18 doesn't need to enforce the laws, he doesn't want to, why  
19 do I? And I wish the Congress would do similar to what you  
20 did and introduce an impeachment resolution for Attorney  
21 General Holder. Congress still hasn't done that and now  
22 you have States like Pennsylvania, California, Virginia.

23 There's a situation in Ohio where the Attorney  
24 General there, his office filed a principal brief with the  
25 Supreme Court in favor of one position and the Attorney

1 General of Ohio in his personal capacity filed an amicus  
2 brief with the Supreme Court disagreeing with his official  
3 position. I mean if that's not confusing to the public, I  
4 don't know what is. So it's this trend around the country  
5 and it just needs be stopped.

6 MAJORITY CHAIRMAN METCALFE: Thank you. Thank  
7 you very much for your testimony today. We appreciate you  
8 making the trip up from D.C. today.

9 MR. BEKESHA: Thank you very much.

10 MAJORITY CHAIRMAN METCALFE: Thank you.

11 Our next testifier will be Mr. Joshua Prince,  
12 Esquire. He's with the Firearms Industry Consulting Group,  
13 a division of Prince Law Offices, P.C. So you can begin  
14 when you're ready there, sir.

15 MR. PRINCE: Good morning, Mr. Chairman and  
16 honorable Members of this Committee. I appreciate the  
17 opportunity to be here today and to discuss these important  
18 issues.

19 As my time is somewhat limited and as you can see  
20 from my written testimony that exceeds 90 pages with  
21 exhibits, I will quickly review the issues and rely on my  
22 written testimony to fill in the gaps.

23 I want to start with Attorney General Kane's  
24 modifications, amendments, rescissions, revocations of  
25 licenses to carry firearm reciprocity agreements. The

1 background to this saga is that shortly after taking  
2 office, Attorney General Kane amended existing reciprocity  
3 agreements, including Florida, Arizona, and Virginia. Let  
4 there be no dispute that the Attorney General sought to  
5 amend the existing reciprocity agreements as the language  
6 found in each of the amended agreement provides "this  
7 reciprocity agreement is intended to amend and supersede  
8 the original agreement entered into." In relation to  
9 Florida, as evidenced in Exhibit B, 4,700 Pennsylvania  
10 residents were affected by this amendment alone.

11           The amendments to the reciprocity agreement  
12 provide that while Pennsylvania will continue to honor  
13 licenses of residents of that respective State,  
14 Pennsylvania will not honor that State's license for  
15 Pennsylvania residents or other nonresidents of that State.  
16 Clearly, as I will explain shortly, this raises serious  
17 constitutional issues.

18           First, in turning towards the delegation of power  
19 conferred upon the Attorney General by the Legislature, 18  
20 Pa.C.S. 6109(k) provides: 1) The Attorney General shall  
21 have the power and duty to enter into reciprocity  
22 agreements with other States providing for the mutual  
23 recognition of a license to carry firearms issued by the  
24 Commonwealth and a license or permit to carry a firearm  
25 issued by the other State. To carry out this duty, the

1 Attorney General is authorized to negotiate reciprocity  
2 agreements and grant recognition of a license or permit to  
3 carry a firearm issued by another State.

4           The first issue is that Attorney General Kane  
5 lacks the power and authority to modify, amend, rescind,  
6 revoke, or otherwise change or invalidate firearm  
7 reciprocity agreements pursuant to Section 6109(k). As  
8 reflected in the statute, Section 6109(k) only provides the  
9 Attorney General with the power and duty to enter into  
10 reciprocity agreements. It continues on to emphasize this  
11 limited delegation of power that "to carry out this duty,  
12 the Attorney General is authorized to negotiate reciprocity  
13 agreements and grant recognition of a license or permit to  
14 carry a firearm issued by another State".

15           Notably absent from this delegation of power from  
16 the Legislature to the Attorney General in Section 6109(k)  
17 is the power to modify, amend, rescind, revoke, or  
18 otherwise change or invalidate any firearm reciprocity  
19 agreement. Therefore, the Legislature has only delegated  
20 its power to enter into and grant reciprocity agreements  
21 but has retained the power to modify, amend, rescind,  
22 revoke, or otherwise change or invalidate any firearm  
23 reciprocity agreement.

24           The second issue that arises is the grant of  
25 recognition is absolute and cannot be limited under the

1 statute. Pursuant to the second sentence of Section  
2 6109(k)(1), the granting of recognition of another State's  
3 license or permit to carry a firearm is absolute and cannot  
4 be limited. In addition to being in violation of the  
5 strict statutory language, it would likely violate the due  
6 process, takings, privileges, and immunities and equal  
7 protection clauses since citizens of Pennsylvania were  
8 provided no opportunity to be heard before or after a  
9 fundamental change was affected in their liberty and  
10 property interest in issued license to carry firearms, were  
11 provided no compensation for the governmental taking, and  
12 are being treated differently than those of other States  
13 and similarly situated individuals.

14 In pertinent part, Section 6109(k) provides, "to  
15 carry out this duty, the Attorney General is authorized to  
16 negotiate reciprocity agreements and grant recognition of a  
17 license or permit to carry a firearm issued by another  
18 State. This statutory delegation is extremely clear that  
19 the power is to grant recognition of another State's  
20 license or permit and does not provide the Attorney General  
21 with the power to limit the grant of recognition based upon  
22 the State of residence of the license or permit holder.  
23 Either the Attorney General can take no action or can grant  
24 recognition of the other State's license or permit.

25 However, as is the case in this matter, the

1 Attorney General cannot grant recognition to a resident of  
2 the issuing State but refuse recognition for a nonresident  
3 of the issuing State. In amending the reciprocity  
4 agreements with Florida, Virginia, and Arizona, Attorney  
5 General Kane modified the reciprocity agreement so that  
6 although Pennsylvania will recognize a resident of that  
7 State's license or permit, Pennsylvania will not recognize  
8 a nonresident of that State's license or permit even though  
9 former Attorneys General Fisher and Corbett found and  
10 entered into previous reciprocity agreements that provided  
11 for recognition of licenses or permits issued by those  
12 States to nonresidents of those States.

13           While seemingly in direct violation of the  
14 statutory delegation, as the Attorney General only has the  
15 power to either grant or not grant recognition of another  
16 State's license or permit in an attempt to usurp the  
17 Legislature's power, Attorney General Kane's actions raise  
18 serious Constitutional questions as Pennsylvania provided  
19 no opportunity to be heard to these changes, no  
20 compensation to the aggrieved, and is now discriminating  
21 against its own citizens as a Florida, Virginia, or Arizona  
22 resident may lawfully carry a concealed firearm based upon  
23 his or her respective Florida, Virginia, or Arizona license  
24 or permit in Pennsylvania, but a Pennsylvania resident may  
25 not carry a concealed firearm in Pennsylvania based upon

1 the same Florida, Virginia, or Arizona license or permit.

2           The right to due process is triggered when the  
3 government seeks to deprive citizens of legally  
4 recognizable liberty or property interest. The  
5 Commonwealth Court in *Caba v. Weaknecht* held that an  
6 individual has both a protected property and liberty  
7 interest in an issued license to carry firearms under the  
8 Pennsylvania and U.S. Constitutions. That is the case that  
9 I litigated. Therefore, those Pennsylvania residents who  
10 have had their Florida, Virginia, or Arizona licenses in  
11 effect revoked were denied all forms of due process as no  
12 pre- or post-deprivation hearing was provided.

13           The Fifth Amendment of the U.S. Constitution  
14 requires that just compensation be paid when the government  
15 takes private property. In this matter, Pennsylvania  
16 residents paid fees to Florida, Virginia, and Arizona for  
17 licenses or permits from the respective States. In  
18 relation to Florida alone, as we know approximately 4,700  
19 Pennsylvania residents were affected, this would result  
20 based solely on the renewal rates that are listed in my  
21 written testimony, which is cheaper than the original  
22 application fee, in the deprivation of approximately  
23 \$479,400 to those residents of Pennsylvania.

24           Unfortunately, we do not know the cost in  
25 relation to those Pennsylvania residents who were affected

1 by changes to the Virginia and Arizona reciprocity  
2 agreements. Accordingly, any Pennsylvania resident who  
3 obtained a Florida, Virginia, or Arizona license for  
4 purposes of carrying in the Commonwealth as a result of  
5 Attorney General Kane's actions has been deprived of the  
6 fees paid without any form of just compensation.

