



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, FRIDAY, OCTOBER 24, 1997

No. 145

Senate

The Senate met at 9:45 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Father, You always are right, just, and fair. Your fairness is the result of Your righteousness and justice. Today, we pray for the character pillar of fairness, of fairness for our own lives. Help us to play by Your rules of absolute honesty, purity, and love. We not only want to do to others what we would want them to do to us, but we want to treat others as You have treated us.

Thank You that we have Your commandments and Your truth in the Bible as our guide. You have taught us not only to meet but to go beyond the just standard. May we be distinguished for our generosity in exceeding what is expected.

May our expression of the character trait of fairness also include our judgments of other people and what we say about them. Forgive us when our evaluations of people are polluted by pride, envy, or competitiveness. Remind us of the power of words to assassinate other people's characters. When we can say nothing positive, may we say nothing.

Lord, You know the strength of this pillar of character called fairness. It is tested when people are unfair in what they say about us or are unfair in their dealings with us. Our temptation is to retaliate, but we know that resentment fired by retaliation usually results in recrimination. Help us break that cycle by being fair by Your standards and with Your strength. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Kansas, is recognized.

SCHEDULE

Mr. ROBERTS. Mr. President, this morning the Senate will immediately begin a cloture vote on the committee amendment to the ISTEPA legislation. It is the leader's hope that cloture will be invoked. Let me repeat that. It is the leader's hope that cloture will be invoked and the Senate will be able to consider and dispose of highway-related amendments. If cloture is not invoked, the Senate may consider any available appropriations conference reports—possibly the Interior conference report. Therefore, additional votes may occur during today's session.

As always, all Members will be notified as additional schedule information becomes available in regard to votes today, and the leader will update all Senators later today as to the schedule for Monday's session.

CLOTURE MOTION

The PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Trent Lott, John H. Chafee, Pat Roberts, Slade Gorton, Jon Kyl, Dan Coats, Ted Stevens, Mitch McConnell, Mike DeWine, John W. Warner, Larry E. Craig, Don Nickles, Jesse Helms, Chuck Hagel, Dirk Kempthorne, Lauch Faircloth.

CALL OF THE ROLL

The PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDENT pro tempore. The question is, Is it the sense of the Sen-

ate that debate on the modified committee amendment to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Oklahoma [Mr. INHOFE], the Senator from Arizona [Mr. KYL], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. ENZI], and the Senator from Utah [Mr. HATCH] are necessarily absent.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "no."

The yeas and nays resulted—yeas 43, nays 49, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—43

Abraham	Faircloth	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Smith (NH)
Chafee	Helms	Smith (OR)
Coats	Hutchinson	Stevens
Cochran	Hutchison	Thomas
Coverdell	Jeffords	Thurmond
Craig	Kempthorne	Warner
D'Amato	Lott	
DeWine	Lugar	

NAYS—49

Akaka	Bryan	Daschle
Baucus	Bumpers	Dodd
Biden	Byrd	Dorgan
Bingaman	Cleland	Durbin
Boxer	Collins	Feingold
Breaux	Conrad	Feinstein

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



Printed on recycled paper.

S11173

Ford	Lautenberg	Robb
Glenn	Leahy	Rockefeller
Graham	Levin	Santorum
Hollings	Lieberman	Sarbanes
Inouye	Mack	Snowe
Johnson	Mikulski	Specter
Kennedy	Moseley-Braun	Thompson
Kerrey	Moynihahn	Torricelli
Kerry	Murray	Wyden
Kohl	Reed	
Landrieu	Reid	

NOT VOTING—8

Domenici	Hatch	McCain
Enzi	Inhofe	Wellstone
Harkin	Kyl	

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BREAUX. Mr. President, I would just ask, what is the order of business for the Senate?

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1173) to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee-Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee-Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee-Warner amendment No. 1314 (to Amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott amendment No. 1318 (to Amendment No. 1317), to strike the limitation on obligations for administrative expenses.

Mr. BREAUX. Mr. President, I ask unanimous consent, if no one else is waiting to speak, that I be allowed to speak as in morning business for up to 3 minutes.

