

Let us stand up for our American men and women over there. Let us stop the war profiteers. Let us say no to them, and let us say, if you continue, you are going to go to jail because that is where you belong.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, my amendment does everything that my colleague stated as a desired goal. His amendment goes a step further. This is the reason we have two votes. He establishes a new criterion for a crime that could result in incarceration up to 20 years. It is so vague that I assure you it could not get through the first year of law school. It says you could go to jail if "you materially overvalue any good or service." There is no regulation, no criterion by which to judge that. As a consequence, this body would be enacting a new criminal statute without any hearings, without any thoughtful process, and would subject the contracting community, which numbers in the tens of thousands of individuals supporting the men and women of the Armed Forces all over the world, to this very vague proposed criminal statute.

I urge strongly that you vote against the Leahy amendment.

I regret that, I say to my good friend, but we cannot put on our books this statute. It would be wrong.

Mr. LEAHY. Madam President, my amendment very simply says to the Halliburtons all over the country that you can't profit on the backs of our men and women in Iraq or Afghanistan. We all know that is what it is.

The PRESIDING OFFICER. The Senator's time has expired.

Does the Senator from Virginia yield his remaining 35 seconds?

Mr. WARNER. Yes, Madam President. I yield it knowing that the good wisdom and sound judgment of this body will follow my views.

Mr. LEAHY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—46

Akaka	Byrd	Dayton
Baucus	Cantwell	Dodd
Bayh	Carper	Dorgan
Biden	Clinton	Durbin
Bingaman	Conrad	Feingold
Boxer	Corzine	Feinstein
Breaux	Daschle	Graham (FL)

Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg

Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor

Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine

Dole	Miller
Domenici	Murkowski
Ensign	Nickles
Enzi	Roberts
Fitzgerald	Santorum
Frist	Sessions
Graham (SC)	Shelby
Grassley	Smith
Gregg	Snowe
Hagel	Specter
Hatch	Stevens
Hutchison	Sununu
Inhofe	Talent
Kyl	Thomas
Lott	Voinovich
Lugar	Warner
McCain	
McConnell	

NOT VOTING—2

Edwards Kerry

The amendment (No. 3292) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, this afternoon, while debating my amendment on war profiteering, we became mired in a debate about what is or what is not in the criminal code.

I will not revisit that issue now. However, I will say to the senior Senator from Virginia, who asked from where the language in my amendment originated in the criminal code, that I have more information on that issue that should be to his satisfaction.

First, the term "material" appears in terrorism laws prohibiting "material" support. In fact, all falsity in the criminal code must "material". Pursuant to a Supreme Court ruling, part of proving a false statement must be "material."

Second, the term "overvaluation" is in Title 15 prohibiting "criminally overvaluation" of securities.

Third, with respect to "intent to excessively profit," this is taken, in part, from "significantly profit" in 12 U.S.C. 1297 which criminalizes bank crimes. "Significantly profit" is, in fact, a lower standard than "excessively profit." We erred on the side of caution and raised the standard.

Although I made this point clear during the debate, this should leave no doubt that my amendment is carefully constructed legislation.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, my understanding is we will now go off the bill. We will remain off the bill for the remainder of the evening. We now have three votes on judicial nominations. I stand corrected. After the votes on the three judicial nominations, there is a short matter with Senator SESSIONS. It is in the UC.

Madam President, I ask unanimous consent that the votes for the three judicial nominations be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF WILLIAM S. DUFFEY, JR. TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session, and the clerk will report the first nomination.

The legislative clerk read the nomination of William S. Duffey, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

The PRESIDING OFFICER. There will now be a period of 2 minutes evenly divided on the nomination.

Mr. HATCH. Mr. President, I am pleased today to speak in support of William Duffey, who has been nominated to the United States District Court for the Northern District of Georgia.

Mr. Duffey is a cum laude graduate of South Carolina University Law School, where he had been a member of the Order of the Coif. His illustrious legal career includes a tour of duty in Turkey with the U.S. Air Force; deputy and associate independent counsel with the Office of the Independent Counsel's Whitewater investigation; and a long, successful law practice with the prestigious firm of King & Spalding.

Mr. Duffey is a gifted and experienced attorney whose familiarity with Federal trial procedure will benefit him immensely on the Federal bench. I am confident that he will make a fine jurist on the Federal bench.

Mr. CHAMBLISS. Madam President, I rise in support of the confirmation of William S. Duffey to be a district judge for the North District of the State of Georgia.

Bill Duffey is a well-respected lawyer in our State, one of the best lawyers in the State of Georgia. He has served in private practice. He served in the Judge Advocates Corps of the United States Air Force. He served in the Office of the Independent Council.

For the last 4 years, Bill Duffey has served as the U.S. attorney for the Northern District of Georgia. He comes highly recommended by his peers, by those who have appeared before him, as well as those who have been on the other side in cases.

