

repressive action by our own Government. And such repression would not be permitted only when people are disturbing the peace, but also when they are trying to dramatize their strongly held political views. Like most citizens, I might find many of those political views offensive. But I am not willing to amend the Constitution to permit States and the Federal Government to restrict the expression of those views.

It distresses me to see the symbol of our great Republic mocked and desecrated.

But I am not so foolish as to mutilate those values themselves. The strength of our country is in large part due to the fact that we tolerated the expression of unpopular views. It does not strengthen us as a nation to begin, by constitutional amendment, to restrict the right of political expression. It does not protect our Nation to diminish the very liberties which have made us the envy of all mankind.

Mr. President, it seems that this issue surfaces every 4 or 5 years usually before Presidential elections. We spoke about this issue before the last Presidential election and we debate the issue again now.

Mr. President, one point which has come home to me time and again since I have been in the Senate, is that the Framers of our Constitution did a marvelous thing when they wrote that document and when they added to it the Bill of Rights. Not only did they produce a document embodying our most precious values and a system of government to advance and protect those values, they also had the wisdom to anticipate the very type of effort to silence unpopular expression. They anticipated it, and they guarded against it by requiring changes in the Constitution to be accomplished only by a two-thirds vote of both the Senate and the House of Representatives, and then by the approval of three-quarters of the legislatures of our States.

Those requirements have served us well in the present debate. I am glad that the necessary two-thirds vote to approve this amendment was not achieved in this Senate. I am heartened to hear the strong statements of many of my colleagues against the amendment.

What about the public reaction to all of this? Recent polls show that a majority of Americans favor such a constitutional amendment and indicate that they would be inclined to vote against a Representative or Senator who opposed it.

I would like to believe that, given time for additional reflection, most Americans would have a different view. I would like to believe that those of us in public life have a responsibility and opportunity to persuade our fellow citizens on this issue.

Time will tell whether my beliefs are well-founded.

I cast my vote against this proposed amendment with the satisfaction of

knowing that I have done what is clearly right.●

#### FROM POLITICS TO PARANOIA

Mr. SIMON. Mr. President, recently *The Washington Post* had an op-ed piece by one of the finest people I have met in my four decades of public service: Abner J. Mikva.

He served in the House, served in the federal judiciary and served as counsel to President Clinton. In all three areas he served with great distinction.

I believe we should reflect on his recent op-ed piece "From Politics to Paranoia," which I ask to be printed in full in the *RECORD* at the conclusion of my remarks.

Along with Senator John GLENN and Senator JEFF BINGAMAN, I voted against the authorization of another million dollars for further Whitewater investigations by the Senate committee.

I believe it will turn out to be a waste of money. I have been appointed to that committee, perhaps because of that vote.

But much worse than the conduct of congressional committees have been the excesses of the independent counsels that have been appointed.

If I were to vote again today on that creation, I would vote against it.

I read recently that the Whitewater independent counsel is now investigating two contributions to Bill Clinton's 1990 gubernatorial race. And the independent counsel has now spent almost \$25 million in pursuing every little remote lead.

Our laws should be enforced and we need independence.

My own feeling is that we should establish certain standards for the Office of Attorney General and then not have an independent counsel.

Janet Reno is independent. President Gerald Ford's appointment of Ed Levi as Attorney General was not an appointment of a close friend but rather someone genuinely independent.

Unfortunately, we have had examples of Attorneys General being appointed who are too close to the President.

But to have independent counsels that run amuck is not in our national interest.

The article follows:

[From the *Washington Post*, Nov. 26, 1995]

FROM POLITICS TO PARANOIA—MISGUIDED ETHICS LAWS HAVE GIVEN US MORE MISTRUST, NOT LESS

(By Abner J. Mikva)

It probably was inevitable that after a year as White House counsel some in the media and politics would speculate that I left my job because I "know something." I don't want to defend. That suspicion is dead wrong. I left because I am physically tired—but in good health and humor, and I intend to stay that way.

The long hours were draining, though worth it. But far more demoralizing was what I came to see as a profound loss of faith by the American people in the government they've created. I leave public life at a time when America has grown unusually distrust-

ful of its government and its leaders. Too many of us expect and believe the worst about government, even when no evidence exists to justify our doubts. And I've come to think that some of our intended solutions to this over the years have become the cause of the problem. We need changes in the independent counsel law and others we've created with perhaps the best of intentions.

Healthy skepticism is necessary to the continuation of our democracy. When it turns to paranoia, it becomes destructive. American history has alternated between the two—from the Watergate reformers and the anti-Federalists who opposed the new Constitution of the 1780s to the paranoia of the "Know Nothings" of the mid-1800s to the "I hate Washington" crowd of today.

