

The Senate sitting as a court of impeachment is adjourned sine die.

Mr. REID. Mr. President, I therefore move that this man, Judge Porteous, be disqualified from holding office at any time in the future in the United States.

The PRESIDENT pro tempore. Is there debate on the motion? If not, the question is on agreeing to the motion to disqualify Judge Porteous from any further office.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 265]

YEAS—94

Akaka	Feingold	Mikulski
Alexander	Feinstein	Murkowski
Barrasso	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Graham	Nelson (FL)
Begich	Grassley	Pryor
Bennet	Gregg	Reed
Bennett	Hagan	Reid
Bond	Harkin	Risch
Boxer	Hatch	Roberts
Brown (MA)	Hutchison	Rockefeller
Brown (OH)	Inhofe	Sanders
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Cantwell	Johanns	Shaheen
Cardin	Johnson	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Coons	LeMieux	Vitter
Corker	Levin	Voinovich
Cornyn	Lugar	Warner
Crapo	Manchin	Webb
DeMint	McCain	Whitehouse
Dorgan	McCaskill	Wicker
Durbin	McConnell	Wyden
Ensign	Menendez	
Enzi	Merkley	

NAYS—2

Bingaman

Lieberman

ABSENT, NOT VOTING, OR EXCUSED FROM VOTING—4

Brownbback	Kirk
Dodd	Lincoln

The PRESIDENT pro tempore. On this vote, the yeas are 94, the nays are 2. The Senate having tried G. Thomas Porteous, Jr., U.S. district judge for the Eastern District of Louisiana, upon four Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in articles I, II, III and IV of the Articles of Impeachment, it is therefore ordered and adjudged that the said G. Thomas Porteous, Jr., be, and he is hereby, removed from office; and that he be, and is hereby, forever disqualified to hold and enjoy any office or honor, trust, or profit under the United States.

The Chair will clarify that it requires a motion that the convicted official be

disqualified from ever holding an office of honor, trust, or profit under the United States. The Senate has just adopted such motion.

Mr. REID. Mr. President, I send an order to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

The legislative clerk read as follows:

Ordered that the Secretary be directed to communicate to the Secretary of State, as provided by rule XXIII of the rules of procedure and practice in the Senate when sitting on impeachment trials, and also to the House of Representatives, the judgment of the Senate in the case of G. Thomas Porteous, Jr., and transmit a certified copy of the judgment to each.

The PRESIDENT pro tempore. Without objection, the order will be entered.

The majority leader is recognized.

Mr. REID. Mr. President, I renew the request I made previously that the Senate, sitting as a court of impeachment for the Articles of Impeachment against G. Thomas Porteous, Jr., adjourn sine die, and as soon as we go to legislative session, Senator McCASKILL be recognized.

The PRESIDENT pro tempore. Without objection, the motion is agreed to, and the Senate, sitting as a court of impeachment, is adjourned sine die.

Mr. REID. Mr. President, I ask unanimous consent that the order previously entered be vitiated directing that the Senate recess subject to the call of the Chair.

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

Mr. REID. I thank the Chair.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The Senate will return to legislative session.

The Senator from Missouri is recognized.

PORTEOUS IMPEACHMENT

Mrs. McCASKILL. Mr. President, our Constitution is a glorious thing. It is in fact the envy of the world. One of the most effective and elegant elements of the foundation of our government is the provisions that provide for the checks and balances of our three branches of government.

It has been an incredible honor to participate in the impeachment process that was devised by very wise people very long ago, which actually provides the American people the reassurance that the Constitution is working the way it was designed to work when it comes to the checks and balances of the three branches of government.

The responsibilities of the modern Congress, both the House and Senate, are extensive. I don't need to spend much time talking about how busy we are right now. But the fact that we set aside everything that we were doing and came together and sat as a Senate

and listened to the arguments and deliberated extensively about this impeachment should be reassuring to every American. I think the results are interesting in that it reflects that each Senator made an individual decision about the Articles of Impeachment. There was some unanimity on some of the counts, but on others it was Republicans and Democrats, conservatives and progressives, on both sides of the question. I think that shows the extent to which everybody made an independent judgment and took their responsibility very seriously.

I want to take a few minutes now to thank some people who are unsung heroes. Obviously, I thank the distinguished vice chairman, the Senator from Utah, for his support, experience, and wisdom in discharging the committee's duties. He was essential to this process and a great rock for me to lean on at many turns during this process. I also thank the 10 other members of the Impeachment Trial Committee for their devotion and diligence and commitment to this important work.

