Everybody understands that it is wrong. People are outraged by it. There is a bipartisan commitment to it. So if we don't get an agreement to get started on this now, or shortly, we will not be able to get it done today, which is symbolically a very important day to do it. So I would not be able to agree to this change in the bill at this time, while we are talking it out.

I have suggested another alternative to make in order as an amendment. There are a lot of options. We could either withdraw it, or accept it, or vote on it later in the day. We will work with the Senators that have the jurisdiction. We will talk with the Senator from South Dakota to see if we can work something out on the flood insurance provision.

In the meantime, I do object to the addition at this time. I plead with the Senator to allow us to proceed with this legislation under our unanimous-consent request while we continue to work on this issue.

Mr. DASCHLE. Mr. President, I have no objection at all to proceeding with consideration of the legislation. As I indicated, I think Senators COVERDELL and GLENN ought to be complimented for their work in trying to address this matter. There is a difference between proceeding to the bill and proceeding under the unanimous-consent request, as propounded by the majority leader. I, of course, would object to the unanimous consent request but would have no objection to proceeding to the bill in an effort to begin debate.

Mr. LOTT. In view of that, then, Mr. President, I am prepared to yield the floor. I advise Senators that we will renew our request again, probably within an hour or so after we have had a chance to check further into this matter.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senator from Illinois, Senator DURBIN, be recognized for up to 10 minutes of morning business following the remarks of Senator HATCH.

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

The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business for 20 minutes.

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

DISAPPOINTMENT WITH THE ATTORNEY GENERAL

Mr. HATCH. Mr. President, I hoped to come to the floor today to deliver a statement commending the Attorney General for her courageous decision to do the right thing and request the appointment of an independent counsel to investigate the fundraising violations in connection with the 1996 Presidential election. Regrettably, I am here today for a much different reason, to express disappointment and frustration with her refusal to even initiate an independent counsel's appointment.

I appreciate the fact that the Attorney General is under enormous pressure from the White House, the Congress, the media, and the public, and that she is in a very unenviable position. I have respect and admiration for the Attorney General, but her refusal to do what the law permits and indeed requires her to do, frankly, does not engender respect or admiration in this instance.

The Clinton administration and the Department of Justice is trying to cast her decision as a legal decision when, in fact, it is a decision within her power, and in my opinion, one which she is ethically obliged to make.

As chairman of the Senate Judiciary Committee, which, pursuant to its statutory responsibilities requested 33 days ago that the Attorney General apply for the appointment of an independent counsel, I am compelled to respond to what can only be characterized as her inadequate response. In all candor, the substance of the Attorney General's report is vague, ambiguous at best, and at times, legally disingenuous. Especially in light of the fact that the committee requested she evaluate and report on ''all of the information before her,'' not just a few isolated allegations, the Attorney General's report also is incomplete, and in a rather selective way at that.

A judge in a court of law would recognize the Attorney General's report as a defense brief, too clever by a half, carefully and zealously crafted to serve a client's interest. But the Attorney General's client here is not the President of the United States or her political party, it is the public. And the public's confidence that this investigation will be fair, as thorough, and as tough as any other, altogether untainted by political considerations, has not been fulfilled. I am afraid this client, the public, has been disserved.

Given the evasiveness of the Attorney General's report, together with the delay in its transmission and the fact that as the Attorney General herself admits, ''much has been discovered,'' since the committee sent its letter, I have little choice but to conclude that much to my disappointment, the Attorney General did not receive our request with a mind fully open to doing what is plainly in our Nation's best interests.

Before responding to the Attorney General's report in more detail, I feel I should briefly review what the independent statute provides for. An independent counsel can be triggered in one of two ways: Where there is sufficient information to investigate whether any person ''covered'' by the statute may have violated Federal law; or where an investigation of someone else who may have violated the law may result in a political or other conflict of interest. It is that simple.

Let me talk, No. 1, about the mandatory trigger of that legislation. With respect to the first, the mandatory trigger where ''covered individuals'' are at issue, the Attorney General's report does little but make reference to legal ''factors that must be considered,'' and then repeatedly draws the summary conclusion that she does not have specific and credible evidence that a covered individual may have violated the law. Despite the White House's characterization of the Attorney General's decision as simply ''applying the law to the facts,'' there is virtually no application of the pertinent law to the pertinent facts actually before the public, let alone the facts before the Attorney General.