What seems paradoxical about today's lack of trust is that never have people in government been obliged to disclose more about themselves. Ethics laws, freedom of information laws, conflict of interest laws and others have made public officials live in the clearest goldfish bowl ever. Federal agencies have inspectors general and designated ethics officials whose job it is to ferret out any unethical behavior, whether it is by a Cabinet secretary or a mail clerk. The independent counsel laws provides a mechanism whereby the attorney general must refer out any evidence of criminal wrongdoing by high government officials.

Yet public confidence in government—the ostensible goal of ethics legislation—is at an all-time low. Indeed the accounting often seems to further the problem by allowing critics to magnify minor blemishes into major defects.

For instance, there has been a regrettable willingness by politicians and activists in both of our major political parties to use even a hint of ethical misconduct as a political weapon against the other side. Negative political advertising has become an art form for almost every political campaign. Add to this a tendency in the public arena to exaggerate claims of impropriety, and it sometimes becomes difficult for the public to distinguish between legitimate and illegitimate charges.

The media has added to the excesses. The desire of the electronic media to use sound bites rather than reportage lends itself to the name-calling and the sensationalism that exists. The desperate nature of competition for the print media had caused many newspapers to reach for scandals and follow the lead of the most yellow-journalism rivals.

Most of the investigations that I dealt with during my time as White House counsel—Whitewater, Waco, the Travel Office, the Mexican peso crisis—were a dismaying waste to time for Congress, for the administration and for the media who kept looking for a nonexistent smoking gun.

The investigations showed that some people in government made mistakes, used bad judgment, passed the buck and displayed other human fragilities that may be worthy of comment but hardly of an inquisition. In the Waco tragedy, for example, the Department of Justice and the Treasury Department each issued candid reports on the events, including an assessment of blame for the mistakes. The congressional investigations added nothing to the public awareness except to beat up on the agencies. The same is true of the congressional Whitewater investigations where an independent counsel operation has been spending a lot of time and resources to determine whether any governmental officials engaged in wrongdoing.

I am not an apologist for human shortcomings. Once a government official steps over the ethical line, he or she should be dealt with firmly. The public must know

that we will not tolerate ethical lapses, whatever the personal consequences to the violator. But government cannot daily prove its rectitude to the cynic convinced of government's corruption. A nation where cynicism toward government prevails cannot function effectively.

Of course, a government that merely implores voters to "trust me" will not gain that trust, nor should it. But if our eternal rounds of inquisition and calumny tear down the public trust, and make government out to be a cesspool, if our remedies make public service so unattractive and distasteful as to lose the capacity to recruit new and good people to government—we lose the whole ballgame. We have spent so much time accusing, finger-pointing and exposing, that we have forgotten why we formed a government in the first place. We make it impossible to be governed.

And yet we are proposing additional ethics reforms, based not on what they can achieve, but rather on the political perception that something must be done. In an attempt to "out-ethic" the political opposition, we only make matters worse.

For example, we already require the filing of too many forms. Every year all of our senior officials spend countless hours preparing financial disclosure forms. Candidates file extensive reports on how they raise and spend their campaign money. The reports are so complicated that most reviewers can't understand what they are reviewing, but they do serve as wonderful traps to snare the unwary official.

We have lobbying laws on the books that do precious little to expose the difference between legitimate lobbying and improper use of money and favors to gain desired results. There are proposals to add further forms—ones that will do nothing to break the link between lobbying and money. We ought to concentrate our efforts on gift banning and campaign finance reform.

We ought to evoke the principle that applies to federal judges, who cannot accept anything of value from any party who has an interest in a case before that judge. The judge either refuses the gift or recuses himself from the case. It's a simple principle. Judges understand it; lawyers and their clients understand it; everyone obeys it. In the rare cases where judges violate the rule, they go to jail. What the principle does is break the link between the giving and the ruling. You can give but you cannot buy. Applied to Congress, which recently has banned gifts such as meals and trips, the principle would end the seamy business of members asking for contributions (and getting them) from person most likely to be affected by the member's actions. Obviously, such a plan would necessitate a whole new campaign finance structure, but that is long overdue anyway.

