particular time problem myself. I will be glad to defer to the Senator.

Mr. NICKLES. Mr. President, the Senator from West Virginia is so courteous, as usual. I have about a 10- or 15-minute speech, but I will be happy to listen to my colleague and then I will follow my colleague from West Virginia and I thank him, again, for his courtesy.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that I may be recognized immediately after Mr. NICKLES is recognized, at which time I will proceed with the remarks. I ask unanimous consent that at that time I may consume such time as I may desire, but not to exceed 25 minutes.

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

Mr. NICKLES. Mr. President, again to my colleague, I am more than happy to defer. He is so kind and gracious, as he always is. He sets an example in the Senate, which I think all of us should follow and makes all of us proud to have the title of ''Senator.''

The PRESIDING OFFICER. Does the Senator from Oklahoma wish more than 5 minutes?

Mr. NICKLES. Mr. President, I ask unanimous consent to speak as in morning business for not to exceed 15 minutes.

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

Mr. NICKLES. Again, I thank my colleague from West Virginia for his courtesy. I doubt I will take 15 minutes.

THE ROLE OF THE ATTORNEY GENERAL OF THE UNITED STATES

Mr. NICKLES. Mr. President, I come to the floor today with a very sober, very serious discussion. That concerns the role, the effectiveness, and the job that the Attorney General of the United States is currently doing. The Attorney General, under title 28 of the U.S. Code, section 515, is vested as the chief law enforcement officer of the country. That is a very important vesting of power. She is the chief law enforcement officer of the country. She has the responsibility of making sure the laws are carried out, as part of the executive branch.

Congress, some time ago, realized that every once in a while there might be a conflict of enforcing the law strictly, if there are allegations of impropriety with members of the executive branch, so the independent counsel statute was passed. It was passed as a follow-up to Watergate. Can you really investigate your own boss? Can the Attorney General investigate the President or Vice President or some other Cabinet official because they are serving with those individuals at their pleasure? As a matter of fact, Attorney General Reno was appointed and confirmed by the Senate in, I believe, 1993; and then there was some speculation she would be reconfirmed or reappointed by the President, and subsequently she was.

Since that time, I think all of my colleagues, and certainly all the country, know that this administration has had a lot of legal conflicts and problems. One of the biggest issues was the issue of campaign finance. Both the House and Senate have conducted hearings. I presently serve on the Governmental Affairs Committee that conducted an investigation all of last year over alleged campaign finance abuses. The committee, at least amongst the majority of the committee, albeit mostly Republicans, said, yes, there should be an independent counsel appointed. We made that recommendation to the Attorney General. She has ignored that recommendation, and regrettably so.

Mr. President, I might mention a few things. I said she is in charge of making sure the laws are enforced. I am looking at one, and I could spend hours going through the law and stating allegations that I think this administration was in violation of, that she has not enforced, or to give reason for the appointment of an independent counsel so there would not be this conflict of interest. I will mention a couple of laws.

Title 18, section 607, United States Code, states in clear and unequivocal terms:

> It should be unlawful for any person to solicit or receive any contribution in a Federal building.

I could go on and mention the conflict of covered persons. Covered persons under this statute are the President, the Vice President. Vice President GORE has now admitted to making 52 fundraising calls from the White House. And the so-called coffees: There were 103 coffees in the White House attended by 1,241 people. They raised $26.4 million and I think are in direct violation of the statute. President Clinton hosted an average of two coffees per week during the reelection cycle; Vice President GORE attended over 100 coffees in 22 months before the election; 92 percent of the coffee attendees contributed to the DNC in the 1996 election cycle.

I could mention the overnighters. President Clinton, in a handwritten note to a memo on January 5, 1995, told his staff he is ''ready to start the overnights right away'' and asked for a list of $100,000 and $50,000 contributors. Altogether, there were 178 guests who were listed as long-time friends, public officials or dignitaries, or Arkansas friends, who contributed over $5 million to the DNC. Overnight DNC donors paid an average of $44,000 per family to sleep in the Lincoln Bedroom. The White House was for sale, I think in clear violation of the law, Mr. President.

