

DEFICIT REDUCTION OMNIBUS RECONCILIATION ACT OF 2005--Continued

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

Mr. REID. I thank the Chair.

Mr. President, just a couple of days ago, my son Leif called me and indicated that his lovely wife Amber was going to have another baby. That will be our 16th grandchild.

Mr. President, I have been in public service a long time. Never have I been so concerned about our country. We have gas prices that are really unbelievable. This year, gas prices have been over \$3 in the State of Nevada. Diesel fuel is still over \$3 a gallon in Nevada.

The majority leader of the House of Representatives is under indictment. The man in charge of contracting for the Federal Government is under indictment. We have deficits so far you can't see them. The deficits have been basically run up by President Bush's administration these last 5 years.

We are the wealthiest nation in the world, but we are very poor as it relates to health care. We have an intractable war in Iraq. Is it any wonder that I am concerned about my family, my grandchildren?

This past weekend, we witnessed the indictment of I. Lewis Libby, the Vice President's Chief of Staff, also on the President's staff, a senior adviser to the President.

Mr. Libby is the first sitting White House staffer to be indicted in

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years. Is it any wonder that I am concerned about my grandchildren?

This indictment raises very serious charges. It asserts this administration engaged in actions that both harmed our national security and were morally repugnant. A decision made to place U.S. soldiers, our military, into harm's way, I believe, is the most significant responsibility the Constitution invests in the Congress and in the President. The Libby indictment provides a window into what this is really all about: how this administration manufactured and manipulated intelligence in order to sell the war in Iraq and attempted to destroy those who dared to challenge its actions.

These are not just words from Harry Reid. COL Larry Wilkerson, Colin Powell's former Chief of Staff--Colin Powell, of course, was Secretary of State--this man was Chief of Staff for 4 years. Here is what he said about the war in Iraq.

In President Bush's first term some of the most important decisions about U.S. national security, including vital decisions about postwar Iraq, were made by a secretive, little known cabal, made up of a very small group of people led by Vice President Dick Cheney and Defense Secretary Donald Rumsfeld. But the secret process was ultimately a failure. It produced a series of disastrous decisions.

That is what I am here to talk about today. As a result of its improper conduct, a cloud now hangs over this administration. This cloud is further darkened by the administration's mistakes in prisoner abuse, Hurricane Katrina, and the cronyism and corruption in numerous agencies throughout this administration.

Unfortunately, it must be said that a cloud also hangs over this

Republican-controlled Congress for its unwillingness to hold this Republican administration accountable for its misdeeds on these issues.

During the time we had a Democratic President--8 years--and when the Democrats were in charge of the committees, we were in the majority, oversight hearings were held covering the gambit of what went on in that administration. Today, there is not an oversight hearing held on anything.

Let's take a look back at how we got here with respect to Iraq. The record will show that within hours of the terrorist acts of 9/11, senior officials in this administration recognized those attacks could be used as a pretext to invade Iraq. The record will also show that in the months and years after 9/11, the administration engaged in a pattern of manipulation of the facts and retribution against anyone who had gotten in its way as it made its case for attacking, for invading Iraq.

There are numerous examples of how the administration misstated, and manipulated the facts as it made the case for war. The administration's statements on Saddam's alleged nuclear weapons capability and ties with al-Qaida represent the best examples of how it consistently and repeatedly manipulated the facts. The American people were warned time and time again by the President, the Vice President, the current Secretary of State in her other capacities, about Saddam's nuclear weapons capabilities. The Vice President said:

Iraq has reconstituted its nuclear programs.

Playing upon the fears of Americans after September 11, these officials and others raised the specter that if left unchecked Saddam could soon attack America with nuclear weapons. Obviously, we know now

that their nuclear claims were wholly inaccurate. But more troubling is the fact that a lot of intelligence experts were telling the administration then that its claims about Saddam's nuclear capabilities were false--the situation very similar with respect to Saddam's links to al-Qaida. The Vice President told the American people:

We know he's out trying once again to produce nuclear weapons and we know he has a longstanding relationship with various terrorist groups including the al-Qaida organization.

These assertions have been totally discredited--not a little bit, totally discredited. But again the administration went ahead with these assertions in spite of the fact that the Government's top experts did not agree with these claims. Again, Wilkerson is a person in point.

What has been the response of this Republican-controlled Congress to the administration's manipulation of intelligence that led to this protracted war in Iraq? Nothing.

Did the Republican-controlled Congress carry out its constitutional obligations to conduct oversight? No.

Did it support our troops and their families by providing them the answers to many important questions? No.

Did it even attempt to force this administration to answer the most basic questions about its behavior? No.

Unfortunately, the unwillingness of the Republican-controlled Congress to exercise its oversight responsibilities was not limited to just Iraq. We see it with respect to the prison abuse scandal. We see it with respect to Katrina. We see it with respect to the cronyism and corruption that permeates this administration. Time and time again, this Republican-controlled Congress has consistently chosen to put its

political interests ahead of our national security. They have repeatedly chosen to protect the Republican administration rather than to get to the bottom of what happened and why it happened.

