

© 2005 CBS Broadcasting Inc.
All Rights Reserved

***PLEASE CREDIT ANY QUOTES OR EXCERPTS FROM THIS CBS
TELEVISION PROGRAM TO "CBS NEWS' FACE THE NATION. "***

CBS News

FACE THE NATION

Sunday, November 6, 2005

**GUESTS: Senator PAT ROBERTS, (R-KS)
Chairman, Select Intelligence Committee**

**Senator DICK DURBIN, (D-IL)
Judiciary Committee**

**Senator ORRIN HATCH, (R-UT)
Select Intelligence Committee**

**JAN CRAWFORD GREENBURG
The Chicago Tribune**

MODERATOR: BOB SCHIEFFER - CBS News

*This is a rush transcript provided
for the information and convenience of
the press. Accuracy is not guaranteed.
In case of doubt, please check with*

**FACE THE NATION - CBS NEWS
202-457-4481**

BOB SCHIEFFER, host:

Today on FACE THE NATION, Republicans in trouble. Can the president get past the CIA leak scandal? Has cooperation broken down completely between Republicans and Democrats on Capitol Hill and what about the Alito nomination? We'll talk with two key senators, Democratic Senator Dick Durbin of Illinois and Republican Orrin Hatch of Utah. Then we'll turn to the question of whether the administration misused intelligence about Saddam Hussein's weapons capability to justify going to war. Why has the report on that aspect of the war taken so long? We'll ask the head of the Senate Intelligence Committee, Senator Pat Roberts of Kansas. Jan Crawford Greenburg joins in the questions. And I'll have a final word on dressing for success.

Senator HARRY REID (Democrat, Nevada) ...I now move the Senate go into closed sessions.

SCHIEFFER: But first Capitol gridlock and the Alito nomination on FACE THE NATION.

Announcer: FACE THE NATION with CBS News chief Washington correspondent Bob Schieffer. And now from CBS News in Washington, Bob Schieffer.

SCHIEFFER: And good morning again.

From Chicago this morning, the assistant Democratic leader Dick Durbin, and with us from Salt Lake City, Senator Orrin Hatch. Joining in the questioning, Jan Crawford Greenburg of the Chicago Tribute.

Senator Hatch, I want to start with you. I mean, this White House looks to be in some of the most serious trouble I can ever recall a White House, a Democrat or a Republican, being in. And now we have this sort of breakdown between Republicans and Democrats on Capitol Hill. What does this president need to do to get his administration back on track here?

Senator ORRIN HATCH (Republican, Utah; Judiciary Committee): Well, I think he has to just keep plugging away. If you'll recall, Reagan had the same difficulties, so did President Carter, so did President Clinton. It just seems like in the second four-year term it always hits kind of the low ebb and then I believe he'll bring it back. I think we're getting some very fine successes around the world. And I think if he'll just keep plugging away and keep doing what he believes is right, I think in the end, the American people will come back.

SCHIEFFER: Well, you say if he just keeps plugging away, but you also mentioned President Reagan, President Carter. Those people sort of cleaned house when they got into trouble and sort of restarted their administration with new people. Do you think as people are if nothing else is sort of burned out right now and he needs some new blood over there.

Sen. HATCH: I don't think so. I chatted with Andy Card last week. He's as enthusiastic and upbeat as I've ever seen him. Karl Rove, of course, there's no reason to say he should be removed because I don't think he's really a target of that investigation anymore. Who knows? But the fact of the matter is I don't think there's going to be anything come of his role in anything.

SCHIEFFER: Well, let's ask Senator Durbin. What's your advice right now, Senator? Of course you are a Democrat. And you may look at it in a different way than Senator Hatch does. Well, what do you think has to happen here?

Senator DICK DURBIN (Democrat, Illinois; Assistant Minority Leader): I think the White House is really facing three challenges, one on competency as Maureen Dowd wrote in The New York Times yesterday.

This is an administration that rushed into Iraq but couldn't get into New Orleans. It's a question of trust. When Scott McClellan who is the spokesman for the president of the United States said no one at the highest levels of the White House was involved in the outing of the CIA agent, Valerie Plame, it turned out not to be true. And it's a question of values.

The fact is that this administration is not responding to the real concerns of the American people. When it comes to addressing energy prices, affordable health insurance, security in our pensions, we don't hear anything from this administration that's going to suggest they're going to improve the life of most American families. So I think all three of them have challenges at this moment.