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

SUPPORT OF THE FEDERAL MARITIME COMMISSION REGARDING JAPANESE PORT PRACTICES

Mr. BREAUX. Mr. President, I will just use this time to make a comment about a resolution that is soon to be introduced in a bipartisan fashion, dealing with trade practices between our country and the country of Japan. As many may have recognized recently in the news, we have been involved in a very long and very serious dispute with the country of Japan regarding access, opening up their ports to our industries the same way that our American ports are open to Japanese ships when they call on United States ports here in this country. This dispute has been going on for a number of years. It has gotten to be very, very serious.

We will soon be introducing a resolution. We have talked to Chairman HELMS and Majority Leader LOTT and our Democratic leader, TOM DASCHLE. I know Senator HOLLINGS is very interested in this as well. We worked on a resolution, which will be introduced, which will commend the administration and also the Federal Maritime Commission for their efforts to date in bringing this 15-year problem with the Japanese port practices to a successful conclusion. Since the press and many of my colleagues have already adequately described the history of the Japanese port practices, I am not going to repeat it here. But I would like to make a few comments on what has happened.

First, I think it is very important from this Senator's perspective to recognize that we have been able to work for a successful and satisfactory conclusion of this problem because of the strong, independent action that the Federal Maritime Commission was able to take. As an independent agency, the Federal Maritime Commission has the flexibility to carry out policies that are good for America without having to go through a number of steps and consultations with agencies within our Government that sometimes actually impede the process of quickly and appropriately making decisions that must be made. Because of its independent status, it was able to take this action in a way that should bring about what I think will be a satisfactory conclusion.

The second point I would like to make is I think it is appropriate at this time to recognize the decision of our U.S. Trade Representative, Charlene Barshefsky, last year, to refuse to commit the United States to an inadequate GATS maritime agreement. Had the United States accepted that proposal last year, which was a so-called standstill proposal, these same Japanese port barriers would have been grandfathered in and would have been recognized as the international law of the land. The Federal Maritime Commission, including the rest of the U.S. Government, would have then been powerless to do anything about them except to try to negotiate them away

during subsequent rounds of talks with the WTO starting in the year 2000. No agreement is better than a bad agreement. This is a clear example that what the U.S. Trade Representative did at that time was appropriate and proper.

Finally, I believe any agreement on the port practices dispute involving the United States and the country of Japan must include two fundamental points: First, a collection of fines to the extent it shows other countries around the world, not only Japan, that the United States is very serious about reciprocal market access and compliance with our laws; and, second, a vigilant, continued monitoring and enforcement by the Federal Maritime Commission of the changes in port practices promised by the Government of Japan. Both of these two elements are absolutely essential for any type of credible agreement. The Federal Maritime Chairman, Hal Creel, the Federal Maritime Commissioners, Ming Hsu, Del Won, Joe Scroggins and their staffs are to be commended for their extraordinary efforts to resolve this matter in a firm and fair manner. Likewise, I commend our State Department Undersecretary for Economic Affairs Stu Eisenstadt and his staff. They are to be commended for their perseverance in this matter.

Now is not the time, however, for congratulations. We are not quite there yet. Negotiations are continuing. But with additional fortitude, consumers and carriers and their customers, both in Japan and the United States, will soon enjoy the fruits of our labors. We have come too far to settle for any type of mediocre agreement. We cannot and should not give up now. I think a solid resolution of this issue is feasible and I expect one to be concluded in a reasonable amount of time.

Mr. President, if no one else is seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE INVESTITURE OF ERIC CLAY

Mr. ABRAHAM. Mr. President, I rise today to comment on an event that will be taking place in Detroit, MI, a little later on this morning. Unfortunately, because of our votes today, it was not possible for me to attend what will be the investiture of Eric Clay, of Michigan, to become a judge on the Sixth Circuit Court of Appeals. I worked on behalf of Mr. Clay during the nomination process. It was a long and arduous one. Although his nomination was first sent up here in 1996, because of various factors we did not complete action on his nomination during the 104th Congress. Therefore, his