

that could encourage government bureaucrats to stop any and all permits, and that would be a terrible outcome.

The fact is, neither the legislation we will vote on today nor the legislation we voted on yesterday addresses the bigger issue that our Nation must declare its independence from foreign oil. We can only do that by developing a true national plan for energy independence.

I have come to this floor many times to urge my Republican and Democratic colleagues to work with me to put together an energy plan that works for all of America. In fact, just last week, I came here to address the importance of expanded domestic drilling. I truly believe this Nation needs to develop all of our domestic resources, whether it is drilling for oil or natural gas, mining coal, producing wind and solar, developing better nuclear, biomass, or geothermal so that we can declare our energy independence within a generation. But in developing and pursuing a national energy plan, we cannot lose sight of our commonsense values and our priorities.

This bill falls short of those commonsense priorities, but I assure my colleagues that I will work with any Senator from either party who will try to create a national energy policy that will truly help the Nation achieve energy independence.

I thank all of my colleagues, and I hope we will be able to work together to move this Nation forward for true energy independence.

Mr. President, I yield the floor, and 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. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ROCKEFELLER. Mr. 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 on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

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

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—42

Alexander	Chambliss	Crapo
Ayotte	Coats	Enzi
Barrasso	Coburn	Graham
Blunt	Cochran	Grassley
Boozman	Collins	Hatch
Brown (MA)	Corker	Heller
Burr	Cornyn	Hoeven

Hutchison	Lugar
Inhofe	McCain
Isakson	McCormack
Johanns	Moran
Johnson (WI)	Murkowski
Kirk	Paul
Kyl	Portman

NAYS—57

Akaka	Harkin	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Shelby
Carper	Lee	Snowe
Casey	Levin	Stabenow
Conrad	Lieberman	Tester
Coons	Manchin	Udall (CO)
DeMint	McCaskill	Udall (NM)
Durbin	Menendez	Vitter
Feinstein	Merkley	Warner
Franken	Mikulski	Webb
Gillibrand	Murray	Whitehouse
Hagan	Nelson (NE)	Wyden

NOT VOTING—1

Baucus

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 57. Under a previous order requiring 60 votes for the adoption of this motion, the motion is withdrawn.

The majority leader.

#### EXECUTIVE SESSION

#### NOMINATION OF GOODWIN LIU TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 80, the nomination of Goodwin Liu, of California, to be U.S. Circuit Judge for the Ninth Circuit; further, that on Thursday, May 19, following morning business, the Senate resume consideration of the nomination and the time until 2 p.m. be equally divided in the usual form prior to a cloture vote on the nomination as under the previous order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, I ask unanimous consent to speak as in morning business for 2 minutes.

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

#### CALLING FOR THE RESIGNATION OF DOMINIQUE STRAUSS-KAHN

Mr. KIRK. Mr. President, I rise today to call for the resignation of Mr. Dominique Strauss-Kahn, head of the International Monetary Fund. The criminal allegations against Mr. Strauss-Kahn are alarming and undermine confidence in the institution at a critical juncture in our economic his-

tory. Mr. Strauss-Kahn has forfeited our confidence and should resign or be fired from his position at the IMF.

Over the last 2 years, the IMF presided over the European debt crisis, which included controversial bailouts of Greece, Ireland and Portugal. I remain especially concerned about the U.S. taxpayer share of funding these European bailouts and American taxpayers' exposure to new sovereign risks. While I have questions about the actions taken by the IMF to handle the debt crisis, the institution's role in our global financial system requires strong leadership.

The IMF's Deputy Managing Director, John Lipsky, should assume full responsibility of the IMF and the process to determine a permanent replacement should commence at once. I encourage U.S. Executive Director of the IMF, Meg Lundsager, to strongly advocate for Mr. Strauss-Kahn's resignation or termination and aid in the search for a more worthy replacement.

The PRESIDING OFFICER. The Senator from Ohio.

#### TRADE ADJUSTMENT ASSISTANCE

Mr. BROWN of Ohio. Mr. President, I appreciate the courtesy of the senior Senator from Virginia who is about to speak. I will be brief.

I wish to applaud the President today on his comments and the administration's comments, especially the comments of Trade Ambassador Kirk and Gene Sperling, the President's top economic adviser. They have made it clear they will not submit the three free trade agreements—one with Colombia, one with Panama, and one with South Korea—until legislation has come to their desks to take care of the issue of trade adjustment assistance.