Ms. JAN CRAWFORD GREENBURG (Chicago Tribune): Senator Durbin, we had an extraordinary closed session of the Senate this week. What do you want to see on November 14th regarding that second phase of the Iraq War investigation and why has that taken so long?

Sen. DURBIN: Twenty months ago, the Senate Intelligence Committee agreed that they would do this very important report, an investigation that would look into whether there was a misuse of intelligence by any elected officials, members of the administration and otherwise. This is an absolutely essential question about the possible--and I underline possible--abuse of power by this administration or other elected officials. Twenty months ago that was promised and still we don't have it. In fact, I think the three hours that we closed down the Senate was more productive than anything we've done in the last 20 months because now a week from tomorrow there's a requirement that the Senate Intelligence Committee give us a schedule for completing this absolutely essential investigation.

Ms. GREENBURG: Why has this taken so long, though, 20 months?

Sen. DURBIN: Because I think it's so painful. I think that Senator Roberts, as chairman of the Intelligence Committee, and other Republican leaders know that there are some hard questions that have to be asked and answered. If the president was notified that certain things should not be said and were not reliable and said them anyway, that raises some important questions. Same thing with the vice president and Mr. Libby, who were briefing Colin Powell before he made his presentation at the United Nations. I mean, we have to get down and ask the important and hard questions and tell the American people whether there was any possible abuse of power in this situation.

SCHIEFFER: Senator Hatch, do you think that the Democrats--that's the point that they made and that's why they said, 'We need to get the Senate into closed session.' Some have said that maybe it was just a political stunt on their part. Where do you come down on that?

Sen. HATCH: There's no question in my mind it was a political stunt. First of all, the two leaders should get together, and one--certainly the majority leader should have been notified before they pulled that particular stunt. Secondly, you know, just a year ago we came up with a 500-page report that was unanimously approved by the Senate Select Committee on Intelligence. Both Dick and I serve on that intelligence committee, and that report showed that there was no politics being played with this matter.

Now what we have here is an attempt to politicize the supposedly unpolitical Senate Select Committee on Intelligence. We're supposed to work together. But we've had nothing but requests, looking and searching for something that might indicate that the administration had knowledge that, really, nobody had. We all know that the intelligence with regard to these matters was flawed.

SCHIEFFER: Well...

Sen. HATCH: We found that out since, that it was flawed. We also know that almost everybody on the Intel--I think everybody on the Intelligence Committee, everybody in the administration relied on flawed intelligence.

SCHIEFFER: But...

Sen. HATCH: But there was no indication whatsoever in that 500-page report, unanimously approved, that there was any notice or knowledge that was improper.

SCHIEFFER: But doesn't this--I mean, regardless of the validity of the charge that the Democrats made, whether or not it's legitimate, doesn't it just show how wide the differences up at the Capitol have now become? I mean, it seems to me you can't get together on much of anything anymore. And I think a lot of people wonder: When are they going to finally put politics aside and get back to work?

Sen. HATCH: Well, boy, do I agree with that. And, certainly, we should not be playing politics on the Senate Select Committee on Intelligence. We--the public expects, the history of that committee expects, us to work together in a decent way. Now the chairman--I think he'll speak for himself later in this program--had basically come up with a way of ending this thing before that stunt was pulled on the floor.

SCHIEFFER: OK.

Sen. HATCH: It was the wrong thing to do. It was the wrong way to try and work with the Republican leadership.

SCHIEFFER: OK.

Sen. HATCH: And I'll tell you, it made Frist mad and made every Republican mad.

SCHIEFFER: Well, I think it made the Democrats mad, too. Jan.

Sen. HATCH: Well, but they don't deserve to be mad over it because they're the ones that pulled the stunt.

Ms. GREENBURG: Let me move to the Alito nomination. Senator Durbin, Senator Biden said this morning he believes Judge Alito should get an up or down vote in the Senate. Can you commit to that?

Sen. DURBIN: I will just tell you that Sen--that Judge Alito and--is entitled to a fair hearing before the Senate Judiciary Committee, as John Roberts received on the path to chief justice of the United States. That hearing won't take place until January. In the meantime, we're going to review over 300 opinions that he has written. We'll look carefully at things that he has said. And we'll, of course, give him his chance to answer the questions before the committee. That's the time to make the decision about the vote, and not before then.

