

Mr. SPECTER. I yield back that time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague for his words and his thoughts. His sense of timing is exquisite, realizing he had only 15 seconds left. I always enjoy listening to him. I appreciate his remarks and thank him for his courtesy.

APPOINTMENT OF SPECIAL COUNSEL

Mr. SCHUMER. Mr. President, I came to the Chamber this morning because I thought we would be on the DC appropriations bill and was prepared to offer a sense-of-the-Senate amendment to that bill concerning the appointment of special counsel to conduct a fair, thorough, and independent investigation into a national security breach.

I ask unanimous consent that my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

(Purpose: To express the sense of Congress concerning the appointment of a special counsel to conduct a fair, thorough, and independent investigation into a national security breach)

At the appropriate place, insert the following:

SEC. ____ . SENSE OF CONGRESS CONCERNING THE APPOINTMENT OF A SPECIAL COUNSEL TO CONDUCT A FAIR, THOROUGH, AND INDEPENDENT INVESTIGATION INTO A NATIONAL SECURITY BREACH.

(a) FINDINGS.—Congress finds that—

(1) the national security of the United States is dependent on our intelligence operatives being able to operate undercover and without fear of having their identities disclosed by the United States Government;

(2) recent reports have indicated that administration or White House officials may have deliberately leaked the identity of a covert CIA agent to the media;

(3) the unauthorized disclosure of a covert CIA agent's identity is a Federal felony; and

(4) the Attorney General has the power to appoint a special counsel of integrity and stature who may conduct an investigation into the leak without the appearance of any conflict of interest.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General of the United States should appoint a special counsel of the highest integrity and stature to conduct a fair, independent, and thorough investigation of the leak and ensure that all individuals found to be responsible for this heinous deed are punished to the fullest extent permitted by law.

Mr. SCHUMER. Mr. President, now I am told the bill has been delayed because this amendment was going to be offered. I am going to talk about the amendment and have a dialog with my colleague from California.

On July 23, I believe it was, when I read the Novak column that named high administration sources as revealing the wife of Ambassador Wilson, Ms. Plame, as an agent—I hasten to add, I don't know if she is a covert agent. That is classified. But that is what was

in the paper—I was outraged. I didn't know who had leaked the information. No idea. I am not an expert on the interagency rivalries among the various agencies, but the fact it was done just boiled my blood. So I wrote the FBI and asked Mr. Mueller to undertake an investigation of this act. The act, make no mistake about it, is a very serious act. In fact, it is a crime, punishable by up to 10 years in prison.

Why is it a crime? Why have this body and the other body made this a crime? For obvious reasons. Our covert agents put their lives at risk for us every day. They are soldiers just like our brave young men and women in Iraq and around the globe. And in the post-9/11 world, the world of terrorism, they are among our most important soldiers because we have learned intelligence is key. When the name of an agent is revealed, it is like putting a gun to that agent's head. You are jeopardizing their life; in many cases, you are jeopardizing the lives of the contacts they have built up over the decades, and you are jeopardizing the security of America. So the seriousness of this crime is obvious.

When, in addition, we learned that it was done in all likelihood for a frivolous, nasty reason—namely, that somebody was angry at Ambassador Wilson for speaking the truth, at least as he saw it—I tended to agree with him. I don't think anybody disputes it. In fact, the administration has admitted, the yellow cake sale from Niger to Iraq and the documents were, in fact, forged and the President was incorrect to use them in his State of the Union Address. This was a way of getting back at him through his wife or perhaps to cover him to make sure he didn't speak any further. Nasty. Not just nasty, it was like kneecapping.

In fact, John Dean, who has been through this, just wrote an article in something called TruthOut Editorial. The title is "The Bush Administration"—that is assuming it was done by the administration, but that is what all the reports are—"Adopts a Worse-than-Nixonian Tactic: The Deadly Serious Crime of Naming CIA Operatives."

I ask unanimous consent that Mr. Dean's article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From TruthOut, Aug. 15, 2003]

THE BUSH ADMINISTRATION ADOPTS A WORSE-THAN-NIXONIAN TACTIC: THE DEADLY SERIOUS CRIME OF NAMING CIA OPERATIVES

(By John W. Dean)

On July 14, in his syndicated column, Chicago Sun-Times journalist Robert Novak reported that Valerie Plame Wilson—the wife of former ambassador Joseph C. Wilson IV, and mother of three-year-old twins—was a covert CIA agent. (She had been known to her friends as an "energy analyst at a private firm.")

Why was Novak able to learn this highly secret information? It turns out that he didn't have to dig for it. Rather, he has said, the "two senior Administration officials" he

had cited as sources sought him out, eager to let him know. And in journalism, that phrase is a term of art reserved for a vice president, cabinet officers, and top White House officials.

On July 17, Time magazine published the same story, attributing it to "government officials." And on July 22, Newsday's Washington Bureau confirmed "that Valerie Plame . . . works at the agency [CIA] on weapons of mass destruction issues in an undercover capacity." More specifically, according to a "senior intelligence official," Newsday reported, she worked in the "Directorate of Operations [as an] undercover officer."

