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## Senate

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, we submit our lives to Your authority. Fill our minds with clear convictions that You are in charge of our lives and our work today. We commit it all to You.

May this commitment result in a new, positive attitude that exudes joy and hope about what You are going to do today and in the future. We leave the results completely in Your hands. Our need is not to get control of our lives, but to commit our lives to Your control. You know what You are doing and will only what is best for us and our Nation.

There is nothing that can happen that You cannot use to deepen our relationship with You. So when success comes, help us to develop an attitude of gratitude. When difficulties arise, help us immediately turn to You and receive from You an attitude of fortitude.

We place our hands in Yours and ask You to lead us. Through our Lord and Savior. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

### SCHEDULE

Mr. BENNETT. Mr. President, on behalf of the majority leader, I announce that today the Senate will resume consideration of Senate Joint Resolution 22, the independent counsel resolution. By previous order, from 10:30 a.m. to 11:30 a.m., the Senate will conclude debate on Senate Joint Resolution 22, the independent counsel resolution, and

Senate Joint Resolution 23, the Leahy resolution. Following debate on these resolutions, Senators should anticipate stacked rollcall votes at approximately 11:30.

Following disposition of these resolutions, the Senate may proceed to either the certification of Mexico or the nomination of Merrick Garland. Additional votes are, therefore, possible during today's session following the stacked votes.

The majority leader has asked me to remind Senators that this is the last week prior to our adjournment for the 2-week Easter recess, so he would appreciate Senators continuing to cooperate and adjusting their schedules accordingly for the scheduling of legislation and votes.

I thank my colleagues for their attention.

### UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF MERRICK B. GARLAND

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that at 3 o'clock today the Senate proceed to executive session to consider the nomination of Merrick B. Garland, to be U.S. circuit judge, and for it to be considered under the following time agreement: 3 hours equally divided in the usual form. I further ask unanimous consent that immediately following the expiration or yielding back of the debate time, the Senate proceed to a vote on the confirmation of the nomination, and immediately following that vote, the President be immediately notified of the Senate's action and the Senate resume legislative business.

It is my understanding this has been cleared on the Democratic side.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. If the Senator will suspend, under the previous order the leadership time is reserved.

### APPOINTMENT OF AN INDEPENDENT COUNSEL TO INVESTIGATE ALLEGATIONS OF ILLEGAL FUNDRAISING

Mr. BENNETT. Mr. President, under the previous order, we now have an hour of debate equally divided, and I have been designated as the manager to control the time on this side. I do not see a colleague yet who will control the time on the other side.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to Senate Joint Resolution 22 for 1 hour, with 30 minutes under the control of the distinguished Senator from Utah, 20 minutes under the control of Senator LEAHY, and 10 minutes under the control of Senator BYRD.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 22) to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, some general observations prior to getting into the details of this resolution, I think, are in order. As this matter has come before the Nation in the form of press reports, television commentary, newspaper analyses, et cetera, something that is very disturbing to me has happened. That is, a single cloak of suspicion regarding illegalities and improprieties has been cast over all aspects of anything relating to campaign financing, campaign fundraising, and campaign expenditures. Somehow, anything related to raising money or

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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spending money in a campaign has now become tainted, and we find people in the press and people in this Chamber casting aspersions that, in my view, are inappropriate and uncalled for.

I would like to set the terms of the discussion in this fashion. I suggest that, of course, the first dividing line is between that which is legal and that which is illegal. Many times in the press reports no one is making this dividing line. They are attacking anything dealing with fundraising as if it were all the same and all in the same pot. We should make it clear, we should understand that many of the things that are done for political fundraising are perfectly legal and, in my view, perfectly appropriate, while there are other things that are clearly illegal, and obviously anything illegal is not appropriate.

If I may, I was disturbed by some of the comments made on this floor with respect to the actions of the majority leader, primarily by the minority leader. The suggestion was left in the minds of some people that the majority leader was being accused of doing something illegal or improper by urging people to attend a Republican fundraiser and urging people to support the Republican Party. Not only was it not illegal nor was it improper, it was perfectly appropriate for the majority leader of the Republican Party to engage in this kind of activity. Just as, to be completely fair about it, in my view it was perfectly appropriate and perfectly proper for the senior Senator from Connecticut [Mr. DODD], in his role as the general chairman of the Democratic National Committee, to engage in fundraising activity on behalf of the Democratic Party in the last campaign. The Senator from Connecticut has not been attacked on the floor, as the majority leader was, but he has been attacked in the press, as people have tried to cast the cloak of impropriety that I described over all fundraising activities.

I will stand here and defend the right of the senior Senator from Connecticut to do what he has done on behalf of the Democratic National Committee as being perfectly appropriate as well as legal, just as I defend the right of the majority leader for what he has done in fundraising activities that are perfectly appropriate as well as legal.

Now, on the legal side of the line there have been activities that have taken place that, in my view, while legal, are not appropriate. It is, perhaps, legal for the President to have had the kind of extensive contact with campaign donors in the White House that we have seen reported in the press. The President has suggested that every President has met donors in the White House, and therefore this is perfectly OK. I will agree, once again, that previous Presidents have on occasion met with donors to their party or to their particular campaigns while in the White House. It is my personal opinion that the scale and the organized effort

that went into bringing people into the White House, whether it is for overnights in the Lincoln bedroom, organized and orchestrated by the President's own hand, or for the coffees, as they were called, has reached a level of unprecedented pattern of activity, and I consider it to be inappropriate.

I will stipulate that it apparently was not illegal. That does not mean we should not comment about it, we should not express our opinions about its appropriateness. But, clearly, it does not call for the appointment of an independent counsel. It is something we can talk about in the political arena. It is on the legal side of the line. If we think it is inappropriate, we should say so. If we think the pattern of activity in this area is just overwhelmingly improper, we have the right to say so. But we must recognize, once again, that some of that activity may clearly not have been illegal.

Drawing the line and coming over to the side of that which is illegal, I find, once again, there are degrees of illegality. Let me give you an example that has been heavily reported in the press: the receipt of a \$50,000 check by Maggie Williams, the chief of staff to the First Lady, while Ms. Williams was in the White House. That apparently is illegal.

