

117TH CONGRESS  
1ST SESSION

# S. 2366

To direct the Joint Committee of Congress on the Library to replace the bust of Roger Brooke Taney in the Old Supreme Court Chamber of the Capitol with a bust of Thurgood Marshall to be obtained by the Joint Committee of Congress on the Library and to remove certain statues from areas of the Capitol which are accessible to the public, to remove all statues of individuals who voluntarily served the Confederate States of America from display in the Capitol, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 15, 2021

Mr. CARDIN (for himself, Ms. KLOBUCHAR, Mr. VAN HOLLEN, Mr. BOOKER, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To direct the Joint Committee of Congress on the Library to replace the bust of Roger Brooke Taney in the Old Supreme Court Chamber of the Capitol with a bust of Thurgood Marshall to be obtained by the Joint Committee of Congress on the Library and to remove certain statues from areas of the Capitol which are accessible to the public, to remove all statues of individuals who voluntarily served the Confederate States of America from display in the Capitol, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. REPLACEMENT OF BUST OF ROGER BROOKE**

4                       **TANEY WITH BUST OF THURGOOD MAR-**  
 5                       **SHALL.**

6       (a) FINDINGS.—Congress finds the following:

7               (1) While sitting in the Capitol, the Supreme  
 8       Court issued the infamous *Dred Scott v. Sandford*  
 9       decision on March 6, 1857. Written by Chief Justice  
 10      Roger Brooke Taney, whose bust sits inside the en-  
 11      trance to the Old Supreme Court Chamber in the  
 12      Capitol, this opinion declared that African Ameri-  
 13      cans were not citizens of the United States and  
 14      could not sue in Federal courts. This decision fur-  
 15      ther declared that Congress did not have the author-  
 16      ity to prohibit slavery in the territories.

17              (2) Chief Justice Roger Brooke Taney’s author-  
 18      ship of *Dred Scott v. Sandford*, the effects of which  
 19      would only be overturned years later by the ratifica-  
 20      tion of the 13th, 14th, and 15th Amendments to the  
 21      Constitution of the United States, renders a bust of  
 22      his likeness unsuitable for the honor of display to  
 23      the many visitors to the Capitol.

24              (3) As Frederick Douglass said of this decision  
 25      in May 1857, “This infamous decision of the Slave-

1 holding wing of the Supreme Court maintains that  
 2 slaves are within the contemplation of the Constitu-  
 3 tion of the United States, property; that slaves are  
 4 property in the same sense that horses, sheep, and  
 5 swine are property; that the old doctrine that slavery  
 6 is a creature of local law is false; that the right of  
 7 the slaveholder to his slave does not depend upon  
 8 the local law, but is secured wherever the Constitu-  
 9 tion of the United States extends; that Congress has  
 10 no right to prohibit slavery anywhere; that slavery  
 11 may go in safety anywhere under the star-spangled  
 12 banner; that colored persons of African descent have  
 13 no rights that white men are bound to respect; that  
 14 colored men of African descent are not and cannot  
 15 be citizens of the United States.”.

16 (4) While the removal of Chief Justice Roger  
 17 Brooke Taney’s bust from the Capitol does not re-  
 18 lieve the Congress of the historical wrongs it com-  
 19 mitted to protect the institution of slavery, it ex-  
 20 presses Congress’s recognition of one of the most no-  
 21 torious wrongs to have ever taken place in one of its  
 22 rooms, that of Chief Justice Roger Brooke Taney’s  
 23 Dred Scott v. Sandford decision.

24 (b) REMOVAL OF BUST OF ROGER BROOKE  
 25 TANEY.—Not later than 45 days after the date of enact-

1 ment of this Act, the Joint Committee of Congress on the  
 2 Library shall remove the bust of Roger Brooke Taney that  
 3 is in the Old Supreme Court Chamber of the Capitol.

4 (c) REPLACEMENT WITH BUST OF THURGOOD MAR-  
 5 SHALL.—

6 (1) OBTAINING BUST.—Not later than 2 years  
 7 after the date of enactment of this Act, the Joint  
 8 Committee of Congress on the Library shall enter  
 9 into an agreement to obtain a bust of Associate Jus-  
 10 tice of the Supreme Court of the United States  
 11 Thurgood Marshall, under such terms and condi-  
 12 tions as the Joint Committee considers appropriate  
 13 consistent with applicable law.

14 (2) PLACEMENT.—The Joint Committee of  
 15 Congress on the Library shall place the bust ob-  
 16 tained under paragraph (1) in the location in the  
 17 Old Supreme Court Chamber of the Capitol where  
 18 the bust of Roger Brooke Taney was located prior  
 19 to removal under subsection (b).

