

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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, do hereby move to bring to a close debate on Executive Calendar No. 86, the nomination of Priscilla R. Owen of Texas to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Orrin Hatch, John Cornyn, Michael B. Enzi, Jim Talent, Judd Gregg, Jeff Sessions, Wayne Allard, Mike Crapo, Thad Cochran, Mitch McConnell, Susan Collins, Don Nickles, George Allen, Kay Bailey Hutchison, Gordon H. Smith, John Warner.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Priscilla Richman Owen to be United States Circuit Judge for the Fifth Circuit 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. McCONNELL. I announce that the Senator from Alaska (Ms. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nay 45, as follows:

[Rollcall Vote No. 144 Ex.]

YEAS—52

Alexander	Dole	Miller
Allard	Domenici	Nelson (NE)
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—45

Akaka	Conrad	Harkin
Baucus	Corzine	Hollings
Bayh	Daschle	Inouye
Biden	Dayton	Jeffords
Bingaman	Dodd	Johnson
Boxer	Dorgan	Kerry
Breaux	Durbin	Kohl
Byrd	Edwards	Landrieu
Cantwell	Feingold	Lautenberg
Carper	Feinstein	Leahy
Clinton	Graham (FL)	Levin

Lincoln	Pryor	Sarbanes
Mikulski	Reed	Schumer
Murray	Reid	Stabenow
Nelson (FL)	Rockefeller	Wyden

NOT VOTING—3

Kennedy	Lieberman	Murkowski
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The PRESIDING OFFICER. On this vote the yeas are 52, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent the Senate now stand in recess until 3:20 p.m.

Mr. CARPER. Reserving the right to object, if the Senator will defer for just a moment? I ask unanimous consent to make a brief statement, maybe 1 minute.

Mr. HATCH. Of course.

VOTE EXPLANATION

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, early this morning the train I was traveling on from Wilmington to Washington experienced mechanical difficulties causing us to arrive at Union Station more than one-half hour late. As a result, I missed maybe my second or third vote in the U.S. Senate. I missed the vote on the Resolution of Ratification of the NATO expansion treaty. Had I been here I would have voted yes.

I ask unanimous consent the RECORD reflect my reasons for missing the vote and how I would have voted had I been here.

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

RECESS

Mr. HATCH. Mr. President, I renew my request to have the Senate stand in recess until 3:20 p.m.

There being no objection, the Senate, at 2:34 p.m., recessed until 3:20 p.m. and reassembled when called to order by the Presiding Officer (Mr. CRAPO).

The PRESIDING OFFICER. In my capacity as a Senator from the great State of Idaho, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FOREIGN INTELLIGENCE SURVEILLANCE ACT—Continued

AMENDMENT NO. 536

(Purpose: To establish additional annual reporting requirements on activities under the Foreign Intelligence Surveillance Act of 1978)

Mr. FEINGOLD. Mr. President, I call up amendment No. 536.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 536.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To establish additional annual reporting requirements on activities under the Foreign Intelligence Surveillance Act of 1978)

At the end, add the following:

SEC. 2. ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

- (1) by redesignating—
  - (A) title VI as title VII; and
  - (B) section 601 as section 701; and
- (2) by inserting after title V the following new title VI:

“TITLE VI—REPORTING REQUIREMENT “ANNUAL REPORT OF THE ATTORNEY GENERAL.

“SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

“(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

“(A) electronic surveillance under section 105;

“(B) physical searches under section 304;

“(C) pen registers under section 402; and

“(D) access to records under section 501;

“(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

“(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

“(4) in a manner consistent with the protection of the national security of the United States—

“(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

“(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

“(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

“(c) In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

“(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items: