1993


Follow this and additional works at: http://digitalcommons.uri.edu/pell_neh_I_29

Recommended Citation

http://digitalcommons.uri.edu/pell_neh_I_29/1

This Report is brought to you for free and open access by the Education: National Endowment for the Arts and Humanities, Subject Files I (1973-1996) at DigitalCommons@URI. It has been accepted for inclusion in Hackney, Sheldon: Humanities Chairman Nomination Hearing (1993) by an authorized administrator of DigitalCommons@URI. For more information, please contact digitalcommons@etal.uri.edu.
which is due for an overhaul during the 103d Congress.

I know that some of my Republican colleagues remain opposed to Boy Scout organization due to his decision to ban the Boy Scouts from participating in the schools during normal school hours because of their antihomosexual policies. As I understand school board policy that was voted on by members of the elected board of education. After this action was taken, Dr. Payzant's administration would not allow Boy Scouts to continue using school facilities after school hours. The students of the San Diego unified district are still free to participate in the Boy Scout Program during their free time. While I do not agree with such a policy, I recognize the fact that this matter is primarily a local issue and that Dr. Payzant was implementing a policy determined by the locally elected officials. Dr. Payzant had no choice but to fulfill that policy. His actions should in no way be interpreted to be anti-Boy Scout. In fact, Dr. Payzant was a Boy Scout in his youth and his son and he are Boy Scouts, as well.

As we face the beginning of the 21st century, we must remain committed to improving the quality of public education. Our children must be able to grow and mature into a workforce that is competitive with the rest of the world. We can only accomplish these goals by increasing the participation of parents in the schools, encouraging the local school board policy by improving standards, and by making educators accountable for the quality of instruction.

I believe that Dr. Payzant has the capability to accomplish such a task. I will vote for his nomination, and I look forward to working with him on education issues that affect all our children.

Mr. CRAIG. Mr. President, before casting my vote on the nomination of Dr. Thomas W. Payzant for Assistant Secretary for Elementary and Secondary Education, I would like to take a moment to address some of my concerns about this nominee.

Dr. Payzant has a number of fine qualities, and he has received a number of prestigious honors such as the Harold W. McGraw, Jr., Award. I do not question his abilities, and accomplishments in the area of education. However, I am concerned about his continued use of his position as superintendent of the San Diego School District to further his own social agenda.

In his position as the San Diego schools superintendent, Dr. Payzant supported changing the school's anti-discrimination code to include sexual orientation. He then used this policy to bar Boy Scouts from holding activities during the school day when attendance is compulsory. The program sponsored by the Boy Scouts must be able to attract children during the school day. The Learning for Life Program. While the Boy Scouts are excluded from activities during the school day, they are still able to sponsor activities after school because they are protected by the State of California's Civil Center Act, which specifically includes Boy Scout troops as one of a number of school district facilities.

Another action that has contributed to my decision to oppose the nominee is his push for the establishment of school clinics that would dispense contraceptives. The school board has already rejected Dr. Payzant's proposal. The rejection was due to the lack of a contract for the program that does not distribute contraceptives was finally established. However, the schools do provide information on community and government organizations that provide reproductive services. This kind of program cuts out the role of the parent, which I strongly oppose.

The position of Assistant Secretary for Elementary and Secondary Education is a very distinguished and important position—one that affects our children. I cannot support a nominee that will use this position as a bully pulpit to promote his own social views. I have heard comments from a number of my constituents with similar concerns who are opposed to this nominee and the power he will have over the education of their children. I share that concern and will be opposing the nominee.

Mr. HATFIELD. Mr. President, I am pleased to support the nomination of Dr. Thomas W. Payzant to the position of Assistant Secretary for Elementary and Secondary Education. Although Dr. Payzant has held positions of educational leadership throughout the country, I am especially pleased to report that he earned high marks for his record of service in my home State of Oregon while serving as superintendent of the Eugene School District from 1973-78. Mr. Margaret Nichols, current superintendent of the Eugene district wrote the following about Dr. Payzant: "Tom's entire life has been and continues to be devoted to service to young people, he is a powerful advocate of children *** Tom Payzant is a superb educational leader and a fine human being."

Dr. Payzant's longevity in his most recent position as San Diego city schools superintendent is quite impressive. Leading the Nation's eighth largest urban school district for 10 years through an era of budget cuts, rapid enrollment growth, and major demographic strains is an accomplishment. His longevity is particularly impressive considering the average tenure for CFO's in the National's 45 largest districts is only 2 years.

Based on the feedback I have received from educational leaders in Oregon, and his record of service in other areas of the country, I am pleased to support the nominee for the position of Assistant Secretary for Elementary and Secondary Education.

The PRESIDING OFFICER. The question is on the confirmation of the nomination. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Missouri [Mr. RICKLE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced; yeas 72, nays 27, as follows:

[Rollcall Vote No. 233 Ex.]

YEAS—72

Akaka       Bingaman       Bumpers       Byrnes       Chafee       Cohens       Douglas       Domenici
Akerson     Baucus        Blum         Breaux       Bryan         Brown        Burress        D'Amato
Allen        Bell          Bentsen       Boxer         Bayh          Callahan      DeConcini     Dorgan
Alford      Bentsen       Boren        Bradley        Breaux        Bryan         Bumpers       Byrd
Ashbrook     Boren        Bradley        Breaux        Bryan         Bumpers       Byrd
Ashcroft     Boren        Bradley        Breaux        Bryan         Bumpers       Byrd
Atwater       Boxer        Brown         Bentsen       Boxer         Baucus        Blum          Byrnes

NAYS—27

Bond        Brown         Byrd          Bryan          Burdick       DeConcini       Dorgan       Dorgan
Boutin       Byrd          Bryan          Burdick       DeConcini       Dorgan       Dorgan
Brown        Byrd          Bryan          Burdick       DeConcini       Dorgan       Dorgan
Boutin       Byrd          Bryan          Burdick       DeConcini       Dorgan       Dorgan
Brown        Byrd          Bryan          Burdick       DeConcini       Dorgan       Dorgan

NOT VOTING—1

Nigle

So the nomination was confirmed.

The PRESIDING OFFICER. As previously ordered, the vote on reconvening the Senate is laid upon the table, and the President will be immediately notified of the Senate's action.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NOMINATION OF SHELDON HACKNEY, OF PENNSYLVANIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

The PRESIDING OFFICER. Under the previous order the clerk will report the next nomination.

The legislative clerk read the nomination of Sheldon Hackney, of Pennsylvania, to be Chairperson of the National Endowment for the Humanities.

The Senate resumed consideration of the nomination.

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities. The NEH has an important and difficult mission to fulfill. It is responsible for supporting and sustaining
the highest level of scholarly inquiry and to establish a firm foundation for the humanities with the public. Over the years, NEH has helped interpret great works in American thought to our citizens, and has developed our traditions more highly through its grants and programs. Through the State Humanities councils, NEH reaches people through libraries, public forums, media, presentations, and exhibitions, and literally hundreds of American canons to read, bringing them into the mainstream of the democracy and economy.

Dr. Hackney's well-publicized nomination recently was voted out by Senator Kennedy's Labor and Human Resources Committee by a unanimous 17-0 vote. Senators across the political spectrum gave him a fair hearing. They listened to his positions on academic freedom and free speech. They listened to a distinguished southern historian, president of the University of Pennsylvania for 12 years, and found a man who can add to the vitality of our nation, and bring the humanities—"areas of study that bring us the deeds and thoughts of other times"—into everyday life.

Dr. Hackney's nomination should not be politicized any further. He needs our bipartisan support to lead the National Endowment for the Humanities in a difficult time. We should be confirmed.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Sheldon Hackney to become Director of the National Endowment for the Humanities. I have met personally with Sheldon Hackney and encouraged him in aggressive discussion concerning his commitment to freedom of speech. I would not be supporting his nomination if I felt that he was in any way temperamentally inclined to espouse politically correctness at the cost of free expression.

Sheldon Hackney has not had a trouble-free tenure as the president of the University of Pennsylvania. Mr. Hackney was permitted to err in judgment during his professional life. In January at the University of Pennsylvania an Israeli-born student yelled, "shut up, you water buffalo" to five African-American women who were shouting outside his dormitory. The women charged him with racial harassment under the University's free speech code. The student denied that his epithet was racial, but merely a translation of a Yiddish term for an annoying person.

Sheldon Hackney declined to intervene in the campus judicial process established for complaints of harassment, saying, "not only does the university tolerate free exchange of ideas at the core of its being, but it also strives to ensure that no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs that are intended to wound, rather than enlighten."

I would submit that even wholly offensive speech must ultimately be protected. In fact, there is no need to protect speech that is not offensive to others who would ab-
August 3, in accordance with the order of July 30.

The Chair recognizes the Senator from Pennsylvania, Mr. WOFPORD.

NOMINATION OF SHELDON HAKNEY OF PENNSYLVANIA TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. WOFPORD. Mr. President, I rise to make the motion that the Senate proceed to the nomination of Sheldon Hackney under a unanimous consent agreement previously entered into. This request has been cleared by the majority. The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Sheldon Hackney of Pennsylvania to be Chairperson of the National Endowment for the Humanities.

Mr. WOFPORD. Mr. President, I rise in support of the nomination of Sheldon Hackney to head the National Endowment for the Humanities. And I appreciate the Senator from Indiana botting his support, as was the case with all members of the Senate.

Sheldon Hackney is a son of the South, but he is also an adopted son of Pennsylvania. We have known him as the President of the University of Pennsylvania for the past 12 years as he has ably steered the university and helped build its reputation for excellence and scholarship. He has earned our respect, friendship, and support.

Sheldon Hackney is a distinguished scholar, writer, and teacher. As a historian of the South, he has received the Southern Historical Association's prize for best work in southern history and the Albert Beveridge Prize in American history. He has served with great distinction as the provost of Princeton University, the president of Tulane University, and most recently, as president of the University of Pennsylvania.

In his 12 years at Penn, Dr. Hackney has forged much closer ties to the community, rebuilt and strengthened the undergraduate curriculum, and enhanced the university's role as one of the leading research institutions in the world.

The chairman of Penn's board of trustees, Alvin Shoemaker, recently said:

"Penn's accomplishments, since Sheldon's arrival in February 1981, are without parallel in higher education. He has clearly been one of Penn's most effective executives.

I ask unanimous consent that the citation for the honorary degree given this June to Sheldon Hackney be printed at this point in the RECORD, along with Mr. Shoemaker's letter. Therefore, the material was ordered to be printed in the RECORD, as follows:

[University of Pennsylvania, Philadelphia]

FRANCIS SHELDON HAKNEY

A person who exemplifies the Progressive tradition, you honored your analytical skills—while learning to learn—f rom history—in scholarly studies of the World War, and the defining moments of the South. In a generation of leadership roles at elite institutions, you have reached out to less privileged communities of learners, acting on a deeply held belief that today's educator has responsibility to all of our children.

Arriving at the University of Pennsylvania in 1981, you set your heart on the heart of campus, and you have remained there since. Your cordial welcome to all groups is felt, as is your hospitality at all points of view. Your conviction that ideas and ideals are the hallmark of a healthy university. A listener and a voice of moderation yourself, as Penn's first black, non-Arabic, undergraduate, you urge the Ivy League, "Planned Penns Future"—and did not meet a student who wasn't having a terrific time. Overseeing a campus planning process, a renewal of undergraduate education along with an expanding research base, and the work of education and development at the nation's most beautiful urban campus, as the University's endowment, quadrupled, you helped cultivate the world's most generous alumni and friends in a manner, highly successful Campaign. For over a decade, you dealt with the ambiguities and complexities of a huge, complex, diverse, multicultural university—while finding time to teach that other notable era, The Decade of the Sixties.

"If you were planning something else, we will miss your exemplary civility, inclusivity and humor—unless always your Commencement movie re-occurred, you on an outtake: watch at Penn. Sheldon Hackney—officer, gentleman, and both teacher and maker of history—wisely, and some sadness, we now turn the tables to confer on you well-earned token of your university's appreciation, the honorary degree. Doctor of Laws."

Mr. WOFPORD. In a previous life, I spent 20 years in government. I know something of the challenges of heading a university, especially in a time of sharp debate in a diverse and changing society. We are all aware that Penn is one of the oldest universities in the world. And that the University of Pennsylvania this spring.

But I know from experience that hardly a season goes by without controversy on a college campus. Most college presidents are charged with being "too conservative, too controversial, too interventionist by some, and too removed by others."

That is the life of a college president. So if absence of controversy is the standard for confirmation, then no college president need apply.

We have all heard—and undoubtedly will hear more—about two widely publicized cases on the Penn campus. In one case, Dr. Hackney, was criticized for not intervening in the university's personnel procedures. And in the other, on the more traditional, direct techniques of calling students into their offices to immediately resolve problems.

And before leaving, Penn, Sheldon Hackney initiated a comprehensive review of established guidelines and policies to ensure, in my view, that in an appropriate environment, judicial procedures are effective or appropriate. But having established such a process, the university's president was still not in the middle of it.

And before leaving, Penn, Sheldon Hackney instituted a comprehensive review of established guidelines and policies to ensure, in my view, that in an appropriate environment, judicial procedures are effective or appropriate. But having established such a process, the university's president was still not in the middle of it.

Questions have also been raised about two groups of students who have assaulted an entire edition of the school's newspaper, the Daily Pennsylvanian. During his confirmation hearing before the Labor and Human Resources Committee, members of the Senate, led by Senator Orrin Hatch, asked thoughtful, constructive, probing questions. Sheldon Hackney responded in a forceful, clear, and direct manner. As he answered our questions and the way he took, or the controversy, at Penn, convinced even the most skeptical members of the Senate, two of the members from the other side of the aisle indeed still, told me after the hearing that it was one of those rare occasions when they came in with their minds fixed, they thought, against him—and after the long, careful probing they had a chance to change their minds.

That is why every member of the Senate Labor Committee, Democratic and Republican, liberal, moderate, and conservative, voted to confirm Sheldon Hackney. Every member. We might not each agree with every statement that was made or action that was taken at Penn, but we were all convinced that at no time did he compromise his commitment to free speech and academic freedom. At the time of the incident, in response to a question from Senator Orrin Hatch, Dr. Hackney made clear that free expression is the paramount value of the university.

I was proud that the Senate Labor Committee did not use its Presidential nomination to—now I am paraphrasing Senator Danforth's remarks to which I will return later—in the interest of the President, or to establish or to establish a philosophical position to establish our own moral superiority to embarrass a President. The American people are tired of this politically-lucrative form of politics.
August 2, 1993

CONGRESSIONAL RECORD—SENATE

S10047

over 30 years into a couple of well-publicised incidents. Nominees are used as "pawns" to advance the agenda of third parties, often their own political agenda.

Citizens United, a group that brought us the infamous Willie Horton ads of 1988, is now leading the charge against the Senate's efforts to implement the DR-UPA of 1990, which was supported by or interest in the humanities, as far as I know, Citizens United is now portraying itself as the protector of first amendment rights. Their real goal is to defend the American political director, David Boasle, who said, "Free speech is not our main focus. Our goal was and is to defeat Bill Clinton."

The new practice of trashing political appointees was described by Senator DANFORTH. Writing in the Washington Post, Senator DANFORTH said:

"Why risk the reputation you worked so hard to earn by subjecting yourself to what can become of Presidential nominees? All too often, verdicts are passed before the innocent are even accused. As if to single out candidates for nomination, so to speak, Social Security tax returns for babysitters. A return of a few hundred dollars for one's child care servicesanagan. And the Senate's Exchange Commission can now impose a penalty, as can the IRS. Indeed, there is a sense that the Senate's actions are not just motivated by the need to root out corruption, but may involve an effort to embarrass the Senate itself."

Today, there are no such limits, and no one is likely to suffer the consequences that may, at the time, occupy the White House.

The next controversial nominee will be Sheldon Hackney. The president's choice to chair the National Endowment for the Humanities. Hackney is a private scholar, with no experience of extraordinary persuasion, who seeks to transform the University of Pennsylvania. But one would hope that university campuses would be the center of the local, social and ethnic groups live in harmony. But alas, that is not always the case. Young people, women, students, and workers all want freedom from parental control. The Senate's failure to commit to free speech. The result is speech that is insensitive, constraining, and offensive. Meanwhile, members of minority groups, sensitive to insults, challenge the school's administration. And by the commitment to respecting minority rights."

"It is a difficult challenge for university administrators to keep the peace on campus, where speakers of different views can come to speak. And in this context, where some have accused the administration of being unfair or suppressing free speech. The Senate's failure to commit to free speech. The result is speech that is insensitive, constraining, and offensive. Meanwhile, members of minority groups, sensitive to insults, challenge the school's administration. And by the commitment to respecting minority rights."

But what is the point in raising this issue in the context of Hackney's nomination? He is an important figure in this debate. And he has brought a great deal of attention to the issue of diversity in university administration, and his ability to deal with campus crises seems irrelevant to him. The Senate's failure to commit to free speech. The president has chosen this man to implement the administration's policies. The Senate will be accountable for his performance in office. The mission of the Senate is to promote progress in the humanities by making grants to individuals, institutions and organizations. The 1982 Act that has been implemented by the director of the National Endowment for the Humanities, a distinguished scholar, author and teacher, qualifies him for this work."

The attack on Hackney for his management of the National Endowment for the Humanities, while unrelated to the mission of the NHE, is directly related to the political selection of a nominee for a political position, often in a philosophical position, or establishing our own moral superiority or embarrassing the president of the United States, whatever party may at the time occupy the White House.

Today there are no such limits, and no limit will or should be supplied by rule or law. If there is to be some minimum standard of decency we accord presidential nominees, it will arise from an expression of disgust by the American people for what we are doing to nominees who previously have lived exemplary lives. And that disgust will reflect our sense that those who have been nominated are not the same as people other people see. They are human beings."

Mr. WOPFORD. Mr. President, I am glad that Sheldon Hackney did not say "no" when the President asked him to take this challenging assignment."

During the confirmation hearing, we saw a man of accomplishment as a scholar and administrator at the University of Pennsylvania, Princeton, and Tulane. We heard a man who understands how the humanities can transform lives. And I ask unanimous consent that the full statement, of Sheldon Hackney before our committee for his appointment to the Senate, be printed in the record at this point.

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

STATEMENT OF SHELDON H. HACKNEY, NOMINEE FOR CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES, JUNE 23, 1993

At first glance, my life does not appear to be one that was ever in need of transformation, yet I can bear personal witness to the sort of personal transformation that I believe the humanities have the power to accomplish.

I was born and raised in Birmingham, Alabama, the third son of a sharecropping, lower-class, southern family that eventually included five sons, the offspring of a marriage that is now in its sixty-fourth year. My childhood was marked by the Great Depression and World War II, and I was acutely aware that my world was one of scarcity and vulnerability. Nevertheless, my childhood was characterized by a determination to make the best of what I had, even if that meant becoming terrorised by my older brothers.

My father was a newspaperman before the war, serving as a correspondent overseas as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war correspondent, and then as a war corres
tures for myself, each of them honorable and productive, but I never imagined the life I have actually led. Theivy clinics expanded the perimeters of two superb History teachers - at Ramsay High School, Mary McPain and Ellen Callen, and in part be-cause of their efforts. I have now known two wives to whom I am married, a lot when we were young, and when I was a bit older. I remember listening wondrously to that particular story. I have known two Negroes in graduate school who have not been treated fairly because of that particular issue. I have been thoroughly impressed in the myth that real boys did not work very hard in school and real men were of action rather than thought.

The major reason, however, that the world was saved from having yet another lawyer was my older brother, Paim, whom I worshiped. He was charismatic and multi-talented and very imaginative, so that he was always "the leader" in the neighborhood and the one who would organize our play, not only the standard games like kick-the-can and hide-and-seek, but elaborate war games and a game we called "town" in which every-thing had to be realistic and the selection was always the banker because he could draw the lemonade concession and ended up with all the money that Paim had raised from the bank.

Paim was a young man of grandiosity who was determined to get his way in life. He was always enough to do in everyone else. Despite all his talent, he had an uneven academic record, reflecting his successes and failures. He had a great time and made all those around him have a great time also, but he had a great time and made all those around him have a great time also. He went on to the University of Alabama, where he was a known to occur. He had a wonderful time his freshman year, and his abysmal grades showed it. Sometimes happened to him that following summer, and I don't know what the transforming event or experience was. In any case, he became a different person. He started reading books that were not required for school. He began to listen to classical music, to write poetry, and to talk of serious sub-jects, such as humanity, character, and the self. He began to work at his courses. I was fascinated.

