

alarm about the government's failure to protect property rights. In April it published research that concluded Russia's economic model had been most favourable for investment in 2002 and 2003, before state capitalism started to emerge. Had the climate been maintained, it added, a real investment boom would have boosted industrial output and the economy could have grown at nearly twice last year's 6.4 per cent. Even ministers have weighed in. German Gref, the liberal economy minister, recently warned that the sheer number of deals meant the government could not "keep track of state-controlled firms . . . as they grab market assets."

But is this asset grab the result of ideology—that state control is best—or attempts by officials to line their pockets? Mr. Putin himself has denied that senior officials running state businesses are enriching themselves. Supporters say he put trusted allies into state companies partly to clamp down on corruption—notably Mr. Miller, who has reclaimed \$1 bn of Gazprom assets spirited out of the company's control by Yeltsin-era management.

Yegor Gaidar, the former prime minister who masterminded Russia's post-communist economic reforms, says state control tends to breed corruption. "When you are the owner, you don't cheat the company," he says. "But when it isn't your money but the state's money, being a manager you suddenly find you have a lot of good friends and relatives who could benefit from this money."

Some observers say the process could go further: state managers could become owners through flotations or partial privatisations that would give them the chance to buy shares.

Most analysts agree Mr. Putin was right to break the influence of the 1990s-era oligarchs, which was distorting competition and deforming the development of Russian capitalism. Yet rather than separating political and business interests in a stable system governed by the rule of law, he has created a new class of politically connected business people.

Russia risks becoming locked in a vicious circle of property redistribution and mutating oligarchies. To ensure they do not lose their own assets, those who have gained under Mr. Putin will be prepared to use every resource at their disposal to ensure the election of his chosen successor in 2008.

Mr. WARNER. Mr. President, I understand under the order we now proceed to the final passage of the authorization bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question occurs on passage of the bill as amended.

Mr. LEVIN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Sen-

ator from Wyoming (Mr. ENZI) and the Senator from New Hampshire (Mr. SUNUNU).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—96

Akaka	Dodd	Martinez
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Menendez
Baucus	Durbin	Mikulski
Bayh	Ensign	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Obama
Boxer	Grassley	Pryor
Brownback	Gregg	Reed
Bunning	Hagel	Reid
Burns	Harkin	Roberts
Burr	Hatch	Salazar
Byrd	Hutchison	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Schumer
Chafee	Isakson	Sessions
Chambliss	Jeffords	Shelby
Clinton	Johnson	Smith
Coburn	Kennedy	Snowe
Cochran	Kerry	Specter
Coleman	Kohl	Stabenow
Collins	Kyl	Stevens
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Craig	Leahy	Thune
Crapo	Levin	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lott	Warner
DeWine	Lugar	Wyden

NOT VOTING—4

Enzi	Rockefeller
Lieberman	Sununu

The bill (S. 2766), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, once again I thank colleagues for the unanimous vote, 96 to 0, sending a strong message to the men and women of the Armed Forces.

Mr. LEVIN. We will have more to say on this after the next vote. While everyone is here, I thank our chairman. This is the sixth bill he has brought to the Senate of the United States as chairman. It gets better every time. It gets smoother every time. That is owed to this great Senator from Virginia. We will have more to say about that when we bring the conference report back. A lot of Members need to leave. I want everyone to know before they leave, this Senator is entitled to their thanks.

Mr. WARNER. I thank my distinguished colleague.

Mr. KERRY. First of all, I join in congratulating the managers of this bill.

Very quickly, Senator HAGEL and I had an amendment with respect to the

pay raise of the troops. The House has raised the pay level by 2.7 percent. In this bill, there is a 2.2-percent raise. Senator HAGEL and I sought to equal what the House did and raise it across the board, but it is our understanding that the committee has made the determination, in consultation with people in the services, the needs of the services, that there is a particular problem with respect to retention of noncommissioned officers. Instead of taking that .5 percent differential and spreading it throughout the services, it is the intention of the committee on the Senate side to try to address the retention issue and put that money into noncommissioned officers.

If that is the understanding, I think Senator HAGEL and I, for that reason, will pull back our amendment, and we agree to support the position of the Senate.

Mr. WARNER. Mr. President, the Senator from Massachusetts is correct.

The group that has consulted with the committee staff was the senior enlisted ranks. The problem rests in the senior enlisted ranks, the warrant officer ranks. That is where the targeted money was applied. We will look at it further in conference.

I thank the Senator.

Mr. KERRY. I thank the Senator.

#### EXECUTIVE SESSION

ANDREW J. GUILFORD TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Andrew J. Guilford, of California, to be United States District Judge for the Central District of California.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, today the Senate will confirm two more lifetime appointments to our Federal courts. I am glad that we are voting on Andrew Guilford, who has been nominated to the District Court for the Central District of California and who has the support of his Democratic home State Senators, Mrs. BOXER and Mrs. FEINSTEIN. Frank Whitney, a nominee for the District Court for the Western District of North Carolina, has the support of his Republican home State Senators. Both nominations were reported unanimously by the Judiciary Committee.

I am pleased that the Republican leadership has scheduled debate and consideration of these nominations and am glad that the Republican leadership

is this month taking notice of the fact that we can cooperate on swift consideration and confirmation of consensus nominations. Working together, we confirmed five judges in 1 week earlier this month. We have confirmed three more this week. Many of these judges could have been confirmed last month if the Republican leadership had chosen to make progress instead of picking a fight on a controversial nomination. I look forward to working with the Republican leadership to schedule debate and consideration of other non-controversial nominees.