Then I want to take a couple of minutes to talk about the staff. I want to begin with Derron Parks, who is seated with me on the floor of the Senate. Derron walked into my office and was hired to be a legislative assistant for health care, in the middle of some pretty difficult times on health care. Then I said to him, "By the way, can you run an impeachment of a Federal judge, also?"

As a brandnew member of my staff, he took on incredible responsibilities. All of the thanks I have received belong to him because he worked hard, he worked smart, he was a great leader, and he did a remarkable job of marshaling a bunch of Senators, a bunch of staff, a bunch of witnesses, a bunch of evidence, a bunch of legal research, and he did it in a way that I think the Senate can be very proud.

Also, I thank Tom Jipping, Senator HATCH's staff person, who helped with this as the deputy staff director for the Impeachment Trial Committee. He also put in an incredible amount of work and gave a very valuable contribution.

Justin Kim, counsel, was very important because whenever there was a disagreement about what was the right road to take in terms of historical precedence, rule of law, decisions on motions, he was always a good sounding board. There was always more than one smart lawyer in the room so that the ideas could be bounced back and forth and somehow we could come up with the right answer based on the law, the Constitution, and historical precedent.

Rebecca Seidel was also very valuable to the committee. She is another counsel who was essential in this process.

Erin Johnson, deputy counsel and chief clerk, did, frankly, some of the most difficult work, and that was making sure we had a quorum during the trial, which was hard, as you can imagine. Keeping Senators in one seat for

an extended period of time is tough. She managed to make sure that we always had the quorum the law demanded.

Lake Dishman, another member of the staff, did a wonderful job.

Susan Navarro Smelcer, an analyst on the Federal judiciary, CRS, did wonderful work for us in terms of allowing us some help on the research of the historical precedence and decisions that guided our way.

Morgan Frankel, Senate legal counsel, was on the floor for the conclusion of this impeachment matter. Like Senator HATCH, this wasn't his first time to deal with impeachment matters, so he was a wealth of information and wonderful help to us.

Pat Mack Bryan also did great work.

Grant Vinik and Tom Cabayero were also from the Senate legal counsel staff.

All of the committee members had staff people who helped. I will not put all of their names on the record now, but they will be made part of my entire statement. I will have more comments on the impeachment proceedings that I will insert in the RECORD.

I will conclude by saying that I am very proud to be a Senator today. There are days when that is not as easy to say. There are times when this place is pretty dysfunctional. But I am very proud of the Senate and how we conducted ourselves during this very important and grave proceeding. I think the responsibility was handled as the Founders would have wanted us to handle it, and I think we should all be proud of that.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Utah.

Mr. HATCH. Mr. President, I wish to personally thank the distinguished chairwoman of this committee. I have been in the Senate a pretty long time, and she has done one of the best jobs I have ever seen done. There aren't very many impeachments—or should I say trials of impeachment, but of the ones I have seen, she ranks right up there in the top. All I can say is she ran a very good committee. She made very good decisions, she wasn't afraid to rule, she treated everybody with dignity and respect. She expected a lot of the members of the committee, which has to be the way, and she is a very intelligent and articulate and knowledgeable person. It has been my privilege to be able to serve with her and under her as vice chairman of this committee.

This is when you realize how important the Senate is, when all the Senators come together and they make decisions such as this, pro and con. Nobody should misjudge not guilty votes or guilty votes. I think every Senator voted the way he or she felt they should vote, and that was important.

I think much of the credit for the way this was all handled should go to the distinguished chairwoman, Senator McCASKILL. She is an excellent human being, a wonderful leader on this com-

mittee, and, frankly, I am very proud of her for what she was able to do because this is not easy, and it does take a lot of time. It is similar to herding cats, trying to make sure you can get all these busy people on the committee or at least a quorum every time to be able to do business on the committee. She was able to do that.

I wish to compliment every member of the committee. Every member showed up and did a lot of work on this committee—some more than others, of course. But every one of the members of this committee worked to try to be fair and do what is right and to do justice in this matter.

Having said all that, I wish to pay tribute to Derron Parks myself. This young man deserves a lot of credit. To be thrown into an impeachment committee, when his main job was to work on health care, tested the legal acumen of this young man. I have to say he was one of the kindest, most decent, most honorable, most knowledgeable, and most intelligent people I have worked with in the Senate. He is a terrific person and I am very proud of him.

Thomas Jipping, on my staff. There are very few people around who have the experience Tom has. He is a very good lawyer. He was a constant guide and provided me with leadership. I don't think either Senator McCASKILL or I could have done this without these two leaders on the committee.