Part of his plan for remarking his life was his decision to become a writer. After I went off to Vanderbilt on a Naval ROTC scholarship, he was on the West Coast and then in the Pacific, but he had a great time. It was I who raised a family and doing the sort of committee assignments that was a part of my job. I kept saying yes to such requests because President of Princeton, it was 1972, I invited him to become Provost. But the style he turned to become Provost of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major respon-sibility in universities has prepared me to do what I do. I have been a trustee of the University of Pennsylvania for the past generation. I have been a trustee of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major responsi-bility in universities has prepared me to do what I do. I have been a trustee of the University of Pennsylvania for the past generation. I have been a trustee of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major responsi-bility in universities has prepared me to do what I do. I have been a trustee of the University of Pennsylvania for the past generation. I have been a trustee of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major respon-sibility in universities has prepared me to do what I do. I have been a trustee of the University of Pennsylvania for the past generation. I have been a trustee of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major respon-sibility in universities has prepared me to do what I do. I have been a trustee of the University of Pennsylvania for the past generation. I have been a trustee of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major respon-sibility in universities has prepared me to do what I do. I have been a trustee of the University of Pennsylvania for the past generation. I have been a trustee of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.
in a new global marketplace, but we face a crisis of values at home. What is happening to family and community? Who are we as a nation and what do we owe to each other? What is the relationship of the individual to society, whose political order is based upon individual rights and in which group membership is still a powerful social influence.

Even more importantly, the humanities have the capacity to deepen and extend to new dimensions the meaning of life for each and everyone. They have the power to transform individual lives, not necessarily in the external circumstances of those lives, but in the Humanities itself.

Every human experience is enhanced by higher levels of knowledge. When I listen to a piece of music, I may like it and think it beautiful, but the person who knows the historical context of its composition understands what the composer was trying to accomplish historically and can compare the composition and the performance to others will get infinitely more out of the experience than I will. That is why I enjoy talking about contemporary music and will see it through a lens different from mine. The task of the NEH is to enrich the conversational possibilities for everyone.

The premise of my approach to the tasks of the National Endowment for the Humanities is simple but profound. The more you know, the more you hear and see and feel. The more you know, the more you can know. The more you know, the more meaningful life is. Such is the gift of the NEH to the American people.

Mrs. BOXER assumed the Chair.

Mr. WOFFORD. Madam President, I find it ironic that anyone can put forward a full statement without being moved as members of the committee were. We heard a man of strong clear convictions.

Mr. President, I have known Sheldon Hackney for many years now. He is thoughtful, quiet, careful. But do not for 1 minute underestimate the strength and leadership that underlies these traits. He is steady, strong, and wise. It is characteristics that the Labor Committee saw and heard, and it is these characteristics that will make Sheldon Hackney an outstanding chair of the National Endowment for the Humanities.

In considering Sheldon Hackney's nomination, the Labor and Human Resources Committee lived up to its tradition of fairness and bipartisanship in unanimously recommending this nomination. I hope that the full Senate will act that same spirit and that the better angels of our nature, as Lincoln hoped, will rise to the occasion again today.

I urge my colleagues to support this nomination.

I yield the floor and reserve the remainder of my time.

Mr. HELMS, I thank the Chair.

Madam President, all of us are aware of what George Bush called "the political correctness" that is popular among some people. But right, when but one examins it closely, including the cause-effect aspects of it, political correctness is—as someone has noted—a radical philosophically which despeises, and seeks to rewrite, the history of our Nation and Western civilization.

It has the unmistakable appearance of advocating that rights and benefits be sacralized and distributed on the basis of group identity and not on individual merit.

Madam President, if you pause to think about it, it becomes clear that the adherents of political correctness somehow almost always challenge any dissent from their beliefs. And they do it with what has been described as "the media up on their ass," re-education or official censure.

Which gets me around to the problem with Sheldon Hackney, the nominee for Chairman of the NEH, Mr. Hackney's problem is that he is recognized as one of the most prominent apologists for political correctness.

Which may be exactly what President Clinton wants as his Chairman of the National Endowment for the Humanities; it may be what every other Senator is willing to accept; but this Senator simply cannot, in good faith, support Mr. Hackney's nomination based on his character and personal animus, but I cannot be a party to confirming his nomination.

It is both interesting and instructive that Dr. Hackney has run into opposition from much disparate voices as the Wall Street Journal, Charles Krauthammer and Richard Cohen of the Washington Post, Nat Rentoff of the Village Voice, George Will, and the Washington Times. All of these, and many others, have declared that Dr. Hackney is the wrong choice to head the National Endowment for the Humanities (NEH).

Charles Krauthammer may have put it best when he said and I quote him directly:

Sheldon Hackney... is, unfortunately, a perfect example of the failure of nerve—the failure of integrity, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney to the Chairmanship of the National Endowment is to end his failures.

Madam President, one is obliged to wonder if President Clinton was aware of these failures when he submitted Dr. Hackney's name to the Senate.

For example, that he Hackney supported an effort to prohibit the ROTC—the Reserve Officer Training Corps—from operating at the University of Pennsylvania, because, guess why, the military refused to accept homosexuals to serve in the Armed Forces.

Also, Senators may have heard of the student at Penn who in frustration referred to a rowdy group of black sorority women who commoned their "water buffalo" when the commodition they were making outside his dormitory interrupted his studies. Even though water buffalo is not now, and has never been, a racial slur, the student wasprosecuted for having made a racially offensive statement under the speech code at Dr. Hackney's university. Come on. What phony baloney—and Dr. Hackney was a part of it.

In 1985, a popular instructor at the University of Pennsylvania was forced to apologize and undergo a sensitivity and racial awareness session after a group of minority students objected to his comparing Jews and non-Jews as ex-slaves, even though the teacher is himself Jewish.

And just a few months ago, Dr. Hackney denied the actions of a group of minority students at his university who stole 14,000 copies—almost the entire run—of the campus newspaper because they disagreed with an editorial in that edition of the paper. Dr. Hackney saw nothing wrong with that. Many others see a whole lot wrong with it.

Mr. President, I will ask unanimous consent that a more detailed discussion of these events—all of which occurred during Dr. Hackney's tenure at Penn—be printed in the RECORD at the conclusion of my remarks.

Madam President, this is the same Sheldon Hackney who so vigorously defended the alleged right of the National Endowment for the Arts to use taxpayer funds to pay for sickeningly obnoxious art, the American gothic paradigm under the false flag of "art."

I am putting quotation marks around "art" because it is not art. It is pornography.

For example, Dr. Hackney wrote the following, and I regard it as nonsense, in the September 1989 issue of the Chronicle of Higher Education: He wrote:

The issue is not whether Mr. Mapplethorpe's images are pornographic or Mr. Serrano's sacrilegious, or whether their work is art or whether they are artists. I say parenthetically, to heck it is not the issue. It is exactly the issue when you are expending public funds for anything.

Dr. Hackney continued, I quote:

"The question is whether our government, having been so involved in attempting to suppress certain forms of expression in an attempt to cleanse public discourse of obscene material, then goes on to say:

Some people or groups will be offended from time to time but... the price of excellence.

An interesting choice of words, I might add, but let me finish the quote: and the price of a vibrant artistic scene is the risk of occasional offense to someone's sense of what is appropriate to display or say in public.

But let us compare this statement, Madam President, with what Dr. Hackney wrote less than 10 months later, because Dr. Hackney is not even consistent. Note what he had to say in the July 1990 issue of Academic magazine in defense of his university's so-called hate speech code prohibiting all speech that "creates an offensive 'living' work environment." He tries to have it both ways. Dr. Hackney wrote:

My own judgment is that we should be able to define racial harassment in a tight way, perhaps as words uttered in a face-to-face encounter that are intended to inflict
emotional damage, that we will be able to outlaw verbal terrorism without chilling the open expression of ideas.

If ever there was a convoluted, back-filling statement on an issue of philosophy, that is it. He cannot have it both ways. If a lot of people are letting him have it both ways including, I am sad to say, the members of the Labor Committee that conducted his nomination hearings.

The Monitor restaurant, is an example of Dr. Hackney's convoluted double standards. According to Dr. Hackney, Congress is and should be prohibited from imposing any restriction on the content of offensive art or speech paid for by the taxpayers, but the University of Pennsylvania and Dr. Hackney can punish and censor any student or professor for speaking freely—in cases where no taxpayer money is involved—if it is not to his associates happy to approve of the speech.

Dr. Hackney's "free speech for me, but not for thee" double standard would be amusing if it were not for President Clinton's efforts to grant Dr. Hackney theFLOWER OF FAMILY life to a position of significant impact on this Nation's culture.

I recall, Madam President, about 10 years ago a fellow named Bill Bennett came to Washington to become Chairman of the NEH. This was prior to his later becoming Secretary of Education. One of Bill Bennett's great contributions to the NEH was his infusing the agency with the courage to stand up to the smug bureaucrats and their acolytes in academia who, until then, had pretty much dictated who and what was favored in the disbursement of NEH funds.

Madam President, the problem is that, once confirmed, Dr. Hackney will undo the good Bill Bennett achieved at the NEH. Dr. Hackney's record gives fair warning that that will be the case, and that is reason enough for this Senator to oppose his nomination.

I do not like to vote against him. I know he is a fine man and all the rest of it, but his record goes against him.

Perhaps the Wall Street Journal said it best when it editorialized: "June 25 when the Journal's editors wrote:

Simply put, the question before Senators is whether a university president who has compiled so sorry a record of appeasement in line with the prevailing political winds as Mr. Hackney has, should sit at the helm of the National Endowment for the Humanities, disbursing huge sums of taxpayer money in the prevailing political winds.

Mr. Hackney has, that is, with the ethos of the American campus today.

If Senators had any real concern for the message the confirmation of Mr. Hackney would send about university free speech and the importance of choosing leaders to defend it would not go as on his confirmation.

Madam President, before Dr. Sheldon Hackney is granted the power to influence and shape our Nation's culture as Chairman of the National Endowment for the Humanities, let us take a close look at his record as president of the University of Pennsylvania and the events I have already alluded to that occurred during his tenure.

(i) THE "WATER BUFFALO" CASE

This past January an Orthodox Jewish student at Penn—Eden Jacobowitz—called a rowdy group of black sorority women water buffalo when they were making unwanted visits outside his dormitory window. Eden Jacobowitz is an example of Dr. Hackney's convoluted double standard. When they were making unwanted visits outside his dormitory window made it impossible for him to study.

Young Mr. Jacobowitz was immediately charged with making a racially offensive comment under Penn's hate speech code. Even after anthropologists and others were willing to testify that the term "water buffalo" is not now—and never has been—a recognized racial slur, the university's judicial officer still ruthlessly pursued the case—even asking Jacobowitz if he had been thinking racist thoughts at the time.

She did offer him a deal, however. If he would: First, allow the University to read his transcript; second, write an essay on his college transcript; and second, undergo sensitivity training, then she would allow him to remain a student at Penn. Some deal.

Eden Jacobowitz understandably refused being branded a racist for life without even a hearing on the merits. Hooray for him. He knows the difference between right and wrong and has the courage to stand by those convictions, unlike Sheldon Hackney, who refused to intervene on behalf of common sense and fairness—even after the university's prosecution of Mr. Jacobowitz became patently absurd.

As the Wall Street Journal pointed out, only after a "national outpouring of scorn and mockery for the university's obvious loss of prudence, adult judgment, and common sense" did Mr. Hackney conclude that the university's legal machinery, designed to punish offensive speech, needed "overhauling."

(ii) HOMOSEXUALS—FIRST, AMERICA'S SECURITY

Dr. Hackney recently spoke out in favor of the homosexual community's efforts to kick the ROTC off the University of Pennsylvania campus before he was allowed, as was Shelley Hackney's, to open homosexuals to serve in the Armed Forces. By supporting this campaign, Dr. Hackney demonstrated a callous disregard for the students at his university and their country by joining ROTC.

(iii) THE EX-SLAVE COMMENT

In 1985, a popular instructor at Penn, Murray Dolman, was forced to apologize and undergo a sensitivity and racial awareness seminar in order to keep his job. His offense: the previous fall he had offended four black students by referring—as he had for years—to himself, blacks and Jews as ex-slaves. Mr. Dolman, who is himself Jewish, made this reference in an effort to make the class discussion about the 13th amendment's prohibition on slavery more personal.

Several times during the months following his comments, Mr. Dolman had his classes interrupted by protesting students. Dr. Hackney did nothing to stop the internecine acrimony in Mr. Dolman being harangued and punished by Dr. Hackney's subordinates at the university.

(iv) THE CAMPUS NEWSPAPER CASE

Shortly after the water buffalo incident mentioned earlier, a group of minority students stole 14,500 copies—already set in type—of the campus newspaper because they disagreed with its editorial.

Dr. Hackney's staff at the university refused to punish or even reprimand those who vandalized and destroy ing the newspapers. Incredibly, the only person university authorities charged with any frustration in the incident was the library security guard—-for trying to stop the minority students from stealing the newspaper.

Dr. Hackney downplayed this blatant theft, destruction of property and denial of the first amendment rights of the students who had written the newspaper. He dismissed the theft of the newspaper as a "protest activity" and stated that "two university values, diversity and open expression stand in conflict" and we must work to narrow the distance.

Claptrap, Madam President. I rarely agree with liberal Washington Post columnist Richard Cohen, but he hit the nail on the head about this gutless moral equivocating by Dr. Hackney when he wrote: "If Dr. Hackney himself, has not the courage to stand up to his university's prosecutors, I ask the unanimous consent that the following articles be inserted in the RECORD at the conclusion of my remarks."

First: the June 25, June 9, and April 26, 1993, columns of Charlotte Observer columnist Charles Krauthammer, respectively titled, "Mr. Hackney's Nomination," "The Other Gunfights," and "Buffaloed at Penn."


Fifth: George Will's April 25, 1993 column in the Washington Post titled, "The PC Nominee: Clinton's choice for endorsement sacrifices freedom of expression to political correctness."


There being no objection, the material was disposed of as per the RECORD, as follows:

[From the Wall Street Journal, June 26, 1993]

Mr. HACKNEY'S NOMINATION

The Senator sitting at the hearings—to begin with the latter—does not indicate the President's nominee for head of the National Endowment for the Humanities can be certain of at least being confirmed. As a result, he will not be covered in obituary. Thanks to recent controversial events at the University of Pennsylvania, led until recently by President Sheldon Hackney, the Senate Labor and Human Resources Committee's deliberations over Mr. Hackney's nomination will have, to say the least, an attentive national audience.

It's hardly necessary by now to explain why, Mr. Hackney is the university head who praised over the world-famous water buffalo case, where President Brown's challenge with "racial harassment," and Penn's administration in full cry, pressing the case. They did not hold us off because the administration had to "abide by the procedures that are in place," of the charter. Moreover, the procedures were in his view "just and fair."

He has evidently since changed his mind, in light of the national outpouring of scorn and moral outrage, that the university's obvious loss of prudence, adult judgment or common sense. Only after the publicity—and after the students found their voice—did Mr. Hackney conclude that the university's legal machinery, designed to punish "offensive" speech, needed overhaul.

No overhauling can fix what is wrong with university harassment codes, which deserve to be compared with the bizarre "legal" machinery. But more to the point, those codes and their machinery did not come out of thin air. They were produced by compliant university administrators cut from the same fine cloth as Sheldon Hackney, who end up arguing that they have no choice but to "proceed," despite the past decade, obliging administrators brought those procedures and "solutions" into being in order to appease the grievances of a socially appropriate group of students. Administrators worried that they no doubt believed to be considered rules and guidelines for the punishment of "offensive" speech and the maintenance of "civility"—and the cadres of the politically correct ran with them.

Empowered thus by administrators, and imbued with a chronic sense of victimization, the campus activists commenced to do what activists are most interested in doing—which is to act. Confronted with the resulting tide of accusations and prosecutions over "insensitive" or "harassing" language, university administrators retreat, as Mr. Hackney did, to the original, misguided meditations on the importance of civility and free expression. "Talk, as they say, is cheap."

The Senators at today's hearings, might begin by asking some hard questions about Mr. Hackney's response to the seizure, by a student, of a plume of smoke at the press run of the Penn student paper, the Daily Pennsylvanian. It would tell them volumes about the candidate's ability to act in defense of free speech, in support of the ability to form eloquent meditations on the subject.

But, Mr. Hackney and friends have spent considerable time in recent weeks complaining that "conservatives" have distorted his views and that he would condem the taking of the papers. What Mr. Hackney in fact did after the theft was to issue a statement saying in plain straightforwardness, which he repeatedly explained, his assurance of the papers as "a protest activity."

A note from CBS's Mike Wallace, published in one edition of the last week, listed us for judging Mr. Hackney by his mistakes and adds, "he has inevitably fumbled. Who can blame him, given his lacklustre solicitude on behalf of those who make mistakes, and wait with interest to see some of those mistakes might one day be extended to the public figures mercilessly flayed and gargoted on "60 Minutes" every week.

Like Mr. Wallace, other supporters of Mr. Hackney attack again and again to his civility and sensibility. These are stellar virtues, they say, but was he moved to disconnect them utterly from the virtues of courage and less culpability.

Mr. Hackney's mishandling of the water buffalo affair and newspaper thefts is bad enough. But the more insidious problem in the American university's life, and their number is legion, is that instead of courage, we must listen to underhandedness; instead of civic leadership, we must bear their silent complicity in the suppression of honest opinion. When we all die; we'll never know how many professors or students gag words and opinions down their throats now, lest some 19-year-old authoritarian call them names.

When Penn scholar Murray Dolfian—an accused of a ludicrous charge of racism for trying to point out that the 13th Amendment—had his classroom invaded "protesters," President Hackney had not a word to say in defense of Mr. Dolfian's academic freedom, nor was he moved to discipline the disruptors. On the contrary, it was Mr. Dolfian who, "the procedures," forced to attend a "sensitivity" training class.

Simply put, the question before the Senators voices an observation: what person has compiled so sorry a record of appeasement in line with the prevailing political winds as Mr. Hackney has, should sit at the helm of the university? It is unlikely the humanities, disbursing huge sums of taxpayer money in the form of grants. Imbuing NEH, that is, with the ethos of the American campus.

If the Senators had any real concern for the message the confirmation of Mr. Hackney would send, and the importance of choosing leaders actually willing to defend it, they would vote no on his nomination. As it is, this Democratic nominee will be voted upon by Democrats Ted Kennedy, Claiborne Pell, Howard Metzenbaum, Chris Dodd, Paul Simon, Tom Harkin, Daniel Patrick Moynihan, Paul Wellstone and Harris Wofford. We hope all those self-appointed professors who think themselves eminently qualified to make Democratic politicians will attend to the content and outcome of today's hearing.

[From the Wall Street Journal, June 9, 1993]

THE OTHER GUINERS

Though President Clinton has cut his losses with Lan Guiner, the lingering question: Is the White House in collusion with Mr. Wal.

Does it say about a White House appointment process when a President himself has to read law review articles before anyone notices a problem?

That question seems especially apt because of two other widely rumored Clinton nomi-

nees who could be this President's next confirmation headaches. Word is that Sheldon Hackney will get the nod at the National Endowment for the Humanities; Stanley Katz will run the National Archives. Their appointment would identify Mr. Clinton with "political correctness" the dominant ethos on American campuses.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1981 he spoke to the University of Pennsylvania's students and professors, who rescript of late. The story that prompted the student's defense was Mr. Hackney's friendly talk with the press, and the case of Mr. Hackney's appointment, as it was now well known as the President of Penn who tried to prosecute a freshman for shouting "water buffalo" at some students, turned out to be a crime against "diversity." Only after near-constant uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1981 he spoke to the University of Pennsylvania's students and professors, who rescript of late. The story that prompted the student's defense was Mr. Hackney's friendly talk with the press, and the case of Mr. Hackney's appointment, as it was now well known as the President of Penn who tried to prosecute a freshman for shouting "water buffalo" at some students, turned out to be a crime against "diversity." Only after near-universal uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1981 he spoke to the University of Pennsylvania's students and professors, who rescript of late. The story that prompted the student's defense was Mr. Hackney's friendly talk with the press, and the case of Mr. Hackney's appointment, as it was now well known as the President of Penn who tried to prosecute a freshman for shouting "water buffalo" at some students, turned out to be a crime against "diversity." Only after near-universal uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1981 he spoke to the University of Pennsylvania's students and professors, who rescript of late. The story that prompted the student's defense was Mr. Hackney's friendly talk with the press, and the case of Mr. Hackney's appointment, as it was now well known as the President of Penn who tried to prosecute a freshman for shouting "water buffalo" at some students, turned out to be a crime against "diversity." Only after near-universal uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1981 he spoke to the University of Pennsylvania's students and professors, who rescript of late. The story that prompted the student's defense was Mr. Hackney's friendly talk with the press, and the case of Mr. Hackney's appointment, as it was now well known as the President of Penn who tried to prosecute a freshman for shouting "water buffalo" at some students, turned out to be a crime against "diversity." Only after near-universal uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.
CONGRESSIONAL RECORD — SENATE
August 2, 1993

S.10052

political correctness. She could prove this tonight by linking all of her colleagues. Without such advice, the President will only suffer more. Lani Guinier.