This Congress, because of some objections on the other side of the aisle, allowed the trade adjustment assistance language to expire in February. That simply means many workers who lost their jobs because of free trade agreements, or lost their jobs because of trade—not necessarily the countries we had trade agreements with—were going to get some assistance so they could, in fact, be retrained so they could go back to work. Losing their jobs had everything to do with what happens in other ways but has nothing to do with their job performance or even their company's job performance.

The President made the right decision by saying we are not going to move forward with these free trade agreements. I don't much like them, but that is not the point. We are not going to move forward until we have helped these workers find jobs.

Second, we are going to make sure, as Senator CASEY and I have said on the floor before, that the health coverage tax credit is also renewed. That matters, to be able to continue the health coverage of many workers.

And, third, that the work of Senator WYDEN, Senator STABENOW, and Senator MCCASKILL will continue, to work on trade enforcement in making sure

these trade rules and trade laws that are in effect will actually be in force so we can protect American jobs.

When we pass these trade agreements, they always cost us jobs. It is about time we take care of workers and communities that suffer from it.

I thank Senator WEBB, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I wish to speak today on the pending nomination of Professor Goodwin Liu for a seat on the Ninth Circuit Court of Appeals. Regrettably, I will be voting against this nomination for reasons I will explain. At the same time, I wish to emphasize my profound respect for this institution and for my fellow Senators from both parties, and I believe it would be wrong to vote against a cloture motion whose intent is to proceed with debate on the merits of one who has been nominated to be a judge. I made this point loudly and clearly when the nomination of one of my Virginia constituents, Barbara Keenan, was filibustered. Philosophical consistency—and my admiration and respect for all the work Chairman LEAHY has been doing in order to fill the many vacancies in our Federal court system—compel me to vote to proceed with the debate on Mr. Liu, but I do not, however, intend to vote in favor of his confirmation.

I have met with Mr. Liu. I have read many of his writings and most of the testimony from his two confirmation hearings. He is clearly talented and whatever he ends up doing, he is certain to have a long future in our country. He also has been blessed beyond words by the goodness of our society. Both his parents came to this country already as physicians. He attended our finest universities. He was a Rhodes scholar. He is a Yale Law School graduate, and he has spent almost his entire career as a talented, if somewhat controversial, professor of law. When I met with Mr. Liu I found him to be personable and clearly bright.

But intellect in and of itself does not always give a person wisdom, nor does it guarantee good judgment, and the root word of judgment is, of course, judge. This is our duty today: to decide whether Professor Liu's almost complete lack of practical legal experience, coupled with his history of intemperance, politically charged statements, allows us a measure of comfort and predictability as to whether he would be fair and balanced while sitting on one of the highest courts in the land. Mr. Liu's temperament and his frequently strident political views have been called into question by many well-intentioned observers, including my respected colleague, Senator LINDSEY GRAHAM, who, like myself, voted in favor of both Justices Sotomayor and Kagan. Senator GRAHAM concluded that Professor Liu seems better fit for a life in politics rather than on the bench. My own concern is that we in the Senate have no

real ability to know whether Mr. Liu would temporize these views or conduct himself in a different manner if he were to be given a seat in one of the highest judicial positions in our country.

The list is long, and time is short, but I would summarize my concerns through two observations.

The first involves Professor Liu's public comments regarding Supreme Court Justice Alito, which I know will be repeated by others. Mr. Liu's view was that:

Justice Alito's record envisions an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse . . . where a black man may be sentenced to death by an all-white jury for killing a white man . . . I humbly submit that this is not . . . the America that we aspire to be.

Obviously, I share the view of many others that whether one agrees or disagrees with Justice Alito's view of the Constitution, this is hardly a fair representation of his view of our society.

The second observation is more telling and it goes to the America we all should aspire to be: an America where every person, regardless of race, creed, national origin, or personal circumstances, has the same opportunities to succeed to the full extent of their potential. Let me make a point that a lot of people seem uncomfortable with in speeches on this floor. That means White people too. Economic disadvantage is not limited to one's race, ethnic background, or time of immigration to America. When it comes to policies that are designed to provide diversity in our society, we do ourselves an enormous injustice by turning a blind eye to the wide variance among White cultures as we discuss greater representation from different minority groups.

For all of his emphasis on diversity programs, I do not see anywhere that Mr. Liu understands this vital point. In fact, one tends to see the opposite. In 2004, Mr. Liu made a speech at an American Constitution Society Conference. In this speech he mentioned: "The power of the courts to influence society, . . . the power of legal principle to ratify inequality." He then went on to comment:

If we work hard, if we stick to our values, if we build a new moral consensus, then I think someday we will see Millikan, Rodriguez, Adarand, be swept into the dustbin of history.