Naturally, we take breaking of the law seriously. I don't think we need an independent counsel, however, to investigate Maggie Williams accepting a \$50,000 check while in the White House, and I don't think it is worth some of the furor that has been created in the press. If she broke the law in that instance, I think the Justice Department and the FEC, whoever is the appropriate legal authority, can handle that without any difficulty and does not require an independent counsel and, frankly, in my view, may not even require the tremendous hue and cry that has risen in this area in the press.

Again, I do not mean to minimize someone who violates a regulation or restriction, but there is a difference between violations that are either inadvertent, relatively innocent or springing out of a lack of understanding of the rules to those violations that, in my view, are truly sinister. We should not be talking about an independent counsel unless we have moved from the legal side of campaign funding and those things that are perfectly appropriate, toward those things that are perhaps inappropriate and improper, across the line to those violations that are inadvertent or relatively minor. We still don't have the necessity of calling for an independent counsel until we cross over into the territory of those infractions that are truly sinister and have serious implications about misuse of power in very high places.

It is my opinion that there have been enough violations in very high places in areas that I think are truly sinister that an independent counsel is, indeed, called for. But before I get into the details of that, I want to make my posi-

tion perfectly clear that I do not think we should appoint an independent counsel because people in the press, or people in this Chamber, get all exercised about activities in the three areas I have just described. None of them is serious enough to justify an independent counsel. Let's focus on the fourth area I have described, which I consider to be the truly sinister areas.

Mr. President, with that general statement and overview, I am prepared now to turn to my colleague from Michigan and yield such time to him as he may require from his 30 minutes so that we keep the time balanced in this debate.

Mr. LEVIN. I thank my friend from Utah.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Senator for his invariable courtesy. I ask unanimous consent that I be yielded 10 minutes. Senator LEAHY is not yet here, but I ask that, I am sure with his approval.

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

Mr. LEVIN. Mr. President, we will be voting on two resolutions later this morning. The first resolution, that of the majority leader, is a clearly partisan document, for a number of reasons which I will get into in a moment. The second resolution, which Senator LEAHY and I have introduced, intends to carry out the spirit and the purpose of the independent counsel law without prejudging the Attorney General review and, unlike the first resolution of the majority leader, the alternative resolution includes allegations against Members of Congress. The majority leader's resolution, the first resolution we will be voting on, does not in its final clause, its action clause, make reference to congressional campaigns, but only to the Presidential campaign.

The second resolution avoids prejudging the Attorney General's review, urges that the review be carried out without any political favoritism or any political pressure, and, perhaps most important, includes in that review Members of Congress and allegations against Members of Congress.

The first resolution is a partisan document for a number of reasons. First, it mentions Democratic problems exclusively. Second, it omits what it should include, which is a review of activities of Members of Congress. And, third, it includes what it should omit, which is a prejudgment of the process of the law that it seeks to invoke.

The independent counsel law provides that the Attorney General, upon receipt of certain specific information from a credible source against certain groups, including Members of Congress, shall take certain actions. It doesn't prejudge that action. The independent counsel law doesn't say that the Attorney General, in the absence of specific information from a credible source, will seek an independent counsel. It is only when those first two steps are

taken where she determines that there is specific information from a credible source that then the independent counsel law says she shall seek or, in the case of Members of Congress or other than the specific covered officials, she may seek an independent counsel.

The purpose of this law, in which I have been so deeply involved with Senator Cohen as my Republican counterpart in now three reauthorizations, the purpose of this law is to get an independent investigation of top Government officials at either end of Pennsylvania Avenue free from the taint of politics. That is the purpose of this law, to try to remove the allegations which swirl too often in election campaigns, or otherwise, that could involve criminal activities, to remove the consideration of those allegations against certain individuals and groups from partisan politics.

The independent counsel law, as I said, covers really three groups. First, there are covered officials—the President, Vice President, Cabinet officials, a few named others. Where there is specific information from a credible source that a crime may have been committed by one of these covered officials, then the Attorney General, if she finds those things have occurred, she must seek an independent counsel.

The second group is other persons where she might have a conflict of interest.

And the third group is Members of Congress, where, in the case the first steps have been taken and there is specific information from a credible source, then she may, if she determines it is in the public interest, seek an independent counsel. It is that third group which is omitted from the majority leader's resolution.

The law specifically provides for certain congressional participation through the Judiciary Committee. This is very important as the Supreme Court, in upholding this law in the case of *Morrison versus Olson*, made special reference to the fact that the involvement of the Congress was limited because the Supreme Court ruled under the separation of powers doctrine that the Congress could not control the independent counsel process. And so the Supreme Court, in the *Morrison* case, pointed out that the involvement of Congress was limited to members of the Judiciary Committee writing a letter to the Attorney General which, in turn, would trigger a report from her within 30 days. That is what the independent counsel law provides.

This resolution goes way beyond that, because it would put the Senate on record, albeit in a nonbinding way, nonetheless the full Senate on record, which is far different than a letter from members of the Judiciary Committee.

I have indicated the partisan nature of the first resolution that we are going to be voting on. Let me just give a few examples of allegations made against Members of Congress or others

than those that would be covered by this resolution, particularly in the area of tax-exempt organizations.

Just 2 months ago, the specially appointed investigative subcommittee of the House Ethics Committee released a unanimous bipartisan report relative to Speaker GINGRICH.

Here is what that bipartisan report found. This is a quote:

The subcommittee found that in regard to two projects, Mr. Gingrich engaged in activity involving 501(c)(3) organizations that was substantially motivated by partisan, political goals.

The subcommittee also found—these are the words of the subcommittee—that “it was clear that Mr. Gingrich intended”—I emphasize the word “intended”—“that the [American Opportunities Workshop] and Renewing American Civilization Projects”—those are the 501(c)(3)’s—“have substantial partisan, political purposes.”

The subcommittee said—this is a bipartisan report—that “In addition, he was aware that political activities in the context of 501(c)(3) organizations were problematic.”

Mr. President, it is illegal for 501(c)(3) organizations to participate in partisan activities. It violates the law. Yet, you have here a bipartisan subcommittee of the House that finds that Mr. GINGRICH, in regard to two projects, engaged in activity that was motivated by partisan goals and that he intended—he intended—that those projects—I am using their words—“have substantial partisan, political purposes” and “he was aware that political activities in the context of 501(c)(3) organizations were problematic.”