There is also another disturbing pattern; namely, about how this administration responded to those who challenged its assertions. Often this administration's activity sought to attack and undercut those who dared to raise questions about its preferred course. For example, when General Shinseki indicated several hundred thousand troops would be needed in Iraq, his military career was ended, he was fired, relieved of duty, when he suggested it would take 200,000 troops. Well, it has taken a lot more than that.

When the OMB Director Larry Lindsey suggested the cost of this war would approach \$200 billion, he was dumped, fired.

When the U.N. chief weapons inspector Hans Blix challenged the conclusion about Saddam's weapons of mass destruction capabilities, the administration simply pulled out its inspectors.

When Nobel Prize winner and head of the IAEA Mohamed ElBaradei raised questions about the administration's claims of Saddam's nuclear capabilities, the administration attempted to remove him from his post.

When Ambassador Joe Wilson stated there was no attempt by Saddam to acquire weapons from Niger, the administration not only went after him to discredit him, they launched a vicious and coordinated campaign, going so far as to expose the fact that his wife worked as a CIA spy. These people now have 24-hour protection, fearing for their own safety.

Given this administration's pattern of squashing those who challenge its misstatements--and I have only mentioned a few--what has been the response of the Republican-controlled Congress? Absolutely nothing. And

with their inactions, they provide political cover for this administration at the same time they keep the truth from our troops who continue to make large sacrifices in Iraq.

Everyone may think the troops in Iraq are 100-percent Republican. I have met a friend, a marine. He was over there when the elections were held 10 months ago. He said where he was, he never even went to the bathroom without a rifle. Wherever he was on duty, all over this area, he said he could not find anyone who was happy with the way the elections turned out. The Republicans will do anything they can to keep the truth from people such as my marine friend. I would give you his name except he is stationed right here in the Marine Corps.

This behavior is unacceptable. The toll in Iraq is as staggering as it is solemn. More than 2,000--2,025 now--Americans have lost their lives. Over 90 Americans have paid the ultimate sacrifice in the month of October alone, the fourth deadliest month in this ongoing 3-year war. More than 15,000 have been wounded. More than 150,000 remain over there in harm's way. Enormous sacrifices have been made and continue to be made.

We have had soldiers and marines from Nevada killed, from Ely, from Las Vegas, from Henderson, from Boulder City, from Tonopah. Every time one of these deaths occurs, it is a dagger in the heart of that community.

This behavior is unacceptable. I am a patient man, Mr. President. I am a legislator, and I know things don't happen

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overnight. I am a patient man. But the call from my son has put this in perspective. I am worried about my family. The toll in Iraq is as

staggering, I repeat, as it is solemn. The troops and the American people have a right to expect answers and accountability worthy of that sacrifice.

For example, more than 40 Democrats wrote a substantive and detailed letter to the President asking four basic questions about this administration's Iraq policy, and we received a four-sentence answer in response:

Thank you for your letter to the President expressing your concerns with Iraq. I shared your letter with the appropriate administration officials--

Remember, we wrote it to the President--

and agencies responsible for formulating policy recommendations in this area. Please be assured your letter is receiving close and careful attention. Thank you for your comments. Candy Wolff.

That is a letter that duly elected Senators of the United States Senate wrote to the President of the United States, and we get a letter from Candy Wolff saying: Thanks, we're working on it.

America deserves better than this. They also deserve a searching, comprehensive investigation into how the Bush administration brought this country to war. Key questions that need to be answered include: How did the Bush administration assemble its case for war against Iraq? We heard what Colonel Wilkerson said.

Who did the Bush administration listen to and who did they ignore?

How did the senior administration officials manipulate or manufacture intelligence presented to the Congress and the American people?

What was the role of the White House Iraq Group, or WHIG, a group of

senior White House officials tasked with marketing the war and taking down its critics? We know what Colonel Wilkerson says.

How did the administration coordinate its effort to attack individuals who dared challenge the administration's assertions? We know what happened to them. I listed a few.

Why has this administration failed to provide Congress with the documents which will shed light on their misconduct and misstatements? Unfortunately, the Senate committee that should be taking the lead in providing these answers is not. Despite the fact that the chairman of the Senate Intelligence Committee publicly committed to examine these questions more than a year and a half ago, he has chosen not to keep that commitment. Despite the fact that he restated the commitment earlier this year on national television, he has still done nothing except to assemble a few quotes from Democratic and Republican Senators going back to the first Iraq war.

We need a thorough investigation that that committee is capable and tasked to do. At this point, we can only conclude he will continue to put politics ahead of our national security.

If he does anything at this point, I suspect it will be playing political games by producing an analysis that fails to answer any of these important questions. Instead, if history is any guide, this analysis will attempt to disperse and deflect blame away from this administration.

Mr. BOND. Mr. President, will the Senator yield for a question?

