

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message to the Committee on Small Business with instructions to report back forthwith with an amendment numbered 349.

The amendment is as follows:

At the appropriate place, insert the following:

This Act shall become effective 3 days after enactment.

Mr. REID. On that motion, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 350

Mr. REID. Mr. President, I have an amendment to my instructions which is also at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 350 to the instructions of the motion to refer.

The amendment is as follows:

In the amendment, strike "3" and insert "2".

Mr. REID. On that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 351 TO AMENDMENT NO. 350

Mr. REID. I have a second-degree amendment to my instructions which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 351 to amendment No. 350.

The amendment is as follows:

In the amendment, strike "2" and insert "1".

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, there will be no further rollcall votes tonight, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AIRPORT AND AIRWAY EXTENSION ACT OF 2011, PART II

Mr. DURBIN. Mr. President, I ask unanimous consent, as if in morning business, the Senate proceed to the consideration of H.R. 1893, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1893) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 1893) was ordered to a third reading, was read the third time, and passed.

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

The PRESIDING OFFICER (Mr. DURBIN). Without objection, it is so ordered.

PATRIOT SUNSETS EXTENSION ACT

Mr. MERKLEY. Mr. President, I rise to address the 4-year extension of the PATRIOT Act and to oppose that extension if the bill is not modified.

I want to take us back to the principles on which our Nation was founded and, indeed, before our Declaration of Independence and before our Constitution when there was a deep tradition of the right of privacy. Let's take William Pitt's declaration in 1763. He said:

The poorest may, in his cottage, bid his defiance to all the forces of the Crown . . . the storm may enter; the rain may enter. . . . But the King of England may not enter.

It is the philosophy embedded in William Pitt's declaration of the sanctity of a man's home that underwrote the principle of the fourth amendment. That reads as follows:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The fourth amendment is powerful protection of personal privacy from the overreach of government. How does

that compare in contrast to the PATRIOT Act that is before us?

Let me tell you the standard that is in the PATRIOT Act for the government to seize your papers, to search your papers, and that standard is simply "relevant" to an "investigation." Relevant to an investigation? That is the legal standard set out in the PATRIOT Act. That is a standard that was written to be as broad and low as possible. What does it mean to be "relevant" to an investigation? It certainly isn't something as strong as probable cause, which is in the fourth amendment. It certainly isn't describing the place to be searched, the persons and things to be seized. Indeed, the word "relevant" doesn't have a foundation of legal tradition that provides any boundaries at all.

Let's take the term "investigation." "Investigation" is in the eye of the beholder. I want to look into something, so that is an investigation. What happens to these words in the PATRIOT Act, in the section of the PATRIOT Act that addresses the sweeping powers to investigate Americans down to the books they check out, their medical records, and their private communications? Quite simply, there is a process in theory in which a court, known as the FISA Court, makes a determination, but they make the determination upon this standard—that this standard is "relevant to an investigation."

Now, the interpretation of that clause is done in secret. I would defy you to show me a circumstance where a secret interpretation of a very minimal standard is tightened in that secret process. But we don't know because we are not being told.

This is why I support Senator WYDEN's amendment. Senator WYDEN has said we should not have secret law—secret interpretation of clauses that may result in the opposite of what we believe is being done. That is a very important amendment. But that amendment will not be debated on the floor of the Senate. It won't be debated because a very clever mechanism has just been put into play to prevent amendments from being offered and debated on the floor of the Senate on the 4-year extension of the PATRIOT Act. Quite frankly, I am very disturbed by that mechanism—a parliamentary move in which a House message is brought over and the regular bill is tabled, and that message will then have the regular PATRIOT Act put into it as a privileged motion, and it will be returned to the House. The effect therein is, because the tree has been filled, which is parliamentary-speak for "no amendments will be allowed," we won't get to debate Senator WYDEN's amendment.

There are a number of Senators who have proposed to change this standard—"relevant to an investigation"—to make it a legally significant standard and make sure it is not being secretly interpreted to mean almost nothing. But we won't have a