While the statute requires the Attorney General to set forth the reasons for her decisions with respect to each matter before her, in my view she has utterly failed to do so here. To illustrate just a few examples of the inadequacy of the Attorney General's response, let me point out that she fails to specifically explain why an independent counsel is not warranted to further investigate the abundant evidence that covered individuals made extensive and deliberate use of Federal property and resources for campaign purposes including, for example, the Lincoln bedroom, and other areas of the White House, Air Force One, and a computer database costing the taxpayers $1.7 million.

An authority higher than me and more independent than the Attorney General needs to determine the scope of the various laws implicated by this conduct and whether any of the laws were violated. The Attorney General's somewhat evasive approach to this entire matter is aptly illustrated by her argument that the use of the Government telephone does not constitute conversion of Government property. I am sure it does not. But as the Attorney General knows all too well, that is beside the point. The allegations of misuse of Government property are not based on phone calls.

Mr. President, the Attorneys General's evasive approach to this entire matter is aptly illustrated by her argument that the use of the Government telephone does not constitute conversion of Government property. I am sure it does not. But, as the Attorney General knows all too well, that is beside the point: The allegations of misuse of Government property are not based on phone calls, but on the diversion of resources, such as the White House, Air Force One, and the White House database for campaign purposes, while phone solicitations were not alleged to have violated the conversion laws, but rather the prohibition on solicitations from Federal property. The conclusion I cannot help but draw here is that, however involved the Attorney General's career staff was in preparing this letter, in the end, it was her political advisers who had the last word.

In short, the Attorneys General's carefully finessed and, in some cases, deliberately irrelevant legal arguments, combined with her summary

conclusions that there is no specific, credible evidence that a covered individual may have violated the law, hardly persuades one that an independent counsel is not mandated under the statute or, for that matter that the question has been given a genuinely thorough and candid evaluation.

Perhaps more fundamental, though, is the Attorney General's altogether inadequate explanation as to why she will not request an independent counsel pursuant to the second statutory trigger —to avoid a conflict of interest. Here the test is quite simple: If the Attorney General is presented with a conflict of interest in investigating whether any individuals may have violated the law, she has the discretion to proceed with the appointment of an independent counsel. Try as the White House and the Attorney General might to cast this as a narrow and technical legal question, it is anything but that; it is an ethical one requiring sensitive judgment as to what is necessary to ensure the public's confidence that an investigation can be supervised by the Attorney General and completed in a thorough and impartial manner.

In the past, the Attorney General has had a rather broad view of what is necessary to protect the public's confidence that an investigation is not compromised by any perception of a conflict of interest. In her Whitewater independent counsel request, for example, Attorney General Reno concluded that an independent counsel was required because her investigation would involve an investigation of James McDougal and ''other individuals associated with the President and Mrs. Clinton'' would amount to a conflict of interest. It was that simple. In her referral of the Nussbaum perjury allegation to the independent counsel, the Attorney General concluded that a conflict of interest existed because the investigation ''will involve an inquiry into statements allegedly made by a former senior member of the White House staff.'' It was that simple. And, testifying before Congress in 1993, Ms. Reno stated that the Iran-Contra investigation ''could not have been conducted under the supervision of the Attorney General and concluded with any public confidence in its thoroughness or impartiality.'' It was that simple.

Indeed, the Attorney General's testimony at that time thoroughly explained her rather strong view that even the slightest appearance of a conflict of interest should at all costs be avoided by the appointment of an independent counsel. It was that simple. She testified:

> There is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.

Attorney General Reno further testified:

> It is absolutely essential for the public to have confidence in the system, and you cannot do that when there is a conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. . .. The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent. . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters and to avert even the most subtle influences that may appear in an investigation of highly placed Executive officials.

Now, in her report to the Judiciary Committee, however, the Attorney General adopts a far narrower view of when an independent counsel is called for. Suddenly, the conflict of interest provision has become a complicated legal threshold which ''should be invoked only in certain narrow circumstances.'' That is on page 3 of the letter to me. Directly contradicting her own public statements that it is impossible for the public to have confidence in an investigation where there is a ''conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor,'' now the Attorney General claims that her discretion is limited only to situations where there is an actual conflict of interest. Quite frankly, the Attorney General's efforts to distance herself from her 1993 testimony require her to render a rather creative reading of her own testimony.

Allow me to suggest that, to the extent an independent counsel was called for to ensure public confidence in an investigation of Mr. North, Mr. Nussbaum or Mr. McDougal and his associates, one certainly is called for here. If the Attorney General has adopted a new standard for evaluating when an independent counsel is necessary to ensure the public's confidence in an investigation, she should state as much and explain the basis for her new position.