I will mention a statement that Attorney General Reno made to the House Judiciary Committee on October 15, 1997. I ask unanimous consent that excerpts of Attorney General Reno's statement be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

> Since they began their work, I have met with them regularly to hear what they have found and to ask them questions. I check on their progress several times a week, discussing with them what evidence they have found and how they are proceeding. Most important of all, I have told them from the start that they are to contact me immediately if they ever believe that the evidence and the law justified triggering the Independent Counsel Statute. I and Director Freeh check with them regularly to insure they have adequate resources.
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> * * * * *
>
> As I stated then, the fact that we don't trigger a preliminary investigation under the Act does not mean we are not investigating a matter. We are fully prepared to trigger the Independent Counsel Act and pursue any evidence that a covered person committed a crime, if any should arise in the course of our investigation. We continue to investigate every transaction brought to our attention. We will not close the investigation of a matter without Director Freeh and I signing off on its closure.

Mr. NICKLES. Mr. President, keep in mind that was last year, when the campaign investigation was going, and going very strongly. She had this to say concerning the investigation. She was talking about the investigators:

> Since they've begun their work, I have met with them regularly to hear what they found and ask them questions. I check on their progress several times a week discussing with them what evidence they have found and how they are proceeding. Most important of all, I told them from the start that they are to contact me immediately if they ever believe that evidence and law justify triggering the independent counsel statute. I and Director Freeh check with them regularly to ensure they have adequate resources.

Later in her statement:

> As I stated then, the fact that we don't trigger a preliminary investigation under the act does not mean we are not investigating the matter. We are fully prepared to trigger the Independent Counsel Act and pursue any evidence that a covered person committed a crime if any should arise in the course of our investigation. We continue to investigate every transaction brought to our attention. We will not close the investigation of a matter without Director Freeh and I signing on its closure.

She made a commitment that basically the major decisions would be made by the Attorney General and the FBI Director, former Federal judge, Mr. Freeh. I mention that because evidently Mr. Freeh made a detailed report, evidently a 27-page report, to the Attorney General in November of 1997 calling for an independent counsel. I am not inserting that report in the RECORD. I am going to read a couple of excerpts that Senator THOMPSON made before the Judiciary Committee, where Attorney General Reno testified on July 15 of this year, where he outlined several things that were in Director Freeh's memo.

I will be very quick and maybe I will insert several pages of this in the RECORD. This is Senator THOMPSON talking about Director Freeh's investigation. He pointed out that the FBI's

investigation has led them to the highest levels of the White House, including the Vice President and the President, and that the Department of Justice must look at the independent counsel statute. He pointed out there are two sections; one is a mandatory section where the Attorney General is required to appoint, and another one is a discretionary section. The ultimate conclusion by Mr. Freeh is that the statute should be triggered under both the mandatory and the discretionary provisions of the statute.

I ask unanimous consent that the entire section of this dialog be printed in the RECORD.

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

[Mr. THOMPSON.] On Friday, June 19th Larry Parkinson, the General Counsel of the FBI, presented to Senator Glenn and myself an oral summary of a 27-page legal memorandum that was written in November 1997 from Louis Freeh. You might recall when Mr. Freeh and General Reno were testifying before the House Committee on Governmental Operations, Mr. Freeh declined to present the memo he had recommending the independent counsel, but he agreed to give an oral briefing to the chairman and ranking member of the committee. He did the same thing with regard to our committee. I think that I have a fair summary of what his position was on those matters and I would like to lay that on the record and have some discussion about it if we have time.

Basically, Mr. Freeh's memo is in seven sections. In the first section, he deals with the purpose of the independent counsel statute and points that it was to ensure fairness and impartiality in an administration's investigation of its own top officials, and highlights several reasons for the enactment of the statute. The top three listed were the Department of Justice difficulty in investigating a high-level official; secondly, the difficulty in investigating a superior. And, third, even the appearance of a conflict of interest is dangerous.

He pointed out that their investigation, the FBI's investigation, had led them to the highest levels of the White House, including the Vice President and the President, and therefore the Department of Justice must look at the independent counsel statute. He pointed out there are two sections. One is a mandatory section where the Attorney General is required to appoint, and another one is a discretionary section.

The ultimate conclusion by Mr. Freeh is that the statute should be triggered under both the mandatory and the discretionary provisions of the statute, and then he goes in some detail to state why. He points out that there are unprecedented legal issues. There has been a lot of discussion as to whether or not soft money contributions that are totally coordinated out of the White House were legal or illegal, for example.

The memorandum points out the legislative history. And, of course, lest we forget, Director Freeh is a former Federal judge as he opines on these matters. He points out the congressional intent was that where there were unprecedented legal issues or differences in legal opinion that an independent counsel is to be sought. That was his interpretation of the clear legislative history.