You talk about specific information from a credible source. Pretty specific, pretty credible, bipartisan subcommittee of the House of Representatives, part of the ethics committee. And yet, in the first resolution that we will be voting on, no suggestion to the Attorney General that she review the possibility that the public interest requires her to seek an independent counsel relative to Members of Congress. Only the Presidential election is in the “action” clause in the resolution before us. No reference to anything but Democratic activities in the “whereas” clause.

There are other tax exempts that should be considered by the Attorney General as provided for by the independent counsel—\$4.5 million went from the Republican National Committee to a tax-exempt group called Americans for Tax Reform.

According to the Washington Post, 20 million pieces of mail were sent out by that organization, millions of phone calls in 150 congressional districts. They even put on television ads in States, and in one State against a colleague of ours, attacking him for not showing up for work. “That is wrong,” said the television ad. This is by an organization that is not supposed to engage in partisan activity, putting on

television ads attacking somebody who is running for Congress, for the Senate, in this case.

A group using the same offices as Americans for Tax Reform, also a tax-exempt group, puts on an ad on television saying the following: “When Clinton was running, he promised a middle-class tax cut. Then he raised my taxes. He was just lying to get elected. This year he’ll lie some more . . .”

That is a tax-exempt group that is not supposed to be putting on partisan ads, but the resolution of the majority leader does not provide that the Attorney General will look into that kind of activity by tax exempts; only Democrats are mentioned and only the Presidential election is mentioned.

The PRESIDING OFFICER. The Senator’s 10 minutes have expired. Do you wish to yield more time?

Mr. LEVIN. I thank the Chair, and I think I better reserve the balance of Senator LEAHY’s time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Thank you, Mr. President.

May I inquire how much time I have remaining?

The PRESIDING OFFICER. Nineteen minutes and fifteen seconds.

Mr. BENNETT. I thank the Chair.

Mr. President, I am interested in the comments by my friend from Michigan. He is a distinguished lawyer. I have never had the experience of going to law school. But I must respond out of experience relating to the political circumstance.

He decries at length “no reference to Members of Congress” and gives us an example out of the life of NEWT GINGRICH, Speaker of the House, in saying, why does not the resolution call on Janet Reno to investigate the Speaker?

Mr. President, if Janet Reno were to decide that there was further action that needed to be taken with respect to Mr. GINGRICH, I doubt that she would run into any resistance in the White House to that decision. I doubt that the President would think that was not a good idea for her to do that or send her any kind of direction or subtle hints saying, “Do not pursue Mr. GINGRICH.”

The reason we have an independent counsel operation is because the Attorney General is indeed subject to pressure from the White House. And there is no such pressure with reference to Members of Congress, particularly Members of Congress of the opposing party.

In this body, both the Senator from Michigan and I sat with Dave Durenberger. Dave Durenberger found out directly that there was no problem in the Justice Department coming after a Member of Congress.

There are Members in this body who were here when Harrison Williams, known as “Pete,” was pursued by the Justice Department and his own party and ultimately went to jail.

In the structure of our Government, with the separation of powers, there is

no pressure on the Attorney General in the executive branch that would prevent him or her from going after a Member of the legislative branch, but there is clear pressure within the executive branch that could prevent an Attorney General from going after a member of the executive branch. And that is why the independent counsel statute was created.

I think the omission from the majority leader's resolution with respect to Members of Congress is a recognition that the independent counsel was never intended to go after a Member of Congress and it would be inappropriate to go after Members of Congress to put that in. It would fundamentally change the nature of the independent counsel circumstance.

Now, Mr. President—

Mr. LEVIN. Would the Senator yield?

Mr. BENNETT. I would be happy to.

Mr. LEVIN. When the Senator says it was never intended that the independent counsel go after a Member of Congress, I must yield myself 2 minutes to answer that.

The law specifically provides that when the Attorney General determines it would be in the public interest, that indeed she "may seek"—I am quoting the law—"an independent counsel for or relating to Members of Congress."

It is very specific in the law. And I just used the exact words, reading. Members of Congress are included in this law. Indeed, it was the current majority in this body that insisted that Members of Congress be included in the law and wanted to make it mandatory, and now they are left out of the resolution of the majority leader.

The ultimate resolution was to make it discretionary where the Attorney General found it in the public interest to do so. But the majority in this body had determined that Members of Congress be included. They were included, left discretionary, but it is very precise.

If I can disagree with my dear friend, it is very precise that Members of the Congress are included in the independent counsel law when it is determined by the Attorney General it would be in the public interest.

I will use 1 more minute.

The pressure that the Senator from Utah talks about, which he presumes comes from the White House—if it does—is wrong. We should not compound any such alleged pressure if, in fact, it exists by putting pressure on her by this legislative body. Pressure from any source is wrong. If the White House pressures her, it is wrong.

By the way, she has shown tremendous independence, tremendous independence when it comes to the selection of a decision to seek an independent counsel. This Attorney General has shown no reluctance to seek the appointment of independent counsel.

So if there is pressure, there should not be pressure from any source, White House or Congress. That is exactly why this first resolution, it seems to me, runs so counter to the spirit of the independent counsel law, because it

does explicitly put pressure on her. It jumps to a conclusion as to what she should find at the end of a process. We should not do it. If anybody else is doing it, they should not do it. We should not do it.

Mr. BENNETT. I thank my friend from Michigan for correcting my legal lack of understanding. And I do stand corrected and accept that instruction.

I say to him, and to any who feel, as he apparently does, that Mr. GINGRICH should be included in this, that I would be happy to have Mr. GINGRICH included in the resolution if indeed there were evidence suggesting there was something that had not already come out in the proceedings that have already gone forward.

The reason I am supporting this resolution is that I feel there is information that is being hidden within the executive branch, coming from somewhere. I do not know whether it is coming from the White House. I do not know whether it is coming from the executive office of the President. But from somewhere, there seems to be some kind of pressure being applied to the Attorney General to keep her from proceeding with the appointment of an independent counsel, as Members of this body individually have urged her to do, including Members of the Democratic side of this body, who have urged the Attorney General to proceed with the appointment of the independent counsel.

For example, the senior Senator from New York [Mr. MOYNIHAN] has said it is time for an independent counsel. I am sure my friend from Michigan would not stand to censure the senior Senator from New York for making that expression. He has expressed that freely, openly, and publicly as is his right.