7 Under both the U.S. and Pennsylvania  
8 Constitution, the people are to be treated equally.  
9 Additionally, the U.S. Constitution privileges and  
10 immunities clause provides "the citizens of each State  
11 shall be entitled to all privileges and immunities of  
12 citizens in the several States." It is hard to fathom how  
13 a Pennsylvania resident may be denied the same rights as a  
14 Florida, Virginia, or Arizona resident in Pennsylvania  
15 without violating equal protection and the privileges and  
16 immunities clause as the Pennsylvania resident is being  
17 discriminated against based solely on his or her residency.

18 The third issue that arises with Attorney General  
19 Kane's amendments to these reciprocity agreements is the  
20 notice that was issued by Attorney General Kane. Attorney  
21 General Kane's notice to Florida, Virginia, and Arizona  
22 license holders states, "if you are currently a resident of  
23 Pennsylvania only and have a CCP from the State of [insert  
24 Florida, Virginia, Arizona], your [insert Florida,  
25 Virginia, Arizona] permit will no longer be recognized in

1 Pennsylvania 120 days from the date of this notice or on  
2 June 8th, 2013. In the proscribed time period, you may  
3 apply for a CCP in the county of your residence."

4           This declaration by Attorney General Kane is in  
5 direct contradiction to the legislative enactments found in  
6 18 Pa.C.S. Section 6106 and 6108. Section 6106(b) provides  
7 exceptions from the licensing requirements in certain  
8 situations. Two of those exceptions, 11 and 15, are  
9 directly contrary to Attorney General Kane's declaration.  
10 Section 6106(b)(11) provides any person, while carrying a  
11 firearm in any vehicle in which a person possesses a valid  
12 and lawfully issued license for that firearm which has been  
13 issued under the laws of the United States or any other  
14 State.

15           Attorney General Kane's declaration would  
16 seemingly attempt to invalidate this statutory provision by  
17 stating that "if you currently a resident of Pennsylvania  
18 only and have a CCP from the State [insert Florida,  
19 Virginia, or Arizona], your [insert Florida, Virginia, or  
20 Arizona] permit will no longer be recognized in  
21 Pennsylvania. Clearly, as "any person" may carry a loaded  
22 firearm in his or her vehicle pursuant to a valid and  
23 lawfully issued license or permit from "any other State,"  
24 Attorney General Kane's statement that a Pennsylvania  
25 resident's out-of-state license or permit will no longer be

1 recognized in Pennsylvania is contrary to the law and will  
2 only seek to confuse law enforcement and violate civil  
3 liberties of those carrying a loaded firearm in their  
4 vehicle pursuant to another State's license or permit.

5 In turning to Section 6106(b)(15), it provides  
6 any person who possesses a valid and lawfully issued  
7 license or permit to carry a firearm which has been issued  
8 under the laws of another State, regardless of whether a  
9 reciprocity agreement exists between the Commonwealth and  
10 the State under 6109(k) provided that 1) the State provides  
11 a reciprocal privilege for individuals licensed to carry a  
12 firearm under Section 6109 and the Attorney General has  
13 determined that the firearm laws of the State are similar  
14 to the firearm laws of this Commonwealth.

15 This provision is very unique as it specifies  
16 that it applies regardless of whether or not a reciprocity  
17 agreement exists. Attorney General Kane's declaration  
18 would seemingly attempt to invalidate this entire statutory  
19 provision by stating that "if you are currently a resident  
20 of Pennsylvania only and have a CCP from the State of  
21 [insert Florida, Virginia, or Arizona], your [insert  
22 Florida, Virginia, or Arizona] permit will no longer be  
23 recognized in Pennsylvania."

24 As specified in my written testimony, it is  
25 undisputed that Florida, Virginia, and Arizona provide

1 reciprocal privilege of individuals licensed to carry and  
2 Attorneys General Fisher and Corbett previously found that  
3 the laws of Florida, Virginia, and Arizona are similar.

4           Lastly, in turning to Section 6108, it provides  
5 no person shall carry a firearm, rifle, or shotgun at any  
6 time upon the public streets or upon any public property in  
7 a city of the first class unless 1) such person is licensed  
8 to carry firearms, or 2) such person is exempt from  
9 licensing under Section 6106(b) of this title. As I've  
10 reviewed, the exemptions as provided for by Section 6106(b)  
11 above, it is clear that a Pennsylvania resident may  
12 lawfully carry a firearm, rifle, or shotgun upon the public  
13 property in a city of the first class pursuant to a  
14 Florida, Virginia, or Arizona license since, at a minimum,  
15 Section 6016(b)(11) exempts any person who has a valid and  
16 lawfully issued license from "any other State."

17           Once again, Attorney General Kane's statements  
18 that a Pennsylvania resident's out-of-state license or  
19 permit will no longer be recognized in Pennsylvania is  
20 contrary to the law and will only seek to confuse law  
21 enforcement and violate civil liberties of those carrying a  
22 firearm, rifle, or shotgun in the city of the first class  
23 pursuant to another State's license or permit.

24           Accordingly, the Attorney General of Pennsylvania  
25 lacks the power and authority to modify, amend, rescind,

1 revoke, or otherwise change or invalidate any firearm  
2 reciprocity agreement as the sole power of the Attorney  
3 General as bestowed upon the Attorney General by the  
4 Legislature is the "power and duty to enter into  
5 reciprocity agreements with other States."

6           Additionally, Attorney General Kane's actions  
7 raise serious Constitutional questions as Pennsylvania  
8 provided no opportunity to be heard prior to these changes,  
9 no compensation to the aggrieved, and is now discriminating  
10 against its own citizens as Florida, Virginia, or Arizona  
11 residents may lawfully carry a concealed firearm based upon  
12 his respective Florida, Virginia, or Arizona license or  
13 permit in Pennsylvania, but a Pennsylvania resident may not  
14 carry a concealed firearm in Pennsylvania based upon the  
15 same Florida, Virginia, or Arizona license or permit.

16           Lastly, Attorney General Kane's notices have  
17 usurped the legislative authority in enacting Section 6106  
18 and 6108 as her blanket statements that Pennsylvania  
19 residents may not carry a loaded firearm in any manner  
20 solely pursuant to a valid Florida, Virginia, or Arizona  
21 concealed carry permit is contrary to the law and will only  
22 seek to confuse enforcement and violate civil liberties of  
23 Pennsylvania residents.

24           My written testimony does go on to explain issues  
25 under the Commonwealth Attorneys Act, but as I know my time

1 is limited, I will be happy to answer any questions at this  
2 time this honorable Committee may have.

3 MAJORITY CHAIRMAN METCALFE: Thank you very much,  
4 Mr. Prince.

5 Any Members with questions?

6 Representative Truitt.

7 REPRESENTATIVE TRUITT: Thank you, Mr. Chairman.

8 I'm going to struggle through this because I'm  
9 not an attorney. Early on in your testimony you talked  
10 about the fact that our State law only gives the Attorney  
11 General the right to enter into reciprocity agreements but  
12 that it doesn't give her the right to revoke them or amend  
13 them or change them. And I assume you're saying that  
14 because it appears to me that the law is actually silent on  
15 who can revoke, amend, or change them. So you're inferring  
16 that that power remains with the Legislature?

17 MR. PRINCE: That's correct. As the power  
18 originally rested with the Legislature and the Legislature  
19 only granted the delegation of power to enter into  
20 reciprocity agreements to the Attorney General, those  
21 powers to modify, amend, revoke, rescind or otherwise  
22 change would rest with the Legislature.

23 REPRESENTATIVE TRUITT: How in the world would we  
24 amend a reciprocity agreement, though? I mean we have to  
25 pass a law to amend an agreement? It's just not clear to

1 me how we would do that. And maybe someone else on the  
2 panel who's been here longer than I have would know the  
3 answer to that. I don't understand how the Legislature can  
4 modify a reciprocity agreement. So it almost seems to me  
5 like it's kind of implied that when you say you can enter  
6 into an agreement, it seems counterintuitive to me that if  
7 I can enter into an agreement with somebody, I can't back  
8 out of it. Somebody else has to do that for me.

