

# Deciding on War Against Iraq: Institutional Failures

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Following the swift U.S. military victory in Iraq, teams of experts conducted careful searches to discover the weapons of mass destruction that President George W. Bush offered as the principal justification for war. It was his claim that these weapons represented a direct and immediate threat. Months after the president announced victory, little evidence has been found nor is there much reason to expect anything significant to emerge. Stories began to circulate that perhaps the Bush administration had deceived allies, Congress, and the American public.

It is quite late to play the innocent, to express shock at troubling new disclosures. For over a year, the administration supplied a steady stream of unreliable statements. At no time did it make a persuasive, credible, or consistent case for war. Much of its rationale was exploded on a regular basis by the press. The campaign for war was dominated more by fear than facts, more by assertions of what might be, or could be, or used to be, than by what actually existed. Those who now felt duped had not been paying attention.

Month after month, the administration released claims that were unproven. In preparing for war in that manner, it should come as no surprise that plans for a stable, functioning Iraqi civil society seemed to be an afterthought. Having proved itself skilled in military combat, the Bush administration failed to address predictable looting and violence. After Afghanistan, it should have been obvious that a military victory must be followed quickly by a secure environment and visible reconstruction efforts. For its part, Congress seemed incapable of analyzing a presidential proposal and protecting its institutional powers. The decision to go to war cast a dark shadow over the health of U.S. political

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institutions and the celebrated system of democratic debate and checks and balances.

The dismal performances of the executive and legislative branches raise disturbing questions about the capacity and desire of the United States to function as a republican form of government. Americans are supposed to do more than salute the flag. The pledge of allegiance is to something much more fundamental. Consider the words: "I pledge allegiance to the flag of the United States of America, and to the republic for which it stands." A republic means giving power to the people through their elected representatives, trusting in informed, legislative deliberation rather than monarchical edicts, and keeping the war power in Congress instead of transferring it to the president. Fed unreliable information from the administration, democratic deliberation becomes shallow and vacuous. Lose what it means to be a republic, and the flag stands for nothing.

It is tempting for the Bush administration and its supporters to dismiss opposition to the war in Iraq as primarily leftist and antiwar, inspired by those who insist on international—not unilateral—solutions. That misses the point. After September 11, Americans were united in supporting military action against the terrorist structures in Afghanistan. If no other country had offered us support, Bush could have acted singlehandedly against al Qaeda and the Taliban with full public approval. He would have enjoyed the same public backing had he used military force against any other country or group responsible for September 11. Americans are willing to use force, and use it unilaterally, when necessary to defend the nation. Past and current opposition to the war in Iraq is of the administration's own making, nourished by statements that lacked credibility.

Patriotism is not indiscriminate flag-waving at each and every war. Citizens stand ready to sacrifice lives and fortunes for national security. At the same time, they oppose wars that cause needless deaths, including one's sons and daughters, and regard it a public duty to confront government officials who urge war without justifying it. Military force demands solid evidence that a threat is imminent and war is unavoidable. It is on that ground that the Bush administration and its allies—here and abroad—failed a fundamental democratic test.

#### A MUDDLED EXPLANATION

David Frum, after a little more than a year as a speechwriter in the Bush White House, offered some insights into the process of policy making at the highest levels. Frum tells us that Bush "hated repetition and redundancy."<sup>1</sup> Frum is convinced that if Bush had read that sentence, he would have deleted the words "and redundancy." Still, Bush never tired of repeating that a link existed between Iraq and al Qaeda, even if the evidence remained tenuous and unpersua-

<sup>1</sup> David Frum, *The Right Man* (New York: Random House, 2003), 48.

sive. Bush said it so often that most of the public came to believe it was true. In this area, he liked both repetition and redundancy.

One of Frum's draft speeches contained the phrase, "I've seen with my own eyes." Bush used his marking pen to add in the margin a sarcastic "DUH." Such experiences convinced Frum that Bush "insisted on strict linear logic."<sup>2</sup> There is much to be said for that. Bush's performance in the 2000 presidential campaign consisted of straight, simple talk, with an impressive ability to connect with an audience. Al Gore's delivery was much more convoluted, leaving listeners uncertain about the destination of his thoughts. Comparatively, Bush was a model of clarity.

Why did Bush, in advocating military action against Iraq, abandon "strict linear logic?" His speeches were filled with strained arguments and dramatic claims that could not be substantiated. Presentations were cloudy, repetitive, and lacking in credibility. It shouldn't have been difficult to make a plausible case for war and stick with it. Bush could have said: "Saddam Hussein has used chemical weapons against his own people. I don't want him in a position to use chemical agents again, possibly along with biological and nuclear weapons. Nor will I give him any potential for transferring such weapons to terrorists from other countries. I will do everything in my power to prevent another attack like September 11. To survive as a nation, we must be willing to act in advance."

Those themes appear in Bush's speeches and statements, but his rationale for war was confused by poorly reasoned statements and claims of Iraqi programs that rested on nonexistent facts. The administration seemed content to throw anything out to see if it would stick. That is the record from August 2002 to the present.

### *Looking at "All Options"*

When the administration first began talking about war against Iraq, White House Spokesman Ari Fleischer cautioned on a number of occasions that President Bush was not rushing into war. Instead, he was described as a deliberate man who carefully studied all options. On 21 August 2002, President Bush called himself "a patient man. And when I say I'm a patient man, I mean I'm a patient man, and that we will look at all options, and we will consider all technologies available to us and diplomacy and intelligence."<sup>3</sup> With such statements Bush seemed to move with great care and circumspection.

A war plan, Americans were told, was not "on the President's desk."<sup>4</sup> At that same press conference on 21 August, Bush noted that "there is this kind of intense speculation that seems to be going on, a kind of a—I don't know how you would describe it. It's kind of a churning—." Secretary of Defense Donald

<sup>2</sup> Ibid.

<sup>3</sup> *Weekly Compilation of Presidential Documents*, 38: 1393–1394 (21 August 2002).

<sup>4</sup> Elizabeth Bumiller, "U.S. Must Act First to Battle Terror, Bush Tells Cadets," *New York Times*, 2 June 2002.

Rumsfeld, standing next to him, supplied the missing word: “frenzy.” Bush agreed. The country was too preoccupied, he said, with military action against Iraq.

Yet, within five days, the administration switched to a frenzied mode. Vice President Dick Cheney delivered a forceful speech that offered a single option: going to war. He warned that Saddam Hussein would “fairly soon” have nuclear weapons, and that it would be useless to seek a Security Council resolution requiring Iraq to submit to weapons inspectors. Hussein’s threat, Cheney said, made preemptive attack against Iraq imperative.<sup>5</sup> The press interpreted his speech as “ruling out anything short of an attack.”<sup>6</sup> Newspaper editorials concluded that Cheney’s speech “left little room for measures short of the destruction of Saddam Hussein’s regime through preemptive military action.”<sup>7</sup> On 6 September, two reporters for the *Washington Post* noted the abrupt transition: “this week’s frenzy of attention to Iraq was entirely generated by a White House whose occupants returned from the August recess anxious and ready to push the debate to a new level.”<sup>8</sup> What happened to the options carefully being weighed by Bush?

