

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

TERRORISM RISK INSURANCE ACT OF 2002—Continued

Mr. REID. Madam President, I ask unanimous consent that at 4:30 p.m. the bill now before the Senate be read the third time and the Senate vote on final passage, without intervening action or debate, with the 30 minutes prior to that vote equally divided between Senators DODD and GRAMM, or their designees, and paragraph 4 of rule XII being waived.

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

Mr. REID. Madam President, there are a number of Senators who have expressed a desire to offer amendments. We are anxious to have them come forward. For example, Senator SPECTER can come anytime he wants, except between 12:30 and 2:15, to offer his amendment. We look forward to that. If other Senators wish to do the same, the floor is open for those Senators.

I say to my Republican colleagues, this is the efficient way to do business. We know it was a tightly contested vote to obtain cloture. Senator GRAMM did the right thing in saying we will try to do things in conference or at some later time. This will expedite getting to the Defense authorization bill, which is so important for the country, something that the President and Secretary Rumsfeld have said time and time again we need to do. We will do that. The bill, the Defense authorization bill, should have adequate time to have a full and complete debate. It is always a bill that is controversial, just because of its nature and the size of it in dollars. It is something we will get to and complete before the July 4 recess.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. EDWARDS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. EDWARDS. Madam President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mr. EDWARDS. I ask unanimous consent I be allowed to speak for up to 7 minutes as in morning business.

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

THE ETHICAL RESPONSIBILITY OF LAWYERS AFTER ENRON

Mr. EDWARDS. Madam President, I want to say a few words about the responsibilities of lawyers in corporate America.

In recent weeks we have learned about high-flying corporations that came crashing to the ground after top

executives played fast and loose with the law. And we have heard how ordinary employees and shareholders can lose their life savings when millionaire managers break the rules.

For the most part, the public has focused on the role of the managers and the accountants in allowing this kind of misconduct to happen, and of course that is critical.

But the truth is that executives and accountants do not work alone. Whenever executives or accountants are at work in America today, lawyers are looking over their shoulders. And if the executives and accountants are breaking the law, you can be sure part of the problem is that the lawyers aren't doing their jobs. The findings of the jury in the Andersen case only highlight the role of lawyers in American business today.

I know from personal experience what the responsibility of a lawyer is. I was proud to practice law for 20 years. I was proud to fight for my clients, regular people who had been wronged by powerful interests. When I took on a client, I recognized my duty to that client: to represent him or her zealously, but to do so within the limits of the law.

The lawyers for a corporation—the lawyers at an Enron, for example—they have different kinds of clients from the clients I had. But they have the same basic responsibility: to represent their clients zealously, and to represent them within the limits of the law.

My concern today is that some corporate lawyers—not all, but some—are forgetting that responsibility.

Let me get a little more specific. If you are a lawyer for a corporation, your client is the corporation. You work for the corporation and for the ordinary shareholders who own the corporation. That is who you owe your loyalty to. That is who you owe your zealous advocacy to.

What we see lawyers doing today is sometimes very different. Corporate lawyers sometimes forget they are working for the corporation and the shareholders who own it.

Instead, they decide they are working for the chief executive officer or the chief operating officer who hired them. They get to thinking that playing squash with the CEO every week is more important than keeping faith with the shareholders every day. So the lawyers may not do their duty to say to their pal, the CEO, "No, you cannot break the law."

In my view, it is time to remind corporate lawyers of their legal and moral obligations—as members of the bar, as officers of the courts, as citizens of this country.

The American Bar Association ought to take a leading role here, something they have not done thus far.

The Securities and Exchange Commission has an essential part to play as well. For some time, the SEC promoted the basic responsibility of lawyers to take steps in order to stop corporate

managers from breaking the law. The rule for lawyers that the SEC promoted was simple: If you find out managers are breaking the law, you tell them to stop. And if they won't stop, you go to the board of directors, the people who represent the shareholders, and you tell them what is going on.

After promoting the simple principle that lawyers must "go up the ladder" when they learn about misconduct, the SEC gave up the fight. They gave up the fight in part because the American Bar Association opposed their efforts.

In my view, it is time for the ABA and SEC to change their tune. Today I am sending a letter to the Chairman of the SEC, Harvey Pitt, asking him to renew the SEC's enforcement of corporate lawyers' ethical responsibility to go up the ladder.