He discussed in some detail Vice President Gore's telephone solicitations, the President's telephone solicitations, the need for the independent counsel in both cases. And it was the Director's ultimate conclusion that it should be referred to appointment of an independent counsel as part of a broader scheme to circumvent campaign finance law under either the mandatory or the discretionary provisions of the statute. He held the same conclusion with regard to the White House coffees, the overnights, and the other perks.

He also says that with regard to soliciting contributions from foreigners, nevertheless, there is an additional question of whether DOJ should be resolving these issues. The legislative history is such that the Department of Justice is not to undertake an elaborate legal analysis when a covered person is involved, a legal analysis with regard to the questions of law that we mentioned before.

Then he refers to the discretionary provision. After having decided on all counts, on all instances of matters in controversy, that it called for the activation of the mandatory portion of the independent counsel law, he then turned to the discretionary portion of the law. And I think this is an accurate quotation from the briefing that we got, quote, ''It is difficult to imagine a more compelling situation for appointing an independent counsel,'' as he discussed the reasons that caused him to reach that conclusion.

He said, for several reasons. He said, first, is the fact that the Department of Justice investigating the President and the Vice President. The independent counsel statute is based on the fact that it is a conflict for the Attorney General to investigate her superiors. Secondly, Director Freeh said that the cumulative effect of all of the fundraising-related investigations going on should activate the discretionary provision of the statute.

Thirdly, he said the Department of Justice is investigating other persons in addition to covered persons who, because of the nature of their relationship with the President and the Vice President, give the appearance of a conflict of interest. In other words, when someone who is being investigated and in one case has already been indicted who was in the White House 49 times, that although that person is not covered, he is a close associate of covered people. And if you are trying to get information from someone you have just indicted, or you are in negotiations with regard to plea bargaining or immunity or any of those other instances, how can you do that effectively when the answers that he may give may have to do with the covered person, who is the Attorney General's superior?

Fourth, the independent counsel statute arose from Watergate and thus has a unique relationship to the campaign finance laws. In other words, the Attorney General—according to his reading of the legislative history of this, there is a unique relationship between the independent counsel law and campaign finance laws, which is, of course, what we are dealing with.

Lastly, the section provides factual information about in comparison to the Attorney General's previous discretionary appointments. In other words, there are many instances where the Attorney General has activated or relied upon the discretionary provision of the law. He discussed Filegate, discussed Whitewater, discussed Mr. Nusbaum's situation.

In Whitewater, the Attorney General invoked the discretionary provisions because of a political conflict of interest from McDougal and others who were close to the President. Nusbaum was a former senior member of the White House staff, although not a covered person, who also had a close relationship with the President. It is consistent with those precedents to treat this investigation as a discretionary independent counsel matter as well.

The Director also points out the fact that it is the FBI and the DOJ's obligation to keep the President informed on national security information while investigating those same issues. And, also, as he says, simply the appearance or public perception of a conflict can invoke the discretionary clause. It is absolutely essential for the public to have confidence in its investigators and this is consistent, of course, with the Attorney General's confirmation testimony.

Director Freeh also says that contrary to her testimony before the Senate, Attorney General Reno replied to Senator Hatch that she had to actual conflict instead of the appearance of a conflict. Director Freeh says the 1994 Congress rejected a DOJ proposal that the Attorney General would have a relevant conflict of interest only with a matter rather than a person as the standard for invoking the statute. And he concludes the Attorney General can consider appearance as well as actual conflict that might weaken public confidence.

According to the memorandum, it makes no sense for appearance to be relevant for covered persons, but not for the discretionary provision, since conflict is presumed for covered persons and appearance is more relevant to non-covered persons.

Lastly, Director Freeh points out as a reason for invoking the discretionary provision of the independent counsel law that the Attorney General's chief investigator has concluded that there is a political conflict of interest. This does not change the fact that the Attorney General makes the final decision, but in Director Freeh's view, it should be pursued under the discretionary clause.

So here we have a really remarkable and unprecedented situation where you have been investigating matters concerning covered people at the highest levels. You have been investigating matters concerning people who are not covered people, but are close associates of covered people who have had very extensive visitations to the White House.

You have, at best, a mixed interpretation of the law concerning campaign finance. No one thought up until this last Presidential election, for example, that a President or a Presidential candidate could take public money, certify that that is all he would spend, and then go get on the phone and raise unprecedented amounts of soft money which he coordinated out of the White House. No one thought they could do that up until your interpretation, and now we are seeing, in Ohio, I think both the Democratic and Republican Party are in court saying there are no limitations anymore because of this. Their position is even foreign money, under the Attorney General's interpretation, cannot be regulated because it is soft money and soft money is not regulated.