In that first month, the administration was not yet walking lock-step. Secretary of State Colin Powell, in a 1 September interview with the BBC, recommended that weapons inspectors should return to Iraq as a “first step” in resolving the dispute with Iraq. Ari Fleischer, asked whether Powell’s statement revealed a conflict within the administration, labored to convince reporters that Cheney and Powell agreed on fundamentals: “that arms inspectors in Iraq are a means to an end, and the end is knowledge that Iraq has lived up to its promises that it made to end the Gulf War, that it has in fact disarmed, that it does not possess weapons of mass destruction.”<sup>9</sup> However, Cheney had already announced that Iraq *did* possess weapons of mass destruction.

On 3 September, Senate Minority Leader Trent Lott (R-MS) acknowledged the disarray within the administration: “I do think that we’re going to have to get a more coherent message together.”<sup>10</sup> Asked whether he was comfortable with the White House’s presentation of the case for war against Iraq, he responded gamely: “I’d like to have a couple more days before I respond to that.”<sup>11</sup> Such frankness must have made it easier for the administration to support Lott’s replacement for majority leader, Bill Frist.

<sup>5</sup> Elizabeth Bumiller and James Dao, “Cheney Says Peril of a Nuclear Iraq Justifies Attack,” *New York Times*, 27 August 2002.

<sup>6</sup> Dana Milbank, “Cheney Says Iraqi Strike Is Justified,” *Washington Post*, 27 August 2002.

<sup>7</sup> “Mr. Cheney on Iraq” (Editorial), *Washington Post*, 27 August 2002.

<sup>8</sup> Dan Balz and Dana Milbank, “Iraq Policy Shift Follows Pattern,” *Washington Post*, 6 September 2002.

<sup>9</sup> Dana Milbank, “No Conflict on Iraq Policy, Fleischer Says,” *Washington Post*, 3 September 2002.

<sup>10</sup> Alison Mitchell and David E. Sanger, “Bush to Put Case for Action in Iraq to Key Lawmakers,” *New York Times*, 4 September 2002.

<sup>11</sup> Helen Dewar and Mike Allen, “Senators Wary About Action Against Iraq,” *Washington Post*, 4 September 2002.

### *“Regime Change”*

The meaning of “regime change” changed from week to week. On 4 April 2002, in an interview with a British television network, Bush said: “I made up my mind that Saddam needs to go. . . . The policy of my Government is that he goes. . . . [T]he policy of my Government is that Saddam Hussein not be in power.”<sup>12</sup> That was vintage Bush: clear, straight talk. On 1 August, he stated that the “policy of my Government . . . is regime change—for a reason. Saddam Hussein is a man who poisons his own people, who threatens his neighbors, who develops weapons of mass destruction.”<sup>13</sup> Without equivocation, Hussein had to go.

The commitment to regime change and offensive war changed abruptly when President Bush addressed the United Nations on 12 September. After cataloguing Saddam Hussein’s noncompliance with Security Council resolutions, apparently building a case for regime change and military operations, Bush then laid down five conditions for a peaceful resolution. If Iraq wanted to avoid war, it would have to immediately and unconditionally pledge to remove or destroy all weapons of mass destruction, end all support for terrorism, cease persecution of its civilian population, release or account for all Gulf War personnel, and immediately end all illicit trade outside the oil-for-food program.<sup>14</sup> The underlying message: If Iraq complied with those demands, Saddam Hussein could stay in power.

On 21 October, after Congress had passed the Iraq resolution, Bush again said that Hussein could stay. He announced that if Hussein complied with every UN mandate, “that in itself will signal the regime has changed.”<sup>15</sup> An exquisite sentence, with overtones of Bill Clinton, much like a magic trick where you ask: “Could you do that again, only this time more slowly?” Saddam Hussein could now stay in office if he changed.

### *Belittling Inspections*

After the 12 September UN speech, offering peace to Iraq if it complied with the five demands, Iraq agreed four days later to unconditional inspections. Given Iraq’s record since 1991, there was good cause to be skeptical of its promises. But the response should have been to test Iraq’s sincerity by sending inspection teams there to learn on the ground whether it would give full access to buildings and presidential palaces. Instead, the administration began to make light of inspections. Pentagon spokeswoman Victoria Clarke warned that

<sup>12</sup> *Weekly Compilation of Presidential Documents*, 38: 573 (4 April 2002).

<sup>13</sup> *Ibid.*, 1295.

<sup>14</sup> *Ibid.*, 1532.

<sup>15</sup> David E. Sanger, “Bush Declares U.S. Is Using Diplomacy to Disarm Hussein,” *New York Times*, 22 October 2002.

inspections would be difficult if not impossible to carry out.<sup>16</sup> If so, why have Bush go to the UN and place that demand on Iraq and the Security Council?

On 26 September, during a campaign speech in Houston, Texas, Bush delivered the standard litany of offenses committed by Saddam Hussein, but added, perhaps carelessly: “this is a guy that tried to kill my dad at one time.”<sup>17</sup> The comment made some wonder whether the impulse for war reflected careful considerations of national security or was instead a “family grudge match.”<sup>18</sup> The administration offered many reasons for war, often going beyond concerns about weapons of mass destruction. Senator Paul Sarbanes (D-MD) questioned the claims by Secretary Colin Powell that Iraq, to avoid military action, would have to comply with a number of UN resolutions, including one directed against prohibited trade. Sarbanes asked: “Are we prepared to go to war to make sure they comply with U.N. resolutions on illicit trade outside the oil for food program? Will we take military action or go to war in order to make them release or account for all Gulf War personnel whose fate is still unknown? Would we do that?”<sup>19</sup> No answer was forthcoming.

The administration seemed unprepared or unwilling to distinguish between fundamental reasons and less consequential considerations. All became interchangeable, forming a mass here, separating into parts there. Missing throughout this process was integrity. Senator Richard Lugar (R-IN) criticized the undifferentiated laundry list of charges against Saddam Hussein, such as brutality toward his own people. In conversations with top officials of the administration, Lugar was satisfied that they recognized that such conduct could not justify a U.S. war.<sup>20</sup> In public statements, however, the administration—including President Bush—treated all these charges with the same seriousness. Whatever seemed to work was tried.

Why the zigs and zags? Going to war is a serious enterprise and calls for consistency, clarity, and coherence. It is supposed to be reasoned deliberation. In an op-ed piece in the *Washington Post* on 11 October 2002, Michael Kinsley acknowledged that ambiguity can be useful in dealing with other nations. Sending mixed signals can keep an enemy off balance. Yet, Kinsley concluded: “the cloud of confusion that surrounds Bush’s Iraq policy is not tactical. It’s the real thing. And the dissembling is aimed at the American citizenry, not at Saddam Hussein.” Kinsley said that arguments that “stumble into each other like drunks are not serious. Washington is abuzz with the ‘real reason’ this or that subgroup of the administration wants this war.”<sup>21</sup> Even after the military victory in April 2003, people are still asking the same question: “Why did we go to war?”

<sup>16</sup> Todd A. Purdum and David Firestone, “Chief U.N. Inspector Backs U.S., Demanding Full Iraq Disclosure,” *New York Times*, 5 October 2002.

<sup>17</sup> *Weekly Compilation of Presidential Documents*, 38: 1633 (26 September 2002).

<sup>18</sup> Mike Allen, “Bush’s Words Can Go to the Blunt Edge of Trouble,” *Washington Post*, 29 September 2002.

<sup>19</sup> Todd S. Purdum, “The U.S. Case Against Iraq; Counting Up the Reasons,” *New York Times*, 1 October 2002.

<sup>20</sup> David E. Sanger and Carl Hulse, “Bush Appears to Soften Tone on Iraq Action,” *New York Times*, 2 October 2002.

<sup>21</sup> Michael Kinsley, “War for Dummies,” *Washington Post*, 11 October 2002.

### *Legal Authority*

Initially the administration concluded that President Bush did not need authority from Congress to mount an offensive war against Iraq. The White House Counsel's office gave a broad reading to the President's power as Commander in Chief and argued that the 1991 Iraq resolution provided continuing military authority to the President, transferring the authority neatly from father to son.<sup>22</sup> In an article for *Legal Times*, I detailed why those arguments were forced and unconvincing.<sup>23</sup> The Framers made the president Commander in Chief, not a monarch.

The White House claimed that Congress, by passing the Iraq Liberation Act of 1998, had already approved U.S. military action against Iraq for violations of Security Council resolutions.<sup>24</sup> That argument was empty. The statute begins by itemizing a number of congressional findings about Iraq: invasion of Iraq and Kuwait, the killing of Kurds, using chemical weapons against civilians, and other offenses. It supported, as a legally nonbinding "sense of Congress," efforts to remove Saddam Hussein from power and replace him with a democratic government. The law states that none of its provisions "shall be construed to authorize or otherwise speak to the use of United States Armed Forces (except as provided in section 4(a)(2)) in carrying out this Act."<sup>25</sup> That section authorized up to \$97 million in military supplies to Iraqi opposition groups as part of the transition to democracy in Iraq. By its explicit terms, the statute did not authorize war.

Ari Fleischer announced that Bush "intends to consult with Congress because Congress has an important role to play."<sup>26</sup> Yet, for Bush and his aides to merely "consult" with Congress would not meet the needs of the Constitution. No doubt policy making works better when the president consults with lawmakers, but consultation is not a substitute for receiving statutory authority to go to war. Congress is a legislative body that discharges its constitutional duties by passing statutes to authorize and define national policy. It exists to legislate and legitimate, particularly for military and financial commitments. Only congressional authorization of a war against Iraq would satisfy the Constitution.

### BRINGING CONGRESS ON BOARD

For one reason or another, Bush decided in early September 2002 to seek authorization from Congress. On several Sunday talk shows broadcast on 8 September, administration officials abandoned the unilateralist rhetoric and began

<sup>22</sup> Mike Allen and Juliet Eilperin, "Bush Aides Say Iraq War Needs No Hill Vote," *Washington Post*, 26 August 2002.

<sup>23</sup> Louis Fisher, "The Road to Iraq," *Legal Times*, 2 September 2002, 34.

<sup>24</sup> "Bush Rejects Hill Limits on Resolution Allowing War," *Washington Post*, 2 October 2002.

<sup>25</sup> 112 Stat. 3181, §8 (1998).

<sup>26</sup> Ron Fournier, "White House Lawyers Give Bush OK on Iraq," *Washington Times*, 26 August 2002.

building a case for a broad coalition. Cheney, having advocated preemptive strikes against Iraq a few weeks earlier, now embraced an entirely different strategy: “We’re working together to build support with the American people, with the Congress, as many have suggested we should. And we’re also, as many have suggested we should, going to the United Nations.”<sup>27</sup>

### *The Rush to War*

Although the administration had debated going to war against Iraq ever since September 11, Congress was expected to act quickly. According to one newspaper story, White House officials “have said that their patience with Congress would not extend much past the current session.”<sup>28</sup> The message to Congress was now: Get on board or we’ll leave without you. The administration wanted Congress to pass an authorizing resolution before it adjourned for the November elections. National Security Adviser Condoleezza Rice said that President Bush wanted lawmakers to approve the resolution before leaving town, adding that Bush “thinks it’s better to do this sooner rather than later.”<sup>29</sup>

What was so urgent? Senator Robert C. Byrd (D-WV) deplored “the war fervor, the drums of war, the bugles of war, the clouds of war—this war hysteria has blown in like a hurricane.”<sup>30</sup> What could explain the shift from a relaxed policy in August to a “frenzied” demand a month later? White House Chief of Staff Andrew Card gave an interesting reason for waiting until September to advocate military action against Iraq: “from a marketing point of view, you don’t introduce new products in August.”<sup>31</sup> Was this another careless, flippant remark, or an inadvertent disclosure of the truth?

Bush could not rely on the precedents established by his father. In 1990, after Iraq had invaded Kuwait, the administration did not ask Congress for authority before the November elections. Instead, it first went to the Security Council and requested a resolution to authorize military operations, which passed on 29 November. Only in January 1991, after lawmakers returned, did they debate and pass legislation to authorize war against Iraq.

For reasons that were never explained, Congress in 2002 had to act pell-mell. In an op-ed piece that supported the administration’s strategy, former Secretary of State George Shultz argued that the “danger is immediate.” Iraq’s making of weapons of mass destruction “grows increasingly difficult to counter with each passing day.”<sup>32</sup> Thoughtful deliberation was pushed to the side in fa-

<sup>27</sup> Mike Allen, “War Cabinet Argues for Iraq Attack,” *Washington Post*, 9 September 2002.

<sup>28</sup> David Firestone and David E. Sanger, “Congress Now Promises to Hold Weeks of Hearings About Iraq,” *New York Times*, 6 September 2002.

<sup>29</sup> Mike Allen, “War Cabinet Argues for Iraq Attack,” *Washington Post*, 9 September 2002.

<sup>30</sup> *Congressional Record*, 148: S8966 (daily edition, 20 September 2002).

<sup>31</sup> Dana Milbank, “Democrats Question Iraq Timing,” *Washington Post*, 16 September 2002.

<sup>32</sup> George P. Shultz, “Act Now: The Danger Is Immediate: Saddam Hussein Must Be Removed,” *Washington Post*, 6 September 2002.



vor of hyperventilation. Senate Majority Leader Tom Daschle (D-SD) suggested that Bush would have an easier time getting congressional support if he first gained Security Council approval, but the administration would brook no delays.<sup>33</sup> Congress had to act first. There was no constitutional requirement for Congress to wait until the Security Council met and voted, but acting in the months before the November elections placed lawmakers in a subordinate position.

### *Disarray by Democrats*

Democrats, unable to develop a counterstrategy, appeared to favor a prompt vote on the Iraq resolution to get that issue off the table. It was reported that Senator Daschle hoped to expedite action on the Iraq resolution “to focus on his party’s core message highlighting economic distress before the November midterm elections.”<sup>34</sup> Senator John Edwards (D-NC) counseled quick action: “In a short period of time, Congress will have dealt with Iraq and we’ll be on to other issues.”<sup>35</sup>

This approach had multiple drawbacks, both moral and practical. Could Democrats credibly authorize a war merely to draw attention to their domestic agenda? That seems unconscionable. As noted by Senator Mark Dayton (D-MN), trying to gain “political advantage in a midterm election is a shameful reason to hurry decisions of this magnitude.”<sup>36</sup> Second, voting on the Iraq resolution could never erase the White House’s advantage in controlling the headlines, if not through the Iraq resolution then through ongoing, cliffhanging negotiations with the UN Security Council. Third, although these Democrats said they wanted to put the issue of war against Iraq behind them, it would always be in front.

