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Senate

The Senate met at 10 a.m. and was called to order by the Honorable CORY A. BOOKER, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and glory, descend upon us today. Make Capitol Hill a place that honors Your Name, as our lawmakers depend on Your might and power to keep America strong. Lord, help our Senators to remember that laudable progress comes not by might nor power but through Your Spirit. Give them the wisdom to seek Your guidance for every critical decision, as You infuse them with the courage to obey Your commands. As they seek to do what is best for America, be for them a shield and sure defense. May they ask the right questions as they labor to keep liberty's lamp burning brightly.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 20, 2014.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CORY A. BOOKER, a

Senator from the State of New Jersey, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. BOOKER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

JUSTICE AND MENTAL HEALTH COLLABORATION ACT OF 2013—MOTION TO PROCEED

Mr. REID. Mr. President, I now move to proceed to Calendar No. 92, S. 162, which is the Franken Mentally Ill Offender Treatment and Crime Reduction Act.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 92, S. 162, a bill to reauthorize and improve the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, if any, the Senate will be in a period of morning business until 5:30 p.m. The time from 2:30 p.m. to 5:30 p.m. will be equally divided and controlled between the two leaders or their designees. The Senate will recess from 12:30 p.m. to 2:15 p.m. to allow for the weekly caucus meetings. At 5:30 p.m. there will be at least two rollcall votes: confirmation of the Costa nomination to be a U.S. circuit judge and a cloture vote on the Fischer nomination to be a member of the Federal Reserve Board of Governors.

BROWN V. BOARD OF EDUCATION ANNIVERSARY

Mr. President, we hear a lot—and have for many years—about the Brown v. Board of Education case, but what was that all about? Well, it was about

a dad and a mom who decided they could no longer just go along; they had to try to do something to take care of their little 7-year-old girl Linda. In the 1950s this family lived in Topeka, KS, and the State was racially segregated. Little Black boys and girls went one place to school; little White boys and girls went someplace else. But it was clear where the little Black boys and girls went to school the schools were not very good; where the little White boys and girls went the schools were pretty good—certainly better than where the Black boys and girls went.

But a courageous father named Oliver Brown was determined to give his little third grader Linda a fair shot at a good education. These were long odds he took. Mr. Brown tried unsuccessfully to enroll his daughter Linda in the neighborhood all-White elementary school, the school that was close by. But the doors of that school were shut to little Linda because she was an African American—because of the color of her skin. It had nothing to do with her intellect; it had everything to do with the color of her skin.

She was forced to walk—a little 7-year-old girl, a third grader—seven or eight blocks to a bus stop where she waited for a bus to take her to an all-Black elementary school some distance away.

Rather than accept the status quo, the Browns—and they got some other neighbors to join them—brought a civil case against the Topeka school board challenging the school district's segregation policy.

This case took a long time to work up to the U.S. Supreme Court, but it got there. This case is now commonly known as Brown v. Board of Education. As I said, it was eventually argued before the U.S. Supreme Court.

The plaintiffs were represented by the NAACP and a young lawyer by the name of Thurgood Marshall. I just finished a stunning book about this man. It is called "Devil in the Grove," and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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for anyone within the sound of my voice, I would recommend they read this book. It tells a lot about Thurgood Marshall and the struggles he went through. But it also talks about the South and what he had to put up with—death threats, accommodations. He had to stay at other people's homes. Even though he would go to a courthouse, and he would have to spend weeks in that town, he could not get a room nearby. He had to go live with an African-American family during that period of time. It is a good book, and it talks about how courageous the Brown family would have to be to do what they did: to challenge the status quo.

In rendering the decision, the U.S. Supreme Court—not in a 5-4 decision, not in a 7-2 decision, but in a unanimous decision—under the leadership of Chief Justice Earl Warren, unanimously held that a racially segregated public school was “inherently unequal,” and they overturned—some say half a century—what America had been for a long time. They changed it. We all know it did not change like that, but it changed.