9 MR. PRINCE: I believe it was intended to be a  
10 check on the Attorney General, that it was only a limited  
11 delegation. There is substantial case law out there on the  
12 delegation of power from the Legislature to different  
13 governmental agencies in restricting that delegation and  
14 that I believe that it was an intent on the Legislature's  
15 part to restrict any type of changes as it wouldn't make  
16 much sense for one Attorney General to enter into a  
17 reciprocity agreement finding that all the bases exist for  
18 that reciprocity agreement and then later on to have that  
19 reciprocity agreement rescinded or modified.

20 REPRESENTATIVE TRUITT: Again, what I'm  
21 struggling with is how does the Legislature -- we enter  
22 into a reciprocity agreement with Arizona. What do we have  
23 to do, pass a State law that revokes a law to revoke a  
24 reciprocity agreement?

25 MR. PRINCE: I'm not familiar enough with the

1 procedures but I believe a resolution would be sufficient  
2 to change the reciprocity agreement. However, I would  
3 defer to counsel on that.

4 REPRESENTATIVE TRUITT: I'm just trying to  
5 understand what mechanics or what tools we have to  
6 determine whether it was really intended for the  
7 legislature to be in control of revoking or amending an  
8 existing agreement.

9 MR. PRINCE: Well, originally it was the power of  
10 the Legislature to even enter into those reciprocity  
11 agreements. I believe it was because of all the wrangling  
12 that would occur in the Legislature to have to try and pass  
13 those reciprocity agreements that it was decided that that  
14 limited delegation would be given to the Attorney General  
15 so to attempt to streamline things.

16 REPRESENTATIVE TRUITT: Okay. I'll have to study  
17 this a little bit further. Thank you.

18 MR. PRINCE: My pleasure.

19 MAJORITY CHAIRMAN METCALFE: Thank you,  
20 Representative Truitt. And I know being involved in a lot  
21 of conversations on the reciprocity language, I know many  
22 of us as we've tried to advance changes our intent has been  
23 to put the Attorney General in a position of entering into  
24 them and as many as possible and not necessarily backing  
25 out of them at some later date with a new Attorney General.

1 But the intent was to expand reciprocity with other States  
2 and direct the Attorney General to enter into those  
3 agreements as conditions were met to be able to reciprocate  
4 the agreement.

5 Representative Maloney.

6 REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.  
7 Thank you, Mr. Prince.

8 With respect to the reciprocity and some of the  
9 testimony that you gave that makes it problematic for those  
10 people who have already entered into another State's right  
11 to carry, can you speak a little bit on where it would put  
12 our residents who have responsibly trained themselves  
13 and/or went through the process of let's say a Utah  
14 license, a New Mexico license, and what have you, and  
15 especially with State-to-State travel. Could you speak a  
16 little bit on where that would stand today?

17 MR. PRINCE: Absolutely. And just to clarify, as  
18 we sit here today to my knowledge there haven't been any  
19 changes yet to the Utah or the New Mexico reciprocity  
20 agreements. The three currently amended by Attorney  
21 General Kane are the Florida, Virginia, and Arizona  
22 licenses or reciprocity agreements.

23 The issue that arises is that many States do  
24 require additional background checks and training that  
25 Pennsylvania does not require. You brought up Utah. Utah

1 is one that requires a sufficient amount of training prior  
2 to the issuance of any Utah license to carry. Florida also  
3 had additional requirements than required here such as the  
4 requirement to submit fingerprints. So there were a number  
5 of safeguards in place in these States in which we entered  
6 into reciprocity agreements to ensure that prohibited  
7 persons were not being issued licenses. And let us not  
8 forget, even if a prohibited person was issued a license,  
9 they still are a prohibited person and could not possess a  
10 firearm or any ammunition based upon that.

11 The reason that these reciprocity agreements  
12 become so important to individuals in the Commonwealth is  
13 that it depends on the State of issuance as to the number  
14 of reciprocity agreements that that State has with other  
15 States in the United States. So many individuals will seek  
16 out Florida, Utah, Arizona, Virginia licenses to carry or  
17 permits so that they have reciprocal protections in States  
18 not provided for under the Commonwealth.

19 MAJORITY CHAIRMAN METCALFE: Thank you,  
20 Representative Maloney.

21 Any other Members?

22 Thank you very much for your testimony. I would  
23 assume that based on your testimony that the amendment that  
24 you reviewed that we were seeking to amend the resolution  
25 with that you gave us I think it was 92 pages of

1 information, so I'm assuming that you would believe that we  
2 should amend my amendment to include some additional  
3 references to the Attorney General's actions related to  
4 altering our reciprocity agreements when she doesn't have  
5 the authority to do so under the law of Pennsylvania?

6 MR. PRINCE: I absolutely would.

7 MAJORITY CHAIRMAN METCALFE: Would you be able to  
8 summarize and get back to me as far as what major points  
9 you think that I should include in something like that to  
10 the amendment?

11 MR. PRINCE: I'd be happy to, Mr. Chairman.

12 MAJORITY CHAIRMAN METCALFE: I would appreciate  
13 it. Thank you very much. Have a great day. Appreciate  
14 you being here this morning.

15 Our next testifier is Mr. James Clymer, Esquire,  
16 with Clymer Musser & Conrad. You can begin when you're  
17 ready, sir. Thank you for being with us today. Welcome.

18 MR. CLYMER: My pleasure indeed.

19 Mr. Chairman, Members of the Committee, as  
20 stated, my name is James Clymer. I'm with the law firm of  
21 Clymer Musser & Conrad, and I'm here to speak on behalf of  
22 the resolution to amend the resolution that was initially  
23 submitted to commend Attorney General Kathleen Kane.

24 As the Attorney General, Kathleen Kane is charged  
25 to defend the constitutionality of the statutes and laws of

1 this Commonwealth. Once she starts picking and choosing  
2 which laws she likes, she offends the legislators  
3 responsible for enacting those laws as well as the voters  
4 who elected those legislators. Her decision to let any law  
5 go undefended is an affront to her responsibilities and  
6 leaves all of our laws in jeopardy.

7           The Attorney General is elected to represent her  
8 client, who are the citizens of the Commonwealth of  
9 Pennsylvania by defending its duly enacted laws. The  
10 Commonwealth Attorneys Act compels her "to uphold and  
11 defend the constitutionality of all statutes so as to  
12 prevent their suspension or abrogation in the absence of a  
13 controlling decision by a court of competent jurisdiction."  
14 Once the Attorney General starts deciding which statutes  
15 she will defend and which she will not based on her  
16 personal political beliefs, the stability and security of  
17 legislative law in the Commonwealth are severely  
18 threatened. We cannot know what positions she will take in  
19 future cases.

20           She could announce tomorrow that she believes  
21 that this Commonwealth's sex offender registry is  
22 unconstitutional and refuse to defend challenges to it. In  
23 any given case, our Commonwealth runs the risk that the  
24 Attorney General will read a lawsuit challenging a  
25 Pennsylvania law and then decide she agrees with the person

1 who filed the lawsuit. This selective service view of her  
2 position abandons her responsibility, harms the public  
3 trust and their elected officials, and casts a continuous  
4 cloud over how she will act or whether she will act in the  
5 discharge of her duties in the future.

6 Her action would be analogous to a police officer  
7 deciding that he thinks a prostitute has a constitutional  
8 right to sell her body or that a drug dealer has a  
9 constitutional right to medicate his so-called patients and  
10 refusing to make arrests in such cases, or if the  
11 Commissioner of the Internal Revenue Service decides that  
12 the income tax is unconstitutional and stops collecting  
13 taxes. Now, those who agree with their conclusions might  
14 applaud their actions but they'd be out of a job pretty  
15 quickly. The message should be clear to Attorney General  
16 Kane: You had a job to do, a job you were hired to do with  
17 duties prescribed under the Constitution you took an oath  
18 to uphold. You chose to defy your mandate and you need to  
19 find new work.

20 Attorney General Kane has compounded her  
21 dereliction of duty by making a public statement  
22 undermining the position of her client by condemning the  
23 traditional marriage protection afforded by Pennsylvania's  
24 DOMA by directly attacking its constitutionality. She  
25 actively took a stance in ongoing litigation against

1 Pennsylvania's DOMA. This is much worse than merely  
2 abstaining from involvement. She intentionally and  
3 willfully put our Commonwealth at odds with itself when it  
4 came under attack, both in the court system and in the  
5 court of public opinion. While such actions may prove  
6 politically satisfying to Attorney General Kane, they are  
7 detrimental to our Commonwealth.