So we know, first, that Mr. Liu wants to use the courts to influence society and to ratify his view of inequality. OK. How does that fit into Adarand being swept into the dustbin of history?

What was Adarand about? Well, it was about Randy Pech, one of five kids born to a welder and a mom, whose family had lost their farm in Iowa during the Great Depression. The mom then worked as a sales clerk in a department store. Neither of them had ever gone to college. Mr. Pech left college after 3 years and started a com-

pany that put up guardrails along highways. His startup was the money he would have used in his fourth year of college and his loan was accomplished by using his parents' retirement pensions as collateral. He made a bid as a subcontractor on a highway construction project in Colorado that was by far the lowest bid, but he lost to a minority-owned company because our own government was paying bonuses to contractors who made subcontracts with so-called "disadvantaged businesses," and Mr. Pech happened to be White. The Supreme Court decided that this was wrong and decided in Mr. Pech's favor, although the Civil Rights Commission pointed out 10 years later that the Supreme Court's decision was still not being complied with by Federal agencies.

Mr. Liu offered an explanation for his comments during his confirmation process, but taken in the context of his other remarks, I find that statement unconvincing.

Last July I wrote an article in the Wall Street Journal saying that while I continue to support the original goal of affirmative action, which was to assist African Americans who still suffer the badges of discrimination and slavery, it is time for us to recognize that we harm ourselves any time we cut away any person or group from the opportunity to reach their full potential in our wonderful and unique society. As one can imagine, I got a few questions from some groups about this article, so let me answer those questions—and sum up my concerns about Mr. Liu—with an observation.

The same day my Wall Street Journal ran, July 23, a Remote Area Medical Clinic was held in the open air of the Wise County fairgrounds in the Appalachian mountains of southwest Virginia. These clinics bring medical professionals into underserved areas where medical care is hard to find. They are not that different from what we used to do out in the impoverished villages of Vietnam when I was a Marine infantry officer many years ago. Twelve of my staff members went down to Wise County to volunteer. Working in tents, mobile units, and horse stalls, over these 3 days the RAM clinic took care of 6,869 patient visits and pulled more than 4,000 teeth in the open air of the Wise County fairgrounds. In this part of Virginia, nearly half the population lives below 200 percent of poverty, almost a quarter of them have no insurance whatsoever. Age-adjusted mortality rates in some counties are as much as 70 percent higher than in the rest of Virginia. This Appalachian mountain region is, of course, predominantly White. Let me emphasize that these conditions come from cultural issues based on many generations of hardship and strife and not simply individual choice.

Back there in those mountains, there is no doubt somebody who is thinking that if he could put together a little money and maybe get somebody to believe in him, maybe he could start up a

construction company just like Randy Pech did and compete for government contracts on a completely fair playing field, which has always been the gift and the miracle of America. I want him to have that opportunity, just as I want every other American to have it. And I don't want a judge on a circuit court somewhere telling him that his own chance for a fair and prosperous future should be swept into the dustbin of history.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### ENERGY POLICY

Mr. PORTMAN. Mr. President, over the past couple of days here on the Senate floor we have had a lot of discussion about domestic energy production and there have been a lot of good points made. But, frankly, it is more of a political exercise than something that is going to help the American people.

If one listened to the debate, one might think there is no consensus and no way forward. I disagree with that. I think given our energy challenges, including \$4 a gallon gasoline, we need an energy policy that encourages more affordable, reliable, and cleaner energy. I think we can reach a consensus on a few areas, and let me raise a couple of them today.

The first is natural gas exploration and development. In my own State of Ohio, we have had exciting new developments over the past several years. Geologists have known we have big shale formations in the eastern part of the United States for years, but until recently we haven't had the drilling technologies that allowed us to tap into these huge reserves. We now have that.

In Ohio, we have both the Marcellus and the Utica shale finds that, unfortunately, have not been tapped yet but have tremendous potential. Some of the oil and gas reserve estimates associated with these finds are truly amazing. For the State of Ohio alone, in one of those formations—Utica—I am told we could yield over 15 trillion cubic feet of natural gas. So this is a great opportunity both to be sure we have the energy we need to power our economy but also to create jobs that go into energy production.