I had the good fortune last night—I got home fairly early, 7 o'clock—and watched the news. Every news show talked about the 60th anniversary of *Brown v. Board of Education*, which occurred last Saturday. They interviewed everyone, and even though we have a long way to go, everyone acknowledged that decision changed America. The status quo of separate but equal in our Nation's public schools was struck down. It was gone—not in a decision, I repeat, that was close but unanimous. We need more of those. We need more collegiality in the Supreme Court, not only here in the U.S. Senate but in the Supreme Court, because after that was struck down, little kids such as Linda Brown were able to attend class with little White boys and girls.

This past Saturday marked the 60th anniversary of the Supreme Court's decision in *Brown v. Board of Education*.

My children are not little kids anymore, but in Nevada, we had segregation. I can remember a man I served with in the State legislature. His name was Woodrow Wilson, an African American. He told me about Las Vegas and taking his children to a lunch counter that was in a drugstore. They told him to leave, that he could not eat there. That is Las Vegas; that is not Mississippi.

So things changed in Nevada. When my children were young, schools were not really segregated as I just described what was going on in Kansas, but they still had some issues. How it was handled in Nevada—let's see if I can remember the grade—yes, for all sixth graders, White kids were bused to an African-American community to go to school for 1 year of their school career, but the rest of the time the Black kids were bused. So for 1 year White kids were bused; the rest of the time Black kids were bused. That is gone now. But it was handled differently.

Was what took place with my two oldest children good? No. But it was better than it used to be.

After six decades, our Nation still owes a debt to those few brave individuals who stood against racial segregation in American schools, and the lawyer there was a man by the name of Thurgood Marshall. I never had the pleasure and honor of meeting this man when he was on the Supreme Court, but, boy, what a stalwart he was. And that book was so good. Again, I repeat, it is called “Devil in the Grove.” It is focused mainly on Florida and what went on in Florida—what a bad situation there, created by lots of people but principally one sheriff.

The Brown family, their fellow plaintiffs, the legal teams, and the nine Supreme Court Justices all refused to let inequality go unchallenged.

For the Browns, it was difficult, it was scary, and it was courageous to pursue legal recourse in the face of insults, slanders, and threats. But the Brown family and their fellow plaintiffs stood firm in the face of their opposition. Their legal teams did not waiver, led by Thurgood Marshall, and their supporters had their backs from the beginning to the end.

These parents could have given up, and I am sure there are stories that are untold where parents did give up. But here the Browns knew it was their responsibility to fight for justice. There was nothing given when they started this. In fact, the odds were stacked against them.

Today, along with my Senate colleagues, I express my gratitude for the men, women, and children whose iconic efforts helped bring racial segregation to a screeching halt. As I have said before, today our Nation is still far from perfect, and, sadly, we still see racism rear its ugly head. We saw what happened in Nevada very recently where a man said that African Americans were better off with slavery. Some people still believe such things. But no one can dispute that we are better off because of *Brown v. Board of Education*.

It is my hope we will recognize and support those other children like little Linda Brown in doing our part to equally and fairly look at what is going on and do our part to defend equality and fairness in our society. As we do that, we will complete the unfinished work of *Brown v. Board of Education*.

NOMINATIONS

Mr. President, I want to briefly call attention to something that I think is extremely important for our country and for the Senate.

Last week we had all the police officers from Nevada, New Jersey, came from all over the country, to celebrate National Police Week, to express our appreciation for the crime-fighting men and women who protect our families every day. They had an honor roll there of people in our country who were killed in the line of duty as police officers.

While the rest of America honored our Nation's police officers, the U.S.

Senate failed to do its part in supporting law enforcement.

For months—for months—we have struggled to get nominations done.

