

nominations en bloc: Calendar Nos. 616, 617, 618, 619, and 620; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table with no intervening action or debate, en bloc; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jacqueline A. Berrien, of New York, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2014.

Chai Rachel Feldblum, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2013.

P. David Lopez, of Arizona, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

Victoria A. Lipnic, of Virginia, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 2010.

Victoria A. Lipnic, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2015.

NOMINATION OF LOUIS BUTLER

Mr. KOHL. Madam President, I am deeply disappointed that the Senate has failed to vote on Louis Butler's nomination to the district court for the Western District of Wisconsin. The partisan bickering that has prevented a debate and vote on several district court nominees is a stark reversal of Senate tradition and practice.

Justice Butler is exceptionally well qualified for the Federal bench. By dint of hard work and perseverance, Justice Butler rose from humble beginnings to be an accomplished lawyer, advocate, trial court judge, Wisconsin Supreme Court justice, and professor. Few nominees have such a strong record of public service. Justice Butler's career has been distinguished by the years he has spent fulfilling the Constitution's guarantee of an attorney and fair trial for all Americans, rich and poor alike. He cut his teeth as a young lawyer representing defendants who could not afford legal representation. As a trial court judge, he earned a reputation for being a tough but fair jurist and was recognized as a top Milwaukee judge.

Justice Butler was the first African American to sit on the Wisconsin Supreme Court and he served there with distinction for 4 years. During his time on the court, he participated in hundreds of cases, many of which were decided by a unanimous or near-unanimous court. He proved himself to be a hard-working, thoughtful and consensus-building justice.

We ask our judges to make the most difficult decisions in the closest cases, neither an easy nor simple task. Over the course of Justice Butler's tenure as a trial judge and a State supreme court

justice, he has faithfully carried out this duty by following the law with the impartiality, integrity and respect that we demand of a judge. Justice Butler has an impressive legal background that would serve our Federal bench well. Indeed he is a very fine man. He is deeply committed to the law, to his community, and to his family.

Justice Butler's nomination proves once again that the process we use in Wisconsin to choose Federal judges and U.S. attorneys ensures excellence. The Wisconsin Federal Nominating Commission has been used to select Federal judges and U.S. attorneys in Wisconsin for 30 years. Through a great deal of cooperation and careful consideration, and by keeping politics to a minimum, we always find highly qualified candidates like Justice Butler.

I believe that Justice Butler would make a fine addition to the Federal bench, and I regret that he and other district court nominees have not been given the up-or-down votes that they deserve.

NOMINATIONS OF GOODWIN LIU AND EDWARD CHEN

Mrs. FEINSTEIN. Madam President, I rise today to discuss two promising Asian-American judicial nominees from my State of California who have been denied simple, straightforward up-or-down votes on the floor of this body for what I believe are very spurious reasons.

Goodwin Liu is associate dean and professor of law at the University of California, Berkeley, Boalt Hall School of Law. He has a truly outstanding record as a great legal mind:

Phi Beta Kappa from Stanford and co-president of the Student Body; a Rhodes Scholar at Oxford; a J.D. from Yale Law School and an editor on the Yale Law Journal; judicial clerkships on the D.C. Circuit and the U.S. Supreme Court; recipient of both the Education Law Association's Award for Distinguished Scholarship and the University of California at Berkeley's highest award for teaching.

Recognizing his brilliance, President Obama chose Professor Liu for a seat on the Court of Appeals for the Ninth Circuit.

I have met personally with Goodwin Liu on several occasions, including a 4-hour discussion. I had him to my home for dinner. His status as a first-rate legal mind is undeniable.

And his support for this nomination is legion:

Justice Ruth Bader Ginsburg, former judge and Solicitor General Ken Starr, leading conservative lawyer Clint Bolick, California Correctional Peace Officers Association, 34 former prosecutors, Numerous education leaders, including former Secretary of Education Richard Riley and Joel Klein, the Chancellor of the New York City schools, and Numerous representatives of the Asian-American community.

One set of support was particularly impressive to me. In the only time that I have seen the serving president and

two former presidents of a major university write in support of a nominee or issue, the three most recent presidents of Stanford University, John Hennessy, Gerhard Casper, and Donald Kennedy, wrote to support Professor Liu's nomination, saying, in part:

Goodwin Liu as a student, scholar, and trustee has epitomized the goal of Stanford's founders, which was "to promote the public welfare by exercising an influence on behalf of humanity and civilization, teaching the blessings of liberty regulated by law, and inculcating love and reverence for the great principles of government as derived from the inalienable rights of man to life, liberty and the pursuit of happiness." We highly recommend Goodwin Liu for the honor and responsibility of serving on the United States Court of Appeals for the Ninth Circuit.