In addition, you have had a troubled investigation from the start in which you have made changes, I think, to the benefit—now, Mr. LaBella, who came in, also recommends an independent counsel, and now he is leaving. Now, you have the Director of the FBI, who is the chief investigator, saying from his investigation we should have an independent counsel. And yet we don't have that acted upon by the Attorney General.

Mr. NICKLES. He discussed in detail Vice President GORE's telephone conversations, the President's telephone solicitations, the need for independent counsel in both cases.

It is the Director's ultimate conclusion it should be referred to an appointment of an independent counsel as part of a broader scheme to circumvent campaign finance law under either the

mandatory or the discretionary provisions of the statute. He held the same conclusion with regard to White House coffees, the overnights, and other perks, and that would include Air Force One.

He also talks about the scheme to evade the law. When the President agrees to take public funding of a Presidential campaign, he says: Here is how much money we are going to raise and spend. Clearly, the White House, and Mr. Harold Ickes and other people, tried to circumvent the law and say: We are going to raise lots and lots of money, the White House will do it, and we will basically get around these limits. Director Freeh obviously thinks that should be investigated and may well think it should be investigated for both parties. I am not making any aspersions. I am just saying that we should have an independent counsel.

If Director Freeh has studied this as long as he has—he is the chief investigative officer of the country as head of the FBI—if it is his strong conclusion, with a 27-page memo, that we should have an independent counsel, then we should have an independent counsel. He gave that memo evidently in November of last year, and the Attorney General has yet to appoint an independent counsel.

I could go on. I have already inserted most of this into the RECORD. I will skip and just make the comment that if you have the Director of the FBI—I think his concluding comment, and I will quote this from Senator THOMPSON's statement:

> It is difficult to imagine a more compelling situation for appointing an independent counsel.

That is from Director Freeh. That is not a partisan Republican. That is from a former Federal judge who is now Director of the FBI, who made that analysis after conducting a very extensive investigation. He says we need an independent counsel. I think the Attorney General should follow his advice.

Now we have, evidently, the chief investigator that the Attorney General appointed in the Justice Department making the same recommendation. Again, I haven't read his memo. Evidently, he just issued a memo—this is prosecutor Charles La Bella. This is according to news reports. I will insert this in the RECORD. This is July 23, 1998—recently—written by David Johnson. It says:

> Prosecutor Charles La Bella delivered a report to Reno last Thursday as he prepared to return to San Diego this week to take over as interim U.S. attorney. La Bella has marked his department by challenging her to replace him with an outside counsel.

I will read one section:

> But he contends only that their fundraising activities warrant outside investigation, and in the legal analysis La Bella concluded that Reno misinterpreted the law, creating an artificially high standard to avoid invoking the independent counsel statute.

It also goes on in the article to say that, last fall, La Bella urged her to seek appointment of an independent counsel to investigate fundraising telephone calls by President Clinton and Vice President GORE but she rejected that recommendation. In summary, La Bella concluded there was sufficient information to warrant appointment based on mandatory and discretionary provisions in the independent counsel statute, meaning he found enough specific information to justify outside investigation of high officials. He found that the Justice Department could not objectively investigate them on his own, the official said.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the New York Times, July 23, 1998]

CAMPAIGN INVESTIGATOR URGES RENO TO NAME INDEPENDENT PROSECUTOR

(By David Johnston)

WASHINGTON.—After a 10-month inquiry, the departing chief of the Justice Department's campaign finance unit has concluded in a confidential report to Attorney General Janet Reno that she has no alternative but to seek an independent prosecutor to investigate political fund-raising abuses during President Clinton's re-election campaign, government officials said Wednesday.

The prosecutor, Charles La Bella, delivered the report to Reno last Thursday as he prepared to return to San Diego this week to take over as interim U.S. attorney. In effect, after being chosen by Reno to revive an investigation that she had been criticized for neglecting, La Bella has marked his departure by challenging her to replace him with an outside counsel.

La Bella's report does not suggest that prosecutors are ready, or even close, to bringing a case against any top Democrats or administration officials, but contends only that their fund-raising activities warrant outside investigation. And in a legal analysis, La Bella concluded that Reno had misinterpreted the law creating an artificially high standard to avoid invoking the independent counsel statute, officials said.

La Bella's conclusions, coming from a seasoned federal prosecutor with full access to all grand jury evidence in the case, represents a serious internal fracture within the Justice Department. And the report seemed certain to provide Republicans with considerable leverage to intensify their demands that Reno step aside and let an outside prosecutor take over.

