

Shortly after Viet completed his Supreme Court clerkship, he came to work for the U.S. Senate, where I had the opportunity to work with him for the first time. He quickly demonstrated his outstanding legal ability, superb professional judgment, and fine character.

Professor Dinh's record of achievement continued in academia. Viet currently is a professor of law at Georgetown University, where he is the deputy director of the Asian Law and Policy Studies Program. In addition to his expertise in Asian law, Professor Dinh is accomplished in constitutional law, corporate law, and international law. He has also served as counsel to the special master mediating lawsuits by Holocaust victims against German and Austrian banks.

Since he left the Senate, I have called on him from time to time for counsel on constitutional issues. On each occasion, Viet exhibited a comprehensive knowledge of the law and extraordinary energy.

In closing, I believe that Professor Dinh's character, along with his distinguished academic and professional accomplishments, make him uniquely qualified to serve in the Department of Justice. It is, thus, with great pleasure that I will vote for his confirmation.

Mr. LEAHY. Mr. President, I am prepared to vote in favor of Professor Dinh's nomination to be the Assistant Attorney General for the Office of Policy Development at the Department of Justice. I do so, however, with reservations.

Like other members of the committee, I admire Professor Dinh and his family for the courage they displayed during their extraordinary journey to this country from Vietnam. I also do not question Professor's Dinh's obvious intelligence or his academic achievements. If we were evaluating a nominee for a teaching position, I would vote for him without hesitation.

However, I am concerned by Professor Dinh's relative lack of experience for the position in the Department of Justice for which he has been nominated. One of the major responsibilities of the Office of Policy Development at the Department of Justice, which Professor Dinh has been nominated to head, is the evaluation of the qualifications and fitness of candidates for the Federal judiciary. Yet Professor Dinh, as he concedes, has never appeared as an attorney in a court of law. Aside from being a law clerk and an academic, Professor Dinh's principal real-world experience since graduating from law school in 1993 has been as associate counsel to the Republicans in the Senate Whitewater investigation of President Clinton. While that was no doubt an excellent introduction to the world of partisan politics, it hardly provides a model of the apolitical and unbiased pursuit of justice that ought to characterize the operations of the United States Department of Justice.

I am also concerned by Professor Dinh's testimony about his involve-

ment with the Federalist Society. In answer to questions by Senator DURBIN, Professor Dinh testified that he did not know whether the Federalist Society had a stated philosophy and that he viewed it simply as "a forum for discussion of law and public policy from both sides." (Tr. 71, 73). Yet the Federalist Society itself states quite prominently on its internet website that it is "a group of conservatives and libertarians interested in the current state of the legal order" and concerned with the alleged domination of the legal profession "by a form of orthodox liberal ideology which advocates a centralized and uniform society." I do not, of course, suggest that membership in the Federalist Society should disqualify someone from public office, any more than should membership in other organizations such as the American Civil Liberties Union that seek to promote a particular political philosophy or agenda. Nevertheless, it is simply not accurate to portray the Federalist Society as a non-partisan debating society.

In his writings, Professor Dinh, like other members of the Federalist Society, has condemned what is sometimes called "judicial activism." However, when I asked Professor Dinh in my written questions to cite some specific cases where courts that had occurred, the only example he provided was a California decision from 1854 that dealt with the disqualification of persons of Chinese ancestry from testifying in court. While obviously no one would disagree with Professor Dinh's condemnation of that odious decision, his answer is not particularly enlightening as to what he views as the proper limits on the role of the judiciary in the 21st century. Many legal scholars regard the Supreme Court's decision in *Bush v. Gore* as a recent and obvious example of a court's overstepping its role and improperly injecting itself into the political arena. Yet, when I asked Professor Dinh specifically about that case in my written questions, he stated that, in his opinion, the Supreme Court Justices had "exercised their judgment in a thoughtful and prudent manner given the nature of the case, the rulings below and the constraints of time."

Despite my misgivings, I have decided to vote in favor of Professor Dinh's nomination. I believe that he has answered the Committee's questions. I am giving him the benefit of all doubts and giving deference to the President's decision with respect to this appointed policy position. Moreover, regardless of Professor Dinh's political views and associations, I credit his assurances that he will exercise his judgment based upon the merits of legal positions and judicial candidates he is called upon to evaluate rather than on political ideology.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Viet D. Dinh, of the Dis-

trict of Columbia, to be an Assistant Attorney General? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 168 Ex.]

YEAS—96

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Helms	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Inouye	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NAYS—1

Clinton

NOT VOTING—3

Jeffords Kohl Rockefeller

The nomination was confirmed.

NOMINATION OF MICHAEL CHERTOFF TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the clerk will report the nomination.

The assistant legislative clerk read the nomination of Michael Chertoff, of New Jersey, to be an Assistant Attorney General.

Mr. CORZINE. Mr. President, I am pleased to support the nomination of Michael Chertoff to be Assistant Attorney General for the Criminal Division. Mr. Chertoff has ably served the citizens of New Jersey in numerous capacities, as well as the Department of Justice and indeed the Nation. We will all be fortunate to have his tremendous skills at the helm of the Criminal Division.