Although the Attorney General does not say as much in her letter, one can only surmise that her position is that First, there is no conflict of interest in continuing to investigate any of the individuals already under investigation, that is, Huang, Riady, Trie, Kanchanalak, John H.K. Lee, the Wiriadinatas, Charles DeQueljoe, Mark Middleton and Webster Hubbell, and second, that there is no basis for investigating whether other high-ranking officials may have violated the law. Since General Reno fails to explain her reasoning, let's step back for a moment and review some of the facts here to determine whether either of these apparent positions can really be defended.

Take Mr. John Huang, the former Lippo executive whom the Riady's are widely reported to have bragged was placed in the Clinton Administration in exchange for generous donations by the Riady family, whose ties to the Clintons date back to Little Rock in the 1980's. See, for example, the New York Times, October 7, 1996. Recall that the Lippo Group, Huang's former employer, is connected to a far-reaching network of seriously questionable activities, directly implicating not just the Riadys and Huang, but the other individuals that figure in this troubling scandal, including Charlie Trie, Pauline Kanchanalak, Soraya Wiriadinata, C.J. Giroir, Mark Middleton, Mark Grobmeyer, Wang Jun, Charles DeQueljoe, and even Webster Hubbell. Since the Department is already investigating Huang, there plainly are sufficient grounds to investigate whether he may have violated federal law. In declining to invoke the discretionary conflict of interest trigger, the Attorney General's position, therefore, must be that there is no potential conflict of interest in her investigating Huang.

Let's take a look at some of this. This is the ''Lippo Group, an Overview.''

John Huang was a former Lippo executive in the United States. He had a $780,000 severance package before he went to work for the Government. By the way, before he went to work for the Government, for 5 months he had a security clearance given him by this administration. There is a question whether that was legal; a former Commerce official, multiple contacts with Lippo during that time; former DNC vice chairman; raised more than $3.4 million; $1.6 million is to be returned; and, he visited the White House more than 75 times.

C.J. Giroir, a Lippo Joint Venture person, and a former Rose Law Firm attorney, met with James Riady, President Clinton, and Lindsey on Huang on his move to the DNC. He donated $25,000 to the DNC.

Mark Middleton, former White House aide from Little Rock, met with James Riady and President Clinton; has Far East business interests; unlimited access to the White House after his departure.

Charlie Trie, Little Rock restaurateur, had a $60,000 loan from Lippo; former Lippo executive; arranged with a former Lippo executive Antonio Pan, a Hong Kong dinner for Ron Brown; attempted to give more than $600,000 to the Clinton's legal expense trust; visited the White House at least 27 times.

I can go through all of these other people.

Mr. President, I ask unanimous consent that the description of each of them be printed in the RECORD at this point.

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

THE LIPPO GROUP—AN OVERVIEW

John Huang:

Former top Lippo executive in U.S.
$780,000 severance package

Former Commerce Official-multiple contacts w/Lippo
Former DNC Vice Chairman
Raised more than $3.4 mill. (appx. $1.6 mill. returned)
Visited White House more than 75 times

Pauline Kanchanalak:
Thai lobbyist who worked w/Huang when he was at Lippo
Contributed $235,000 to DNC—all returned
Frequent contacts with Huang
Visited White House at least 26 times

Charles DeQueljoe
President of Lippo Securities in Jakarta
Gave $70,000 to DNC
Appointed to USTR advisory panel

Webster Hubbell:
Former Associate Attorney General
Received $250,000 ''consulting fee'' from Lippo—won't say why

Wang Jun:
Lippo joint ventures
Chinese arms merchant
Senior Executive at CITIC & COSTIND (Chinese gvt. entities)
Attended White House coffee

C.J. Giroir:
Lippo Joint Ventures
Former Rose Law Firm attorney
Met with James Riady, Pres. Clinton, & Lindsey on Huang move to DNC
Donated $25,000 to DNC

Mark Middleton:
Former White House aide from Little Rock
Met with James Riady & President Clinton
Far East business interests
Unlimited access to White House after departure

Charlie Trie:
Little Rock restauranteur
$60,000 loan from Lippo
Arranged (w/former Lippo exec. Antonio Pan) Hong Kong dinner for Ron Brown
Attempted to give more than $600,000 to Clinton legal expense trust
Visited White House at least 37 times

Mark Grobmyer:
Little Rock attorney—close friend of Pres. Clinton
Consultant to Lippo
Far East business interests
Met with James Riady, Huang, & Pres. Clinton

Soraya Wiriadinata:
Daughter of Hashim Ning, former Lippo exec.
Contributed $450,000 to DNC—all returned
Has returned to Indonesia

Mr. HATCH. Mr. President, let's just take a look at the specific, credible evidence that has surfaced to date. Huang, who received a severance package from Lippo of $788,750 is reported to have:

Received a top secret security clearance that could have allowed him to review classified intelligence documents, for 5 months while still employed by the Lippo Group, and before he joined the Commerce Department, all after a lax security check that was limited to his activities in the United States;

Made at least 78 visits to the White House during his 18 months at the Commerce Department;

Received 37 intelligence briefings on issues relating to China, Vietnam, and other matters of potential interest to Lippo;

Made more than 70 calls to a Lippo-controlled bank; and received at least 70 calls; 39 classified, top-secret briefings; 30 phone conversations with Mark Middleton; 9 phone calls from Webster Hubbell; received at least 9 calls from the Chinese Embassy officials. He had at least three meetings with Chinese Government officials. He had a 1-year top secret clearance after leaving Commerce after he joined the Democratic National Committee. You wonder why national security interests were compromised and why information was given to the DNC.

Like I say, he had 30-plus phone conversations with Mark Middleton or his associates. All of them had interests—at least I understand had interests—in the Far East.

He had his transfer to the DNC orchestrated at a curious September 13, 1995, Oval Office meeting attended by the President, Bruce Lindsey, James Riady, and Lippo joint venture partner and former Rose law partner, Joseph Giroir;

Raised over $3.4 million while at the DNC—money used to reelect the President—retaining his top secret security clearance even though he was no longer working for the U.S. Government; and had $1.6 million of that $3.4 million used to reelect the President returned because of its suspicious sources.

As we now know, John Huang has taken the fifth amendment, or has asserted the fifth amendment, while the Riadys have not only taken the fifth but they fled the country. Doesn't an investigation of Huang, so close to those who are covered by the statute, and the Riadys, so close to those who are covered by the statute who, like the McDougals, are political supporters and ''individuals associated with the President,''—to use the Attorney General's language of the past—doesn't that raise a conflict of interest?

It isn't just John Huang. Here are some examples of illegal funds raised by Huang: The Wiriadinatas, $450,000. They have returned to Indonesia. All funds are supposed to have been returned by the DNC. I am not sure that is true.

Pauline Kanchanalak gave $253,000. She left the country. She is now in Thailand. Allegedly all of that $250,000 has been returned by the DNC. I am not so sure.

Mr. Gandhi gave $250,000; testified he had no assets. How could he give $250,000? All of those funds are supposed to have been returned by the DNC. I am not so sure about that either.

John H.K. Lee. He gave $250,000. He has disappeared. And those funds were supposed to be returned by the DNC. I am not so sure they have done it.

Then Hsi Lai Buddhist Temple, $166,750 raised there. The temple residents, many of whom gave part of this money, were people who had taken a vow of poverty and had no money to give. Is there no illegality there; nothing to raise a possibility that something may be wrong here which is what the statute basically says? Supposedly $74,000 of that was returned by the DNC. You mean these things aren't wrong and illegal? You mean there is no conflict of interest here at all? If all you do is look at Huang, you have to say there is something wrong here.

Then there is Mr. Charles Trie. Trie is a former Little Rock restaurateur, and reportedly a longtime friend of President Clinton who now runs an international trading company in Little Rock, AR. Mr. Trie has also asserted the fifth amendment and has even fled the country, along with these others.

He is a business partner with Ng Lap Seng, a Chinese Government official. He received a $60,000 loan from the Lippo Group. He raised $645,000 in questionable funds which have been returned by the DNC. He raised $639,000 for the Clinton ''Legal Defense Fund,'' which was returned because the source of the money could not be identified; or the sources of the moneys could not be identified.

He was during this period receiving wire transfers of very large sums from the Bank of China, owned by the Chinese Government.

He visited the White House 37 times.

He escorted Mr. Wang Jun, a Chinese arms merchant, to a White House coffee last year, which, when revealed, was described by the President as ''inappropriate.''

He wrote the President in March 1996 to question his decision to deploy aircraft carriers to the Taiwan straits when the Chinese test-fired missiles in Taiwan's direction, receiving a personal letter back from the President assuring Trie that the United States only wanted peace in the region; arranged a Hong Kong dinner for former Commerce Secretary Ron Brown; and, finally, was formally appointed to a Presidential Commission on Asian Trade in April 1996.

To the extent there was a conflict of interest preventing public confidence in the Justice Department's investigation of Oliver North or James McDougal, certainly the same conflict exists with respect to an investigation of Huang, the Riadys, and Trie, not to mention the handful of other individuals who have taken or will assert the fifth amendment, fled the country, or done both, including Pauline Kanchanalak, Arief and Soraya Wiriadanata, John H.K. Lee, and Charles DeQueljoe. Frankly, there is even more of a conflict here.