A freshman, the latest victim of the ideological fervor known as political correctness, goes on trial at the University of Pennsylvania today. It's not irrelevant to note that the head of this institution, Sheldon Hackney, is President of the National Endowment for the Humanities—and a man, university spokesmen insist, committed to free speech. But what's threatening to know, especially in light of the goings on at Penn.

There the disciplinary furies of the speech police descended on freshman Eden Jacobowitz for shouting out of the window. And it seemed to be studying in his dorm room. When members of a black sorority camped outside his window began shouting their feet and screaming and generally whooping it up, he had no idea what they were yelling about. But he knew that if they wanted to party there was too nearby. The campus police rushed up and asked other dorm residents—none of whom in fact had been shouting racial slurs—if they had yelled out of the window. All of them denied it. Only Eden Jacobowitz stepped forward to say he had been yelling out of the window. The police asked the dorm residents if they knew the race of the noisemakers, and were told none. Only Eden Jacobowitz, who said yes. But that, he told the police, had nothing to do with his anger.

Mr. Jacobowitz, who thought one should respect the police, did not occur to him. He had yet to learn that what they don't teach at freshman orientation: respect for the police, respect for the change of racism or sexism is a good as a conviction.
The racial harassment case mounted against him reads like something from the theater of the absurd. The campus judicial inquiry officer, Robin Read, determined that the student had intended a racial slur by the reference to water buffalo, which she said suggested "large black animals that like in Africa." The student's reference to "buffalo? Ms. Read charged, was also racial—notwithstanding the fact that it is a term commonly applied on campuses to nosey fraternities housing blight. Bodie's determination that he tried to prevent the theft or, as Hackney put it, "in the ensuing alterations between seafarers and students..." involved in this protest activity against the editorial policies in the Daily Pennsylvanias. (Mere. Delicacy. Destruction of a press run is a "protest activity." But that, what is any book-burning if not a protest against editorial policy?)

Hackney also appointed two committees to investigate the strained relations between minority students and campus police. A separation of "any violation" of university policy banning newspaper confiscations "will be pursued through the university judicial system." No action was taken. What is the violation of free speech? "Two important university policies now stand in conflict," namely "diversity...must work together to narrow the distance... ."

[From the Washington Post, June 26, 1993]

The only reason to regret Bill Clinton's abandonment of Lani Guinier is that it deprived the country of an open debate on the "merits of the proposal" to cut out a group of minorities, of course, by a prominent columnist at the student newspaper, The Daily Pennsylvania, stole and destroyed nearly its whole press run of 14,000 copies.

President Hackney's statement "On the Campus Controversy of April 15-16," as he delicately called this little piece of campus fascism, gives the fecklessness new meaning. It forthrightly promised to reassign to desk duty a campus security officer involved in the "enacting alterations between seafarers and students..." involved in this protest activity against the editorial policies in the Daily Pennsylvania, (Mere. Delicacy. Destruction of a press run is a "protest activity." But that, what is any book-burning if not a protest against editorial policy?)

[From the Wall Street Journal, Apr. 26, 1993] BUFFALOED AT PENN

S.10052

...so, protecting federal funding for the National Endowment for the Humanities is not a fundamental principle at stake.

One can debate the merit of speech codes. But there is no debating the merit of the defense of speech codes that Penn issued on its own, but that are a fundamental form of speech. And as speech is presented as yet another clash of values: "freedom of expression" vs. "freedom of expression..."

[From the Washington Post, July 23, 1993]

Sheldon Hackney has had a distinguished academic career. He is a noted historian. He is a man of obvious good intentions. He has not, to my knowledge, a single example of the failure of nerve—the failure of intellectual honesty, the failure to dare the leader that is the American academy.

Sheldon Hackney has had a distinguished academic career. He is a noted historian. He is a man of obvious good intentions. He has not, to my knowledge, a single example of the failure of nerve—the failure of intellectual honesty, the failure to dare the leader that is the American academy.

Gregory Pavlik is one of the former columnists for the University of Pennsylvania newspaper. He is a conservative young man. He thinks Martin Luther King Jr. is a worthy companion of civil rights leaders and sees the like affirmative action case as, especially as one...
August 2, 1993

CONGRESSIONAL RECORD—SENATE

S 10053

been applied at Penn. Some who have read him regard him as an acolyte of an acolyte—of one of those guys who punctuates his writing with a sneer.

Pavlik is about to become famous. He figures into international news by virtue of his appointment as managing editor of The Daily Pennsylvanian, the University's daily newspaper. Pavlik is a black student who began publishing the paper when it was a black student newspaper.

Sheldon Hackney is a virtuous man, the personification of a chieftain: both a gentleman and a scholar. But his nomination to a presi-
dential level of public service is the realization of a dream for black students at the University of Pennsylvania, where he was educated.

Sheldon Hackney is a passive-aggressive black liberal who has swallowed the opportunity to assert that the values he holds dear during the McCarthy period are the values he holds dear when the government abuses its power during the Vietnam era or, to be almost quaint, when the censorship of books and movies, are still part of our ideological creed.

Sheldon Hackney's refusal to vigorously condemn the seizure of the paper and to punish the off-
cending blacks tackled to his nomination. A lifetime civil rights advocate, he meant well, but by so obsequious to the black students, he pa-
tronized them as people and failed them as their teacher. He is an odd choice for a post whose title contains the word "humanities." In fact, he is the wrong choice.

[From the Village Voice, May 4, 1993]

CIVIL war on campus

No group is a reliable defender of free speech—although individuals within groups may be. During the 1970s, much of the Jewish community in the United States was vi-
cious in attacking those Jews, including some rabbi-activists, who opposed the United States' involvement in Israel's human rights violations in the Occupied Territories. I knew a rabbi in St. Louis who was treated as if he was a traitor to all the Jews who ever lived. And from vigilantes, I re-
ceived death threats because of what I had written about Palestinian rights being vio-
lated. Recently, a white conservative columnist in the Daily Pennsylvanian angered a number of black students at the University of Penn-
sylvania. Instead of writing an answer or picketing the paper or buying the paper, they confiscated just about the entire run of an issue—some 14,000 copies—and threw them into the garbage.

A group calling itself the Working Com-
mittee of Concerned Black and Latino Stu-
dents said the columnist had been directed into "the blatant and covert racism continually perpetrated by both institutions and individu-
als on the University of Pennsylvania cam-
pus."

If white students had done the same thing in furious reaction to what a black col-
umnist wrote, written, I expect these Concerned Black and Latino students might have demonstrated against so raw a viola-
tion of the black columnist's free-speech rights.

I've covered many censorship stories around the country—by perpetrators on the right and on the left—and no one has ever taken a page. They all say they had the right to suppress speech that was harmful.

At the University of Pennsylvania, the Concerned Black and Latino Students—not only claim they had the moral right to try to destroy all copies of the Daily Penn-
nsylvanian—but also insist that it was a "legal protest."

Now dig this. This ranks as one of the lamest excuses for what was undoubtedly a de-
sperate last-gasp. The Concerned Black and Latino Students—about 100 of them—remen-
ber the black students at the University of Pennsylvania, they took control of our First Amendment rights and intellectual inquiry in general.

The answer is this: Too many liberals, their chieftains, and their acolytes have fallen into an online trap: Anyone who opposes them is black; their and its consequences, have crossed the line in a crescendo of hatred, against a symbol of the moral and cultural destruction.

Pavlik is also a chieftain—of one of those guys who punctuates his writing with a sneer.

What matters is truth and minimum, the chieftain's attempt at justice is all about. After all, opposition to affirma-
tive action is hardly limited to white racists. Arthur Ashe was similarly disposed. As for the suitability Martin Luther King as a national hero, I happen to disagree with Pavlik—but so what? The offended black stu-
dents ought to ask themselves what would have happened if King's speeches and writings—offensive to many whites at the time—were censored. Freedom of the press is not a recreation of the press; it's a protection afforded the people.

The black students seemed not to appreci-
at that point. Pains. They are young, and angry. But they are also shortsighted. That's where the university steps in. It is a custodian of our culture. Its role is to in-
struct, to show that a bad idea is rebutted by a better idea. To demonstrate the me-
ner end of the First Amendment—a constitu-
tional right, not a "value"—nor a vociferous consensus. As Chomsky pointed out, to Israel's human rights violations in the Occupied Territories, I knew a rabbi in St. Louis who was treated as if he was a traitor to all the Jews who ever lived. And from vigilantes, I re-
ceived death threats because of what I had written about Palestinian rights being vio-
lated. Recently, a white conservative columnist in the Daily Pennsylvanian angered a number of black students at the University of Penn-
sylvania. Instead of writing an answer or picketing the paper or buying the paper, they confiscated just about the entire run of an issue—some 14,000 copies—and threw them into the garbage.

A group calling itself the Working Com-
mittee of Concerned Black and Latino Stu-
dents said the columnist had been directed into "the blatant and covert racism continually perpetrated by both institutions and individu-
als on the University of Pennsylvania cam-
pus."

If white students had done the same thing in furious reaction to what a black col-
umnist wrote, written, I expect these Concerned Black and Latino students might have demonstrated against so raw a viola-
tion of the black columnist's free-speech rights.

I've covered many censorship stories around the country—by perpetrators on the right and on the left—and no one has ever taken a page. They all say they had the right to suppress speech that was harmful.

At the University of Pennsylvania, the Concerned Black and Latino Students—not only claim they had the moral right to try to destroy all copies of the Daily Penn-
nsylvanian—but also insist that it was a "legal protest."

Now dig this. This ranks as one of the lamest excuses for what was undoubtedly a de-
sperate last-gasp. The Concerned Black and Latino Students—about 100 of them—remen-
ber the black students at the University of Pennsylvania, they took control of our First Amendment rights and intellectual inquiry in general.

The answer is this: Too many liberals, their chieftains, and their acolytes have fallen into an online trap: Anyone who opposes them is black; their and its consequences, have crossed the line in a crescendo of hatred, against a symbol of the moral and cultural destruction.
about Jewish-black tensions on their campuses.

Andi Milens of Washington University in St. Louis recently resigned as chair of the Association of Black Students, and then told this incident:

"A Jewish student on campus is a blatant racist," according to look-see, where one of the black sororities was selling an obviously anti-Semitic book, he had a watermelon which he sort of interpreted, talked to the black students and said, 'Look, He doesn't speak for us.' And I called up my friend in the Association of Black Students, and asked, 'What do you think I should do? You know he's a racist, and that we don't ascribe to his beliefs. What do you want to hear me do?' And he issued a Hillel statement saying just what she told him.

The Jewish racist got worse, putting up flyers that a putting black people against Andi Milens and her friend from the Association of Black Students conferred, and he suggested a print in the paper "from as many Jewish organizations as possible saying that this person doesn't represent the Jewish community.

The organizations signed the letter, and it was resoundingly clear, throughout the campus, that the Jewish racist representation has now taken place.

Then came the notorious ad that appeared in a number of college papers around the country. The ad was a direct hit to the black community. It's like telling blacks that slavery had never taken place.

The Jewish students at Washington University protest a protecting black speech against, not against the college paper's right to print it. There were Christian organizations against the Gay and Lesbian Community Alliance. But what about the Association of Black Students? Andi Milens has been named to the officials, and he said, 'Tell us what to do. That's it.' Members of the Association of Black Students came to the protest, and one of its leaders spoke. He emphasized that racism and anti-Semitism go hand in hand, and you can't fight one without fighting the other.

At some campuses, Jews understand that black students have no patience with anyone telling them whom they can or cannot invite. Some black students tell the students fighting to print the paper to look like the black community. But don't tell me whom I can and can't have.

And Jewish students have indeed protested the appearance of—among others—Leonard Jeffries at Harvard and other campuses.

Andi Milens said at the Hillel meeting in Washington: 'We're learning that the black students and the Jewish students have very different agendas. They're doing their own thing, and we have to respect that.'

That respect, however, is not synonymous with blandness of the black students who invite an anti-Semitic speaker to campus. You can't respect the right of a black student group to invite whoever they want while also maintaining your own self-respect by passing out leaflets. Jewish students did at a recent Leonard Jeffries appearance at Duke University—saying, 'We're against racism!' Against prejudice directed at any color.

Ross Werner of the University of Virginia said of the administration there that it needs to be more interested in working out some of the campus-undergraduate problems and calm. However, I have found very few individuals within the administration who are actually dedicated to working out some of the campus-undergraduate problems, and then trying to create a less segregated university. It seems to me that the university is often interested in window-dressing, not in addressing many of the intergroup relations problems.

To begin: the civil rights wars on campus, blacks, Jews, and others can count only on themselves. Not on the administration to form alliances based on mutual understanding and respect. It's as corny and simple and effective as that.

—(From the Charlotte Observer, Apr. 29, 1993)

The black community is of interest because both Pennsylvania, Sheldon Hackney, is President Clinton's nominee to head the National Endowment for the Humanities. So consider, the case of Gregory Pavlik and Eden Jacobowitz.

Pavlik is one of many columnists for the student newspaper, The Daily Pennsylvaniaian. Robustly right-wing, he is comprehensively offensive. He is often extreme and heavy-handed, which is to say he is squarely in the tradition of un-derground illustration.

And he is the reason why, two weeks ago, some black students met to discuss one early in the morning, seized almost all 14,000 copies of the paper on their way to the trash bins. The throwers offered this defense: "Not only are the papers free, but these extend the distribution of the number of papers that any given student may remove..." President Hackney's mincing description of this assault on press freedom. Papers were "removed" from their regular distribution points.

Hackney's first statement was of regret that "two important university values, diversity and open expression, seem to be in conflict." A remarkable statement, that. It is clearly drawn yet has no clear meaning. (Does the "diversity" value mean that some groups but not all groups that are part of the university's diversity have a right not to be annoyed?)

A few days later Hackney's even limper defense of the First Amendment was: "Taking newspapers is wrong." But also: "I recognize that the concerns of black majority community that gave rise to the last week's protests are serious and legitimate."

What concerns that right-wing opinion is being published? The university will investigate whether... whether... —in the face of the paper vio-lated freedom of expression. The severity of this investigation can be gauged by all official's statement that the university will "take into account the fact that those who suppressed the newspaper "did not see their protest in the context of its being an interference..."

Hackney's credential as a defender of free speech are academically orthodox. He defends federal subsidies for Robert Mapplethorpe's homoerotic exhibits and says dismissing things about Sen. Jesse Helms, thoughts not perilous on campus. He is a First Amendment fundamentalist, but with a selectivity that suggests political calculation.

The university will investigate whether... whether... —in the face of the paper vio-lated freedom of expression. The severity of this investigation can be gauged by all official's statement that the university will "take into account the fact that those who suppressed the newspaper "did not see their protest in the context of its being an interference..."

Hackney's credential as a defender of free speech are academically orthodox. He defends federal subsidies for Robert Mapplethorpe's homoerotic exhibits and says dismissing things about Sen. Jesse Helms, thoughts not perilous on campus. He is a First Amendment fundamentalist, but with a selectivity that suggests political calculation.

—(From the Washington Post, May 2, 1993)

SPEECH CODE SILLINESS

Campus speech codes outlawing racially offensive speech have not, on the whole, been well-received in the universities of Michigan and, Wisconsin, for instance, were successfully challenged as unconstitutionally "overbroad and vague." For an illustration of those terms and the absurd difficulties and injustices to which they can lead, a disciplinary saga unfolding at the University of Pennsylvania provides a sobering example.

The facts of the case, which has grown extra-proportionally in the Pennsylvania, President Sheldon Hackney is President Clinton's nominee to chair the National Endowment for the Humanities, have been summarized by the named Eden Jacobowitz is said to have shouted out his dorm window at a group of black students, who were, calling them "water buffalo" and saying there was a zoo nearby if they wanted to party. When school authorities asked if anyone in the dorm had shouted racial epithets—apparently some other students, had—Mr. Jacobowitz told them what he had shouted, but said it was not a racial epithet. Nonetheless, school disciplinarian authorities are now investigating whether his words are actionable under Penn's speech code. One college official reportedly asked him whether he had been thinking "racist thoughts" at the time.

As a constitutional matter, "overbread" means that the policy can cover behavior that isn't prohibited as well as behavior that is. "Vague" means the person engaging in the behavior can't tell beforehand whether it would be found in violation of the school's speech regulation in a nutshell. Bad enough that this incident has led to incantations like the involvement of a panel of racial epithet scholars, that one student's history to assert that "water buffalo" has never been used as an ethnic slur toward blacks; another scholar said that Mr. Jacobowitz may have been verbalizing a He...
CONGRESSIONAL RECORD—SENATE S10055

August 2, 1993

ROTC, Dr. Hackliey prevailed; as the Judicial
prevalence the Senate Committee on Commerce,
prevalence that, among other matters, ... is intended by
prevalence by the senators. 
prevalence on their own agendas. Mr. Hackney has
declared to educate their constituents. His name is Sheldon Hackney.

Mr. HELEMS, Madam President, let me say something most sincerely, as I conclude, Madam President. I do hope that all of Dr. Hackney's critics will be prevailed wrong. I pray that I will be proved wrong. If I am proved wrong, I will acknowledge it publicly and apologize to Dr. Hackney. But seeing no possibility of that happening, I feel obliged to vote in opposition to his nomination.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Madam President, my colleagues from North Carolina raise serious issues. Members of the Labor and Human Resources Committee raised similar questions—all of those questions, indeed—and more during Sheldon Hackney's confirmation hearing.

My colleagues on the committee asked difficult, thoughtful, probing questions. These questions were answered to our satisfaction and the committee unanimously to confirm Dr. Hackney.

This past spring was not an easy time at the University of Pennsylvania. The Labor Committee fully examined each case. The Labor Committee did agree not to a charge that appeared to be taken by the university or any statement that was made. But I think each Senator left the hearing with a greater understanding of the challenges facing university presidents today.

Now, as to the specific points just made by the Senator from North Carolina, I would remind the Senator that Kefaas put that question to Sheldon Hackney.

I ask unanimous consent that all of her questions and Sheldon Hackney's responses be printed in the Record at this point.

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

QUESTIONS FOR THE RECORD BY SENATOR KESSEBAUM FOR SHELDON HACKNEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

1. Regarding the Edna Jacobowitz affair, did you think the characterization of the President against Mr. Jacobowitz was justified? If so, please explain why.

I do not think that charge of racial harassment was justified. Penn's policy is very narrowly focused. It applies only in situations where racial, sexual or ethnic slurs are used in face to face encounters and with no other intent than to inflict harm. The facts of the case do not meet these criteria. In addition, because of the confrontation, the policy and the confusions that abound in this case, I have come to feel that even though it is important to set the record straight, it is a mistake to try to enforce it among members of the campus community through the penal system.

2. In retrospect, do you believe you should have intervened in the university judicial process brought against Mr. Jacobowitz, or do you stand by your action not to intervene?

As awful as the spring was, I still think it was not appropriate for me to intervene in the judicial procedure. There is no provision for the President or for any officer of the University to intervene. I would have called into question the legitimacy of the entire system that handles disputes. The proper channels were in place, and the system worked properly, and a hearing panel heard the case, I believe that justice would have prevailed. As it turned out, the case came to a close when the complainants withdrew their charges.

3. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1992, please explain our reaction at the time of the incident, including the complete statement issued by your office.

I append the statements issued at the time of the incident. I thought, and still do, that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

4. What are your administration "did to identify" and "bring charges against those responsible for the theft?" Was anyone ever charged in the theft? If so, what was the result in terms of penalties meted out?
CONGRESSIONAL RECORD—SENATE

August 2, 1993

Dr. Sheldon answered:

As with a number of other assertions made in the Wall Street Journal last week, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a producer of the ROTC program at Penn and at Pennsylvania University, and I have spoken frequently on campus about why I think it is a good program.

I might add, if you note the biography of Sheldon Hackney, you will see he gave distinguished service in the military during World War II and after his service in the ROTC.

Then it was said that the, the destruction of copies of the Daily Pennsylvanian in April 1993 had evoked no opposition from Sheldon Hackney. That is also not true. The distinguished Senator from North Carolina has stated that Sheldon Hackney saw nothing wrong with the destruction of the copies.

I submit the statement for the RECORD of April 22. I ask unanimous consent the full statement be printed in the RECORD.

