

inspector in Iraq was concluding that Iraq did not have any stockpiles of weapons before the war, Vice President CHENEY was on national radio still suggesting that it was just a matter of time until such weapons could be found.

If the President's senior advisers are still arguing that the prewar intelligence was right, can the American people be certain that commissioners handpicked by the White House to undertake an investigation defined by the White House will follow the facts wherever they lead?

It would be a shame to have such an important commission start its work under the shadow of such doubt. We can avoid ever having to ask those questions by forming a truly independent commission that can rise above those concerns. I strongly believe the Congress can and should establish a truly independent commission to examine the collection, analysis, dissemination, and use by policymakers of intelligence on Iraq. Twice the Senate has voted to establish just such a commission that would be given access to all relevant information, appointed on a bipartisan basis by the congressional leadership of the House and Senate. I voted for this proposal both times.

Although supporters of this commission fell short both times, I continue to believe that after putting our troops in harm's way we owe it to them to get to the bottom of this question. We owe them a truly independent investigation, conducted in the same way that our Armed Forces carry out their duties every day in Iraq, with honor and with integrity. I fear the process being started by the administration is neither, but it is not too late to establish a commission of which we can all be proud.

I yield the floor.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. DASCHLE. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. First, I thank the Senator for an excellent statement.

Earlier today the Armed Services Committee had meant to meet. We were going to have Secretary Rumsfeld up before the committee. I intended to ask him two or three questions on the issue of intelligence, but since the Senator is on his feet now, I am wondering if he would be willing to respond to a question or two and help clear this up in my mind.

What we have now, as I understand it, is the intelligence agencies saying that they provided the intelligence to the administration and that they were not intimidated. I intended to ask the Secretary whether he was aware of the Defense Intelligence Agency's own intelligence report that stated—and I am quoting. This has been published. It was declassified and published in the news sources—this is the Defense Intelligence Agency:

... there is no reliable information on whether Iraq is producing and stockpiling

chemical weapons, or where Iraq has—or will—establish its chemical warfare agent production facilities.

That was in September of 2002. Yet a month later, just as Congress was about to vote, the National Intelligence Estimate stated very precisely that:

Iraq probably has stocked at least 100 metric tons and possibly as much as 500 metric tons of chemical weapon agents—much of it added in the last year.

I was just wondering, if I can raise this point, here we have the Defense Intelligence Agency giving one report. Then, if we look at the State Department Bureau of Intelligence, this is what the State Department Bureau of Intelligence concluded:

The activities we have detected do not . . . add up to a compelling case that Iraq is currently pursuing what INR would consider an integrated and comprehensive approach to get nuclear weapons . . . INR considers the available evidence inadequate to support such a judgment.

The Department of State, Bureau of Intelligence.

Mr. KYL. Could we have regular order?

Mr. KENNEDY. Regular order. I believe I have the floor.

The PRESIDING OFFICER. The Senator may yield for a question but not for a statement.

Mr. KENNEDY. I am making the predicate. If the Senator from Arizona is not pleased with it, that is his problem.

The third intelligence report was the Department of Energy disagreed that the famous tubes were for nuclear weapons. The State Department's Intelligence Bureau also concluded that the tubes were "not intended for use in Iraq's nuclear weapons program."

Finally, Greg Thielmann, retired State Department official, who served as director of the Office of Strategic Proliferation and Military Affairs in the Bureau of Intelligence, said last July:

Some of the fault lies with the performance of the intelligence community, but most of it lies with the way senior officials misused the information they are provided.

He said:

They surveyed the data, and picked out what they liked. The whole thing was bizarre. The Secretary of Defense had this huge Defense Intelligence Agency, and he went around it.

I just ask, are these the kinds of questions that we hope an independent kind of commission might be helpful to resolve? When the administration's own Defense Intelligence Agency, the State Department agency, and the Energy Intelligence Agency came up with similar conclusions as Dr. Kay prior to the time the Senate voted on this issue, don't you think the American people are entitled to know what the facts are, not just the intelligence information made available but how it was used by the administration and by the President?

Mr. DASCHLE. Mr. President, I appreciate the question, as well as the

predicate offered by the distinguished Senator from Massachusetts.

The answer is yes, I am troubled by one fact that is now undeniable. That fact is, we were given bad information, information that now is much clearer than it was 6 months or 12 months ago, information that many of our colleagues have used repeatedly on which to base decisions fundamental to their interpretation of circumstances and ultimately the vote they cast on the resolution committing this country to a course of action.