Moreover, it has become clear that there is specific, credible information providing sufficient grounds to investigate whether various high-ranking members of the administration may have known of, or conspired in, any of these apparent fundraising violations. Indeed, we now know from the Ickes files that the decision to transfer Huang from the Commerce Department to his fundraising role in the DNC was made at the September 13, 1995, Oval Office meeting which included not just Huang, James Riady, and Lippo Joint Venture Partner and former Rose Law

Partner Joseph Giroir, but Bruce Lindsey—who seems to pop up in all of these instances—and President Clinton himself, and that a participant at this Oval Office meeting reportedly recommended that the President ''reassign Huang from his Government job to a political fund-raising job, where he could extract contributions for favors done and favors yet to come.'' The New York Times, March 5, 1997. Mr. Ickes' notes expressly indicate that Huang had specifically targeted ''overseas Chinese.'' And it has been reported how this decision to transfer Huang to the DNC, made at that September 13, 1995, Oval Office meeting, was directly linked to a plan, agreed to just days earlier by the President, Dick Morris, Harold Ickes, and others, to raise funds to wage a preemptive television ad campaign. See New York Times, April 14, 1997. In short, isn't there sufficient information at least to investigate whether any of these top-level White House advisers were aware of or involved in Huang's and the Riady's far-reaching scheme to launder foreign funds into Democratic campaign coffers? Does the Attorney General expect the public to have confidence that she can thoroughly and dispassionately investigate individuals among the President's closest advisers without any conflict?

Similarly, there is now a wealth of information documenting the extensive involvement from the President down through Mr. Ickes and other White House advisers in the plans, discussed earlier, to use the Lincoln bedroom, the White House, Air Force One, and the White House's computer database to further campaign purposes, and that campaign contributions were received at the White House. The Attorney General claims she is ''actively investigating'' whether laws were violated. Doesn't this investigation of these high-level White House advisers, even if not covered individuals, present a conflict at least as great as the conflict that apparently existed with regard to the investigations of Mr. North and Mr. McDougal?

How can one say that there is no conflict when the FBI and White House are publicly squabbling over whether the White House should receive information about the investigation, and the Attorney General is smack in the middle of this squabble; when the White House falsely accuses the FBI of telling the National Security Council staff not to pass on information regarding Chinese attempts to illegally influence United States policymakers?

Indeed, the very fact that the FBI, an agency within the Justice Department, refused to produce this information to the White House on the eve of Secretary Albright's visit to China clearly suggests that the investigation has already reached high up into the White House. It is curious, to say the least, that the Department of Justice leaked its decision to the press over the weekend, but it did not actually notify the Judiciary Committee of its decision until 6:30 last night, 2 days after this letter was due. Furthermore, the Acting Deputy Attorney General's assertion that the fact that both Judiciary Committees have made a formal request would emphatically not have any impact on their decision suggests to me that the Justice Department is in a defense mode.

In short, I think there is little doubt there is at the very least a potential conflict of interest in having the Justice Department investigate these matters. The administration should not be investigating itself, it is just as simple as that, as long as we have an independent counsel statute. Simply claiming to defer to career Justice Department officials will not do. Would the public accept a Member of Congress not recusing himself or herself from a particular matter on which he or she had a major conflict of interest because staff recommended they not recuse themselves? Would the public accept a judge's refusal to recuse himself or herself in the face of a conflict because a clerk advised against it?

The fact is that the DNC, the Democratic National Committee, has simply, on the basis of its own audit, already identified over $3 million in improper contributions, violations of law, if you will. A significant portion of this illicit money has not even been returned yet, only confirming that this $3 million has already been spent, spent to reelect President Clinton.

We have people calling for campaign finance reform on this floor. Why don't we enforce the campaign finance laws that are already on the books. That is what this is all about, in part, I have to tell you. Three million dollars in illegal funds, illicit funds spent to reelect the President, already spent. I wonder how Candidate Dole feels about that.

The need for an independent counsel is not merely a matter of applying the law to the facts. The chorus we are now hearing from the President's press secretary and the Democratic apologists would seem to indicate that that is so when in fact it is not. In my opinion, Attorney General Reno was presented with an ethical question, a question ultimately of whether the public can have confidence in this investigation, whether the public can have confidence in this Justice Department, and whether the public can have confidence in the Clinton administration itself. Make no mistake about it. Attorney General Reno's decision yesterday was a significant political event, one which, much to my regret, will subject her to serious and I think justified criticism. This is not a happy day for the Department of Justice or for the public confidence in our system of justice. By continuing to permit what certainly appears to be a very serious conflict of interest, the Attorney General regrettably has, to use her own words, brought upon the Nation ''the destructive effect in a free democracy of public cynicism.''

