

neighbors; he will make war against his own people. And mark my words, he will develop weapons of mass destruction. He did will deploy them, and he will use them.

President Clinton was correct in that assessment made in 1998. We are fortunate that today Saddam Hussein is no longer a threat to the region or to the world due to the bipartisan vote of the Congress to authorize the use of force to remove Saddam Hussein in October of 2002. It was a bipartisan vote of the Senate that authorized that use of force.

Today, the political dynamics have changed. For their own cynical reasons, some Democrats have charged that the Bush administration has somehow manipulated intelligence to justify the war in Iraq. These same individuals are calling for yet another investigation to somehow justify their patently false claims. I remind my colleagues that this issue has been investigated not only by the Senate Select Committee on Intelligence but the bipartisan Silberman-Robb Commission. Of course, the results of both investigations do not support the charges of manipulation, so we hear yet another call for another investigation. Wishing that the results were different cannot make it so. What do they propose? To initiate investigation after investigation until somehow they manage to will into existence the results they have been hoping for, I imagine.

I wish to ask my colleagues, did President Clinton lie when he discussed the intelligence that led him to support the forced ouster of Saddam Hussein? Did he manipulate intelligence to justify his bombing in Iraq? Or did he rely upon the same intelligence that this administration and this Congress and our allies did when they came to the same conclusion that Saddam was a threat to the region and to the world? Are there Senators who today would renounce their vote to remove Saddam by force in October of 2002? Out of the bipartisan 77 who voted to authorize the use of force to remove Saddam Hussein, I have only learned of two who have said they regret that vote and would renounce it.

Before the war, a leading Democrat—in fact, the Democratic leader—clearly stated his position in Iraq. As of this morning, his quotation was still on his Senate Web site. It says:

What is my position on Iraq? Saddam Hussein is an evil dictator who presents a serious threat to international peace and security. Under Saddam's rule, Iraq has engaged in far-reaching human rights abuses, been a state sponsor of terrorism, and has long sought to obtain and develop weapons of mass destruction.

I agree with this statement on the Web site of Senator REID of today, November 7, 2005. But today we are told by the same Democratic leader that somehow this administration was responsible for manipulating intelligence to authorize the war in Iraq when, in fact, he took the same position at the time that force was used. At least his Web site takes that same position today.

For the record, I would like to read the conclusions of the Intelligence Committee investigation and the Silberman-Robb investigation so there will be no doubt that the Bush administration did not manipulate intelligence to justify this war. The Intelligence Committee report, which was supported by both Democrats and Republicans, states the following:

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.

Likewise, the Silberman-Robb Commission, a bipartisan commission appointed to look into our intelligence failures, concluded:

The Intelligence Community did not make or change any analytic judgments in response to political pressure to reach a particular conclusion, but the pervasive conventional wisdom that Saddam retained WMD affected the analytic process.

Madam President, this much is clear. No one attempted to manipulate intelligence leading up to the war in Iraq—not President Clinton, not Members of the Senate, not this administration, all of whom, based upon the same intelligence, concluded that Saddam represented an imminent threat to the national security of the United States. Instead, we found that while some of our intelligence was wrong on Hussein, it was obvious, and it is obvious today, that he was a threat to the civilized world.

I believe all of this crystallizes into a question about how doubts are resolved in a dangerous and uncertain world. Do we resolve doubts in favor of a tyrant who has used weapons of mass destruction on his own people, who demonstrated an interest in acquiring nuclear weapons, who refused to cooperate with weapons inspectors after 17 Security Council resolutions ordered him to do so, and who at last count murdered at least 400,000 of his own people who are lying in mass graves?

Giving Saddam Hussein the benefit of the doubt would have been a crazy and irresponsible thing to do. Of course, the 77 Senators who voted for the use of force against Saddam in October 2002 weren't buying that Saddam was some harmless individual then.

So why now? Sure, we need better intelligence and we have undertaken substantial and meaningful intelligence reform to remedy the defects. Intelligence by its very nature is never certain, but we are restructuring our intelligence community to ensure the President of our country, whether he be Democrat or Republican, gets the most accurate intelligence available.

Meanwhile, I hope the Members of this body who have politicized this issue by making false allegations of manipulation of intelligence would realize that their allegations only serve to divide the American people and to dishonor the sacrifice of our brave men and women in uniform and undermine critical American resolve to finish the important work that we are about in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent to speak as if in morning business but on the amendment before us.

Mr. WARNER. Madam President, we have certainly no objection to that. At this juncture in the bill, it does not impair our ability to manage. I ask the Senator to please proceed.