What's at stake here with this Bush nominee is whether or not we are going to put a person on the Supreme Court who is sensitive to the most basic and important responsibility of the court: protecting our rights and freedoms. And I want to make certain, before I cast my vote, that I understand about Judge Alito. Some of the opinions that he's handed down are controversial decisions: deciding that the Family and Medical Leave Act did not apply to state employees; authorizing a strip search in a situation involving a mother and her 10-year-old daughter; questions involving the rights of privacy. All of these are absolutely essential questions we need to ask. We need to see if he will follow the conservatism of Sandra Day O'Connor or whether he's coming to the court with a more extreme agenda.

Ms. GREENBURG: Well, several Republicans on that Gang of 14 have suggested that a filibuster really seems off the table. Are you refusing to rule that filibuster out now? Do you think that's still likely or is it just highly unlikely?

Sen. DURBIN: In fairness to Judge Alito and in fairness to the process, I don't think anyone can make a decision at this point, if they have an open mind about what we will find in this hearing. Let's complete the hearing in January, then make a decision whether we should go forward with the nomination of Judge Alito. You know, it's been less than a week since he was nominated. We went through three or four weeks with Harriet Miers, where the extreme wing of the Republican Party were just really making it very difficult for her, to the point where she withdrew. Let's give Judge Alito a clean start here and not presume that he is the right person or the wrong person until we see the evidence.

Ms. GREENBURG: Well, Senator Hatch, if I could go to you, everyone seems to be conceding this week that this man is eminently qualified. This is a debate now about ideology. In 1987, six Republicans voted against Judge Bork for those reasons, philosophy, ideology. How is this any different?

Sen. HATCH: Well, judges are not political officials. Judges ought to be judged on their ability to write and work on the law. In this particular case you have a man who, from the criminal law standpoint, has more criminal law experience than any justice in history, certainly more than any on the current court. You have an individual here who--it looks as though he's a strict constructionist, somebody who really applies the law, who isn't concerned about ideology and judges should not be concerned about ideology. They ought to be concerned about the principles of law that they should uphold. They're not to make laws from the bench. They're supposed to interpret the laws made by those who have to stand for re-election, people like Dick Durbin and myself. We have to stand for re-election and we ought to have to stand for whatever we try to do, you know, in the Senate and the House of Representatives.

Ms. GREENBURG: Well, so, are Republicans prepared to say that ideology should not matter and that if a Democrat is in the White House in '09 that they will apply that standard, ideology doesn't matter?

Sen. HATCH: Well, we believe that ideology should not be the determination. It ought to be the practical application of the laws that exist. That includes the statutory laws, the Constitution and, of course, some of the administrative laws that come down even from the Circuit Court of Appeals through the District of Columbia. In this case, you'd have a rough time finding anybody who has more expertise and more ability in the law than justice--Judge Sam Alito.

SCHIEFFER: All right. Let me change the subject just a little bit, Senator Hatch, and I want to get your answer to this, too, Senator Durbin. The Senate overwhelmingly passed a resolution endorsing an amendment to outlaw torture by US military and also the Central Intelligence Agency. Apparently the vice president is very much opposed to this. Senator Hatch, at a time when the White House is having a lot of trouble getting anything done on Capitol Hill, do you think this is a wise thing for the administration now to be coming out against this amendment to outlaw torture? And do you think, in fact, it's a good idea to do that?

Sen. HATCH: Well, the White House and the vice president in particular is against torture. He makes that very clear in every discussion he has. But if you look at the rules of the Geneva Conventions, you'll find that there is a kind of a wide latitude of what can be used. Naturally, the more extreme methods I don't think we want to use, but they still are within--some of these methods, within...

SCHIEFFER: So...

Sen. HATCH: ...the Geneva Convention rules. And all I'm saying is that he is, is that he is definitely against torture. The administration is definitely against torture. But they're going to do everything in their power to make sure that our citizens in the United States of America are protected.

SCHIEFFER: Well, yes, but...

Sen. HATCH: So far, since 9/11, we haven't had another major terrorist incident.

SCHIEFFER: Yes, sir, but...

Sen. HATCH: And part of the reason is because they are interrogating people like Sheik Mohammed...

SCHIEFFER: Well, let me just ask you this, Senator Hatch, so our viewers will know where you come down on. Are you on senator--I mean, are you on the vice president's side on this or are you on John McCain's side?

Sen. HATCH: Well, I'm on the vice president's side.

SCHIEFFER: OK.

Sen. HATCH: The vice president said we should not--that certainly any kind of these activities ought to be barred from the military.

