

# **2021 REGULAR SESSION IMPEACHMENT COMMITTEE (H)**

## **Minutes of the 6th Meeting**

**February 11, 2021**

### **Call to Order and Roll Call**

The 6th meeting of the 2021 Regular Session Impeachment Committee (H) was held on Thursday, February 11, 2021, at 8:45 PM, in Room 125 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jason Nemes, Chair; Representatives George Brown Jr., Angie Hatton, Kim King, C. Ed Massey, Suzanne Miles, Patti Minter, Felicia Rabourn, and Buddy Wheatley.

Guests: Professor Joshua Douglas and Professor Paul Salamanca.

LRC Staff: Chip Smith and Christy Glass.

### **Announcements and Motions**

Representative Nemes announced that the committee had received a motion to withdraw from Randall Daniel, a request to question expert witness, and an additional petition to impeach Governor Beshear filed by Geoff Young. Representative King made a motion to make those documents received by the committee public, seconded by Representative Brown, and the motion was adopted by voice-vote.

### **Expert Testimony**

Joshua Douglas, Professor of Law at the University of Kentucky, introduced himself to the committee and made note that he is not a member of the Kentucky Bar Association or providing legal counsel, but offering an expert opinion on Kentucky law when it comes to impeaching members of the General Assembly. Professor Douglas stated, “Does impeachment apply to a member of the Kentucky House of Representatives? The answer to that question is relatively easy, it does not.” Professor Douglas explained that impeachment under the Kentucky constitution is a mechanism used to remove the Governor and other civil officers, but does not include legislators. Although the Kentucky Constitution does not define the term “civil officer”, other various authorities demonstrate that members of the legislature are not included in the term. There are several sections in the Kentucky Constitution that separate civil officers from legislators, including sections 30, 42, 43, 44, 97, 234, and 235. Professor Douglas also noted that the Kentucky Constitution actually provides the mechanism to remove a legislator, which is through expulsion, found in Section 39.

Paul Salamanca, Professor of Law at the University of Kentucky, also introduced himself and noted that he is not providing legal counsel, but offering an expert opinion on Kentucky law when it comes to impeaching members of the General Assembly. Professor Salamanca agreed that a member cannot be impeached. He stated, “Section 68 of the Kentucky Constitution provides that the Governor and all civil officers shall be liable to impeachment for any misdemeanors in office. By its plain language, impeachment is limited to “civil officers,” which as I hope to explain does not include members of the General Assembly. The sole means by which a member of the General Assembly may be removed from office is expulsion under Section 39.” Professor Salamanca went on to explain that although Section 68 does not define the term civil officer, Section 44 draws a clear contrast between membership in the General Assembly and appointment or election to a civil office. He also explained that at a federal level, the term “civil officer” has been thought to not apply to members of Congress. Professor Salamanca also pointed out allowing impeachment of a member would enable the House to compel the Senate, but would not give the Senate leverage against the House.

Kentucky has had four impeachments in its history, in 1803, 1888, 1916, and 1991. Of those impeachments, none were of a legislator.

Representative Hatton asked if, as a quick takeaway, impeachment in Kentucky only applies to the executive branch. Professor Salamanca stated that he was unsure if a member of the Judiciary could be impeached.

#### **Executive Session**

After testimony, Representative King made a motion to go into executive session, seconded by Representative Brown, and the motion was adopted by voice-vote. On return from executive session, Representative Hatton stated that pursuant to section 57 of the Kentucky Constitution, she would be abstaining from voting on any matters relating to Governor Beshear. Representative Wheatley, an alternate member of the committee, was appointed to vote in her place on matters relating to Governor Beshear.

#### **Motions**

Representative Massey then made a motion to dismiss the petition against Representative Goforth, seconded by Representative Hatton, and the motion was carried by voice-vote.

Representative Brown made a motion to dismiss the petition against Governor Beshear filed by Kentucky Liberty PAC, seconded by Representative Massey, and the motion was carried by voice-vote.

Representative Wheatley made a motion to dismiss the petition against Governor Beshear filed by Take Back Kentucky, seconded by Representative Miles, and the motion was carried by voice-vote.

Representative Nemes then ruled that the petition filed by Geoff Young was out of order and would not be considered.

A Motion to Withdraw from petitioner Randall Daniel was received by the committee. Representative Minter made a motion to accept his withdrawal, seconded by Representative King, and the motion was carried by voice-vote.

Representative Massey made a motion to deny the request to question expert witness motion filed by the Representative Goforth petitioners, seconded by Representative Minter, and the motion was carried by voice-vote.

**Adjournment**

With there being no further business, the meeting was adjourned at 9:56 PM.