So far, she has refused to budge in her refusal to refer the case to outside counsel, and Wednesday there was no indication that Reno seemed likely to reconsider her position. Last fall, La Bella had urged her to seek the appointment of an independent prosecutor to investigate fund-raising telephone calls by Clinton and Vice President Al Gore. But she rejected that recommendation.

Reno has said she carefully weighed the facts and the law before determining that the appointment of an independent prosecutor was not justified under the independent counsel law. She has defiantly blocked the appointment even in the face of a recommendation last fall from FBI Director Louis Freeh, who urged her to seek an independent counsel.

Her unwillingness to seek the appointment has exasperated Republicans in Congress who have accused the Justice Department of a politically motivated effort to subvert the independent counsel law to protect upper level Democratic Party and White House officials from searching scrutiny.

The report follows a tempestuous hearing last week, in which she faced withering questions by senators on the Judiciary Committee. Sen. Fred Thompson, R–Tenn., who led Senate campaign finance hearings last year, confronted Reno by quoting a confidential memo that Freeh sent to Reno in November 1997. He quoted Freeh has concluded, ''It is difficult to imagine a more compelling situation for appointing an independent counsel.''

Justice Department officials said Wednesday that Reno and Deputy Attorney General Eric Holder had received the report and were reviewing it. But they would not discuss specifics. La Bella would not discuss the report.

Labella's report has been guarded closely. He produced only two copies, the officials said. He gave one copy to Reno and sent another to the home of Freeh, an ally whose top agent on the case, James Desarno, approved Labella's findings.

Tuesday, Reno assembled several of her top advisers to discuss the report, but they apparently reached no conclusions about how or whether to respond. She has already named a successor to La Bella. He is David Vicinanzo, a prosecutor from New Hampshire.

The report casts possible new light on La Bella's decision on leaving his job as the top campaign finance prosecutor, suggesting that he could be stepping down in the middle of the inquiry because he believed that the case should not be handled by the Justice Department but by an outside prosecutor.

So far, the campaign finance inquiry has produced only several low-level fund-raisers. But there has been no indication that the inquiry was likely to move up the chain of command at the Democratic National Committee or the White House.

In his report, the officials said, La Bella concluded that there was sufficient information to warrant the appointment based on the mandatory and discretionary provisions of the independent counsel statute, meaning that he found enough specific information to justify an outside investigation of high-level officials. Moreover, he found that the Justice Department could not objectively investigate them on its own, the officials said.

Still, it was not clear whether La Bella recommended whether an independent prosecutor should be named to investigate specific officials although he assessed the activities of several senior officials, including Clinton and Gore and others like Harold Ickes, a former deputy chief of staff, who played an important role in supervising the campaign from the White House.

The report also suggests that an independent prosecutor should examine how the Democrats and Republicans used party funds to pay a massive blitz of television ads that were thinly veiled election messages for Clinton and Republican nominee Bob Dole.

Mr. NICKLES. Mr. President, we have the House Judiciary Committee, we have the Senate Judiciary Committee, we have the Governmental Affairs Committee all saying we should have an independent counsel. That was all done last year. We have the head of the FBI saying we should have an independent counsel, and we have the special prosecutor, brought in by Attorney General Reno herself to head up the investigation, saying we should have an independent counsel. They all came to the same conclusion that there was enough campaign abuse or alleged violations of the law that we should have

an independent counsel to avoid the conflict of interest to investigate this matter further.

It is unanimous, with one exception—Attorney General Reno. In her comments, following Mr. La Bella's remarks, since that was made public, she says, ''Well, we want to discuss this with all of our attorneys. He was just one attorney.'' He was the lead attorney. He was the chief investigator. And Director Freeh is not just an attorney, he happens to be the Director of the FBI. And if he issued a 27-page report calling for an independent counsel, I think she should adhere to it.

I am bothered by the fact that if we had the chief law enforcement officer of the country not enforcing the law, not listening to the recommendations of her chief investigator, Mr. La Bella, not following the recommendations of the Director of the FBI, then I do not think she is enforcing the law. And that bothers me.

So, Mr. President, it is with some regret—I do not do this very often—but I think if Attorney General Reno does not appoint a special counsel under the independent counsel statute to investigate campaign abuses by this administration, I think she should resign. I do not think she is doing her job. I think she is involved in more of a coverup of the President's activities or the White House's activities than she is enforcing the law.