Legislative action before the November elections invited partisan exploitation of the war issue. Several Republican nominees in congressional contests made a political weapon out of Iraq, comparing their “strong stand” on Iraq to “weak” positions by Democratic campaigners. Some of the key races in the nation appeared to turn on what candidates were saying about Iraq.<sup>37</sup> Because of the steady focus on the war, Democrats were unable to redirect the political agenda to corporate crime, the state of the stock market, and the struggling economy.<sup>38</sup>

<sup>33</sup> Bradley Graham, “Cheney, Tenet Brief Leaders of Hill on Iraq,” *Washington Post*, 6 September 2002.

<sup>34</sup> David Firestone, “Liberals Object to Bush Policy on Iraq Attack,” *New York Times*, 28 September 2002.

<sup>35</sup> Dana Milbank, “In President’s Speeches, Iraq Dominates, Economy Fades,” *Washington Post*, 25 September 2002.

<sup>36</sup> Mark Drayton, “Go Slow on Iraq,” *Washington Post*, 28 September 2002.

<sup>37</sup> Jim VandeHei, “GOP Nominees Make Iraq a Political Weapon,” *Washington Post*, 18 September 2002.

<sup>38</sup> Dana Milbank, “Democrats Question Iraq Timing,” *Washington Post*, 16 September 2002.

The partisan flavor intensified when President Bush, in a speech in Trenton, New Jersey on 23 September, said that the Democratic Senate “is more interested in special interests in Washington and not interested in the security of the American people.”<sup>39</sup> That was a stunning charge, invoking national security to brand Democrats as corrupt, if not traitorous. Recognizing that it might have stepped over the line, the administration quickly explained that Bush’s remark was delivered in the context of the legislative delay on the Department of Homeland Security, but Democrats faulted Bush for using the war as leverage in the House and Senate races.<sup>40</sup>

After the Trenton speech, Democrats could have announced that Bush had so politicized and poisoned the debate on the Iraq resolution that it could not be considered with the care and seriousness it deserved. Daschle, in particular, could have used his position as Senate Majority Leader to delay a vote until after the elections. Perhaps he lacked the votes in the Senate Democratic Caucus to prevail. If he failed to rally his troops, he would have highlighted his weakness as a leader and advertised the divisions within his own ranks. In the end, however, as evidenced by the vote on the Iraq resolution, Senate Democrats were divided anyway. Several Senate Democrats criticized Daschle for working too closely with Bush on the Iraq resolution and getting nothing in return. Bush’s comments on 23 September, they said, made it look like Daschle was being “played for a fool.”<sup>41</sup>

#### UNSUBSTANTIATED EXECUTIVE CLAIMS

Bush and other top officials invited members of Congress to sessions where they would receive confidential information about the threat from Iraq, but the lawmakers said they heard little that was new. After one of the briefings, Senator Bob Graham (D-FL) remarked: “I did not receive any new information.”<sup>42</sup> House Minority Whip Nancy Pelosi (D-CA), who also served as ranking Democrat on the House Intelligence Committee, announced that she knew of “no information that the threat is so imminent from Iraq” that Congress could not wait until January to vote on an authorizing resolution.<sup>43</sup> None of the charges against Iraq in Bush’s address to the UN was new. After a “top secret” briefing by Defense Secretary Rumsfeld in a secure room in the Capitol, Senator John McCain (R-AZ) soon rose and walked out, saying, “It was a joke.”<sup>44</sup>

<sup>39</sup> *Weekly Compilation of Presidential Documents*, 38: 1598 (23 September 2002).

<sup>40</sup> Carl Hulse and Todd S. Purdum, “Daschle Defends Democrats’ Stand on Security of U.S.,” *New York Times*, 26 September 2002.

<sup>41</sup> Jim VandeHei, “Daschle Angered by Bush Statement,” *Washington Post*, 26 September 2002.

<sup>42</sup> Mike Allen and Karen DeYoung, “Bush to Seek Hill Approval on Iraq War,” *Washington Post*, 5 September 2002.

<sup>43</sup> Jim VandeHei and Juliet Eilperin, “Democrats Unconvinced on Iraq War,” *Washington Post*, 11 September 2002.

<sup>44</sup> Jim VandeHei, “Iraq Briefings: Don’t Ask, Don’t Tell,” *Washington Post*, 15 September 2002.

### *A Link Between Iraq and al Qaeda?*

The administration tried repeatedly to establish a connection between Iraq and al Qaeda, but the reports could never be substantiated. On 25 September, Bush claimed that Saddam Hussein and al Qaeda “work in concert.”<sup>45</sup> On the following day, he claimed that the Iraqi regime “has longstanding and continuing ties to terrorist organizations, and there are [al Qaeda] terrorists inside Iraq.”<sup>46</sup> Ari Fleischer tried to play down Bush’s remark, saying he was talking about what he feared *could* occur.<sup>47</sup> Why weren’t Bush and his press secretary able to speak from the same page? Did the ties and links exist, as Bush claimed, or were they merely future possibilities?

Senator Joseph Biden (D-DE), who attended a classified briefing that talked about the relationship between Iraq and al Qaeda, said that credible evidence had not been presented.<sup>48</sup> There was some evidence of possible al Qaeda activity in the northeastern part of Iraq—the community of Ansar al-Islam—but that was Kurdish territory made semiautonomous because of American and British flights over the no-fly zones. Saddam Hussein wasn’t in a position to do anything about Ansar. Besides, members of al Qaeda are present in some sixty countries. Presence alone does not justify military force.

Allies in Europe, active in investigating al Qaeda and radical Islamic cells, could find no evidence of links between Iraq and al Qaeda. Interviews with top investigative magistrates, prosecutors, police, and intelligence officials could uncover no information to support the claims by the Bush administration. Investigative officials in Spain, France, and Germany, after dismissing a connection between Iraq and al Qaeda, worried that a war against Iraq would increase the terrorist threat rather than diminish it.<sup>49</sup>

On 27 September, Secretary Rumsfeld announced that the administration had “bulletproof” evidence of Iraq’s links to al Qaeda. He said that declassified intelligence reports, showing the presence of senior members of al Qaeda in Baghdad in “recent periods,” were “factual” and “exactly accurate.” However, when reporters sought to substantiate his claim, officials offered no details to back up the assertions. Having claimed bulletproof support, Rumsfeld admitted that the information was “not beyond a reasonable doubt.” That’s quite a definition of bulletproof. Senator Chuck Hagel (R-NE) told Secretary of State Powell: “To say, ‘Yes, I know there is evidence there, but I don’t want to tell you any more about it,’ that does not encourage any of us. Nor does it give the American public a heck of a lot of faith that, in fact, what anyone is saying is true.”<sup>50</sup>

<sup>45</sup> *Weekly Compilation of Presidential Documents*, 38: 1619 (25 September 2002).

<sup>46</sup> *Ibid.*, 1625.

<sup>47</sup> Mike Allen, “Bush Asserts That Al Qaeda Has Links to Iraq’s Hussein,” *Washington Post*, 26 September 2002.

<sup>48</sup> Karen De Young, “Unwanted Debate on Iraq-Al Qaeda Links Revived,” *Washington Post*, 27 September 2002.

<sup>49</sup> Sebastian Rotella, “Allies Find No Links Between Iraq, Al Qaeda,” *Los Angeles Times*, 4 November 2002.