We ought to reconsider the independent counsel statute. Some may smirk that I of all people would suggest changing it, since I voted for it while in Congress and have had to live with its consequences during this past year. But fewer and fewer people in either political party now believe that it really works. The original purpose of preventing Richard Nixon and his friend and close adviser Attorney General John Mitchell from investigating themselves in the Watergate scandal has been achieved. Since then, 17 independent counsels have been appointed. Their mandates have ranged all the way from investigating whether a White House aide sniffed cocaine in a New York nightclub to whether a cabinet official understated how much money he paid to a woman with whom he had an affair. One investigation—the five-year-old probe of Department of Housing and Urban Development officials—

has gone on for so long that the independent counsel announced that the main target had grown too old to pursue. One can question whether even the Iran-contra case or the Whitewater affair wouldn't have best been handled the normal way by Justice Department prosecutors.

We can do better. We need to amend the statute to provide for qualifications for the independent counsel that guarantee political independence. The counsel ought to be appointed on a full-time basis for a limited period of time. Extensions of the original period of appointment should be allowed only under very limited circumstances. The threshold for seeking an independent counsel should be raised further—to limit the appointment only to cases where it is clear that normal authority is insufficient. The selection process for the special court which appoints and supervises independent counsels should be changed to ensure both the reality and the perception of nonpolitical appointments.

From the outset, our founders recognized the tension between governing effectively and the elimination of all potential for abuse. George Washington wrote: "No man is a warmer advocate for proper restraints and wholesome checks in every department than I am; but I have never yet been able to discover the propriety of placing it absolutely out of the power of men to render essential services, because a possibility remains of their doing ill."

If we have all these codes of ethics and all of these disclosure laws and all of these investigating institutions and less trust with each addition to the pile, we must be doing something wrong. We need some remedies that will restore the faith.●

#### TRIBUTE TO JULIE MCGREGOR

● Mr. HATFIELD. Mr. President, frequent staff turnover is a fact of life in the Senate. In this regard, I have always considered myself exceedingly lucky. I have had many key staff members who stayed with me far beyond the average tenure and I, and the people of Oregon, have greatly benefited from their institutional knowledge and experience. But, inevitably, the day arrives when even those diehard staffers feel it is time to move on. For Julie McGregor, that day has arrived.

And so I rise to bid farewell to a longtime and valued staff member. I find it difficult to take so many years of loyalty, dedication, and friendship and wrap it into a neat one page package. Words alone simply seem inadequate to express what Julie has meant to me, to my family, and to my office.

Julie came to my office 13 years ago as an eager, bright, and intelligent intern. She departs today a wise and competent sage. In that time, Julie's role evolved from that of student to mentor. No matter how busy, she always took the time to encourage and guide less experienced colleagues. Members of the Appropriations Committee staff as well as my personal staff have relied on Julie's counsel and valued her perspective as much as I did.

One of Julie's greatest assets is her intuitive ability to cut to the heart of the matter. She thoughtfully and fairly examines all sides of an issue, but re-

mains unerringly firm in her convictions. Even in the most emotional discussions or difficult issues, Julie is a calm voice of rationality and reason. In fact, those who don't know her well might be deceived by Julie's quiet manner or seemingly shy nature. They shouldn't be. She is extraordinarily tenacious. If you are staking a position or fighting a battle, you definitely want Julie on your side.

Julie grew up in small southern Oregon community, and those roots have served her well here. While adapting well to the rough and tumble political world in Washington, she has always kept clearly in mind the individual human beings whom we serve. She is both politically astute and compassionate, a combination of qualities that is so rare it is almost an oxymoron. Aware of the realities and limitations of the political process, Julie is unwavering in her belief that the Government can and should use its powers to improve the human condition. This is a belief that we share and one that has guided many of our legislative efforts.

While Julie, at one time or another, handled nearly every legislative issue in my office, her true calling was one that is closest to my own heart. First as a legislative assistant and later as my director of International Policy, she became an advocate for peace and a champion for humanitarian concerns. Julie's work on arms control, human rights, and nuclear proliferation issues, among others, leaves a lasting legacy in the Senate and has had an impact on us all.

Julie played a key role in one of the legislative accomplishments of which I am most proud. In 1992, we were successful in enacting legislation establishing a moratorium on nuclear testing by the United States. This nuclear test ban continues today and the United States' leadership on this issue has prompted much of the rest of the world to follow suit.

Julie has spent her entire professional career in public service, in service to the State of Oregon and to the U.S. Senate. I know that the people of Oregon, and my colleagues in the Senate, join me in expressing our gratitude for many years of exemplary work.

While we are sad to see Julie leave us, we are also excited for her as she begins a new phase in her life. This weekend she leaves Washington to join her fiancé, Michael Britti, in New Mexico. There will be many wonderful opportunities and adventures as Julie moves on with her career, and as she and Mike begin to build a life together.

Julie is, and always will be, a member of the Hatfield family. Antoinette and I send her off with our love and our best wishes for a future full of happiness and success.●