In other words, Wilson is/was a spy involved in the clandestine collection of foreign intelligence, covert operations and espionage. She is/was part of an elite corps, the best and brightest, and among those willing to take great risk for their country. Now she has herself been placed at great—and needless—risk.

Why is the Administration so avidly leaking this information? The answer is clear. Former ambassador Wilson is famous, lately, for telling the truth about the Bush Administration's bogus claim that Niger uranium had gone to Saddam Hussein. And the Bush Administration is punishing Wilson by targeting his wife. It is also sending a message to others who might dare to defy it, and reveal the truth.

No doubt the CIA, and Mrs. Wilson, have many years, and much effort, invested in her career and skills. Her future, if not her safety, are now in jeopardy.

After reading Novak's column, The Nation's Washington Editor, David Corn, asked, "Did senior Bush officials blow the cover of a U.S. intelligence officer working covertly in a field of vital importance to national security—and break the law—in order to strike at a Bush administration critic and intimidate others?"

The answer is plainly yes. Now the question is, will they get away with it?

Bits and pieces of information have emerged, but the story is far from complete. Nonetheless, what has surfaced is repulsive. If I thought I had seen dirty political tricks as nasty and vile as they could get at the Nixon White House, I was wrong. The American Prospect's observation that "we are very much into Nixon territory here" with this story is an understatement.

Indeed, this is arguably worse. Nixon never set up a hit on one of his enemies' wives.

LEAKING THE NAME OF A CIA AGENT IS A CRIME

On July 22, Ambassador Wilson appeared on the Today show. Katie Couric asked him about his wife: "How damaging would this be to your wife's work?"

Wilson—who, not surprisingly, has refused to confirm or deny that his wife was a CIA operative—answered Katie "hypothetically." He explained, "it would be damaging not just to her career, since she's been married to me, but since they mentioned her by her maiden name, to her entire career. So it would be her entire network that she may have established, any operations, any programs or projects she was working on. It's a—it's a breach of national security. My understanding is it may, in fact, be a violation of American law."

And, indeed, it is.

The Espionage Act of 1917 and the Intelligence Identities and Protection Act of 1982 may both apply. Given the scant facts, it is difficult to know which might be more applicable. But as Senator Schumer (D.NY) said, in calling for an FBI investigation, if the reported facts are true, there has been a crime. The only question is: Whodunit?

THE ESPIONAGE ACT OF 1917

The Reagan Administration effectively used the Espionage Act of 1917 to prosecute

a leak—to the horror of the news media. It was a case that instituted to make a point, and establish the law, and it did just that in spades.

In July 1984, Samuel Morrison—the grandson of the eminent naval historian with the same name—leaked three classified photos to Jane's Defense Weekly. The photos were of the Soviet Union's first nuclear-powered aircraft carrier, which had been taken by a U.S. spy satellite.

Although the photos compromised no national security secrets, and were not given to enemy agents, the Reagan Administration prosecuted the leak. That raised the question: Must the leaker have an evil purpose to be prosecuted?

The Administration argued that the answer was no. As with Britain's Official Secrets Acts, the leak of classified material alone was enough to trigger imprisonment for up to ten years and fines. And the United States Court of Appeals for the Fourth Circuit agreed. It held that such a leak might be prompted by "the most laudable motives, or any motive at all," and it would still be a crime. As a result, Morrison went to jail.

The Espionage Act, though thrice amended since then, continues to criminalize leaks of classified information, regardless of the reason for the leak. Accordingly, the "two senior administration officials" who leaked the classified information of Mrs. Wilson's work at the CIA to Robert Novak (and, it seems, others) have committed a federal crime.

THE INTELLIGENCE IDENTITIES AND PROTECTION ACT

Another applicable criminal statute is the Intelligence Identities Act, enacted in 1982. The law has been employed in the past. For instance, a low-level CIA clerk was convicted for sharing the identify of CIA employees with her boyfriend, when she was stationed in Ghana. She pled guilty and received a two-year jail sentence. (Others have also been charged with violations, but have pleaded to unrelated counts of the indictment.)

The Act reaches outsiders who engage in "a pattern of activities" intended to reveal the identities of covert operatives (assuming such identities are not public information, which is virtually always the case).

But so far, there is no evidence that any journalist has engaged in such a pattern. Accepting Administration leaks—even repeatedly—should not count as a violation, for First Amendment reasons.

The Act primarily reaches insiders with classified intelligence, those privy to the identity of covert agents. It addresses two kinds of insiders.

First, there are those with direct access to the classified information about the "covert agents" who leak it. These insiders—including persons in the CIA—may serve up to ten years in jail for leaking this information.

Second, there are those who are authorized to have classified information and learn it, and then leak it. These insiders—including persons in, say, the White House or Defense Department—can be sentenced to up to five years in jail for such leaks.

The statute also has additional requirements before the leak of the identity of a "covert agent" is deemed criminal. But it appears they are all satisfied here.

First, the lead must be to a person "not authorized to receive classified information." Any journalist—including Novak and Time—plainly fits.

