

to listen to a tiny fraction of the recordings, very late in their inquiry, before issuing the report in January. And, he said, court-ordered restrictions at the time prevented Texas Commercial Energy attorneys from helping investigators interpret the recordings beforehand. By contrast, TXU did work with investigators before the report was completed, Hadley said.

The investigation remains open, he said.

"Obviously, we don't have the resources to listen to everything," Hadley said. "They were considered to the extent that some had been reviewed. With our resources, we're not able to review all the thousands of hours of recordings. But . . . we can continue to review the situation.

Robert McCullough, the former utility executive who worked as an expert witness in lawsuits against TXU and Enron, questions whether the utility commission is capable of investigating anything. The number of investigators available to enforce complex deregulation rules, he said, is pitifully small.

"Unfortunately, in Texas, we don't have many police. We have one small office," McCullough said. "I don't doubt that those policemen work very hard, but it's like one policeman to patrol Dallas at the moment.

"The budget for the state PUC is \$600,000," he said. "That amount of money could be purloined, taken from the consumers in an hour. It's like having the entire budget for the police force for the city of Dallas being the same amount as what's in the till of a Ma and Pa grocery store."

Ms. CANTWELL. The issue is really before us in the sense that we need to continue to push the Federal regulators to do their job, the Federal regulators being the Federal Energy Regulatory Commission. They have failed to do their job. We had an Enron collapse and scandal in which markets were manipulated, shareholders were conned, books were cooked, and various aspects of this investigation and prosecution are taking place. My hat is tipped to DOJ in their effectiveness in pursuing this case against various Enron employees, including their recent indictment of Ken Lay, even though that is a process in which Mr. Lay has his opportunity and will have his day in court. But I take great offense to Mr. Lay's PR campaign in which he goes on television saying that all that happened in California was California's fault, that it was wrong for them because they deregulated without proper supply.

Well, I think it is very clear there has been market manipulation as shown by the documents that are being provided, and it is a question of whether the Federal regulators are going to do their job.

Madam President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post from this week in which the paper criticized the Federal energy regulators for not doing their job. I think that is what we need, more attention to show that those Federal regulators have not had the bright light of day shown on them and that they are failing to do their job.

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

[From the Washington Post, July 12, 2004]

#### ENRON'S LEGACY

It has long been clear that ill-starred Enron Corp., whose founder and chief executive, Kenneth L. Lay, was indicted last week, deliberately manipulated electricity markets to intensify the California power crisis of 2000-01, forcing electricity prices up across the West. But recently released tapes of conversations between Enron traders have reminded the victims of just how cynical that manipulation really was. "I want to see what pain and heartache this is going to cause Nevada Power Company," gloats a trader on one of the tapes, just before completing a deal. "I'm still in the mood to screw with people."

The ratepayers of Nevada—and the rest of the West—are right to feel angry about what Enron did and right to feel aggrieved about the billions of dollars they overpaid for electricity as a result. It's hardly surprising that their anger has spread to Congress, particularly during an election year. Rep. Anna G. Eshoo (D-Calif.) recently got the House to pass an amendment to an energy appropriations bill, effectively requiring the Federal Energy Regulatory Commission (FERC) to give the public easier access to Enron documents. Some, including Sen. Maria Cantwell (D-Wash.) and Sen. Dianne Feinstein (D-Calif.) want the Senate to do the same.

But while calling for access to documents lets off political steam, it doesn't address the more fundamental problems with federal energy regulation, as many in Congress know perfectly well.

The much larger concern is that FERC's failure to resolve quickly the gaggle of multimillion-dollar lawsuits and regulatory cases filed by public utility commissions across the West has hampered investment and left energy markets in turmoil.