8           Our judicial system is built upon the due  
9 process, which simply means fundamental fairness. Our  
10 judicial heritage has determined that fundamental fairness  
11 is best achieved through the adversarial system. The  
12 presentation of adversarial positions in a case gives  
13 judges and the trier of fact the opportunity to fully weigh  
14 both sides before ruling. Our country considers this so  
15 important that we give the right to counsel even to the  
16 murderer who has confessed to his heinous crime. There can  
17 be no prosecution without defense because a decision is  
18 only truly fair if both sides have an opportunity to be  
19 heard.

20           What happens when the one charged with defending  
21 the Commonwealth refuses to do so? That is the situation  
22 before you today. Attorney General Kane has decided her  
23 personal opinions on the law are more important than the  
24 rule of law itself and more important than her oath of  
25 office. Her apparent goal is to weaken this Commonwealth

1 law when it is her duty to defend it.

2           The Attorney General's duty to defend our  
3 Commonwealth's laws is a bedrock principle of our  
4 jurisprudence. This duty is essential to any democracy  
5 because it makes the executive a servant rather than a  
6 master of the law. We accomplish this by tasking the  
7 Attorney General to abide by the legislative judgment  
8 unless and until a controlling court makes a final  
9 determination that duly enacted legislation is  
10 unconstitutional. All attorneys know that it is their duty  
11 to represent the interests of their client, even when they  
12 may personally hold a different viewpoint.

13           By undermining DOMA, Attorney General Kane usurps  
14 the people's legislative authority. If the Attorney  
15 General were permitted to reconsider each and every law on  
16 the books, the results would be chaotic. The election of a  
17 new Attorney General would signal the beginning of a new  
18 era as each Attorney General announces which laws he or she  
19 will refuse to defend.

20           What Attorney General Kane does not seem to  
21 understand is the damage that she is doing by setting a  
22 precedent of refusing to defend or prosecute issues with  
23 which she politically disagrees. The election of another  
24 Attorney General with a different political persuasion will  
25 put at risk any programs or statutes that are then part of

1 Commonwealth public policy. Indeed, Attorney General Kane  
2 may well come to regret the door that she has opened for  
3 future Attorneys General to usurp legislative power and  
4 advance their political careers. Attorney General Kane has  
5 opened the door, and you should shut it. Unless and until  
6 this legislative body tells her, as well as future  
7 Attorneys General, that refusal to defend a duly enacted  
8 law of the Commonwealth for political reasons is an  
9 unacceptable dereliction of duty, Attorneys General may  
10 rely on this precedent to refuse to defend the duly enacted  
11 laws, thereby thwarting the constitutional process for  
12 enacting legislation in this Commonwealth.

13           Our Commonwealth's laws come under attack on a  
14 daily basis. Many of these laws passed through our  
15 legislature with bipartisan support; some do not. On a  
16 regular basis, this legislature debates whether a proposed  
17 piece of legislation is Constitutional. For an Attorney  
18 General to refuse to defend laws that he or she would not  
19 have voted for has the effect of the Attorney General  
20 having de facto veto power. The question becomes can the  
21 Attorney General "horse-trade" her defense, or lack  
22 thereof, of a proposed law with legislators in exchange for  
23 their support of legislation that the Attorney General  
24 desires to see enacted? Can whoever holds the Attorney  
25 General's Office hold the General Assembly hostage to his

1 or her political agenda? This may be the way it works with  
2 the Governor's office where the separation of powers  
3 between the executive and legislative branches is properly  
4 in play but the duties of the Attorney General are  
5 different. This Legislature has the opportunity to put an  
6 end here and now to the politicization of the Office of  
7 Attorney General.

8           Voters did not elect Kathleen Kane to enact laws,  
9 but to defend them. She ran for and was elected to office  
10 knowing full well what her Constitutional duties and  
11 responsibilities would include. She then swore an oath to  
12 uphold the Constitution and to carry out the  
13 responsibilities flowing from it. This is not involuntary  
14 servitude but rather is a job she sought. If she no longer  
15 desires to fulfill the duties assigned to her position,  
16 then it's time for her to seek other employment or for the  
17 General Assembly to remove her from this position.

18           I'd be happy to answer any questions.

19           MAJORITY CHAIRMAN METCALFE: Thank you,  
20 Mr. Clymer.

21           Members with questions?

22           Representative Maloney.

23           REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.  
24 Thank you, Mr. Clymer.

25           I've heard here today -- and I'm assuming that

1 most people testifying or actually watching, participating  
2 in this are obviously attorneys who seem to debate every  
3 day the differences. I find it somewhat interesting that  
4 we talk about the head law enforcement of the land. We  
5 also hear about that these things take place from the  
6 bottom up. So I guess some of my question to you is we see  
7 this on a local basis also, and it would appear to me that  
8 for the due process of the citizens of Pennsylvania that we  
9 would be able to challenge our way up the ladder to those  
10 who would then say, yes, what took place on the local level  
11 was wrong and we're going to correct it.

12 I guess I'm on the right track with respect to  
13 that so I guess what I'm hearing here today is that the top  
14 of the ladder is taking a position that they do not have,  
15 which leaves in jeopardy every other rung down the ladder  
16 all the way to the local level where we see a problem maybe  
17 on a smaller scale. So I guess I'm trying to make a  
18 picture here today for us to understand that, as an  
19 official to a sport, we go to the official whose there to  
20 interpret what that rule is and what that law is.

21 So I guess what I'm hearing here today is that  
22 when we go to the ultimate interpreter, they are taking a  
23 position that that law doesn't exist or they disagree with  
24 it. Is that correct?

25 MR. CLYMER: If you're suggesting that the

1 Attorney General's office is the ultimate interpreter, is  
2 that what you're suggesting? I have a fundamental  
3 disagreement with that. I think the Attorney General, like  
4 any attorney, is hired to do a job. And I would  
5 distinguish between the executive office of Governor or  
6 President as the case might be from the Attorney General  
7 because the Attorney General is hired to represent the  
8 client. I don't think it's her prerogative to arbitrarily  
9 decide what the law should be or what it should mean and  
10 enforce it or refuse to enforce it based on that. That  
11 leaves it very susceptible to political maneuvering. And  
12 the Attorney General's office should not be involved in  
13 that. The Attorney General has a job to do representing  
14 the citizens of the Commonwealth of Pennsylvania and  
15 whether she agrees with the law or not, that's her duty.

16 REPRESENTATIVE MALONEY: Thank you. Appreciate  
17 that.

18 MAJORITY CHAIRMAN METCALFE: Representative  
19 Truitt.

20 REPRESENTATIVE TRUITT: Thank you, Mr. Chairman.  
21 And again, I'm not an attorney so I'm going to struggle  
22 with this a little bit.

23 I definitely have a concern with an Attorney  
24 General deciding which laws not to uphold because that's  
25 the Legislature's job. It does halfway eliminate the need

1 for us to exist and that's a little bit offensive. But  
2 then I start to muse over I wonder if it's possible for an  
3 Attorney General to enforce a law that doesn't exist  
4 because she feels that it should exist, that kind of thing.

5 But what I was really more interested in your  
6 opinion on is the potential precedent-setting that comes  
7 from this. Again, I'm going to struggle with this, but if  
8 an Attorney General refuses to enforce a certain law or  
9 uphold a certain law during her term, does that set a  
10 precedent for what future Attorneys General can do? In  
11 other words, one way or another, if she gets voted out at  
12 the end of her term or at the end of however many terms she  
13 can serve, does that now restrict what a future Attorney  
14 General can do if the precedent's been set that we don't  
15 enforce this particular law? Can the next Attorney General  
16 then start to enforce it again or does it weaken the law  
17 for all future holders of that office? Am I making sense?