Second, the insider must know that the information being disclosed identifies a "covert agent." In this case, that's obvious, since Novak was told this fact.

Third, the insider must know that the U.S. government is "taking affirmative measures to conceal such covert agent's intelligence

relationship to the United States." For persons with Top Secret security clearances, that's a no-brainer: They have been briefed, and have signed pledges of secrecy, and it is widely known by senior officials that the CIA goes to great effort to keep the names of its agents secret.

A final requirement relates to the "covert agent" herself. She must either be serving outside the United States, or have served outside the United States in the last five years. It seems very likely that Mrs. Wilson fulfills the latter condition—but the specific facts on this point have not yet been reported.

HOW THE LAW PROTECTS COVERT AGENTS' IDENTITIES

What is not in doubt, is that Mrs. Wilson's identity was classified, and no one in the government had the right to reveal it.

Virtually all the names of covert agents in the CIA are classified, and the CIA goes to some effort to keep them classified. They refuse all Freedom of Information Act requests, they refuse (and courts uphold) to provide such information in discovery connected to lawsuits.

Broadly speaking, covert agents (and their informants) fall under the State Secrets privilege. A Federal statute requires that "the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." It is not, in other words, an option for the CIA to decide to reveal an agent's activities.

And of course, there are many good reasons for this—relating not only to the agent, but also to national security. As CIA Director Turner explained in a lawsuit in 1982, shortly after the Intelligence Identities Act became law, "In the case of persons acting in the employ of CIA, once their identity is discerned further damage will likely result from the exposure of other intelligence collection efforts for which they were used."

THE WHITE HOUSE'S UNUSUAL STONEWALLING ABOUT AN OBVIOUS LEAK

In the past, Bush and Cheney have gone ballistic when national security information leaked. But this leak—though it came from "two senior administration officials"—has been different. And that, in itself, speaks volumes.

On July 22, White House press secretary Scott McClellan was asked about the Novak column. Offering only a murky, non-answer, he claimed that neither "this President or this White House operates" in such a fashion. He added, "there is absolutely no information that has come to my attention or that I have seen that suggests that there is any truth to that suggestion. And, certainly, no one in this White House would have given authority to take such a step."

So was McClellan saying that Novak was lying—and his sources were not, in fact, "two senior administration officials"? McClellan dodged, kept repeating his mantra, and refused to respond.

Later, McClellan was asked, "Would the President support an investigation into the blowing of the cover of an undercover CIA operative?" Again, he refused to acknowledge "that there might be some truth to the matter you're bringing up." When pressed further, he said he would have to look into "whether or not that characterization is accurate when you're talking about someone's cover."

McClellan's statement that he would have to look into the matter was disingenuous at best. This ten-day old column by Novak had not escaped the attention of the White House. Indeed, when the equation was first raised, McClellan immediately responded, "Thank you for bringing it up."

As David Corn has pointed out, what McClellan did not say, is even more telling than what he said. He did not say he was trying to get to the bottom of the story and determine if it had any basis in fact. He did not say the president would not tolerate such activities, and was demanding to know what had happened.

Indeed, as Corn points out, McClellan's remarks "hardly covered a message from Bush to his underlings: don't you dare pull crap like this." Indeed, they could even be seen as sending a message that such crimes will be overlooked.

Frankly, I am astounded that the President of the United States—whose father was once Director of the CIA—did not see fit to have his Press Secretary address this story with hard facts. Nor has he apparently called for an investigation—or even given Ambassador and Mrs. Wilson a Secret Service detail, to let the world know they will be protected.

This is the most vicious leak I have seen in over 40 years of government-watching. Failure to act to address it will reek of a cover-up or, at minimum, approval of the leak's occurrence—and an invitation to similar revenge upon Administration critics.

CONGRESSIONAL CALLS FOR INVESTIGATION SHOULD BE HEEDED

Senator Dick Durbin (D-IL) was the first to react. On July 22, he delivered a lengthy speech about how the Bush Administration was using friendly reporters to attack its enemies. He knew this well, because he was one of those being so attacked.

"Sadly, what we have here," Durbin told his colleagues, "is a continuing pattern by this White House. If any Member of this Senate—Democrat or Republican—takes to the floor, questions this White House policy, raises any questions about the gathering of intelligence information, or the use of it, be prepared for the worst. This White House is going to turn on you and attack you."

After Senator Durbin set forth the evidence that showed the charges of the White House against him were false, he turned to the attacks on Ambassador and Mrs. Wilson. He announced that he was asking the chairman and ranking member of the Senate Intelligence Committee to investigate this "extremely serious matter."

"In [the Administration's] effort to seek political revenge against Ambassador Wilson," Durbin said, "they are now attacking him and his wife, and doing it in a fashion that is not only unacceptable, it may be criminal. And that, frankly, is as serious as it gets in this town."

The House Intelligence Committee is also going to investigate the Wilson leak. "What happened is very dangerous to a person who may be a CIA operative," Congressman Alcee Hastings (D-FL), a member of the Committee, said. And the committee's chairman, Porter Goss (R-FL), a former CIA agent himself, said an investigation "could be part of a wider" look that his committee is taking at WMD issues.

