

Fred Korematsu's conviction was overturned by the district court, and, four years later in 1987, President Ronald Reagan signed into law the Civil Liberties Act, issuing a formal, national apology for the Japanese internment.

So this was the context of the speech in which Chen was speaking to a group of students and reflecting on the funeral of Fred Korematsu. He said in the speech that, at times, he had experienced "feelings of ambivalence and cynicism when confronted by appeals to patriotism." He was referring to the internment of Japanese-American citizens for no cause other than they happened to be of Japanese heritage. I would think you could get a bit cynical about that. People who did not see this do not believe it ever happened. But it did happen, and it happened here. This was the condition in which people were kept. It is not right.

But critics have picked out this line—"feelings of ambivalence and cynicism when confronted by appeals to patriotism"—and tried to use to paint Chen as unpatriotic. But they did not know the context. Sometimes things that have monumental importance at the time, such as the internment of Japanese-American citizens without due process, fade too quickly from our historical memory. I thought I would bring it back so this body could understand the total context.

This was a very big deal. It was not a proud moment for our country. Congress and President Reagan rightfully issued a formal apology for the injustice that was done years later.

To take a quote from a speech after Fred Korematsu's funeral and to use it to try to imply that Edward Chen does not love his country—it is shameful. It is also flatly inconsistent with the rest of the speech. Chen went on to say that when the congregation sang "America the Beautiful" at Korematsu's funeral, he was moved to tears because "the song described the America that Fred envisioned, the America whose promised beauty he sought to fulfill, an America true to its founding principles."

Fred Korematsu is no longer with us, but his daughter Karen sent me a letter about Edward Chen. Here are some of her words:

My father's belief in our Constitution was unwavering, even when he was treated unfairly. Like my father, Judge Chen is adamant about upholding the Constitution, without bias or prejudice.

In my view, Edward Chen is a judicial nominee who has been treated extraordinarily unfairly. But he remains steadfast in his commitment to serving our country as a Federal judge, and he has a 10-year unblemished judicial track record to show that he will serve us exceedingly well.

I urge my colleagues to vote yes on the nomination of Judge Edward Chen to be a district judge for the Northern District of California.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

All time has expired. The question is, Will the Senate advise and consent to the nomination of Edward Milton Chen, of California, to be United States District Judge for the Northern District of California?

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

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 68 Ex.]

YEAS—56

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

NAYS—42

Alexander	Enzi	Lugar
Ayotte	Graham	McCain
Barrasso	Grassley	McConnell
Blunt	Hatch	Moran
Boozman	Heller	Paul
Burr	Hoeven	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Sessions
Corker	Johnson (WI)	Shelby
Cornyn	Kirk	Thune
Crapo	Kyl	Toomey
DeMint	Lee	Wicker

NOT VOTING—2

Rockefeller Vitter

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to a period of morning business for debate only until 7 p.m., with Senators permitted to speak for up to 10 minutes each.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 2 p.m. tomorrow, May 11, the Senate proceed to executive session to consider the following nomination: Calendar No. 44; that there be 1 hour of debate, equally divided, in the usual form; that upon the use or yielding back of time the Senate proceed to vote without intervening action or debate on Calendar No. 44; that the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination 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.

Mr. REID. Mr. President, 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. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

BIG OIL

Mr. TESTER. Mr. President, I rise in support of legislation I am proud to co-sponsor—to finally end the taxpayer handouts to the world's largest oil companies—as they rake in record profits. This measure is about accountability. It is about responsibility. It is about fairness.

When I got off the tractor from planting last weekend and went to fill my tank, it was \$3.69 in Big Sandy, MT—almost a dollar higher than just a few months ago. But while I am paying close to \$4 gallon at the pump, like other working Americans, oil company executives are padding their stock options and bonuses. They are diminishing their investment here in America, choosing instead to use tax loopholes to offshore their production.

I would like to make just three quick points today about the over \$4 billion in tax earmarks that the biggest oil companies in America are receiving today.

First, they never asked for them.

Second, they don't need them.

And finally, they are not good for America—or our economy.

These taxpayer handouts are running up our national debt, taking our jobs overseas, and they expose us to higher gas prices.

In 2005, the CEOs of the five largest oil companies testified in the Senate about these subsidies. When asked directly about these oil and gas tax breaks, all five executives said they did not ask for them.

They agreed with President Bush—that with the price of oil over \$55 per barrel, they didn't need tax incentives. And today, oil is \$109 per barrel.

The CEO of Chevron told the committee that ending these breaks “will have a minimal impact on our company, minimal.”

Let me be as clear as those executives were then: This bill has nothing to do with Chevron's or Conoco's or Exxon's ability to operate refineries or put folks to work here at home.

It has everything to do with holding their top-level executives accountable to all American taxpayers as they rake in billions of dollars in profits every year. Right now Big Oil executives are writing off the royalties they pay to foreign countries as taxes, and until we fix it, all of us are paying for it.

That means you and I are footing the bill every time one of these big companies writes a check to the government of Saudi Arabia or Nigeria. And they are telling us they don't want it or need it. We should do the fiscally responsible thing and close these loopholes.

Instead, we should use that \$8.5 billion to pay down our deficit. And that is what this bill does.