18 MR. CLYMER: Yes, you do. You're making perfect  
19 sense. Candidly, in my opinion it doesn't set a legal  
20 precedent which would be binding on a succeeding Attorney  
21 General. However, there's still you might call it a  
22 mindset precedent. But the greatest damage that is done is  
23 the undermining of the rule of law. I think it was Lord  
24 Coke who said that "the known certainty of the law is the  
25 safety of all." And whether you're talking about the tax

1 code or speed limits or any law out there, there's safety  
2 in the citizen in having a pretty good idea what the law  
3 is. And when the state of the law becomes subject to the  
4 whims of an enforcer of the law, we don't know what the law  
5 is and we lose that safety that Lord Coke was talking  
6 about. We no longer have the stability and security of  
7 knowing what the law is, and therein lies the danger when  
8 you have an Attorney General who's supposed to represent  
9 the citizens of the Commonwealth deciding what she's going  
10 to do and when or not to do as the case might be.

11 REPRESENTATIVE TRUITT: Yes, I agree with you in  
12 terms of the instantaneous impact. You know, the impact  
13 now is that we have this uncertainty about which laws will  
14 be upheld and which ones won't or which ones will be  
15 enforced and which ones won't. What I'm just wondering  
16 about the urgency to do something like an impeachment or  
17 can we wait her out? Then the voters get to decide every  
18 four years, hey, they don't like which laws she's  
19 upholding, which ones she isn't upholding. But if there is  
20 a lasting effect from her choosing not to enforce certain  
21 laws, then that suggests that we need to do something more  
22 immediate than wait until the next election.

23 MR. CLYMER: Well, and I think there is some  
24 immediacy that's important here because damage can be done  
25 and it's already started. I mean it has happened already

1 until the court stopped it. And we see this happening in  
2 other parts of the country. I mean this is becoming a  
3 trend of course. California, Virginia, any number of  
4 States that have taken the same action where the Attorney  
5 General refused to support a duly enacted law, and we see  
6 the havoc, the legal turmoil that arises out of that.

7           And here's political philosophy I know, but I  
8 believe that the General Assembly in Pennsylvania is  
9 designed to be the body most responsive to the people,  
10 especially the House of Representatives. It's the one  
11 that's closest to the people to represent the will of the  
12 people and should be the most powerful. If the House of  
13 Representatives of the General Assembly generally refuses  
14 or fails to assert its duty and assert the power that the  
15 Constitution has given it, then I think that becomes a  
16 dereliction of duty on the part of the Members of the  
17 General Assembly. So I think it is incumbent for them to  
18 ensure that the laws that they passed are enforced until a  
19 court of competent jurisdiction of this country rules that  
20 it's not Constitutional.

21           REPRESENTATIVE TRUITT: Thank you for your  
22 opinion, Mr. Clymer.

23           And thank you, Mr. Chairman.

24           MAJORITY CHAIRMAN METCALFE: Thank you,  
25 Representative Truitt.

1 Representative Keller.

2 REPRESENTATIVE KELLER: Thank you, Mr. Chairman.  
3 And thank you, Mr. Clymer.

4 I just have a question. Let me sort of lay the  
5 groundwork here. If a person is represented by an attorney  
6 in a court case and the attorney doesn't fulfill their  
7 duties, then evidently they have not had proper counsel. I  
8 guess I would like your opinion or just your thoughts. By  
9 an Attorney General, whether it's in Pennsylvania,  
10 California, or wherever not defending the law that was  
11 passed by an elected legislature and signed into law by the  
12 Governor -- in California's case, put on a ballot -- didn't  
13 the people of that State or in our case our Commonwealth  
14 not get adequate representation from the person that is  
15 hired to do that job?

16 MR. CLYMER: Absolutely. Absolutely they did not  
17 get the representation that they are entitled to, which is  
18 to reflect the will of the people. And you made the point  
19 for me. I mean quite frankly that's---

20 REPRESENTATIVE KELLER: I guess I just wanted to  
21 make sure I was thinking along the same lines because this  
22 is a matter of making sure that the people of the  
23 Commonwealth, who support all that happens here in our  
24 Commonwealth; they go to work every day, they've elected  
25 us. I think they have a duty to be heard and have their

1 day in court. Whether or not their attorney agrees with  
2 the law, their attorney has a duty to fulfill that law.

3 MR. CLYMER: And that's absolutely correct. You  
4 as legislators, Representatives, every two years you have  
5 to face the people, and if they don't like what you're  
6 doing, they vote you out. And therefore, your will or what  
7 you do in a representative capacity reflects the will of  
8 the people. That's the presumption, that it reflects the  
9 will of the people. And certainly in passing  
10 Pennsylvania's DOMA, that's what happened. It was passed  
11 by both houses of the General Assembly and signed by the  
12 Governor as a duly enacted law.

13 And you see the kind of travesty that I think was  
14 done in the State of California where the case turned on  
15 the fact that the people who tried to step in and defend  
16 the law in place of the Attorney General didn't have  
17 standing. I mean that's a terrible travesty and abrogation  
18 of the will of the people so clearly stated in the  
19 referendum. The situation is a little different here but  
20 there's still the same obligation, and I fully agree.

21 REPRESENTATIVE KELLER: Thank you.

22 MAJORITY CHAIRMAN METCALFE: Thank you,  
23 Representative Kelly.

24 Representative Saccone.

25 REPRESENTATIVE SACCONI: Thank you, Mr. Chairman.

1           Again, I'm trying to be as objective as possible.  
2 I'm trying to remove all politics from this. I just want  
3 to get to really the meat of the question here. And a  
4 previous speaker answered about the prosecutorial  
5 discretion, but what about the argument that if I'm an  
6 Attorney General and I say, well, look, I can only enforce  
7 so many of the laws. We have rampant drugs in  
8 Pennsylvania, we have a heroin epidemic going on, and I  
9 have to prioritize my office and I don't think I want to  
10 devote my resources to the DOMA defense. I want to  
11 redirect my resources to drugs and child endangerment and  
12 those type of things. Is that now an argument for a form  
13 of prosecutorial discretion to say, look, I don't have to  
14 enforce every law equally; I only have so many resources at  
15 my discretion and I have to prioritize them? Would that be  
16 an argument to say you could not defend a certain law?

17           MR. CLYMER: Well, I think that could be an  
18 argument depending on the circumstances, but that's  
19 certainly not the circumstance that we're faced with today.  
20 I mean, first of all, it's one thing to go out and  
21 prosecute people and I think that's where there is a fair  
22 amount of prosecutorial discretion. Every district  
23 attorney in every county does that and they take into  
24 consideration, among other things, what they view as most  
25 important where they're going after somebody. But when a

1 major duly enacted law of the Commonwealth is being  
2 challenged in court, then that's a different story. I  
3 don't really believe that the Attorney General has  
4 discretion in a case like that. I think the Constitution  
5 is clear that it is her duty to defend the duly enacted  
6 laws of the Commonwealth of Pennsylvania.

7           If there is a truly ethical problem in doing  
8 that, if there is a conflict of interest or something  
9 because of prior involvement of the Attorney General, then  
10 of course there's the opportunity to have the general  
11 counsel to defend it. But apart from those rather narrow  
12 restrictions, it's the duty. That's the job that's  
13 described in the Commonwealth Attorneys Act.

14           REPRESENTATIVE SACCONI: Thank you. Thank you  
15 very much.

16           MAJORITY CHAIRMAN METCALFE: Thank you,  
17 Representative Sacconi.

18           Representative Krieger.

19           REPRESENTATIVE KRIEGER: Thank you, Mr. Chairman.  
20 Thank you, Mr. Clymer.

21           Perhaps this is more of a statement I want to get  
22 your opinion on. I think [inaudible] and nature power  
23 abhors a vacuum. And what I mean by that is if the power  
24 is once exercised, it will be exercised again. And here's  
25 something I've thought about, and again, this is broader

1 than Pennsylvania as we know. We have this in the Federal  
2 Government. We have it with the President of the United  
3 States.

4 Let's say four years from now or two years from  
5 now two Republicans run as Attorney General and there's a  
6 law out there that says you can't protest within so many  
7 feet of an abortion clinic. And we know that's a very  
8 divisive issue in our Commonwealth and our Nation. There  
9 may be two hypothetical Republican candidates. One might  
10 say I don't like that law. Therefore, when I'm elected  
11 Attorney General, I will not enforce that law. The other  
12 Attorney General might say I don't like the law either but  
13 it is the law, and if I'm Attorney General, I will enforce  
14 it. I think pretty clearly if we establish in the public  
15 mind that part of the job of the Attorney General is to  
16 make decisions that, as have been made here, that the  
17 Attorney General that says I won't enforce the law because  
18 it's a bad law has an advantage in a Republican primary and  
19 I wonder if you can comment on that.

