

take action today and allow a vote on the Senate-passed bill. I hope that every Member of the Republican Party who says that what the President is doing is terrible will also ask when House Republicans are going to vote one way or the other on the Senate's bill. Our bill would make everything the President is doing unnecessary. Remember that.

The President has the legal authority to take this action. Every President since Eisenhower has exercised this authority. Some, such as President George H.W. Bush, did so on a sweeping scale. We make laws in Congress. The President sets enforcement policies. He clearly has the power to take the scarce resources we have given him and identify and deport those people who pose a danger to our communities, and he can limit the deportation of those who are law-abiding, tax-paying members of the community.

Madam President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Next week, millions of families in this country will gather around a table to give thanks for the many blessings they have received. I know my family and I and our children and our grandchildren will. The President's actions will be counted among those blessings for the millions of loved ones who worry that their mother, father or grandparents could be deported at any moment. The security the President's action will give these families on Thanksgiving is powerful and indispensable.

For some, it is about something even more urgent. It is about seeking safety. While I applaud the President's announcement today, I remain deeply disappointed by his decision to build a large new detention facility to hold vulnerable women and children fleeing violence in Central America. Many of these individuals are asylum seekers, not criminals, and their ongoing detention is unacceptable. I urge him to revisit this policy.

The action the President will announce today is going to draw criticism from those who sought to stop immigration reform at every turn. As a grandson of immigrants, I say that after years and years of obstruction, the President is right to take action. I am married to a woman who is the daughter of immigrants. At the heart of it all, this is about keeping America's communities strong and vibrant. We benefit from immigration. That has been our history. Let it be our future.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

##### NOMINATION OF PAMELA PEPPER TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN

##### NOMINATION OF BRENDA K. SANNES TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK

##### NOMINATION OF MADELINE COX ARLEO TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

##### NOMINATION OF WENDY BEETLESTONE TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

##### NOMINATION OF VICTOR ALLEN BOLDEN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of Pamela Pepper, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin; Brenda K. Sannes, of New York, to be United States District Judge for the Northern District of New York; Madeline Cox Arleo, of New Jersey, to be United States District Judge for the District of New Jersey; Wendy Beetlestone, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania; and Victor Allen Bolden, of Connecticut, to be United States District Judge for the District of Connecticut.

Mr. LEAHY. Mr. President, today we will vote on five outstanding judicial nominees to our Federal district courts. I thank the majority leader for filing for cloture on these nominees so we can clear the backlog that still remains on our executive calendar as we move toward the end of the 113th Congress. After we vote on these nominees today, however, we will still have 21 judicial nominees pending on the executive calendar to serve on district courts, the U.S. Court of Federal Claims, and the U.S. Court of International Trade.

The five nominees the Senate will vote on today are all well-qualified lawyers and there should be no controversy about their confirmation. Four of these nominees: Pamela Pepper to the Eastern District of Wisconsin, Brenda Sannes to the Northern District of New York, Madeline Arleo to the District of New Jersey, and Wendy

Beetlestone to the Eastern District of Pennsylvania were reported by the Judiciary Committee by unanimous voice vote and have the support of their home State senators.

The fifth nominee, Victor Bolden, who has been nominated to the District of Connecticut, also has the strong support of his home State Senators, Mr. BLUMENTHAL and Mr. MURPHY. Mr. Bolden's credentials are impeccable. Since 2009, he has served as corporation counsel for the city of New Haven, CT. Prior to joining city government, Mr. Bolden served as general counsel and assistant counsel for the NAACP Legal Defense & Educational Fund. He has also served in private practice as an associate and counsel at the law firm of Wiggin & Dana in New Haven, CT. After graduating from Harvard Law School, Mr. Bolden began his legal career at the American Civil Liberties Union as a staff attorney and as the Marvin Karparkin Fellow.

During the Judiciary Committee executive business meeting where Mr. Bolden's nomination was considered, the ranking member commented that he was troubled by the nominee's views on racial classifications and his advocacy on affirmative action. The ranking member also noted that he did not agree with the nominee's criticisms of the Supreme Court's decision in *Shelby County v. Holder*. Finally, the ranking member criticized Mr. Bolden because he argued the nominee "took a narrow and legally incorrect view of individual rights under the Second Amendment in an amicus brief in *Heller*." The committee voted to report Mr. Bolden's nomination favorably on a 10-to-8 party-line vote.