I was troubled by a report I read just this morning that there are many in the intelligence community who are becoming increasingly angered and frustrated that all of this responsibility has been put on their shoulders. The report by one intelligence officer was: "We did our job. We reported the information. It isn't us."

My question is, If it is not the intelligence community, who is responsible? Why did we get bad information? Was it the collection and analysis or was it the use of that information once it was collected and analyzed? We do not know the answer to that today. But we do know our best opportunity for collecting the answers to the questions posed by the Senator from Massachusetts is an independent counsel.

What does it say of the independence of those potential commissioners when someone is suggesting to them, we want you to take this job to investigate us; we want you to have the authority to investigate us, with the implication that the detrimental consequences of an adverse investigation could weigh heavily on the commission itself.

I don't think there is any doubt about the need for independence, about the need to look at past precedent when we have established commissions of this kind. We need to know beyond a shadow of a doubt that this commission will have the opportunity to go wherever the facts lead them.

The way the President and this administration are proposing this investigation be done flies in the face of past precedent, with that cloud that hangs over any investigation that could not be as open, honest, and ultimately successful as it needs to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding that under the previous unanimous consent I am recognized for 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

#### U.S. INTELLIGENCE

Mr. DURBIN. Mr. President, I thank the minority leader, Senator DASCHLE, as well as my colleague from Massachusetts, Senator KENNEDY, for raising this timely and important question about intelligence. I also salute Senator BOB GRAHAM of Florida, who announced his retirement. His departure will be a great loss to this institution.

I was fortunate enough to serve on the Senate Intelligence Committee which Senator GRAHAM chaired, and I still continue that service. He was an extraordinary leader, not just on that committee but when it came to the policies of protecting America. His has been a clarion voice from the beginning that the war on terrorism continues unabated and should continue despite the diversion of Iraq. We still have a war on terrorism, much broader in scope, that has to be considered on a daily basis.

I come to the floor and want to be careful of the words I say. I do not want to disclose anything I have been told in the Senate Intelligence Committee. That is certainly the policy which should be followed by every member of that committee. We are given a rare opportunity to see the intelligence community and its work from inside. Because we are given that opportunity, we are warned not to share that information. So the points I am about to make relate exclusively to that information which has been made public and declassified. It raises an important issue.

All of this information points in one direction. What happened to the United States of America prior to the invasion of Iraq relative to weapons of mass destruction of that country represents, in my mind, the greatest failure of intelligence in America since the fall of the Soviet Union. Recall, not that long ago, when our intelligence community and those in charge of national defense and security failed to see the collapse of the Soviet Union, a superpower, our premier enemy for decades, until it actually happened. Despite all of the millions of dollars and thousands of people, we missed it.

Here we have a similar situation. Prior to our invasion of Iraq, we were told by the intelligence community they had identified—and this is unclassified, declassified information—they had identified 550 suspected sites within Iraq where we would find weapons of mass destruction. And the level of certainty for each of those sites was different, but for a discrete number of those sites the intelligence community told us: We believe that when we go into Iraq and go directly to this location, we will find weapons of mass destruction, nuclear weapons, chemical and biological weapons.

So I asked Dr. Kay—and others have as well—after you had completed your investigation, after you had looked at those sites, what did you find? And the answer was: Nothing, nothing whatever.

We accumulated this information; we said, through our intelligence sources, we have 550 known locations; and we were wrong in every instance.

How can that be? How can the intelligence community have missed it?

The second element, the unmanned aerial vehicles, flying over locations, mapping different things, viewing different locations, prepared, if necessary, to fire on hostile situations—these unmanned aerial vehicles were identified

by the intelligence community and the administration as a threat not only to the Middle East but to the United States of America. We were told these unmanned aerial vehicles would be used to deliver chemical and biological weapons against the United States of America.

I can state now in published reports we know that the UAVs were not designed for this purpose. We missed it completely. Sadly, I can say there is additional information which has not been disclosed which also casts doubt on that conclusion.

Why is it important? Because Members of the Senate were called to the White House, asked to vote for the use-of-force resolution, and told that the reason for the necessity of an invasion was the unmanned aerial vehicles and their threat to the United States of America. They were given partial information—in fact, misleading information—about the danger associated with the unmanned aerial vehicles.

All of this raises serious questions, questions Senator DASCHLE and others have addressed. This is what it comes down to: This should not be a matter of either the Democrats in the Senate or the Republicans in the Senate protecting their President. I will say this: If an open, honest, independent investigation finds anything was done wrong under the Clinton administration leading up to this intelligence failure, so be it. If they find anything wrong in this intelligence operation under President George W. Bush was responsible for this breakdown, so be it.

