

I fear it has happened again. Once more, I stand in the Senate to urge the passage of the legislation.

It has to be pointed out that our present intelligence structure for the most part is based on a post-World War II, cold-war environment. It is not suited for the new challenges of asymmetric threats and non-state entities, as well as quite possibly from states also involved in terrorism. We have a Soviet-era intelligence community in a post-Soviet world.

We need to have a Director of National Intelligence now more than ever and we should not wait any longer for the results of another commission. I remind my colleagues that creating a Director of National Intelligence was the very first recommendation of the bipartisan Joint Inquiry into the Attacks on September 11, a recommendation contained in a report signed by every member of the Intelligence Committees of the Senate and the House. Senator GRAHAM spoke earlier about this provision, and I agree with his explanation of the pressing need for the change.

Such a position, if created today, would provide substantial improvement in the function and quite possibly the restructuring of the more than one dozen agencies and departments. It would give one person, appointed by the President for a 10-year term, the statutory authority to determine strategies across the board, to set priorities, and to assign staff and dollars across departments and agencies.

It is my understanding the Senate Select Committee on Intelligence will take up this legislation in 2004, I am told, in April. It is my hope that working together we can include this legislation as part of the Intelligence Authorization Act for fiscal year 2005 and make it law this Spring.

As I have said earlier, the so-called "bipartisan" investigation by the Senate Select Committee on Intelligence has had little effective participation by Democratic Senators, or their staffs. In fact, in many ways had the Intelligence Committee been able to carry out its responsibilities, as set for in Senate Resolution 400, much of the debate on the floor on this issue would be unnecessary. Nonetheless, I look forward to this afternoon when the report will be made available to committee members.

I deeply believe that the Senate Select Committee on Intelligence should turn its attention to its core responsibilities—conducting vigorous oversight of the intelligence community, and carefully considering legislation to make necessary changes. To that end I urge Chairman ROBERTS to take up legislation restructuring the Intelligence Community, including, but not limited to, my bill to create a Director of National Intelligence, hold comprehensive hearings on these proposals, and report out legislation in time for inclusion in this year's Intelligence Authorization bill.

As I have said earlier, my vote in favor of the resolution to authorize the

use of force in Iraq was perhaps the most difficult, and consequential, vote of my career. It was a decision based on hours of intelligence briefings from administration and intelligence officials, plus the classified and unclassified versions of the National Intelligence Estimates. My decision was in part based on my trust that this intelligence was the best our Nation's intelligence services could offer, untainted by bias, and fairly presented. It was a decision made because I was convinced that the threat from Iraq was not only grave but imminent.

Because of my vote, and the votes of the 76 other Senators who voted for the resolution, our troops are stuck in Iraq, under fire, and taking casualties. Our armed forces are stretched thin; we have antagonized our enemies and alienated many of our closest allies.

In the post-9/11 world, a world where we confront asymmetric threats every day, intelligence plays a key role informing the policy-making process. The administration bears primary responsibility for our intelligence apparatus—ensuring that it works well, is honest, and is properly focused. The administration is also responsible for honestly and fairly presenting the results of the intelligence process to the Congress, informing, for instance our vote on the resolution to authorize force.

I now fear that the threat was not imminent, that there were other policy options, short of war, that would have effectively met the threat posed by Saddam Hussein.

And that is why a full investigation of the prewar intelligence is so critical.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I would like to be notified when I have used 10 minutes.

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

U.S. INTELLIGENCE

Mrs. HUTCHISON. Madam President, we have heard a number of speakers in the Senate this week. It has been an important week. We have had the testimony of David Kay, the United Nations inspector who just came back from Iraq. We had the reaction to his testimony. We had reports from the Senate Select Committee on Intelligence. And today we are going to have a major speech by the Director of the Central Intelligence Agency, George Tenet.

It is very important that we put in perspective what is happening and the steps that should be taken to ensure we are addressing the problems correctly.