I yield the floor. I thank the Chair.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. DURBIN. I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Under a previous order, that has already been granted.

Mr. DURBIN. I was seeking recognition on the same subject. Senator HAGEL, I believe, is on the way up to join me for 10 minutes. This is a separate request. Is it possible to do both?

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

Mr. DURBIN. I thank the Chair.

I would like to address the issue that the chairman of the Judiciary Committee raised, and I am glad he stayed in the Chamber. I could not disagree with him more. If this really is a contest over the professionalism of Attorney General Janet Reno, I feel very confident to stand by her. On four separate occasions, Attorney General Reno has exercised the right to call for an independent counsel within the Clinton administration, three of those counsel investigating members appointed to the President's Cabinet and a fourth investigating the Whitewater controversy involving the Clinton family itself. It is very clear to me that Attorney General Reno is calling these as she sees them.

Look at the situation that we now have before us. The Speaker of the House of Representatives, Mr. GINGRICH, leaders of the Republican Party, all come forward and say that if Attorney General Reno does not ask for an independent counsel, they are going do drag her up to Capitol Hill, put her before the committee, maybe put her under oath, and demand to know why she has not called for an independent counsel.

I suggest to my colleagues in the Senate the independent counsel statute itself is hanging on by a slender thread if we try to politicize this process and pressure the Attorney General into calling for an investigation where it is not warranted.

Keep in mind the creation of this statute came from an era when President Nixon fired Archibald Cox as a special prosecutor, the so-called Saturday Night Massacre. The independent counsel statute was created to try to put in place a third party or a dispassionate or a detached approach to investigations. And now, because those in the majority, the Republican Party, are dissatisfied that Attorney General Reno has not called for an independent counsel, you hear all sorts of comments about we are going to put the pressure on her; we are going to bring her up here and put her before a committee to answer all these questions.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. I will be happy to yield in just a moment. It just may be a fact that there is insufficient evidence to support the charges which the Senator

from Utah and other Republicans believe. Now, this Attorney General has been involved in this investigation for a long period of time with 50 different FBI agents. If the newspaper reports are accurate, she has basically said that she will turn to her career prosecutors to make this call. I trust her judgment. I think we should trust her judgment. Applying political pressure at this point on the Attorney General is not in the best interests of a good investigation that may be necessary and may lead to the appointment of an independent counsel.

I will be happy to yield.

Mr. HATCH. I appreciate my colleague yielding.

Let us just make it clear to my colleague that this chairman of the Judiciary Committee and Chairman HYDE over in the House, when many people were calling for us to send her a letter, delayed and delayed, giving the Attorney General a lot of time, nor have we been calling improperly for her to act in any way other than properly. But it will be interesting for people to know that we had scheduled our oversight hearing for May 20 for the Attorney General to come in and to be examined by the Judiciary Committee. I think for the information of everybody who is here, she has agreed to come earlier than that, within the next 3 weeks, probably in the first week of May, and at that time she will have to justify this decision.

I think it is also safe to point out that I have been a very strong supporter of the Attorney General and still care for her a great deal. I do not like to see her subjected to this, but this is, to my knowledge, the first time that the letters from thoughtful chairmen and all the Republicans on both sides of the Judiciary Committee have been rejected and I think under much more stringent circumstances than independent counsel she has granted in the past.

So I personally hope she can assert why she has not decided to at least conduct a preliminary investigation which would have triggered another 90 days to do this. I suggested to her and to the Justice Department that she do that.

I also do not accept the—I am sorry; I will not take much longer. I do not accept her assertion that she is relying on professional staff members.

Now, I have a lot of confidence in the professional staff members down there, but this involves a lot more than that and, frankly, involves just how this statute is going to be applied.

When the time comes to reconsider this statute, I will be very interested in working with the distinguished Senator from Illinois and others to make sure that, if we are going to have a statute like this, let us have it so it works, and, frankly, I have qualms about having it at all. But since we do have it and since it does have these two main methods of triggering the call for an independent counsel and the appointment of an independent counsel, I have to say I am sadly disappointed that she has not chosen to do that under these circumstances. But I do understand my colleague at this hour rising to defend Attorney General Reno. I am not attacking her personally. I am just attacking what has been done here, and I think it should have been done before.