In a July 24 letter to FBI Director William Mueller, Senator Charles Schumer (D-NY) demanded a criminal investigation of the leak. Schumer's letter stated, "If the facts that have been reported publicly are true, it is clear that a crime was committed. The only questions remaining to be answered are who committed the crime and why?"

The FBI, too, has confirmed that they are undertaking an investigation.

But no one should hold their breath. So far, Congress has treated the Bush Administration with kid gloves. Absent an active investigation by a grand jury, under the direction of a U.S. Attorney or special prosecutor, an FBI investigation is not likely to accomplish anything. After all, the FBI does not

have power to compel anyone to talk. And unless the President himself demands a full investigation, the Department of Justice is not going to do anything—unless the Congress uncovers information that embarrasses them into taking action.

While this case is a travesty, it won't be the first one that this administration has managed to get away with. Given the new nadir of investigative journalism, this administration has been emboldened. And why not? Lately, the mainstream media has seemed more interested in stockholders than readers. If Congress won't meaningfully investigate these crimes—and, indeed, even if it will—it is the press's duty to do so. Let us hope it fulfills that duty. But I am not holding my breath about that, either.

Mr. SCHUMER. Mr. President, this is serious stuff, and I was furious. I had no idea who had done it at that point in time. "High administration official" can mean a whole lot of things. So I wrote the letter to Mr. Mueller and publicly called on him for an investigation.

I learned shortly thereafter that for such an investigation to proceed, the CIA had to fill out, I think it is, an 11-point questionnaire about the person named, what they did, and what was revealed. Of course, last week it came out on television and in the newspapers that the CIA had asked for an investigation. The logical, though not certain, conclusion of that, of course, is that they believe a crime might well have been committed; that Ms. Plame, indeed, was hurt by the revelation, and that it was illegal to reveal it.

I cannot tell you how many people I have talked with in this body and throughout the country who are just outraged by this—just outraged. The attitude that seemed to be indicated by the administration spokesperson yesterday—oh, we get plenty of leaks, and this is just one of them, and we investigate all of them—is even more infuriating.

This is not an ordinary leak. I challenge any of my colleagues on either side of the aisle to bring to me the situation where someone in a high administration position leaked the name of an agent and jeopardized their life, their contacts, and America's security. This is a totally different ball of wax. This is not just a leak. This is a crime, plain and simple.

Mrs. BOXER. Will the Senator yield?

Mr. REID. Will the Senator yield for a question?

Mr. SCHUMER. Mr. President, I will be happy to yield to my two colleagues in just a minute.

Even the White House saying, "We will fire whoever did it," is not sufficient. If you have a company and someone is suspected of murder and they say, "If we find out they are convicted of murder, we will fire them," would that be a sufficient enough punishment? Absolutely not.

What we have here is an attitude: Let's sweep this under the rug, let's make sure nobody says much about it, and maybe it will go away.

I yield first to my colleague from Nevada.

Mr. REID. Mr. President, I have a question. Will the Senator yield?

Mr. SCHUMER. I will be happy to yield to my colleague from Nevada for a question.

Mr. REID. Mr. President, I say to my friend from New York, I have been at a meeting with the Iraqi Governing Council, and I was stunned when I came back to the Senate Chamber and was advised by my staff that we are no longer on the DC appropriations bill. We are suddenly in morning business until our weekly caucuses.

I say to my friend from New York, why in the world would someone be afraid to vote on an amendment the Senator from New York and others are going to offer that says: Let's take a look at this; let's find out what happened? We know there was a crime committed. I don't use those words often. I know there was a crime committed. It is only a question of who did it. Why wouldn't our friends on the other side of the aisle allow a debate on this issue? It is not as if we are taking away heavy business. We have been vouchered out from doing the DC appropriations bill.

I say to my friend from New York, what fear does the majority in the Senate have in allowing an amendment the Senator from New York wishes to offer? Why can't we debate this amendment?

Mr. SCHUMER. I thank my colleague for the question. I have asked myself the same question. I was told first that the reason the DC appropriations bill has not been put forward is that they are afraid of this amendment. This is a pattern. This morning—

Mr. REID. I say to my friend—pardon the interruption, through the Chair—afraid of what? Of the truth?

Mr. SCHUMER. That is what the signs seem to indicate. This morning, I was asked to go on the "Today Show" and talk about this issue. They asked a whole bunch of Republican Senators. None would appear. They asked the administration to send somebody. No one would appear. Again, the attitude seems to be: Let's shrug our shoulders and hope this goes away.

I will make one other point to our colleague. Our President has made it his hallmark of defending our troops. That is why we are debating or we will be debating the money for them. That is why we will be debating all of this. Every CIA agent is one of our troops, and for the President to not address this directly, for the President to have his spokesperson say this is one of a whole lot of leaks, to say if they find out who it is, they will be fired—well, I just ask my colleagues to think about this. Let us say they were certain it would cause no damage to them, that these high administration officials were somewhere far away. Do my colleagues think we would have the same attitude from our Commander in Chief, and one who correctly prides himself in protecting our troops?