By the way, other States around us, including Pennsylvania, West Virginia, and upstate New York, as an example, have even more production potential than Ohio. Already there are some Ohio counties, such as Belmont County and Jefferson County and Columbiana County, that are beginning to explore some of these finds, and we are very hopeful that in some of these counties, where there is incredibly high unemployment, we will be able to begin pro-

duction soon. These counties have been hard hit by the downturn in the economy, and they can use the economic activity and the jobs that will be created by this production.

Earlier this year, I visited an Ohio company that is an example of one of the industries that is going to benefit from this natural gas production. It is V&M Star. It is a company that makes piping. It is near Youngstown, OH. They just decided to expand their manufacturing capability. Why? Because they are looking at Marcellus and Utica, understanding this is going to create great opportunities for them. They are investing in our State. They are investing in jobs. They are doing it because of these finds. We have to be sure we put out the Federal policies to promote and encourage the development of these resources.

In addition to using natural gas for electricity generation and as a feedstock for a lot of industries, including the chemical industry, natural gas holds incredible potential as an alternative to gas. Today, we are talking about the need to be less dependent on foreign oil, which happens to be one of the top issues on both sides of the aisle. Natural gas is a way we can do that very directly because it can be used particularly in fleets. Today, the equivalent price for a gallon of natural gas is \$1.60. Think about that: as compared to \$4 for gasoline, \$1.60 for natural gas. The infrastructure costs create some challenges, but, again, for fleets, where there is central refueling, it makes all the sense in the world. Widespread conversion of our fleets, including our Nation's buses, garbage trucks, and utility vehicles, would help reduce demand for gasoline.

America arguably has the greatest energy reserves in the world, depending on which estimate you look at. We have to find a way to responsibly tap these reserves, in a way that we can become less dependent on foreign nations for energy needs, in a way where we will stop sending so much of our wealth overseas to pay for foreign imports, particularly of crude oil.

Ohio is still in the throes of an economic downturn. Today, we are at 9 percent unemployment in Ohio. Underemployment makes Ohio's situation even worse. One way to create jobs and to get Ohio back on track is by expanding, again, the use of our own resources, including natural gas. There should be a consensus on this issue. We should be promoting Federal policies to encourage the exploration and the development of these resources, and we should do it now.

Another area where I think you could see some consensus on energy policy in the short term in the Senate is in the area of energy conservation and efficiency. We should both find more and use less. It is that commitment to use less that led me, last week, to introduce legislation with Senator SHAHEEN from New Hampshire called the Energy Savings and Industrial Competitive-

ness Act. It is S. 1000, for those who would like to check it out.

It is a bipartisan bill, a targeted and achievable piece of legislation that would leverage energy efficiency investments in a number of areas, including the building and industrial sectors but also with the Federal Government. It would help consumers and the Federal Government save money on their energy bills and help industry improve the efficiency of their production processes.

Again, this is an example of where we should be able to come together as Republicans and Democrats to get something done. There is widespread consensus that energy efficiency is the low-hanging fruit, a way to reduce our energy use and, again, to make America's economy more competitive. As with anything, the devil is in the details. There will be some Senators who may disagree with some of the specifics in this legislation, but, again, it is the type of bill we should be debating on the floor of this Senate. With a little hard work, I believe it is one we can ultimately get enacted into law.

Instead, again, we have spent the better part of this week debating two bills; one that, in my view, would have done more harm than good, by raising taxes on certain businesses, while doing nothing to increase energy production or lower gas prices; and another one I supported that I think would do a lot of good but we knew did not have the necessary 60 votes to move forward and, therefore, we were not able to make progress this week for the American people.

We have all the ingenuity, the know-how, and the resources within our own borders to be able to have the energy we need to run our economy and to improve our economy and to create jobs. I hope moving forward we can find agreement on these issues and begin to tap this great American potential.

I yield the floor and suggest the absence of a quorum.

Mr. CARDIN addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold his suggestion?

Mr. PORTMAN. I will.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Thank you very much, Mr. President.

I rise in strong support of the nomination of Goodwin Liu to be U.S. Circuit Judge for the U.S. Circuit Court of Appeals for the Ninth Circuit. I urge my colleagues to invoke cloture on this nomination.

I am disappointed we had to file a cloture motion. I hope my colleagues would want to vote up or down on this nomination, and I hope they would vote for his confirmation.

As we begin the debate on the nomination of Mr. Liu, let me start by telling my colleagues how thoroughly his nomination has been vetted by the Judiciary Committee under the leadership of Chairman LEAHY.

President Obama first nominated Goodwin Liu for this position in February of last year. That was over 1 year