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

STATEMENT APRIL 22, 1993

The following statement was issued by University of Pennsylvania President Sheldon Hackney today in response to last week's destruction of copies of the independent student newspaper, The Daily Pennsylvanian, by students protesting the University's new political spectrum policy.

Freedom of expression is essential to academic life. At Penn it is foremost among our core values, and we are committed to upholding it. The University has long-established policies to protect it.

Taking newspapers is wrong, as I made clear in a policy statement four years ago and reiterated at the time of last week's events and restated again this week.

Those who are accused of violations of University policies will be subject to the provisions of the University's judicial system. Due process in determining the guilt or innocence of those who are found culpable is of utmost importance. We shall not take shortcuts.

I recognize that the concerns of members of the Penn community that gave rise to last week's protest are serious and legitimate. We have worked hard to make Penn a place in which everyone could feel comfortable, and we will remain committed to that goal, and it is working diligently to achieve it.

In the final analysis, the aim of a diverse and free forum for ideas in which all are welcome and able to participate will be achieved only when all members of the community listen more carefully and respond less defensively to the views and concerns of others. I urge the Daily Pennsylvanian's staff and editors to work closely with campus public affairs, editorial, and student affairs staffs to see to it that the community works together to resolve their common concerns.

Allegations have also arisen of police misconduct in the handling of last week's events by University police and security personnel. There is now a process in place to determine what occurred and to respond appropriately once those facts are determined.

These events have also highlighted questions about the appropriateness of some university policies with the special circumstances of a university community. Those questions are being reviewed by a special committee of the University's Division of Public Safety will use its findings to
review its training and procedures as appropriate.
A modern university is the focus for all of the tensions that exist in our society. As such, it must remain steadfast in its commitment to our values, in fact, when those tensions produce conflicts that we must work to resolve. We shall not do so.

SHELTON HACKNEY, President.

Mr. WOFFORD. I will just read the following excerpt.

Freedom of expression is essential to academicians. At Penn, it is foremost among our core values, and we are committed to upholding it. The University has long established policies to protect it.

Taking newspapers is wrong, as I made clear in a policy statement four years ago and reiterated at the time of last week's events and restated again this week.

It is wrong also to say that no action was taken in regard to the students who destroyed those newspapers.

On the contrary, a number of those who were apprehended and apparently admitted to the theft were arrested. Some of them were handcuffed. All of them who have been identified are part of a university process of discipline. The one student who graduated before the proceedings could come to a close this fall had his papers withheld, which means that he cannot use his transcript to be sent to employers or to graduate schools until the matter has been cleared up.

In view of the seriousness of this case, the vice provost for university life has appointed a respected senior faculty member to serve as a special judicial inquiry officer in the case of those students who seized that newspaper.

There are just a few examples of how the Sheldon Hackney tenure that has appeared in some publications has no basis in fact.

Mr. WOFFORD. Madam President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. Madam President, I seek unanimous consent that the order for the quorum call be rescinded.

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

Mr. WOFFORD. Madam President, Senator PELL is the Senate sponsor of the legislation that established the National Endowment for the Humanities in 1965. He has chaired or been the ranking member of the subcommittee on Education, Arts and Humanities since then. He has a continuing involvement with the life of this agency.

Mr. PELL. Madam President, I rise to add my strong endorsement to the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

Dr. Hackney is a man of tremendous stature and intelligence who will bring years of scholarly and administrative experience to this important position. His impressive record includes 38 years as the president of two major universities—Tulane and the University of Pennsylvania. Prior to this he was provost and professor at Princeton University.

As my colleagues know, I have long been involved in the life of the Humanities Endowment and will continue to do all I can to support and encourage its work. I know that it will be a great pleasure working with Dr. Hackney in the years ahead.

Much has been made in the press of a few incidents that occurred at the University of Pennsylvania during Dr. Hackney's tenure there. Dr. Hackney provided such thorough and satisfying answers when asked about these issues in his testimony as to cause the committee members voted unanimously—17 to 0—to recommend his confirmation to the full Senate.

Finally I want to say how fortunate we are that President Clinton has nominated such an outstanding figure in the academic community to take on this leadership role in the humanities. I applaud the President for his inspired choice.

I urge my colleagues to join me in voting to confirm Sheldon Hackney.

Mr. KENNEDY. Madam President, I am pleased to recommend that the Senate confirm the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

Dr. Hackney is a superb appointment for this position—he is a distinguished historian, scholar, and college administrator. He has been a leader in our national academic community for the past 30 years, bringing great distinction to himself and the institutions he has served.

The Labor and Human Resources Committee approved the nomination unanimously. I trust the Senate will also confirm the nomination of Dr. Hackney to be Chairman of the National Endowment for the Humanities.

The Endowment is an important agency that offers Federal support for advanced scholarly research. It plays an effective role in encouraging academic research. The Senate is well advised to confirm Dr. Hackney as its head.

Mr. WOFFORD. Madam President, this is not a partisan matter. I do not know of any nomination that has had such bipartisan support.

I seek unanimous consent to print in the Record, without objection, the letter from Mrs. Walter H. Ambrose.

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


HON. EDWARD M. KENNEDY, Chairman, Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: As a member of the Board of Trustees of the University of Pennsylvania, I offer the strongest endorsement of Dr. Sheldon Hackney for the position of Chairman of the National Endowment for the Humanities and urge the Senate Labor and Human Resources Committee to approve his appointment without reservation.

Since becoming Penn's first chief executive in 1977, Dr. Hackney has focused on a range of institutional needs, including curricular reform, research enhancement, development and long-range planning, public involvement, and internationalization. And he has achieved an exceptional record as a national leader in each of these areas. In spite of this, in recent situations, he has proven that he can bring together conflicting elements to produce a constructive solution. But such accomplishments are even more significant in the company of our nation's deep and abiding commitment to freedom of expression.

In recent months, two incidents on the Penn campus have put Dr. Hackney's per-
The ID:

CML, (email), tile rest of the ID. I want to add to the ID.

One episode involved the printing of racially hostile commentaries in the independently operated campus newspaper and the result of that publication by some minority students. The second episode involved a white student's alleged racist slur in response to excessive noise by several black students in a dorm. Both incidents raised a host of complicated legal issues, especially First Amendment protections. In his handling of these and other incidents throughout, Sheldon Hackney has steadfastly articulated freedom of expression, civility, and respect as the core values of the University. He has made it clear that though it has certain rights provides for certain freedoms but it does not give people the freedom to abuse that concept.

Walter and respectfully ask you to give Sheldon Hackney an opportunity to serve his country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania.

Senator Kennedy, please give this your most careful consideration. I cannot imagine President Clinton putting forward a better candidate from either the Republican or Democrat standpoint.

Sincerely,

MRS. WALTER H. ANNENBERG

Mr. WOFFORD, Madam President, she writes:

As a member of the Board of Trustees of the University of Pennsylvania, I offer the strongest endorsement of Sheldon Hackney for the position of Chairman of the National Endowment for the Humanities.

He has achieved an exceptional record in dealing with the difficult problems of freedom of expression, civility, and core values of the university. He has made it clear on numerous occasions that the Bill of Rights provides for certain freedoms but it does not give people the freedom to abuse that concept.

Walter and respectfully ask you to give Sheldon Hackney an opportunity to serve his country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania.

Please give this your most careful consideration. I cannot imagine President Clinton putting forward a better candidate from either the Republican or Democrat standpoint.

Madam President, I also ask unanimous consent to print in the RECORD a letter from the president of the American Council on Education.

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

OFFICE OF THE GOVERNOR
Harrisburg, PA, June 29, 1993

Senator HARRIS, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HARRIS: It is with great enthusiasm that I commend the nomination of Sheldon Hackney as Chairman of the National Endowment for the Humanities. I bring to this endorsement extensive knowledge of the Endowment and with Dr. Hackney.

As a former chair of the Pennsylvania Humanities Council and past president of the Federation of State Humanities Councils, I have worked with the Endowment for over twenty years. The agency, although modest in size, is of primary importance in fostering and supporting research and dissemination of ideas which are critical to Americas' understanding of our own history and of our knowledge of the world and our place in it.

As a nation we are at a crossroads. We are entering a new millennium, one which presents us with the challenges of maintaining our precious legacy of democracy in a climate of a domestic and international environment that challenges federal agencies to nurture understanding of ourselves and others. It requires, more than ever before, the leadership of one who is deeply grounded in the academic world and who has the skills, experience and vision to guide this major agency into the future.

I have had the privilege of knowing Sheldon Hackney since he came to Pennsylvania to assume the presidency of one of our premier academic institutions. During the tenure at the University of Pennsylvania, the institution has made enormous strides in developing—academically and economically, and critically important, too, in its responsibility to our country.

Dr. Hackney is amply qualified for a position of national leadership. His intellectual acuity, his integrity of character and his overriding concern for the public good are qualities that insure a well-conceived and well-managed Endowment, one which will preserve the principles and purposes which informed its creation by the Congress. It will be an agency for the people.

Dr. Hackney's ideological stance is a pragmatic idealist, in the tradition of our Founding Fathers, who has a passionate commitment to learning and a profound knowledge and concern for the future of American democracy.

I have full confidence that he would serve the National Endowment for the Humanities with honor and distinction. Hope and trust that the committee will confirm his nomination with all due speed and confidence.

Sincerely,

Sondra Myers
Cultural Advisor to the Governor

Mr. WOFFORD: "I also ask unanimous consent to print in the RECORD a letter from the president of the American Council on Education.

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

AMERICAN COUNCIL ON EDUCATION
Washington, DC, July 22, 1993

Time Magazine Letters, Time & Life Building, Rockefeller Center, New York, NY.

TO THE EDITOR: In haste to tell a sensational story at the expense of former University of Pennsylvania president Sheldon Hackney, President Clinton's nominee to head the National Endowment for the Humanities ("Wine. and Cheese Liberal—At

Taxpayer's Expense," July 26, 1993), Time neglected to tell the whole story.

The quote claiming that Dr. Hackney "admitted misspending... a nearby $1 million in federal grants earmarked for academic research." But the story fails to note that Penn returned $5 million in research grants during the five years covered by a government audit. In other words, the amount that Penn failed to repaid was a mere portion (.001) of the total received. Time also neglected to mention that Penn repaid the money in dispute.

Dr. Hackney demonstrates equally good stewardship of the taxpayer's money as chairman of PHH; he should get a medal.

Sincerely,

ROBERT H. ATWELL
President

---

HON. HARRIS WOFFORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I'm writing you in support of the nomination of Dr. Sheldon Hackney to head the National Endowment for the Humanities. I serve on the Board of Trustees of the University of Pennsylvania, and therefore have known Sheldon Hackney intimately over the entire time of his tenure at the University. Simply stated, he is a man of extraordinary talent, brilliance, and deep humanist concern.

I urge you and your fellow Senators to confirm his appointment... it will be a great strength for the nation.

With warmest personal regards.

Sincerely,

MILTON A. FIELDMAN

---

ESTEE LAUDER COMPANIES,
New York, NY, June 24, 1993

HON. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Building, DC.

DEAR SENATOR KENNEDY: I want to add my voice to those supporting Sheldon Hackney as Chairman of the National Endowment for the Humanities.

The nation is fortunate that an individual of Dr. Hackney's caliber has been nominated to head the NEH. Dr. Hackney has served with distinction for the past 12 years as President of the University of Pennsylvania. He has served as president of Tulane University from 1975 to 1981 and as provost of Princeton University from 1974 to 1976.

Dr. Hackney is a noted scholar of the Southern United States and an award-winning author. He is also a professor of history at Pennsylvania State University, as well as a noted author of several highly regarded books. He has conducted one of the most successful fundraising campaigns in higher education history at Penn and has been an effec...
CONGRESSIONAL RECORD — SENATE

S10059

August 2, 1993

tive leader in community activities and education organizations.

Dr. Hackney's efforts have built the University's research programs, leading research university that provides a superb undergraduate education. He has emphasized teaching, research and service as the University missions of modern research universities.

I believe his outstanding record and life achievements, and I am pleased to have identified the NIEH. I have complete confidence in his abilities and judgment, and I urge you and the members of the Committee to give his nomination favorable consideration.

Sincerely,

JOSEPH M. McCADDE, Member of Congress.

THE METROPOLITAN MUSEUM OF ART,

Hon. EDWARD M. KENNEDY,
Senate Russell Office Building, Washington, DC.

DEAR Mr. President:

I am writing you to express support for Sheldon Hackney to be Chairman of the National Endowment for the Humanities. Your support for his candidacy is critical to his approval by the Senate.

I have known Sheldon for 15 years and have watched his entire presidency at the University of Pennsylvania. Indeed, my son was one of the many privileged people to be at Penn during Sheldon's tenure. We have seen Sheldon and his wife on many occasions over these years. We shared "donors" to the Met and the University of Pennsylvania so I know him to be a much respected and effective president, fundraiser, and soul mate in the non-profit world.

My sense of Sheldon is based on long years of discussion and observation during my years as a governor in Pennsylvania, then to Czechoslovakia and for the last seven years as a museum president. He is a strong, intelligent and humane leader, the likes of which the U.S. Government only rarely attracts into its service. Throughout his career and indeed, throughout his life, Sheldon has advanced and practiced policies that encourage free and open expression of competing views.

Sheldon will bring to this important job the heart and tradition of a historian and a family tradition rooted in the same spirit. For more than a decade he has run one of our finest universities with a sterling record during a time of reduced state funding. President Hackney and the university presidents have accomplished as much with so little uproar during this past twelve years as Sheldon.

When you look closely at his record, I am sure you will determine that he will make an outstanding leader of the National Endowment for the Humanities. I hope that you will be one of those who welcome his appointment.

Sincerely,

WILLIAM H. LUEB, President.

Below, the Chairman of the Trustees of the University of Pennsylvania shares with the campus his message to the Trustees upon the resignation of President Sheldon Hackney.


We were delighted to learn earlier this week of President Clinton's intention to nominate Sheldon Hackney as the next Chancellor of the University of Pennsylvania. While it is difficult indeed to imagine Penn without Sheldon, this is a magnificent opportunity for him and one that reflects well not only on him but also on Penn.

Sheldon's appointment, which is yet subject to Senate confirmation, has accelerated what has been his intention to step down at the end of his next term of office. The campaign for Penn. However, taking many factors into account, including the uncertain timing of the Senate hearings, Sheldon informed me that he intends to resign and be succeeded as president of Penn no later than June 30, 1993, to give the Trustees the opportunity to begin the search for a new president. I have agreed and directed Shower to advise us on Penn's next president and will be prepared to announce the appointment when we have it.

Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives, leading one of higher education's most thorough and effective institutional planning processes. While many institutions have developed regional bases, Penn's student body has become nationally and internationally diverse. Looking toward Penn's long-term future as well as its current strengths, Sheldon has continued our tradition of solid fiscal management. His presidency has seen endowment increase five- to ten-fold to top $15 billion for the first time in history. The Campaign for Penn is fast becoming one of higher education's leaders, already having raised $5.53 billion toward the $5 billion goal, and providing funding for 152 endowed chairs, the highest number in the history of higher education development efforts.

Beyond these successes, Sheldon leaves the lasting imprint of his multifaceted efforts that strengthened Penn's reputation as a leading research university. He provides a superb undergraduate education, his leadership of nationally-recognized activities that place Penn in the vanguard of university-community partnerships, and his firm and clear devotion to creating a humane and civil environment for all members of Penn's community.

As we look to the future, we do so with a strong foundation of outstanding faculty, staff, a solid financial base, and a reputation for being the best managed institution of higher education in the country. Thanks to Sheldon and all of those who have helped him, the University of Pennsylvania is well positioned to continue its emergence as, in his words, "a leader both of research institutions that really cares about undergraduate education." As we move to form the consultative committee to advise the Board of Trustees on candidates for Penn's next president, we do so with confidence. Penn is an exciting place to be, and its leadership is one of higher education's most compelling posts. I have no doubt that we will attract an outstanding group of candidates.

Finally, I am sure you join me in wishing Sheldon and my very best as they move into the next phase of their extraordinary lives.

Sincerely,

ALVIN V. SHOEMAKER.

THE SHODEN HACKNEY I ADMIRE

The last 12 years have been an exciting and tumultuous time for the University. Since the Nixon/Johnson era, the University has faced many challenges and opportunities. As we move into the next century, I look forward to continuing the traditions of excellence and innovation that have made Penn a leader in the world of higher education.

The new president will inherit a university that is recognized as one of the finest in the world. It is a university that is respected for its academic excellence, its commitment to service and its dedication to the development of students and faculty. The new president will be expected to continue this tradition of excellence and innovation.

I am confident that the new president will be able to build on the strong foundation that has been laid and to lead the University into the next century with vision and determination. I am sure that the new president will be a leader who will be able to inspire and motivate the University community to achieve even greater heights of excellence.

Sincerely,

MICHAEL S. KLINE, President.


We are delighted to learn earlier this week of President Clinton's intention to nominate Sheldon Hackney as the next Chancellor of the University of Pennsylvania. While it is difficult indeed to imagine Penn without Sheldon, this is a magnificent opportunity for him and one that reflects well not only on him but also on Penn.

Sheldon's appointment, which is yet subject to Senate confirmation, has accelerated what has been his intention to step down at the end of his next term of office. The campaign for Penn. However, taking many factors into account, including the uncertain timing of the Senate hearings, Sheldon informed me that he intends to resign and be succeeded as president of Penn no later than June 30, 1993, to give the Trustees the opportunity to begin the search for a new president. I have agreed and directed Stephen to advise us on Penn's next president and will be prepared to announce the appointment when we have it.

Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives, leading one of higher education's most thorough and effective institutional planning processes. While many institutions have developed regional bases, Penn's student body has become nationally and internationally diverse. Looking toward Penn's long-term future as well as its current strengths, Sheldon has continued our tradition of solid fiscal management. His presidency has seen endowment increase five- to ten-fold to top $15 billion for the first time in history. The Campaign for Penn is fast becoming one of higher education's leaders, already having raised $5.53 billion toward the $5 billion goal, and providing funding for 152 endowed chairs, the highest number in the history of higher education development efforts.

Beyond these successes, Sheldon leaves the lasting imprint of his multifaceted efforts that strengthened Penn's reputation as a leading research university. He provides a superb undergraduate education, his leadership of nationally-recognized activities that place Penn in the vanguard of university-community partnerships, and his firm and clear devotion to creating a humane and civil environment for all members of Penn's community.

As we look to the future, we do so with a strong foundation of outstanding faculty, staff, a solid financial base, and a reputation for being the best managed institution of higher education in the country. Thanks to Sheldon and all of those who have helped him, the University of Pennsylvania is well positioned to continue its emergence as, in his words, "a leader both of research institutions that really cares about undergraduate education." As we move to form the consultative committee to advise the Board of Trustees on candidates for Penn's next president, we do so with confidence. Penn is an exciting place to be, and its leadership is one of higher education's most compelling posts. I have no doubt that we will attract an outstanding group of candidates.

Finally, I am sure you join me in wishing Sheldon and my very best as they move into the next phase of their extraordinary lives.

Sincerely,

ALVIN V. SHOEMAKER.
CONGRESSIONAL RECORD—SENATE
August 2, 1993

Mr. LIEBERMAN, Madam President, I yield myself up to 12 minutes of the time allocated to the minority, in opposition to this nomination.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LIEBERMAN, Madam President, I rise regretfully in opposition to the nomination of Dr. Sheldon Hackney to be Endowment Officer for the Humanities. I do so without pleasure, may I say, because this nominee is, by all accounts, a distinguished academic man. Indeed, I spoke to Dr. Hackney recently and found him to be as thoughtful, charming, and well-intentioned as his many supporters promised me he would be. But I have decided that I cannot in good conscience vote to support his nomination for this particular office.

The National Endowment for the Humanities and our great universities, including the University of Pennsylvania, share an important and principled mandate: the pursuit of knowledge through the unfettered expression of facts, opinions and values, disciplined only by the standards of such expression to be open to debate and scrutiny.

The first amendment of our Constitution embodies this principle with respect to freedom of speech. For obvious reasons, our private universities have no such constitutional counterpart. We must rely primarily on the steadfastness to this principle by our universities' leaders for its preservation and for its vitality.

History is unfortunately replete with examples of the damage that can result when the media and leaders of university communities, however well-intentioned, succumb to the pressures of the moment. The noble fight against Soviet communism led to the blacklisting of some faculty. The ignoble specter of a university system and otherwise honorable men and women in our academic communities to impose quotas—religious, ethnic, racial quotas—on the admission of students from various minority groups or prevented scholars who were members of those minority groups from becoming tenured faculty members.