All the resolution does that is offered by the majority leader is give other Members of the Senate the opportunity to make the same expression in a vote for a sense of the Senate—not binding, not with a force of law, simply making public the fact that they agree with Senator MOYNIHAN in his calling for a independent counsel.

Now, why is it that we feel there are things that need to be examined with an independent counsel that have not been? There are many, and our time is limited, but let me go quickly, Mr. President, to one example of something that I think calls out for the attention of an independent counsel. On the 13th of September, 1995, there was a meeting in the Oval Office, not in the Democratic National Committee, not in some other governmental office, in the Oval Office in the White House. President Clinton, of course, was there and with him were four other individuals—James Riady, not a Federal employee, an executive, indeed, an owner of the Lippo Group; Bruce Lindsey, who was a Government Federal employee and is the Deputy White House counsel; Joseph Giroir, Lippo joint venture partner and adviser and a former partner of the Rose Law Firm in Arkansas, again, not a Federal employee; and John Huang, a former executive with Lippo

but at the time of the meeting he was a Federal employee. So here you have the President, two non-Federal employees and two Federal employees. The discussion is whether or not John Huang will move from his position at the Department of Commerce to become vice chairman of finance of the Democratic National Committee. So here is the discussion in the Oval Office, including the President, regarding the future role of John Huang, taking place in the presence of two of Mr. Huang's former associates in the private world.

Mr. Huang made that move from the Commerce Department to the Democratic National Committee where he raised, according to the Democratic National Committee, \$3.4 million, \$1.6 million of which has had to be returned by the Democratic National Committee because they have been determined to be either inappropriate or illegal.

Now, when you ask the question, do we know everything we need to know about Mr. Huang and his activities stemming from that meeting in the Oval Office presided over by the President of the United States, we have Mr. Huang taking the fifth amendment, refusing to tell us anything further on the grounds that it might incriminate him. He joins with Charlie Trie, Pauline Kanchanalak, Mark Middleton, and Webster Hubbell in taking the fifth amendment, saying they will not cooperate with the investigation on the grounds that it might tend to incriminate them. There are others who have not taken the fifth amendment but who have left the country, including John H.K. Lee, Charlie Trie, Pauline Kanchanalak, Arief and Soraya Wiradinata, Charles DeQueljo, and Mr. Riady.

Of the four people who were in that meeting along with the President, one has taken the fifth amendment and the other has left the country. Roughly half of the money that Mr. Huang raised has already been returned by the Democratic National Committee on the grounds that it was either illegal or inappropriate. I think this summarizes the fact that we need much further investigation into, (a), what was decided at that meeting, and (b), what was done subsequent to that meeting as a result of those decisions, but of the four non-Presidential participants in that meeting, half of them are unavailable to us to give us a version.

There are many more examples. I see my friend from West Virginia has arrived. I will reserve such additional time as I have to summarize this later, and I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from West Virginia.

Mr. BYRD. Mr. President, on March 11, this body voted 99 to 0 to adopt a resolution that provides more than \$4.3

million to the Committee on Governmental Affairs for the sole purpose of investigating any and all improper or illegal activities stemming from the 1996 federal elections. The investigation will cover the presidential and congressional elections, and the results will be made known to the public early next year.

I believe that one of the primary reasons the resolution had the full support of the Senate was because of the various compromises that succeeded in making the scope of the investigation both bipartisan and fair. Absent those accommodations, the resolution would have been seen by the American people as nothing more than an attempt by one party to gain political advantage over the other.

That is why I am deeply concerned with the direction now being taken with this measure. Unlike the resolution that received the full support of the Senate on March 11, this resolution specifically targets for investigation by an independent counsel the President, the Vice President, unnamed White House officials, and the Democratic National Committee, and it does so based on nothing more substantial than "reports in the media."

Mr. President, the American people are painfully aware that both parties are guilty of abusing the campaign financing system currently in place. But this resolution would seek to exploit—apparently for partisan political advantage—the actions of only a Democratic President and the Democratic Party. Now, where is the objectivity? Where is the objectivity in that proposition?

Even if we disregard fairness, there is simply no logical reason why the Senate needs to be spending its time on this resolution. The simple truth is that the law governing the appointment of an independent counsel already provides a process that the Attorney General must follow. That process is clearly laid out in the U.S. Code, and it does not—I repeat, does not—include sense of the Congress resolutions.

The fact is, Mr. President, that this is an unprecedented behest.

Never before has the Congress attempted to dictate the naming of an independent counsel. We have never passed any measure that would tell the Attorney General, as this resolution does, that she "should" apply for the appointment of an independent counsel. The reason we haven't done so is because that would unnecessarily politicize a procedure that was expressly designed to restore public confidence after Watergate by taking politics out of our criminal justice system.

Furthermore, I find it ironic that we are debating this resolution at the same time that the Justice Department's Office of Public Integrity is actively engaged in an investigation of the very matters that this resolution seeks to have investigated. Career prosecutors are, as we speak, already working as part of an independent task

force looking into fundraising efforts in connection with the 1996 Presidential election. In addition, a Federal grand jury has already begun hearing testimony in connection with campaign contributions to the Democratic National Committee. But under the independent counsel statute, each of those efforts would cease. There would be no further authority for the Attorney General to convene grand juries or to issue subpoenas. Where is the logic? Where is the logic in that, Mr. President?

The decision to invoke the independent counsel process is, by law, a decision for the Attorney General alone to make. Let us let the law work as it was intended. We should not, through some misguided attempt at grandstanding, pass a resolution that serves no legitimate purpose except to score political home runs. Such a course tends to call into question the integrity of the Justice Department and of the entire independent counsel process.

This resolution has not had the benefit of committee examination and has been moved to the calendar by parliamentary device—I suppose through rule XIV. While that may be acceptable for some measures, and is acceptable for some measures, I feel that, on a matter this sensitive, a committee should have certainly had the opportunity to pass some judgment. The Congress is attempting to direct an Attorney General, when the law specifies the decision to invoke the independent counsel is and ought to be, by constitutional necessity, that of the Attorney General alone.