First, Mr. Kay, who is totally credible on the issue of weapons of mass destruction, made the following statements in his Armed Services Committee testimony.

Senator MCCAIN asked the question:

[Y]ou agree with the fundamental principle here that what we did was justified and enhanced the security of the United States and

the world by removing Saddam Hussein from power?

Mr. Kay:

Absolutely.

Senator KENNEDY:

Many of us feel that the evidence so far leads only to one conclusion: That what has happened was more than a failure of intelligence, it was the result of manipulation of the intelligence to justify a decision to go to war . . .

Mr. Kay:

All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than Iraq was a gathering, serious threat to the world with regard to weapons of mass destruction.

He went on to say:

I think the world is far safer with the disappearance and removal of Saddam Hussein. I have said I actually think this may be one of those cases where it was even more dangerous than we thought. I think when we have the complete record you're going to discover that after 1998 it became a regime that was totally corrupt. Individuals were out for their own protection. And in a world where we know others are seeking weapons of mass destruction, the likelihood at some point in the future of a seller and a buyer meeting up would have made that a far more dangerous country than even we anticipated with what may turn out not to be a fully accurate estimate.

Senator MCCAIN:

Saddam Hussein developed and used weapons of mass destruction; true?

Mr. Kay:

Absolutely.

Senator MCCAIN:

He used them against the Iranians and the Kurds; just yes or no.

Mr. Kay:

Oh, yes.

Senator MCCAIN:

OK. And U.N. inspectors found enormous quantities of banned chemical and biological weapons in Iraq in the '90s.

Mr. Kay:

Yes, sir.

Senator MCCAIN:

We know that Saddam Hussein had once a very active nuclear program.

Mr. Kay:

Yes.

Senator MCCAIN:

And he realized and had ambitions to develop and use weapons of mass destruction.

Mr. Kay:

Clearly.

Senator MCCAIN:

So the point is, if he were in power today, there is no doubt that he would harbor ambitions for the development and use of weapons of mass destruction. Is there any doubt in your mind?

Mr. Kay:

There's absolutely no doubt. And I think I've said that, Senator.

So I think, when we look at the testimony of the man who has been on the ground, who has searched for the weapons of mass destruction, who knows what all the clues are, who knows what the body of intelligence was—and he

says it really could have been more dangerous than we even ever thought—I think we have to assess that in the context of all of the rhetoric we are hearing about second-guessing a decision that was based on what we had at the time.

Senator FEINSTEIN said we should relook at our intelligence-gathering organization. I do not think anyone would disagree with that, including the President of the United States.

In our first effort to address the issues of the failure that led to 9/11, we all tried to look at the intelligence failures, to look at the things that did not compute, to look at the communications systems that did not match up. We tried to put a grid in place in the agency that was created for homeland security that would allow all of the intelligence gathering that is done in and for our country to be put through a grid to warn us when there was an imminent danger.

Let's talk about what the result has been because we have tried to address those failures. We have prevented potential terrorist acts. We know we prevented an airliner from being blown up because a very smart flight attendant saw a man get ready to strike a match and light his shoe. We know from that experience what to look for in an airline passenger, and we have refined the system. We have seen flights canceled because there was a suspicion there might be something going on. Who knows what was prevented in that instance?

We have seen arrests in very remote parts of our country because of intelligence gathering. We have not had a terrorist attack on our country since the time we were attacked on 9/11. We have had attempts, but we, because we have processes in place from what we have learned, have thwarted those attempts, including one this week in the United States Senate.

So, yes, we need to relook at our intelligence gathering. Yes, we are learning every day. And, yes, the President of the United States has already said he will have an independent investigation of our intelligence gathering that led to the invasion of Iraq. He has said he would do that. The President has also agreed to the extension asked for by the 9/11 Commission, the bipartisan commission that is looking into what happened before and during the 9/11 incident. He has said, yes, I will agree to an extension, because he was asked. The President of the United States is being open. The President of the United States is trying to do the right thing to get to the bottom of this because he has the interests of the United States at heart.