The fault is partly FERC's. Each case involves different legal issues, but on the whole, the commission's reaction to them has been slow, overly cautious and narrowly legalistic. At the same time, Congress has refused to heed the regulators' continued pleas for more powers, and particularly for the right to exact the same kinds of civil penalties other regulatory bodies do. Because FERC was set up in a different era, it is a quasi judicial body, with little ability to enforce rules. Its commissioners argue that they have acted according to their interpretation of the law, which among other things does not allow them to invalidate old contracts retroactively. Spokesmen also point out that some of Enron's behavior was ugly but legal, which limits what FERC can do now. Indeed, much of what happened can be attributed to the poor design of California's electricity markets—a design that FERC opposed.

Nevertheless, it is becoming clear that FERC's overly cautious approach to the Enron aftermath, the fault of both FERC and Congress, has damaged the regulatory commission's standing and even its ability to oversee market regulation in the future. In California, Nevada, Washington state and elsewhere, the acronym FERC has become a byword for impotence. Its job was to protect consumers, the argument goes; it didn't protect consumers, and it doesn't deserve more powers. Yet the future success of deregulated energy markets depends on the existence of a reliable regulator, with enhanced powers to enforce standard market rules and to penalize companies that fail to comply with reliability requirements or that manipulate markets. It's probably too late to undo all of the damage, but in upcoming cases FERC should take far more seriously the spirit of the law, which was designed to protect consumers, and Congress should quickly act to

give FERC the powers it needs to prevent market manipulation.

Ms. CANTWELL. The article basically says:

. . . FERC's overly cautious approach to the Enron aftermath . . . has damaged the regulatory commission's standing and even its ability to oversee market regulation in the future. In California, Nevada, Washington state and elsewhere, the acronym FERC has become a byword for impotence. Its job was to protect consumers, the argument goes; it didn't protect consumers. . . .

So I think we need to continue to push. In fact, the editorial goes on to say:

. . . Congress should quickly act to give FERC the powers it needs. . . .

We must do our job in continuing to protect consumers from this market manipulation. When we have evidence now that shows it has taken place, and we cannot get the cop on the beat to investigate, and we now have documentation and suspicion that it may still be going on in other parts of the country, Congress needs to do its job.

Just as we did with the SEC in passing new accounting rules, we need to make sure the Federal Energy Regulatory Commission does its job on regulating wholesale power rates, making sure that they are just and reasonable and that the manipulation stops.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

(The remarks of Ms. COLLINS and Mr. BOND pertaining to the introduction of S. 2659 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### IRAQ INTELLIGENCE

Mr. BOND. Madam President, I come to the Senate floor once again this week to talk about the Intelligence Committee report and what we know and what we have learned about the intelligence prior to this body authorizing the President to go into Iraq.

We have seen over the past year a concerted effort by outside groups, partisan attack machines, and even Members of this body going after the credibility and attacking the President and Vice President, sometimes personally. We have seen breathless media coverage of every word of those who profess to be nonpartisan but who prove to be anything but nonpartisan.

We have seen headlines alleging all types of wrongdoings. We have heard accusations of lying and misleading repeated as if they were the simple, obvious truth.

Now, after the Senate Intelligence Committee spent a year painstakingly reviewing these accusations, attacks, and smears, we can set the record straight, while only hoping that the media will devote at least some of the same attention to the facts as they did to the accusations and unfounded allegations. Yes, we found there were significant problems with the intelligence

mechanisms, the lack of human intelligence, the failure to share information, the wall that had been built between intelligence agencies, and that we need to correct with appropriations and legislation. That is what I hope the Intelligence Committee can do. But we also need to correct the outright inaccuracies and political attacks.

Let's just review an example. First, let me take the interesting story of the initially anonymous former Ambassador, one Joe Wilson. As we point out in the additional views of Chairman ROBERTS, which Senator HATCH and I signed, Joe Wilson went on a media blitz with his allegations, appearing on more than 30 television shows in order to tell anyone and everyone that the President lied to the American people and that he was the "patriot" who debunked the claim of what he called in his book "the 16-word lie." Joe Wilson states on the "JOHN KERRY for President" Web site:

The President misled the Nation in his State of the Union Address.

