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which is due for an overhaul during the 103d Congress.

I know that some of my Republican colleagues remain opposed to Dr. Margaret Payzant’s nomination 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 it, the school board policy that was voted on by members of the elected board of education. After this action was taken, Dr. Payzant was able to assure the parents that they could continue to use 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 as a youngster 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 encouraging our children 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 Dr. Payzant during the school day was 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 Civic Center Act, which specifically includes Boy Scout troops as one of a number of school district factilities.

Another action that has contributed to my decision to oppose the nominee is his push for the establishment of schools that would dispense contraceptives. The school board originally rejected Dr. Payzant’s proposal. The rejection was due to the Boy Scouts’ contract to provide a 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 happen to be one of a number of my constituents with similar concerns who are opposed to this nominee and the power he will have over the education of our children. I share these concerns 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’s position at San Diego Unified School District has not been particularly controversial, he is a powerful advocate for the education 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 eight largest school districts for 10½ years through an era of budget cuts, rapid enrollment growth, and that demographic strains is an accomplishment. His longevity is particularly impressive considering the average tenure for the Nation’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 nomination of Dr. Payzant 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. RIGGS] 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

Alaska: Paul Gold

Arizona: Dennis DeConcini

Connecticut: Joe Lieberman

Delaware: Thomas A. Carper, Jr.

Florida: Philip A. Voorhees

Georgia: Zell Miller

Hawaii: Daniel K. Inouye

Idaho: Larry Craig

Illinois: Paul Simon

Indiana: Richard Lugar

Iowa: Tom Harkin

Kansas: Pat Roberts

Kentucky: Paul G. Brown

Louisiana: John Breaux

Maine: George Mitchell

Maryland: Paul S. Sarbanes

Massachusetts: Edward M. Kennedy

Michigan: Carl Levin

Minnesota: Paul Wellstone

Mississippi: Alan B. Ensign

Missouri: James O. Trumpeldorfer

Montana: Gordon J. Montgomery

Nebraska: J.就有了他说

New Hampshire: J.就有了他说

New Jersey: Robert C. Torricelli

New Mexico: Pete D. Domenici

New York: Alfonse M. D'Amato

North Carolina: Jim Hunt

North Dakota: Alfonse M. D'Amato

Ohio: John E. Sununu

Oklahoma: Don Young

Oregon: William Proxmire

Pennsylvania: Arlen Specter

Rhode Island: J.就有了他说

South Carolina: Jim DeMint

South Dakota: Tim Johnson

Tennessee: Jim B. Hunt, Jr.

Texas: Bob Packwood

Utah: Orrin G. Hatch

Vermont: Patrick J. Leahy

Virginia: J.就有了他说

Washington: Paul G. Jones

West Virginia: Robert C. Byrd

Wisconsin: Tim Johnson

Wyoming: Mike Enzi

WHITE HOUSE POWER

NOT VOTING—1

N الجزء

So the nomination was confirmed.

The PRESIDING OFFICER. As previously ordered, the motion to reconsider 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 SHELTON HACKETT, OF PENNSYLVANIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

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

The legislative clerk read the nomination of Sheldon Hackett, 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 Hackett 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 sustain the role of 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 morereadily through its grants and programs. Through the State Humanities councils, NEH reaches people through libraries, public forums, media presentations, and exhibits, and literally hundreds of American cities to read 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 by a unanimous 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 add to rather than hurt the University and, 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. 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 shared 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 is permitted to errors 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 men 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 exchange of ideas at the core of its being, but it also strives to ensure that no member of the community is protected from full participation in those debates by intimidating and abusive racial epithets 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 someone who would attempt to eradicate it. The situation could have been handled with greater care and sensitivity and Sheldon Hackney clearly acknowledges that.

At the University of Pennsylvania, this year, a group of black students destroyed 14,000 copies of the campus newspaper, claiming that the paper was an example of institutional racism. Sheldon Hackney's response was that "two important university values, diversity and open expression, appear to be in conflict. Freedom of expression must take precedence over diversity." I would underscore that sentiment by saying that freedom of speech is the ultimate guarantor of diversity, for only if all ideas are permitted free circulation of diverse peoples, cultures, and ideas coexist peacefully. Mr. Hackney recognized the abuse of first amendment rights in this instance. He also admits his own serious errors of judgment.

Academics have stressed over the past few years that they could not hope to maintain order on university campuses without the institution of speech codes. These so-called speech codes are simply restrictions on free expression. Mr. Hackney admitted freely that political correctness does exist. That is an important acknowledgment. He also believes that in order for diverse cultures to live side-by-side a vigorous debate of ideas must not—ever—be restricted.

Mr. Hackney is a capable, thoughtful, scholarly man. He has a fine sense of his worth and a gentle sense of humor. As the Director of the National Endowment for the Humanities, his ability to protect and promote first amendment rights and correctly identify the serious issues we inhabit it would be tested time and time again. I feel that Mr. Hackney will rise to the challenge. I am willing to present him with that challenge. I support his nomination because I do not believe that any of his admitted errors in judgment indicate some basic failure by him to share in the eternal values of free speech and expression which we hold so dear.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Sheldon Hackney, of Pennsylvania, to be Chairman of the National Endowment for the Humanities? On this question, the ayes and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Michigan (Mr. Kinnell) is necessarily absent.