The American people deserve an honest answer. They are more concerned about the safety and security of America than they are about the political safety and security of any President. And that is exactly the way it should be.

Now, more than ever, intelligence is critical. Since 9/11 we understand the war on terrorism and its success by the United States depends on solid intelligence, acted on responsibly by political leaders. We need to ask these hard questions, and we need the panel of an independent commission that will come up with the answers.

Senator JON CORZINE, my colleague from New Jersey, has been proposing this independent commission for months. I have supported it. Many have resisted it, saying we do not need it. Well, thank goodness, after Dr. Kay's report, even the White House has conceded we need this independent commission. I think, frankly, we need it now more than ever.

We need sound and solid intelligence gathering. We need it to be evaluated in a proper fashion, and we need the political leaders in America to deal with it in a responsible way. We must ask the hard questions, whether this has been done leading up to the invasion of Iraq, and continuing with our war against al-Qaida and terrorism elements all across the United States of America and around the world.

Mrs. BOXER. Will my friend yield for a question?

Mr. DURBIN. I am happy to yield to the Senator from California.

Mrs. BOXER. I thank the Senator very much for his clear, as usual, laying out of this issue. I want to pick up on the word "independent," "independent commission."

Does my friend agree that to get to an independent commission, all the members should not be appointed by the administration that has just been part of this error?

Mr. DURBIN. I say to the Senator from California, it is important that this be viewed as a nonpartisan effort. In order for that to occur, we either need to find those people who are beyond reproach from the political side or make certain there is an appointment on both sides, Democrats and Republicans working together.

Why in the world would we allow this commission to go forward under the shadow of suspicion that it has a partisan agenda? We do not need that. As a country, we do not need that. Once and for all, we need to turn to men and women who have served this country, and served it in terms of our national defense, and who have no political agenda, who are really focused on the defense of our country.

Mrs. BOXER. I would agree with that because otherwise I do not think the American people will trust the commission. If the commission were to be appointed by, say, the majority leader of the Senate—certain Members—and then the Democratic leader of the Senate, that is another example. We could get a couple from the House Democrats, House Republicans, and then the President, and not an artificial date: By the way, you can't come back and talk to us until 2005 after the election. The American people are very wise.

So I am really glad the President, as you said, has come around to say we need to take a look at this. But I think the way he is approaching this does not pass the smell test for a lot of my folks back home.

Mr. DURBIN. I say to the Senator from California, there is another element, and that is this matter involving former Ambassador Joe Wilson, and his wife, who was serving this country in an intelligence capacity and whose identity was disclosed to columnist Robert Novak as part of political retribution.

I can tell you, having spoken to people who have given their lives to the intelligence community, and risked their lives for America on a regular basis, they were angry and demoralized by this leak from the White House.

I think in order to get the proper answers to the important questions about the role of the intelligence community, we should try to make it as nonpartisan as possible, try to bring in the professionals who are viewed by both political parties as people of respect and people who ask the right questions, so the intelligence community will come forward with honest and objective answers.

The bottom line is not who wins this political battle in the hearts and minds of the American people. The bottom line is, who will win in terms of America's national security and defense. We need sound and solid intelligence now more than ever. The President's admission last week that there was a failure of intelligence leading up to the invasion of Iraq has really called on all of us to rise above party.

I think the Senator from California and the Senator from South Dakota are moving in the right direction toward an independent, bipartisan, and nonpartisan approach. I hope we do get this done quickly.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, there are 10 minutes allocated to the majority.

Mr. REID. Mr. President, I ask unanimous consent that the majority be given an extra 5 minutes in morning business; 5 minutes for Senator KYL, 5 minutes for Senator LOTT, 5 minutes for Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I express my appreciation to the assistant minority leader for that request.

#### INTELLIGENCE INVESTIGATION

Mr. KYL. Mr. President, I think we need to respond to some of what has been said here this morning because the implication is very disturbing. It is not just that some of the intelligence of the United States—and by the way, all of the other intelligence agencies around the world might not have been totally accurate—but that somebody might have been misleading us. That is the charge. That is the implication. It leads to this notion we could not trust the President to look into what might have been wrong with the intelligence, that there is a "shadow of suspicion" here.