Mr. REID. Key facts about the Intelligence Committee's phase II, June 4, 2003: Intelligence Committee commits to bipartisan review of the deeply flawed intelligence on Iraq WMD phase I.

February 12, 2004, Intelligence Committee commits to phase II investigation looking at five areas, including whether the administration exaggerated and manipulated intelligence.

July 9, 2004, committee publishes phase I report on the intelligence agencies' mistakes on Iraq. Senator Rockefeller says publicly that phase II is as yet unbegun. Republican Chairman Roberts says it is one of my top priorities.

July 11 on ``Meet the Press,`` Republican Chairman Roberts says:

Even as I'm speaking, our staff is working on phase II and will get it done.

Fall of 2004, House Intelligence Committee, after no follow-through on the Iraq WMD investigation, the House announced on May 2003 no final report.

Republican Committee Chairman Porter Goss is selected as CIA Director. Regarding the question of the Valerie Plame leak, Goss previously said: ``Show me a blue dress and some DNA and I will give you an investigation.``

November 2004, we had the Presidential election.

March 2005, the President's hand-picked WMD Intelligence Committee says the intelligence agencies got the intelligence dead wrong, but says that under the President's terms of reference we are not authorized to investigate how policymakers used the intelligence assessments they received from the intelligence community.

March 31, 2005, Senator Roberts says it would be a monumental waste of time to replot this ground any further. Replot?

April 10, 2005, on ``Meet the Press,`` Senator Roberts commits to Tim Russert that the review will get done.

September 2005, committee Democrats file additional views to their authorization bill blasting the committee for failing to conduct phase II.

There have been letters written to the committee. A press release was issued even saying they were going to go forward with this.

Mr. President, enough time has gone by. I demand, on behalf of the American people, that we understand why these investigations are not being conducted. And in accordance with rule XXI, I now move that the Senate go into closed session.

Mr. DURBIN. Mr. President, I second the motion.

Ms. STABENOW. I second the motion.

The PRESIDING OFFICER. The motion has been made to go into closed session, and it has been seconded. The motion having been made and seconded, the Senate will go into closed session.

The Chair, pursuant to rule XXI, now directs the Sergeant at Arms to clear all galleries, close all doors of the Senate Chamber, and exclude from the Chamber and its immediate corridor all employees and officials of the Senate who, under the rule, are not eligible to attend the closed session and who are not sworn to secrecy. The question is nondebatable.

(At 2:25 p.m., the doors of the Chamber were closed.)

#### Legislative Session

(At 4:33 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.)

Mr. FRIST. Mr. President, I ask unanimous consent that we now resume open session.

The PRESIDING OFFICER (Mr. Martinez). Is there objection?

Mr. REID. No objection.

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

#### Order of Procedure

Mr. FRIST. Mr. President, I ask unanimous consent that following my remarks Senator Roberts be recognized to speak for up to 15 minutes, to be followed by Senator Rockefeller for up to 15 minutes, with the time yielded from the pending deficit reduction measure; further, that following that time Chairman Gregg or his designee be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are back in open session, and I believe shortly--in about 40 or 45 minutes--we will be back on course on a very important bill that our Nation cares about, which we are on track to complete this week; that is, the deficit reduction bill.

Over the next about 30 or 35 minutes, however, we will be clarifying some of the intention, scheduling, and language with regard to the completion of the report on Iraq prewar intelligence which has been under a great deal of discussion in the past within the Intelligence Committee, and, indeed, a subject of discussion between the chairman and the vice chairman, both of whom will have the opportunity to express their ideas here shortly.

Let me say that I think it is absolutely critical as we move forward on this important issue that we get partisanship out of these discussions of intelligence--important matters, important to this country, important to the American people--and anything and everything we can do to keep these discussions above partisanship is absolutely critical.

We have been in a closed session, and I want all Members to familiarize themselves with what that actually

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means as we have seen because we were in that session for a little over 2 hours. It is very important that people do not talk about what happened during that session. Again, we will all have to go back because it is very unusual to go into these closed sessions, and, in fact, I think unprecedented, the way we went into this session, which we will probably talk about a little bit more later. I was very disappointed the way we entered into this session, which was a total surprise to me.

Let me also say I have absolute confidence in our Intelligence Committee and in what they are doing in terms of this important work and Senator Roberts as chairman.

The one thing that is important for us to mention, for the benefit of our colleagues, is an agreement between the leader and myself to the following three points: that the majority leader and the Democratic leader will appoint three members from their respective parties. This task force of six Senators will meet and report back to leadership no later than the close of business on November 14 the following: The Intelligence Committee's progress on the phase II review of the prewar intelligence and its schedule for completion.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, our representatives will be Senators Rockefeller, Levin, and Feinstein.

Mr. FRIST. Mr. President, for the benefit of my colleagues, at this

point we have 15 minutes set aside--for up to 15 minutes--for Senator Roberts, followed by Senator Rockefeller, and after that we will recognize Chairman Gregg or his designee. And with mutual discussion between the Democratic and Republican leaders, we very much, after the comments by the chairman and vice chairman, want to get back on the deficit reduction bill.