There is a mean spirit alive in this town currently, Mr. President, which is destructive, overly partisan and overtly partisan, and thoroughly regrettable. We seem to have completely forgotten about the mundane necessities of governing, like crafting a budget and dealing with the myriad problems that face the American people.

Instead, we are engaged in a feeding frenzy, like sharks that have tasted a little blood and hunger for more. If you have ever observed sharks being fed red meat, you know that it is not a pretty picture. And I am sure that the excesses of partisanship emanating from Washington these days and being witnessed by the American people are far from appetizing.

No one is suggesting that we turn our backs on corruption or fail to explore wrongdoing. But I implore some in this body to cool off and to try to get a sense of perspective on this entire matter.

Service in the U.S. Senate is a tremendous honor. Each of us has expended great personal effort to get here, including the straining of our personal lives in order to attain a wonderful prize, a seat in this great body. The benefits of winning that prize include the opportunity to participate in governing the greatest country on Earth, the United States of America,

and through the quality of that governance, to inspire and to uplift our people.

So I urge each of my colleagues to focus on that opportunity and on the great and long tradition of this body. Let's put aside this and all other unwise techniques for embarrassing each other and do something for the good of the American people. If there are those who want to embarrass themselves by wrongdoing, they will be found out because there are processes already at work to ferret out that information and bring it to the full light of day. So let us leave the investigation of campaign abuses by both political parties in the hands of the very capable people charged with conducting them and avoid the allure of "piling on" for political advantage. It is time for us to remember our real duties and our heavy responsibility to legislate and to govern for the common good and, by that example, so encourage our President to do the same.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I will vote against both the Republican and the Democrat resolutions.

I hold that the Attorney General should appoint an independent counsel to investigate alleged improprieties by Democrats and by Republicans in fundraising for the 1996 Presidential and congressional campaigns. I believe the public will only be reassured if an independent counsel looks into what has been happening. The issues must be aired in an independent, nonpartisan setting. And if there have been violations of law, there must be consequences.

Last week, after much debate, the Senate agreed to fund the Governmental Affairs Committee probe into illegal and improper fundraising and spending practices in the 1996 Federal election campaigns. A unanimous Senate believed that a credible investigation requires that we look not only at our President, but also at ourselves. So, too, should an independent counsel.

Senate Joint Resolution 22 suggests that the scope of the independent counsel's investigation should be limited to the allegations of wrongdoing by Democrats in the 1996 Presidential campaign. There is no mention of an investigation of congressional campaigns.

Senate Joint Resolution 23 does not call for the appointment of an independent counsel. To say again, in my view, an independent counsel is the only entity capable of conducting an investigation without dissolving into partisan bias. And it is the only way of proceeding that avoids the appearance of conflict of interest.

Mr. BIDEN. Mr. President, I would like to offer just few comments to indicate why I believe the course chosen by the majority today relating to the independent counsel is unwarranted.

First, the official responsible for initiating the appointment of an independent counsel—Attorney General

Janet Reno—has maintained the highest standards of integrity and professionalism. Second, the Attorney General has proven her willingness to request the appointment of independent counsels in the past when she believed the statutory standard was met. And, third, the Attorney General has already undertaken a serious inquiry into the campaign fundraising issues and continues to consider, as the facts develop, whether to seek an independent counsel.

As we review the facts, we must remember that the independent counsel statute is triggered only upon receipt of specific, credible evidence that high-ranking Government officials listed in the statute may have violated our criminal laws. This is an appropriately high threshold that must be met before the process of appointing an independent counsel can go forward. This standard is not met by vague allegations. The law does not apply to unethical, improper, or unseemly conduct. Rather, the statute is triggered only after the Attorney General determines, after consulting with career Justice Department prosecutors and engaging in a serious, deliberative process, that the statutory test has been satisfied.

The conduct of the 1996 elections are being carefully scrutinized by the Department of Justice. A task force comprised of career prosecutors from the Public Integrity Section of the Criminal Division, supported by over 30 FBI agents, has been assembled to explore fully the range of issues that have been raised. This task force will determine which, if any, of the allegations warrant criminal investigation. Of course, if the task force receives specific evidence from a credible source that a person covered by the Independent Counsel Act may have violated the law, a preliminary investigation under the act would be initiated. But, to date, the Attorney General has determined that the Department has not received such evidence.

In short, we are at the early stages of the task force's operations where the job is best left to career investigators and prosecutors.

What is more, under the independent counsel statute, it is the Judiciary Committee—not the full Senate—which has the most proper oversight role of the independent counsel process. I argued last week that was unnecessary for the Judiciary Committee to make any conclusions at this time as to the propriety of appointing an independent counsel. But, a majority of the committee did exactly that last week. Now, the full Senate has been called on to embark on an even more unnecessary and unwarranted course by asking all Senators to—in effect—substitute their judgement for that of the career investigators and prosecutors. I do not believe that the members of the Judiciary Committee who spend so much of their time overseeing Justice Department activities could make such a judgement now—so, I certainly do not

think it possible that all the other Senators who do not sit on the Judiciary Committee can prudently or accurately make this judgement.

Not only do we have a comprehensive task force already reviewing the 1996 campaign fundraising issues, but we also have an Attorney General who has repeatedly shown her independence, integrity, and willingness to call for an independent counsel. Since taking office, Attorney General Reno has requested the appointment of at least four independent counsels—Kenneth Starr, Donald C. Smaltz, David M. Barrett, and Daniel S. Pearson—to investigate wrongdoing of high executive branch officials and other individuals covered by the statute.

In short, the most prudent course today is to wait for the Justice Department's investigation to be completed. Then, and only then, can the need for appointment of an independent counsel can be evaluated based on a complete and full record.

I would also add that this is consistent with how I have proceeded in past cases. For example, in 1992, I, along with several other Democratic Senators on the Judiciary Committee sent a letter to then-Attorney General William Barr requesting that he call for an independent counsel to investigate the possibility that high-ranking officials engaged in obstruction of justice in the prosecution of a particular case. I did so only after Attorney General Barr had appointed a special counsel, indicating that the Attorney General had already concluded that criminal conduct may have taken place. I called for an independent counsel at that point to ensure that this investigation be carried out by someone whose independence was clear, rather than by a special counsel hired by the Attorney General.