20 MR. CLYMER: Okay. Well, first of all, let me  
21 clarify what I think your question or your statement is,  
22 and again I make the distinction between discretion in  
23 prosecuting people under a law and defending an attack  
24 against the law because if the attack against the law is  
25 successful, it wipes it out for the entire State of

1 Pennsylvania for everybody. That's where there's a clear  
2 duty under the Commonwealth Attorneys Act for the Attorney  
3 General to act to defend.

4           There isn't the same kind of clear duty to  
5 prosecute every violation of the law, and I guess not as a  
6 cop-out but in most cases what you're talking about is  
7 going to be a decision made by the local district attorney  
8 in any event, not the Attorney General. So it's not very  
9 often that something like that would come before. It may  
10 be good political fodder for a campaign but in reality it  
11 doesn't have a great impact on actual policy that the  
12 Attorney General would get to fulfill or to practice in  
13 office.

14           So somehow I lost your question in the process of  
15 all that but again I think the important thing is a  
16 distinction between the Attorney General does have some  
17 discretion in determining which cases to prosecute based on  
18 priority and other public policy issues.

19           REPRESENTATIVE KRIEGER: I think perhaps I gave  
20 you a bad example and took you down the wrong path and I  
21 can't think of another example. There's another political  
22 example that from the right might be attractive and perhaps  
23 let's say that statute is challenged. I mean we could take  
24 the reverse. We could say next month is the General  
25 Assembly establishes same-sex marriage and perhaps an

1 Attorney General -- maybe that's even a bad example but the  
2 point I'm trying to get to you is not so much the  
3 distinction between prosecutorial discretion and this  
4 blanket refusal. It's more the political ramifications of  
5 allowing the power to be established in the public mind and  
6 the impact going forward.

7 MR. CLYMER: Okay. And I'll give you the example  
8 I think you're looking for. Let's say somebody decided  
9 they're going to constitutionally challenge the Abortion  
10 Control Act or what's left of it. And you have two  
11 candidates running for office, one who's pro-life and one's  
12 who pro-choice and they make the kind of statements you  
13 say. I'm not going to defend that. And there's a case I  
14 think which is analogous to the present one. I think it  
15 would be the duty of the Attorney General to defend that  
16 whether it believes it or not. Maybe that wasn't the best  
17 example. I was trying to think of an example actually on  
18 the other side, but still the same thing would apply.

19 The decision whether or not to defend a duly  
20 enacted law should not be made based on the personal views  
21 of the Attorney General. That's the overriding point.

22 MAJORITY CHAIRMAN METCALFE: Thank you both for  
23 your attempt to get us some good examples. But I mean I  
24 think it's hard to come up with an example because you're  
25 kind of reaching for situations that shouldn't occur. And

1 I think the prosecutorial discretion versus the clear  
2 charge that an Attorney General is given in the law are two  
3 different responsibilities of that office. I mean you have  
4 to be able to prosecute and utilize your resources in the  
5 most effective manner and decide who is at risk most in  
6 society to try and utilize those resources to protect the  
7 citizens of the Commonwealth but at the same time you have  
8 a clear change in the Commonwealth Attorneys Act that says  
9 that the Attorney General shall defend the  
10 constitutionality of all legally enacted statutes.

11 So I think two very different responsibilities of  
12 the office I think is very clear, as I believe you would  
13 agree, Mr. Clymer, that the Commonwealth Attorneys Act is  
14 the point that we're disputing and whether it's the DOMA or  
15 a firearms law or an abortion law that, if it's challenged  
16 in the courts, the Attorney General doesn't have discretion  
17 in defending it. She must defend it, isn't that correct?

18 MR. CLYMER: That is correct. I agree, yes.

19 MAJORITY CHAIRMAN METCALFE: We thank you for  
20 sharing some of your time with us today, sir, and your  
21 expertise.

22 MR. CLYMER: Thank you. It was my pleasure.

23 MAJORITY CHAIRMAN METCALFE: Have a good day.

24 Our next and our final testifier will be Mr. J.  
25 Christian Adams. He's on the Policy Board of the American

1 Civil Rights Union.

2 And thank you very much, sir, for joining us  
3 today. We appreciate you making the trip here. You can  
4 begin when you're ready, sir.

5 MR. ADAMS: Thank you, Chairman Metcalfe, Members  
6 of the Committee. Thank you for this invitation to testify  
7 today. As a Westmoreland County native, it's a great honor  
8 to appear before a body that I actually visited when I was  
9 in high school as part of a civics class.

10 I have followed this sort of lawlessness around  
11 the country who engage in this sort of picking and choosing  
12 of which laws to enforce. And I want to say that one of  
13 the things they tend to do is to delegitimize criticism and  
14 to delegitimize debate itself over these issues. But I  
15 believe the people of Pennsylvania treasure the rule of law  
16 and Americans certainly treasure that laws apply equally to  
17 each person. And my view is that those who run away from a  
18 debate usually means that they have the weaker argument.

19 I'm an election lawyer. I litigate cases around  
20 the country in an effort to bring integrity to American  
21 elections. I formerly served in the Voting Section at the  
22 U.S. Department of Justice and have a long record of  
23 litigating against racially discriminatory election systems  
24 as well as litigating to bring election integrity to  
25 multiple States on behalf of the American Civil Rights

1 Union and others.

2 I've spent many long hours inside Pennsylvania  
3 polling locations monitoring elections. Those experiences  
4 have led me to believe that Pennsylvania is a place where  
5 every elected official should be completely intolerant of  
6 any criminal behavior touching on Pennsylvania elections.

7 I appear before you today because of the  
8 corrosive effect on election integrity that comments by and  
9 policies of Attorney General Kathleen Kane have had.

10 General Kane's brazen unwillingness to pursue behavior by  
11 some elected officials who reportedly took bribes in  
12 exchange for votes against voter identification legislation  
13 sends a signal that criminal behavior touching on elections  
14 will be tolerated. Her unwillingness to enforce the law  
15 was not only corrosive to the integrity of Pennsylvania  
16 elections but sends a message nationwide to would-be  
17 election criminals.

18 Because of General Kane's comments and brazen  
19 unwillingness to enforce the law, particularly as they  
20 relate to election integrity, I support Article III of  
21 Representative Metcalfe's amendment to House Resolution  
22 578.

23 As you know, General Kane's predecessor in office  
24 initiated an investigation October of 2010. It has been  
25 reported that this investigation targeted members of this

1 House from both political parties, and from all parts of  
2 the Commonwealth. Reports indicate that four legislators  
3 accepted cash gifts and jewelry in exchange for votes  
4 against a photo voter identification bill. Unfortunately,  
5 General Kane has decided to drop the matter.

6 What is even worse than General Kane dropping  
7 the matter is her justification as to why she did so. She  
8 broadly impugned the competence and the credibility of the  
9 investigation conducted by her predecessor, as well as the  
10 line investigators in the case. Worse still, General Kane  
11 invoked the specter of race. She characterized the  
12 investigation as racially tainted, apparently because the  
13 members caught accepting bribes were all of the same race.

14 This is a growing corrosive attitude in the  
15 United States that excuses criminal conduct pertaining to  
16 elections. The Attorney General of Pennsylvania should not  
17 be making excuses for individuals who accepted bribes to  
18 block election integrity legislation. Simply because one  
19 does not agree with voter identification laws does not mean  
20 one should turn a blind eye toward public officials  
21 accepting bribes to oppose them. It is the duty of law  
22 enforcement officials throughout the Commonwealth to be  
23 totally intolerant of any criminal conduct touching on our  
24 elections. It is the obligation of the Attorney General to  
25 ignore the race, religion, or partisan affiliation of

1 wrongdoers in deciding whether to enforce the law.

2           The integrity of our elections is what provides  
3 the genuine consent of the governed. Without the  
4 perception that the system is clean, fair, and free from  
5 criminal conduct by high officials, people will not long  
6 support the system.

7           General Kane should take action against criminal  
8 behavior, not excuse it. Across America, however,  
9 instances of voter fraud go unprosecuted. Individuals who  
10 vote twice in the same election go unpunished. Election  
11 officials who commit election crimes, sometimes even voting  
12 six times in one election, are given breaks. Excusing  
13 criminal conduct encourages the public to believe that  
14 elections are not clean and do not represent the consent of  
15 the governed.