Let me address each of the issues raised by Ranking Member GRASSLEY. First, in cases where Mr. Bolden has advocated for a specific position in which a Senator may disagree, Mr. Bolden was representing a client and not expressing his own personal views. As chairman of the Judiciary Committee, I have stated repeatedly that attorneys should not be equated with the position of their clients. Our legal system is predicated upon zealous advocacy for both sides of an issue or matter. Without this, our justice system would not function. Victor Bolden understands the difference between the role of an advocate versus the role of a judge. In response to a question for the record from Senator GRASSLEY on applying Supreme Court and Circuit Court precedents, Mr. Bolden testified: "I am fully committed to following the precedents of higher courts faithfully and giving them full force and effect, regardless of any personal feelings I might have."

Second, not only has Mr. Bolden testified under oath about this distinction, but he has shown that he would apply and implement orders from a higher court. In *Ricci v. DeStefano*, Mr. Bolden represented the city of New Haven as corporation counsel. In that case, several White firefighters and one

Hispanic firefighter sued the city of New Haven in 2003, alleging racial discrimination after the city threw out the results of an exam used for promotion of the city's firefighters. The test results had shown that White firefighters had outperformed minority applicants. The Supreme Court ultimately ruled against New Haven and held that the city's abandonment of the test results constituted intentional discrimination against the White firefighters. Mr. Bolden subsequently helped ensure that the city complied with the Court's order and defended the decision against collateral attacks.

To his credit, Mr. Bolden did such an outstanding job of ensuring compliance with the Supreme Court's decision that the named plaintiff—firefighter Frank Ricci—wrote a letter strongly supporting Mr. Bolden's nomination. Let me quote some of this letter:

It was apparent to me from our initial dealings whether as a plaintiff or union representative that the Mayor had made a great choice in the selection of the new Corporation Counsel. Although Victor represented the City and therefore would be naturally presumed an adversary it never felt that way. Through the remainder of the litigation from the U.S. Supreme Court decision to the final judgments Victor displayed and has always displayed the attributes one could hope for in a jurist. He's always conscious that there are real people affected by decisions that are made but he is also very deliberate in those decisions with an unwavering commitment to the law. Victor is a consummate professional with unquestionable integrity. These observations are not limited to me but have been the topic of many discussions between me and others, including those inside and outside the fire service. I cannot think of anyone who would make a finer addition to our federal judiciary than him. And I could not have a greater honor than to write this correspondence supporting that.

I ask unanimous consent to have printed in the RECORD the full letter of support.

Third, Mr. Bolden's criticisms of the Supreme Court's decision in *Shelby County v. Holder* in a 2013 editorial were shared by a substantial number of legal scholars and Senators, including me. As I have said, the *Shelby County* decision was a dreadful decision and wrongly decided. A narrow majority of the Court decided to substitute its own judgment over the exhaustive legislative findings of Congress showing that racial discrimination in voting still occurs. Instead, the Court chose to effectively strike down the heart of the Voting Rights Act by holding that the coverage formula for preclearance was outdated. I authored a bipartisan bill along with Congressmen SENSENBRENNER and JOHN LEWIS on this, but to this date, not a single Senate Republican has signed on. In short, I believe that Victor Bolden's views on voting rights are well within the mainstream. Nevertheless, Mr. Bolden has stated for the RECORD that he "would faithfully apply Supreme Court and Second Circuit precedent" on the issue.

Lastly, Mr. Bolden has been criticized for authoring an amicus brief on

behalf of the NAACP Legal Defense and Educational Fund in *District of Columbia v. Heller*. At the time Mr. Bolden authored the amicus brief, the controlling precedent in the Supreme Court's jurisprudence was *United States v. Miller*, which did not hold that there was an individual right to bear arms outside of the context of a "well regulated Militia." Accordingly, the brief that Mr. Bolden filed actually cited to Supreme Court precedent that was controlling on the issue at the time. Now that the Supreme Court has decided *Heller*, Mr. Bolden has testified under oath that he "would faithfully apply the Supreme Court's decision in *District of Columbia v. Heller* and other Second Amendment jurisprudence" and all other areas of the law.