We now look back on these and other periods with shame and remorse, as well we should. I am convinced that we will also look back on today's speech codes and similar examples of the rule of political correctness with the same shame and remorse. Speech codes, however well-motivated, violate the principle of free speech and are ultimately patronizing because they suggest that the targets of offensive speech are incapable of confronting that offensive speech, of fighting its insensitivity or intolerance or ignorance directly by refuting it. In fact, the very effort to explore the meaning, motivation, and effect of discussions of speech in a judicial setting has, in my opinion, a chilling effect on university communities and takes us down a path that can lead to no good.

So, too, obviously, do attempts to explain or justify attempts to prevent the distribution of unpopular opinions and ideas.

And that brings me now to these two episodes at the University of Pennsylvania during this past spring.

In one, a group of students who did not like the tone and content of a speech by a professor addressed in the student newspaper, the Daily Pennsylvanian, took it upon themselves to confiscate 14,000 copies of one edition of the newspaper before it was distributed.

Instead of condemning that act in unequivocal terms for what it was—an outrageous assault on freedom of speech and of the press, and a criminal act, namely, the theft of newspapers that did not belong to them—instead of doing that, Dr. Hackney's immediate reaction was to express sympathy to the students' frustration that led them to steal the newspapers. That is nonsense and, sadly, it is nonsense that, according to a column by Nat Hentoff in this Saturday Review, has been repeated at too many of our great universities across the country today.

Dr. Hackney did pay tribute in his statement to the preeminence of free speech for our country but as I read that statement, that elevation of free speech was smothered in a statement that was otherwise loaded with the kind of Orwellian truisms on the sanctity of free speech and diversity that also have become too common on our campuses.

Sixteen professors at the University of Pennsylvania, in a resolution on this subject, saw this. They understood the need for a statement of unequivocal clarity on this event; namely, the theft of these newspapers. They spoke out. I applaud them for their courage.

There being no objection, the letter be printed in the RECORD.

The undersigned are members of the Law Faculty. We believe that the deliberate removal from circulation of 14,000 copies of the Daily Pennsylvanian calls for us to state three points with unequivocal clarity.

First, the removal of the newspaper because it published writings by one columnist which some students found offensive was a flagrant violation of freedom of thought and freedom of discussion. It was a direct denial of the principle which is most basic to the University's mission. It was conduct which can no longer be excused or tolerated.

Second, the fact that the newspapers were confiscated as an act of protest cannot be condoned in our university. Those who disagree are, of course, entitled to protest, but not to be attempting to silence those whose views they do not share.

Third, the important University values of diversity and open discussion were not in conflict here. The offensive columns in no way prevented the University from carrying out its policy of diversity and its many programs to promote understanding.
August 2, 1993

CONGRESSIONAL RECORD—SENATE

S 10061

RECOMMENDATIONS

It is vital that all UPFD personnel receive additional training about appropriate responses to student demonstrations and protests. This training must include extensive study of any pertinent sections of the UPFD Policy on Student Conduct. Section 5.7.06, should be reviewed... to ascertain if there are circumstances when it may be inappropriate to handicap detainees... The relevant sections of any pertinent policy should be monitored... to ensure that the policy is applied consistently, is non-dis- criminating, and is not directed by the UPFD at any group of people. After the policy is implemented, data should be maintained by the Department on the race and sex of individuals handcuffed, nature of offenses, and reasons for handcuffing.

As an example, in going from episode to episode, describing students taking the newspapers, being seen by security officers of the University, a university art gallery, captured with them in a neighboring building, pursuing them, where one made a so-called citizens arrest and detained the students. And I quote:

The panel found that the museum administrator's actions in pursuit of the students were inappropriate after they left the university and after the university had received a complaint from the students. His actions should be reviewed by his supervisor for possible disciplinary action. No mention of the fact that we have here a university official who has just seen students—I do not know whether he was able to identify them—at that point running off with something that did not belong to them, a large number of copies of the newspaper. Finally, I quote again:

In summary, the panel concluded that once the incident occurred at DRL (David Rittenhouse Laboratories), the UPFD should have recognised that the removal of the UPFD from at least three different locations was a form of student protest and not an indicator of criminal behavior. According to the University Open Expression Guidelines, the UPFD should have contacted the Office of the Vice Provost for University Life as soon as it was recognized that the students' actions were appropriate. This was not done. Once the UPFD was notified of the protest, Open Expression Monitors would have dispatched to observe and monitor the students' actions. The existence of these monitors and the UPFD's open expression policies should be of concern to all students. The University should continue to foster an open expression environment.

I just disagree with that and again present it as evidence of the problems that occur when we do not give free speech the respect it deserves.

The second episode this spring, again showing why the speech clauses in the theory of their formulators may be reasonable efforts to promote civilised discourse, the case of open expression monitors. They are only unworkable but destructive—in the second episode a group of students in
one of the dormitories shouted at another group of students who were celebrating noisily outside the dormitory late one night. Some of the comments shouted out, it is alleged, were obnoxious and inflammatory, and may have included racial epithets. Only one of the students in the dormitory owned up to shouting anything.

Now, again, obnoxious statements and unfortunately, not atypical of late-night shouting on college campuses. But here, because of this speech code, the full machinery of the University of Pennsylvania speech code came into play. Complaints were actually filed by the students who had been allegedly making noise against the one student who acknowledged that he had shouted out the window. He was subjected to an investigation of his alleged violation of the University of Pennsylvania speech code.

At an early stage of the proceeding, after an initial investigation by one member of the investigatory panel—I grant the other—leadership was effectively offered a plea bargain. I am taking a little bit of liberty in using the term plea bargain; but a suggestion was made to him that if he agreed to go through sensitivity training the complaint would probably drop the complaint and it would all be over.

That just should not happen at a university community, no matter how obnoxious the statement. The outrageousness of a statement should be confronted with facts or by simply walking away and not giving any heed to those statements, not by creating a mechanism which had an investigator suggest to this student that if he goes for sensitivity training the complaint would be withdrawn.

He, the student, refused that suggestion. Ultimately, the complainants decided that it was to go to the board, and that board case has ended. But, unfortunately, it again illustrates the destructive nature of these codes, which require a judicial-like setting to evaluate the complaints—which is the beginning of a problem right there in our society—as to content and meaning, and require a panel or judicial tribunal to determine whether that speech should be punished or not.

A free society, Madam President, cannot countenance the establishment of such judges, no matter how well-intentioned, of what we or our children at Penn, whiteness or not, say. That, as I have said, is a slippery slope all of us should have the instinct not just to avoid but to condemn clearly and unequivocally.

There is a response to criticism in the Wall Street Journal of his behavior in these cases, and particularly in this case I have just described. Dr. Hackney wrote a letter to the Wall Street Journal this spring, and again in it I think we see the full intention and the full implication. But ultimately I think too ambivalent and off point on the critical role and respect we should give to free speech. Dr. Hackney says:

**Freedom of expression is the paramount value at Penn and we are unwavering in our commitment to protect it. To that end we have well-established policies to protect open expression, and we have very deliberate and fair procedures for judging alleged violations.**

Then he goes on to say:

Penn is a special kind of community. Not only does it put the free exchange of ideas at the core of its mission, but it strives to ensure that no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs intended only to wound, rather than to enlighten.

Once we begin to strive to ensure that no member of the community is prevented from full participation by intimidation and open expression, this road to censoring speech and undercutting the basic freedom of a university community.

Madam President, I ask that the full text of this letter to the Wall Street Journal be printed in the RECORD.

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

**LETTER TO THE EDITOR**

I write to correct the unfortunate impression left by your editorial of April 26 "Buffaloed at Penn," about a student disciplinary proceeding at the University of Pennsylvania. Although I am not permitted by federal law or university policy to discuss the facts of the case, I can put in this limited context:

**Freedom of expression is the paramount value of Penn, and we are unwavering in our commitment to protect it.**

Penn is a special kind of community. Not only does it put the free exchange of ideas at the core of its mission, but it strives to ensure that no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs intended only to wound, rather than to enlighten.

**Whether a student has engaged in racial harassment is determined by a narrowly defined policy that is now up to a judicial panel of students and faculty to determine. If errors are made, ample avenues of appeal are available after the judicial panel has reached its conclusion.**

**Those who think they know what the outcome should be are impatient with the process, but that process must be allowed to run its course.**

**The PRESIDENT.** The Chair may advise the Senator he has spoken for 15 minutes and 53 seconds.

**Mr. LIBERMAN.** I thank the Chair. I ask unanimous consent for an additional 5 minutes to conclude my statement.

**The PRESIDENT.** Without objection, it is so ordered.

**Mr. LIBERMAN.** Madam President, to sum up, let me say this. Speech which is offensive but not dangerous can be offensive and it can be hateful. In such circumstances, it is perfectly appropriate—and it is essential—for members of the university community and especially the leaders of a university community, its president to speak out and confront these ideas in the proper role of an educator and of a community leader. But it is not proper for an educator, for a university president to censure, tolerate or seek to put in perspective either the suppression of free speech, as evidenced by the criminal act of a newspaper, or the chilling discouragement of free speech in a proceeding that presupposes that certain kind of offensive words must be sanctioned and punished as evidenced in the second case that occurred this spring.

Madam President, speech codes and other attempts to suppress what is not politically correct, what is not politically fashionable at a given moment in our history simply cannot be tolerated. And in our time, they must be stopped; they must be eliminated, they must be withdrawn from our university life.

Leaders in that battle should be leaders in the university, the presidents of our universities. I respectfully suggest that in this battle there really is no room for equivocation or compromise. The president of a university is the trustee of a great and proud tradition of freedom in university communities. That goes back through the course of Western civilization, and has been upheld with intensity, force, and zeal, particularly in our country.

Being a university president is a great privilege. And with it come great responsibilities.

I fear that if we overlook the violation of those responsibilities, we will have only ourselves to blame for the further diminishment of one of the most fundamental principles upon which this society rests. So, although know that in most regards Dr. Hackney has been defended by Senator Wofford and others, a superb president of the University of Pennsylvania, and while I accept the fact that he is a distinguished scholar and a great university president, I believe that the same critical principles that I have discussed, the primary principle of freedom of speech which distinguishes our society, is at the heart of the National Endowment for the Humanities which Dr. Hackney has been nominated to head. And because I am profoundly troubled by the way in which he presided over the University of Pennsylvania during the time when it adopted and enforced speech codes and because I am profoundly troubled by the ambivalence of his response to the theft of those 14,000 copies of the magazine, this super nazi speech should not vote against the nomination of Senator Hackney to lead the National Endowment for the Humanities.

I thank my colleagues for their charity in the time given to make this statement.

I yield the floor.

Mr. CHAFEE addressed the Chair.
The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I think the Senator from Rhode Island has the nomination of Dr. Hackney and Ms. Acheson both before us for consideration. Dr. Hackney to head the National Endowment for the Humanities and Ms. Acheson to be an Assistant Attorney General, it is a sad commentary on the partisanship that prevails within these committees. If this had taken place under a Republican President with both of those nominees being Republicans, there is no way in the world they would have come to this floor. On Dr. Hackney, they would have said he trampled all over the freedom of speech. On Ms. Acheson they would have said, "Oh, she belonged to a club that discriminated and only resigned just in time when she was nominated." These are racism-based facts. She belonged to the country club in Brookline for many years that clearly had discriminated.

It seems to me very, very unfortunately that those are the factors existing within the committees because we all served during the years when President Reagan and President Bush were nominating various candidates.Alphabetical difference is different than that applied to Ms. Acheson and Dr. Hackney, applied.

I am going to vote for both of those nominees. I do not think the transgenders is something that we can applaud for a long shot. But I have heard from many who have known him for many, many years and do not think that one or two transgressions, if you would, should cause his nomination to fail. So I am going to give them the benefit of the doubt. I do not think our Republic is going to collapse if Dr. Hackney is nominated, and I think most people think he is an excellent individual.

Ms. Acheson, likewise. I will support her because I think that somebody who belongs to a club that perhaps she was not very active in, and a club in some fashion discriminates—I do not think that makes that person a bigot. But I think we ought to have the same rules apply to everybody who comes before us for a nomination.

Madam President, I would like to go on and say I think this whole nomination process has gotten out of hand. On the Environment and Public Works Committee we deal with the nominees to sit on the board of the TVA. The TVA is hardly an organisation that ranks up in the top in sensitivity or the disclosure of national secrets of some fashion. Yet, the background checks of both of those individuals that came before us, the FBI said they spoke to 46 different people—46 different people for a nominee to be on the board. This system has gone haywire around here.

I would like to point out, Madam President, that I was nominated by the President to be Secretary of the Navy in 1969, January. That was a new administration that had just come in January 1969. That was an administration of his appointment party. The previous party had been that of President Johnson, the Democratic Party. And I was processed, investigated, confirmed, and given the job.

The new Secretary of the Navy, chosen under exactly the same circumstances, a new administration coming from a different administration party. The new political party, was sworn in the end of July. That is 6 months' difference. Indeed, there is a paltry number of individuals sworn into office over at the Pentagon right now. And so it is through all of the departments.

I just think that we have to sit back and review what we are doing. Walter Mondale confirmed by the Senate to be Secretary of Commerce, last Friday. Walter Mondale who served as U.S. Senator, who served as a Vice President of the United States, what better qualifications do we want? Yet, check one to get him through the procedures, the FBI checks, with it, up until July 30, 6 months—more than 6, 7 months after this administration came to office.

So, Madam President, I would hope that everybody would say to themselves the system has gone haywire, that a nominee, let us look at him, those that we know something about. It does not mean we have to take background checks by the FBI, Walter Mondale, we all know him. He has certainly kept the secrets of the Nation and carried out his duties with superb form during the years that he was Vice President.

Happily he finally was confirmed. In all fairness, it was not the Senate that slowed that up. It took forever to get the nomination up here. I do not know why, 8 months or whatever it took. But they sought. Clearly as Vice President he had every clearance known to man, every security clearance.

So, Madam President, I would hope that not only in these cases we would move forward with dispatch, and get the debate done. I think 5 hours of debate on Mr. Hackney is going beyond something that is reasonable. There are plenty who have thoughtful views on him, pro and con. Let us hear them. Let us get on with the vote. But in the future, let us not have 47 interviews by the FBI for a nominee for the TVA authority.

I thank the Chair.

Mr. Gorton addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. Gorton. Madam President, if there is any fixed, or constitutional consolation, it is that no official, high or petty, can prescribe what shall be orthodoxy in politics, nationalism, religion or school because such speculations are beyond the right of the citizens to confess by word or act their faith therein.

That famous celebration of tolerance was written by Justice Robert H. Jackson, in a 1943 Supreme Court decision, West Virginia Board of Education versus Barnette, which held unconstitutional an attempt to compel public school students to salute the flag.

I have used this standard test of the Barnette test of tolerance, to judge several of the nominees President Clinton has chosen to join his administration.

Despite my usual deference to any President in choosing his administration, including people with whom I profoundly disagree, like President Clinton, the Secretary of Labor, Donna Shalala, the Secretary of Health and Human Services, and Jocelyn Elders for Surgeon General, I reject these nominees who fall the Barnette test—those who are incho tolerant of conflicting views, who have used or are likely to use political power to punish their opponents or to pursue policies destructive of the social fabric which binds us together as Americans or who are indifferent to constitutional principles.

President Clinton, regrettably has sent the Senate four such nominees, Dr. Hackney, Thomas Payzant and now Sheldon Hackney, the President's choice for the National Endowment for the Humanities.

Here are well-documented and publicized events during Dr. Hackney's tenure at the University of Pennsylvania illustrate his lack of potential for effective leadership of the National Endowment for the Humanities. As a member of the university Board of Trustees, and a tenured professor at the university, he was nominated, and indeed many of us applauded, to be the new chancellor for the University of Pennsylvania, to a position entrusted with more than $150 million a year in taxpaying money to spend for the advancement of the humanities.

In each case, Dr. Hackney showed an alarming willingness to act or to fail to act only in conformance with the most extreme academic doctrine of political correctness and totally inconsistent with the very qualities of courage, balance, and everybody who has been a chief spokesman for the humanities.

Take, first, the university's infamous paper chase.

On the night of April 15, a number of black students engaged in a campuswide coordinated assault to retrieve 14,200 copies, the entire press run, of the campus newspaper, the Daily Pennsylvanian. Their target. A column written by this standard writer, Gregory Pavlik, the paper's only conservative among a legion of liberals, who had written articles critical of affirmative action and Martin Luther King.

In fact, the university administration informed Mr. Pavlik in February that based on his newspaper columns, he was charged with 31 violations of
the university's infamous speech code and was under investigation for racial harassment.

The plot to steal the newspapers as a means to silence dissent was revealed when the university decided to drop the charges against Mr. Pavlik. This was apparent in the only instance in which the proposed use of the university's speech code against a nonpolitically organized group was extreme enough to justify Sheldon Hackney's action. But he equated the right to publish an opinion with the right to destroy that publication.

At this point, Madam President, I ask unanimous consent that the testimony of Mr. Pavlik be printed in the Record at the end of my remarks.

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

(See exhibit 1.)

Mr. GORTON. This destruction of a university newspaper was such a violation of freedom of press as to cause most students to anticipate total condemnation by the university administration. Instead, in words that would chill the spine of those who value the right to protest against the Constitution, Sheldon Hackney responded with these immortal words:

"Two important university values—diversity and open expression—seem to be in conflict.

He also expressed sympathy with the concerns of those who confiscated the paper and referred to the theft as simply papers which were removed from their regular distribution points—a definition perfect for a dictionary of politically correct language.

Mr. President, Dr. Hackney's comments about this incident reflect what columnist Richard Cohen accurately described as "Sheldon Hackney's dangerous courage."

Shortly thereafter, several alarmed law professors at the university wrote Hackney:

"Two important University values of diversity and open expression were not in conflict here. The offensive columns in no way prevented the Phylon from carrying out its obligation to reflect diversity and its many programs to promote understanding. Removal of the newspapers struck at the heart of the most fundamental diversity which the University should foster—diversity of thought, views and expression.

Rather than condemning this grievous violation of the first amendment andresponse to voices of balanced criticism, Sheldon Hackney followed a currently popular course of action on the part of many university presidents these days as they are accustomed to doing in the face of criticism. He appointed a blue ribbon panel to investigate the events of April 15. He chose silence when a spokesman for justice was needed.

Recently, that blue ribbon panel completed its deliberations. Its findings are noteworthy because they illustrate the impact Sheldon Hackney has had on his university's ability to pursue reason and to love justice. The report found that the confiscation of the newspaper run was not criminal, but rather a legitimate form of protest and so absolved the students of any serious wrongdoing. The report criticized security personnel who tried to prevent some of the thefts and recommended sensitivity training for the officers involved with the protest.

The report concluded by recommending that:

"It is vital that all university personnel receive additional training about appropriate ways to stop demonstrations and protests. This training must include extensive information on the University's policies and the role and responsibility of open expression monitors.

At the University of Pennsylvania, when one group stole thousands of newspapers, the police who attempted to frustrate the theft were scolded, and one was suspended for failing to conduct an Orwellsian enforcement of campus political correctness. One may question whether a university that would found a liberal campus column and conduct a similar raid on the campus newspaper, would be immune to condemnation from the campus President. If the college Republicans coordinated such an assault on fundamental constitutional principles based on their anger and offense of the death of a liberal essayist, too, has labeled a "protest"? Pat chance.

Madam President, Sheldon Hackney's inaction and abdication of leadership in this case can rightly be contrasted with later statements. In 1994 when Louis Farrakhan was invited to speak at his university. At that time, he told a university audience:

"We can't have free speech or only some of the time, for only some people. Either we have it, or we don't.

Madam President, either Dr. Hackney has since decided we don't have free speech or he has artfully calculated the occasions on which he is willing to defend the first amendment.

For instance, a year after his Farrakhan speech, when Dr. Hackney was a newly appointed board member for the National Endowment for the Arts during its controversial funding of Robert Mapplethorpe's pornographic display, he criticized NEA critics at a 1996 conference an academic freedom and artistic expression by stating:

"My own career is built on knowing when and when not to compromise * * * I generally resist pressure from anybody, but I get very nervous when fundamental principles are at stake.

Madam President, what boldness and courage it must have taken to distinguish his loyalty to the First Amendment. Those who write from North Carolina at a conference of academics. But where was such boldness and courage in defense of the first amendment earlier when his fraternus released newspapers.

When, if at all, did Dr. Hackney find an attack on conservatives an occasion at which fundamental issues were at stake? Is it precisely his well-recognized capitulation to the politically correct and selective defense of fundamental principles that make this Senator, and the American taxpayer, unconvinced and skeptical of his dedication to open and free expression for all.

Mr. KERREY assumed the chair.