The chief law enforcement officer of our country is Eric Holder. He is the Attorney General of the United States. He has awesome responsibility. Yesterday we saw that seven Chinese military officers were indicted for hacking into different businesses to steal their trade secrets. A day rarely goes by where we don't see the Justice Department announcing something they have done for the good of our country. A big bank was fined \$2.5 billion yesterday for doing things that were criminally done in our country—hiding money that people were putting into banks so they wouldn't have to pay taxes on them. The Justice Department is so important to the integrity of our Nation, but we have about 140 nominations that have been stalled by the Republican obstruction.

We changed the rules in the Senate. We are getting our judicial nominations done. These good men and women will serve a lifetime in their jobs. They were blocked, and now we have a way to get them done. But rather than live up to those responsibilities, Republicans are pouting. They are pouting. They are saying: Oh, they changed the rules to get these judges done, so we are going to agree to nothing—things we used to do as a matter of fact. I can remember when I was the whip here and I did work for Senator Daschle, who was the leader. One evening, by consent, we did 70 nominations just like that, walked out with a consent agreement and approved them. That is the way we used to always do it until President Obama was elected. They have done everything they can to make it so that this man's job is very difficult. Everyone can try to figure out why they have done it, but they have done it. They have opposed everything this good man has tried to do.

Right now, if you can imagine this, we have three people—it is very important—who want to be U.S. attorneys in New Mexico, Louisiana, and Connecticut. These are extremely important jobs, fulfilling those responsibilities. But they can't fulfill those responsibilities because they are being held up by Republicans. These are jobs that were never held up in the past. These are people who are prosecuting crimes in the States of New Mexico, Louisiana, and Connecticut, but they are being held up. Why? For no good reason. These are all good men and women.

The U.S. attorneys are our Nation's top prosecutors for drug trafficking, bank robbery, counterfeiting. When I practiced law, it was kind of a joke: What are they trying to do—make a Federal case out of it?

Yes.

Why do they say that? Because Federal cases are good cases. They are investigated by the FBI and other agencies, and they bring these cases to the

U.S. attorney, and they make a Federal case out of them. But they are not making Federal cases out of those cases in New Mexico, Louisiana, and Connecticut. Everyone who is watching what I say today, that is a sham.

The reason I mentioned the Attorney General, we have two Assistant Attorneys General they are holding up. Eric Holder called me yesterday and said: Is there anything that can be done to help me?

Again, I will have to file cloture on these. This is how it works, everybody: I file cloture, we get cloture, and they have 30 hours to stand around and do nothing. When 30 hours is over we finally get a vote. They get 30 hours for a circuit court judge, Supreme Court Justice, and Cabinet officer. For U.S. attorneys and assistant U.S. attorneys, they get 8 hours—an arbitrary number.

I don't plan on changing the rules again, but how much longer can we put up with this? Even law enforcement officers, as I have indicated, are held up for no reason. We don't hear people giving speeches about what horrible people the President selected to be U.S. attorney in Connecticut, Louisiana, and New Mexico—not a word. They just hide behind their obstruction.

I ought to mention that we have about 40 ambassadors they have held up. These are not political appointments; these are career ambassadors who have worked their whole lives to have one of these jobs where they represent our country. We have major countries where they have held up ambassadors: 25 percent of all African countries, no ambassadors; Peru; and on and on with all of the things that are being done—not for the betterment of our country.

We have the Assistant Attorney General for the Environment and Natural Resources Division. One would think that is kind of important with the fires burning in the West and the number of fires caused by malicious acts.

Is it right that we have all this degradation of our environment and there is nobody to enforce the law? I know the Koch brothers want no environmental protection. They say that, so maybe they are at the beck and call of the Koch brothers, who don't want these laws enforced.

The U.S. Department of Justice is the crime-fighting arm of our government, and they should not be handcuffed by not having the people to allow the Attorney General to have help with his responsibilities. It is hard to fathom that the work of Attorney General Eric Holder is being recklessly hindered by Republican obstruction.

It used to be easy for me to say "I call on my Republican colleagues to stop it," but they haven't stopped it for 5½ years. It is a shame. I would at least hope they could give our Nation's law enforcement all the tools they need to protect us.

RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day.

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 5:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Maryland.

EXPIRE ACT

Mr. CARDIN. Mr. President, I take this time to urge my colleagues to find a way to proceed with the EXPIRE Act that Senator WYDEN and Senator HATCH worked on.

I am proud to be a member of the Senate Finance Committee, where this legislation was passed by a unanimous vote. We had an extensive markup where members offered numerous amendments.

This deals with expiring tax provisions, and if we don't take action, we will find that those who depend upon this tax policy remaining in effect—such as small business owners, students, people who use certain benefits, and some of our energy provisions—will find that policy expires at the end of the year. If that happens, what happens, quite frankly, is that—it has already expired in some provisions, and if we don't extend it, there will be continued uncertainty in our Tax Code.

It also means that if we don't pass this bill, it effectively raises taxes on a large number of Americans. So it will affect those who ride our transit systems. It is already affecting those who use transit systems. It is already having an impact because we haven't taken timely action. We can't wait any longer on the passage of this bill.

I would like to take this time to express my strong support for giving a fair shot to all Americans who depend upon a stable tax policy and are finding that our inactions are causing more uncertainty. It affects job creation in our communities. Let me give a few examples.

Small businesses depend upon the passage of this bill. Why do I say that? The research and development tax credit is very much at stake. Small businesses depend upon the help in the Tax Code to take risks, to invest in new innovation. More innovation occurs through small businesses than large businesses. More jobs are created through small businesses than large businesses. They need a tax code that is friendly for small business owners to accumulate capital, to take risk, and to develop the next cure for a dread disease, the next technology that will help us deal with cyber security, and the list goes on and on. But without the extension of the research and development tax credit, small businesses particularly are put at a tremendous disadvantage.

We have the expensing provision, which is a very popular provision, which allows small business owners to be able to take off immediately the cost of their investments in their company. It is bipartisan. We have always thought of that as a good idea.

If you are a small business owner and you are trying to plan as to your next investment but you don't know what the tax policy is going to be, you are going to withhold. You are not going to make those plans to put in that new piece of equipment that perhaps expands capacity or makes you more efficient so you hire more people, sell more product, and create more jobs. If you don't have the certainty in the Tax Code, you put off that decision, delaying the acquisition. Then maybe when you get back to it, times are different and maybe it is more challenging and you never go forward with that expansion. Those jobs are lost forever.

Literally, the passage of this bill helps small business owners to be able to make decisions to expand opportunity and create more jobs. That is at jeopardy if we do not move this bill forward.

One of the provisions that I have worked on with other Members in the Senate is the S corporation. S corporations are preferred by small companies because it allows them to pass through their income and expenses as if they are an individual taxpayer, avoiding the double taxation of a C corporation. Well, there have been changes over time on how businesses operate, and we need to reform the S corporation provisions so that they are friendlier toward small businesses and give them more flexibility on the use of this structure.

These are the provisions we want incorporated into the EXPIRE Act.

Let me mention one other provision that I think is very important in New Jersey, Maryland, and in all of our States. We have yet to recover fully from the housing crisis. We still have too many people in Maryland and—I am sure the Presiding Officer would agree—in New Jersey who are in danger of losing their homes through foreclosure. We still have a disconnect between many of the balances that are on mortgages and the value of the homes. So it is in everyone's interest to readjust the numbers so that it works; the person can afford to stay in the house. It makes sense economically, it is less costly to the mortgage holder, and it is certainly better for our community and certainly better for the homeowner to be able to maintain their house. So we restructure the loan.

We have had a policy in place that said restructuring those loans with loan forgiveness does not trigger a taxable event. That makes sense. Everybody agrees with that. We have to extend that policy because it is still needed today. We still need to make that connection between homeowners and the mortgage holders to adjust mortgages where it is appropriate to avoid foreclosure, to keep neighborhoods more stable, to help individual