We have a time agreement to complete discussion on that bill by 6 o'clock tomorrow night. There are a lot of Members who want to talk about this very important issue.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized for 15 minutes.

Mr. ROBERTS. Thank you, Mr. President.

I think the best face I could put on this--after this unfortunate situation which was totally unexpected by myself, or my staff, or the Republican members on the committee, for that matter, the Republican leadership--is that we have agreed to do what we already agreed to do; that is, to complete as best we can phase II of the Intelligence Committee's review of prewar intelligence in reference to Iraq.

I think it is very important to point out that the Intelligence Committee has had an absolutely outstanding record working with Senator Rockefeller and my colleagues across the aisle to produce the original review in regard to the 2002 National Intelligence Estimate prior to the military activities into Iraq, and also as to whether Saddam Hussein had reconstituted his weapons of mass destruction. That was a 17-to-0 vote. We had some differences, but that report came out. It was a good report. It was a seminal report. As a matter of fact, I take pride in saying that it was a bipartisan effort that was agreed to by

the 9/11 Commission, by the WMD Commission that was later formed, and made about 93 or 94 recommendations to the administration of which probably 93 to 94 out of 95 have already been implemented. So we worked in a bipartisan fashion to do that.

We also at the same time--and I am basically quoting from the statement the vice chairman and I made on February 12 of 2004--agreed we would go to something called phase II. There has been a lot of talk about phase II. What is phase II? Why is it that has been delayed, if in fact it has been delayed?

There was some talk on the floor that got a little personal, and I regret that. It seems to me it was rather convenient because it was only yesterday our staff was working with the staff of the minority indicating that not this week but next week we would spend as much time as possible, 5 or 6 days, to complete our work in regard to phase II. It isn't as though it has been delayed. As a matter of fact, it has been ongoing. As a matter of fact, we have been doing our work on phase II. It is difficult, as I will indicate in a minute, while I go through these provisions on what we agreed to do.

So it seems to be a little convenient all of a sudden to go into a closed session of the Senate and call for a full Senate investigation of phase II when the committee is already doing its work. I think that basically is an unfortunate stunt. I would call it something else, but I think probably I will simply leave it at that.

Let me tell you what phase II is all about. Again, let me point out that we took a look at whether Saddam Hussein did reconstitute his weapons of mass destruction. That took us a long time. It is a 511-page report. It is a seminal report. It is a good report, and it signifies

what we can do in the committee when we at least let one another know what is going on and we work in a bipartisan fashion.

This is what phase II is all about. That is what we will begin as we have planned to do and what our staff has indicated to the other side's staff in regard to what we were going to do as of next week--that we will start next week, and we will hope to continue that effort. We will cancel all other hearings until we can reach some sort of an accommodation. Now, if we can do this on the WMD report, certainly we can do it in regard to phase II.

My good friends across the aisle are people of good faith. We had strong differences of opinion then. I suppose we will have it in regard to phase II as well. We have seen that happen time and time again. As a matter of fact, we brought up phase II on May 17 of this year.

The biggest issue is as follows. There are five things in phase II: Whether public statements and reports and testimony regarding Iraq by U.S. Government officials made between the gulf war period and the commencement of Operation Iraqi Freedom were substantiated by intelligence information. In other words, the public statements made in the administration and the public statements made by public officials, whether they be in Congress, whether they be in the administration, or whatever, Congress, because we voted for regime change and we voted to go to war. Obviously, the administration, because they looked at the intelligence and thought our national security was in danger, we went to war.

Were the public statements backed up by intelligence or were they backed up by flawed intelligence? We have that material. We were supplied about 300 to 400 names by my colleagues across the aisle from

all sorts of statements made by people in the administration. We took a good look at what Members of Congress have said about the same intelligence. I must say, at this point, some of those statements are even more declarative and more aggressive than those made in the administration.

That is the big issue: the use of intelligence. Whether somebody in the administration or somebody in the Congress made a statement that they thought was based on intelligence that was later proved wrong and somehow we are suppose to get in their head and ask: Why did you make that statement? Is that credible?

On May 17, in the spring, we started down the list of statements. We took names off of the statements because I didn't want it to be a situation, in terms of naming who made the statement, because I thought it might perjure or affect how people would vote in the committee. We started down that road. We didn't get very far. We had requests on the total progress of phase II, other portions of phase II.

So we started again on the first statement. Does that first statement match up with the intelligence? We didn't get very far. We started phase II in May, and we went back to work to see what we could get done, where we would agree and come back to the ``use'' question, when that would be possible.

There are five issues to phase II. Let me read them. The postwar findings about Iraq's weapons of mass destruction and their weapons programs and the links to terrorism and how they compare with prewar assessments. That was done by Charles Duelfer and David Kay. Those two paragraphs are already written. You can simply say that Charles Duelfer and David Kay did not find WMD. That was their conclusion. They made

some statements

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about it. It was commensurate, exactly, with what our WMD report said. There shouldn't be any problem with that. That should be adopted by the committee with hardly any dissent or any discussion.