Mr. GORTON. Mr. President, under the leadership of Sheldon Hackney, the University of Pennsylvania has become a model of political correctness when it institutions one of the Nation's more absurd speech and conduct codes. Accordion to author of "Illiberal Education," Diane Rehm: Examples of violations of the University President's Policy on Harassment, for which the penalty ranges from a reprimand to exclusion from the classroom,

Such nonsense is worth harpooning until it is taken seriously by the university administration that promulgated it. Ask Eden Jacobowitz, an Israeli-born freshman at Penn who spent the fall of his freshman year learning a frightening lesson in prosecution and coercion by the administration of Sheldon Hackney.

Late one night last January, Mr. Jacobowitz and others in his dorm were disturbed by a loud group of shouting and celebrating black sorority women outside their dormitory windows. While normal sounds were buried at the women, Mr. Jacobowitz shouted "Shut up you water buffalo!" When confronted by university officials responding to charges by the black women that the university's code had been violated, Jacobowitz was the only one in the dorm who admitted to have shouted at the women, but vigorously denied that the term "water buffalo" was used as a racist comment.

Mr. President, at this point I ask unanimous consent that Mr. Jacobowitz's testimony on this matter be printed in the RECORD.

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

STATEMENT BY EDEN JACOBOWITZ, FRESHMAN AT THE UNIVERSITY OF PENNSYLVANIA, JUNE 25, 1993

Mr. name is Eden Jacobowitz, and I am a freshman at the University of Pennsylvania. I am here this morning to tell my story and explain to the American people why I believe Sheldon Hackney's nomination should receive very close scrutiny by the U.S. Senate. First of all, I'd like to say that as an eighteen-year-old, I voted for Bill Clinton this year. I cast my ballot for Bill Clinton, believing, like many others that he was a new face for change to America. I voted for Bill Clinton to help protect freedom of speech and expression in our country and across our college campuses.

My story like so many others at Penn reflects the university's and Mr. Hackney's tendency to restrict free speech whenever voices are not on their side. That is—politically correct in their view. As you probably already know on February 15, 1993, I shouted "Shut up you water buffalo!" to sorority women who were stomping their feet, shouting and screaming outside my dormitory window at approximately 11:30 p.m. I later
learned that because of this truly innocent response to disruptive noise, racial harassment charges filed by students I was in complete shock that anyone had taken my words racially, and that made it clear to the University's Judicial officers and to 
Dr. Hackney that there was a total of total indifference to me. I explained that as a Jewish Bradford of Seminole, from the Hebrew word "behe'man", which translates literally into "water oxen" and simple means "strangers", I do not understand how a university which prides itself on diversity, did not accept my culture. 

I worked within the University, Judicial System and presented the testimony of many witnesses who had heard what I shouted and ascertained that they had absolutely no racial meaning. I even presented testimony from professors who are experts in African-American culture and linguistics, stating that the term was not a racial slur. But it soon became obvious to me that the evidence in the world could not help me. It did not matter that "water buffalo" has absolutely no racial meaning. It did not matter that the university had chosen me as a scape-goat for those who shouted the truly racist words. It did not even know had been shouted. It took four and a half months, or 131 days for the charges to be dropped and Dr. Hackney knew it took four and a half months because of these painfully difficult days. I met with him on January 15, were I told him everything that had transpired up to that point. I told him everything that I had said, and also informed him that on the night of the incident the confiscated my transcript and shouted, "You white boy! We are going to get you expelled from school!"

But neither President Hackney, nor his campus police told me that strange thing was under investigation for racial harassment. I did not file counter-charges, because I believe in the complainants' right to freedom of speech, even, indeed especially when they were angry and annoyed. Since January 15, all I wanted to do was to meet with the complainants, apologize to them that I was under investigation for racial harassment. I did not think about anything else. I was under the University's Judicial officers nor Dr. Hackney put any real effort into creating this type of friendly and constructive meeting between the complainants.
The University of Pennsylvania's Judicial Officers also committed many violations of their policies and procedures at my expense. As outlined in my testimony, at different points in the proceeding the University employed a double standard, placed a gag order on me, prohibited one of my witnesses from testifying, and attempted to create a hearing on a date in which none of my witnesses could be present. My advisor notified President Hackney that an investigation that had been committed by University Judicial Officials, yet, he did not find just cause for intervention even though it was obvious that I was being tried by a kangaroo court.

As stated in my Senate testimony, on May 28 (June 12), the day I was the last of the complainants, (not the University) President Hackney sent a disturbing letter to everyone who had written to him. In his letter, President Hackney told the people "do not share the same sense of crisis and calamity that has been so much in the news," that "I was grossly mistreated." Many noble individuals, primarily alumni, have written me letters expressing great concern, and many have felt compelled to withhold donations from the university.

Most students, black and white, including those who organized a free speech rally at the university, had been disgusted by the university's mishandling of the situation.

It is abominable that President Hackney does not share this sense of crisis. Because of serious racial tensions on campus, which should definitely concern President Hackney, his entire semester ruined by unjust charges. The Judicial Officers attempted to ruin my future by creating a judicial record for me, and adding to my transcript. These damaging and very serious charges hung over my head from January to late May and created enormous stress on the my personal life and contacts of the case for 130 days. Two days after the incident, I told him everything that had happened. He explained that the term "water buffalo" was not a racial epithet. This process has taken away something, irreplacable—a semester of my freshman year. I was able to learn how to deal with college students this year, not college Judicial Officers.

Finally, I would like to make it clear that the real issue here is not racial harassment. The real issue is freedom of speech. I established my innocence from the beginning. The reason this case was able to drag on so long is because the university has a speech code limiting the Constitutional rights of student. President said he could not understand that I should be found innocent. But because it was in the hands of incompetent and cruel judicial officers and an apathetic University President, my future was almost ruined.

Thank you,

Mr. GORTON. However, speech code enforcers interrogated Jacobowitz, asking him, among other things, whether he had any racist thoughts that night, and assumed that the term "water buffalo" was a racist epithet. Jacobowitz quickly explained to the administrative intended to pursue this prosecution to the fullest extent possible. Two days after the incident, a distraught Jacobowitz approached Hackney and asked him to intervene. President for reason and fairness. Sheldon Hackney now doesn't remember this appeal. At that point, Dr. Hackney could have intervened and brought the matter to a close. Instead, he did nothing, and the judicial officer continued to pursue the case despite findings by several university language experts who concluded that the term "water buffalo" was, as Jacobowitz stated repeatedly, a poor translation of the Hebrew slang word "behe'man", meaning "foolish person.

As the semester and these proceedings progressed, Dr. Hackney continued to distance himself from the controversy as it began to gain national attention and scorn for the university. According to Jacobowitz' testimony Dr. Hackney was aware of the Jacobowitz complaint about the irregularities at the proceedings, but that there was no cause for intervention even though he was new well informed about everything that transpired, though at the time he cannot remember Mr. Jacobowitz' angered personal appeal shortly after the incident.

At the end of May, just as a skeptical local and national press were writing editorials blasting the idiocy of the case against Jacobowitz and the irresponsibility of the Hackney administration, the sorority women who had brought the case in the first place called a press conference to announce that they were dropping all charges. Their explanation:

The media coverage deprived us of our right to an impartial panel, and therefore, a fair hearing. Realizing that justice could not be served, and in efforts to clarify our position, we have decided to formally withdraw our grievance.

Jacobowitz responded with the following statement:

President Hackney has continuously asked to allow "the process to run its course." But I gave the process over four months, far more time than necessary, to realize that "water buffalo" was not a racial epithet. This process has taken away something, irreplacable—a semester of my freshman year. I was able to learn how to deal with college students this year, not college Judicial Officers. My President, no one here enforces the often impossible task of a modern university administrator, but that task is made more difficult by a failure of character and leadership in difficult and controversial times. When his university's speech code was implemented by out-of-control zealots of political correctness, all sorts of his students, especially those students, heard the constitutional rights of students. Mr. Hackney, was indifferent when an advocate for truth and justice was needed.

In his testimony before the Senate Labor and Human Resources Committee, several of Dr. Hackney's remarks indicate some confusion over his ability to intervene. At one point in de-
although I was urged to do so throughout the spring, I think it would have been perhaps better for me to have intervened in an extraordinary way, but it would have undermined the judicial system and it would have been a terrible thing, I think for the university. So I did not do that, and I think the case was disposed of.

Senator COATS then asked a question relating to the early dismissal of charges in the case of Gregory Pavlik and the delay in justice for Mr. Jacobowitz. Senator COATS asked:

Was there any difference between this case and Mr. Jacobowitz's case, and why would one be resolved within days and the other take six months; and who intervened in Mr. Pavlik's case to bypass the process?

Dr. Hackney responded:

Yes, I did play a role there, but it was completely appropriate, and that I will leave to you to judge. Professor Cours did call me when Mr. Pavlik had been approached by the judicial inquiry officer (JIO), and Professor Cours explained to me what was transpiring. It occurred to me absurd in the extreme that someone who wrote things in the student newspaper could even be deemed to be in violation of that there was no relationship at all between the policy and someone who expresses opinions in the newspaper. My assistant then asked the JIO what was transpiring during the investigation period. And I think the JIO reassessed the situation and saw it in a much better light and dropped the charges, which I think was absolutely appropriate.

So sometimes Sheldon Hackney intervened and sometimes he did not. But always the process was more important than the justice of the result.

In addition, Sheldon Hackney had no recollection of a distressed Jacobowitz, remember, appealing for his assistance in assuring a fair outcome.

In his testimony, Dr. Hackney stated:

I really did not know about the Edna Jacobowitz case until after it was in full cry, so I was not able to do anything about it.

According to Jacobowitz, after the charges were dropped by the complainant, the whole judicial system, and it would be hazardous to share the same sense of crisis and calumny that has been so much in the news—reassuring words from a university president whose indifference inspired the college freshman to insist recently: "The damage Sheldon Hackney has done to me is immeasurable."

"My future was almost ruined.

So, Mr. President, from his testimony several things are painfully clear: Sheldon Hackney had the right— he think he had the duty to intervene even at the student level proceedings. He had in fact intervened in the past to dismiss a case, and he certainly should have done so in the case of Edna Jacobowitz. Apparently, Mr. Hackney's decision to intervene rests on his finding that she had written an essay which was written correctly: "The absurdity in the extreme." Perhaps mere absurdity was not sufficient grounds to intervene. Instead, Mr. Hackney chose indifference when a spokesman for reason was needed.

A classic case of absurdity and hypocrisy by the Hackney administration was the politically correct pursuit and punishment of Prof. Murray Dolfman and the找回 process. Hackney intervened in the Dolfman's inquiry, strongly advised him not to defend himself, and badgered him into an apology before an investigation was completed. Instead of providing leadership in the pursuit of academic freedom and fairness, Mr. Hackney pursued an agenda of political correctness and appeasement.

In some respects, this may have been the worst of all Sheldon Hackney's failures—a craven surrender to a mindless attack on a teaching method validated by every court of success, rather than work with them to assess their real needs. University administrators have often been afraid of guilt and have relied on legislation and capitulation to appease their own guilt than to help blacks and other minorities.

Dr. Hackney's statement during this testimony before the Education Committee that "Some of my best friends are members of the NAS," a moderate group of scholars opposed to the politically correct movement, recalls some historical instances of the least believable supporters of fairness and basic freedoms with respect to racial and religious minorities in the not at all distant past.

The Chairman of the NEH is entrusted with $150 million of taxpayer money every year to make balanced, rational, and fair judgments in promoting the humanities, a desperate cause often by the exhibitions, the publications, and publications. Hackney's lack of fortitude in the pursuit of intellectual honesty is a striking contrast to the straightforwardness his predecessor, former NEH Chair Lynne Cheney who wrote recently:

"Balance is not just a passive task. You actually need to fight against a swift current of political correctness. If you aren't an ally of a firm belief in fairness, you will quickly drift into the orthodoxy of the day, even with the best of intentions."

By his leadership at the University of Pennsylvania, Hackney has implemented a code of conduct that is in direct conflict with basic con-
August 2, 1993

CONGRESSIONAL RECORD — SENATE

S 10067

stitutional freedoms of expression; ac-
quiesced to illegal behavior and con-
doned blatant violations of freedom of
expression; stood by while an adminis-
tration out of control pursued a ridicu-
ulous charge and almost destroyed a young man’s career; and pro-
sided over the hysterical pursuit and
humiliation of a non-PC professor.

Taxpayers demand accountability in
government. If Sheldon Hackney can-
not accept accountability for his ac-
tions at the University of Pennsylva-
nia, how can the Senate possibly ex-
pect him to be accountable to the tax-
payers as NEH chairman? An editorial
in the Philadelphia Daily News accu-
rately rephrased this inquiry as fol-
lows:

At the National Endowment for the
Humanities calls for genuine sensitivity (not
alternately bucking to conflicting pres-
ures), the ability to deal with delicate sit-
uations, and above all, profound respect for
and insistence on honesty. Does that
describe Sheldon Hackney?

No, Mr. President it does not.

There is nothing pleasant about criti-
cizing a gifted and well-meaning man. How-
ever, the truth must be told, and which unfolded under his leadership at
Penn, I will vote against his confirm-
ration and conclude by conjugating with
the eloquent remarks of Charles
Krauthammer in his June 25 column:

Sheldon Hackney has had a distinguished
academic career. He is a noted historian. He is
a man of obvious good intentions. He is also,
unfortunately, a man who has suffered
failure of nerve—the failure of intellectual
honesty, the failure to defend principle—that
is the shame of American academic leader-
ship.

To elevate Hackney ** to the
chairmanship of the National Endowment is
to endorse those failures.

Comments for the record:

I must say frankly, and from the start,
that I am unequivocally opposed to the con-
firmation of the nominee Sheldon Hackney. I
have written earlier this year that when
crafted over the last twelve years, the com-
munity of the University of Pennsylvania is
quite literally one that is subject to a reign
of what can only be described as intellectual
fascism. Individuals at Penn are systemati-
cally subject to threats and harassment
under the auspices of “tolerance.” While pro-
claiming the munificence of “diversity,” the
minions of Sheldon Hackney have made it
their business to actively silence voices with
which, for whatever reason, they disagree. Sheldon Hackney has by no means been in
the dark with regards to what has happened
at the university. In fact, he has been the
principle architect of what the University of
Pennsylvania has become.

My first encounter with the tactics of the
Hackney administration took place in Oc-
tober 1989. I am an editorial writer for the
Daily Pennsylvanian, a newspaper that is
wholly independent from the school. I was
during invasion of my office, and I was
scheduled to run the next day. I con-
tacted a prominent member of the Hackney
administration for a copy of my upcoming
essay, which dealt with the issue of
racial double standards at Penn. At the end
of the conversation, I was told that if the in-
formation I brought up appeared in the
paper, “you’re dead.” The column was subse-
cuently published, and seven days later I was
awakened at my home by a phone call from
the university's official In-
quiry Officer for the University of Pennsyl-
via. Ms. Schiffer informed me that
there were 31 charges of racial harrassment
against me, which was a fact that
she, in fact, was aware of, and that I
had written unpopular opinion, and that I
was under investigation by the university. I
told her why her inquiry was, “you need to ask?” Then came one of the
most Orwellian statements that I have ever
heard. Ms. Schiffer intimidated me to
meet with her at the conclusion of the 31
students that had taken offense to my column and open a dialogue, the charges
might be dropped. The thought of participat-
ing in a “hate session” to be accused of har-
bouring incorrect thoughts and to be vilified
by a fury students and faculty generated
absolute for disagreeing with them is
perhaps one of the most blatant and chilling at-
ttempts to stifle free speech and a free press
I have ever heard of. The alternative
was to face a court system that could have
rendered a decision of expulsion. According
to Ms. Schiffer, the future criminal con-
versations, Sheldon Hackney was fully aware of what was happening from the start.

This is not only a case of students trying to suppress free expression, it was
also a violation of the policies of the
University of Pennsylvania. The university
has a set of rules that stipulates that
students will be prosecuted by the judicial system based on the
content of their writing. This was willfully
violated by Hackney administration, with Hackney’s knowledge. The University of
Pennsylvania also has a policy called the
“Freedom of Speech that states that,
“The freedom to voice criticism of ex-
isting practices and values are fundamental freedoms that must be
protected and respected by the University in a free society.” This too
had to be willfully violated by the Hackney
administration.

After the intervention of a prominent fac-
culty member, I was told that the charges
were going to be dropped, although it was
a couple months later before I was
officially informed that the investigation
was going to be ended. In the meantime,
I was then invited to a “multicultural”
sensitivity seminar, where I learned
controlling my courting impulse. Carrying
a full engineering load and coping with
the onslaught of the Hackney administration
has been one of the least pleasant experi-
ences of my life.

The next experience I had with the Hack-
ney administration occurred when a contin-
gent of campus radicals seized and disposed
of nearly all 14,200 copies of the Daily Penn-
sylvanian, on the day that my last column of
the semester ran. Of course one could ex-
pect condemnation of tactics that are so reminis-
cent of those used by Nat Sherman.
Shel-
don Hackney, however, was only bold enough
to start the war in the political domain bet-
tween open expression and diversity.” He did
not condemn the thief! I also am not sure why
my opinions are not considered to be a part
of that vaunted diversity, as I am the only
conservative writer on the paper. The other
thirteen columnists were decidedly oriented
to the left. Once again, and this time in per-
son, the message of Hackney’s regime was
simple: If we disagree, you do not have the
right to speak or think freely. The column has sent letters to those
concerned saying that people do not know
the whole story. This is correct. If people un-
terstand the nature of the inti-
mation and atmosphere of oppression that
has been created, the whole story of
what Hackney’s administration has done, there
be no doubt that they would have re-
acted even more strongly than they have.
Penn is a campus where students look over
their shoulders before they speak, for fear of
being called out and disciplined. It is a school
where friends whispering from class to class, for fear a politically in-
correct phrase will cause them to be
detained, expelled, or worse.

The poet of the National Endowment for the
Humanities should be open to a qualified
scholar who will proceed with good judgment and fairness. On these counts, based on per-
sonal experience, I know that Sheldon Hack-
ney is not qualified. The damage he has done
will not be undone. The only solution, I
believe, is for your choice on the
nomination of Sheldon Hackney not to
be extended to the country as a
whole. Please consider carefully your deci-
sion, for your choice will not only shape na-
tional policy, it will help shape the policy of
university’s across the country.

Mr. WOFFORD addressed the Chair.

OFFICER. The Senator from Pennsyl-
via.

Mr. WOFFORD. The Senator from Rhode
Island, [Mr. CHAFER], called for
nonpartisan effort in regard to nomina-
tions such as this nomination.

I want to point out that whatever
partisanship has been applied to nomina-
tions in the past, so far, until this after-
noon, the process regarding the
nomination of Sheldon Hackney has
become one of extraordinary nonpartis-
anship.

I would like to believe that the Sen-
am from Washington and the Senator from
Connecticut, if they had been given
the time and the opportunity, would
have come to the same conclu-
sion that all members of the com-
mittee came to, to vote against
Sheldon Hackney’s nomination—Senator
KASHEBAUM, Senator JEFFORDS, Sen-
ator COATS, Senator GREGG, Senator
THURMOND, Senator HATCH, and Sen-
ator DUNFORD.

We heard a little while ago about
quotas, political correctness, and
speech and justice.

As to quotas, I do not know anyone
in this body who would oppose them
more than I do. But I know that Shel-
don Hackney would oppose quotas him-
self. He and his family have a long
record of courageous support of efforts
to overcome discrimination, and in no way connected to what Sheldon
Hackney’s views or his record suggest that
he favors racial or any other kind of
quotas.

As to political correctness, if politi-
cal correctness is defined as the Sen-
ator from North Carolina defines it, I
do not know anyone in academia who
opposes that kind of political correct-
ness more than Sheldon Hackney, and I
can think of no one in academia who

As to concern for substance of justice and
not just for procedure, Sheldon Hackney’s life has been a story of con-
cern about justice, the substance of
justice, and the substance of free
speech.
I do not believe you would find Leonore Annenberg and Walter Annenberg writing to us to "give Sheldon Hackney an opportunity to serve this country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania," where Mrs. Annenberg said, "he steadfastly articulated freedom of expression, civility, and respect as the core values of the University." I do not believe if he were given the opportunity of political correctness the Annenbergs would be saying they cannot imagine President Clinton putting forward a better candidate from either the Republican or Democratic standpoint.

As to speech codes, I find by and large they are an abomination. I think the first amendment is sufficient. As I said earlier, as a college president I yearned for the days when academia was not run so much by faculty and deans and student committees, and college presidents had their duty to intervene, act correctly, and call in students and deans directly.