Then there was an ABC news story in which ABC said:

A former Ambassador told ABC news that almost a year before Bush's speech he informed the CIA that the information was not credible. The Ambassador, who asked not to be identified, said the CIA asked him in February 2002 to investigate reports that Iraq was trying to buy uranium from Niger. After spending 8 days in the west-central African nation, the Ambassador said he told the CIA the information about uranium was "bogus and unrealistic."

That is pretty hard hitting.

This was a CNN headline:

Diplomat: U.S. knew Uranium Report Was False.

Then Joe Wilson did Internet interviews. In one on Buzzflash, he said:

I urged the Government to come clean with this story that was patently not true.

Then he went on Meet the Press and stated that he believed he had "effectively debunked the Niger arms uranium sale."

Andrea Mitchell asked him:

Were they not properly briefed on the fact that you had the previous February been there and that it wasn't true?

Wilson said:

No. No. In actual fact, in my judgment, I have not seen the estimate either, but there were reports based upon my trip that were submitted to the appropriate officials. The question was asked of the CIA by the office of the Vice President. The office of the Vice President, I am absolutely convinced, received the very specific response to the question it asked and that response was based upon my trip out there.

Well, now we have the facts, Madam President. The facts don't square with the claims. We not only have the Senate committee report, but yesterday we had Lord Butler's report investigating the intelligence obtained by British intelligence services that was shared with the U.S. and cited in the President's State of the Union Address. The Butler report states at paragraph 499:

We conclude that, on the basis of the intelligence estimates at the time, covering both

Niger and the Democratic Republic of Congo, the statements on Iraqi attempts to buy uranium from Africa in the Government's dossier, and by the Prime Minister in the House of Commons, were well founded. By extension, we conclude also that the statement in President Bush's State of the Union Address of January 28, 2003, "The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa," was well founded.

That is what they said after looking at all the evidence. Paragraph 503 of the Butler report goes into detail and says:

From our examination of the intelligence and other material on Iraqi attempts to buy uranium from Africa, we have concluded that:

A. It is accepted by all parties that Iraqi officials visited Niger in 1999.

B. The British Government had intelligence from several different sources indicating that this visit was for the purpose of acquiring uranium. Since uranium constitutes almost three-quarters of Niger's exports, the intelligence was credible.

C. The evidence was not conclusive that Iraq actually purchased, as opposed to having sought, uranium and the British Government did not claim this.

D. The forged documents were not available to the British Government at the time its assessment was made, and so the fact of the forgery does not undermine it.

Well, that is the first pitch. Facts 1, Joe Wilson 0.

What does the Senate Intelligence Committee say? On page 44 of our report, it says:

When the former Ambassador spoke to Committee staff, his description of his findings differed from the DO intelligence report and his account of information provided to him by the CIA differed from the CIA official accounts. . . .

. . . The former Ambassador said he discussed with his CIA contacts which names and signatures should have appeared on any documentation of a legitimate uranium transaction. In fact, the intelligence report made no mention of the alleged Iraq-Niger deal or signatures that should have appeared on any documentation of such a deal.

Then we went on to page 45:

The former Ambassador [Wilson] also told Committee staff that he was the source of a Washington Post article ("CIA Did Not Share Doubt on Iraq Data: Bush Used Report of Uranium Bid"), which said, "Among the Envoy's conclusions was that the documents may have been forged because 'the dates were wrong and the names were wrong.'" Committee staff asked how the former Ambassador could have come to the conclusion that the "dates were wrong and the names were wrong" when he had never seen the CIA reports and had no knowledge of what names and dates were in the reports. The former Ambassador [Joe Wilson] said that he may have "misspoken" to the reporter when he said he concluded that the documents were "forged." He also said he may have become confused about his own recollection after the International Atomic Energy Agency reported in March 2003 that the names and dates on the documents were not correct and may have thought he had seen the names himself.

Second pitch: Facts 2, Joe Wilson 0.

Joe Wilson said in his book about how he was selected for the trip to Niger that his wife "Valerie had nothing to do with the matter. . . . She

definitely had not proposed that I make the trip.