20 **SEC. 2. REMOVAL OF CERTAIN STATUES AND BUST.**

21 (a) REMOVAL.—Not later than 45 days after the date  
 22 of enactment of this Act, the Joint Committee of Congress  
 23 on the Library shall remove the statue of Charles Brantley  
 24 Aycock, the statue of John Caldwell Calhoun, the statue  
 25 of James Paul Clarke, and the bust of John Cabell Breck-

1 inridge from any area of the Capitol which is accessible  
2 to the public.

3 (b) STORAGE OF STATUES.—The Architect of the  
4 Capitol shall keep any statue and bust removed under sub-  
5 section (a) in storage until the Architect and the State  
6 which provided the statue or bust arrange for the return  
7 of the statue or bust to the State.

8 **SEC. 3. REQUIREMENTS AND REMOVAL PROCEDURES FOR**  
9 **STATUES IN NATIONAL STATUARY HALL.**

10 (a) REQUIREMENTS.—Section 1814 of the Revised  
11 Statutes (2 U.S.C. 2131) is amended by inserting “(other  
12 than persons who served as an officer or voluntarily served  
13 in any other position in the Confederate States of America  
14 or in the military forces or government of a State while  
15 the State was in rebellion against the United States)”  
16 after “military services”.

17 (b) STATUE REMOVAL PROCEDURES.—

18 (1) IN GENERAL.—

19 (A) IDENTIFICATION BY ARCHITECT OF  
20 THE CAPITOL.—The Architect of the Capitol  
21 shall identify all statues on display in the Cap-  
22 itol that do not meet the requirements of sec-  
23 tion 1814 of the Revised Statutes (2 U.S.C.  
24 2131), as amended by subsection (a).

1 (B) REMOVAL BY JOINT COMMITTEE OF  
2 CONGRESS ON THE LIBRARY.—The Joint Com-  
3 mittee of Congress on the Library shall arrange  
4 for the removal of each statue identified by the  
5 Architect of the Capitol under subparagraph  
6 (A) from the Capitol by not later than 120 days  
7 after the date of enactment of this Act.

8 (2) REMOVAL AND RETURN OF STATUES.—

9 (A) IN GENERAL.—Subject to subpara-  
10 graph (C), the Architect of the Capitol shall ar-  
11 range to transfer and deliver any statue that is  
12 removed under this subsection to the Smithso-  
13 nian Institution.

14 (B) STORAGE OR DISPLAY OF STATUES.—  
15 The Board of Regents of the Smithsonian Insti-  
16 tution shall follow the policies and procedures  
17 of the Smithsonian Institution, as in effect on  
18 the day before the date of enactment of this  
19 Act, regarding the storage and display of any  
20 statue transferred under subparagraph (A).

21 (C) STATE REQUESTS.—A statue provided  
22 for display by a State that is removed under  
23 this subsection shall be returned to the State,  
24 and the ownership of the statue transferred to  
25 the State, if the State so requests and agrees

1 to pay any costs related to the transportation of  
 2 the statue to the State.

3 (3) REPLACEMENT OF STATUES.—A State that  
 4 has a statue removed under this subsection may re-  
 5 place such statue in accordance with the require-  
 6 ments and procedures of section 1814 of the Revised  
 7 Statutes (2 U.S.C. 2131) and section 311 of the  
 8 Legislative Branch Appropriations Act, 2001 (2  
 9 U.S.C. 2132).

10 (4) AUTHORIZATION AND APPROPRIATIONS.—

11 (A) IN GENERAL.—There are appropriated  
 12 for the fiscal year ending September 30, 2021,  
 13 out of any money in the Treasury not otherwise  
 14 appropriated, \$5,000,000 to carry out this sec-  
 15 tion, including the costs related to the removal,  
 16 transfer, security, storage, and display of the  
 17 statues described in paragraph (1)(A), of  
 18 which—

19 (i) \$2,000,000 shall be made available  
 20 to the Architect of the Capitol; and

21 (ii) \$3,000,000 shall be made avail-  
 22 able to the Smithsonian Institution.

23 (B) AVAILABILITY.—Amounts appro-  
 24 priated under subparagraph (A) shall remain  
 25 available until expended.

1 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

2       In addition to the amounts appropriated under sec-  
3 tion 3(b)(4), there are authorized to be appropriated such  
4 sums as may be necessary to carry out this Act, and any  
5 amounts so appropriated shall remain available until ex-  
6 pended.

7 **SEC. 5. DETERMINATION OF BUDGETARY EFFECTS.**

8       The budgetary effects of this Act, for the purpose of  
9 complying with the Statutory Pay-As-You-Go Act of 2010,  
10 shall be determined by reference to the latest statement  
11 titled “Budgetary Effects of PAYGO Legislation” for this  
12 Act, submitted for printing in the Congressional Record  
13 by the Chairman of the Senate Budget Committee, pro-  
14 vided that such statement has been submitted prior to the  
15 vote on passage.

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