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## United States Senate

SENATE IMPEACHMENT  
 TRIAL COMMITTEE

WASHINGTON, DC 20510-6326

### MEMORANDUM FOR THE RECORD

Wednesday, August 4, 2010

With due notice, the Committee held a pre-trial motions hearing to receive arguments on several issues. As a preliminary matter, the Committee granted Judge Porteous's outstanding motion to withdraw attorneys Samuel Dalton and Remy V. Starns from his defense team. The Committee then heard arguments on the issue of whether the aggregation of multiple allegations in a single article of impeachment is unconstitutional. Next, the Committee heard arguments on the issue of whether transcripts and records from prior judicial and congressional proceedings should be admitted. Finally, the Committee heard arguments on the issue of whether Judge Porteous's previously immunized testimony before the Fifth Circuit Special Investigatory Committee should be admitted. Forty minutes, evenly divided between each side, were allocated for the argument of each issue.

Following the arguments, the full Committee deliberated in closed session on the motions before it.

It was moved, seconded, and agreed to by ten of the twelve Members present that the Committee deny Judge Porteous's motion to dismiss the articles of impeachment as unconstitutionally aggregated.

It was moved, seconded, and unanimously agreed to that the Committee grant in part and deny in part the House of Representatives motion to admit transcripts and records from prior judicial and congressional proceedings. More specifically, the Committee voted to deem admissible any properly designated portions of testimony before the Judicial Council of the U.S. Court of Appeals for the Fifth Circuit and the hearings before the House Judiciary Committee Task Force on Judicial Impeachment. The Committee voted to deny the admission of any testimony that was not subject to cross examination by Judge Porteous, which includes both House Task Force depositions and grand jury testimony.

It was moved, seconded, and agreed to by eleven of the twelve Members present that the Committee admit Judge Porteous's previously immunized testimony for its probative value.

It was moved, seconded, and unanimously agreed to that the Committee deny the House's outstanding subpoena request for Judge Porteous. The Committee reserved the right to call Judge Porteous as a witness at the upcoming evidentiary hearings.

Finally, the Committee unanimously adopted three resolutions directing the Senate Legal Counsel to apply to the United States District Court for the District of Columbia for three immunity orders: one for Rhonda Danos, one for Bruce Netterville, and one for Leonard Levenson. The orders will immunize any testimony Danos, Netterville or Levenson may give as witnesses before the Committee or the full Senate from use in prosecutions other than for perjury, giving a false statement or otherwise failing to comply with the court order.



Erin P. Johnson

Chief Clerk