I admit that some of Professor Liu's writing have been questioned by conservatives. It is true that Goodwin Liu would not be a conservative judge. However, I do not believe that he would be an activist judge.

As I have watched debates over the judiciary in my eighteen years in the Senate, the perception of "judicial activism" is for the party on the other side. Many believe that this current Supreme Court under Chief Justice Roberts is one of the more activist courts ever. It is indisputable that it has overturned many precedents that had stood for decades.

Goodwin Liu deserves to have a fair up-or-down vote, as other controversial circuit court nominees have received. If a senator opposes his nomination, let them vote against him. That is what we are here for—to cast our votes yea or nay, up or down. But don't let Professor Liu die on the calendar, without even having the courage to give him a vote.

Even worse in many ways is the similar treatment that Magistrate Judge Edward Chen has received. I recommended Judge Chen for a judgeship in the Northern District of California. If confirmed, he would be the first judge of Chinese descent to serve in this district, with its notable Chinese heritage.

This would not be a novel role for Judge Chen: for the past 9 years, he has served as a magistrate judge on this same court. And his service there has been impeccable, and apparently unsailable: he has written more than 350 published opinions in that time, and there has not been an objection to a single one of them.

But opponents of his nomination are hanging their hat on one quote from him, taken out of context.

One of the darkest chapters in this country's history was the wholesale internment of Japanese-Americans during World War II. The Supreme Court upheld this heinous practice in the notorious case of *Korematsu v. United States*. In 1988, Congress passed and President Reagan signed the Civil Liberties Act and issued a formal apology for the internment. Before serving as a magistrate judge, Ed Chen represented the name party in that case, Fred

Korematsu, in his successful effort to overturn his conviction for defying the internment order.

In 2005, Judge Chen attended Mr. Korematsu's funeral, and spoke about it a month later to law students. The line that critics have seized upon came from this speech, where Judge Chen said that, while listening to the congregation sing "America the Beautiful" at the funeral, he sometimes had "Feelings of ambivalence and cynicism when confronted with appeals to patriotism—sometimes I cannot help but feel that there are too much [sic] injustice and too many inequalities that prevent far too many Americans from enjoying the beauty extolled in that anthem."

But the critics omit what Chen said right after that quotation:

Yet I was moved to tears at Fred's memorial. Why? In part, Fred was a living example of the patriotism embodied in the song. Korematsu demonstrated that patriotism not by waving an American flag, but by trying to vindicate the values and principles that are embodied in that flag: freedom, justice and equality under the law. . . . I was also moved not only because "America the Beautiful" echoed what I saw [in] Fred. It was also because the song described the America that Fred envision[ed]. The America whose promised beauty he sought to fulfill, an America true to its founding principles.

Judge Chen didn't object to singing "America the Beautiful"—he was moved to tears by it.

Judge Chen's nomination enjoys widespread support, with extensive support from the law enforcement community, including: San Francisco Deputy Sheriffs' Association, Northern Alliance of Law Enforcement, which represents 20 different law enforcement associations in Northern California, Peace Officers Research Association of California, 11 former Federal prosecutors for the Northern District of California and former San Francisco Chief of Police Anthony Ribera.

And the list goes on.

He also has widespread support from the bar, including the Bar Association of San Francisco, Hispanic National Bar Association, and many others.

Yet despite this support, his nomination has been subjected to repeated, exceptional delay and obstruction, even being returned to the President during congressional recesses.

The day was when district court nominees supported by both home State Senators with extensive law enforcement and legal community support were confirmed routinely. It is time now to end this delay and obstruction, give Ed Chen the fair up-or-down vote he so richly deserves, and confirm this well-proven, qualified nominee to the Federal district court.