Mr. ROCKEFELLER. I thank, as always, the distinguished senior Senator from the State of Virginia.

TREATMENT OF DETAINEES

Mr. ROCKEFELLER. Mr. President, I commend Senator LEVIN and others for their leadership in proposing this amendment. I am proud to be an original cosponsor of the amendment based on the belief that a comprehensive, objective, and independent investigation into the collection of intelligence through the detention, interrogation, and rendition of prisoners is long overdue. While I am a strong supporter of the amendment, I regret greatly the fact that we have been forced to seek the creation of a national commission on such a critically important matter that falls squarely within the oversight responsibility of the Congress. Unfortunately, Congress's unwillingness to carry out these oversight duties in the past year has left us with no remaining alternative but to seek the creation of a national commission.

Why do I say this? The collection of intelligence through interrogation and rendition is an extremely important part of our counterterrorism effort. The interrogation of captured terrorists and insurgents is, in fact, one of the most important of intelligence tools. We must ensure that those interrogations are carried out in a proper and effective manner. This tool, as with all others, must be applied within the bounds of our laws and our own national moral framework, and it must be subject to the same scrutiny and congressional oversight as every other aspect of intelligence. This, unfortunately, has not been the case.

Despite the critical importance of interrogation-derived intelligence and the growing controversy surrounding retention, interrogation, and rendition policies and practices, the Congress has largely ignored the issue, holding a limited number of hearings that have provided limited insight.

More disturbing, the Senate Intelligence Committee, the Senate committee charged with overseeing U.S. intelligence programs and the only one with jurisdiction to investigate all aspects of this issue, is sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters.

As the Intelligence Committee's vice chairman, I have been pushing for the past 10 months for a formal investigation into the legal and operational

questions at the heart of the detention interrogation controversy, as has my colleague from the State of Michigan, Senator LEVIN.

My proposal that the Intelligence Committee conduct an investigation into this matter was rejected. A decision was made that the Intelligence Committee, as it is charged to do, would not formally examine the legal and operational aspects of our detention and interrogation program despite compelling and disturbing evidence that serious, possibly criminal, abuses had occurred.

Now, this decision is particularly curious given the litany of investigations carried out by the Intelligence Committee in the past. In recent years, our committee has produced detailed investigative reports into prewar intelligence on Iraq, technology transfer to China, the bombing of the USS *Cole*, and the shooting down of the missionary plane in Peru, and on and on. In fact, on July 30, 1999, a few years before he became our current chairman, Senator PAT ROBERTS wrote to then-Chairman RICHARD SHELBY and Vice Chairman Bob Kerrey requesting an investigation into the intelligence related to the downing of CDR Michael Scott Speicher's F-18 plane in the early stages of the Persian Gulf war.

The committee responded favorably to Senator ROBERTS' request, conducted the investigation, and produced a report. Each of the committee reports was produced as a result of formally authorized investigations, and each was a constructive contribution to understanding not just how and why intelligence failures occur but what action should be taken to avoid them in the future. Our unanimously approved first phase of our Iraq report last July, which was the weapons of mass destruction aspect, was a rather thorough and devastating critique of the collection and analytical failings of our intelligence community prior to the war that has provided, frankly, a very critical momentum to an intelligence reform movement that was already gathering steam and ended up in the passage of landmark legislation in December, which most people would have said a couple of months earlier was not possible. Yet when presented with a similar set of compelling reports on how the United States detains and interrogates prisoners, the majority on the committee has prevented us from pursuing an investigation.

Why? Well over a year has passed since the appearance of photographs graphically portraying the abuse of Iraqi prisoners at Abu Ghraib prison. As my colleagues know, these images and other reports of abuse provided a powerful propaganda tool to our terrorist enemies. Since then we have seen a steady stream of accusations relating to the way the U.S. military and intelligence agencies treat individuals in their custody. Allegations of mistreatment have surfaced wherever the United States holds prisoners over-

seas—across Iraq, Afghanistan, and at Guantanamo Bay, Cuba.

Troubling new revelations have become an almost daily occurrence, with a disturbing number of these instances resulting in prisoner deaths. At least 26 prisoners have died in American custody, and the unsettling charge has been leveled against the United States that we are exporting torture through rendition practices that lack accountability.

Who can honestly say that these events and allegations are not serious enough to warrant an Intelligence Committee investigation? My good friend and chairman of the Senate Armed Services Committee, Senator JOHN WARNER, believed such an investigation was needed back in February of this year, and at the February 18 open Intelligence Committee hearing on worldwide threats, which we do once a year, Senator WARNER remarked:

And there's an issue out here, I say to my distinguished chairman and ranking member and colleagues on the committee, which I think we've got to address both in my committee and in this committee, and that is the manner in which we gain intelligence from those that are captured, either on the battlefield or in other areas.