Finally, we also need to keep in mind that there are some costs to appointing an independent counsel at this time. An inquiry is already well under way—FBI agents have been assigned to the task force and, according to press reports, subpoenas have been issued and a grand jury has been convened. Once an independent counsel is appointed, that inquiry must be shut down and the independent counsel will have to start from scratch. And as we know from past experience, independent counsel investigations can linger for years. So if we are interested in resolving this matter, and getting answers as soon as possible, we ought to allow the Justice Department to go forward and put our trust in Attorney General Reno to trigger the independent counsel statute only if and when she deems it necessary.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time remains for the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 6½ minutes.

Mr. LEAHY. Mr. President, Senate Joint Resolution 22 does not advance

the administration of justice and is not authorized by the independent counsel law. I believe it an inappropriate effort to subvert the independent counsel process.

We spent 4 days debating this. We have yet to confirm one single judge. We may possibly have a vote on a nominee to one of the almost 100 Federal judge vacancies before we go on our second vacation. We have not had 1 minute of debate on a budget resolution. We have not had 1 minute of debate on the chemical weapons treaty. We have not had 1 minute of debate on the juvenile crime bill. But we spent 4 days on this.

I would have thought that the day the President leaves for an international summit with the President of Russia would not be an appropriate time for attacking the President. I would have thought it a time for coming together to demonstrate to the rest of the world that Democrats and Republicans can work together and can at least show support for the President of the United States as he pursues the interests of the United States in his meetings with the President of Russia.

That is the way we have always done it. In my 22 years here, under the majority leadership of Mr. Mansfield, Mr. BYRD, Mr. Baker, Mr. Mitchell, and Mr. Dole, we have always, always followed the rule that we do not bring something onto the floor of this Senate attacking the President of the United States as he is about to go into a summit.

Apparently, as the distinguished Senator from West Virginia said, there is a meanness going through this town, and that rule that has always been followed, a bipartisan rule always followed with Democratic and Republican Presidents, always followed with Democratic and Republican leaders, is not going to be followed here today. I think that is unfortunate. I think it gives an unfortunate image to the rest of the world, and it certainly is not in the best traditions of the U.S. Senate.

It is also ironic that we are being asked to take this action today knowing that last Thursday the Republicans and Democrats on the House and Senate Judiciary Committees sent written requests to the Attorney General invoking the statutory provisions that provide a limited role for Congress in the independent counsel process.

And, of course, this resolution would call for an independent counsel only for the President—it is restricted to the 1996 Presidential campaign. This resolution carefully crafted so that it won't touch any of the Republicans or Democrats in the Senate or Republicans or Democrats in the House. In other words, we say we are like Caesar's wife, we are above all this, we are untainted by any scandals. But go after the President and the Vice President; and, incidentally, let's really slam the President as he heads off to negotiate with the only other President of a nuclear superpower. I think the resolution

takes too narrow a view if we are up to making demands upon the Attorney General for an independent counsel. The resolution shields congressional fundraising practices from investigation.

Boy, somebody is not reading the paper. It didn't make sense to try to shield us from an investigation when the same limits were proposed in connection with the funding resolution for the Governmental Affairs Committee, and it does not make sense or increase our credibility with the public now.

Indeed, today, the Washington Post had a front page story reporting that a lobbyist for a foreign government was shaken down last summer by the same Member of the House who now chairs their investigation into alleged campaign fundraising abuses. Incidentally, this was not only the lobbyist but, if this article is accurate, it even went to the ambassador of a foreign power.

We on the Judiciary Committee and in the Congress have done all that the statute allows with respect to the determination by the Attorney General. The 30-day period for the Attorney General's response has begun to run. We do not need to do anything further on this at this time.

We ought to get about the real business of the U.S. Senate and abandon this ill-conceived effort to instruct the Attorney General how to proceed. She doesn't need our guidance and I do not want to derail the investigations that are under way.

But if we have to engage in this kind of sideshow, as the President leaves for an international summit, let us at least restrain ourselves from seeking to pressure the head of our Federal law enforcement agency and instead pass the alternative form of resolution that urges her to resist political pressure and follow the law. Incidentally, unlike the original resolution, the alternative resolution, Senate Joint Resolution 23, does not shield the Congress from any investigation.

I reserve the remainder of my time.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I appreciate the admonition by the senior Senator from West Virginia and repeated by the Senator from Vermont with respect to meanness. I have made every attempt during this presentation to make sure that there is none in any of the things that I have said, and to remind Senators in my opening comments that I think many Members of this body have inappropriately been stigmatized by the press and others for doing that which is perfectly appropriate and perfectly legal.

I must once again make reference to what I consider to be an inappropriate attack on the motives of the majority leader that was mounted by the minority leader earlier during this debate. I think that is inappropriate. The majority leader is acting out his good motives, even though there may be some who disagree with him.

As to the argument that this resolution somehow exempts Members of Congress and somehow exempts members of the Republican Party from any action on the part of the Attorney General, I point out the effective language of the resolution which says, "It is the sense of Congress that the Attorney General should make application to the Special Division of the United States Court of Appeals to the District of Columbia for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign."

There is nothing in there that says she shall not exercise this right with respect to a Member of Congress, that she shall not go after a Republican nominee, that she shall not do any of the other things that are simply an expression that she should do it with respect to the Presidential campaign, and no reference in that resolve portion of even Democrats rather than Republicans.

With that, Mr. President, I yield the remainder of the time to the majority leader.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

#### ORDER FOR MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that immediately following the stacked votes today that there be a period of morning business until the hour of 3 p.m. today, with Senators permitted to speak for up to 5 minutes each with the exception of the following: Senator DASCHLE, or his designee, in control of up to 60 minutes; Senator BENNETT, or his designee, in control of up to 30 minutes; Senator BROWNBACK for up to 10 minutes; and, Senator CLELAND for up to 15 minutes.

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

Mr. LOTT. Mr. President, today after months of media exposes and the American people asking questions about exactly what is going on here, I think the question that we are trying to answer today is, "Why hasn't Attorney General Reno appointed an independent counsel to investigate these matters?" Members of both parties, Democrats as well as Republicans, have asked that question, and they can't get a satisfactory answer. They have called on the Attorney General under the law involving the independent counsel to appoint an independent counsel. Senator MOYNIHAN, Senator FEINGOLD, and I think others in both parties have said this is the way that we should proceed, and this independent counsel should be appointed.