In answer to a petition from 40 leading legal scholars, the SEC has already signaled that it probably will not take up the challenge I am talking about. I believe that is wrong. If Mr. Pitt responds to my inquiry by saying that the SEC plans to do nothing, then I believe we will probably need to move in this body to impose the limited responsibility I have discussed.

I ask unanimous consent that the full text of my letter to Mr. Pitt be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, June 18, 2002.

Hon. HARVEY PITT,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN PITT: I am writing to you about the responsibilities of lawyers under the federal securities laws.

In the wake of the Enron scandal, the public has focused on the role of accountants in maintaining the integrity of our free market system. In my view, it is time to scrutinize the role of lawyers as well. When corporate managers are engaged in damaging illegal conduct, the lawyers who represent the corporation can sometimes stop that conduct simply by reporting it to the corporate board of directors. Yet lawyers do not always engage in such reporting, in part because the lawyers' duties are frequently unclear. While the lawyers' inaction may be good for the inside managers, it can be devastating to the ordinary shareholders who own the corporation.

The American Bar Association's Model Rules of Professional Responsibility have not recognized mandatory and unambiguous rules of professional conduct for corporate practitioners, and rules at the state level are varied and often unenforced. During the 1970s and 1980s, as you know, the SEC instituted proceedings under Rule 2(e) (now rule 102(e)) to enforce minimum ethical standards for the practice of federal securities law. The SEC has since stopped bringing these types of actions. On March 7, 2002, forty legal scholars wrote a letter to you suggesting, among other things, that the Commission require a lawyer representing a corporation in securities practice to inform the corporation's board of directors if the lawyer knows the corporation is violating the Federal securities laws and management has been notified of the violation and has not acted promptly to rectify it. In a March 28, letter, your then-general counsel, David M. Becker,

indicated that, absent congressional action, the SEC would leave this matter to state authorities.

It seems to me that a lawyer with knowledge of managers' serious, material, and unremedied violations of federal securities law should have an obligation to inform the board of those violations. Particularly in view of the uncertainty surrounding current ABA and state rules, my view is that this obligation should be imposed as a matter of federal law or regulation. Recognition and enforcement of this important but limited obligation could prevent substantial harms to shareholders and the public.

I would appreciate receiving your answers to the following two questions at your earliest convenience:

1. Absent further congressional action, does the SEC plan to act to enforce a minimum standard of professional conduct for lawyers in securities practice along the lines I have suggested?

2. If your answer to the preceding question is no, would you be willing to assist me in carefully crafting legislation to impose this duty on lawyers?

I look forward to hearing from you.

Yours Sincerely,

JOHN EDWARDS.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BAYH).

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the vote now scheduled for 4:30 be set at 4:45 today, with the remaining provisions of the unanimous consent agreement in effect.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

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

IN MEMORY OF DR. RICHARD J. WYATT

Mr. DOMENICI. Mr. President, it is with great sadness that I rise today to remember a man who played such an important role in mental health. I would like to make a few remarks to honor Dr. Richard J. Wyatt, a friend of mine and my wife and my family and a distinguished advocate for the mentally ill.

On Friday, June 7, 2002, the mental health community lost an inspirational researcher and leader in the field of mental health to a long battle with cancer. Throughout his career, Dr. Wyatt received numerous awards and honors and was highly respected among his colleagues. He served as the chief of the Neuropsychiatry Branch at the National Institutes of Mental Health.

For 33 years, Richard played a leading role in understanding the biological basis of mental illness. His work pioneered the view that Schizophrenia is not the result of bad parenting or frailty of character, but it is due to a diagnosable and treatable disorder of the brain. This creative understanding of the basis of brain disease led to new treatments with antipsychotic medicines easing the burden of the disease.

In addition, Richard and his wife, Dr. Kay Jamison, worked to end the stigma attached to mental diseases. Richard focused on research and the biological effects of Schizophrenia. Kay wrote books about her personal struggles with depression and how to overcome it. Together, they co-produced a series of public television programs that provided information on manic depression. All of their efforts helped to raise public awareness of brain disorders.

Not only did Dr. Wyatt receive praise for his work on mental health, but he was a strong and courageous individual who fought a lifelong battle with cancer. In a letter to a friend diagnosed with cancer, Dr. Wyatt candidly discussed his experiences and shared his insights into overcoming this disease.