So it makes one scratch one's head and say, What are they worried about?

Why will they not get to the bottom of this? This, again, as my colleague has said, is very likely a crime, and a serious crime.

I read my colleagues what President Bush, Sr., the 41st President, said about this type of crime. He ought to know because, of course, as we all know, he was head of the CIA before he was President.

I have nothing but contempt and anger for those who betray the trust by exposing our sources. They are, in my view, the most insidious of traitors.

Do we just answer, this is a leak like every other leak when dealing with traitors?

Mr. REID. Will the Senator yield for one more question?

Mr. SCHUMER. I will be happy to yield for a question.

Mr. REID. I came in past the 11:30 hour. Is it true then that we find ourselves in a situation, from a parliamentary standpoint, that the Senator cannot offer his amendment? Is that what the Senator is telling me?

Mr. SCHUMER. If my colleague from Nevada will yield, that is exactly right.

Mr. REID. The Senator has worked on this all morning. I know, as well as yesterday. I had a conversation with him yesterday. We were to go back into legislative business at 11:30. That right has been taken away from us by the majority. They will not even let the Senator offer an amendment in legislative session. Is that true?

Mr. SCHUMER. That is exactly true.

I would be happy to yield to my colleague from California for a question.

Mrs. BOXER. I thank the Senator so much for yielding. I have a few questions. What I want to do is make a 4- or 5-minute statement and then ask three or four questions and hope the Senator can answer them in his inimicable fashion.

First, I thank Senator SCHUMER so much for picking up on this issue. I remember reading about this in July and just scratching my head. I essentially thought: This cannot be true. I cannot believe that someone in the White House would reveal the identity of a person who is working at the CIA undercover. Whether she is an analyst, an operative, or an agent, it matters not, but certainly someone whose identity had never been revealed. I thought: This cannot be happening.

To be honest, I should have done more about it, but I did not, and thank the Senator for writing to the head of the FBI, for whom I have a great deal of respect, and letting him know this.

Here are my questions: As I look at this, I think, why would someone do this? Well, clearly the idea behind attacking Ambassador Wilson's wife was that Ambassador Wilson gave the White House news they did not want to hear, which was that there was really no proof that Saddam Hussein was getting nuclear materials from Niger. They did not want that answer; it was kind of a kill-the-messenger type of response; and in order to get back at

him, they out his wife, which is despicable and a crime, but I think it is about arrogance and it is about intimidation.

We have seen the arrogance, but it is the intimidation factor I want the Senator to comment on because this is not only about this one incident—in which clearly Ambassador Wilson was correct, by the way—but it is a signal that is sent, really, frankly, to everyone in politics that nothing is off limits if someone crosses us: We will go after their wife; we will go after their kids.

I have to say to my friend, he is a family man, I am a family woman. We are in this world—God knows how and why but we are in it—and we are willing to take the hits and everything else, but the lowest form of politics is if someone comes after your kids or your spouse. I resent it, and I want my colleague to comment on those two areas.

I also ask him to comment on a third one, and that is the whole struggle that women are having in this world of ours to enhance our careers, to break the glass ceiling, to go into fields that are maybe a little bit unusual. I do not have the statistics at my fingertips, but if we look at the number of women who are FBI agents, I can tell my colleague that it is very few. I used to know the exact number. I do not want to throw out a number, but it is way less than a third, as I remember.

So we have a circumstance where there is a woman in a nontraditional field doing her work, obviously not getting credit for it. She is working incognito at the CIA, whatever her work is, and she is going up the ladder. Maybe she has a tremendous future. Well, probably the future in that field has been harmed, if not totally destroyed, and maybe her life or other lives that she touched in her work are in danger.

So we are talking about a number of issues—yes, the crime that was committed, but the whole idea of intimidation to people who might take on this administration, the whole idea of going after someone's family when we know, as public servants, what our families mean to us and how we protect them from whatever befalls us, the hits, the pain, and other things that happen. We asked for it. We are in this arena.

So I hope my friend will perhaps talk about that. It is a human tragedy beyond the crime, and I ask my friend to comment.

Mr. SCHUMER. I thank my colleague for her thoughtful, incisive, and from-the-heart-type comments. I will comment on them.

The one I would like to focus on a little bit is the intimidation. The greatness of this democracy through the centuries has been the structure the Founding Fathers set up which allows debate on the issues. It is wonderful.

If we had to think of a sentence at the core of America, it might be: We believe in the competition of ideas, and the best idea will win out. Free speech, that is the competition of ideas in its

pure form. Free enterprise, that is the competition of economic ideas. Freedom of religion, that is the competition of spiritual ideas. Democracy is the competition of political ideas. When we no longer have that, the democracy frays.

When people are afraid to say what they think, not because their arguments will be answered directly but, rather, because they will be hit below the belt, we have the beginnings of the fraying of the democracy, and that is what is happening.

I hate to say this, but this administration seems to have a peculiar penchant to attack someone's patriotism when they disagree. I have basically been a supporter of the President on the war and foreign policy, but for those who disagree, there has been not just, here is why you are wrong and let me tell you why—there has been some of that—but in addition there is an impugning of motive, an impugning of character, a kneecapping. One of the reasons this issue resonates so is that it is the worst of that.

