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

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

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

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

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

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

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

Mr. DURBIN. I thank the Chair.

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

The PRESIDING OFFICER. The Senator from Montana.

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

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

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

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

OUR SYSTEM OF TAXATION

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

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

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

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

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

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

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

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

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

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

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

allows them to use their God-given talents to ensure economic and political freedom.

We must put in place those policies that allow us to provide essential Government services, help those who cannot help themselves and build the infrastructure that provides us with opportunity and promise for the future. We must work to ease the excessive tax burden being shouldered by families.

It would be a noble work, indeed, in this Senate, if we could provide for the time when decisions could be made by families at the kitchen table with regard to their economic and political future, when parents had more options. We must provide them.

Through reform and reduction of our tax burden, this process can begin. The opportunity exists at this time, and the time is now. It ensures parents the opportunity to raise their children comfortably and provide for a stable, financially secure future. Thank you, Mr. President.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour 2:15 p.m.

Thereupon, at 2:04 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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

(The remarks of Mr. LEVIN pertaining to the introduction of S. 576 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEVIN. Mr. President, I ask unanimous consent that after I speak for 4 minutes, the Senator from Illinois be recognized at that time.

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

THE ATTORNEY GENERAL'S INDEPENDENT COUNSEL DECISION

Mr. LEVIN. Mr. President, I want to comment on the independent counsel decision of the Attorney General.

The Attorney General's obligation is to follow the law. It is not to respond to political pressure from whatever source.

Now, over the last weekend, there were some extraordinary attempts made by a number of House Republican leaders to literally scare the Attorney General into doing what they wanted. Both Speaker GINGRICH and Majority Leader ARMEY said Sunday, in effect, that if the Attorney General did not seek an independent counsel, it is because she caved in to administration pressure.

I ask unanimous consent that the April 14 article of the Washington Post, entitled ''Republicans Warn Reno on Independent Counsel,'' be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, those comments by the Speaker and the majority leader of the House constitute an attempt at political intimidation and coercion. Their message to the Attorney General was that if she doesn't seek the appointment of an independent counsel, she would run the risk of being brought before a congressional committee and that she would be investigated, she would be put under oath, as though she, somehow or other, is violating her oath.

The statements by the Republican leaders in the House fly in the face of the very purpose of our independent counsel law. Now, this is a statute that we passed, on a bipartisan basis, to take politics out of criminal investigations of high-level officials. But the Speaker of the House and the majority leader of the House worked mighty hard to put politics right back into the law. Their threats to the Attorney General—and that is exactly what they were—to make her do what they want were inappropriate, and they jeopardize the very law that they are demanding she invoke.

She is required and was required to follow the law, wherever it leads her, despite the clumsy efforts at political intimidation of the Speaker of the House and the majority leader of the House. Their comments and their efforts to intimidate and coerce her to reach a conclusion that they believe is the right conclusion are inappropriate; they undermine a very important law, and they put that law's usefulness into jeopardy.

There are thresholds in the independent counsel law. The Attorney General has gone through, very carefully, in her letter to the Congress why it is she does not at this time seek the appointment of an independent counsel. She has gone through the evidence that she has and has indicated why the thresholds in the statute have not been met. She has done so carefully and professionally.

I urge every Member of this body to read the Attorney General's letter to Senator HATCH before they join any partisan effort to attempt to undermine the purpose of the law and to partisanize it.

Now, Senator Cohen and I worked mighty hard to reauthorize this law. We did it more than once. We did it because it holds out the hope that serious allegations against high-level officials can be dealt with on a nonpartisan basis. That hope is being dashed by the kind of excessive comments that the Speaker of the House and majority leader of the House engaged in last weekend when they engaged in threats and coercion, attempting to politically intimidate the Attorney General of the United States. She has not shown a reluctance to use the independent counsel statute when the threshold has been met. She is following the law to the best of her conscience and ability. She has done a professional job. I commend her for following the law and the public integrity section recommendation in her Department, rather than bowing to political pressure. I emphasize that she has not, and I believe will not, bow to political pressure from whatever source or whatever direction.

I ask unanimous consent that the Attorney General's letter to Senator HATCH be printed in the RECORD at this time.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, April 14, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On March 13, 1997, you and nine other majority party members of the Committee on the Judiciary of the United States Senate wrote to me requesting the appointment of an independent counsel to investigate possible fundraising violations in connection with the 1996 presidential campaign. You made that request pursuant to a provision of the Independent Counsel Act, 28 U.S.C. §592(g)(1), which provides that ''a majority of majority party members [of the Committee on the Judiciary] * * * may request in writing that the Attorney General apply for the appointment of an independent counsel.'' The Act requires me to respond within 30 days, setting forth the reasons for my decision on each of the matters with respect to which your request is made. 28 U.S.C. §592(g)(2).

I am writing to inform you that I have not initiated a ''preliminary investigations'' (as that term is defined in the Independent Counsel Act) of any of the matters mentioned in your letter. Rather, as you know, matters relating to campaign financing in the 1996 Federal elections have been under active investigation since November by a task force of career Justice Department prosecutors and Federal Bureau of Investigation (FBI) agents. This task force is pursuing the investigation vigorously and diligently, and it will continue to do so. I can assure you that I have given your views and your arguments careful thought, but at this time, I am unable to agree, based on the facts and the law, that an independent counsel should be appointed to handle this investigation.

1. The Independent Counsel Act:

In order to explain my reasons, I would like to outline briefly the relevant provisions of the Independent Counsel Act. The Act can be invoked in two circumstances that are relevant here:

First, if there are sufficient allegations (as further described below) of criminal activity by a covered person, defined as the President and Vice President, cabinet officers, certain other enumerated high Federal officials, or certain specified officers of the President's election campaign (not party officials), see 28 U.S.C. §591(b), I must seek appointment of an independent counsel.