My hope was that sort of congressional inquiry referenced by Senator WARNER back in February would have become a reality.

The Armed Services Committee and the Intelligence Committee with their respective oversight of the military and intelligence communities could have provided the sort of complementary reviews into troubling allegations swirling around our interrogation of prisoners in Afghanistan, Iraq, and, as I said, Guantanamo Bay. Regrettably, our efforts and those of Senator LEVIN to authorize and conduct such an investigation have not succeeded. We are now, therefore, left by default with the remaining option of turning over this responsibility to a national commission to carry it out.

If the Senate oversight committees are either unwilling or unable to tackle the tough but necessary questions associated with detention, interrogation, and rendition of prisoners, then we should step aside, if we have to, regrettably, and let the work be done by those unfettered by other considerations.

I am confident that this new national commission, like the 9/11 Commission, and the Weapons of Mass Destruction Commission before it, will provide the sort of comprehensive review of U.S. policy and practices relating to the treatment of detainees that has been absent so far.

Our amendment calls for a 12-month investigation in which all aspects of all of this must be looked at. More specifically, the 10-person commission will examine and report upon the policies and practices of the United States relating to the treatment of individuals detained since September 11, 2001. The commission will also be tasked to

evaluate causes and factors that have contributed to the alleged mistreatment of detainees, including an assessment of either those directly or indirectly responsible for the mistreatment.

I am worried about the legal aspects of our underpinning, and I will more or less close with this: On May 18, 2005, the Central Intelligence Agency issued a statement that "CIA policies on interrogation have always followed legal guidance from the Department of Justice." That may or may not be so, but was that legal guidance supportable? That is what you have to ask. Was it supportable? Was it factual?

A lengthy legal opinion on the Department of Justice interrogation practices, which had been issued in secret, in August, 2002, was quickly repudiated by the White House when it became public in June of 2004 and was then superseded by a public Justice Department legal opinion in December of 2004.

As that episode shows, secret interpretations of the law beyond the oversight of the Congress are an invitation to potentially great error.

What supporting roles do the CIA and FBI play in the interrogation of suspects of military-run prisons and how are their activities coordinated? It has been publicly reported that the CIA requested that a number of prisoners held in Iraq not be registered and be kept from international inspection; therefore, the so-called ghost detainees.

More recently, it has come to light that FBI officials lodged strenuous complaints about what they considered to be the mistreatment of prisoners held at Guantanamo Bay. These reports and others strongly suggest that different agencies are operating under different sets of rules, or they are not coordinated. This is a recipe for disaster which will come back to haunt us one of these days.

The commission will also review policies regarding the controversial practice of the United States of rendering detainees to foreign governments for interrogation.

Our practice of contracting out to foreign governments the interrogation of detainees is, to this Senator, particularly troubling. There have been numerous reports of individuals turned over by the United States to a foreign government for interrogation allegedly being tortured.

In addition to the ethical and legal considerations associated with this practice, the veracity of the information gained from these and other detainees is called into question if these statements were made under physical coercion. Therefore, it is important that we have a thorough evaluation of the current policy guidelines and field directives for when it is appropriate to render a detainee to another country and what intelligence is gained from such a practice.

More specifically, we must examine the validity of assurances that the

United States is given when detainees are rendered to other countries that they will not be tortured.

The PRESIDING OFFICER (Mr. COBURN). The Senator's time has expired.

Mr. ROCKEFELLER. I hope my colleagues will support the amendment. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I do have the privilege of being an ex officio member of the Intelligence Committee. I served 8 years on that committee, and my concluding years was as ranking member. I have a very high respect for that committee and find, from my participation, together with others on it, under the leadership of Chairman ROBERTS and Senator ROCKEFELLER, that the committee does a very good job.

Mr. President, I wish to speak in opposition about this question of the need for this country to establish an independent commission to investigate the detention and interrogation operations conducted by the Department of Defense and other elements of the Government in conjunction with the war on terrorism.

Mr. President, I ask unanimous consent to speak in morning business.

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

INDEPENDENT COMMISSION TO INVESTIGATE DETENTION AND INTERROGATION OPERATIONS

Mr. WARNER. Mr. President, in my judgment, a further investigation is simply unnecessary. The Department of Defense has conducted 12 major investigations. Over 400 criminal investigations and hundreds more informal investigations have been or are being conducted to determine the responsibility and, if appropriate, culpability and accountability.