Now, about our families, of course, they should be off limits. I will tell a little story, and then I will yield to my colleague from Iowa. But the points of my colleague from California are so good.

When I ran for the Senate in 1998, my daughter was starting ninth grade in a new high school. My worry was she was going to start in September. If, God willing, I won the primary, the next day I knew that my opponent, who was known as a hardball political player, Senator D'Amato, my predecessor—with whom I now get along quite well, I am happy to say—would go after me. My greatest worry, and the No. 1 reason I debated not to run, was that I thought she would be new in high school, with a whole bunch of new people, and she was going to a different high school, not in Brooklyn but in Manhattan, and people would not want to be friends with her because they would see these horrible things being said about her father on television. Of course we talked it over with Jessica, too, who was a mature 10th grader then—now she is in college and doing great—and we decided to run. As it turns out, they did run all the nasty ads. The morning I won the primary I turned on the TV and there they were. It didn't affect her or her friends. That is the worry we had.

What they are trying to do here is send the message that even your family is not off limits, perhaps. That is a horrible message. That frays democracy, just as does the inability to dissent.

I respected Ronald Reagan. When you asked Ronald Reagan something, if he disagreed with you he would say exactly why: Well, I am against Head Start because I think parents should be in charge of their children until they are 5.

All too often in this administration they don't answer directly. In fact,

they will get up and say, "We love Head Start," and then they will cut the money.

So the candor, the debate on the merits, seems to be going away, and that worries me about the future of this country. This incident is an apotheosis of that, both in terms of intimidation, in terms of going after family, in terms of being malicious, and in terms of saying our political agenda is more important than the lives of the people fighting for us—in this case, in the intelligence agencies.

I am happy to yield to my colleague from Iowa for a question.

Mr. HARKIN. I thank my friend from New York for yielding for a question. I am proud to be a cosponsor of the amendment that the Senator is trying to offer. I came over to the floor from the Appropriations Committee meeting to speak on this amendment. Evidently, I now find out, I understand—am I correct, I ask my friend from New York, that the majority, Republican side, has extended this period of morning business which will keep you from offering this amendment? Is that correct?

Mr. SCHUMER. That is correct.

Mr. HARKIN. Again, I am proud to cosponsor the amendment. I think it gets to the heart of the matter, and that is to try to get a special counsel to look into these serious allegations.

I noted earlier the Senator from New York had quoted from former President George Herbert Walker Bush on leaks. I think there is another quote from a former Senator, John Ashcroft, now Attorney General, in which he said:

You know, a single allegation can be most worthy of a special prosecutor. If you are abusing government property, if you are abusing your status in office, it can be a single fact that makes the difference on this.

John Ashcroft, October 4, 1997, on CNN, Evans and Novak, "A single allegation can be most worthy of a special prosecutor."

As I understand it, the allegation here is not someone has abused government property, not that someone has engaged in some murky real estate deal in timberland someplace, this is an allegation that someone high up in this Government—we don't know where, but someplace high up in the Government, having access to classified information, leaked to one or more reporters, columnists, news people, the name of a CIA agent. That is the allegation, is it not?

Mr. SCHUMER. That is exactly the allegation.

Mr. HARKIN. It would seem to this Senator that allegation is of such import that everyone here ought to support the Senator's sense-of-the-Senate resolution. I say to the Senator, I view it with nothing short of amazement that the other side would want to stop this. I would think everyone here would want to get to the bottom of this.

I ask the Senator, again, is it the Senator's judgment that somehow we

are not being allowed to bring this up for a vote? Does the Senator intend to pursue this, to make sure we do speak as a Senate on this?

Mr. SCHUMER. I thank my colleague for asking that question. Indeed, whenever the DC appropriations bill comes up, I am going to bring up this sense of the Senate.

I thank him for bringing up something else. I don't want this to be a partisan issue. When I first wrote the Director of the FBI, I had no idea who put this in there. I just wanted to get to the bottom of it because I was so outraged at the tactic. What I think we ought to be doing is getting the special counsel because the special counsel is the way to certainly remove any appearance of a conflict, and perhaps a conflict itself. Attorney General Ashcroft, whom you quoted, is known as a close political ally of the President's. There is an argument that the Attorney General should be removed from the President and be a lawyer for the Nation. And there is an argument that the Attorney General should be a close political ally of the President. Democrats and Republicans—it has not been a Democratic or Republican issue.

John Kennedy appointed his brother as Attorney General. But when you appoint an Attorney General who is a close political ally and friend, and when something sensitive with conflicts of interest occurs, then you have an obligation, in my judgment, to move for a special prosecutor. You pay a price, in a certain sense. You gain things by having a political ally as Attorney General, but you also lose things, and you lose the guise of independence, the actuality of independence.