I hope she will change her mind. I hope she will review the memo that Director Freeh and Mr. La Bella have given her and follow their advice. Those two individuals are not partisan Republicans. They are not the chairman of the Republican Judiciary Committee or the House Judiciary Committee or they are not Senator THOMPSON or other members on the Governmental Affairs Committee. They are appointees by this administration. I give them great credibility. I hope that she will follow their advice. Mr. President——

Mr. SPECTER. Will my distinguished colleague——

Mr. NICKLES. I am almost finished.

Mr. President, I also ask unanimous consent that three editorials be printed in the RECORD, one of which is dated July 21, a New York Times editorial. The headline of it is ''Reno Flunks Law School.'' And just the last line says:

Ms. Reno didn't get it. She comes not to expose political corruption, but to bury it.

There is also a New York Times editorial from July 23 that says—I will just read this one paragraph——

The two people in the American Government who know most about this case—the lead prosecutor and the top investigator—are convinced that the trail of potentially illegal money leads so clearly toward the White House that Ms. Reno cannot, under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.

I ask consent that one additional editorial be printed in the RECORD. I will just read one paragraph. This is an editorial, dated July 27, from the Washington Times. It says:

Like Mr. Freeh, Mr. La Bella has concluded that his investigation has satisfied both the provisions of the independent counsel law. Both have concluded that it is a conflict of interest for Ms. Reno to investigate these matters. Mr. La Bella also joined Mr. Freeh in concluding that Ms. Reno—for that matter, Mr. Radek—have misinterpreted the statute by establishing too high of a standard for the implementation of the independent counsel statute. FBI agent James Desarno, who was named to the task force as the highest ranking agent at the time Mr. La Bella was appointed, has also concurred with the recommendation for the independent counsel.

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

[From the New York Times, July 21, 1998]

RENO FLUNKS LAW SCHOOL

By studying the transcript of last week's Senate Judiciary Committee hearing, it is possible to reconstruct one of the more remarkable internal documents of the Clinton administration. That is the tightly reasoned, 27-page legal memorandum in which Louis Freeh, the director of the Federal Bureau of Investigation, told Attorney General Janet Reno that she was failing in her duty to appoint an independent counsel to investigate President Clinton's fund-raising.

Republicans (believe) Ms. Reno is allowing the Justice Department's investigation of foreign contributions and Chinese government meddling in the 1996 election to crumble.

That accounts for Senator Orrin Hatch's by-the-numbers tone in lecturing Ms. Reno last week. ''You have conflicts of interest. There may have been crimes committed,'' he said. ''And that's why the independent counsel statute was passed to begin with, and that is to take it out of your hands, so you don't have to be accused of conflict of interest.''

Ms. Reno didn't get it. She comes not to expose political corruption, but to bury it.

[From the New York Times, July 23, 1998]

THE FIRESTORM COMETH

Charles La Bella, who has been leading the Justice Department's campaign finance investigation, has now advised Attorney General Janet Reno that under both the mandatory and discretionary provisions of the Independent Counsel Act she must appoint an outside prosecutor to take over his inquiry. The other important figure of this investigation, Federal Bureau of Investigation Director Louis Freeh, has already recommended an independent counsel. Ms. Reno can give her usual runaround about being hard-headed, but she cannot hide from the meaning of this development.

The two people in the American Government who know most about this case—the lead prosecutor and top investigator—are convinced that the trail of potentially illegal money leads so clearly toward the White House that Ms. Reno cannot, under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.

These are not the judgments of rebel subordinates or hot-headed junior staff members. Mr. Freeh, a former Federal judge, has been if anything too loyal to Ms. Reno during the nine long months that she has ignored his advice. Mr. La Bella was handpicked by Ms. Reno on the basis of experience and skill to run this investigation. Either she has to come forward and make the impossible argument that they are incompetent or bow to the law's requirements.

Ms. Reno may grumble about leaks of supposedly confidential advice. But the fact is that the American people need to know that two top law enforcement officers believe the Attorney General is derelict. Moreover, Mr. Freeh and Mr. La Bella are right to separate themselves from Ms. Reno, because if her attempt to protect Presidential fund-raising from investigation continues, it will go down as a blot against Justice every bit as enduring as J. Edgar Hoover's privacy abuses. Firestorm is an overused word in Congress, but if Ms. Reno does not make the appointment, the Republican Senate leadership ought to ignite one—today.