Special tax breaks are supposed to make companies more competitive and get new technologies into the market. But for major oil companies we have written a privileged tax code just for them.

Some of these provisions have been on the books since 1913. I don't know what companies after 98 years still need a subsidy, but if it does, either it isn't very effective or the system is being abused.

As you will hear again and again this week—because it is just an astonishing number—as gas surpasses \$4 per gallon, oil companies are getting \$4 billion annually in tax breaks.

The big five oil companies have made nearly \$1 trillion in profits in the last decade. Nearly \$32 billion of that came in the first 3 months of this year alone.

But what is happening to gas prices?

Rather than bringing down prices at the pump, these giveaways merely line the executives' pockets and run up the deficit. All the while, gas prices have gone up.

For example, Exxon, the biggest of the oil companies in the U.S. made more than \$9 billion dollars in profit last year—just their U.S. operations. And how much did they pay in taxes? Just \$39 million.

That is 0.4 percent.

But this is more fair than in 2009, when Exxon received a \$156 million tax refund from the IRS.

That means we as taxpayers are paying them. The Tax Code is broken and this bill will help fix it.

Right now, we are making tough choices about how to get a handle on our Nation's debt. We have tough debates ahead about heating homes in rural America, and investing in crumbling highways, and strengthening the future of Medicare.

All the while, we are still literally writing checks to our biggest oil companies who don't need them.

After causing the largest offshore oil spill in American history, BP still managed to rake in more than \$7 billion in profits, up 17 percent from the year before.

But most of these big companies are not developing their onshore resources here at home.

How do I look the oil worker in Montana's Bakken Field in the face and say: We are giving the largest oil companies a billion dollars a year to go drill overseas, taking your opportunities offshore.

Dual Capacity, the most egregious of these tax provisions, subsidizes \$1 billion each year in royalty payments to foreign governments that don't like us very much. We don't let companies producing in America credit royalty payments to their taxes, so why would we do that for companies that produce outside of the U.S.?

And does this make us safer? Does it bring stability to the market? Absolutely not.

As we have all watched in the last few months, turmoil in the Middle East has driven up speculation and driven up prices.

Oil prices fell about 10 percent last week—though not enough to relieve hardworking Montanans with any changes in prices at the pump.

Prices didn't fall because of the discovery of a new oil field or a new technology. It happened because some folks on Wall Street moved some numbers around on paper.

There is no accountability in that. And that is why we're trying to change it.

But unlike on Wall Street, there are places where folks are doing the hard work of oil discovery and developing the technology to lower the cost of oil.

A lot of that has to do with the “small guys” in the oil business. And they are successful. In fact, domestic production is going strong—at its highest level in almost a decade.

They are making risks and getting new technology into the field, like in eastern Montana.

My State is home to likely the most productive domestic onshore oilfield in the United States. And small oil companies are doing good, responsible in securing America's energy future.

The Bakken Field is estimated to hold nearly 4 billion barrels of oil. They are leading the way in developing new technology for oil field development.

Where is Exxon? They aren't reinvesting the last quarter's \$11 billion back in U.S. exploration.

In fact, in 2009, they paid their shareholders 90 percent of the profits to

shareholders, leaving just 10 percent to invest in their workforce, research and development, exploration, safety and the expanding energy frontier.

Contrary to what some of my colleagues are saying, eliminating these wasteful subsidies won't raise gas prices. I want to repeat that:

Eliminating wasteful subsidies will not raise gas prices.

Many of these handouts have been on the books for decades as prices have continued to rise.

It is time to close these loopholes for big oil in order to strengthen our national security—and our energy future. It is time to end the taxpayer handouts to Big Oil.

This bill returns us to a responsible path toward energy development that benefits taxpayers and consumers. And it starts addressing the debt and deficit. It is the right thing to do.

AMERICAN ASSOCIATION OF INTELLECTUAL & DEVELOPMENTAL DISABILITIES

Mr. DURBIN. Mr. President, I am pleased today to join the Illinois chapter of the American Association of Intellectual & Developmental Disabilities, AAIDD, in recognizing the recipients of the Illinois Direct Support Professional Award 2011. These individuals are being honored for their outstanding efforts to enrich the lives of people with developmental disabilities in Illinois.

These recipients have displayed a strong sense of humanity and professionalism in their work with persons with disabilities. Their efforts have inspired the lives of those for whom they care, and they are an inspiration to me as well. They have set a fine example of community service for all Americans to follow.

These honorees spend more than 50 percent of their time at work in direct, personal involvement with their clients. They are not primarily managers or supervisors. They are direct service workers at the forefront of America's effort to care for people with special needs. They do their work every day with little public recognition, providing valued care and assistance that is unknown except to those with whom they work.

It is my honor and privilege to recognize the Illinois recipients of AAIDD's Illinois Direct Support Professional Award 2011: Brenda Walker, Sandy DeArmond, Rosie Pippens, Crystal Alvey, Patience Blair, Diana Christofalos, Nick White, and Erica Carter.

I know my fellow Senators will join me in congratulating the winners of the Illinois Direct Support Professional Award 2011. I applaud their dedication and thank them for their service.

REMEMBERING VERNARD WEBB

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a Kentuckian who for much of his life was