That is why we brought before the Senate Senate Joint Resolution 22 to express the sense of this body "that the Attorney General should make application to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign."

I cannot understand how anyone who is familiar with the language of the independent counsel statute can disagree with this resolution. And I have gone back and read it and reread it. I have been around when this statute has been passed, and modified and passed again. Frankly, I have always had some reservations about it. But it is on the books, and it is clear when it should be activated.

That statute sets two thresholds for the process of appointing an independent counsel. The first is whether there have been credible and serious allegations of illegal acts by high officials. And it defines who these high officials may be.

That doesn't mean anyone has to be presumed guilty. As long as the allegations are credible and serious, the statute requires the Attorney General to take action.

Clearly, that first threshold has been met by what we already know from news reports about illegal foreign donations and the use of White House facilities for campaign fundraising.

I need not repeat all the instances others have cited during this debate. One expose has followed another. One admission has followed another. One explanation or excuse is followed by another. Without judging anyone involved, it is as clear as can be that the first threshold of the independent counsel statute has already been met.

But if anyone disagrees with that assertion let them consider the second threshold of the law, the second set of circumstances that permits the Attorney General to take action. That second threshold is the existence of a perceived conflict of interest on the part of an Attorney General who is appointed by the President and confronted with possible illegal activities involving the White House.

This provision was put in the independent counsel statute in 1978 in order to extricate Attorneys General from serious situations just like the one in which the Attorney General finds herself now. Confronted by myriad allegations of wrongdoing within the administration, of which she is a part, it is not her role to pass judgment on them, and it should not be. Under the law, it is her responsibility to trigger the court process by which an independent counsel takes over the role and does the job which the law deliberately takes out of her hands.

Listen to the Attorney General herself on this point when she testified, just 4 years ago, on the reenactment of the independent counsel statute:

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.

In other words, the Attorney General herself.

Who did deny that this second threshold for applying the independent counsel has been more than met? Through no fault of her own, Attorney



General Reno is caught in an excruciating conflict of interest. If she were to aggressively investigate charges of misconduct by senior administration officials, she could be accused of excess zeal to protect her own reputation for integrity. If, on the other hand, she does not uncover wrongdoing, she would be accused of letting the guilty escape because of political considerations.

To shield the Attorney General—from that predicament, and to protect the integrity of the entire Department of Justice, is the essential and primary purpose of the independent counsel statute.

If that is all so obvious, why then, the question might be asked, is the Senate considering this resolution today? The answer is that we are compelled to take this step, formally expressing the sense of this institution, for two reasons.

First—it is quite common, and, in fact, almost always when there are serious issues being debated that don't necessarily require a law to be passed—the Senate expresses its collective sense on the issue of national import. If we do not do that with regard to this matter, I think we will be slighting our duty.

Second, this resolution is a result of our rising frustration with what seems to be determined inaction on the part of the Attorney General to appoint, or start the process to appoint, an independent counsel. Like the American people, we must wonder what it will take to jar the Department of Justice to activate the independent counsel law. After all, the Department is not dealing with one or two frivolous allegations. It is dealing with a steady drip, drip, drip of revelations over a period of several months that has now become a tainted stream of suspicion.

There is only one way to clean it up, and that is through the appointment of an independent counsel. Let me remind my colleagues that the purpose of such an appointment is not just to prosecute the guilty but to clear the innocent. In neither case should that be seen as a partisan endeavor.

Nonetheless, many of our colleagues on the other side of the aisle find fault with this resolution. They say it ought to apply to the Congress as well. But the independent counsel statute already does apply to Members of Congress.

If the Attorney General has received credible and serious allegations of illegal activity by one or more Members of Congress, she is already fully empowered to ask the Federal court to name an independent counsel. And it has been done in the past. Believe me, it has been done. The conflict is not between the administration and the Congress. The Attorney General can take that action. The perceived conflict of interest is when you have the Attorney General of the same party of the people in control of the White House where allegations are being made.

I respectfully suggest that the effort being made here to include the Congress in this resolution is, once again, just a distraction. That is as polite a term as I can find for something that is irrelevant to the Nation's concern about what we have seen happening.

But what has been the *modus operandi*? Every time another new, serious allegation comes out, the alternative by the Democrats has been to attack the people who are going to be in critical positions. Senator FRED THOMPSON, who is chairman of Governmental Affairs, his motives were impugned when we were moving through with setting up the investigation for Governmental Affairs. Insinuations, well, this has 2,000 ramifications. And now today DAN BURTON, the chairman of the committee in the House who has a job to do, yes, attack him.

That has been the way it has been done for the last 4 years. Anytime you get accused by somebody or somebody has a job to do, go after them. That is what is at stake here—distraction, obfuscation, say, well, they do it, too. No. So much of what has happened here is not normal; it is not the way it has always been done.

That campaign is the heart of matter. The campaign has been the focus and the forum on other issues whereas what we are trying to get at is a very serious matter here, illegal foreign contributions. I mean even the word espionage has been suggested in all this. We are talking about staggering sums of money that have been raised and in unusual ways.

That campaign continues to generate media allegations about improper—we voted on that last week—as well as illegal conduct.

If anyone is tempted to take the position of a pox on both houses, I have news for them. It is not true that everybody in politics *per se* behaves alike or ignores the law or pushes the limits of legality. There are clearly things in the law that may be debatable, but they are legal and they are appropriate. If we want to go back and have a debate—and we will have a debate this year on campaign finance reform, but before we start trying to reform the law, I think we need to look at how do we find out what happened. Who did what? What has gone on here?

If anyone is tempted to take that position, I think they need to reconsider. We do not all do it, and I do not think that it is going to work to just try to shove it off by trying to drag the Congress into it. We are trying to get at what has happened.

The independent counsel, by the way, is not necessarily going to be a slap at the President. In fact, that is the way to quiet this thing down, have the process go forward, have an appropriate investigation, find out what happened, who did what, by an independent counsel.

As a matter of fact, I am going to presume that it may not reach to the President. I do not think all of these

things involve the President. They may not come to that conclusion in the end. But this is the way to get at the bottom of what really has happened. So I urge my colleagues here today do not be distracted. We have a very clear resolution here that just says it is the sense of the Senate that the thresholds have been met to provide for an independent counsel and that we should do that, make it very clear what our position is and go on with the substantive business that we have to do around here.