Let's look at some other results. Let's look at the difference in the hope of the people of Iraq and Afghanistan today. Yes, there are continuing problems. Yes, it grieves every one of us. Our hearts stop when we hear there has been another bombing or mishap that has hurt one of our soldiers or killed

one of our soldiers or an Iraqi citizen. Yes, it hurts.

But do the people of Iraq today have a better chance to live in freedom and prosperity than they had the entire time they had been ruled by a despot? Absolutely. Do the people of Afghanistan today have the hope for a future of freedom more than they had under the Taliban and the other despots under whom they have been buried for all these years? Oh, yes. They have a constitution that is getting ready now to become implemented that actually says women will be equal in that country.

We have come a long way.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. HUTCHISON. Madam President, I ask the distinguished Senator from Oklahoma if he would like to extend the time or is he prepared to go to the highway bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, we are prepared to go back to the bill at this time.

Mrs. HUTCHISON. Thank you.

Madam President, let me end by saying I hope we will come together and support the President in his initiatives to get to the bottom of this issue. The President is looking out for the United States of America, and we do not need partisan rhetoric on an issue such as this. We need to come together. That is what we must do.

Thank you, Madam President. I yield the floor, and I yield back the time that was allocated for morning business.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the hour of 10:50 having arrived, the Senate will resume consideration of S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1072) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Modified committee amendment in the nature of a substitute.

Dorgan amendment No. 2267, to exempt certain agricultural producers from certain hazardous materials transportation requirements.

Gregg amendment No. 2268 (to amendment No. 2267), to provide that certain public safety officials have the right to collective bargaining.

The PRESIDING OFFICER. The Senator from Nevada.

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

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

Mr. INHOFE. At this point, I will yield to the Senator from Iowa, and following his remarks I will seek to be recognized.

(Mr. ENSIGN assumed the Chair.)

Mr. GRASSLEY. Madam President, I want to address the consideration that the Senate Finance Committee gave to the portion of the highway bill that determines the size of the trust fund, source of the trust fund, and our committee's decisionmaking over that. And my speaking to the Senate is based on the proposition, thus far, that we are moving ahead with the total highway package the way that has been suggested by the Senate Environment and Public Works Committee, Senate Banking Committee, and the Senate Commerce Committee, with my committee working in cooperation with those three committees, at that level of expenditure.

Somehow, if the President, in succeeding days, would say he is not going to sign a bill that is that big, I will moderate my remarks to conform with that. But right now, all I know is what this body has done in three of its committees to arrive at where we are now. I want to address, within that framework and that environment, the work of our committee.

I will particularly speak about some other Members of this body who lack a consideration of the hard work that has been put into this product, as well as their philosophical objections to what we have done. I don't have any question that any Senator can have any philosophical objections to anything he wants, but I want everybody in the Senate to know that the 21 members of the Senate Finance Committee did not take this product lightly.

There has been a lot of harsh criticism of the upcoming Finance Committee title of this highway bill.

What I will do is lay out the context of the funding portions of this legislation and respond to this harsh criticism. The role of the Finance Committee on the highway bill is centered on the highway trust fund raising, not expending, funds. Finance Committee jurisdiction involves the Federal excise taxes, the highway trust fund, and the expenditure authority of the trust fund. The Finance Committee has acted in all of these areas as recently as just this Monday.

The authorizing committee's actions will result in outlays from the trust funds of \$231 billion for highways, and \$36.6 billion for transit, spread out over the next 6 years. Essentially, those figures I just gave you represent the cash-flow out of the trust fund. The Finance Committee's action provided the resources in the trust fund to cover the cash outflows and provide a cushion in the trust fund balances. This is how we arrived at that action of the Senate Finance Committee.

But some of the critics have said the Finance Committee should have funded