

## ARTICLE IV

In 1994, in connection with his nomination to be a judge of the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., knowingly made material false statements about his past to both the United States Senate and to the Federal Bureau of Investigation in order to obtain the office of United States District Court Judge. These false statements included the following:

(1) On his Supplemental SF-86, Judge Porteous was asked if there was anything in his personal life that could be used by someone to coerce or blackmail him, or if there was anything in his life that could cause an embarrassment to Judge Porteous or the President if publicly known. Judge Porteous answered "no" to this question and signed the form under the warning that a false statement was punishable by law.

(2) During his background check, Judge Porteous falsely told the Federal Bureau of Investigation on two separate occasions that he was not concealing any activity or conduct that could be used to influence, pressure, coerce, or compromise him in any way or that would impact negatively on his character, reputation, judgment, or discretion.

(3) On the Senate Judiciary Committee's "Questionnaire for Judicial Nominees", Judge Porteous was asked whether any unfavorable information existed that could affect his nomination. Judge Porteous answered that, to the best of his knowledge, he did "not know of any unfavorable information that may affect [his] nomination". Judge Porteous signed that questionnaire by swearing that "the information provided in this statement is, to the best of my knowledge, true and accurate".

However, in truth and in fact, as Judge Porteous then well knew, each of these answers was materially false because Judge Porteous had engaged in a corrupt relationship with the law firm Amato & Creely, whereby Judge Porteous appointed Creely as a "curator" in hundreds of cases and thereafter requested and accepted from Amato & Creely a portion of the curatorship fees which had been paid to the firm and also had engaged in a corrupt relationship with Louis and Lori Marcotte, whereby Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefitted the Marcottes. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench. Judge Porteous's failure to disclose these corrupt relationships deprived the United States Senate and the public of information that would have had a material impact on his confirmation.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

NANCY PELOSI,

*Speaker of the House of Representatives.*

Mr. President, the House of Representatives by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles of accusation or impeachment against the said G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana, and also of replying to his answers which he shall make unto the articles preferred against him, and of offering proof to the same and every part thereof, and to all and every other arti-

cle of accusation or impeachment which shall be exhibited by them as the case shall require, do demand that the said G. Thomas Porteous, Jr., may be put to answer the misdemeanors in office which have been charged against him in the articles which have been exhibited to the Senate, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

Mr. President, the managers on the part of the House of Representatives, by the adoption of the Articles of Impeachment which have just been read to the Senate, do now demand that the Senate take order for the appearance of the said G. Thomas Porteous, Jr., to answer said impeachment and do now demand his conviction and appropriate judgment thereon.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, at this time the oath should be administered in conformance with article I, section 3, clause 6 of the Constitution of the United States and the Senate's impeachment rules. I move that the Senator from Kentucky, Mr. MCCONNELL, be designated by the Senate to administer the oath to the Presiding Officer of the Senate, the Senator from Hawaii, Mr. INOUE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Do you solemnly swear that in all things appertaining to the trial of the impeachment of G. Thomas Porteous Jr., Judge of the United States District Court for the Eastern District of Louisiana, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

Mr. INOUE. I do.

Mr. REID. Mr. President, the oath shall now be administered by the Presiding Officer to all Senators. This is an appropriate time for any Senator who has cause to be excused from service in this impeachment to make that fact known.

If there is no Senator who desires to be excused, I move that the Presiding Officer administer the oath to Members of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators shall now be sworn. Will Senators rise and raise your hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS: I do.

The following named Senators are recorded as having subscribed to the oath this day:

Daniel K. Akaka, Lamar Alexander, John Barrasso, Max Baucus, Evan Bayh, Mark Begich, Michael Bennet, Jeff Bingaman, Christopher S. Bond, Bar-

bara Boxer, Scott Brown of Massachusetts, Sherrod Brown of Ohio, Sam Brownback, Jim Bunning, Richard Burr, Roland W. Burris, Maria Cantwell, Benjamin L. Cardin, Thomas R. Carper, Robert P. Casey, Jr., Saxby Chambliss, Tom Coburn, Thad Cochran, Susan M. Collins, Kent Conrad, Bob Corker, John Cornyn, Mike Crapo, Jim DeMint, Byron L. Dorgan, Richard Durbin, John Ensign, Michael B. Enzi, Russell D. Feingold, Dianne Feinstein, Al Franken, Kirsten E. Gillibrand, Lindsey Graham, Chuck Grassley, Judd Gregg, Kay R. Hagan, Tom Harkin, Orrin G. Hatch, Kay Bailey Hutchison, James M. Inhofe, Daniel K. Inouye, Johnny Isakson, Mike Johanns, Tim Johnson, Edward E. Kaufman, John F. Kerry, Amy Klobuchar, Herb Kohl, Jon Kyl, Mary L. Landrieu, Frank R. Lautenberg, George S. LeMieux, Carl Levin, Joseph I. Lieberman, Blanche L. Lincoln, Richard G. Lugar, John McCain, Claire McCaskill, Mitch McConnell, Robert Menendez, Jeff Merkley, Barbara A. Mikulski, Lisa Murkowski, Patty Murray, Ben Nelson of Nebraska, Bill Nelson of Florida, Mark L. Pryor, Jack Reed, Harry Reid, James E. Risch, Pat Roberts, John D. Rockefeller IV, Bernard Sanders, Charles E. Schumer, Jeff Sessions, Jeanne Shaheen, Richard C. Shelby, Olympia J. Snowe, Arlen Specter, Debbie Stabenow, Jon Tester, John Thune, Mark Udall of Colorado, Tom Udall of New Mexico, David Vitter, George V. Voinovich, Mark R. Warner, Jim Webb, Sheldon Whitehouse, Roger F. Wicker.