A Time Magazine article stated that Wilson "angrily said his wife had nothing to do with his trip to Africa." "That is bull [expletive]. That is absolutely not the case."

Page 39 of our report looks into the facts. Facts can come back to bite you when you make all kinds of charges. That conclusion was:

Interviews and documents provided to the Committee indicated that his wife, a CPD employee, suggested his name for the trip. The CPD reports officer told the Committee staff that the former Ambassador's wife "offered up his name" and a memorandum to the Deputy Chief of the CPD on February 12, 2002, from the former Ambassador's wife says, "My husband has good relations with both the PM and the former Minister of Mines (not to mention lots of French contacts) both of whom could shed light on this sort of activity."

The report also states:

On February 19, 2002, CPD hosted a meeting with the former Ambassador, intelligence analysts from both the CIA and INR, and several individuals from the DO's Africa and CPD divisions. The purpose of the meeting was to discuss the merits of the former Ambassador traveling to Niger. An INR analyst's notes indicated that the meeting was "apparently convened by [the former Ambassador's] wife who had the idea to dispatch [him] to use his contacts to sort out the Iraq-Niger uranium issue." The former Ambassador's wife told Committee staff she only attended the meeting to introduce her husband and left after about 3 minutes.

Third pitch: Facts 3, Wilson 0. Three strikes and you are out—and you should be.

Let me add a couple of other things. This is from the additional views of Chairman ROBERTS. These are findings that the staff made that were not accepted by our Democratic colleagues for inclusion in the final reports. The former Ambassador's public comments suggested that the Vice President had been briefed, but that is not correct. While the CIA responded to the Vice President's request for the agency's analysis, they never provided the information gathered by the former Ambassador.

The former ambassador, on "Meet the Press," said he was absolutely convinced the Vice President received the specific response based on his trip. The former ambassador was speaking on the basis of what he believed should have happened based on his Government experience, but he had no knowledge that it did happen.

These and other comments from the ambassador about his report debunking the Niger-Iraq uranium story were incorrect and has led to a distortion in the press and the public's understanding of the facts surrounding the Niger-Iraq uranium story.

The committee staff found that for most analysts, the former ambassador's report lent more credibility, not less, to the reported Niger-Iraq uranium deal. When we looked into it, not only was the trip by Joe Wilson to drink mint tea with his friends in

Niger not a debunking of the British intelligence that Iraq had sought uranium from Africa, but he did include things that suggested that it was even more likely.

Why did he go off on such a tangent? In an interview with the committee staff, Joe Wilson was asked how he knew some of the things he was stating publicly with such confidence. On at least two occasions, according to the committee staff report, he admitted he had no direct knowledge to support some of his claims, and that he was drawing on either unrelated past experience or no information at all.

For example, when he was asked how he knew that the intelligence community had rejected the possibility of a Niger uranium deal, as he wrote in his book, he told committee staff that his assertion may have involved "a little literary flair."

"A little literary flair," when you charge the Vice President of lying based on information you had that was insufficient, inaccurate, and did not relate to the basic underlying information the British Government intelligence service provided? I think "a little literary flair" is not accurate. It is a fraud and a hoax. His statements were fraud. They were a hoax.

I have talked before about the people who owe some apologies for the assertions they have made about the President and Vice President. Let me add Joe Wilson as one who owes the Vice President a public apology—a public apology—for the unfounded, unbiased accusations he made with just "a little literary flair." I think he owes the Vice President one, but I guess I will not hold my breath waiting until he provides it.

Unfortunately, that has been the practice. We have seen too often in too many places grand charges made and covered in the news media, and the committee goes back and we search and we search and we search to find what were the actual facts.

Democratic friends said the administration pressured analysts to change it or they influenced the views of the analysts. Chairman ROBERTS pursued every angle, invited everybody, pursued everyone, over 200, I think 240 interviews, and we came up with some conclusions.