<sup>50</sup> Eric Schmitt, “Rumsfeld Says U.S. Has ‘Bulletproof’ Evidence of Iraq’s Links to Al Qaeda,” *New York Times*, 28 September 2002.

In his speech to the nation on 7 October, on the eve of the congressional vote, President Bush said that Iraq “has trained Al Qaida members in bomb-making and poisons and deadly gases.”<sup>51</sup> Intelligence officials, however, played down the reliability of those reports.<sup>52</sup> After the vote, the administration promoted a story about Mohamed Atta, the leader of the September 11 attacks, meeting with an Iraqi intelligence officer in Prague in April 2001. Yet, this assertion was also without foundation: Czech President Vaclav Havel and the Czech intelligence service said that there was no evidence that the meeting ever took place. Central Intelligence Agency (CIA) Director George Tenet told Congress that his agency had no information that could confirm the meeting.<sup>53</sup>

On 11 February 2003, Secretary Powell cited an audiotape believed to be of Osama bin Laden as evidence that he was “in partnership with Iraq.”<sup>54</sup> The tape contained no such evidence. It specifically criticized “pagan regimes” and the “apostasy” practiced by socialist governments like Iraq. In a military contest between the United States and Iraq, the tape certainly supported Iraq, but that is hardly evidence of partnership. As much as al Qaeda detests Iraq, it detests the United States more. In an op-ed for the *Washington Post* on 13 February, Richard Cohen wondered why Powell had to “gild the lily. The case for war is a good one.” He reminded Powell that in the war against Vietnam, the U.S. government’s exaggerations and decisions eventually “lost the confidence of the people.” The Bush administration, Cohen said, had a habit of tickling the facts and expunging caveats, doubts, and conditional clauses from the record.<sup>55</sup> An editorial in the *New York Times* warned that there was “no need for the administration to jeopardize its own credibility with unproved claims about an alliance between Iraq and Al Qaeda.”<sup>56</sup>

Nevertheless, on 1 May 2003, while standing on the deck of the *Abraham Lincoln* carrier to announce military victory over Iraq, Bush announced: “We’ve removed an ally of Al Qaida.”<sup>57</sup> With repetition and redundancy, an unsubstantiated claim has an excellent chance of sticking.

### *Weapons of Mass Destruction*

The administration kept a steady drumbeat for war, releasing various accounts to demonstrate why Iraq was an imminent threat. On 7 September, President

<sup>51</sup> *Weekly Compilation of Presidential Documents*, 38: 1717 (7 October 2002).

<sup>52</sup> Karen De Young, “Bush Cites Urgent Iraqi Threat,” *Washington Post*, 8 October 2002.

<sup>53</sup> James Risen, “Prague Discounts An Iraqi Meeting,” *New York Times*, 21 October 2002; James Risen, “How Politics and Rivalries Fed Suspicions of a Meeting,” *New York Times*, 21 October 2002; Peter S. Green, “Havel Denies Telephoning U.S. on Iraq Meeting,” *New York Times*, 23 October 2002.

<sup>54</sup> Dan Eggen and Susan Schmidt, “Bin Laden Calls Iraqis to Arms,” *Washington Post*, 12 February 2003.

<sup>55</sup> Richard Cohen, “Powellian Propaganda?” *Washington Post*, 13 February 2003.

<sup>56</sup> “Elusive Qaeda Connections” (Editorial), *New York Times*, 14 February 2003.

<sup>57</sup> *Weekly Compilation of Presidential Documents*, 39: 517 (1 May 2003).

Bush cited a report by the International Atomic Energy Agency (IAEA) that the Iraqis were “6 months away from developing a weapon. I don’t know what more evidence we need.”<sup>58</sup> More evidence was indeed needed because the report Bush referred to didn’t exist.<sup>59</sup> It would seem embarrassing for a president to be that far from the truth. Shouldn’t some White House aide get kicked out the door for making Bush look ill-informed? There were no such embarrassments and no such casualties.

In his 7 October speech, President Bush claimed that satellite photographs “reveal that Iraq is rebuilding facilities at sites that have been part of his nuclear program in the past.”<sup>60</sup> The administration decided to declassify two before-and-after photos of the Al Furat manufacturing facility.<sup>61</sup> This “declassification” was interesting: the administration regularly complained about leaks of sensitive documents to the media, but if classified information seemed to bolster the administration’s case, it quickly became public. Five busloads of 200 reporters descended on the site and received a ninety-minute tour by Iraqi generals. The reporters found few clues to indicate a weapons program.<sup>62</sup>

True, a quick visit by reporters meant little. They had neither time nor expertise to explore all the buildings and examine them carefully. But it is equally true that satellite photos are unable to penetrate buildings and analyze their interiors. Only a ground search by experienced inspectors could do that. When the UN inspection teams reached Iraq in November, they could find no evidence of a nuclear weapons program at Al Furat or anywhere else in Iraq.<sup>63</sup>

The Bush administration claimed that Iraq had bought aluminum tubes and planned to use them to enrich uranium to produce nuclear weapons. Specialists from UN inspection teams concluded that the specifications of the tubes were consistent with tubes used for rockets. The tubes could have been modified to serve as centrifuges for enriching uranium, but the modifications would have had to be substantial. Moreover, there was no evidence that Iraq had purchased materials needed for centrifuges, such as motors, metal caps, and special magnets.<sup>64</sup>

On 5 February 2003, in his statement to the UN Security Council, Secretary Powell laid out his case for going to war against Iraq, citing what he considered to be evidence of weapons of mass destruction. With little evidence of a nuclear weapons program, he emphasized that Iraq had mobile production facilities

<sup>58</sup> *Ibid.*, 38: 1518.

<sup>59</sup> Dana Milbank, “For Bush, Facts Are Malleable,” *Washington Post*, 22 October 2002.

<sup>60</sup> *Weekly Compilation of Presidential Documents*, 38: 1718 (7 October 2002).

<sup>61</sup> “Al Furat Manufacturing Facility, Iraq,” *Washington Post*, 8 October 2002.

<sup>62</sup> John Burns, “Iraq Tour of Suspected Sites Gives Few Clues on Weapons,” *New York Times*, 13 October 2002.

<sup>63</sup> “Nuclear Inspection Chief Reports Finding No New Weapons,” *New York Times*, 28 January 2003.

<sup>64</sup> Michael R. Gordon, “Agency Challenges Evidence Against Iraq Cited by Bush,” *New York Times*, 10 January 2003; Joby Warrick, “U.S. Claim on Iraqi Nuclear Program Is Called Into Question,” *Washington Post*, 24 January 2003.

“used to make biological agents.”<sup>65</sup> In a matter of months, he said, these mobile facilities “can produce a quantity of biological poison equal to the entire amount that Iraq claimed to have produced in the years prior to the Gulf War.”<sup>66</sup> After hostilities were over, U.S. forces discovered two mobile labs in Iraq, but it is uncertain what they had been used for.<sup>67</sup> A 28 May 2003 report by the intelligence community found nothing definitive.