The combined investigations are unprecedented in scope. The CIA and the Department of Justice are also conducting investigations into the actions of their employees related to detention and interrogation activities.

Responsibility and accountability have been assessed. Over 400 criminal investigations have been conducted and 168 remain open; 95 military personnel have been criminally charged with misconduct, and 75 have been convicted to date. In addition, 177 military personnel have been administratively disciplined. Almost 20 percent of those disciplined have been officers.

Congress has held 30 open hearings, received over 40 closed briefings, and countless staff briefings. The Department has been very forthcoming, providing complete investigations that include over 2,800 interviews and over 16,000 pages of related documents.

The combined investigations have made 442 recommendations, over 300 of which have been implemented, and the rest are in progress, including standardization policy and procedures for de-

tention and interrogation operations, revising policies regarding the International Committee of the Red Cross visits and reports, improved training and clear policy guidance for inter-agency detention activities.

Investigations have universally concluded that there was no policy of abuse and that no policy led to abuse. As the Schlesinger report stated—that was a commission established by the Secretary of Defense, indeed at the urging of the Congress and our committee, but it was Secretary Schlesinger and Secretary Harold Brown, both former Secretaries of Defense, one a Republican and one a Democrat, men who have had extraordinary reputations throughout their lives. I feel that was one of the major landmark investigations connected with this ongoing problem. They stated:

No approved procedures call for or allow the kind of abuse that, in fact, occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities.

Any discussion of detainee abuse must be kept in perspective. Substantiated cases of abusive conduct by DOD personnel are small in comparison to the 70,000 persons who have been detained and the hundreds of thousands of interrogations that have been conducted humanely, safely, and effectively over the past 4 years.

An independent commission would send potentially the wrong message to our Armed Forces of our lack of confidence in their conduct and would seriously undermine ongoing intelligence-gathering activities.

On a daily basis, we collect intelligence from detainees that provides valuable information to our troops in the field, whether it is Iraq or Afghanistan or other farflung posts. Simply put, this information saves American lives, certainly of the men and women in uniform, and I firmly believe it has helped prevent further serious attack, such as 9/11, on our Nation.

The investigative process has reassured the American people, strengthened the Armed Forces, and demonstrated to the world that we are a nation of laws. Last month, 90 Senators voted in the affirmative for an amendment that required civilized treatment of prisoners at detention facilities. That is the McCain amendment, and I have been a partner with him in the very initiation of those efforts.

The amendment banned cruel, inhumane, and degrading treatment. That vote sent a strong signal. Who among us was not affected when Senator MCCAIN said that he and fellow prisoners in Hanoi knew and took great strength from the belief that "we were different from our enemies, that we were better than they, that we, if the roles were reversed, would not disgrace ourselves by committing or countenancing such mistreatment of them."

Move on we must to win this war in Iraq and Afghanistan. Replaying these dreadful and inexcusable instances

again in public forum will bring no remarkable insights and no lessons learned, nor will it do anything to reduce the fighting. It will, in fact, draw resources from the war effort by placing a heavy burden on senior commanders and key civilian leaders.

The Committee on Armed Services held over half a dozen hearings on this issue. We still have these matters under review. Still, the question of accountability remains, but we have to wait until there is a conclusion of more of the military cases before I think we probably will do our final work on this chapter, a chapter that I characterize—that is Abu Ghraib—as one of the most serious I ever witnessed in my many years of public service, either in the Pentagon or in the Senate as a member of the Armed Services Committee.

Mr. President, I see the distinguished Senator from Georgia. For that purpose, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, on behalf of Senator PRYOR, Senator ISAKSON, and myself, I rise to call up amendment No. 2433 to S. 1042 and request that Senator LANDRIEU be added as a cosponsor. I believe the amendment is at the desk.

The PRESIDING OFFICER. The Senator should be advised that the bill is not currently pending.

Mr. WARNER. Mr. President, on that point, I suggest that we now go to the bill. I believe there is a pending amendment which requires a UC to be laid aside; am I not correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I so ask at this time.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Resumed

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Nelson (FL) amendment No. 2424, to repeat the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

Allard amendment No. 2423, to authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology site, Colorado, would otherwise fail to qualify for such benefits because of an early physical completion date.

Reed (for Levin/Reed) amendment No. 2427, to make available, with an offset, an additional \$50,000,000 for Operation and Maintenance for Cooperative Threat Reduction.

Levin amendment No. 2430, to establish a national commission on policies and practices on the treatment of detainees since September 11, 2001.