Mr. DURBIN. I thank the Senator from Utah. I want to say this much. If there has been any criticism of Attorney General Janet Reno in the last 6 months, it is that she is too independent. There was a question as to whether this President would even reappoint her because of her independence, the fact she had named four independent counsel. That has been the criticism of Attorney General Reno. She calls them as she sees them. She is a professional.

She has made a decision today which the Republicans are unhappy with; they wanted an independent counsel named in this case. But when she named four previous independent counsel, they cheered—good judgment, good work. Now, when she has decided not to call for one, they want to bring her up to Capitol Hill, put her before the committee, start asking questions: Why won't you bend to this pressure? I hope she does not. I hope she calls it based on the evidence.

On a show that I was on last night, one of my colleagues on the Republican side said, ''Hasn't there been enough time here? Shouldn't she call for an independent counsel?''

This is not about time. This is about evidence, credible witnesses. If they do not come forward with the evidence and with the testimony to justify an independent counsel, I hope Attorney General Reno will not bow to pressure here. I hope she will stand up for what she believes in. And as a Democrat, I am prepared to accept her decision. I believe she is professional enough that we can stand behind her. But we jeopardize the future of this statute, and I think we ought to think twice about it, by putting this kind of public pressure on the Attorney General trying to push her in one political direction or the other.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). Does the Senator from Illinois yield?

Mr. DURBIN. Mr. President, I had asked for an additional 10 minutes on another topic with the Senator from Nebraska.

Mr. HATCH. Will the Senator yield for just 90 seconds?

Mr. DURBIN. I will be happy to yield to the Senator from Utah.

Mr. HATCH. I would like to say this in response. I just spent 30 minutes laying out some of the evidence that I think clearly shows the grounds for further investigation. The question is how can the Attorney General continue this investigation within the Department without a conflict of interest? I do not think she can. Again, I will cite her testimony back in 1993.

She had a strong view that even the slightest appearance of a conflict of interests should, at all costs, be avoided by the independent counsel. She said this:

> . . . there is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.

She further testified that:

> It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. . . . The Independent Counsel Act as designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent . . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials.

I really believe that the case has been made here. And, although I still have very fond feelings toward the Attorney General, I think she has made a tragic error. And I believe that this is not going to end it. In the end, I think we would have been a lot farther down the road had she applied for the appointment of an independent counsel.

Be that as it may, these remarks had to be made because they are important. Either we are going to have a statute or we are not. As I have said, I have never been a strong supporter of this statute. But it is there and it has been used in prior administrations. It has been used in this administration. And this case, it seems to me, is even more overwhelming than some of the prior cases where it has been used.

I yield the floor, and I thank my colleague.

Mr. DURBIN. Mr. President, who has time at this moment?

The PRESIDING OFFICER. The Senator from Illinois has the remaining time.

Mr. DURBIN. Mr. President, let me just say in closing, on this particular issue, before I move to the other with Senator HAGEL, this is a matter of the Attorney General's discretion. Whether that Attorney General is a Democrat or a Republican, under this statute the Attorney General is to gather the evidence, listen to the testimony, and decide whether or not that evidence and testimony crosses a threshold to suggest that a crime has been committed, either by a covered person in the administration or a Member of Congress, or creating a conflict of interest between the administration and the investigation.

If I listened and heard correctly, the Senator from Utah questions whether or not an Attorney General, appointed by a President, can exercise appropriate discretion when there has been a suggestion that that President or his Cabinet be investigated.

What the Senator from Utah calls into question is more than the judgment of any specific Attorney General. He calls into question the very existence of the statute. I think there are many deficiencies in this statute. I think we should address those, and perhaps reauthorize it with some changes. Among those changes, I might add, is that if an independent counsel is to be appointed, that independent counsel be truly independent.

In the history of this statute, 15 independent counsels have been named: 11 Republicans, 2 Independents, 2 Democrats. This process has been loaded to appoint Republican independent counsels. And how? Because the three judges who make the appointment, named by the Chief Justice, have created a daisy chain, where they are appointed for 2 years as the statute calls for and then reappointed for another 2 years. They keep coming back, over and over and over again, the same people, making the same judgments about the appointment of independent counsel.

I think this statute needs to be addressed. But, if we are going to attack this Attorney General because she has to exercise her discretion, believe me that is what the statute says that she must do. She must look at that evidence, decide whether it is credible, and decide whether to go forward. As unhappy as the Republicans may be with this decision by the Attorney General, I trust her judgment. I trust her professional judgment. If she says at this moment it is not warranted, I think she is right. I will stand by it.

Should she change her mind at some later date, I will accept that decision, too. But to call her up here and put her under pressure because she has made that decision is a serious, serious mistake.