Mr. President, I ask for unanimous consent that the February 13, 2001, Washington Post article entitled, "Words to Live By" be printed in the RECORD following my remarks. I believe this article is truly inspiring and exemplifies the qualities of this extraordinary individual.

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

(See exhibit No. 1.)

Mr. DOMENICI. From myself and my wife, Nancy, we wish to express our heartfelt condolences to Richard's friends and family. To his wife, Kay, we send our greatest sympathies for the loss of your husband, and we thank you for your work as well. Dr. Wyatt's strength of character, and his compassion and work on behalf of the mentally ill will truly be missed.

EXHIBIT No. 1

[From the Washington Post, Feb. 13, 2001]

WORDS TO LIVE BY

Drawing on knowledge born of hard experience, Washington psychiatrist Richard J. Wyatt penned this personal note of advice after a close friend and fellow physician was diagnosed with cancer. A cancer veteran himself, he underwent two years of aggressive radiation and chemotherapy to fight Hodgkin's disease in his thirties. When at age 60 he was diagnosed with Burkitt's lymphoma, he withstood another course of chemo and a bone marrow transplant. Since he wrote the letter, he's begun a third fight—this time against lung cancer. In the letter's introduction, he voices the hope that the "battle-won knowledge" he offers here "will help others facing this difficult journey."

DEAR JIM, I wouldn't have the audacity to write this if I hadn't fought cancer three times myself. But maybe you'll find the following advice helpful. I also offer the comforting and indisputable fact that I am here today to offer it.

Try not to sweat the big things. Once you have made the decision to put yourself in the

hands of a good oncologist, it is his or her job to fret. If you find that you are second-guessing him on big issues, you have the wrong person. Your job is to concern yourself with the small things. It also helps to find a treatment facility that makes you feel secure. I was treated at Johns Hopkins. The doctors, as I expected, were superb. And one cannot say enough about the quality of the nursing care at Hopkins. Everyone, including the housekeepers, takes pride in their work.

Finally, as you know from the adage, a doctor who is his own doctor has a fool for a patient. In short, despite the temptation, do not try to compete with your doctor. How to choose an oncologist: Carefully. Most people have no basis for choosing a specialist other than the recommendation of their internist or family physician. In most cases this works well. My internists are superb, and they could not have been more helpful at a number of important stages of my care. But they have only a limited number of people they know well enough to make referrals to.

The local oncologist is unlikely to have treated Burkitt's lymphoma or other unusual cancers, and even if he has some experience, it is likely to be slim. And he won't have the support team to deal with the many complexities that will arise.

You want to be at an academic center where there is a great deal of experience, and where nobody does anything without it being questioned. The local oncologist can work with the academic oncologist, particularly if there is a geographic distance involved. The question I would ask, probably of the local oncologist, is, "Who would you ask to treat your family member if he or she could go anywhere in the country?"

Do not be shy about this, and do not worry about offending your doctors by asking such questions. This may be among the most important questions you ever ask.

As an aside, when I went out to Stanford for my Hodgkin's treatment, the radiation oncologist there said he could do better than the other people I was considering when I asked him this question. The other oncologists I was considering were as good as they get. But the Stanford doc turned out to be one of the best physicians I have come across. His well-placed self-assurance probably saved my life.

Protect your veins. This is one of those small things I told you that you should worry about. Think of every venipuncture as a nosebleed where you must apply continuous pressure to the puncture wound for five minutes, even though the person drawing your blood will want to just put a bandage on it. Your arm will soon enough look like a maple tree in the fall, but there is no need to hurry the seasons. Try to get as much out of a single needle stick as possible. If you are going to need blood drawn twice in the same day, a device (a heparin lock) can be left in your arm which will prevent the need for a second stick. And start squeezing rubber balls. My arm veins have never been better.

A bad hair year. I have noticed that neither of us has high-maintenance hair. As far as I'm concerned, the only reason for having hair is to keep our heads warm. (If I were a woman, I might feel differently.) You have the wisdom to live in a warm climate, but when it does get cold, wear a hat. One of my fellow patients tied a bandanna around his head, which I thought looked pretty snazzy, but because of some medication-induced numbness and tingling in my hands, I was having enough trouble with buttons and shoelaces.

And there are some major benefits to hair loss. If all goes well, you have many months of not shaving. Just think of Yul Brenner and Michael Jordan. And James Carville. You will not be experiencing the radiation I