Conclusion No. 83—and this is unanimously agreed to by Republicans and Democrats on the Senate Intelligence Committee:

The committee did not find any evidence that administration officials attempted to coerce, influence or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities.

#### Conclusion 84:

The committee found no evidence that the Vice President's visits to the Central Intelligence Agency were attempts to pressure analysts, were perceived as intended to pressure analysts by those who participated in the briefings on Iraq's weapons of mass destruction programs, or did pressure analysts to change their assessments.

I read an op-ed piece by one of my colleagues saying the administration

did not do a good enough job of checking up on the analysis by the intelligence agencies. And in another breath, another one of my colleagues said they asked too many questions.

Madam President, let me tell you something I have learned as one new to the workings of the intelligence field. A good intelligence analyst puts forth his best or her best judgment on what to conclude from the often sketchy, incomplete facts they have before them and the reports that have to be evaluated, and they expect to be questioned. They want to know that the policy-makers who are using that information have the best sense of what they know. And the Vice President, who was diligent—he was doing due diligence—went over and questioned them time and time again. Did he tell them to change their analysis? Did he tell them what judgment they wanted? No. What he told them was what the intelligence community knew they had to do, and that was to do their very best job to get it right.

There has been a lot of criticism of how the intelligence agency analyzed it. But we have lots of good people who work very hard. There are structures in place that have kept them from sharing. They did not have the information they needed. But to the best of their ability, they gave the Vice President what they thought was the best analysis.

The report also found in conclusion No. 1—most important:

The committee found no evidence that the IC's—

Intelligence community's—mischaracterizations or exaggeration of the intelligence on Iraq's weapons of mass destruction (WMD) capabilities was the result of political pressure.

#### Conclusion No. 11:

No analyst questioned by the committee stated that the questions were unreasonable, or that they were encouraged by the questioning to alter their conclusions regarding Iraq's link to al-Qaida.

That is, the link to terrorism.

As I said before, all of the charges, all of the outline of the Democrats' secret memo of November 2003 on how they were going to use the Intelligence Committee to attack the President, to influence the election have been debunked.

A lot of apologies are owed for the baseless charges that have been made against the President, the Vice President, the Department of Defense, and particularly Douglas Feith, who is attempting to serve the Secretary of Defense by asking questions and trying to get the best he could out of the intelligence community for the decision-making in the Department of Defense.

I hope, I trust—maybe I am gullible, but I trust now we can move beyond this and recognize that the intelligence that the administration had, the same intelligence that this body had when we approved going into Iraq, the same intelligence the world had when they said that Saddam Hussein was a bad

guy and U.N. Resolution 1441 said that we need him to disarm, that was the best information we had at the time.

When we look back on it, we were absolutely dead right to go into Iraq to depose Saddam Hussein. As David Kay said after he finished, Iraq was a far more dangerous place than we knew. It had the capability, it had the equipment, it had the scientists ready to turn out weapons of mass destruction, chemical and biological, to turn over to terrorist groups. Let us hope and pray they were not able to turn over any.

The world is safer, the Iraqi people are safer, and the United States is safer because of the bold leadership of President Bush and Vice President CHENEY and our magnificent men and women in the military who are putting their lives at risk in Afghanistan and Iraq. We remember them and thank them in our prayers, and we also offer our best wishes and support for the Iraqi people to regain a decent country out of the mess that Saddam Hussein left.

I thank the Chair and yield the floor.

Mr. DEWINE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

### FEDERAL MARRIAGE AMENDMENT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S.J. Res. 40 is withdrawn.

Under the previous order, the majority leader or his designee is recognized for the purposing of making a motion.

### AMERICAN JOBS CREATION ACT OF 2004

Mr. MCCONNELL. Mr. President, pursuant to the order entered last night, I move to proceed to H.R. 4520.

Mr. REID. No objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion is agreed to.

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

The legislative clerk read as follows:

A bill (H.R. 4520) to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

AMENDMENT NO. 3562

(Purpose: To provide a substitute for the bill)