The others were equally important to us and did very good work: Justin Kim, a wonderful human being; Rebecca Seidel. She worked with me long ago on the Judiciary Committee, is a very experienced lawyer and did a terrific job. Erin Johnson and Susan Smelcer were both critical to the work on the committee; Lake Dishman, who is on our staff and a very fine young man, who was willing to go every extra mile he could—as were all these other folks on the staff—to do what was right; Morgan Frankel and Pat Bryan from the Senate legal counsel's office. We couldn't have asked for better people, with more knowledge or more ability to lead and assist us.

Impeachment committees—or should I say the trial committee and the hearing of this is a very difficult undertaking. You are dealing with people's lives, you are dealing with people's reputations, and you have to do this in a completely fair and honest way, which I believe we did. This is one of the most important tasks the Senate does—extremely important—and I think the Senate acquitted itself very well today.

Every Senator voted his or her conscience today and, in some instances, that wasn't easy. Nobody should misjudge anybody's vote. Judge Porteous was convicted on all four articles and the vast majority of our Members felt that was proper.

At that point, I have to compliment the attorneys from the House. They were terrific. I have complimented them personally, and they know how I feel toward them, but the counsel for

the House were very respectful, very knowledgeable, tremendously articulate in what they did and, frankly, acquitted themselves with great dignity and deserve all our respect. We should respect counsel representatives. It is not easy to impeach somebody in this day and age, but they did, and these folks did a terrific job and their counsel as well.

They are Alan Baron, Harold Damelin, Mark Dubester, and Kirsten Konar.

Having said that, the defense counsel did the very best job they could. Jonathan Turley is an imminent professor at George Washington University. I have known him for a long time. He is very innovative and creative. Some thought, in this particular matter, he was quite innovative and creative as well. But let me say he is a very intelligent and very knowledgeable man. His other cocounsel deserve great recognition for what they did here.

I feel sorry for Judge Porteous. To rise to the dignified position of a Federal district court judge and then have this happen, after 30 years in public service or more, I am sure is absolutely painful and a problem and damaging to his reputation. I wish him well. I hope he will analyze these things and make some changes in his life that will be better for him and for his family and others. He has a lot of friends down there in Louisiana, and I think probably earned a lot of friendship, but the Senate has ruled properly in this matter and the impeachment should be upheld.

He should have been convicted of at least one of these articles, if not all four. I don't believe he should have been convicted on two of them—and there were good legal reasons for not going that far in the case of the chairman and myself—but, nevertheless, I respect the votes of all my colleagues on the floor. I know they paid strict attention, sat through almost all the proceedings and the closed session as well, and I commend them.

Finally, I wish to commend our two leaders. The two leaders conducted these proceedings with dignity and with respect, upholding the highest standards of the Senate. You can't ask for more than that, and I am very proud of both our leaders and others as well.

It has been a privilege for me to serve on this committee. I have tried to do the best I possibly could, and I believe the result today is an honest and just result. I just hope this sends a message to all our judges on the Federal bench, and others as well, that it is important to live up to our responsibilities and to do the things we know we should be doing.

Having said all this, I wish to again thank the staff on this committee. What a tremendous bunch of young people, who did a terrific job and who deserve the bulk of the credit of any credit that is due. I am just grateful to have been able to know them and work

with them and to love them for the work they have done.

This is one of the most important things the Senate can engage in, and I wish to thank our Parliamentarians. Many times people don't realize how important the Parliamentarians are in the Senate. We couldn't function without them. We are very blessed to have the Parliamentarians whom we have helping us in the Senate. They go unrecognized many times but not by me. I have a great deal of admiration for them. They keep us out of a lot of difficulties. Sometimes they get us into some difficulties—because of the rules, not because of them. But I want to pay tribute to them as well.

This was a just result. It is what I think had to be done. The country will be better for it. It does send an appropriate message, or messages, I should say, and I feel blessed to have been able to participate on this committee and on this Senate floor. It is a great honor to serve in the Senate. Days such as this help bring that home to me, and I wanted everybody to know it.

I wish to again thank the distinguished chairwoman and tell her how much I appreciate her work.

With that, I yield the floor.

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2009—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3991, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 662, S. 3991, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 p.m. will be equally divided and controlled between the leaders or their designees.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I allocate to myself such time as I may need.