The third issue is prewar intelligence about postwar Iraq. That is not necessarily true today. It is post-insurgency Iraq. That was my suggestion, saying if the intelligence community at least could figure out what we expected to find in Iraq postwar, post the military action. Where was the intelligence? That is ongoing. That is ongoing because we have what we think is a pretty good report, but we can make it more concise. I can say right off the bat that intelligence was as flawed as the intelligence in regard to the WMD report. We can agree with that. So there are two we can agree on.

Let me go to the next one. Any intelligence activities relating to Iraq conducted by the policy counterterrorism evaluation group and the Office of Special Plans within the Office of the Undersecretary of Defense. This involved a question as to whether Under Secretary Douglas Feith had a special intelligence group that had undue influence in the 2002 National Intelligence Estimate and whether or not that group and that intelligence had an undue influence on the administration's decision to go to war.

We had Under Secretary Feith before the committee. Then we were going to have him up again. And then my good friends across the aisle wanted more information. In the midst of that, there was a statement made by the vice chairman--I will not get into that because it tends to be personal, and I don't want any remarks of mine to be personal,

especially after what happened on the Senate floor in regard to this issue. Basically, there was a statement made that what was going on in the Office of Special Plans could be illegal. When that happened, everyone down there at the Office of Special Plans got lawyered up or at least thought about seeking legal representation.

The cooperation between that particular department and our committee was not nearly as good as it was. We can clear that up because we have asked the Department of Defense inspector general to come back and tell us if there was anything wrong in regard to what the Office of Special Plans was doing. We will rely on that. We will put that in the report. We can believe the inspector general of the Department of Defense.

Finally, the use of the intelligence community of information provided by the Iraqi National Congress. Now, remember back when the Congress was talking to members of the Iraqi National Congress. Mr. Chalabi was the head of that group. I had Senator after Senator come to me and ask, Why don't you have Mr. Chalabi appear before the committee? The people supporting him wanted to vote and eventually did vote for regime change.

Then the pendulum swung the other way and people said, Wait a minute. We are not really sure about his position or, for that matter, what he has said in the past, what are you doing, and the question of the INC. The whole question again was, how much effect did the Iraqi National Congress and Mr. Chalabi have on the input to the administration as to whether or not they would go to war.

We have found, basically, as far as I am concerned, there is very little evidence, if any, that would take place.

I wouldn't think that would take too much time, as well.

So those are the five things we had to do in regard to phase II.

Let me repeat, again, yesterday our staff talked with my colleagues' staff across the aisle and their staff--not my colleagues across the aisle but their staff--and said the chairman wants to move on this next week. My conversation in regard to the distinguished vice chairman, I think it was last Wednesday, and let me say it was in the middle of a hearing and let me say it was not exactly clear in terms of any kind of a date, but I did talk to Senator Rockefeller and indicated we had to move, we had to get this done.

He will doubtlessly say they have written letters and they have tried to get me to move and this, that or the other, but we have been doing this all along. Staff has been working on this very diligently. Consequently, I think we are very close. I am very pleased to announce, on schedule, exactly what we planned to do, we will start next week. We will start on Tuesday, and I will announce the time in the morning. Members of the Intelligence Committee will know Tuesday, Wednesday, Thursday, Friday, how long it takes, working in good faith. We will look into phase II and see what we can do and finish that product.

I said a long time ago on the Intelligence Committee we had to work in a bipartisan fashion. I said a long time ago that whatever ended up on the fan, we were going to have to clean it up. I said a long time ago we will let the chips fall where they may, and that went for phase II as well as the WMD special inquiry.

I ought to say one other thing. There was a memo that was highly publicized back about a year and a half ago. That memo, which was not provided to Republicans--obviously, it was a Democratic memo--and paragraph four caused a big fuss. It caused us about a month to sort of

walk gingerly around one another and smother each other with the milk of kindness and say, Well, let's see if we can't work things out. And we did. I credit a lot of that to Senator Rockefeller. He is not a partisan man.

Here is the paragraph:

Be prepared to launch an independent investigation when it becomes clear we have exhausted the opportunity to usefully collaborate with the majority. We can pull the trigger on an independent investigation any time, but we can only do so once. The best time to do so will probably be next year.

Well, the trigger has been pulled today with an executive session of the Senate that is not needed, not necessary, and, in my personal opinion, was a stunt. I plead with my colleagues across the aisle and my colleagues, all Republicans on the committee, next week when we start this, on Tuesday--we will go through Tuesday, Wednesday, Thursday, Friday--I have no illusions, we will have differences, but I plead with you, as we have done in the past, for the good of our national security, and to finish the inquiry on whether or not Saddam Hussein had reconstituted his weapons of mass destruction, we were able to do that, and it became the seminal study for intelligence reform and where we are now with the Director of National Intelligence.