I know we are living in a somewhat different world. For a long time academia has been faculty-governed and full of student/faculty committees. And the process of adopting speech codes has spread all across the Nation. I hope that process will be reversed.

Sheldon Hackney has said that looking back on the experience at the University of Pennsylvania this year, he would like to see that process reversed. He has set up a committee to review the experiences of last year in search of revisions in Pennsylvania's speech code that will not lead to the inappropriate actions that were taken.

Sheldon Hackney has also pointed out to our committee that the student judicial system that was set up, that went into action after the water buffalo matter—after the tempo of the campus—after the crowd of students were shooting at each other and one student admitted that he had called out "water buffalo"—that student process is initiated under procedures of the university; wrongfully, I think. They were designed specifically to set up an independent process, independent of the administration, and particularly independent of the university president.

If you read the record you will see Sheldon Hackney has called for a full review of the appropriateness of such procedures and he himself has said to the committee that he thinks this was a misapplication of any such policy and a great mistake for the matter to have been pursued as it has been pursued.

It has repeatedly been said that he did not speak up about the confiscation and destruction of copies of the Daily Pennsylvanian. That simply is not true. He spoke up in all of his statements issued in the days that followed. He put together those statements into our RECORD. I have read from some of them, but I just repeat his statement in which he said,

"Confiscation of publications on campus is inconsistent with university policies. Neither I nor the University of Pennsylvania, condone the confiscation of issues of the Daily Pennsylvanian. I believe that the University of Pennsylvania should preserve the expression of the diverse views in the university community. Any violation of this or other university policies will be investigated in accordance with university procedures and those procedures call for the Vice Provost to set up a review board to look into the matter."

A review board has proceeded with disciplinary proceedings that are underway now, and led to one senior involved having his records withheld until this matter has received the full hearing of that panel.

Sheldon Hackney said the following statement on April 23:

"Taking newspapers is wrong as I made clear in a policy statement 4 years ago and reiterated last week's events and restated again this week.

"Of course it is wrong, Mr. President. In the very article put into the RECORD by Nat Hentoff, he has pointed out this wrong, which I denounced, has been spreading around the country and it should be stopped. Nat Hentoff's article in the RECORD now tells of incidents with the Yale Daily News, Dartmouth Review, the Trenton State College publication in Trenton, NJ, Southeastern Louisiana University at Hammond, and Penn State University, to name only a few.

"That kind of action should be suspended by students and there should be full disciplinary action against students who undertake to undermine the fundamental principle of the first amendment on campus.

"It has also been said he has not applied the principle of free speech everhandedly over his career. He gave the committee many examples of just that and he also support for campus speeches of Dr. Shockly, of Louis Farrakhan, and the King of Jordan, under attack in each case because they were controversial and contrary to what a large number of students in those institutions supported.

"As to the faculty letter that was sent to him which has been quoted to us, which says "Removal of the newspaper struck at the heart of the most fundamental values which the university should foster, diversity of thought, views and expression," Senator Hatch in our hearing said, "Do you agree with that?"

"Sheldon Hackney said, "I do."

"Senator Hatch said, "OK, that is important because if you did not I probably should not support your nomination."

Sheldon Hackney said, "I absolutely do. And the record shows that he does."

Senator Hatch concluded, after the long probing by him and by his colleagues, "Frankly, I don't think you deserve all of the criticism you have got. Frankly, I don't have to give you the benefit of the doubt. I believe that you mean what you say and you are doing what you say you are doing and I intend to support you in this committee and on the floor."

Mr. President, I yield the floor.

Mr. WOPFORD. Mr. President, I would like the understanding that we have had that in quorum calls, time runs equally against both sides to be noted and confirmed.

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

Mr. WOPFORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. WOPFORD. Mr. President, Dr. Sheldon Hackney is a distinguished scholar with strong academic credentials for the position of Chairman for the National Endowment for the Humanities. Dr. Hackney is a graduate of Vanderbilt and Yale Universities; he is a past provost at Princeton; and the president of Tulane University and the University of Pennsylvania.

My colleagues, the Senate from Pennsylvania [Mr. Wopfard] has spoken quite eloquently to the recommendations of Dr. Hackney for this position.

He underwent some lengthy review before the Labor and Human Resources Committee, and in the course of my very lengthy review of him, I carefully examined not only his academic record but also his actions with respect to a number of incidents at the University of Pennsylvania which were widely covered in the media and which have been covered here on the Senate floor to some extent this afternoon.

Based on the review that I undertook, Mr. President, I have determined that Dr. Hackney's actions in those situations did not disqualify him for the position of NEH Chairman.

For the record, I asked Dr. Hackney whether he felt the charge of racial harassment was most strongly pressed. Mr. Jacobowitz was justified. Dr. Hackney stated he did not believe it was justified, noting that the University of Pennsylvania's speech policy is very narrowly focused and is to be applied only in situations in which racial or ethnic slurs are used in face-to-face encounters.

Dr. Hackney stated the facts of the case did not meet this criteria.

Dr. Hackney stated he did not intervene in the case because, as currently structured, there is no provision for such intervention into the university's
judicial process even when it is clearly misconceived. In some ways, I think it is unfortu-
nate, and perhaps through all of these cases, that the University of Pennsylvania, they will set up a different process.

To have Dr. Hackney's views turned, based on his long-standing assurances to the university's judi-
cial process, disrupting the numerous cases being properly adjudicated. Dr. Hackney stated that such disruption would have resulted in a divalse campus cri-

Although Dr. Hackney states his confi-
dence that the judicial process would have ultimately dismissed the charges against Mr. Jacobowitz, Dr. Hackney now believes the speech code and judi-
cial process should be reexamined in the light of that incident.

Regarding the theft of 14,000 copies of the university students' newspaper, Dr. Hackney asserted that his statements at the time of the incident recognized the seriousness of the violation and emphasized the privacy of free speech on a university campus.

Dr. Hackney stated that, in retrospect, he would have made this point in a more forceful manner. He added that the students involved are currently facing charges of misconduct. He went on to point out, Mr. President, that throughout his career, he has defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum.

In this regard, he noted the diversity of speakers that he had provided security for on the campus and believed that everyone should have their views heard in a university and campus setting.

As to the charge that Dr. Hackney proposed banning the ROTC program for the University of Pennsylvania campus, he responded that the charge is completely unfounded. It is nothing but a product and vocal supporter of the ROTC program.

Mr. President, although I do not think the various allegations asserted against Dr. Hackney should disqualified him for the position of the National Endowment for the Humanities chair-
manship. I do believe it will be neces-
sary for Dr. Hackney to exercise strong leadership as he takes the helm of the endowment. The National En-
dowment for the Humanities is a public-funded entity. As such, the NEH should be distinguished from the pri-
vately funded entities over which Dr. Hackney has served as provost and president.

Ultimately, Dr. Hackney will be ac-
countable for the development of NEH funds—a responsibility that demands a sensitivity to the humanities as well as to the tax-paying public. Firm guid-
anes from the top is essential to assur-
ing that the endowment is not con-
stantly encroached upon. And the process that process is not substituted for judgment.

It is with the advice that he exercise caution, and I should warn him against the pressures of ideological bias that 1 will look forward to sup-
porting Dr. Hackney and will vote for him when the vote will be called to-
morrow.

I ask unanimous consent that my questions and Dr. Hackney's responses be printed in the RECORD at this time. There being no objection, the mate-
rial was ordered to be printed in the RECORD, as follows:

QUESTIONS FOR THE RECORD BY SENATOR KASERBAUM FOR SHELDON HACKNEY, NOMI-
NEE FOR CHAIRMAN OF THE NATIONAL EN-
DEWON OF THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harass-
ment would have followed Jacobowitz was justified? If so, please explain why.

I did not think the charge of racial harass-
ment was justified. Penn's policy is very nar-
rowly focused. It is not appropriate to infringe on situations in which racial or ethnic slurs are used in face to face encounters and with no other inj-
jury than invoking a speech code. It is not safe to equate

2. In your rebuttal, do you believe you should have intervened in the university judicial process brought against Mr. Jacobowitz, or do you stand by your action not to inter-
vene?

As awful as the spring was, I still think it would not be appropriate for me to intervene in the judicial process. There is no provision for the President or for an officer of the Uni-

3. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1983, please explain your reaction at the time of the incident, Mr. including the complete statement issued by your office.

I appeal the statements issued at the time of the incident. I believe we made clear that I recognized the seriousness of the viola-
tion and emphasized the priority of free speech on a university campus.

4. If you were asked to identify what your admin-
istration did to identify and bring charges against those responsible for the Daily Pennsylvanian, would you have ever been charged in the theft? If so, what was the result in terms of penalties meted out?

The Committee on Open Expression (an im-
portant faculty-student committee that monitors the Open Expression Guidelines) has ruled that the incident was a violation of the Open Expression Guidelines, thus mak-
ing clear that charges would be brought. A number of students apparently involved in the incident have been identified and were arrested. The university took a firm stand against face judicial processes, and they return to campus for the fall term. The senior in-

5. Do you believe your response to the inci-
dent was appropriate considering the seri-
ousness of the act in the context of First Amendment rights to free expression?

I believe I did. Although I wish I had not used a formu-
lation that was so easily taken out of context and misrepresented. If I could write the docu-
ment again, I would avoid the phrase "speech in a language that was even clearer and stronger in condonning the confabulations.

6. The Eden Jacobowitz affair and to the newspaper theft incident have been characterized as employing a double standard in Penn's policy.

What is your response to that charge?

The charge is absolutely false. Throughout my career, I have defended free inquiry, free speech, and academic freedom from all parts of the political spectrum.

One incident in particular has been used to suggest that I am less than even-handed. In the early 1980s, the South African Ambas-
sador to the United States accepted an invi-
tation to speak from a student group. The student group was then informed that University policy (which preceded my arrival at Penn) required host groups to pay all the costs of invited speakers, including security costs. Special security was required for the South African Ambassador would have incurred substantial costs. The student group therefore withdrew the invitation. As soon as I heard of this situation and realized that if it was on the books, it was not operating as intended, I changed the policy. The University isn't really open to all points of view if a host group is willing to bear all the costs involved in keeping opponents the speaker from disrupting the event. The new policy was thus in the best interest of all subsequent speakers, including Louie Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of a speaking engagement by artist Andres Serrano on the University of Penn campus in 1989-90, you refused to order the removal of campus signs depicting anti-religious and graphic sexual symb-
ols. Please explain what occurred.

As with so much that the Wall Street Jour-
nal has reported about me it is all wrong in important respects, highly dis-
torted in other respects, and the story pre-
sented as a problem that is my problem. The morning of April 13, 1993, members of Penn's groundkeeping crew arrived on campus to find, written in chalk, graffitti depicting reli-
gious symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundkeeping crew immediately washed off this graffiti. Later that day the stu-
dent government adopted the right to use the campus—a group who had originally cause the graffiti writing, protested to Penn's Assistant Vice

CONGRESSIONAL RECORD—SENATE August 2, 1993 S 10069
CONGRESSIONAL RECORD—SENATE
August 2, 1993

S10070

Provost for Student Life that the erasure of the graffiti violated the University's Guidance on Expression. The Committee on Open Expression, following precedent, found that the graffiti was protected speech as long as the graffiti was temporary and did not permanently deface University property. Members of the group returned the next day and renewed their graffiti writing. The issue was brought before the regular University open expression policies and procedures. I was not personally involved in it. The incident did not affect the Andres Serrano's visit to Penn, which took place on December 5, 1990.

8. Please explain your criticism of the Helms Amendment as it pertained to the work of artist, Robert Mapplethorpe and Andres Serrano.

I did criticize the language of the Senate amendment—greatly exaggerated.” Do you believe that bill for FY90 (the Helms Amendment) because I believed that the language of the bill would have imposed unacceptable content restrictions, and I believe that Congress has wise in its judgment not to adopt it.

9. The Wall Street Journal reported that you proposed banning ROTC from the University. How did you feel this would affect the military's prohibition on gays and lesbians serving in the military. Is this true?

I would have stood on the floor of the Senate and said that I believe this would be the right thing to do. The term “political correctness” is almost hopelessy vague and imprecise. It began as a term used by the military to describe when it has been realized that there is no content in the speech of the liberal orthodoxy that can claim the status of having been victimized by society that the general interests of the University, which at times even the search for truth is threatened. Fortunately, “political correctness” does not dominate American campuses, though it is something about which faculty and academic leaders ought to worry about. I believe that I am representative of the broad mainstream of the American professoriate that sees danger in any potentially intolerant orthodoxy, but that may also see potential in some ideas that may be part of a “politically correct” position.

Mrs. KASSEBAUM. I just reiterate my strong support for him at this time in this position. I feel it offers an opportunity not only for his scholarly and intellectual interests, but for his opportunity to bring an evenhandedness and a firm sense of direction to the National Endowment for the Humanities.

I yield to Mr. President.

Mr. WOFFORD. I thank the Senator from Kansas for her thoughtful statement with which I agree, and for her care and concern and instructive approach to this nomination. It is a tradition that I have so far experienced in the Labor and Human Resources Committee, and in no small part due to the Senator from Kansas. I also, once again, pay tribute to Senator HATCH's probing, critical questions that led to his support of Sheldon Hackney, and to note that as a former chairman of the Armed Services Committee, I found Senator HATCH's observations as to what happens to university and college presidents extraordinarily perceptive, as well as witty and human.

I pay tribute to members of the other side of the aisle in our committee who came into the committee hearings thinking they were going to be against Dr. Hackney, and after they were answered, they joined in the unanimous recommendation for the nomination of Sheldon Hackney.

Mr. President, I suggest the absence of a motion to proceed with the vote to the PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proclaims the following names.

Mr. WOFFORD. 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. SPECTER. Mr. President, today I express my support of the confirmation of Dr. Sheldon Hackney to serve as Chairperson of the National Endowment for the Humanities. Dr. Hackney's reputation as an outstanding educator is well known both on the national level and across the Commonwealth of Pennsylvania, where he most recently served as President of the University of Pennsylvania. Having been appointed to this office in 1981 after serving as president of Tulane University and as provost of Princeton University, Dr. Hackney was responsible for a number of academic and administrative functions of Penn's 12 schools, its medical center, and the more than 20,000 employees responsible for making the university the largest employer in the Greater Philadelphia, other than the municipal government, as well as personally teaching classes at Penn.

Dr. Hackney has an outstanding record in academia. He received his bachelor of arts degree from Vanderbilt University in 1955. After serving his country in the U.S. Navy from 1956-61, he earned his masters and doctorate degree at Yale University in 1961 and 1966, respectively. He is an accomplished historian, having written several books on the American South; he has received numerous honorary degrees; and Dr. Hackney has served on numerous panels and commissions in academia.

Although his reputation is most notably one of educational leadership, Dr. Hackney has also served as chairman of the Greater Philadelphia Chamber of Commerce, the Greater Philadelphia Urban Affairs Coalition and the University City Science Center.

Overall, my knowledge of Dr. Hackney while he has served the University of Pennsylvania and the surrounding community has been positive. Receiving a very negative reaction concerned with his handling of two widely publicized incidents at Penn: One, of a student shooting an alleged racial epithet water buffalo” as a group of African-American students and second, the confiscation and destruction of 14,000 copies of an issue of the campus independent student newspaper by African-American students because of an editorial that was written by a columnist who wrote the paper.

Regrettably, these highly publicized events left something to be desired; these actions threaten to undermine the very principles that I believe the universities of America should be advocating. As an outstanding American school of the highest rank, the University of Pennsylvania has been the model for a small but significant number of the nation's best institutions of higher learning.

Sheldon is currently serving as president of the University of Pennsylvania. In his capacity as Penn's 21st chief executive, he is responsible for all academic and administrative functions of its 12 schools, its medical center, and the more than 20,000 employees responsible for making the university the largest employer in Pennsylvania, other than the municipal government, as well as personally teaching classes at Penn.

Mr. REFLIN. Mr. President, I am pleased to rise in strong support of Dr. Francis Sheldon Hackney's nomination to be the President's Chairman of the National Endowment of the Humanities. I have known Dr. Hackney, his wife, Lucy, and his parents, for many years, and know firsthand of his impeccable credentials and unique qualifications for this position.

Sheldon is currently serving as president of the University of Pennsylvania. In his capacity as Penn's 21st chief executive, he is responsible for all academic and administrative functions of its 12 schools, its medical center, and the more than 30,000 employees who make the university the largest employer in Philadelphia outside the local government there. Sheldon is also a history professor at Penn. Before joining the faculty at Penn, he served as president of Tulane University from 1975 to 1981 and was Provost of Princeton University from 1972 to 1975.

Under Sheldon's capable leadership, Penn has experienced a 347-percent growth in its endowment and a 300-percent increase in annual voluntary contributions. At the same time, Penn's operating expenditures have increased by 281 percent, while Penn's endowment fund has increased by 14 percent, bringing the total endowment to $1.3 billion for the fiscal year ending June 30, 1992. In October 1988, the university launched its 5-year Campaign for Penn. The fundraising campaign's goal of $1 billion makes it the largest such effort
ever undertaken by an Ivy League institution and the second largest by any American university.

As the university's primary representative to the Philadelphia community, he is responsible for a major expansion of Penn's direct involvement with the issues and challenges facing the West Philadelphia community, including joining the campus. Through his chairmanship of the West Philadelphia partnership, Sheldon has directed the growth of a working partnership among Penn, neighboring institutions, and the residents and business community of West Philadelphia.

Sheldon attended my undergraduate alma mater—Birmingham Southern—for 1 year, and later earned his bachelor of arts degree at Vanderbilt. He later took his master of arts and doctoral degrees at Yale. When he is confirmed to head the National Endowment for the Humanities, Sheldon will oversee a 2-year budget of more than $176 million. The Endowment awards grants to scholars, teachers, and libraries working in the humanities.

Born in Birmingham, Ala., Sheldon is a noted historian and authority on the American South. He authored the 1989 Edward Sevridge prize for the best book on American history that year, "Populism to Progressivism in Alabama." He is also the author of "Populism: The Critical Issues," published 3 years later. His articles on southern history have appeared in the leading academic journals. From 1972 to 1975, Sheldon was a member of the board of editors of the "Journal of Southern History." He edited "Understanding the American Experience: Recent Interpretations," and wrote the introduction to Gerald Gaither's "The Blacks and the Populist Revolt."

Sheldon enjoys a reputation as one of the foremost experts on Southern history and culture, which makes this service all the more important to support him. But as we all know, he has established himself in the field in so many other ways as well. He has served on the Rockefeller Commission on the Humanities and the American Council of Education's Commission on Women in Higher Education. In the early 1980s, he chaired the board of directors of the Carnegie Foundation for the Advancement of Teaching. He is still a member of that board. In 1987 and 1988, he chaired the Consortium on Financing Higher Education.

Although Sheldon has spent his adult life away from his native State, he attributes much of his success to the lessons he learned while growing up in Alabama. He recently said, "I attribute a good bit of the shaping of my values to the South. It was a very important to me. Even in high school, a group of friends and I went to Methodists youth fellowship every Sunday. We credit our parents with helping to shape the values by which they live today.

Mr. President, Sheldon Hackney has a distinguished record as a first-rate scholar, author, educator, and astute, fair, and temperate administrator. He is uniquely qualified for the challenge of heading the agency and carrying out its mission to support public programs, education and research in the humanities.

I wholeheartedly endorse this nomination and urge my colleagues to vote favorably on Sheldon Hackney's appointment to be National Endowment for the Humanities Chairman. I have every confidence that he will bring enormous energy to the agency and a dynamic approach to promoting the humanities in this country.

Mr. JEFFORDS. Mr. President, I rise today to express my support for the confirmation of Dr. Sheldon Hackney as chair of the National Endowment for the Humanities.

Controversy has arisen over Dr. Hackney's nomination because of two events on the campus of the University of Pennsylvania. The events focused on the conflict between the freedom of expression and the need to avoid tensions like those which have existed at the University of Virginia, as well as virtually every other college campus in America. And unfortunately, tensions like these are indeed an effect of many of the burning social problems in America's cities today.

I am not going to go into detail on these incidents, for I believe everyone is aware of them. Rather, I would like to say that I have spoken very candidly with Dr. Hackney about this very difficult issue. It is a tough issue, one to which there is no clear or easy answer.

Should he have handled the situation differently? Probably. Nevertheless, he assured me of his commitment to the freedom of expression, something he has adamantly advocated throughout his life. Dr. Hackney is certainly not the first university president to handle difficult issues. He will be the last.

In my mind, the debate over whether he did the right thing or the wrong thing is not the concern here. The real concern is choosing a chairperson to effectively lead the NEH.