Mr. REID. Mr. President, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make that fact known to the Chair so that the oath may be administered as soon as possible to that Senator. The Secretary will note the names of the Senators who have been sworn and will present to them for signing a book, which will be the Senate's permanent record of the administration of the oath. I will remind all Senators who were administered this oath that they must now sign the oath book, which is at the desk, before leaving the Chamber.

#### ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST G. THOMAS PORTEOUS, JR.

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send to the desk a resolution that provides for the issuance of a summons to Judge G. Thomas Porteous, Jr., for Judge Porteous's answer to the Articles of Impeachment against him, and for a replication by the House, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 457) to provide for issuance of a summons and for related procedures concerning the articles of impeachment against G. Thomas Porteous, Jr.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 457) was agreed to, as follows:

S. RES. 457

*Resolved*, That a summons shall be issued which commands G. Thomas Porteous, Jr. to file with the Secretary of the Senate an answer to the articles of impeachment no later than April 7, 2010, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States.

SEC. 2. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or another employee of the Senate in serving the summons.

SEC. 3. The Secretary shall notify the House of Representatives of the filing of the answer and shall provide a copy of the answer to the House.

SEC. 4. The Managers on the part of the House may file with the Secretary of the Senate a replication no later than April 21, 2010.

SEC. 5. The Secretary shall notify counsel for G. Thomas Porteous, Jr. of the filing of a replication, and shall provide counsel with a copy.

SEC. 6. The Secretary shall provide the answer and the replication, if any, to the Presiding Officer of the Senate on the first day the Senate is in session after the Secretary receives them, and the Presiding Officer shall cause the answer and replication, if any, to be printed in the Senate Journal and in the Congressional Record. If a timely answer has not been filed, the Presiding Officer shall cause a plea of not guilty to be entered.

SEC. 7. The articles of impeachment, the answer, and the replication, if any, together with the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, shall be printed under the direction of the Secretary as a Senate document.

SEC. 8. The provisions of this resolution shall govern notwithstanding any provisions to the contrary in the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 9. The Secretary shall notify the House of Representatives of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCONNELL. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

#### APPOINTMENT OF A COMMITTEE TO RECEIVE AND TO REPORT EVIDENCE WITH RESPECT TO ARTICLES OF IMPEACHMENT AGAINST JUDGE G. THOMAS PORTEOUS, JR.

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. McCONNELL, I send a resolution to the desk on the appointment of an impeachment trial committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 458) to provide for the appointment of a committee to receive and

to report evidence with respect to articles of impeachment against Judge G. Thomas Porteous, Jr.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 458) was agreed to, as follows:

S. RES. 458

*Resolved*, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a committee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The majority and minority leader shall each recommend six members, including a chairman and vice chairman, respectively, to the Presiding Officer for appointment to the committee.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the Presiding Officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6(a). The actual and necessary expenses of the committee, including the employment of staff at an annual rate of pay, and the employment of consultants with prior approval of the Committee on Rules and Administration at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the contingent fund of the Senate from the appropriation account "Miscellaneous Items" upon vouchers approved by the chairman of the committee, except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.

(b). In carrying out its powers, duties, and functions under this resolution, the committee is authorized, in its discretion and with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

SEC. 7. The committee appointed pursuant to section one of this resolution shall terminate no later than 60 days after the pronouncement of judgment by the Senate on the articles of impeachment.

SEC. 8. The Secretary shall notify the House of Representatives and counsel for Judge G. Thomas Porteous, Jr. of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCONNELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### APPOINTMENT OF IMPEACHMENT TRIAL COMMITTEE

Mr. REID. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senators McCASKILL, as chair, KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, and KAUFMAN.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senator HATCH, who will serve as vice chairman, and Senators BARRASSO, DEMINT, JOHANNNS, RISCH, and WICKER.

The PRESIDING OFFICER. Pursuant to the resolution on the appointment of an impeachment trial committee and impeachment rule XI, the Chair appoints upon the recommendation of the two leaders the following Senators to be members of the committee to receive and report evidence in the impeachment of Judge G. Thomas Porteous, Jr.: Senators McCASKILL (chairman), KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, KAUFMAN, HATCH (vice chairman), BARRASSO, DEMINT, JOHANNNS, RISCH, and WICKER. The Senate will take further proper order and notify the House of Representatives and counsel for Judge Porteous.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TAX ON BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS—Resumed

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1586) to impose an additional tax on bonuses received from certain TARP recipients.

Pending:

Rockefeller amendment No. 3452, in the nature of a substitute.

Sessions/McCaskill modified amendment No. 3453 (to amendment No. 3452), to reduce the deficit by establishing discretionary spending caps.

McCain/Bayh amendment No. 3475 (to amendment No. 3452), to prohibit earmarks in years in which there is a deficit.

McCain amendment No. 3527 (to amendment No. 3452), to require the Administrator of the Federal Aviation Administration to develop a financing proposal for fully funding the development and implementation of technology for the Next Generation Air Transportation System.