If we can get back to that mode instead of this surprising stunt on the floor to go into executive session, we will be better off.

Phase II, yes, you bet, we have been on phase II, and we will do it exactly as we planned to do it as of next week. I see from the expression of the distinguished President's face my time has expired.

The PRESIDING OFFICER. The time has expired.

Mr. ROBERTS. I thank the President.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for 15 minutes.

Mr. ROCKEFELLER. Mr. President, I thank the Presiding Officer. For the past 30 years, the Senate Intelligence Committee has been remarkably bipartisan. It has performed a terrific oversight factor for the Senate. The resolution creating the committee mandates an oversight role. We are not there watching clouds drift by. The resolution that creates the committee mandates an oversight role of the U.S. intelligence community and a responsibility to carefully review our Nation's most sensitive national security programs. It is very broad and widespread in the handling of highly classified secrets. The committee is designed to be nonpartisan. That is why I am called a vice chairman. That is not true in any other committee. But it is meant to work.

We have reached an agreement that shows what has happened today, in a somewhat abrupt manner, but nevertheless we have reached an agreement on what we will do. That is a large step forward. I congratulate all involved in that.

For the most part, the history has been a good one. Over the past 2 years, I have to say, in all honesty, I am troubled by a concerted effort by this administration to use its influence to limit, to delay, to frustrate, to deny the Intelligence Committee's oversight work into the intelligence reporting and activities leading up to the invasion of Iraq.

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In June, 2003, the Senate Intelligence Committee began a formal

investigation into the prewar intelligence on Iraq. The primary focus of the investigation was to evaluate the intelligence reporting underlying the claims that Iraq possessed weapons of mass destruction and that Iraq had ties to terrorist groups. Although the Senate resolution establishing the Intelligence Committee intelligence clearly states in Senate resolution 400 we are to look at the ``use'' of intelligence, the majority on the committee initially rejected attempts by myself and by others to add to the investigation--that is, to add to phase I--how administration officials used or potentially misused intelligence and public statements leading up to the war which maybe helped lead up to the war. Only after considerable insistence by committee members and protracted discussions did the majority leadership of the committee agree to add to the scope of our investigation the issue of how intelligence was used prior to the Iraq war. It is a huge uncovered subject.

On February 12, 2004, the Intelligence Committee unanimously agreed and publicly announced that five issues would be added to the investigation, phase II. One, whether public statements, records and testimony regarding Iraq by Government officials made between the gulf war period, end of gulf war I and the commencement of Operation Iraqi Freedom, whether those statements by Government officials were substantiated by intelligence information.

Prewar intelligence is No. 2, prewar intelligence assessment about postwar Iraq.

Three, any intelligence activities related to Iraq within the Office of Under Secretary of Defense for Policy, headed by one Douglas Feith.

Four, the use of the intelligence community of information provided

by the Iraqi National Congress.

Five, the postwar findings about Iraq's weapons of mass destruction and weapons programs and links to terrorism.

Remember, this was constantly being thrown at us, links to terrorism and how they compare to the prewar assessments.

The committee press release explained all of that. Everyone agreed to it, and it added the resolution adopted unanimously today that illustrated the commitment to all members to a thorough review to learning the necessary lessons from our experience with Iraq and ensures that our Armed Forces and policymakers benefit from the best and most reliable intelligence that can be collected.

These five areas of inquiry commonly referred to as phase II were authorized well over a year and a half ago, in February of 2004. It has been 20 months since the committee committed to all Members of the Senate and to the American public a thorough review.

My colleague, the chairman of the committee, has referred to all of the things that have been done. In fact, we have had one hearing. And he referred to work that would take place next week. I didn't know about that. All of a sudden everyone will plow into phase II. I am not critical of that because I think today has helped to create that kind of momentum which I think is important.

Since the committee identified these five issues as a high priority in February of last year, I and other Democrats on the committee have repeatedly urged completion of the review--we agreed to it unanimously--and had been assured by the chairman, time and time again, that the committee will fulfill this commitment.

Yet, despite these repeated assurances, it is clear that only token

work, at best, has been done on phase II since it was authorized. That is unacceptable. We have had only one business meeting on phase II, and no report has been written for members to review--nothing.

The public pronouncement of Chairman Roberts earlier this year that phase II was ``on the back burner'' has been, unfortunately, accurate. Do I enjoy saying this? Not particularly, true. But let people know.

The disturbing question is, why has the chairman relegated the phase II investigation to the back burner? Why did he do that?

The fact is--and I hope folks will listen closely--that any time the Intelligence Committee pursued a line of inquiry that brought us closer to the role of the White House in all of this, in the use of intelligence prior to the war, our efforts have been thwarted time and time again.

When it was reported that the Vice President's Chief of Staff Scooter Libby and the National Security Council prepared a draft speech making the intelligence case against Iraq and sent it to the CIA for Secretary of State Powell to give before the United Nations in February of 2003, my staff asked that the committee obtain the NSC, National Security Council, document as part of our ongoing review of how the Powell speech was formulated. Our requests were denied by the majority. Why?