Some people say, how are you going to deal with the budget, less taxes, less spending, less Washington, more freedom if you are going to be fighting on these other things? As a matter of fact, maybe now we are in a position to move on. We have a committee that has been funded. They can do their investigation, their hearings. If we have an independent counsel appointed, which clearly I think the law has provided for, and the threshold has been met, then we can go on about our other business.

I urge my colleagues to vote for Senate Joint Resolution 22, I believe it is, and then vote to table the other resolution that is pending, because it is no more than a distraction because the law already provides for that coverage.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, do I not have a minute, 40 seconds remaining?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute, 42 seconds.

Mr. LOTT. Mr. President, if the Senator will yield 1 second.

Mr. LEAHY. On the Senator's time.

Mr. LOTT. On my time. Do I have any time left or has all time on this side expired?

The PRESIDING OFFICER. The leader continues to have leader time.

Mr. LOTT. I thank the Chair.

Mr. LEAHY. Mr. President, I have listened to the soothing words of my good friend from Mississippi, but they do not bring out the fact the Attorney General has already formed a task force of experienced prosecutors to investigate whether criminal conduct took place in the 1996 Federal election campaigns involving, as well, 30 agents from the Federal Bureau of Investigation with subpoena power and testimony reportedly being heard before a grand jury. If a preliminary investigation is begun under the statute and an independent counsel is appointed, all this investigation stops, clang, like that. And to say that we are looking at Congress is interesting. If you read Senate Joint Resolution 22, it speaks only of investigating allegations of illegal fundraising in the 1996 Presidential election campaign. If you look at Senate Joint Resolution 23, which the majority leader wants tabled, it



speaks of Members of Congress as well as Presidential elections. It is very clear they do not want it going to the Members of Congress question.

I still say I am disappointed not to hear why we have broken decades and decades and decades of tradition to bring up something obviously aimed directly at the President of the United States as he leaves for a summit meeting with the President of the only other nuclear superpower. It has never been done, it has never been allowed by majority leaders of either Republicans or Democrats with either Republican or Democratic Presidents. Perhaps at some point in this Congress we will go back to the traditions of comity that we have seen before. But, in the meantime, let us vote on this resolution, but let us also vote on Senate Joint Resolution 23, which would include the Congress. I call on all my colleagues to be courageous enough to speak up and say we will support investigations of ourselves as well as the President.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is on the passage of the joint resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 32 Leg.]

#### YEAS—55

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith, Bob
Coats	Hutchinson	Smith, Gordon
Cochran	Hutchison	H.
Collins	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner
Faircloth	McCain	

#### NAYS—44

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	

ANSWERED "PRESENT"—1

Dodd

The joint resolution was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 22), with its preamble, reads as follows:

S.J. RES. 22

Whereas 28 U.S.C. §§591 et seq., allows the Attorney General to make application to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an independent counsel when there is specific and credible information that there may have been violations of Federal criminal law (other than a class B or C misdemeanor or infraction) and the investigation of such violations by the Department of Justice may result in a political conflict of interest;

Whereas this Attorney General has previously exercised that discretion to apply for the appointment of an independent counsel to investigate the Whitewater matter on the basis of a political conflict of interest;

Whereas there has been specific, credible information reported in the media that officers and agents of the Democratic National Committee and the President's reelection campaign may have violated Federal criminal laws governing political fundraising activities in connection with the 1996 Presidential election campaign;

Whereas, according to reports in the media, the Attorney General has found such allegations of sufficient gravity that she has created a task force within the Department of Justice and convened a grand jury to further investigate them;

Whereas there has been specific, credible information reported in the media that senior White House officials took an active role in and supervised the activities of the President's reelection campaign and the Democratic National Committee in connection with the 1996 Presidential election campaign;

Whereas there is specific, credible information reported in the media that the decision-making structure and implementation of fundraising activities carried out by the Democratic National Committee and the President's reelection campaign were supervised by White House officials, including the President and Vice President; and

Whereas it is apparent that any investigation by the Department of Justice allegations concerning the fundraising activities of the Democratic National Committee and the President's reelection campaign will result in a political conflict of interest because such an investigation will involve those senior White House officials who took an active role in and supervised the activities of the President's reelection campaign and the Democratic National Committee: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of the Congress that the Attorney General should make application to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

#### RELATIVE TO THE DECISION OF THE ATTORNEY GENERAL ON THE INDEPENDENT COUNSEL PROCESS

The PRESIDING OFFICER. The Chair lays before the Senate Senate Joint Resolution 23 for 2 minutes of debate equally divided.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 23) expressing the sense of the Congress that the Attorney

General should exercise her best professional judgment, without regard to political pressures, on whether to invoke the independent counsel process to investigate alleged criminal misconduct relating to any election campaign.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the full scope of fundraising irregularities on both sides of the aisle and on both ends of Pennsylvania Avenue should be the subject of investigation.

Today, we have seen reports that a lobbyist for a foreign government was being shaken down and a foreign ambassador was contacted in this regard by the House Member who chairs the committee charged with investigating allegations of fundraising abuses.

The resolution that many just voted for carefully excludes any attention to congressional conduct. The resolution on which we are now prepared to vote lets the chips fall where they may. It includes congressional election campaign activities.

Having just voted to instruct the Attorney General to apply for an independent counsel to investigate those with the Presidential campaign, let us proceed to support—not dodge by trying to table—a resolution that would allow the Attorney General to proceed with respect to congressional fundraising abuses, as well. Otherwise, the American people are going to see this as a blatant political attack on the President as he goes to Helsinki that excludes any attention to ourselves.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, as my friends on the Democratic side of the aisle have so often reminded us during the debate, there is a mechanism going forward in the Governmental Affairs Committee to investigate all aspects of the 1996 campaign, congressional as well as Presidential. This is clearly not the function of an independent counsel.

The function of an independent counsel is to investigate allegations of the most serious and difficult kinds of lawbreaking. I know of no such allegations that would require a special counsel in the area outside of those that we have talked about during the debate. Therefore, I intend to vote against this resolution because it does not address the problem that we face. Whatever problem is there will be clearly handled, and handled competently, by the Governmental Affairs Committee.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.