[From the Washington Times, July 27, 1998]

CHARLES LA BELLA SPEAKS

When Attorney General Janet Reno beseeched federal prosecutor Charles La Bella last September to come to Washington to rescue her department's clueless investigation of campaign-finance abuses during the 1996 election, her request was clearly an act of desperation.

Rather than seek an independent counsel to replace her department's demonstrably incompetent task force, Miss Reno convinced Mr. La Bella to lend his considerable credibility to the task force, which had been thoroughly politicized by its leader, Lee Radek, chief of the Justice Department's Public Integrity Section. By the time Mr. La Bella arrived, the FBI agents assigned to the task force had been bitterly complaining for months about the snail-like pace, believing Mr. Radek was far more interested in controlling the investigation than advancing it. Mr. Radek, of course, had been intensely, and successfully, lobbying Miss Reno against seeking an independent counsel.

It didn't take Mr. La Bella long to conclude that Mr. Radek's arguments against naming an independent counsel amounted to ''pablum.'' Last November, both he and FBI Director Louis B. Freeh advised Miss Reno to seek the appointment of an independent counsel to investigate charges that President Clinton and Vice President Gore had made illegal fund-raising calls from the White House. In a confidential 27-page legal memo to the attorney general, Mr. Freeh concluded, ''It is difficult to imagine a more compelling situation for the appointment of an independent counsel,'' arguing that the investigation had satisfied both the discretionary and the mandatory options governing such an appointment. Siding yet again with Mr. Radek, Miss Reno rejected the advice of Messrs. Freeh and La Bella last fall.

Mr. La Bella is now returning to San Diego, where he will become interim U.S. attorney, an appointment he received from Miss Reno. On July 16, he filed his final report, and it was revealed late last week that Mr. La Bella once again strongly recommended that Miss Reno seek an independent counsel. Like Mr. Freeh, Mr. La Bella has concluded that his investigation has satisfied both the provisions of the independent-counsel law. Both have concluded that it is a conflict of interest for Miss Reno to investigate these matters. Mr. La Bella also joined Mr. Freeh in concluding that Miss Reno and, for that matter, Mr. Radek, have misinterpreted the statute by establishing too high a standard for the implementation of the independent-counsel statute. FBI agent James Desarno, who was named to the task force as the highest-ranking agent at the same time Mr. La Bella was appointed, has also concurred with the recommendation for an independent counsel.

Given that Mr. La Bella was Miss Reno's hand-picked prosecutor to lead her department's faltering investigation, his views

ought to carry great weight, as, of course, should those of FBI Director Freeh. But Miss Reno has already displayed her trademark obstinacy and has failed to act in the 11 days she has had the benefit of Mr. La Bella's latest recommendation.

The Justice Department frequently reminds us that Miss Reno has sought more independent counsels than any previous attorney general. But it's worth recalling that she steadfastly refused to name an independent counsel to investigate Whitewater until after President Clinton instructed her to do so. And Kenneth Starr was appointed by a special three-judge panel, which rejected Miss Reno's recommendation that a more pliable, less independent prosecutor be reappointed.

By seeking independent counsels to investigate matters far less important than the massive campaign corruption that subverted the democratic process, Miss Reno has conveniently built a defense against having to seek an appointment that actually threatens the president. It's a brilliant tactic, but she cannot be allowed to get away with it.

The PRESIDING OFFICER. The Chair informs the Senator that his time has expired.

Mr. NICKLES. I thank the Chair. I now believe I have inserted in the RECORD all the subsequent statements that I have, including Attorney General Reno's statement before the Judiciary Committee, or at least excerpts of that.

I thank my friend and colleague. I also thank my colleague from West Virginia for his patience and courtesy, that he always extends. I appreciate that.

To my colleague from Pennsylvania, my time has expired.

Mr. SPECTER. For a question—I know the distinguished Senator from West Virginia is waiting. I will be just a moment or two.

Mr. BYRD. I will be happy to wait.

Mr. SPECTER. I appreciate that very much.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. My question, I say to Senator NICKLES, relates to the consequences of a resignation. I commend you for the statement which you have just made. I have joined others in the call for an independent counsel. And, in fact, when questioning Attorney General Reno on July 15 of this year—2 weeks ago on Wednesday—I asked her about specific cases and had an extensive chart which showed the justification for an independent counsel.

Then, because of the limitation of time, I mentioned only two cases, one where a memorandum had come from the Democratic National Committee to the White House identifying five people who were identified as being good for $100,000 each. The President initialed it. The Democratic National Committee called for a coffee. It was held in the Oval Office. Within a few days thereafter, four of the five contributed $100,000—specific and credible evidence. And the Attorney General responded she would get back to me, which I said surprised me because it was a well-known matter.