Because of this denial, I personally wrote to the Director of the Central Intelligence Agency, Mr. Tenet, requesting the Libby/NSC input into the Powell speech--it was important to have that information--and other documents in October of 2003. Director Tenet did not respond to my letter, nor did he respond to my two subsequent letters for the NSC paper in January and March of 2003. Why?

Perhaps the answer can be found in last week's National Journal

article, which reports that Vice President Cheney and his Chief of Staff Libby overruled White House lawyers and withheld this information--withheld these documents--from us, and other documents from the Senate Intelligence Committee.

When, during the committee's Iraq investigation, my staff requested that the committee interview the White House speechwriter who wrote the President's 2003 State of the Union Address to better understand how the debunked claim that Iraq was seeking uranium from Niger made it into the President's speech--how it got in there, when the same claim was removed, at the CIA's insistence, a few months earlier in Cincinnati--our request was denied by the majority. Why?

When we requested that the committee obtain a copy of the one-page summary of the Intelligence Community's National Intelligence Estimate on Iraq's weapons of mass destruction programs that was prepared for the President in October 2002, our request was denied by the majority. Why?

And why has the committee's phase II investigation been moribund since February of 2004? When the committee told the American people it would conduct a thorough review, was the promise a hollow one? What other conclusion?

Could it be that the administration has made it clear it does not want the Congress to examine whether intelligence was accurately presented to the American people in the rush to war?

Could it be that the administration has made it clear it does not want Congress to examine the role that Pentagon policy officials under Douglas Feith played in circumventing the intelligence community and preparing an alternative analysis to the White House that drew a link

between Iraq and the attacks of 9/11 that the intelligence did not support?

Could it be the administration has made it clear it does not want Congress to examine the claim that the Iraqi National Congress made to the Senate Appropriations Committee in June of 2002 that it was providing intelligence information directly to the Vice President's office--to Mr. Hadley, I believe--and the Office of the Secretary of Defense? Chalabi passed all intelligence agencies in our Government directly into the White House.

The administration's ability to head off any line of inquiry into matters of appropriate congressional oversight is not limited to the Intelligence Committee's Iraq investigation. Despite repeated attempts by me and other Intelligence Committee members to initiate a detailed review of fundamental legal and operational questions surrounding the detention, interrogation, and rendition of suspected terrorists held in U.S. custody--important national security measures that fall squarely within the jurisdiction of the Intelligence Committee--the committee's majority has refused to conduct such an investigation. What are we to do?

The Intelligence Committee's obligation under Senate Resolution 400--  
``to provide vigilant oversight of the intelligence activities of the United

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States''--requires us to not only answer questions related to cases of detainee abuse, but to examine the effectiveness of the methods used in interrogations.

But, again, it is apparent to me that the White House has sent down

the edict to the majority--and I could say more--that the Congress is not to carry out its oversight responsibilities in detention, interrogation, and rendition matters, or some of the previous matters I discussed, as it would bring uncomfortable attention to the legal decisions and opinions coming from the White House and the Justice Department in the operation of various programs.

Finally, the delay in completing the remaining portion of the Intelligence Committee's Iraq review is inexcusable. Sadly, the committee's delinquency in completing an investigation that it unanimously voted to undertake over 20 months ago has diminished the committee's credibility as an effective overseer of the intelligence community.

But what disturbs me the most is that the majority has been willing, in this Senator's judgment, to take orders from this administration when it comes to limiting the scope of appropriate, authorized, and necessary oversight investigations. This is a very strong statement. The very independence of the Congress as a separate and coequal branch of Government has been called into question.

We need to not only complete the second phase of the Intelligence Committee's investigation, we need to reopen the first part of the Iraq report we released in July of last year, to find out what role the White House played in denying the committee documents it needed to carry out its investigation. That is not a part of the agreement, I fully and freely admit.

It is time the Senate, as a body, own up to our oversight responsibilities and provide the American people the answers we promised we would give them over 20 months ago.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, will the Senators yield for a unanimous consent request?

Mr. CONRAD. I yield.

Mr. LEVIN. Mr. President, I would like to ask the Senator from West Virginia a question.

Has the joint agreement of February 12, 2004, been made a part of the Record?

Mr. ROCKEFELLER. Mr. President, I say to the distinguished Senator from Michigan, I have the same document and ask unanimous consent that be printed in the Record.

Mr. President, also, there was a reference in the chairman's remarks as to events that went on in the Douglas Feith matter, and he referred to ``lawyering up.'' There is a very clear, easy, simple answer to that, and I ask unanimous consent that be printed in the Record, also.