The National Endowment for the Humanities is an agency that has sailed through rough waters in recent years. It must be stabilized and depoliticized. Despite the attacks it has endured, the NEH has been a major force in intellectual life in America for the past 25 years. In Vermont, the Vermont Council on the Humanities is using NEH grant money to support literacy programs in an effort to achieve full literacy in my State by the turn of the century.

The NEH is a reasonable, and visionary leader. As a man who has devoted his professional life to the academic community, and as a man who has educated universal and special careers through, uncertain times, Sheldon Hackney has proven he is up to the task. Clearly, he will bring this leadership to the NEH.

On July 14, the Labor and Human Resources Committee unanimously approved this nomination. I believe the full Senate should do the same.

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities. The NEH has an important and difficult mission to fulfill. It is responsible for supporting the highest level of scholarly inquiry and to share the riches of thought in the humanities with the public. Over the years, NEH has helped interpret research works in American thought to our citizens, and has developed our traditions more deeply through its grants and programs. Through the State humanities councils, NEH reaches people throughout the United States through presentations, and exhibits, and literally has taught thousands of Americans to read, bringing them into the mainstream of the democracy and economy.

Dr. Hackney's well-publicized nomination recently was voted out of Senator KENNEDY's Labor and Human Resources Committee, a 17-0 vote. Senators across the political spectrum gave him a fair hearing; listened to his positions on academic freedom and free speech. They listened to a distinguished southern historian, president of the University of Pennsylvania for 12 years, and found a man who can lead the NEH to fulfill its mission, and bring the humanities—areas of study that bring us the deeds and thoughts of other times—into everyday life.

Dr. Hackney's nomination should not be politicized any further. He needs our bipartisan support to lead the National Endowment for the Humanities in a difficult time. He should be confirmed.

Mr. COATS. Mr. President, the National Endowment for the Humanities needs to move into a period of reasonable stress. There is a swift current in the academic community that moves toward the left. That current threatens to take institutions like the NEH along with it. And if that happens, a public trust is violated and public support is squandered.

The Chairman of the NEH needs to be an activist for balance, fairness, and the speech. When Federal involvement is involved, no Chairman can be allowed to pick favorites in academic debate—no matter what pressure is applied. Mr. President, we must consider that a principle fairness may seem.

Dr. Hackney has indicated he shares this view, and on the basis of my personal discussion with him, and his responses to my questioning of him during his confirmation hearing, I believe him.

But his past record does raise some questions. About his treatment of free speech? Is it a free speech of the common person, or a forcefulness in opposing the strident voices of the politically correct.
But these are questions, not disqualifications. And I will vote for Dr. Hackney.

I hope he will remember that, for a number of us, our concerns will not end with his confirmation: Dr. Hackney has an opportunity to prove that he will conduct the Labor Committee before the Labor Committee truly reflected not only his views but his actions.

I trust that Dr. Hackney will take advantage of this opportunity. I wish him well, and intend to work with him to protect the rights and needs for the NEH that I believe we both share.

Mr. WOIFFORD. Mr. President, when I received the appointment to this body I vowed that I wanted to do everything I could to make something good come out of the tragic loss of John Heinz.

I would like to conclude my part of this debate today with a statement that Teresa Heinz, the widow of Senator Heinz, sent me this morning on behalf of Sheldon Hackney. She writes:

Dr. Hackney.

Heinz for a number of years. His work as an educator and as a leader in the field of humanities is well known and well respected. Dr. Hackney will bring a broad perspective and expertise to the National Endowment for the Humanities. I know he will make Pennsylvanians very proud, and I am very proud to call him my friend and to endorse his nomination.

Mr. President, I yield back all time on this nomination.

This request has been cleared by the minority. And I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, for 7 minutes I would like to speak as if in morning business and I ask unanimous consent to do that.

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

Mr. GRASSLEY. Mr. President, in the 1980's, conservatives advocated executive power. Coincidentally, during the 1980's, conservatives had executive power. The way some conservatives talked when they occupied the White House, you would've thought they subscribed to the vision of a President "with the diadem sparkling on his brow and the imperial purple flowing in his train... seated on a throne surrounded with minions and mistresses, giving audience to the envoys of foreign potentates in all the supercilious pomp of majesty," as Alexander Hamilton lampooned.

Some who have noted the recent conversions of Pennsylvania Avenue and Rodeo Drive might think the anti-Federalists' fears of an American imperial court have been realized. But the President is not a monarch, a shah, a sultan, or a grand poohbah—even when Hollywood celebrities normally found in the pages of the National Enquirer roam the White House with staff ID's.

Contrary to the beliefs of many of my fellow conservatives, the framers intended the legislature to be the pre-eminent branch of Government, and they should conduct vigorous oversight of the executive.

During the Reagan and Bush administrations, I frequently differed from my Republican colleagues in my unwillingness to defer to the authority of the White House. I did not make any friends in my party by subpoenaing the Attorney General before Congress and asking him in contempt, 2 weeks before a Presidential election. But I never saw my role as cozying up in the lap of the White House. I believed then, as I do today, that the Imperial President has no constitutional clothes.

Our Constitution gives the most dangerous powers of Government to the Congress, it is the most representative body and the only one which is truly informed for the public use, for declarations of war and regulation of the armed forces, for the regulation of commerce—for the functions the framers most strongly viewed as vesting in the rest of society. We should have committee term limits, and the President should have line-item veto power. These and other reforms would enhance our democracy.

Conservative reform should reverse the damage done to the constitutional system by decades of partisanship, entitlement and fiscal logrolling. At the many Americans looking for new independent leadership recognizes, we need to destroy politics as usual to save democracy. We need to redesign the budget and appropriations processes, and replace polls and interest groups with genuine exercises in public judgment.

Now that conservatives have left the White House, I hope they will realize that it is myopic to argue that the arrogation of power by Congress is best countered by the executive. The way to prevent Federal bureaucratic tyranny is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should divest Congress of the power to counter congressional arrogance by returning power to States and municipalities. While a liberal's ideal of reinventing government is reaffirming bureaucracy, conservatives know that by reforming Congress and reviving federalism, we can reinvent democracy.

EXHIBIT 1

[From Roll Call, July 12, 1983]

WHY CONSERVATIVES ARE FOOLISH TO PUSH IMPARLIAL PRESIDENCY

By Llewellyn H. Rockwell, Jr.

Conservatives are going through another cycle of their periodic intellectual spasms over the proper role of the executive branch and Congress. The controversy, which dates back to at least the New Deal, centers on which branch of government should have the power to make budget, tax, foreign policy, and judicial appointments.

Even though the Constitution makes Congress the preeminent branch of government...
August 2, 1993

CONGRESSIONAL RECORD—SENATE

S10073

During the 1980's conservatives argued for an imperial presidency. Of course, they didn't call it that. Instead, they argued that Congress was impotent, thus justifying the expansion of the president's power.

Conservatives had been semi-imperialists on this question when Nixon was chief executive, but they were never quite thus House when Congress questioned Ronald Reagan's foreign mercenary armies, and naturally, the president spoke out over into domestic policy.

By the late 1980's, it was an article of the conservative faith that the president had, and should have, policymaking authority. Conservatives even called the president the nation's "commander-in-chief," as if he were in charge of civil society.

The president should have the line-item veto, they told us, because it would get Congressional authority over spending. All laws applying to the public ought to apply to Congress, too, even though this would empower minor bureaucrats over legislators. Congressional terms should be shortened while bureaucrats serve for decades, further enhancing the arbitrary power of the executive branch. The President should be told, should assume the power to change tax laws on his own say-so, such as lowering the capital-gains tax. The Journal also wanted the same, only to preserve an executive flat, the line-item veto, and to have full authority over international trade.

Surely, they argued, opening the White House. Yet now, conservatives' only friends are in the legislative branch. Congress, in fact, is the only bulwark against full Congressional statism. Only by using the powers and tactics—filibusters, demagogic speeches, agitation over the rules, etc.—that the Democrats used the same year, but Reagan's adventurism can a liberal president be hampered.

For all this squares, of course, with the 1980's conservative belief that Congress' role is to shut up, vote money, and salute the press. But if Congressional Republicans today bowed down before him the way they wanted the Democrats to under Reagan, Clinton would have had a permanent honeymoon out of respect for the office of the presidency. And although grass-roots conservatives cheered on Bob Dole's attack on Clinton's "stimulus," the conservative leadership is itself misled in error.

A prominent conservative think tank in Washington, DC, has mailed out a million copies of The New Republic, which traces all of America's troubles to a handful of Hill staffers, and former Bush speechwriter Tony Snow, now a columnist for the Detroit News, argues on National Public Radio for a Caesarist presidency and a rubber-stamp Congress.

Yet if any chill and milliary's new taxes, new spending, and socialised medicine is stopped, it will be thanks to Congress. The habits of presidential expansion may well be ingrained, but conservatives should do their best.

It is far better to trust a Congress controlled by either party than a president who mimics spend 99.9 percent of the federal budget and regulate our businesses, families, and communities with such menacing meticulousness.

For example, Congress is far closer to the people. A Member never gets through the lay without having to deal with his constituents, who pay the taxes and have to live under the laws voted on. Yes, many are seeking favors and privileges. But more complaints and resolutions than millions of the federal bureaucracy, and Members and their staffs have to listen.

The millions of minor bureaucrats in executive branch, on the other hand, have contact with us only when they place their boots on our backs. And the president watches abstractions like the polls.

 Congressional supremacy is far from a perfect system, but it's better than the executive tyranny that the Founders, and their English parliamentary predecessors, hated so much.

If we get through the next years without 100 percent of the Clintonian program being laid on Congress, Conservatives ought to be leading the applause.

Mr. GRASSLEY. I yield the floor.

Mr. CRAIG addressed the Chair.

Mr. PRESIDING OFFICER. The Senator from Iowa is recognized.

Executive Session

Nomination of Sheldon Hackney, of Pennsylvania, to Be Chairperson of the National Endowment for the Humanities

The Senate continued with the consideration of the nomination.

Mr. CRAIG. Mr. President, I am here today to talk about a good, decent, hardworking man and a tremendous scholar. Because, after meeting Dr. Sheldon Hackney, after reading the record of his achievements and reviewing the transcript of the hearing held by the Labor and Human Resources Committee, I am convinced he is a decent and scholarly man.

Surely that is the sort of person we need to head the National Endowment for Humanities—the organization that advances what is highest and noblest in human culture by supporting scholarship in all the branches of learning that investigate human constructs and concerns. The head of that organization should reflect the kind of scholarship and culture that we expect the organization to support.

Mr. President, based on those requirements, an individual as decent as Dr. Hackney [Chair] must surely be eminently well-qualified to serve as head of the National Endowment for the Humanities.

There is just one thing that has me concerned.

Dr. Hackney said during his testimony before the Labor and Human Resources Committee that "university presidents operate in a sea of powerful and conflicting currents," I would submit that such confrontational organizations like the National Endowment for Humanities operate in stormy seas the likes of which Sheldon Hackney has not even begun to describe.

And for that reason, NEH does not need a noble figurehead; it needs a rugged captain who can stick his oar in the water and give the organization a strong shove in the right direction—against formidable forces, when necessary.

Can Dr. Hackney captain the NEH? Well, when the spotlight shone on Dr. Hackney's reputation as a stalwart defender of the First Amendment, why the South African consul was not allowed to speak at Penn because of the opposition of minority students, although Penn paid most of the speaking fees and security for hate-monger Louis Farrakhan to speak at the university.

What was the problem here? What was the difference?

Now, Dr. Hackney explains to me that the first episode took place early in his presidency—the denial of the South African consul—and, as a result of that, the university changed its policy and that is why Louis Farrakhan was allowed to speak.

In this case, Dr. Hackney certainly stuck his oar in the water and put the boat back on course. Perhaps a little late. He did not tell me if there was any attempt after changing the policy to reinvoke the South African consul. But maybe the students were not interested anymore in hearing those views.

Surely we could not characterize this as a tendency to protect speech from one point of view or not speech from another point of view.

And I applaud him for the statement he made to the students protesting the Farrakhan speech: "In an academic institution, free speech is the most fundamental value. We can't have free speech just some of the time for some of the people."

There is no question where he stands on freedom of expression in art. He ardently defended the decision of Penn's Institute of Contemporary Art to exhibit the Mapleton photographs. And during the confirmation hearing, he agreed that there is a big difference between a university displaying controversial art and a National Endowment making a decision about subsidizing a particular project with tax funds. Perhaps he regrets denouncing one of our Senate colleagues who understood that same distinction and was trying to get NEH to be more responsible in handling those taxpayer dollars. And even more so, perhaps he feels that it is part of the function of art to shock people, perhaps he does not feel that is the function of studies in humanities.

In any event, this decent and scholarly man certainly deserves commendation for the stand he took on freedom of expression at the time, when he wrote "the best protection we have found for a democracy is an unregulated market in expression."

Those two statements I have quoted have quite a ring to them. And they certainly reflect an uncompromising stand on freedom of expression.

Maybe that's why his latest statement on the issue which has caused such a storm of criticism, is somewhat of a frustration. When students stole an entire run of the Penn student newspaper carrying articles that some claimed the minority community found offensive, Dr. Hackney said confiscation of newspapers was wrong. Unfortunately, he didn't say it as clearly as he might have in the past when freedom of
expression was threatened. There seems to be a time lag here, when the shoe is on the other foot. In fact, he said, this is an instance had. Hence groups important to the university community valued members of Penn's minority community and students exercising their rights to freedom of expression presaging some important university values, diversity and open expression, seem to be in conflict.

That doesn't quite have the ring to it that those statements had. In other words, Dr. Hackney, sometimes you appear to be very loud and clear in your defense of freedom of expression. But sometimes you appear to withdraw or to be considerably hesitant. And that has me concerned.

But because Sheldon Hackney is a decent and scholarly man, we can be sure that he intended to be equally stalwart in his decision to call the congressional hearing of the university's admission and disciplinary policies. Maybe he did not push quite so hard on his car that time, but he says it was in the water.

Dr. Hackney also explained some apparent inconsistencies in the application of the antiharassment code at the university. The author of the offensive newspaper articles had been charged previously with racial harassment under the school's antiharassment policy. When another teacher intervened and went to Dr. Hackney, the investigation was dropped within 6 days. Yet in the famous "Water Buffalo" case, Eden Jacobowitz spoke to Dr. Hackney about the case and Dr. Hackney did not intervene. Mr. Jacobowitz went from there uncertain of his future, before the case was finally dropped. Dr. Hackney says it is not his role to intervene and he does not remember speaking to Mr. Jacobowitz, even though with respect to Penn's antiharassment code—sometimes called a speech code.

Some of my colleagues have heard me talk about these codes in the past. I am unalterably opposed to them. As I have said, we are probably more aware than others of the importance of words. We make our living using words to persuade our colleagues to take certain actions. We know how changing a single word in a law can radically alter the impact of that law. Daily, we use words as weapons—and as shields.

So I hope my colleagues can understand how serious I can take these incidents. They can also take them for what they are: a speech code—sometimes called a speech code.

Some of my colleagues have heard me talk about these codes in the past. I am unalterably opposed to them. As I have said, we are probably more aware than others of the importance of words. We make our living using words to persuade our colleagues to take certain actions. We know how changing a single word in a law can radically alter the impact of that law. Daily, we use words as weapons—and as shields.

So I hope my colleagues can understand how serious I can take these incidents. They can also take them for what they are: a speech code—sometimes called a speech code.

And imagine that the President of Penn's—saying to you: "Your colleague is exactly right. In this legislation, we have the only way to conduct a healthy debate is a support environment. Each Senator has the right to dictate what he or she finds offensive. If your words or ideas are of that nature, you are not allowed to express them. And if you do express them, you will be sanctioned. You could even be expelled."

That is what some of the policies are like. It has not been like at some of our university campuses. With politically correct speech. The kind that for a time Dr. Sheldon Hackney really did not know whether he could support or would support or did not support. And finally had the policies changed.

Imagine what debate would be like under those rules. Imagine the burden you'd feel under those restrictions. You would have to weigh every word carefully. You would maneuver yourself before you even began to speak. You might even decide not to speak at all, because undoubtedly someone would be offended by what you have to say—or might at least claim to be offended.

Now let me ask my colleagues: Are these the rules of debate you would want in the greatest deliberative body in the world?

No, of course not. You would tell me these kinds of restrictions would destroy the very foundations of the Senate; that these kinds of restrictions are unconstitutional; that the best way to destroy offensive ideas is through robust and open debate, not censorship.

You would tell me all this—and you would be right.

You would be right as an American but, more important, you would be constitutionally right because it was the very thing our Founding Fathers wanted to ensure through free speech.

If the day ever comes that one Senator allows another Senator what is an appropriate subject for debate, or an appropriate word to be used, or an appropriate argument to make, when that day comes, we might as well close the Senate as a deliberative body, lock the door and throw away the key to our freedom—our freedom of speech and our open, free debate.

It may seem unthinkable for speech codes ever to exist in the U.S. Senate, but let me warn my colleagues, it was not many years ago that these kinds of restrictions would have been equally unthinkable on campus campuses. The destruction of free thought and what happened? Well, it was not a revolution. Nobody stormed the citadel. There was no rioting in the streets demanding speech codes. We did not see laws passed because students were being stripped of their rights. No, it was not a war; it was a surrendering.
leg campus to a kind of intellectual tyranny.

Today, when you talk to many academics, you will be treated to an incredible doublepeak about this very important aspect. I have had college presidents tell me in one breath that speech codes have no effect on students, but they are critically important in maintaining order on campus; and in the next breath that I cannot maintain order and civility. I have heard from one university talk that speech codes cannot constitutionally restrict students; and from another that they will have to change in order to maintain order and civility. Yet the courts ruled that particular school's speech code to be unconstitutional because it was used to do exactly what it said it was not.

"I have had scholars tell me that there cannot be free and open discussion in a classroom for the culturally disadvantaged students unless certain words or ideas are to be stricken from the open debate in a forum on campus. I have had a college president tell me that the right to hear all points of view, even if some of those views expressed are personally wrong, and even cited with pride an example of his support for a riot of a controversial speaker to teach racism and bigotry on his campus. And yet at the same time, that college president imposed speech codes on students of that university. That college president was Dr. Shelden.

In his answer to the committee, Dr. Hackney acknowledged that political correctness exists, and it would be a serious problem if it were to become the orthodoxy of a campus, shutting out other points of view. How much more orthogonal can it be than to become a part of the official student code of a university?

Dr. Hackney instituted the speech code at Penn. It was not long before the court decided such codes were unconstitutional and students objected to them. To his credit, Dr. Hackney reversed his position, and he changed the code. I applaud his willingness to change, but why not abandon the code entirely?

How is it possible for an individual to defend a principle he believes in and betray it at the same time? I think there are only two explanations: Either the individual is misrepresenting his beliefs or he is unable to understand the impact of his actions.

I cannot believe that Dr. Hackney would misrepresent his beliefs because Dr. Hackney is a decent and scholarly man. So I can only believe that he is a weak-willed leader, and in his profession today, who truly believe there is a way to censor some views but not others and say that it is all the time in the name of academic freedom.

My chief concern about this nomination is that Dr. Hackney will not be able to keep those academic blinders off long enough to realize that some of his respected friends and colleagues are enemies of the very freedoms that he is now going to have to defend in a fair way. With what he himself identifies as more direct control over decisionmaking, that has occurred on campuses will result in the National Endowment for the Humanities sharply veering off course.

Dr. Hackney, you have your work cut out for you, and I am quite concerned that we do not have good, intelligent, scholarly figurehead will. Will be the person who arbitrarily restricted free speech and then made a change in the wind, a stalwart defender of constitutional and basic American principles and rights.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOLE. I ask unanimous consent to proceed as if in morning business.

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

SALUTE TO EWING KAUFFMAN

Mr. DOLE. Mr. President, a sage-to-the-richer introductory baseball; a devotion to the philosophy of neighbor helping neighbor; what do these have in common? All three are a unique part of the American culture. And all three were also part of the uniquely American life of Ewing Kauffman, who passed away Saturday in Kansas City, MO.

In 1950, Ewing Kauffman started a pharmaceutical business in the garage of his home. And over the years, Marion Laboratories grew from a one-man operation to a $1 billion corporation.

Mr. Kauffman said the reason behind his business success could be found in his motto—"Those who produce, share." Mr. Kauffman never used the word "employee," referring to everyone—from vice presidents, to secretaries, to janitors as "associates."

In 1969, Ewing purchased the affection of the people of Missouri and Kansas, when he purchased a new major league baseball franchise and brought it to Kansas City. And for the next 30 years, the Kansas City Royals have been one of the most successful franchises in baseball.

Under Mr. Kauffman's ownership, the Royals won six American League West-