The second matter that I called to her attention—of only two because of the limitation of time—involved John Huang, where the photograph appeared and Carl Jackson, formerly of the NSC, National Security Staff, commented that Huang, in the presence of the President in the White House had said ''Elections are expensive, and we expect people to contribute.'' I have pressed for a mandamus act which I will not discuss now. I have on prior occasions.

The question that I have for my distinguished colleague from Oklahoma—and I thank my colleague from West Virginia—is, What will be accomplished with a resignation? Is there any expectation that the President will appoint somebody who will be tougher on the campaign irregularities in which he is so deeply involved, at least by allegation? Wouldn't the better course be to move on the legal front, recognizing that it is a very tough case, candidly, an uphill fight—a long shot, in common parlance—contrasted with the resignation where we are going to have a lengthy delay before a nomination is made—confirmation hearings—familiarity would be a matter of months—before a substitute attorney general would be in a position to respond to this issue about appointment of an independent counsel?

Mr. NICKLES. I appreciate the question by my friend and colleague. As I stated in my statement, one, I hope—I prefaced, I said if she does not appoint, if she does not appoint an independent counsel, then I think she should resign. And it is my hope that she will follow the wisdom of Director Freeh and Mr. La Bella, follow their advice and appoint an independent counsel. I hope she will enforce the law.

As my colleague from Pennsylvania is aware, I think the law is very clear. The one you mentioned with the coffees, the statute says: It shall be unlawful for any person to solicit or receive any contribution in a Federal building. The statute is pretty clear. It just has not been enforced.

I appreciate your statement. I think if she resigned—whoever is acting—before any person would be confirmed by the Senate, we would try to have a very clear understanding that the law would be enforced.

I would also mention—you mentioned John Huang. John Huang was in the White House 164 times. That is a lot of visits for a person who was primarily a fundraiser. I think clearly the law was abused; campaign abuses were very flagrant. And the law should be enforced.

Hopefully, the Attorney General will take heed of the advice that the Senate Judiciary Committee, the House Judiciary Committee, the Governmental Affairs Committee, the investigative committee in the House, and as well as the FBI Director and her chief prosecutor, Mr. La Bella, have given, and follow that advice with the appointment of an independent counsel. I think it would help relieve her of a lot of criticism. And I think it would be the right thing to do. I think it would be enforcing the laws as the law is written.

Mr. President, I again thank my colleague from West Virginia for his courtesy and also for his patience.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for 25 minutes.

Mr. BYRD. Mr. President, I thank the Chair.

MILITARY RELATIONSHIPS: NEW MARCHING ORDERS FROM THE PENTAGON

Mr. BYRD. Mr. President, last week, I took the Senate floor to call attention to reports that the Secretary of Defense was prepared to offer a proposal that would ease the penalties for adultery in the military. The report set off alarm bells in my own mind because moral responsibility in the military cannot be compromised without undermining the core values of the services—values such as honor, integrity, and loyalty.

As a result of my remarks, Secretary Cohen called me at home on Sunday—I believe it was Sunday—to assure me that he had no intention of watering down the Defense Department's policies concerning adultery and fraternization. In fact, he said, the new rules he was considering would strengthen those policies.

I appreciate the seriousness with which Secretary Cohen views this matter, and I applaud his efforts to come to grips with policies that have precipitated uneven treatment of military personnel and have resulted in morale-damaging charges of double standards.

The proposed new Pentagon policies were announced earlier this week, and I commend Secretary Cohen for upholding the military code of justice and resisting pressure to reduce the penalties for adultery. I wish I could have confidence that the new policies are sufficient and will fulfill Secretary Cohen's intent of ensuring even-handed treatment of adultery in the military. Unfortunately, I fear that the new policies fall short of the mark in that respect. Moreover, I fear that these new guidelines send conflicting signals to commanders in the field: Yes, on the one hand, adultery is still a crime in the military; but no, on the other hand, it will not be criminally prosecuted unless it is so flagrant that it disrupts or discredits the military.

I fear that some could read into these guidelines a message to the troops that lying and cheating are okay as long as you don't get caught. I do not for a moment believe that that is the message the Defense Department intends to communicate.

The stated intent of the new policies is to standardize good order and discipline policies among the Services, and to clarify guidance on the offense of adultery under the Uniform Code of Military Justice. In the case of fraternization, the new guidelines seem clear cut—they will impose a military-wide