

working in conjunction with our military forces. Indeed, the first American to be killed in Afghanistan was Mike Spann, a CIA agent.

What we are dealing with, lest folks get this all mixed up with politics, is a crime of the most serious nature because it jeopardizes the security of the United States and its people. When someone's identity is suddenly revealed and is an agent of the U.S. Government, their life is in jeopardy and the lives of their contacts are in jeopardy. That is the gravity of this leak. That gets lost in all of this. He said, she said, and so forth is just branded as politics. But we are dealing with the lives of people.

As in any normal criminal proceeding, if a violation of law is thought to have occurred, then let us allow the cops to investigate and let us bring that person in front of the responsible judicial tribunals. The question is, which cops will be able to investigate and get to the truth? If you leave it to the professional law enforcement people, they will. But isn't it sad that we have to be concerned that political influence will direct that investigation?

Whatever turn it takes, what the Senator from Florida is standing for is I know our people want to get to the truth, and it ought to be the professional law enforcement investigators who determine what is the truth. That is why I wanted to come and support the Senator.

Mr. SCHUMER. I thank my colleague. Again, he is on the money. That is all we seek here now—the truth.

The spokesperson for the President, Mr. McClellan, said we are referring it to the Justice Department and the professionals. If you look at the chain of command, it goes right up to the Attorney General.

As I mentioned earlier, the Attorney General is a close political ally with the President. There is nothing wrong with that. That is one model of the Attorney General. But it certainly sacrifices the appearance of independence, and perhaps independence itself particularly goes very high up.

Why we have asked for a special counsel is very simple: It is to allow professional law enforcement to do the job unfettered so they know they will not pay a price if they pursue it completely and fully. That would entail a special counsel of great legal background and sterling reputation for independence and integrity. I think it would behoove the administration to do that.

There are all sorts of doubts now. Are they telling the truth about this, that, or the other thing when it comes to foreign policy? Were we to appoint a special counsel, people would say: Yes, maybe they are.

But I will say this: The effort to sort of sweep this under the rug and say, oh, this is just one of the leaks that occurs every day, that makes me angry, to be honest with my colleague. That is un-

fair not only to the CIA agent in question but to the thousands of intelligence agents across the globe who at this moment, as my good colleague points out so correctly, are defending just as our soldiers are defending us and are more needed than ever before.

That is why in the intelligence community there is such livid anger because this occurred. My guess is—this is just my guess—that is why Mr. Tenet requested the investigation. My guess is that in his head he was saying, Oh, boy, this is going to get me in trouble the way, say, Janet Reno may have gotten in trouble with the previous President, the Attorney General from the Senator's State. But he knows that the integrity of the intelligence service is important. My guess is that is why he did it. Maybe that is why it took a bit more time than I had imagined when I first requested this on July 24. But he did request it.

Now our obligation to the thousands of brave men and women who are in our intelligence services and risking their lives is to get to the bottom of it with a fearless, complete, and thorough investigation.

Mr. NELSON of Florida. Will the Senator further yield for an additional comment? It is not only, interestingly, those who are directly in the services of the CIA now, but it is also the retirees.

I will never forget being in an almost deserted embassy in Islamabad, Pakistan, after September 11. I heard my name being called. I turned around, and I saw an elderly looking gentleman, and he recalled how we knew each other back when I was in the House of Representatives.

I said: What in the world are you doing here?

We were getting ready to do a raid in 5 cities simultaneously that night, of which we got 50 al-Qaida, and we got the No. 3 guy. And, lo and behold, he was a retired CIA agent they brought back in the aftermath of September 11, when we were trying to catch up until we could get the new guys trained. They reached out, and they got the old guys who had all the knowledge.

Mr. SCHUMER. Right. Mr. NELSON of Florida. So we are talking about the protection of the interests of this country, and not only those in the active service right now but those who are retired who in times of emergency are called back as well.

Mr. SCHUMER. I thank my colleague. Well said. It is a tribute to how familiar he is with our intelligence services and how many from his State serve in the intelligence community.

I was glad to hear, for instance, that these days, on the college campuses, signing up for intelligence is a coveted thing.

The PRESIDING OFFICER. The 10 minutes have expired.

Mr. SCHUMER. Mr. President, I ask unanimous consent that we be given another 5 minutes.

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

Mr. SCHUMER. Thank you, Mr. President.

There are lines to join the intelligence services, sort of as there were after World War II, when some of our best and our brightest wanted to go into our services.

I will tell you, if politics can be played—and those of us asking for an investigation are not playing politics; it was the people who outed this agent, if, indeed, that is proven to be true, who were playing politics—but if that is allowed to prevail, it is going to hurt our intelligence agencies in many more ways than one.

I thank my colleague.

Mr. President, I would just make two points. No. 1, I will continue to make an effort to bring up this amendment. It has now been printed in the RECORD. I ask my colleagues on both sides of the aisle to read it. We were judicious in our language. It does not have any kind of political language or diatribe. It just states the facts. I would hope we could get colleagues from both sides of the aisle to sponsor it.

And I would hope we could move it forward—move it forward quickly—as a message because that is all it can be, but as a message to the President that we need a thorough, complete, and fearless investigation, and that only a special counsel can do that for us.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alabama, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Ohio.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that following the reporting of the DC appropriations bill,

Senator SCHUMER be recognized to offer an amendment on independent counsel; further, that there be 2 hours of debate equally divided in the usual form, with no amendments in order to the amendment; provided further that following the use or yielding back of time, the majority leader or his designee be recognized in order to raise a point of order against the amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada is recognized.