### *Plagiarism and Fabrication*

The British government released a nineteen-page report entitled “Iraq: Its Infrastructure of Concealment, Deception and Intimidation,” posting it on No. 10 Downing Street’s web site. It appeared to be a thorough analysis prepared by the British intelligence agencies. In fact, the report had its own problems with concealment and deception. In February 2003, the British government admitted that much of the report had been lifted from magazines and academic journals, some of it verbatim. Spelling and punctuation errors in the originals were faithfully reproduced in the government’s report. Although the government claimed that the report contained “up-to-date details of Iraq’s network of intelligence and security,” much of it was based on an article by a post-graduate student who focused on events a dozen years old, in the 1990–1991 period.<sup>68</sup> After defending the report, the British government in June 2003 conceded that including the student’s article was “regrettable.”<sup>69</sup>

In his State of the Union message on 28 January 2003, President Bush said that the British government “has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.”<sup>70</sup> Two points deserve mention. First, “sought” is not the same as “bought.” More seriously, the British government relied on evidence that its intelligence agencies thought unreliable. The documents turned out to be not only unreliable but actually a fabrication. The forged documents contained crude errors that undermined their credibility.<sup>71</sup> As one U.S. official admitted: “We fell for it.”<sup>72</sup> The significant point is not an

<sup>65</sup> Michael Dobbs, “Powell Lays Out Case Against Iraq,” *Washington Post*, 6 February 2003.

<sup>66</sup> *Ibid.*

<sup>67</sup> Walter Pincus and Michael Dobbs, “Suspected Bioweapon Mobile Lab Recovered,” *Washington Post*, 7 May 2003; “A Suspected Weapons Lab Is Found in Northern Iraq,” *New York Times*, 10 May 2003; Judith Miller, “Trailer is a Mobile Lab Capable of Turning Out Bioweapons, a Team Says,” *New York Times*, 11 May 2003; Judith Miller and William J. Broad, “U.S. Analysts Link Iraq Labs to Germ Arms,” *New York Times*, 21 May 2003.

<sup>68</sup> Sarah Lyall, “Britain Admits That Much of Its Report on Iraq Came From Magazines,” *New York Times*, 8 February 2003; Glenn Frankel, “Blair Acknowledges Flaws in Iraq Dossier,” *Washington Post*, 8 February 2003.

<sup>69</sup> Jane Wardell, “Blair Aide Concedes Error on Iraq Dossier,” *Washington Post*, 26 June 2003.

<sup>70</sup> *Weekly Compilation of Presidential Documents*, 39: 115 (28 January 2003).

<sup>71</sup> Joby Warrick, “Some Evidence on Iraq Called Fake,” *Washington Post*, 8 March 2003.

<sup>72</sup> *Ibid.*

unfortunate mistake but rather the willingness of the administration to exploit and go public with any information no matter how tenuous and suspect.

### CONGRESS FOLDS

There was little doubt that President Bush would gain approval for military action in the Republican House. The question was whether the vote would divide along party lines. Some of the partisan issue blurred when House Minority Leader Dick Gephardt (D-MO) broke ranks with many in his party and announced support for a slightly redrafted resolution. He said, "We had to go through this, putting politics aside, so we have a chance to get a consensus that will lead the country in the right direction."<sup>73</sup> Of course, politics could not be put aside. Even when leaders of the two parties and the two branches appealed for nonpartisan or bipartisan conduct, their comments were generally viewed as calculated to have some partisan benefit. Gephardt's interest in running for the presidency was well known, as was Daschle's and several other members of Congress. Democratic Senators John Edwards and Joseph Lieberman, both interested in a 2004 bid for the presidency, endorsed the Iraq resolution. Senator John Kerry, about to announce his bid for the presidency, initially expressed doubts about the resolution but later voted for it.<sup>74</sup> One Democratic lawmaker concluded that Gephardt, by supporting Bush, had "inoculated Democrats against the charge that they are antiwar and obstructionist."<sup>75</sup>

Why were Democrats so anxious about being seen as antiwar? There was no evidence that the public in any broad sense supported immediate war against Iraq. A *New York Times* poll published on 7 October 2002 indicated that 69 percent of Americans believed that Bush should be paying more attention to the economy. Although support was high for military action (with 67 percent approving U.S. military action against Iraq with the goal of removing Hussein from power), when it was asked, "Should the U.S. take military action against Iraq fairly soon or wait and give the U.N. more time to get weapons inspectors into Iraq?" 63 percent preferred to wait. To the question "Is Congress asking enough questions about President Bush's policy toward Iraq?" only 20 percent said too many, while 51 percent said not enough. Asked whether Bush was more interested in removing Hussein than weapons of mass destruction, 53 percent said Hussein and only 29 percent said weapons.<sup>76</sup>

<sup>73</sup> "For Gephardt, Risks and a Crucial Role," *Washington Post*, 3 October 2002.

<sup>74</sup> Dan Balz and Jim VandeHei, "Democratic Hopefuls Back Bush on Iraq," *Washington Post*, 14 September 2002.

<sup>75</sup> David E. Rosenbaum, "United Voice on Iraq Eludes Majority Leader," *New York Times*, 4 October 2002.

<sup>76</sup> Adam Nagourney and Janet Elder, "Public Says Bush Needs to Pay Heed to Weak Economy," *New York Times*, 7 October 2002.

A *Washington Post* story on 8 October described the public's enthusiasm for war against Iraq as "tepid and declining."<sup>77</sup> Americans gave Bush the benefit of the doubt but were not convinced by his arguments. Because of those doubts, "support could fade if the conflict in Iraq becomes bloody and extended."<sup>78</sup> These public attitudes led the *New York Times* to wonder: "Given the cautionary mood of the country, it is puzzling that most members of Congress seem fearful of challenging the hawkish approach to Iraq."<sup>79</sup>

The vote on the Iraq resolution could never be anything other than a political decision, probably the most important congressional vote of the year. Inescapably and legitimately it called for a political judgment. Lawmakers would be voting on whether to commit as much as \$100 billion or \$200 billion to a war stretching over a period of years. Their actions would stabilize or destabilize the Middle East, strengthen or weaken the war against terrorism, enhance or debase the nation's prestige. Politics would always be present, as would partisan calculations and strategy.

When the House International Relations Committee reported the resolution, it divided thirty-one to eleven. Democrats on the committee split ten to nine in favoring it. Two Republicans, Jim Leach of Iowa and Ron Paul of Texas, opposed it. The forty-seven-page committee report consists of only five pages of text analyzing the resolution.<sup>80</sup> President Bush's speech to the UN occupies another five pages. Twenty-one pages are devoted to an administration document called "A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations" (12 September 2002). It was prepared as a background paper for Bush's speech to the UN. Some of it describes what was supposedly the administration's main concern: the development of weapons of mass destruction. Other sections focused on conditions in Iraq that, while deplorable, could hardly justify war: Iraq's refusal to allow visits by human rights monitors; the expulsion of UN humanitarian relief workers; violence against women; child labor and forced labor; the lack of freedom of speech and press; and refusal to return to Kuwait state archives and museum pieces.

A key section of the report reads: "The Committee hopes that the use of military force can be avoided. It believes, however, that providing the President with the authority he needs to use force is the best way to avoid its use. A signal of our Nation's seriousness of purpose and its willingness to use force may yet persuade Iraq to meet its international obligations, and is the best way to persuade members of the Security Council and others in the international community to join us in bringing pressure on Iraq or, if required, in using armed force against it."<sup>81</sup> Thus, the legislation would decide neither for nor against war. That judgment, which the Constitution places in Congress, would now be left in the hands of the President.

<sup>77</sup> Dana Milbank, "With Congress Aboard, Bush Targets a Doubtful Public," *Washington Post*, 8 October 2002.

<sup>78</sup> Ibid.