Senators should not vote against Mr. Bolden for advocating on behalf of a client using the applicable Supreme Court precedent at the time. I have heard that some Senators have been continuing to distort Mr. Bolden's record on the Senate floor during his cloture vote. I can only hope that these distortions and fabrications are dismissed as they rightly should be.

Mr. Bolden is an outstanding nominee and a substantial majority of the ABA Standing Committee on the Federal Judiciary has also rated him "well qualified." I wholeheartedly support this nominee and would strongly urge my fellow Senators to do the same.

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

JULY 25, 2014.

Hon. PATRICK J. LEAHY,  
*Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.*

DEAR SENATOR LEAHY: I write this correspondence with great excitement and enthusiasm to support the nomination and appointment of Attorney Victor Bolden to the U.S. District Court of Connecticut.

I have known and worked with Attorney Bolden for more than 5 years. I first met him around the time that he was appointed Corporation Counsel for the City of New Haven. Our first interactions surrounded an ongoing legal matter that I was the lead plaintiff, Ricci et al. v. DeStefano et al.

As a member, representative and current Secretary-Treasurer of New Haven Fire Fighters IAFF Local 825, positions I've held for over 16, these were challenging times. Emotions and frustrations surrounding this issue were somewhat raw to say the least. The relationship between the plaintiffs, union and the City, especially the Corporation Counsel was completely broken and seemed irreparable.

Luckily that was about to change. It was apparent to me from our initial dealings whether as a plaintiff or union representative that the Mayor had made a great choice in the selection of the new Corporation Counsel. Although Victor represented the City and therefore would be naturally presumed an adversary it never felt that way. Through the remainder of the litigation from the U.S. Supreme Court decision to the final judgments Victor displayed and has always displayed the attributes one could hope for in a jurist. He's always conscious that there are real people affected by decisions that are made but he is also very deliberate in those decisions with an unwavering commitment

to the law. Victor is a consummate professional with unquestionable integrity. These observations are not limited to me but have been the topic of many discussions between me and others, including those inside and outside the fire service. I cannot think of anyone who would make a finer addition to our federal judiciary than him. And I could not have a greater honor than to write this correspondence supporting that.

If you have any questions or there is something more that you feel I could be helpful with please do not hesitate to contact me.

Respectfully,

LT. FRANK RICCI.

#### VOTE ON PEPPER NOMINATION

The PRESIDING OFFICER. Prior to the vote, there will be 2 minutes of debate on the Pepper nomination.

Mr. LEAHY. I ask unanimous consent that all time be yielded back.

The PRESIDING OFFICER. Without objection, all time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Pamela Pepper, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Carolina (Mrs. HAGAN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Michigan (Mr. LEVIN) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS) and 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 95, nays 0, as follows:

[Rollcall Vote No. 288 Ex.]

YEAS—95

|            |              |             |
|------------|--------------|-------------|
| Alexander  | Fischer      | Merkley     |
| Ayotte     | Flake        | Mikulski    |
| Baldwin    | Franken      | Moran       |
| Barrasso   | Gillibrand   | Murkowski   |
| Begich     | Graham       | Murphy      |
| Bennet     | Grassley     | Murray      |
| Blumenthal | Harkin       | Nelson      |
| Blunt      | Hatch        | Paul        |
| Booker     | Heinrich     | Portman     |
| Boozman    | Heitkamp     | Pryor       |
| Boxer      | Heller       | Reed        |
| Brown      | Hirono       | Reid        |
| Burr       | Hoeven       | Risch       |
| Cantwell   | Inhofe       | Roberts     |
| Cardin     | Isakson      | Rockefeller |
| Carper     | Johanns      | Rubio       |
| Casey      | Johnson (SD) | Sanders     |
| Coats      | Johnson (WI) | Schatz      |
| Coburn     | Kaine        | Schumer     |
| Cochran    | King         | Scott       |
| Collins    | Kirk         | Sessions    |
| Coons      | Klobuchar    | Shaheen     |
| Corker     | Leahy        | Shelby      |
| Cornyn     | Lee          | Stabenow    |
| Crapo      | Manchin      | Tester      |
| Cruz       | Markey       | Thune       |
| Donnelly   | McCaill      | Toomey      |
| Durbin     | McConnell    | Udall (CO)  |
| Enzi       | Menendez     | Udall (NM)  |
| Feinstein  |              |             |