

SENATE RESOLUTION NO. 247

By Kyle, Burks

A RESOLUTION to authorize the Speaker of the Senate to appoint a committee to meet with a like committee from the House of Representatives to consider the removal of William E. Gibson from the office of District Attorney General of the Thirteenth Judicial District by the Tennessee General Assembly acting pursuant to Article VI, Section 6 of the Constitution of Tennessee.

WHEREAS, William E. Gibson is the duly elected District Attorney General for the Thirteenth Judicial District; and

WHEREAS, on September 25, 2006, the Supreme Court of Tennessee, pursuant to Section 4.3 of Supreme Court Rule 9, temporarily suspended Mr. Gibson from the practice of law based upon the finding that he poses a "substantial threat of irreparable harm to the public"; and

WHEREAS, on October 25, 2006, Mr. Gibson petitioned the Court to dissolve or amend this temporary suspension and on March 25 and 26, 2007, a hearing was held before a panel of the Board of Professional Responsibility on Mr. Gibson's petition; and

WHEREAS, on April 26, 2007, the panel recommended that Mr. Gibson's temporary suspension not be dissolved, stating that if he were reinstated to practice law, it would pose a threat of substantial harm to the public; and

WHEREAS, because of Mr. Gibson's temporary suspension, a District Attorney Pro Tem was appointed as acting District Attorney General for the Thirteenth District, even though Mr. Gibson is still receiving full compensation as a District Attorney; and

WHEREAS, Article VI, Section 6, of the Constitution of Tennessee provides that attorneys for the state may be removed from office by a concurrent two-thirds vote of both houses of the General Assembly, each house voting separately, but two-thirds of the members to which each house may be entitled must concur in such vote, and that the person being removed receives notice of the proceedings and a copy of the causes alleged for removal at least ten (10) days before the day on which either house of the General Assembly shall act thereon; and

WHEREAS, based on the conduct which resulted in Mr. Gibson's license to practice law being temporarily suspended in 2006 and such temporary suspension is still in effect, the General Assembly finds it necessary to commence proceedings to determine whether cause exists for the removal of William E. Gibson from the position of District Attorney General of the Thirteenth Judicial District for the following causes:

(1) On September 25, 2006, Mr. Gibson's license to practice law was temporarily suspended by the Supreme Court of Tennessee, making him personally unable to fulfill the duties of the Office of District Attorney for the Thirteenth Judicial District; and

(2) Even though Mr. Gibson has been unable to fulfill the duties for which he was elected, and a District Attorney Pro Tem was appointed to perform those

duties, the State of Tennessee has, in addition to insurance and other benefits, paid Mr. Gibson one hundred ninety thousand two hundred forty dollars (\$190,240) from September 2006 until present, even though he has been unable to practice law and thus incapable of doing the job for which he is being paid; and

(3) Regardless of whether Mr. Gibson's license to practice law is reinstated, his flagrant and willful conduct resulting in violations of the Rules of Professional Conduct have forever betrayed the trust the citizens of the Thirteenth Judicial District bestowed upon him when electing him District Attorney General, and have so adversely affected the administration of justice in the District that only Mr. Gibson's removal from office can restore the faith of the bench, bar, victims and other citizens in the counties comprising the Thirteenth Judicial District in the criminal justice system; and

WHEREAS, in order to commence removal proceedings and provide Mr. Gibson with procedural due process, the Speaker of the Senate shall appoint five (5) members of the Senate to meet jointly with a like number of House members to be appointed by the Speaker of the House of Representatives; and

WHEREAS, the joint committee shall have all powers conferred upon standing or select committees of the General Assembly by Tennessee Code Annotated, Title 3, including, but not limited to, the power to issue subpoenas, including subpoenas duces tecum, to enforce the attendance of witnesses and the production of any records, documents, papers or other items of evidence; and

WHEREAS, the joint committee shall be convened by the member with the most continuous service at which time it shall elect such officers as are deemed appropriate; and

WHEREAS, the joint committee shall meet and consider the causes specified in this resolution, or consider additional causes not contained herein, and determine if the charges warrant a due process hearing on the removal of Mr. Gibson; and

WHEREAS, if the joint committee determines a due process hearing is in order, it shall establish the rules and procedures to be utilized at the hearing, the parameters of the hearing, the date of the hearing, and the extent, if any, to which witnesses will be heard and evidence received; and

WHEREAS, at the conclusion of the hearing, if one is conducted, the joint committee shall vote "for recommending removal" or "against recommending removal" as to each cause presented against Mr. Gibson at the hearing and the committee may vote "for recommending removal" based on the cumulative effect of all the causes presented even though they vote "against recommending removal" as to one or more of the individual causes; and

WHEREAS, within ten (10) days from the date the committee has voted and concluded its hearing, the committee shall make and file its report with the respective speakers, who shall forthwith convene a joint convention of the General Assembly for the purpose of acting upon the report of the joint committee. Consideration before the joint convention shall be limited to the record; but oral argument will be permitted; and

WHEREAS, upon the conclusion of argument, the joint convention shall adjourn and each house shall repair to its respective chamber, and vote separately, in the manner prescribed in Article VI, Section 6, of the Constitution of Tennessee. Each house shall vote "for" or "against" removal of Mr. Gibson as to each cause for which the special joint committee recommended removal. Any member, by a motion properly seconded, may call for a vote of the member's respective house on any cause considered by the joint committee but for which such committee recommended "against" removal. In the event two thirds (2/3) of the members to which one (1) house may be entitled a vote to remove Mr. Gibson for a cause which the special joint committee recommended "against removal," the vote and the cause receiving such two-thirds (2/3) vote shall be transmitted forthwith to the other house which shall then vote on it as if the cause were one recommended "for removal" by the special joint committee; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FIFTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that the Speaker of the Senate shall appoint a committee of five (5) members of the Senate to meet with a like number of Representatives to be appointed by the Speaker of the House of Representatives pursuant to a similar House resolution to determine if cause exists to conduct a hearing on the removal of William E. Gibson from the position of District Attorney General of the Thirteenth Judicial District.

BE IT FURTHER RESOLVED, that a signed and certified copy of this resolution be transmitted to William E. Gibson before the committee appointed pursuant to this resolution, and the similar House resolution, conducts a hearing to consider his removal from the Office of District Attorney General of the Thirteenth Judicial District; and that pursuant to Article VI, Section 6, of the Constitution of Tennessee, this resolution and the similar House resolution serve as notice to William E. Gibson of the General Assembly's intention to remove him from office for cause.

ADOPTED:



RON RAMSEY
SPEAKER OF THE SENATE