<sup>79</sup> "A Nation Wary of War" (Editorial), *New York Times*, 8 October 2002.

<sup>80</sup> H. Rept. No. 107-721, 107th Cong., 2d Sess. (2002).

<sup>81</sup> Ibid., 4-5.



### *The Tonkin Gulf Precedent*

Acting as it did, the House International Relations Committee both authorized military force and hoped it would not be necessary. That kind of straddling reminds one of the Tonkin Gulf resolution of 1964, which Congress passed almost unanimously, with only two dissenting votes in the Senate. Passage of this resolution was not an endorsement of war either. Instead, members of Congress thought that by offering broad, bipartisan support to President Lyndon B. Johnson, war with North Vietnam could be avoided. Like the Iraq resolution, the legislative vote in 1964 was neither for war nor against it.

During Senate debate on the Tonkin Gulf resolution, Gaylord Nelson reviewed the statements by his colleagues and noticed that “every Senator who spoke had his own personal interpretation of what the joint resolution means.” He found that “there is no agreement in the Senate on what the joint resolution means.”<sup>82</sup> To clarify the intent of the resolution, he offered an amendment to state that President Johnson would seek “no extension of the present military conflict” and that “we should continue to attempt to avoid a direct military involvement in the southeast Asian conflict.” Senator J. William Fulbright, floor manager of the resolution, refused to accept the amendment because it would force the two Houses to go to conference to resolve the differences between the versions passed by each chamber. Fulbright didn’t want Congress taking another week or so to clarify the resolution. Nevertheless, he felt satisfied that Nelson’s amendment expressed “fairly accurately what the President has said would be our policy, and what I stated my understanding was as to our policy.” Fulbright believed that the resolution “is calculated to prevent the spread of the war, rather than to spread it.”<sup>83</sup> What counts, however, is not what lawmakers say during debate but what the president does with broad statutory authority. The military expansion that began in February 1965 led to the deaths of 58,000 Americans and several million in Southeast Asia.

Congressional debate in 2002 contains some similarities and differences to the Tonkin Gulf resolution. The House passed the Iraq resolution, 296–133, compared to the unanimous House vote in 1964. Yet, the resolutions are virtually identical in transferring to the president the sole decision to go to war and determine its scope and duration. In each case, lawmakers chose to trust in the president, not in themselves. Instead of acting as the people’s representatives and preserving the republican form of government, they gave the president unchecked power.

### *Senate Action*

After the House vote in 2002, Senate Majority Leader Daschle announced his support for the resolution. Although he suggested that senators might “go back and tie down the language a little bit more if we can,” he insisted that “we have

<sup>82</sup> *Congressional Record*, 110: 18458 (1964).

<sup>83</sup> *Ibid.*, 18462.

got to support this effort. We have got to do it in an enthusiastic and bipartisan way.”<sup>84</sup> Why the need for enthusiasm and bipartisanship? Why wasn’t the argument on the merits? Placing trust in the president or calling for bipartisanship are not proper substitutes for analyzing the need for military force against another country. Senator Kerry, who had earlier raised substantive arguments against going to war against Iraq, now accepted presidential superiority over Congress: “We are affirming a president’s right and responsibility to keep the American people safe, and the president must take that grant of responsibility seriously.”<sup>85</sup> With that kind of reading of constitutional authority, Congress had little role other than to offer words of encouragement and support to a president who already seemed to possess all the constitutional authority he needed to act singlehandedly. Far from being a coequal branch, Congress was distinctly junior varsity. It no longer functioned as an authorizing body. Its task was simply to endorse what the president had already decided.

A similar position appears in Daschle’s statement that “it is important for America to speak with one voice at this critical moment.”<sup>86</sup> Comparable statements were made by senators in 1964, when they endorsed the Tonkin Gulf resolution. Why should legislators consider agreement with the president more important than conscientious and individual allegiance to their constitutional duties? The Framers counted on collective judgment, the deliberative process, and checks and balances. All of that is lost when lawmakers decide to join with the president and subordinate their positions to his. A member of Congress takes an oath to support and defend the Constitution, not the president. The experience with the Tonkin Gulf resolution demonstrated that unity and lockstep decision making do not assure wise policy.

This issue played out in other contexts. During debate on the Department of Homeland Security, Senator Daschle said he intended “to give the President the benefit of the doubt.” His Democratic colleague, Robert Byrd, took sharp exception: “I will not give the benefit of the doubt to the President. I will give the benefit of the doubt to the Constitution.”<sup>87</sup> Byrd watched the congressional debate drift from an initial willingness of lawmakers to analyze issues and weigh the merits to wholesale legislative abdication to the President. To Byrd, the fundamental question of why the United States should go to war was replaced by “the mechanics of how best to wordsmith the President’s use-of-force resolution in order to give him virtually unchecked authority to commit the nation’s military to an unprovoked attack on a sovereign nation.” Having followed the arguments presented by Bush and after questioning the top executive branch

<sup>84</sup> John H. Cushman, Jr., “Daschle Predicts Broad Support for Military Action Against Iraq,” *New York Times*, 7 October 2002.

<sup>85</sup> Helen Dewar and Juliet Eilperin, “Iraq Resolution Passes Test, Gains Support,” *Washington Post*, 10 October 2002.

<sup>86</sup> Jim VandeHei and Juliet Eilperin, “House Passes Iraq War Resolution,” *Washington Post*, 11 October 2002.

<sup>87</sup> *Congressional Record*: 148; S9187, S9188 (daily edition, 25 September 2002).

officials responsible for crafting the resolution, Byrd did not find the threat from Iraq “so great that we must be stampeded to provide such authority to this president just weeks before an election.”<sup>88</sup>

Republican Senators Lugar, Hagel, and Arlen Specter (PA), after raising serious questions about the Iraq resolution, decided by 7 October to support it.<sup>89</sup> On 10 October, the Senate voted seventy-seven to twenty-three for the resolution. The only Republican voting against the resolution was Lincoln Chafee of Rhode Island. An Independent, James Jeffords of Vermont, also voted No.

### A MILITARY, NOT A POLITICAL, VICTORY

The United States triumphed militarily over Iraq in less than a month, but with deep, long-term costs to constitutional government. The euphoria and celebrations at home were strange. No one doubted that U.S. forces would prevail over an Iraq that lacked an air force and had few ground troops willing to fight. It is understandable that great pride would be placed in the American men and women who put their lives at stake in Iraq and accomplished their military mission. But the issue was never whether the United States would win the war. It was whether war was necessary and what would happen in Iraq and the region after military operations had ceased.

Congress failed to discharge its constitutional duties when it passed the Iraq resolution. Instead of making a decision about whether to go to war and spend billions for a multiyear commitment, it transferred those legislative judgments to the President. Legislators washed their hands of the key decisions to go to war and for how long. Congress should not have voted on the resolution before the election, which colored the votes and the political calculations. Voting under that pressure benefited the President.

It would have been better for Congress as an institution and for the country as a whole to first wait for President Bush to request the Security Council to authorize inspections in Iraq. Depending on what the Security Council did or did not do, and on what Iraq agreed or did not agree to do, Congress could then have debated whether to authorize war. Having learned what the Security Council and Iraq actually did, rather than speculate on what they might do, Congress would have been in the position to make an informed choice. Instead, it voted under partisan pressures, with inadequate information, and thereby abdicated its constitutional duties to the President. Congress suffered a loss, as did popular control and the democratic process.