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

[From the United States Senate Select Committee on Intelligence, Feb. 12, 2004]

Chairman Roberts and Vice Chairman Rockefeller Issue Statement on Intelligence Committee's Review of Pre War Intelligence in Iraq  
Washington, DC.--Senator Pat Roberts (R-KS), Chairman, and Senator Jay Rockefeller IV (D-WV), Vice Chairman, of the Senate Select Committee on Intelligence, today announced that the Committee unanimously agreed to refine the terms of reference of the Committee's ongoing inquiry into pre war

intelligence with regard to Iraq. The new terms are as follows:

A. The matters set forth in the joint release of the Chairman and Vice Chairman on June 20, 2003:

1. The quantity and quality of U.S. intelligence on Iraqi weapons of mass destruction programs, ties to terrorist groups, Saddam Hussein's threat to stability and security in the region, and his repression of his own people;

2. the objectivity, reasonableness, independence, and accuracy of the judgments reached by the Intelligence Community;

3. whether those judgments were properly disseminated to policy makers in the Executive Branch and Congress;

4. whether any influence was brought to bear on anyone to shape their analysis to support policy objectives; and

5. other issues we mutually identify in the course of the Committee's review;

B. the collection of intelligence on Iraq from the end of the Gulf War to the commencement of Operation Iraqi Freedom;

C. whether public statements and reports and testimony regarding Iraq by U.S. Government officials made between the Gulf War period and the commencement of Operation Iraqi Freedom were substantiated by intelligence information;

D. the postwar findings about Iraq's weapons of mass destruction and weapons programs and links to terrorism and how they compare with prewar assessments;

E. prewar intelligence assessments about postwar Iraq;

F. any intelligence activities relating to Iraq conducted by the Policy Counterterrorism Evaluation Group (PCTEG) and the Office of Special Plans within the Office of the Under Secretary of Defense for Policy; and

G. the use by the Intelligence Community of information provided by the Iraqi National Congress (INC).

Sen. Roberts said, ``Today's agreement reflects a refinement and to a great extent a restatement of the Committee's ongoing review of pre-war intelligence. The resolution adopted unanimously today illustrates the commitment of all members to a thorough review, to learning the necessary lessons from our experience with Iraq, and to ensuring that our armed forces and policymakers benefit from the best and most reliable intelligence that can be collected. I believe that the report which we are currently reviewing will have a profound impact on the future of our Intelligence Community. My hope is that we be able to release our initial report soon and then continue our review as we work toward recommendations. I congratulate all members for their willingness to work together toward these goals.''

Sen. Rockefeller said, ``This agreement reflects a difficult and lengthy process, but in the end, we were able to reach consensus on the need to expand the investigation into several key areas.''

``We will address the question of whether intelligence was exaggerated or misused by reviewing statements by senior policy makers to determine if those statements were

substantiated by the intelligence," Rockefeller said. "We will take a closer look at the shortfalls in our intelligence collection. We will compare pre-war estimates to the situation in postwar Iraq, and we will pursue a better understanding of what role the Policy Counterterrorism Evaluation Group and the Office of Special Plans played in pre-war intelligence. There are definitely a few outstanding issues, but we've made a lot of progress, and it's clear that we're moving in the right direction."

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Response to Department of Defense Letter Regarding Senator  
Rockefeller's Statement on Under Secretary Feith

In July 2004, officials at the Department of Defense took exception to my characterization of the activities of the office of Under Secretary of Defense Doug Feith. The Senate Intelligence Committee has been investigating these activities as part of its ongoing review of prewar intelligence related to Iraq. After much delay, we received thousands of pages of documents from the Defense Department and conducted several interviews as we have sought to determine the nature and extent of the intelligence activities of this office. At the time of my public statements, our review of these activities was still ongoing and as part of the second phase of the Committee's work on prewar intelligence.

In describing that part of our review I stated that we were seeking to determine if Under Secretary Feith was running a

private intelligence operation not authorized in law. For example, Section 502 of the National Security Act of 1947 requires the heads of all departments and agencies of the U.S. government involved in intelligence activities ``to keep the congressional oversight committees informed.'' This requirement relates to the activities of any part of the government not just intelligence agencies. The Committee review is intended to determine if the activities within Under Secretary Feith's office were unauthorized intelligence activities in contravention of this and perhaps other legal requirements. The Committee unanimously agreed to review ``any intelligence activities relating to Iraq conducted by the Policy Counterterrorism Evaluation Group (PCTEG) and the Office of Special Plans within the Office of the Under Secretary of Defense for Policy.'' Implicit in that statement is the possibility that unauthorized intelligence activities may have taken place.

A letter from Assistant Secretary of Defense Powell Moore in July 2004 expressed surprise at my description and asked for an apology. I did not suggest that Mr. Feith has broken a criminal statute. My concern, and that expressed in the Committee's resolution authorizing its investigation, is that some activities of his office may have been unauthorized. The Committee has not reached a conclusion. And cannot reach a conclusion without further investigation.

Mr. LEVIN. Mr. President, one additional unanimous consent request. I ask unanimous consent that it be noted in the Record that items C

through G in the February 12, 2004, press release setting forth the agreement be noted as being phase II of the agreement.

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

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