I, again, commend the Republican Senate leadership for wisely passing over the controversial nominations of William Gerry Myers III, Terrence W. Boyle, and Norman Randy Smith. The Republican leadership is right to have avoided an unnecessarily divisive debate over these nominations that were reported on a party-line vote.

The President and Senate Republican leadership have too often, though, chosen to pick fights over judicial nominations rather than focus on filling vacancies. Judicial vacancies have now grown to well over 40 from the lowest vacancy rate in decades. More than half these vacancies are without a nominee. The Congressional Research Service has recently released a study showing that this President has been the slowest in decades to nominate and the Republican Senate among the slowest to act. If they would concentrate on the needs of the courts, our Federal justice system, and the needs of the American people, we would be much further along.

Still, we have passed several milestones. When the Senate today confirms Andrew Guilford and Frank Whitney as district court judges, the Senate will have confirmed 251 of this President's judicial nominees, crossing the 250 threshold. This milestone is an indicator of how cooperative Senate Democrats have been in confirming this President's nominees. Despite the slow pace of the President and the Republican leadership in filling the needs of the judiciary, the Senate has confirmed more of this President's nominees in the 66 months of his Presidency than the Republican-controlled Senate did in the last 66 months of the Clinton Presidency. During that time, many good nominees were never even given a vote in committee, and only 230 judges were confirmed. That dubious total was the result of their pocket-filibuster strategy to stall and maintain vacancies so that a Republican President could pack the courts and tilt them decidedly to the right. It is a strategy which has been working.

Also with these two nominations, the Republican-controlled Senate will have this year confirmed 24 judicial nominations. That surpasses the number of judges confirmed last year, 22. During the 17 months I was chairman of the Judiciary Committee and the Senate was under Democratic control, we confirmed 100 of President Bush's nomi-

nees. After today, in the last 17 months under Republican control, the Senate will have confirmed 46. So the fact that the Senate has confirmed more nominees in the past 5½ years than in the last 5½ years of the Clinton administration is due in no small part to the much faster pace of confirmations of this President's nominees when Democrats controlled the Senate.

Working together, we could do better. I urge the White House to work with us to select nominees with bipartisan support like Andrew Guilford, rather than explosive partisan nominees like Terrence Boyle. I hope that the Republican-controlled Senate will stop using controversial judicial nominations to score partisan political points. Our courts are too important.

Mr. CRAIG. Mr. President, I regret that I will not be able to vote on the nomination of Andrew Guilford. I have been called back to Idaho because of a family emergency. Had I been present to vote, I would have voted in his favor. It is my understanding that there are no known votes against this nominee, so his certain confirmation will not be affected by my absence.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Andrew J. Guilford, of California, to be United States District Judge for the Central District of California? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Idaho (Mr. CRAIG), the Senator from Wyoming (Mr. ENZI), the Senator from New Hampshire (Mr. GREGG), and the Senator from New Hampshire (Mr. SUNUNU).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—93

Akaka	Coleman	Inhofe
Alexander	Collins	Inouye
Allard	Conrad	Isakson
Allen	Cornyn	Jeffords
Baucus	Crapo	Johnson
Bayh	Dayton	Kennedy
Bennett	DeMint	Kerry
Biden	DeWine	Kohl
Bingaman	Dodd	Kyl
Bond	Dole	Landrieu
Boxer	Domenici	Lautenberg
Brownback	Dorgan	Leahy
Bunning	Durbin	Levin
Burns	Ensign	Lincoln
Burr	Feingold	Lott
Byrd	Feinstein	Lugar
Cantwell	Frist	Martinez
Carper	Graham	McCain
Chafee	Grassley	McConnell
Chambliss	Hagel	Menendez
Clinton	Harkin	Mikulski
Coburn	Hatch	Murkowski
Cochran	Hutchison	Murray

Nelson (FL)	Santorum	Stevens
Nelson (NE)	Schumer	Talent
Obama	Sessions	Thomas
Pryor	Shelby	Thune
Reed	Smith	Vitter
Reid	Snowe	Voinovich
Roberts	Specter	Warner
Salazar	Stabenow	Wyden

NOT VOTING—7

Craig	Lieberman	Sununu
Enzi	Rockefeller	
Gregg	Sarbanes	

The nomination was confirmed.

Mr. WARNER. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### NOMINATION OF FRANK D. WHITNEY TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Frank D. Whitney, of North Carolina, to be United States District Judge for the Western District of North Carolina.

Mrs. DOLE. Mr. President, I am speaking today to offer my unconditional support for the nomination of Frank DeArmon Whitney to serve as a U.S. district judge in the Western District of North Carolina. Mr. Whitney has an impressive record of accomplishment and achievement, and he will make an outstanding judge.

Frank Whitney has deep roots in North Carolina and in public service. He attended Wake Forest University and the business and law schools at the University of North Carolina at Chapel Hill. After receiving his law degree with honors, Frank clerked on the prestigious U.S. Court of Appeals for the District of Columbia Circuit for the Honorable David Sentelle.

Upon completing his clerkship and a year in private legal practice, Frank returned to North Carolina and dedicated himself to public service. For nearly 11 years, he served as an assistant U.S. attorney for the Western District of North Carolina, where he acquired substantial trial experience—both criminal and civil—and earned the abiding respect of his colleagues and peers.

In 2002, Frank was elevated to the post of U.S. attorney for the Eastern District of North Carolina. As a result of his leadership, energy, and enthusiasm, the Eastern District has experienced a period of robust and resounding success. Among his many accomplishments, Frank Whitney has supervised what has been called the most successful public corruption prosecution in North Carolina history. He also has helped prepare Iraqis for the process of drafting a constitution and establishing a judicial system. He has even recovered North Carolina's original copy of the U.S. Bill of Rights, which was stolen from the State capitol in 1865.