My colleague is so right. The best thing that could happen is we pass this resolution unanimously, we all work together to get a respected independent counsel—someone like a John Danforth or a Warren Rudman or a Sam Nunn or a George Mitchell—and then they go forward with their investigation. I think every one of us on this side of the aisle, as well as the other, would be content that the chips will fall where they may so this dastardly crime, and that is what it is, will be exposed.

This idea of not bringing up such a resolution, of not wanting to debate it, of, again, maybe casting aspersions on the motivation of those who are for it—we have 14 or 15 of us, and we will have more—is going to make the American people think: Wait a minute, maybe they are worried; maybe there is something to hide—which there may or may not be.

I thank my colleague.

Mr. HARKIN. I thank my colleague for responding. I have a couple more questions.

I appreciate what the Senator just said. There have been some allegations made. I don't know whether or not this is some partisan effort or something like that. We know that a law has been broken. There is a clear law against

leaking the names of our intelligence agents, and it is punishable by 5 years—or 10?

Mr. SCHUMER. Ten.

Mr. HARKIN. Ten years or a \$50,000 fine. A crime has been committed.

I say to the Senator, here we are going on day after day, and there is a lot of stuff going around the White House and the Attorney General's office. Is it the judgment of the Senator that this could really be brought to the forefront rapidly? I say because of a statement that was made on ABC News—The Note. They had an interesting question. They asked: Has he [has the President] insisted that every senior staff member sign a statement with legal authority that they are not the leaker and that they will identify to the White House legal counsel who is?

It seems to me the President of the United States can say: Sign this. Are you the one who called or not? And this will be over with by 4 o'clock this afternoon.

Mr. SCHUMER. I thank my colleague for that. That is what the President ought to do. This President—I mentioned this earlier to my colleagues, when I was having a dialog with my colleague from Nevada—is known for defending our troops. That is what we are talking about with \$87 billion. That is a good thing.

Our CIA agents are our troops, just as our soldiers are our troops. In fact, after the war, after 9/11 and the global fight against terrorism, they are even more important because intelligence is so important.

It seems to me that it would be logical for this President to do just what the Senator said—to say: You know, yes, we have to have a legal investigation, but I want to get to the bottom of this immediately because this conduct is reprehensible.

I don't believe the President was involved in this. I disagree with him politically. It doesn't seem part of his character. But he should sure want to get to the bottom. He does not address it at all. His spokesperson comes out there and says: Oh, these are leaks just like all the others. We will find out and we will fire him.

One wonders.

Mr. HARKIN. I thank the Senator. One wonders. The President, it seems to me, would want to get this over with in a hurry by finding out who the person is who leaked this and let the legal recourse then follow. But at least expedite this right away and get rid of that person.

The PRESIDING OFFICER (Mr. SESSIONS). The 30 minutes allotted on this side has expired.

Mr. SCHUMER. I ask unanimous consent, since there is no one from the other side, that we be given an additional 10 minutes.

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

Mr. SCHUMER. Thank you, Mr. President.

Mr. HARKIN. Mr. President, I know other Senators want to engage the Senator from New York. I thank him for his leadership on this. I know of the Senator's longstanding support for our law enforcement and for making sure that those who violate the trust of public office are brought to justice. That is what this is about. This is a gross violation. This is not some little real estate deal someplace.

I ask the Senator: Maybe it is not so much that the wife of Mr. Wilson is identified, and she may be safe here in the United States. I don't know about her travels abroad. That may be restricting her freedom in the future. But what about the contacts she made and her sources around the world? What is going to happen then? What will happen to our intelligence agents around the world today if they think they are going to be "outed" sometime by this administration or some other administration? What happens to our war on terrorism?

Mr. SCHUMER. I thank the Senator. I so much appreciate my colleague's intelligence and integrity and passion which he brings to so many different issues. He is exactly right. Even if this agent should decide to retire, the damage would be great because other agents would think: Maybe I will get in trouble. What will I get in trouble for? Speaking the truth?

We depend on truth in our intelligence services more than just about anything else. President after President has said one of the keys to governing well is good intelligence that will tell you when you are off base as well as when you are on base. It is so serious. The Senator is exactly right. This transcends any one person. It transcends any specific person because it goes to the integrity.

I say to my colleague one other thing: From what I understand, our intelligence services are livid because this happened.

Mr. HARKIN. They should be.

Mr. SCHUMER. I don't know for a fact. But my guess is there was great debate in the CIA because it was a tough thing to do given that "high administration sources" were implicated. But the anger among the Agency is red hot, as I understand it, and with good reason.

I thank my colleague. I would be happy to yield to my colleague from Florida for a question.

Mr. NELSON of Florida. Mr. President, I wanted to pick up on something the Senator from New York said. I can best illustrate it with Veterans Day and Memorial Day when we typically are commending those young men and women in uniform. We have to modify that now because of the war in Afghanistan and the war in Iraq. We commend the young men and women not only in uniform but in the service of their country, because the CIA was the first to go into Afghanistan. They were all over Afghanistan before we ever went in with our military forces. They are

working in conjunction with our military forces. Indeed, the first American to be killed in Afghanistan was Mike Spann, a CIA agent.