16           Excusing criminal conduct surrounding elections  
17 is inexcusable. But it is especially divisive to excuse  
18 criminal conduct by citing the race of the wrongdoer. For  
19 the Attorney General to assert that it would be improper to  
20 proceed with criminal charges against individuals caught on  
21 tape accepting bribes because of their skin color wrecks  
22 the rule of law.

23           Unfortunately, in my experience, using race to  
24 excuse potentially criminal conduct is nothing new. I  
25 write about this phenomenon extensively in my book

1        *Injustice.*

2                    It is immoral to use race either to excuse  
3 criminal conduct surrounding our elections just as it is  
4 immoral to discriminate against anyone on the basis of  
5 race. One of the principles that separate America from  
6 every other country in every other age is that citizens are  
7 to be treated based on their actions, not based on whether  
8 they have friends in high places, not if they come from  
9 nobility, not based on their race or religion.

10                    The actions of General Kane undermine this  
11 important principle of equality before law. General Kane  
12 claims that the investigation was tainted and that others  
13 have told the media that a prosecution would be impossible  
14 to obtain in the case of legislators accepting bribes. One  
15 such opinion was offered by a district attorney, who  
16 reportedly did not even review the evidence in the case.

17                    Those defending General Kane's refusal to enforce  
18 the law cite shortcomings of the evidence. Fine. Then let  
19 the people of Pennsylvania judge for themselves. General  
20 Kane should release to the General Assembly all of the  
21 hidden camera video of individuals accepting cash and  
22 gifts. Press accounts describe hours and hours of  
23 videotaped content. Let the citizens of Pennsylvania see  
24 some legislators accepting cash and jewelry in exchange for  
25 opposition to voter identification legislation. Let the

1 people of Pennsylvania judge for themselves whether or not  
2 General Kane is faithfully executing the laws of the  
3 Commonwealth. Let the people be the judge of whether the  
4 evidence is sufficient.

5 It is one thing to assert that a case is not  
6 worth pursuing; it is quite another to defend that assertion  
7 after everyone sees the videos of legislators accepting  
8 bribes. Let's also hope the media throughout Pennsylvania  
9 will do their job and press for the release of the videos.

10 Finally, there is plenty of criticism to go  
11 around for not pursuing the bribes. I believe that the  
12 acceptance of these bribes in return for votes would also  
13 implicate federal criminal statutes, statutes which the  
14 United States Justice Department has diligently pursued in  
15 many other cases, including here in Pennsylvania. Greater  
16 scrutiny of the Department of Justice's failure to act in  
17 this case is needed. It would be unfortunate if the public  
18 believed that serious crimes might go unpunished because  
19 those who accepted bribes were of the same political party  
20 as the law enforcement officials charged with prosecuting  
21 them.

22 Thank you for the opportunity to appear today.

23 MAJORITY CHAIRMAN METCALFE: Thank you,  
24 Mr. Adams.

25 Members with questions?

1 Representative Maloney.

2 REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.

3 And thank you, Mr. Adams, for being here.

4 I find it interesting from your perspective today  
5 that it seems to me that you more defend the civil rights  
6 position that we individually could have and how we're  
7 impacted by these decisions, is that correct?

8 MR. ADAMS: Yes. I mean when the Attorney  
9 General has a press conference, as she did, and invokes  
10 race as a reason why the law is not going to be enforced,  
11 that's a terribly destructive position to take.

12 REPRESENTATIVE MALONEY: And could you speak a  
13 little bit with respect to constitutionality and the  
14 discretion that maybe a DA would have or how this would  
15 work its way up the ladder, I'm going back to my original  
16 and earlier example. With respect to due process, how does  
17 it impact the due process?

18 MR. ADAMS: Well, in this particular case what's  
19 fascinating is the Philadelphia District Attorney,  
20 Mr. Williams, has said if you're not going to do it, I'll  
21 do it. And just last week, I believe Wednesday, the  
22 Attorney General shipped the file off to Philly for the  
23 local district attorney to take a look at. That's not how  
24 it's supposed to work. You folks here have a statewide  
25 corruption statute that the Attorney General is charged

1 with enforcing. It's not supposed to devolve down to  
2 district attorneys who are closer to those legislators than  
3 the Attorney General is.

4           REPRESENTATIVE MALONEY: Well, and see, that's  
5 one of the reasons I brought up what I did earlier because  
6 I talked about the step from the bottom up and how that  
7 kind of meets in the middle if you will and the problems  
8 that we have locally because to me this problem is rampant  
9 when we have, as was mentioned earlier, political  
10 motivations, special interests, bribes. I mean let's face  
11 it. In our neighborhoods it can be more political than any  
12 other place. So I guess what I'm getting at is I think  
13 it's interesting from the civil rights point that you have  
14 made of how adversely that can impact us and our neighbors  
15 but they are also elected officials supposed to be  
16 representing us, denying us due process, denying us our  
17 Constitutional right, our civil rights, and so on and so  
18 forth. So that's why I brought that up.

19           MR. ADAMS: Yes. And everyone in this room knows  
20 that if the shoe were on the other foot, if this was a  
21 Department of Environmental Protection -- I think that's  
22 what you call it in Harrisburg -- and an Attorney General  
23 was not going to enforce environmental regulations, not  
24 bring civil cases, shut down civil enforcement of human  
25 rights laws, all the things that some people characterize

1 as the exclusive province of the Democratic party, which is  
2 incorrect, incidentally. If a Republican Attorney General  
3 announced that, everybody knows what the people who walked  
4 out of this room earlier would be saying. We all know the  
5 answer to that. They would be complaining about that  
6 lawlessness. And thankfully, I believe that some of the  
7 folks here would complain also.

8 REPRESENTATIVE MALONEY: Yes, and I wasn't even  
9 going there as I was the fact of the consistency. And I  
10 thought it was interesting what some Members brought up  
11 today and testifiers with respect to consistency because  
12 consistency from the past to present to the future could be  
13 as gray or as clear as mud if we do not have some form of  
14 standard and for the citizens' ability to even challenge  
15 it.

16 MR. ADAMS: Yes. I think we heard about Lord  
17 Acton earlier. I think a quote ascribed to Thomas More was  
18 the rule of law is what keeps us off each other's throats.  
19 As you know what the law requires, you behave a certain  
20 way. When officials start willy-nilly replacing what the  
21 law says, what they believe, we've really frankly begun to  
22 plant the seeds of a system that we rejected 200 years ago.

23 REPRESENTATIVE MALONEY: Thank you, Mr. Chairman.

24 MAJORITY CHAIRMAN METCALFE: Thank you,  
25 Representative Maloney.

1           Mr. Adams, your experiences with the Department  
2 of Justice and you've prosecuted voter fraud type cases,  
3 election violations from what I understand. When I've  
4 looked at what's been occurring over the last year-and-a-  
5 half with this Attorney General, and we heard the testimony  
6 earlier of her coming into her office and altering  
7 reciprocity agreements, amending reciprocity agreements  
8 that we in the Legislature had given Attorneys General  
9 direction to enter into reciprocity agreements, negotiate,  
10 enter into them, not to go back and change them, alter  
11 them, rescind them. Our intent has been to expand  
12 reciprocity around the country so that our citizens can  
13 travel freely in the United States and be able to protect  
14 themselves and their families as much as possible.

15           And then we had the situation occur where she had  
16 her twin sister, who works for her administration, was  
17 promoted to Deputy Attorney General, received a 20 percent  
18 raise in the process. And under our ethics law your family  
19 cannot benefit from your being in office financially. We  
20 asked the Ethics Commission to investigate and I read an  
21 excerpt of that as we started off that essentially they  
22 said they couldn't find any evidence that she had  
23 influenced it but that it certainly didn't look good. I'm  
24 paraphrasing.

25           It came to light that she'd hired her cousin to

1 be her personal assistant, which most people understand  
2 that being elected office doesn't mean that you have a  
3 family business. That's allowed under our law. We need to  
4 change that. But it's kind of a pattern that you've seen,  
5 a pattern of abuse.