NOMINATION OF BERYL HOWELL

Mr. LEAHY. I want to say a few words about one of the highly qualified nominees belatedly confirmed by the Senate today. Beryl Howell has been

confirmed to fill a vacancy on the District Court for the District of Columbia. Many of us on the Judiciary Committee remember her from the 10 years she served as my general counsel and as one of the most effective members of our Judiciary Committee staff. With her background as a highly decorated Federal prosecutor, she worked on issues ranging from criminal justice and national security, to the Digital Millennium Copyright Act, the Anti-Cybersquatting Consumer Protection Act, and the No Electronic Theft Act. She worked on the National Information Infrastructure Protection Act and the computer fraud and abuse statute, and on important oversight matters including the Judiciary Committee's bipartisan hearings on Ruby Ridge that led to improvements at the Federal Bureau of Investigation, FBI. She also played important roles in electronic freedom of information initiatives, which earned her induction into the Freedom of Information Act Hall of Fame.

When I had the chance to introduce Ms. Howell to the committee at her hearing in July, I discussed her impressive background before she joined the committee staff. She grew up in a proud military family. She was awarded her undergraduate degree with honors in philosophy from Bryn Mawr College in Pennsylvania, and earned her law degree at Columbia University School of Law, where she was a Harlan Fiske Stone Scholar. She clerked for Judge Dickinson Debevoise on the U.S. District Court for the District of New Jersey.

Having worked as a student assistant in a U.S. Attorney's Office, she joined the U.S. Attorney's Office for the Eastern District of New York in 1987, working there almost 6 years, rising to be the Deputy Chief of the Narcotics Section. Her grand jury investigations and prosecutions included complex public corruption, narcotics, and money laundering cases.

Descriptions of her cases read like crime novels. She successfully prosecuted the leadership of a Chinatown gang, called the Flying Dragons, for heroin trafficking, and extradited the head of the gang after he fled to Hong Kong. She successfully prosecuted a group of Colombian drug dealers and arrested the gang members just as they were packing almost \$20 million in cash from narcotics proceeds into a hidden compartment of a truck to smuggle it out of the country. Then some of these defendants attempted a prison escape by bribing officials, and she successfully prosecuted the perpetrators of the escape plan. She also handled the successful investigation and prosecution of over 20 corrupt New York City building inspectors engaged in extortion.

Ms. Howell's work was recognized by her twice being awarded the U.S. Attorney Special Achievement Award for Sustained Superior Performance, by commendations from the FBI, DEA,

and the New York City Department of Investigation, and ultimately by the prestigious Attorney General's Director's Award for Superior Performance. I always felt lucky to have hired her.

Ms. Howell's career since she left us 7 years ago has been equally impressive. She established the Washington, DC, office of a consulting and technical services firm specializing in digital forensics, computer fraud, and abuse investigations as the Executive Managing Director and general counsel of Stroz Friedberg. While in the private sector, she received the FBI Director's Award for her work assisting in a Government cyber-extortion investigation.

Ms. Howell has twice been confirmed by the Senate to serve as a member of the bipartisan U.S. Sentencing Commission, to which she was appointed by President Bush. She contributed to the Sentencing Commission report that led to our breakthrough this year with Senate passage of historic legislation that Senator DURBIN crafted to end sentencing disparities, the Fair Sentencing Act.

She and her husband have raised their three children in the District and are long-time citizens here. That involvement, her public service background, and her steadfast commitment to justice make her an ideal nominee. I commend President Obama for choosing to nominate her. I thank the committee for acting to favorably report her nomination unanimously in September. I am glad the Senate has now followed suit and confirmed her unanimously to serve all the people of the District of Columbia fairly and impartially as a U.S. district court judge.

Mr. MCCONNELL. Madam President, I am pleased the Senate in this Congress was able to make good progress on filling judicial vacancies, especially those vacancies that the Democratic majority unfortunately and sometimes inexplicably failed to fill during the last 2 years of the Bush Administration.

The progress we have made is especially noteworthy given the demands placed upon the Judiciary Committee by having to process not one, but two, Supreme Court nominations. The Sotomayor and Kagan nominations together took approximately 6 months of the Committee's time. Nevertheless, the Senate was able to confirm a total of 60 lower court nominations in this Congress, including 19 nominations while the Kagan nomination was pending. By comparison, the last time the Senate had to process two Supreme Court nominations in the same Congress, which were the Roberts and Alito nominations during the 109th Congress, the Senate was able to fill only 51 lower court judicial vacancies, and it confirmed far fewer lower court nominations while the Roberts and Alito nominations were pending.

This Congress was also able to fill some long-standing vacancies, especially on our courts of appeals. At the end of the Bush administration, there