

Ford	Lautenberg	Robb
Glenn	Leahy	Rockefeller
Graham	Levin	Santorum
Hollings	Lieberman	Sarbanes
Inouye	Mack	Snowe
Johnson	Mikulski	Specter
Kennedy	Moseley-Braun	Thompson
Kerrey	Moynihn	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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 stand-still 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

nomination was sent up again at the beginning of the 105th Congress. Happily, after another hearing and after once again being able to seek and receive unanimous support on the Judiciary Committee, he was confirmed by the full Senate in July of this year.

Mr. Clay has been an able advocate of his profession. He has been a very successful attorney. He is one of the co-founders of one of the Nation's largest minority-run law firms, and a very successful one in our State. He is well respected by people throughout the legal community. So, for those reasons and for a variety of others, I was delighted to support his nomination and to work for his confirmation.

Unhappily, as I say, I will not be able to be at the investiture today, but I know his many friends and colleagues are with him and will celebrate his official swearing in to the Sixth Circuit Court of Appeals. As I indicated at the hearing, in any case where people might not necessarily agree, as we find ourselves perhaps occasionally in disagreement on matters that come before the court, or before the Senate for that matter, I think he will bring strength and competence.

He served at one time as a clerk to Judge Damon Keith, who is currently on the sixth circuit and has just recently taken senior status. And, although not directly filling Judge Keith's spot, he, I am sure, will carry on Judge Keith's legacy on the bench and I think will be a fine advocate for the State of Michigan on the sixth circuit, and also, I think, will bring to the Sixth Circuit Court of Appeals a great deal of talent and will make a valuable contribution.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. CHAFEE. Mr. President, I am authorized to say that there will be no further votes today.

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

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

#### ANOTHER TRAGEDY

Mr. DEWINE. Mr. President, I rise today to call the attention of my colleagues to a story that appeared last week in the Cincinnati Post. This is the story. The headline is: "Woman Torched Nephew, Police Say—Youngster's Burns Untreated for Weeks."

Mr. President, the article tells the story of the awful abuse of an 8-year-old child in the Cincinnati area. The boy was set on fire—set on fire—with nail polish remover, and then sent to school for 3 weeks with his burns untreated.

Cincinnati police investigated what happened to this little boy. They have now charged his aunt with child endangering. They charged his aunt with setting him on fire—and also with abusing him with a belt, an extension cord, and shoes.

Mr. President, this is an obscene crime. After this woman's arrest, it was revealed that she had been charged with a similar crime involving the same little boy 2 years before. Don't we have to ask, Mr. President, what on Earth was that woman doing taking care of that child or any child? Why in the world was that child put back into that same home, put back with that abusive woman?

Mr. President, 3 weeks ago, I rose on the Senate floor to tell a similar tragic story. That story took place in Washington, DC. It was the story of a little 4-year-old girl named Monica Wheeler who was found dead, beaten to death in the bathroom of a man who was an acquaintance of her mother. Three years ago, one of Monica's siblings, her brother Andre, then aged 2, was also found dead in the same man's bathroom.

Mr. President, as I have come to the floor and cautioned before, it is up to the police and the courts to find out the truth about these particular cases. And we should not be interested in prosecuting anyone here on the Senate floor, no matter what we think. That certainly is what the courts are for. But I cannot stress enough that these awful crimes point to a responsibility that lies with us here in Congress, the responsibility to make sure we do all we can to stop these crimes from ever happening.

One thing we know for certain about these two cases—the Cincinnati case and the Washington case, and far too many other cases—is that there are too many children in this country today being returned to the care of people who have already abused and battered them, people who should not be allowed to take care of these children. Children are being returned to homes that are homes in name only and to parents who are parents in name only.

Every day in this country, three children actually die of abuse or neglect at the hands of a parent or their caretakers. That is approximately 1,200 children a year who die. And almost half of these children, shockingly, Mr. President, are killed after—after—their

tragic circumstances have come to the attention of the child welfare agencies.

At the end of 1996, Mr. President, over 525,000 children were in foster homes across this country. Over a year's time, it is estimated that 650,000 children will be in a foster home for at least a portion of that year. And shockingly, roughly 25 percent of the children in the foster care system at any one time will languish in foster care longer than 4 years. And 10 percent of these children will be in foster care longer than 7 years.

Mr. President, this problem has been growing for many years. It is at least in part the very unintended consequence of a law passed by Congress in 1980, a law that I have spoken on this floor I suppose at least a dozen times about since I came to the Senate. It is a law that was passed in 1980 that requires that reasonable efforts always be made to reunify families. In practice, Mr. President, this law has resulted in unreasonable efforts, unreasonable efforts being made to reunite families that are families in name only, families that never should be reunited. Children are being sent back to abusive parents, abusive care givers, and many times the result is death.

Mr. President, I have been working to change this for almost 3 years now. Last month, along with Senators CHAFEE, CRAIG, and ROCKEFELLER, and others, I introduced a bill that I hope will represent the culmination of this effort. The PASS Act—the Promotion of Adoption Safety and Support for Abused and Neglected Children Act—would make a difference. It would save young lives. It would change this 1980 law that I referenced. It would put an end to a tragic policy that has put parents' interests above the health and safety and even the survival of innocent children.

It would help child welfare agencies move faster to rescue these children. Mr. President, every child deserves a better fate than being shuttled from foster home to foster home for years on end.

That is why, Mr. President, we are working to pass this very important bill. Let us work together, after we pass the bill, then on the next step, which will be to continue to try to improve the system.

But the work that is in front of us today, Mr. President, is to pass the PASS Act, a bill that has been worked on extensively, a bill that will in fact benefit children in two ways: One, by moving them quickly through the system once they are in fact in foster care so that they do not languish in foster care for years on end so that they can have what every child needs, which is a caring and loving family; and the second thing the bill would do is save lives. We will never know what child's life will be saved or how many, but I am convinced, after talking with case-workers throughout the State of Ohio, children service agencies, and after having talked to many people throughout this country, that the 1980 law that