At this point I believe there has been a unanimous-consent request for 10 minutes for Senator HAGEL and myself to address another issue, is that correct?

The PRESIDING OFFICER. The Senator has 7 minutes remaining of that time.

Mr. DURBIN. I thank the Chair.

(The remarks of Mr. DURBIN and Mr. HAGEL pertaining to the introduction of S. 575 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, this Senator inquires of the order of business?

The PRESIDING OFFICER. The Senate is scheduled to recess absent a unanimous-consent request.

Mr. BURNS. Mr. President, I ask unanimous consent I may proceed as in morning business for no more than 6 to 7 minutes.

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

OUR SYSTEM OF TAXATION

Mr. BURNS. Mr. President, this is likely the single most frustrating day of the year for many Americans. What self-respecting member of any legislative body would not take to the floor and talk about his or her favorite subject, taxes? We could all relate to the tension of the day and the frustration of working our way through the ''simplified'' tax forms, worrying about making an inadvertent mistake. But, also, how we are going to do what is expected of us? With April 15 now upon us, it is time to reflect on our system of taxation and the burden it places on each and every one of us who live in this country.

I know at times the IRS finds itself as the brunt of many jokes. But to a lot of folks in Montana, tax day is no laughing matter. The fact is, families all across this Nation are forced to make some tough financial choices each year around this time. Serious questions are being asked. What can we do as a family to pay our fair share of taxes? By and large, Americans know, and they understand that some taxes are necessary to pay for the essential government services: For education, for the infrastructure of transportation and other services that we enjoy. But the question also surfaces on how to balance our family needs.

All too often, the options given require sacrifices. And, you know what? They affect children and they affect relationships. Most times, it is not fair. And sometimes it is just not right.

Unfortunately, it seems we are living in an age when only one wage earner cannot live financially secure and comfortable. Nowadays, in order to make ends meet both parents are working, even though one may prefer to remain home with their children. Families in which one parent chooses to remain at home often struggle financially, living paycheck to paycheck, while, on the other hand, dual-income families find a disproportionate share of the second check being melted away with added expenses of cost of child care, additional transportation needs and so on, and still no tax relief on the burden that is suffered on the second paycheck. Neither situation leaves families in a comfortable financial condition. Time and time again we have seen bad economic conditions lead to the demise of families and the family structure. Who suffers? Our children suffer.

I believe it is important that we begin the process of reform, which will allow our families more options and, in the end, allow them to keep more of what they earn. Those decisions should be and could be made at home instead of some IRS office or, yes, an office here in Washington, DC. Let families decide, make the financial decision of what to do with their income. All the polls that I have seen taken on the attitudes of Americans tell us that our current system of taxation is in bad need of reform. I agree. Giving Montanans and all Americans the opportunity to be financially secure should be the goal.

I might add at this point, the Nation's tax collection agency also needs to do something about its own image. That may be a feat that borders on the impossible, but it should be attempted. There are two taxes, in my estimation, that are destructive of the majority of families. They are death taxes—the estate taxes—and capital gains. Montana, my State, is a State made up of family-run farms and ranches and small businesses. With regard to the death taxes, upon the death of an owner of a small family business or a family farmer ranch, the family is required to pay more than 55 percent of the value of the farm or business value in excess of $600,000. The only thing the survivors want to do is simply continue operating the family business or farm.

But in most cases, they are forced to sell it in order to pay those death taxes. No one—no one, Mr. President—should be forced to sell the farm to save the farm.

Another equally burdensome tax is the capital gains tax, which punishes those who choose to save and invest for their future. This tax affects everybody who saves and invests to ensure they can take care of themselves and their loved ones. Like the estate tax, the capital gains tax is punitive. It is a voluntary tax. You do not have to pay capital gains tax because you do not have to sell. If you do not sell, you limit economic opportunity in the financial community.

Like the estate tax, it is a form of double taxation, moneys taxed once it is earned as income and again upon the sale of an asset or investment, and Lord knows how many times in between, making it even more difficult for families to save for the future.

The capital gains tax has a top rate of 28 percent, which is among the highest in the world. Many of the world's strongest economic powers, including Germany, Hong Kong and South Korea, have no capital gains tax at all. These countries recognize the importance of savings. They also recognize the importance of investments, and they know what it takes to create jobs, maintain an economic growth and stability and, let's face it, governments cannot take all the money and provide a stable financial future for anybody with the exception of those who choose to exploit their own government.

There is no question in my mind, in order to strengthen the American family, we must make them economically secure. No matter what we say or how good it seems, Government cannot do that. With juvenile crime at an all-time high, there is no hope for young people if they cannot see a future that