What we are dealing with, lest folks get this all mixed up with politics, is a crime of the most serious nature because it jeopardizes the security of the United States and its people. When someone's identity is suddenly revealed and is an agent of the U.S. Government, their life is in jeopardy and the lives of their contacts are in jeopardy. That is the gravity of this leak. That gets lost in all of this. He said, she said, and so forth is just branded as politics. But we are dealing with the lives of people.

As in any normal criminal proceeding, if a violation of law is thought to have occurred, then let us allow the cops to investigate and let us bring that person in front of the responsible judicial tribunals. The question is, which cops will be able to investigate and get to the truth? If you leave it to the professional law enforcement people, they will. But isn't it sad that we have to be concerned that political influence will direct that investigation?

Whatever turn it takes, what the Senator from Florida is standing for is I know our people want to get to the truth, and it ought to be the professional law enforcement investigators who determine what is the truth. That is why I wanted to come and support the Senator.

Mr. SCHUMER. I thank my colleague. Again, he is on the money. That is all we seek here now—the truth.

The spokesperson for the President, Mr. McClellan, said we are referring it to the Justice Department and the professionals. If you look at the chain of command, it goes right up to the Attorney General.

As I mentioned earlier, the Attorney General is a close political ally with the President. There is nothing wrong with that. That is one model of the Attorney General. But it certainly sacrifices the appearance of independence, and perhaps independence itself particularly goes very high up.

Why we have asked for a special counsel is very simple: It is to allow professional law enforcement to do the job unfettered so they know they will not pay a price if they pursue it completely and fully. That would entail a special counsel of great legal background and sterling reputation for independence and integrity. I think it would behoove the administration to do that.

There are all sorts of doubts now. Are they telling the truth about this, that, or the other thing when it comes to foreign policy? Were we to appoint a special counsel, people would say: Yes, maybe they are.

But I will say this: The effort to sort of sweep this under the rug and say, oh, this is just one of the leaks that occurs every day, that makes me angry, to be honest with my colleague. That is un-

fair not only to the CIA agent in question but to the thousands of intelligence agents across the globe who at this moment, as my good colleague points out so correctly, are defending just as our soldiers are defending us and are more needed than ever before.

That is why in the intelligence community there is such livid anger because this occurred. My guess is—this is just my guess—that is why Mr. Tenet requested the investigation. My guess is that in his head he was saying, Oh, boy, this is going to get me in trouble the way, say, Janet Reno may have gotten in trouble with the previous President, the Attorney General from the Senator's State. But he knows that the integrity of the intelligence service is important. My guess is that is why he did it. Maybe that is why it took a bit more time than I had imagined when I first requested this on July 24. But he did request it.

Now our obligation to the thousands of brave men and women who are in our intelligence services and risking their lives is to get to the bottom of it with a fearless, complete, and thorough investigation.

Mr. NELSON of Florida. Will the Senator further yield for an additional comment? It is not only, interestingly, those who are directly in the services of the CIA now, but it is also the retirees.

I will never forget being in an almost deserted embassy in Islamabad, Pakistan, after September 11. I heard my name being called. I turned around, and I saw an elderly looking gentleman, and he recalled how we knew each other back when I was in the House of Representatives.

I said: What in the world are you doing here?

We were getting ready to do a raid in 5 cities simultaneously that night, of which we got 50 al-Qaida, and we got the No. 3 guy. And, lo and behold, he was a retired CIA agent they brought back in the aftermath of September 11, when we were trying to catch up until we could get the new guys trained. They reached out, and they got the old guys who had all the knowledge.

Mr. SCHUMER. Right.
Mr. NELSON of Florida. So we are talking about the protection of the interests of this country, and not only those in the active service right now but those who are retired who in times of emergency are called back as well.

Mr. SCHUMER. I thank my colleague. Well said. It is a tribute to how familiar he is with our intelligence services and how many from his State serve in the intelligence community.

I was glad to hear, for instance, that these days, on the college campuses, signing up for intelligence is a coveted thing.

The PRESIDING OFFICER. The 10 minutes have expired.

Mr. SCHUMER. Mr. President, I ask unanimous consent that we be given another 5 minutes.

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

Mr. SCHUMER. Thank you, Mr. President.

There are lines to join the intelligence services, sort of as there were after World War II, when some of our best and our brightest wanted to go into our services.

I will tell you, if politics can be played—and those of us asking for an investigation are not playing politics; it was the people who outed this agent, if, indeed, that is proven to be true, who were playing politics—but if that is allowed to prevail, it is going to hurt our intelligence agencies in many more ways than one.

I thank my colleague.

Mr. President, I would just make two points. No. 1, I will continue to make an effort to bring up this amendment. It has now been printed in the RECORD. I ask my colleagues on both sides of the aisle to read it. We were judicious in our language. It does not have any kind of political language or diatribe. It just states the facts. I would hope we could get colleagues from both sides of the aisle to sponsor it.

And I would hope we could move it forward—move it forward quickly—as a message because that is all it can be, but as a message to the President that we need a thorough, complete, and fearless investigation, and that only a special counsel can do that for us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alabama, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Ohio.

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

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

ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that following the reporting of the DC appropriations bill,