Mr. REID. Mr. President, reserving the right to object. I appreciate the majority allowing this to go forward in this manner. Otherwise, we would have been here all day in a rugby scrum until we arrived at this point. Anyway, I appreciate the cooperation of the majority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004—Resumed

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

The assistant legislative clerk read as follows:

A bill (H.R. 2765) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The Senator from New York is recognized.

AMENDMENT NO. 1790

Mr. SCHUMER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. DASCHLE, Mr. REID, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. LEAHY, Mr. LEVIN, Mr. NELSON of Florida, Mr. KENNEDY, Mr. DURBIN, Mr. BAUCUS, Mr. HARKIN, Mr. BAYH, Mr. HOLLINGS, Mr. BIDEN, Mr. LAUTENBERG, Mr. SARBANES, Mr. BINGAMAN, Mr. KERRY, Mr. WYDEN, and Mr. GRAHAM of Florida, proposes an amendment numbered 1790.

Mr. SCHUMER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of Congress concerning the appointment of a special counsel to conduct a fair, thorough, and independent investigation into a national security breach)

At the appropriate place, insert the following:

SEC. ____ SENSE OF CONGRESS CONCERNING THE APPOINTMENT OF A SPECIAL COUNSEL TO CONDUCT A FAIR, THOROUGH, AND INDEPENDENT INVESTIGATION INTO A NATIONAL SECURITY BREACH.

(a) FINDINGS.—Congress finds that—

(1) the national security of the United States is dependent on our intelligence

operatives being able to operate undercover and without fear of having their identities disclosed;

(2) recent reports have indicated that administration or White House officials may have deliberately leaked the identity of a covert CIA agent to the media;

(3) the unauthorized disclosure of a covert intelligence agent's identity is a Federal felony; and

(4) the Attorney General has the power to appoint a special counsel of integrity and stature who may conduct an investigation into the leak without the appearance of any conflict of interest.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General of the United States should appoint a special counsel of the highest integrity and statute to conduct a fair, independent, and thorough investigation of the leak and ensure that all individuals found to be responsible for this heinous deed are punished to the fullest extent permitted by law.

Mr. SCHUMER. Mr. President, I yield to my colleague, our leader from South Dakota, as much time as he wishes.

Mr. DASCHLE. Mr. President, I thank all of those involved in the discussion and the agreement we have just reached procedurally. This is an important issue and it deserves the consideration of the Senate.

I want to especially acknowledge the leadership Senator SCHUMER has shown on this matter, and I expressed the gratitude of our caucus to him for providing this legislative leadership as we consider what to do in this particular case.

I think there are several facts we know for sure. We know the law was violated. We know what the law says with regard to violations of this magnitude. We know the chilling effect it has on our intelligence-gathering capability and on personnel involved in the front lines with regard to intelligence-gathering responsibilities.

We know, if we can believe the reports that have already been printed and reported, what motivated someone in the White House or someone in this administration was retaliation, retribution for being critical of the administration. Those things we know.

What we don't know is how it happened. What we don't know is who is responsible. What we don't know is whether or not the perception that the Justice Department can investigate this independently, objectively, and thoroughly is something we can answer today. I would say the answer is no. It would be very difficult to put John Ashcroft in the position of investigating the very people who hired him for the job. We no longer have the independent counsel law. That has expired. I am on record as having said I support the expiration of the independent counsel law because of the abuses that I believe have occurred. What we do have is an independent prosecutor set up by regulation throughout the Justice Department to create more of an independent review, an outside analysis of all of the outstanding questions regarding this particular case.

So that is really what the Senator from New York is saying. Because the

law was violated, because of the perceptions created about the inability of this Attorney General to create an independent, thorough investigation, we have no choice. We have no choice but to encourage and to demand that a special counsel be appointed.

Mr. President, I don't know that there could be anything more egregious—in fact, I thought President Bush's father said it about as well as anyone can.

Anyone who is guilty of doing something such as this is what President Bush said, an insidious traitor. I believe those are strong words, because they deserve the kind of repudiation that words such as that connote.

The only way we can ensure that those responsible for insidious acts involving the very essence of our ability to stay strong is to ensure that when we pass laws involving violations, we deal with them effectively and directly, regardless of who it may be.

Our country is based on the premise, on the foundation, of the rule of law. There can be no respect for the rule of law if laws as essential to our national security as this are violated and there is no followup, no responsibility, no actions taken.

I do not care how one connotes the importance of this law, one cannot minimize its impact in this country today, especially now. So all that the distinguished Senator from New York is saying and what many of us are saying with him is let us uphold the law; let us say, as we demand of others that they respect the rule of law, that we set the example, and that in encouraging the rule of law and respecting the extraordinary consequences of the law those who violate it are held accountable.

I hope this Congress will act unanimously in this sense of the Senate, in this statement of purpose that the Senator from New York is offering today. Let us simply say with one voice that there can be no excuses, there can be no explanation, there can be no other option than pursuing the law vigorously. The only way to do that is to recognize the importance of what the Justice Department itself recognized, that there are times when conflicts of interest stand in the way of pursuing justice effectively. In those times, the only option we have available to us is the creation of an independent counsel.

In essence, that is what we are proposing today. I strongly support the letter as well as the spirit and the intent of the resolution, and I hope my colleagues will do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, let me thank our leader from South Dakota for his right-on-the-money words as well as his leadership on this issue with so many others. I think I speak for every Member on our side when I say we are proud to follow his leadership, and every Member of the