SCHIEFFER: All right.

Sen. HATCH: And he agrees with McCain on that. But where he disagrees is the interrogation of people like...

SCHIEFFER: All right.

Sen. HATCH: ...Khalid Shaikh Mohammed...

SCHIEFFER: All right.

Sen. HATCH: ...who has helped us to preserve and protect America.

SCHIEFFER: Senator, I'm sorry, I'm going to have to cut you off.

Sen. HATCH: Sure.

SCHIEFFER: I must give Senator Durbin a chance to respond.

Sen. HATCH: Sure.

SCHIEFFER: What's your view?

Sen. DURBIN: I want to make it clear, I'm on Senator McCain's side. I co-sponsored his amendment. Ninety senators voted for that amendment after he gave what I considered to be one of the most amazing speeches to the Senate about his experience as a prisoner of war in Vietnam, being subjected to torture, letters he received from our military, begging that we clarify that the United States does not stand for torture. The vice president has opposed the McCain amendment from the start and now we know why. He believes

the Central Intelligence Agency should be allowed to use cruel, inhuman and degrading treatment on prisoners. That is not what America's all about.

SCHIEFFER: All right.

Sen. DURBIN: Those aren't the values we're fighting for. And I think it's a really a shame that we don't stand for the Geneva Conventions.

SCHIEFFER: Gentlemen, thanks for...

Sen. HATCH: That is not what he believes. That's not what he believes.

SCHIEFFER: Time has just run out. I beg your pardon. We have to end it right there. Thank you, gentlemen.

(Announcements)

SCHIEFFER: And we're back now with Senator Pat Roberts of Kansas. He, of course, is the member of the Select Intelligence Committee, the committee that has oversight on the Central Intelligence Agency and our other intelligence agencies.

Well, you heard the little argument that broke out there about this amendment to outlaw torture by, among other people, the CIA, that Senator McCain has sponsored. Senator Hatch says he comes down on the side of the vice president. He doesn't want that in there. What's your--how do you come down, Senator?

Senator PAT ROBERTS (Republican, Kansas; Chairman, Intelligence Committee): Well, nothing hurts the truth so much as really stretching it. I don't know of anybody in the White House, the president on down, or anybody in the Congress, who supports torture. It's morally reprehensible, and it doesn't work. And the same goes for cruel and inhuman punishment. So the comments made basically by Senator Durbin are not really relevant to what we are trying to do to detain and interrogate the worst of the worst so that we can save American lives. And that's what the president wants to do, and that's what he wants to have the authority to do if, in fact, we find out that that is the case.

SCHIEFFER: Well, why, Senator, would 90 senators come down on Senator McCain's side here and in opposite of what Vice President Cheney wants?

Sen. ROBERTS: Well, I was one of the nine, so that doesn't mean I'm for torture. What that did was to basically pass a law and sanction a manual yet to be written with a classified annex clearly pointing out to the military what they can and cannot do. The poster child for all of this is the egregious behavior in regards to Abu Ghraib. That's got nothing to do with the highly trained people that we have on board now.

And so consequently, my point was, you're only successful with detention and interrogation when the detainee has a fear of the unknown, doesn't know what's going to happen. That manual that we put out will be the first chapter in the al-Qaida manual on what can happen and what can't happen. Now as long as you're following the Constitution and there's no torture and inhumane treatment, I see nothing wrong with saying, 'Here's the worst of the worst. We know they have specific information to save American lives in terrorist attacks around the world.' That's what we're talking about.

SCHIEFFER: Do you--are you confident that prisoners being held in this chain of secret prisons that the CIA apparently operates--We're hearing news reports about that--are not being tortured?

Sen. ROBERTS: I really can't comment on something that's that highly compartmented, but you've asked me a different kind of question, and that's why we have people on board to make sure that that doesn't happen.

SCHIEFFER: OK.

Ms. GREENBURG: Let's move to the second phase of the Iraq War investigation.

Sen. ROBERTS: Yes, Ma'am. Phase 2.

Ms. GREENBURG: Phase 2.

Sen. ROBERTS: Right.

Ms. GREENBURG: Do you have a draft of that report?

Sen. ROBERTS: We have several working drafts that we will get to members as of this week that we have been working on for a considerable amount of time. We've been working on that. We will finish it. We had it scheduled for this week. There was no need for the Senate to all of a sudden pop in to an executive session or a closed session and then demand action when we were going to do it anyway.