6 And heading into the situation that occurred last  
7 summer with defending the State DOMA where she refused to  
8 and went a step further in coming out at a press conference  
9 and announcing that she thought that it was  
10 unconstitutional, potentially damaging our ability to  
11 defend the law that the people had passed through their  
12 elected representatives, and then the most recent  
13 controversy with her refusing to follow through on this  
14 investigation.

15 And for me that speaks to a pattern of behavior  
16 and I assume that you've looked at those types of patterns  
17 when you're prosecuting. Can you speak to that pattern of  
18 behavior with individuals? And it doesn't seem to me like  
19 it's going to end anytime soon.

20 MR. ADAMS: Well, I can almost assure you that if  
21 the Attorney General were here testifying -- I don't want  
22 to speak for her but I will -- she will tell you everything  
23 she did is perfectly appropriate. And that's the gap we  
24 have in this country now where people who behave one way  
25 that outrages the other side, they'll defend their behavior

1 and see absolutely nothing wrong with it.

2           And that's the challenge that this Committee has  
3 is the people who are engaging in this kind of behavior  
4 unfortunately usually don't see there's anything wrong with  
5 it and will launch the entire apparatus of the party and  
6 the media and everybody else to defend the behavior. And  
7 that's what's happening both here in Harrisburg, in  
8 Washington, and lots of other places around the country.

9           So ultimately they are using the levers of power  
10 to end the Pennsylvania DOMA, to not prosecute people who  
11 took bribes, to erode the Second Amendment, and to give  
12 people in their family jobs. And they just know how to do  
13 it, and the question is will this Committee know how to  
14 deal with it better than they do?

15           MAJORITY CHAIRMAN METCALFE: Thank you. And  
16 finally, something that occurred that was very troubling to  
17 me and I think to many of my colleagues and I'm sure many  
18 around the Commonwealth that heard about it but I don't  
19 think it received as much coverage as you would hope, but  
20 her follow-up with the *Philadelphia Inquirer* in a meeting  
21 that I believe she'd asked for and brought her attorney and  
22 essentially was not going to say anything because her  
23 attorney was speaking for her. But I mean to me that  
24 speaks of intimidation, of an attempt to bully those who  
25 are trying to expose the truth, for a sitting elected

1 official to show up like that and threaten to sue a  
2 newspaper that outed a story that the people should know  
3 about.

4 MR. ADAMS: I cannot recall another instance  
5 where an elected official in the last five years at least  
6 threatened to sue a media outlet for exposing an  
7 investigative piece about the behavior of that elected  
8 official. Either it speaks to a willingness to issue  
9 threats or it speaks to a complete lack of understanding  
10 about the public figure component of defamation law or  
11 both.

12 MAJORITY CHAIRMAN METCALFE: We really appreciate  
13 you making the trip up today. Thank you for sharing your  
14 expertise with us, sir.

15 MR. ADAMS: Thank you, Mr. Chairman.

16 MAJORITY CHAIRMAN METCALFE: Have a great day.

17 Representative Knowles, you had a couple of  
18 thoughts you wanted to share with the Committee before we  
19 took a Motion to Adjourn.

20 REPRESENTATIVE KNOWLES: I would, Mr. Chairman.  
21 And thank you to all the testifiers for coming to testify  
22 today.

23 This is an issue. I believe it's a very serious  
24 problem. I really wish that our colleagues on the other  
25 side of the aisle had remained for this meeting because I'm

1 sure that the line of questioning would have been much  
2 different and I would have liked to have heard those  
3 questions and I would have liked to have heard the answers  
4 because I think it would have contributed to the whole  
5 situation.

6 I think it was Attorney Clymer that said  
7 something, and I'm going to paraphrase, but it was  
8 something along the lines of she is a servant of the law  
9 and not the master of the law. I think that says it best.  
10 She's a servant of the law, not the master of the law.

11 Now, all of the testifiers that we've heard today  
12 are attorneys. At least some of the Members of this  
13 Committee are attorneys. And they are the experts when it  
14 comes to the law. I'm not an attorney. I like to think of  
15 myself as being an average guy with hopefully average  
16 intelligence, and it really comes down to common sense. It  
17 comes down to common sense.

18 And I don't know how this is going to move along  
19 in terms of impeachment but what I will say is that we as a  
20 Legislature had better deliver a message to the Attorney  
21 General, to the district attorneys, to the law enforcement  
22 community. And hey, I served as a cop for seven or eight  
23 years back in the '70s and I wasn't crazy about every law,  
24 but I had the duty to enforce every law. And we had better  
25 deliver a message to them that it is not up to you to

1 decide which laws you will enforce because if we allowed  
2 that to happen, we are on a very, very slippery slope.

3 Mr. Chairman, I thank you for the opportunity to  
4 make those comments and I thank you for having this hearing  
5 today.

6 MAJORITY CHAIRMAN METCALFE: Thank you,  
7 Representative Knowles.

8 Representative Gabler for a closing comment.

9 REPRESENTATIVE GABLER: Thank you, Mr. Chairman.

10 I just briefly wanted to say thank you for having  
11 the opportunity to have the free exchange of ideas. I  
12 think that part of the job of being a legislator is to get  
13 into the issues, to ask the questions. I've been very  
14 quiet today because I've wanted to just listen and benefit  
15 from the questions that have been asked, but I think it's  
16 important that we remember that at the core of our job is  
17 to exercise legislative oversight over the State Government  
18 generally, and the ability to be here and get the thoughts  
19 and the ideas out there on the record is a very important  
20 part of that process. So I just wanted to thank the  
21 Committee and the testifiers for taking the time this  
22 morning to make that happen.

23 MAJORITY CHAIRMAN METCALFE: Thank you,  
24 Representative Gabler.

25 And just in closing, the actions of the

1 Democratic Members of this Committee today should be a  
2 surprise to the citizens of the Commonwealth. As Mr. Adams  
3 mentioned, when the other side wants to delegitimize  
4 debate, then they do run away and they hide behind other  
5 accusations and other terms. I think today showed a clear  
6 dereliction of duty on behalf of the Democratic Members of  
7 this Committee that refused to stay in this Committee, hear  
8 the testimony, and engage in thoughtful interaction and  
9 discussion on this very important topic that's important to  
10 the citizens of this Commonwealth.

11           As we've seen today with their attempt to just  
12 override the process, there was work going on behind the  
13 scenes leading up to this hearing that they were attempting  
14 to try and shut the hearing down today. A failure to be  
15 successful in that, they had every Member of the Committee  
16 show up today. And I think if you look at the records,  
17 look at the leave slips and look at the absences that we've  
18 had and the proxies over the previous several meetings,  
19 you'll find that today was one of the best attended  
20 meetings by Democratic Members that we've seen in quite  
21 some time, only to have them all stand up and walk out at  
22 the same time I'm sure on to something else that they  
23 wanted to do instead of being here.

24           But we could have had an exchange of ideas today.  
25 I was wondering how they would defend a resolution to

1 commend an Attorney General that has had very little regard  
2 for the law and the Constitution of this Commonwealth and  
3 the people of this Commonwealth. They clearly are not able  
4 to defend her so instead they chose to run and leave this  
5 Committee hearing today hoping to distract and keep the  
6 people of Pennsylvania from hearing this.

7 I'm very glad that we had the opportunity to  
8 stream this today on the internet. I understand that PCN  
9 was covering it live today so the citizens of this  
10 Commonwealth have been able to witness the actions of the  
11 Democratic Members of this caucus, have been able to listen  
12 to the expert testimony that was delivered here today, and  
13 will be able to weigh for themselves which argument has the  
14 most merit. And I believe that clearly under the testimony  
15 that was provided, the argument that has the most merit is  
16 one in which this legislative body needs to hold this  
17 Attorney General accountable on behalf of the people of  
18 Pennsylvania. And I look forward to working with the  
19 Members as we move forward to stand up for the citizens of  
20 the Commonwealth.

21 So thank you for our testifiers today. Thank you  
22 to the Members for your time. I take a Motion to Adjourn  
23 by Representative Truitt seconded by Representative  
24 Maloney. Everyone have a great day.

1 (The hearing concluded at 10:49 a.m.)

2 I hereby certify that the foregoing proceedings  
3 are a true and accurate transcription produced from audio  
4 on the said proceedings and that this is a correct  
5 transcript of the same.

6  
7  
8 Christy Snyder

9 Transcriptionist

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