Mr. Chertoff has impeccable credentials, not the least of which is being a native New Jerseyan. He attended Harvard College, then Harvard Law

School, where he was Editor of the Harvard Law Review. He then served as a Supreme Court law clerk. In both private practice and public service since then he has developed a reputation as a brilliant, tough, fair, and truly world class litigator, and earned the respect of his peers and adversaries. Indeed, one New Jersey paper has even suggested he might be New Jersey's "Lawyer Laureate." While I should acknowledge that we might not agree on every issue, I consider Mr. Chertoff to be one of the finest lawyers my State has to offer.

From 1990 to 1994, Mr. Chertoff served New Jersey exceptionally well as our U.S. Attorney, where he tackled organized crime, public corruption, health care fraud and bank fraud. Unlike his predecessors, as U.S. Attorney he continued to try cases himself, and his long hours and unending commitment to the job and the citizens of New Jersey were legendary. He tackled the highest-profile cases in a serious and thoughtful manner, and, despite being one of the youngest U.S. Attorneys in the Nation, raised the profile and reputation for excellence of the U.S. Attorney's Office in Newark.

More recently, Mr. Chertoff has played a critical role in helping the New Jersey State legislature investigate racial profiling. As Special Counsel to the State Senate Judiciary Committee, he helped the committee probe how top state officials handled racial profiling by the State Police. His work was bipartisan and thoroughly professional, and helped expose the fact that for too long, state authorities were aware that statistics showed minority motorists were being treated unfairly by some law enforcement officials, and yet ignored the problem.

Mr. Chertoff is one of our Nation's most competent and respected lawyers, with a very distinguished record of public and private service. I urge my colleagues to join me in support of his nomination.

Mr. LEAHY. Mr. President, I am voting in favor of Mr. Chertoff's nomination to be the Assistant Attorney General for the Criminal Division at the Department of Justice.

I have been concerned that Mr. Chertoff, like several of the President's other nominees for top positions in the Department of Justice, has a history of partisan political activities. Mr. Chertoff was special counsel to the Republicans in the Senate Whitewater investigation of President Clinton, which hardly provided a model for the apolitical and unbiased search for justice that ought to characterize the operations of the United States Department of Justice.

Fortunately, however, Mr. Chertoff also has an established track record as a Federal prosecutor apart from his involvement with the Whitewater Committee. More importantly, he has answered the committee's questions about his political activities and has given appropriate assurances that he

will not allow partisanship to influence the exercise of his judgment on the legal merits of questions he will address as the Assistant Attorney General for the Criminal Division. I credit his assurances, and for that reason I am voting for his nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael Chertoff, of New Jersey, to be an Assistant Attorney General? On this question the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) and the Senator from Tennessee (Mr. FRIST) are necessarily absent.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 169 Ex.]

YEAS—95

Akaka	Dorgan	McCain
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Santorum
Burns	Harkin	Sarbanes
Byrd	Hatch	Schumer
Campbell	Helms	Sessions
Cantwell	Hollings	Shelby
Carnahan	Hutchinson	Smith (NH)
Carper	Hutchison	Smith (OR)
Chafee	Inhofe	Snowe
Cleland	Inouye	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	

NAYS—1

Clinton
NOT VOTING—4

Frist	Kohl
Jeffords	Rockefeller

The nomination was confirmed.
● Mr. ROCKEFELLER. Mr. President, I was absent from this afternoon's three confirmation votes on Justice Department officials because of a family funeral. I regret that I was absent for these unanticipated rollcall votes.●

The PRESIDING OFFICER. The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I see a number of Members who may want to speak. I am going to use about 10 minutes. If my colleague has a short statement, or the Senator from Alaska does, I don't want to keep them.

Mr. SESSIONS. Mr. President, I have about a 5-minute statement, but I am pleased to allow the Senator from Connecticut to go first.

Mr. DODD. I thank the Senator.

Mr. SESSIONS. If the Senator will yield, I ask unanimous consent to be recognized after the Senator from Connecticut.

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

The Senator from Connecticut is recognized.

A CHANGE IN THE SENATE

Mr. DODD. Mr. President, I rise for a couple of minutes to briefly discuss the change that occurred today in the Senate and to share some thoughts, if I may.

First, I think I can safely speak for virtually all of us in this Chamber on both sides of the aisle in expressing our affection for our colleague from Vermont. He has been a friend to us for many years. He is known in this body as a good and decent man. I have no doubt that the high esteem in which he has been held will continue.

Secondly, I think it bears mentioning that despite the change in the caucus ratio that will soon occur, the Senate is going about its business today much as it did yesterday and much as I am confident it will in the days to come. That is how this institution functions, and whether ratios change by 1 or 2 in one direction or the other is certainly big political news for some, I guess. My guess is that the substantive work will continue much as it has, with us having to work out differences and compromise to benefit the public at large.

This conduct of business according to established and familiar routines is a good sign that the Senate will to a large degree continue to operate on a bipartisan basis to accomplish the work the American public sent us here to do.

This change will, without a doubt, have an impact on committee ratios, on the subject of hearings and witnesses, and on the substance of legislation we will consider, to some degree. However, just as important, it should—and I believe will—cement the need for bipartisanship in how we conduct our business and in how we govern together