SCHIEFFER: Let's just make sure people understand what we're talking about here.

Sen. ROBERTS: Right.

SCHIEFFER: This is a report, an investigation, into whether the administration mishandled...

Sen. ROBERTS: Right.

SCHIEFFER: ...information to justify going to war. Jan.

Sen. ROBERTS: Or manipulated anybody. Right. OK.

SCHIEFFER: And manipulated it in some way.

Sen. ROBERTS: Right.

Ms. GREENBURG: And now Senator Durbin and others have said you've dragged your feet on this second phase. What's your response to that? Why has it taken so long?

Sen. ROBERTS: I've got tennis shoes on. I've got tennis shoes and track shoes on on Phase 2. We have been doing this, are doing this, had it scheduled for next week. They knew it was scheduled for next week. And then...

Ms. GREENBURG: For the 14th.

Sen. ROBERTS: ...and then closed down the Senate and said, 'You're going to have an investigation.' When I walked on the Senate floor, I said, 'What's this all about?' And they said, 'Well, it's an independent investigation.' I said, 'What's it about?' They said, 'You and Phase 2.' I said, 'We're doing Phase 2.'

All we had to do is talk to Harry Reid--and I'm talking about the vice chairman and myself, and we do have some differences of opinion--and say, 'OK. Let's go ahead.'

SCHIEFFER: Well, why did you take so long?

Sen. ROBERTS: What?

SCHIEFFER: Why did it take until now?

Sen. ROBERTS: We are working on that in terms of requesting documents and interviewing people that have anything to do with documents. There are five provisions to Phase 2.

But let me explain, Bob, exactly what the real peanut is. We were given 350 names by the Democrats, policy-makers who made statements in regards to whether or not we should go to war. And then we supplied about 100 names of senators who--also on the Foreign Relations Committee, Intelligence Committee, Armed Services Committee, Appropriations Committee--voted for regime change and voted to go to war. And so we have a line up here of all these statements, and we didn't put any names next to them 'cause I thought that would really perjure it. Then you have the intelligence over here--let me move my coffee cup or my water cup here. All right. Then you have the intelligence over here. And I want members to roll up their sleeves like we tried in May and say, 'OK. Here's the statement. Here's the intelligence. Is it credible?'

Now the backdrop for this is that when we did our 511-page WMD report, number one, who said we had an intelligence failure and there was a worldwide intelligence failure and it was bum intelligence, we interviewed over 250 analysts and we specifically asked them, 'Was there any political manipulation or pressure?' Answer, 'No.' The Rob Silverman report following up with the WMD commission reached the same conclusion. The Butler commission in Great Britain while it was quite critical of the government there, same conclusion.

SCHIEFFER: I'm sorry. We're out of time. What you're saying it seems to me is it took so long 'cause it was a big job and that's...

Sen. ROBERTS: Yes, it was a big job...

SCHIEFFER: OK. Yeah. That's it.

Sen. ROBERTS: ...and final thing. Roll up our sleeves. Let's get to work...

SCHIEFFER: OK.

Sen. ROBERTS: ...and let's get it done.

SCHIEFFER: All right. Back with a final word in a minute.

(Announcements)

SCHIEFFER: And finally, when President Thomas Jefferson called in Lewis and Clark, he gave them a tall order: 'Find out if there is a water route to the Pacific.' Well, 200 years ago tomorrow, finally in sight of the Pacific Ocean, they had the answer: There was no direct route, but they found out so much along the way that, as The Washington Post put it yesterday, 'They recast the nation's whole concept of itself.'

Last month President Bush gave the head of FEMA, Michael Brown, a tall order: Get help to victims of Katrina. Brown had a somewhat different response. As we now know from his e-mails, he was worried about how he looked on TV. To appear hardworking, a staffer messaged him, 'Roll up your sleeves.' Looking worn out was never really a problem for Lewis and Clark.

By now, old Brownie is an easy target, but he is one more example of how government all too often worries more about how things look and who gets credit than what's being done. When I came to Washington 38 years ago, many congressmen didn't even have press secretaries. Now, spokespersons, media coaches and consultants with talking points have caused a traffic jam in government corridors. A nation that became a nation by showing others how to do it has somehow produced a government that seems more interested in how to say it.

And one other thing: That person who told Brownie to roll up his sleeves is still on the government payroll. So is Brownie. He's one of those consultants now.

We'll see you next week right here on FACE THE NATION.