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

Mr. ENZI. Mr. President, I rise to voice my opposition to S. 3991, the so-called Public Safety Employer-Employee Cooperation Act. I have a number of policy and constitutional concerns about this bill, and I have expressed them over the years, but I have never had the opportunity to work with the bill's supporters to address those concerns. Even though this legislation falls within the HELP Committee's jurisdiction, the committee has never held a hearing on the bill and has only marked it up without amendment or written report—and that was years ago—and this is not the same bill we are considering today.

An objective consideration of this bill reveals it is based on poorly reasoned policy. Over the last 7 years, the proponents of this bill have only

brought it directly to the floor and purposefully circumvented the regular order of the Senate and its committee processes, perhaps because the scrutiny of that process would expose the multiple flaws in this legislation. Rather than addressing this bill on its merits, its proponents have decided, once again, to play the sound bite game. Their calculation is simple: Since this bill involves unions that organize among police and firefighters, they will continue to simply claim that anyone who opposes this bill is against police and firefighters.

Let us address that calculated untruth first. There is no one I know of—Republican or Democrat, supporter or opponent of this bill—who does not respect and value the work and dedication of our police, firefighters, first responders, and other public safety professionals. Their contributions to our communities are immeasurable, and our support of them is unwavering. However, this bill provides no direct benefit to any police officer, firefighter or first responder. It doesn't provide a dime in Federal money to any State, city or town to hire, to train or to equip any additional public safety personnel. In fact, it simply imposes costs that will make that result less likely. It is arguably one of the biggest and most dangerous unfunded mandates the Federal Government has ever imposed.

In fact, there are a number of law enforcement groups opposing this bill: the National Sheriffs' Association, the International Association of Chiefs of Police, and the Fraternal Order of Police have all come out against S. 3991. I think we have to ask: If all these law enforcement groups oppose the bill, is it a good idea to pass it in the last days of a lame-duck Congress?

Plain and simple, the only direct beneficiaries of this legislation are labor unions. You see, while unionization in the private sector has been on a historical down trend, unionization in the public sector has been increasing. In 2009, 37.4 percent of public sector employees were unionized compared to 7.2 percent in the private sector. Government workers are now five times more likely to belong to a union. For the first time in our country's history, the majority of union members are public sector employees, not private sector employees. Public sector unions have been the only area of growth for unions for many years, and as we all know, organizations need to grow to survive.

Let me now turn for a moment to some of the serious and fundamental problems with this legislation. For over 70 years, a hallmark of our Nation's labor policy has been the principle that employment and labor relations between a State, city or town, and its own employees, should not be a matter of Federal law, but a matter of local law. That bedrock principle is not only rooted in our national labor policy, it is firmly fixed in our Constitution and our traditions of federalism.

Yet today the proponents of this bill seek to overturn this hallmark principle and to radically change decades of unbroken Federal law and policy. The enormity of this change is only matched by the prospect that it could occur as a result of total disregard for processes of the Senate and the complete absence of any meaningful opportunity for modification.

You would think the Senate would consider such a bill only after careful examination and due deliberation. Sadly, you would be wrong. This legislation has not had a Senate Committee hearing or markup this Congress or the two Congresses before this one. The HELP Committee has never held a hearing on this bill. The bill grants enormous power over States to a virtually unknown Federal agency. Yet we have never so much as asked a representative sampling of State officials for their views, nor have we ever even been informally asked the Federal agency involved if it feels up to the job we would impose on it. These shortcomings alone show that this bill is being pushed not because it is good policy, but because some see it as expedient politics.

This bill would require that every State, city and town with more than 5,000 residents open its police, firefighters and first responders to unionization. It would impose this Federal mandate not in the absence of any State consideration of this issue, but in direct opposition to the legislative will of several States. Proponents of this legislation have attempted to maintain the fiction that it actually does little to disturb State laws. That is simply not the case.

This bill would expressly overturn the law in 22 States. In fact, 16 States have specifically considered and rejected legislative proposals similar to the law that would be federally imposed under this bill in recent years. Some States, such as Wyoming, have chosen to either extend collective bargaining in a more limited manner than the bill before us would mandate, or not to extend it at all.

In this second chart, proponents of this bill have told Senators from States that do have "full" public sector collective-bargaining laws that this bill would not change anything in their respective home States. However, labor experts have identified at least 12 of those States where the viability of one or more provisions of their own current State law would be in question if this bill were enacted. That is the yellow States. Supporters of the bill base their argument on a provision which allows the Federal Board that will be ruling over all these States to ignore instances where the State law is not as broad as the Federal mandate if "both parties" agree that it is sufficient. Make no mistake, this provision is completely hollow.

First, there are hundreds of thousands of "parties" that will have the authority to agree or disagree about