In the end, Congress had two models to choose from. It could have acted after the election, as it did in 1990–1991, or it could have acted in the middle of an election, as in 1964. The first would have maintained the integrity of the legislative institution by minimizing partisan tactics and scheduling legislative

<sup>88</sup> Robert C. Byrd, “Congress Must Resist the Rush to War,” *New York Times*, 10 October 2002.

<sup>89</sup> Helen Dewar, “Army, Lugar Reverse Stand on Resolution,” *Washington Post*, 8 October 2002.

debate after the Security Council voted. The second would have placed Congress in a position of voting hurriedly without the information it needed and with information it did receive (the two “attacks” in Tonkin Gulf) of dubious quality. In 2002, Congress picked the Tonkin Gulf model. There may be times when Congress might have to authorize war in the middle of an election. The year 2002 wasn’t one.

### DOCTORING INTELLIGENCE REPORTS

The failure thus far to find weapons of mass destruction in Iraq has raised a serious question: Did the Bush administration deliberately misread or misrepresent intelligence reports to exaggerate the nature of the Iraqi threat? This charge assumes that reports prepared by the intelligence agencies are professionally crafted when presented to administration officials and that distortions begin at that point. Yet, the reports from the intelligence agencies might already have been manipulated.

Consider the CIA report of October 2002, “Iraq’s Weapons of Mass Destruction Programs.” It was released at a critical time when Congress was considering whether to authorize military operations. On 2 October, President Bush announced a bipartisan agreement on a joint resolution to authorize armed force against Iraq. He stated that Iraq “has stockpiled biological and chemical weapons.”<sup>90</sup> In his address to the nation on 7 October, from Cincinnati, he said that Iraq “possesses and produces chemical and biological weapons.”<sup>91</sup>

These remarks reflected an analysis prepared by the Central Intelligence Agency. The unclassified version, available on the CIA’s web site ([www.cia.gov](http://www.cia.gov)), states unequivocally: “Baghdad has chemical and biological weapons. . . .” The impact of any report depends on its opening line. Readers are apt to skim the rest. Yet, the detailed analytical section that follows contradicts the flat assertion, providing statements that are much more cautious and qualified:

- “Iraq has the ability to produce chemical warfare (CW) agents within its chemical industry. . . .”
- “Iraq probably has concealed precursors, production equipment, documentation, and other items necessary for continuing its CW effort.”
- “Baghdad continues to rebuild and expand dual-use infrastructure that it could divert quickly to CW production.”
- “Iraq has the capability to convert quickly legitimate vaccine and biopesticide plants to biological warfare (BW) production and already may have done so.”

None of the statements in the analytical section support the striking claim in the first paragraph of the CIA report and in Bush’s statements to the nation.

<sup>90</sup> *Weekly Compilation of Presidential Documents*, 38: 1670 (2 October 2002).

<sup>91</sup> *Ibid.*, 1716.

The same gap between the front material and the internal analysis appears in a 28 May 2003 publication on mobile labs, jointly authored by the CIA and the Defense Intelligence Agency (DIA). Entitled “Iraqi Mobile Biological Warfare Agent Production Plans,” the analysis can be found on CIA’s web site. The first sentence asserts: “Coalition forces have uncovered the strongest evidence to date that Iraq was hiding a biological warfare program.” The analysis within the report offers no evidence for that claim.

The purpose of the mobile labs remains under study. The CIA/DIA report concedes that some of the features of the labs “are consistent with both bioproduction [of BW agents] and hydrogen production” for artillery weather balloons. Clearly, much more analysis is necessary. What is evident now is that intelligence analysts prepared a report, complete with caveats and qualifications, and someone came along and put a screamer up front. Was the classified report more professional and nuanced? When it was decided to put an unclassified version on the web site, did someone think it important—with public consumption in mind—to select a more dramatic, eye-catching lead?

On 18 June 2003, Deputy Defense Secretary Paul Wolfowitz appeared before the House Armed Services Committee, where Rep. Gene Taylor (D-MS) asked whether the intelligence about the threat from Iraq’s weapons was wrong. Taylor said he voted for the Iraq resolution because of the administration’s warning that Iraq had weapons of mass destruction. He now told Wolfowitz: “A person is only as good as his word. This nation is only as good as its word. And if that’s the reason why we did it—and I voted for it—then we need some clarification here.” Wolfowitz replied: “If there’s a problem with intelligence . . . it doesn’t mean that anybody misled anybody. It means that intelligence is an art and not a science.”<sup>92</sup>

That modest tone was absent during the debate on the Iraq resolution. The administration treated intelligence as a science, yielding certitude, not doubt. The position was not merely that Iraq had weapons of mass destruction in the past. Bush, Cheney, Rumsfeld, and other top administration officials insisted that Iraq currently had that capability, particularly chemical and biological weapons. According to their analysis, the threat was imminent, not in the future.

Congress should not allow any president to dictate the timing of a vote on war. Democracy depends on laws, but much more on trust. Constitutions and statutes are necessarily general in scope, placing a premium on judgment and discretion. Without confidence in what public officials say and do, laws are easily twisted to satisfy private ends. Leaders who claim to act in the national interest may, instead, pursue personal or partisan agendas. The opportunity for harm is especially great in the field of national security. Approximately \$40 billion in secret funds are spent by the U.S. intelligence community. Its mission is to supply reliable analysis for policy makers, both executive and legislative,

<sup>92</sup> Walter Pincus and Dana Priest, “Lawmakers Begin Iraq Intelligence Hearings,” *Washington Post*, 19 June 2003.

including whatever caveats and qualifications are appropriate. When those reports are doctored, either before they leave the agency or afterwards, government is likely to blunder. In an age of terrorism, especially after September 11, the public needs full trust in the integrity of its elected leaders and in the intelligence agencies that guide crucial decisions. For all the sophistication of the U.S. political and economic system, if trust is absent, so is popular control. The United States cannot install democracy abroad if it lacks it at home.

### CONCLUSIONS

U.S. political institutions failed in their constitutional duties when they authorized war against Iraq. The Bush administration never presented sufficient and credible information to justify statutory action in October 2002 and military operations in March 2003. Statements by executive officials were regularly punctured by press disclosures. The call to war demands a careful marshaling of evidence to build public confidence. The record of the Bush administration on warmaking created distrust of the spoken word and the declassified document. For its part, Congress failed to insist on reliable arguments and evidence before passing the Iraq resolution. There was no need for Congress to act when it did. Instead of passing legislation to authorize war, members of Congress agreed to compromise language that left the decisive judgment with the President. Placing the power to initiate war in the hands of one person was precisely what the Framers hoped to avoid when they drafted the Constitution.

Rather than proceed with deliberation and care, the two branches rushed to war on a claim of imminent threat that lacked credibility. The Bush administration never made a convincing case why the delay of a few months would injure or jeopardize national security. By acting hastily and without just cause, the administration did damage to what President Bush highlighted in his 12 September 2002 address: the relevance of the United Nations. Unwilling to wait an extra month or two to allow UN inspectors to continue their work, the Bush administration missed an opportunity to attract the support of other nations. In place of a multinational effort to remove Saddam Hussein and rebuild Iraq, the United States finds itself six months after the invasion almost solely responsible for an occupation that has uncertain goals, heavy costs, and open-ended duration.