

RELEASE IN PART
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From: Mills, Cheryl D <MillsCD@state.gov>
Sent: Thursday, May 19, 2011 4:28 AM
To: H
Subject: Fw: Fwd: Jess Bravin WSJ article

From: Ann O'Leary [mailto:]
Sent: Wednesday, May 18, 2011 11:48 PM
To: Mills, Cheryl D
Subject: Fwd: Jess Bravin WSJ article

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Hi Cheryl -

Good balanced article below naming the 7 most-likely Senators to vote for Goodwin.

I'm so nervous! If you have time, could you please call me in the morning? We won't be doing too much sleeping - so call anytime: []

Thanks!
-Ann

Senators Set to Vote on Controversial Obama Court Appointee

By JESS BRAVIN

WASHINGTON—A Berkeley law professor's chance of joining a federal appeals court lay in the hands of seven Republican senators, as Democrats scheduled a Thursday vote to break the filibuster that has held up Goodwin Liu's appointment.

More than either of President Barack Obama's Supreme Court nominees, Mr. Liu has emerged as the flashpoint of ideological warfare over the federal bench. Democrats describe Mr. Liu, a Rhodes Scholar and former law clerk to Supreme Court Justice Ruth Bader Ginsburg, as a brilliant legal mind with a particular expertise in education law.

Republicans offer the opposite image, portraying Mr. Liu as a threat to "the American tradition of neutral judges and limited, constitutional government," as Sens. Charles Grassley (R., Iowa) and Jeff Sessions (R., Ala.) said in a press release.

Senate Minority Leader Mitch McConnell (R., Ky.) "strongly opposes the nomination and will have more to say in a speech on the floor" Thursday, his spokesman said.

Democrats, who hold 53 Senate seats, need 60 votes to break the filibuster and bring the nomination to the floor, where a majority vote would place Mr. Liu on the San Francisco-based Ninth U.S. Circuit Court of Appeals. Republican and Democratic aides said the battle likely

would come down to seven senators yet to indicate their intentions: Lamar Alexander of Tennessee, Scott Brown of Massachusetts, Saxby Chambliss of Georgia, Susan Collins of Maine, Richard Lugar of Indiana, Lisa Murkowski of Alaska and Olympia Snowe of Maine.

One Democrat, Sen. Jim Webb of Virginia, said he opposed the filibuster, but would vote against Mr. Liu should the nomination reach the floor.

On Wednesday, Sen. Lindsey Graham (R., S.C.), who has argued that presidents deserve deference in judicial appointments, said he would filibuster Mr. Liu.

"To Prof. Liu, a federal judge may be less of an impartial arbiter of justice than an advocate engaging in policymaking from the bench," Mr. Graham said in a letter to Senate Republicans. He and other Republicans also cited their offense at Mr. Liu's testimony against Justice Samuel Alito's Supreme Court nomination.

Sen. Chris Coons (D., Del.), who met Mr. Liu when he worked at the Corporation for National Service in the early 1990s, rebutted such accusations in a Wednesday floor speech.

He said Republicans had "distorted" Mr. Liu's writings and unfairly attacked him for taking controversial stands in his academic work.

"Academics explore the contours and limits of the law, often advocating for policy outcomes, Judges, on the other hand, apply legal precedent to come to the conclusion that the law compels, without prejudice or a policy agenda," Mr. Coons said. "He understands and respects the difference between scholarship and jurisprudence."

The heat surrounding the nomination reflects the fact that, Mr. Liu, 40 years old and the child of Taiwanese immigrants, fits the profile of a future Democratic Supreme Court candidate. In past years, Republicans and Democrats, in turn, have each sought to derail judicial nominees the other party finds most promising—including Elena Kagan and John Roberts, whose appellate court appointments were obstructed by Republican and Democratic senators, respectively, in ultimately futile efforts to halt their progress to the Supreme Court.

Mr. Liu, who served in the Clinton administration and worked on the Obama transition, is a past board chairman of the American Constitution Society, a network of lawyers, scholars and students which liberals created to ape the success the Federalist Society has had in spreading conservative legal thought in government and academia.

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B6