Well, the shadow of suspicion is being cast by our colleagues on the other side by the innuendo that is throughout the comments they have been making here this morning and that we have read elsewhere. I think that is a very bad thing. Especially when our troops are fighting abroad trying to win this war on terror, to suggest that not only is the intelligence we are gathering not entirely accurate but that there were deliberate attempts by people in the administration to mislead the American people, and to mislead the Congress, that, I think, is what is very disturbing.

What are some of the strains of that? I heard one of them on the radio this morning: Well, Vice President CHENEY went down to the CIA and talked to them. He must have been trying to intimidate them to come up with some preordained conclusion to sort of cook the books a little bit.

There is no evidence of that whatsoever. David Kay has discounted that as

a possibility. Nobody from the intelligence agencies, under questioning, has suggested that was the case.

Indeed, the question is, if the Vice President had not gone down to the intelligence agencies and asked the tough questions of the CIA people, and said, are you sure you are correct about this, then our friends on the other side would be complaining the administration did not even bother to doublecheck the information. So when politics are involved, you cannot win. But I do not think we should allow these suspicions from the political side of things to dictate the kind of action we take.

Another question: Secretary Powell went to the CIA. I think he spent something like 3 days with them, with these people going over and over and over the evidence, saying: Are you absolutely certain of this? And remember, before he made his presentation to the United Nations, he took some of the material out, some of the material he did not think was verifiable, that they could not nail down well enough. He wanted to make sure what he took to the United Nations was solid.

The Vice President and the Secretary of State are not the only people who have been involved. We have intelligence from other countries, such as the Israelis, the British. We have the United Nations itself, and the inspectors who came back with their reports.

At the end of the day, the reason why the international community passed resolutions asking for Saddam Hussein to comply with his commitment to come clean on what he had was because the whole world thought he had these weapons of mass destruction.

Now, since then, we have not been able to find everything. We have found some things. But one of the things we have not found are the chemical artillery shell warheads. We thought those were going to be used against our troops. Every day the war occurred, we were briefed on the so-called red line, the point at which we thought the Iraqis were going to shoot artillery shells with chemical weapons at our troops. Our troops had to put on all the heavy equipment in order to try to fight through that if, in fact, the attack occurred, and there was some surprise when it did not occur. We had to, of course, bomb the warehouses we thought it was in. We bombed the artillery pieces. We sent millions of leaflets to the commanders saying: Don't you dare fire chemical weapons at our troops or we will take you before the criminal court when this is all done. We disrupted their command and control, and we thought that is what prevented them from firing those artillery shells. But the point is, we thought they had them. We thought they were going to be used against our troops.

This was not a matter of the President or the Vice President or anybody in the administration trying to mislead anybody. Maybe the intelligence was not entirely accurate, but I urge my

colleagues on both sides of the aisle, in conducting this debate, to try to do it from the higher plain, not from the suspicion that the President of the United States is trying to deliberately mislead the American people, but to acknowledge maybe there was something wrong with part of our intelligence and that is worth looking into.

That is precisely what the President has said he wants to have done because obviously he is just as concerned about this as anybody else is. It is for that reason he has asked for an investigation into the intelligence to find out whether it was correct, if it wasn't, why not, and what can we do about that in the future.

I urge my colleagues, in conducting this debate, let's do so from a higher plain than one in which we sow the seeds of politics and blame and suspicion, as has been done around here. We can conduct this debate on a much higher plain than that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I believe I have 5 minutes under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I thank Senator KYL and Senator REID for making sure we have this time. I, too, think we need to sober up a little bit and look at the facts of what is involved.

First, it is an election year. Politics will come into play in everything we do. I don't mean that necessarily critically of us or either side. It is a fact. I suspect that it is having a hand in what we are seeing now.

Secondly, the fact is, we do have some problems with our intelligence community. It is not new. It didn't come up over the last 10 months or the last 10 years. It probably goes back to the mid-1970s when we had the Pike and the Church commissions that forced changes in the intelligence community from which we have never quite recovered. That is when we started getting away from human intelligence and relying on satellites and computers and technology. That is a big problem.

We can go back and point to things we didn't know or information we should have had back in the 1980s and 1990s that we didn't have. For us to take a look at our intelligence community and ask questions about why they have not done some things or they have gotten some things wrong is perfectly legitimate. The most important question should be, what are we going to do about it? Instead of pointing the finger of blame, trying to put some scalp on the wall and say: We nailed somebody because this information may not have been completely accurate, we should ask: What did we know? Did we need to know more? Were there inaccuracies? If so, what were they, and what are we going to do about it? Do we need to completely reconstruct our intelligence community?