He is a true gentleman in every sense of the word, an outstanding advocate for the judiciary. He will make an excellent judge, and I ask for his confirmation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, it is interesting, I think I heard one of the

Republican campaign committees talking about Democrats treating the South unfairly on judges. Southern States comprise about 25 percent of the States, but 60 of the nominees, about one-third of the nominees, have come from the South. With my colleagues, I have moved to get virtually all of them through.

Today we are asked to consider the nomination of William S. Duffey, Jr., to the Northern District of Georgia. The ABA found Mr. Duffey to be well-qualified to be a district court judge. He also has the support of both of his home State Senators.

Mr. Duffey is currently serving as the United States Attorney for the Northern District of Georgia. Prior to this Presidential appointment, he was in private practice and served for a number of years under the Office of the Independent Counsel during the 1990s. In this capacity, Mr. Duffey had administrative and general oversight responsibility for investigative activities and staffing in Arkansas. I questioned Mr. Duffey about two speeches he gave about his involvement in the White-water investigation. For example, while serving as the United States Attorney in northern Georgia and using the seal of that office, Mr. Duffey recently gave a speech entitled "White-water, White Powder and White Paper" at a local university. Despite his use of pejorative editorial cartoons, Mr. Duffey claimed that this speech was really about the value of public service. I am somewhat reassured by Mr. Duffey's answers to my questions and hope that if he is confirmed, he will avoid appearances of impropriety and conduct himself in a manner beyond reproach.

I would also note that some have falsely alleged that Democratic Senators have treated Southern nominees unfairly. That is simply untrue. The truth is that Democrats have treated judicial nominees from the South very fairly: Southern States comprise about 25 percent of the States in the Nation, yet out of the 184 judicial nominees of President Bush that we have confirmed as of this vote, 60 nominees, or about one-third, have been appointed to judicial seats in the South. With this vote there will be no vacancies in the entire State of Georgia. Senators on this side of the aisle worked to fill the last vacancy in Georgia. Judge C. Ashley Royal was confirmed December 20, 2001, under Democratic leadership to be United States District Judge for the Middle District of Georgia.

It is very unfortunate that some extreme partisans have tried to divide the American people for political gain with their false accusations that Democratic Senators are anti this group or that group. Democrats have been fair to judicial nominees from all parts of the Nation. We have been far more fair to this President's judicial nominees than Republicans were to the last Democratic President's. Republican Senators blocked more than 60 of

President Clinton's judicial nominees, including several southerners.

I congratulate Mr. Duffey and his family on his confirmation today.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of William S. Duffey, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Indiana (Mr. LUGAR) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 121 Ex.]

YEAS—97

Akaka	Dodd	Lott
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Kohl
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	

NOT VOTING—3

Edwards Kerry Lugar

The nomination was confirmed.

NOMINATION OF LAWRENCE F. STENGEL TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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

The legislative clerk read the nomination of Lawrence F. Stengel, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. There will now be a period of 2 minutes of debate, equally divided.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I have sought recognition to speak in support of the nomination of Lawrence F. Stengel for the U.S. District Court for the Eastern District of Pennsylvania.

Lawrence Stengel, who is currently a State common pleas judge in Lancaster County, PA, comes to this nomination with an outstanding background. He has a bachelor's degree from St. Joseph College in 1974 and a law degree from the University of Pittsburgh in 1980. He has an outstanding record in the practice of law, having maintained a practice as a sole practitioner for some 5 years, which is something in this day and age.

For the past 14 years, he has been a State court judge and has established an enviable reputation in Lancaster County. In addition to his judicial duties, he serves as an adjunct professor at Franklin and Marshall, and also as an adjunct professor at Millersville University, demonstrating his versatility and capability.

I have every reason to expect a strong vote.

I yield back the remainder of my time.

Mr. HATCH. Madam President, I rise today to voice my strong support for the nomination of Judge Lawrence F. Stengel for the United States District Court in the Eastern District of Pennsylvania. Judge Stengel has an impeccable record as both a jurist and practitioner, and this body would be wise to confirm him to the Federal bench.

Judge Stengel comes to the floor with not only my strong support, but also the unanimous support of my colleagues on the Judiciary Committee. Before consideration in the committee, Judge Stengel received a "well qualified" rating from the ABA—the oft quoted "gold standard" for judicial nominees. An alumnus of my alma mater, University of Pittsburgh Law School, Judge Stengel has served with distinction for nearly fourteen years as a Court of Common Pleas Judge in Lancaster, PA. His service on the Court was preceded by 10 years of legal practice, where he focused primarily on civil litigation matters.

Judge Stengel exemplifies excellence in judicial decision making, yet his commitment to enhancing the legal profession does not merely begin and end at the courthouse door. He has had an incredibly positive impact on the legal community outside of the courtroom as well. As president of the Lancaster Bar Association, Judge Stengel formed a diversity task force to investigate ways to increase the number of minority attorneys practicing in Lancaster County. Additionally, Judge Stengel appointed a committee for the creation of the Lancaster Bar Association Foundation—a foundation whose