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

The result was announced—yeas 76, nays 25, as follows:

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VOTING—1

So the nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to the legislative session.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 2403, the Treasury, Postal appropriations bill, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2403) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey (Mr. Lautenberg), is authorized to offer an amendment. There will be 1 hour for debate on the amendment, equally divided and controlled in the usual form.

The Chair recognizes the Senator from New Jersey, Senator Lautenberg.

AMENDMENT NO. 1

(Purpose: To require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a non-
August 3, in accordance with the order of July 30.

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

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

Mr. WOLFORD. Mr. President, I rise to make a motion that the Senate proceed to the nomination of Sheldon Hackney under a time agreement previously entered into. This request has been cleared by the minority. 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.

The PRESIDING OFFICER. Under the previous order, the debate on this nomination is limited to 5 hours. Senator Kennedy, or the designee of the Senator from Kansas, Mrs. Kashevaroff, or her designee, or Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WOLFORD. 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 Labor and Human Resources Committee.

Sheldon Hackney is a son of the South, but he is also an adopted son of the North. We have chosen him to serve 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 literature and the Albert Bevridge 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 finest 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. Thereupon, the material was ordered to be printed in the Record, as follows:

FRANCIS SHELDON HACKNEY

A print copy of the Progressives tradition, you honor your analytical skills — while learning to learn from history — in scholarly studies of the society and the defining myths of the South. In a succession of leadership roles at elite institutions, you invariably 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 1969, you set about upon an improvisor's —the heart of campus since colonial times. Your cordial welcome to all groups is aided by your hospitality to all points of view, your conviction that diversity is the hallmark of a healthy university. A listener and a voice of moderation yourself, as Penn's first black head, not only socialized long-lived people in the Ivy League, you planned Penn's future — and did not meet a student who wasn't having a terrific time. Overseeing a present planning process, a renewal of undergraduate education along with an expanding research base, and the work of conservation 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 an ambitious, highly successful Campaign. For over a decade, you dealt with the ambiguities and complexities of a huge, complex, diverse multi-national urban society — and still found time to teach that other notable era, The Decade of the Sixties.

As you were planning something else, we will miss your exemplary civility, inclusivity and humor; if not always your cameramanship movie recordings you made as you were an eyewitness and a watch at Penn, Sheldon Hackney — officer, gentleman, and both teacher and maker of history — with his, and some sadness, we now turn the tables to confer on you a well-earned token of your university's appreciation, the honorary degree, Doctor of Laws.

Mr. WOLFORD. In a previous life, I spent some time in the education field. 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 student unrest at 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 confrontational, reactive by others, too interventionist by some, and too removed by others.

That is the life of a college president.

Mr. WOOLFORD. 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 discipline of a student who had gone away. When I was a college president, I witnessed how these judicial procedures and codes were growing and longed for the days when a college president or, frankly, any university president, could rely on the more traditional, direct, techniques of calling students into their offices to immediately resolve problems.

According to the chairman of Penn's Board of Trustees, Mr. Hackney is the best and most competent person to head the National Endowment for the Humanities. One can debate whether Penn's student judicial procedures are effective or appropriate, but having established such a process, the university's president should not turn his back on the middle of it.

And before leaving, Penn, Sheldon Hackney initiated a comprehensive review of established guidelines and procedures. One cannot help feeling that in an appropriate role, on judicial processes to resolve this type of incident or campus.

Questions have also been raised regarding the conduct of students who violated an entire edition of the student newspaper, the Daily Pennsylvanian. During his confirmation hearing before the Labor and Human Resources Committee, members of the committee, led by Senator Orrin Hatch, asked thoughtful, provocative questions. Sheldon Hackney responded in a forceful, clear, and direct manner. He answered our questions and the way he took on the controversies at Penn convinced even the most skeptical member of the committee. Two of the members from the other side of the aisle, indeed, 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 of changing 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, or almost each member, might not 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, as a response to a question from Senator Hatch, Mr. Hackney made clear that free expression is the paramount value of the university. I was proud that the Senate Labor Committee did not use this presidential nomination to now I am paraphrasing Senator Danforth's remarks. In which case, I will return to Senator Hatch, 'a philosophical position to establish our own moral superiority or to embarrass a President. The American people are tired of this politically-biased form of discussion. We feel it is perfectly fair to condone a career of
over 30 years into a couple of well-publicized incidents. Nominees are used as politically acceptable scapegoats to pursue their own political agendas.

Citizens United, a group that brought us the infamous Willie Horton ads of 1988, is now leading the charge against the FBI. They are receiving support from all three branches of government, including the Senate's political director, David Boisse, who said: “Free speech is not our main focus. Our goal was, and is to defeat Bill Clinton.”

The new routine practice of trash ing political appointees was described by Senator Danforth. Writing in the Washington Post, Senator Danforth wrote:

Why risk the reputation you worked so hard to earn by subjecting yourself to what can become of Presidential nomi nees? All those political points or further a philosophical position or establishing our own moral superiority or embarrassing the Pres ident, as some say, that may at the time occupy the White House.

Today, there are no such limits, and no political point or further a philosophical position or establishing our own moral superiority or embarrassing the Pres ident, as some say, that may at the time occupy the White House.

I ask unanimous consent that Senator Danforth's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record.

(From the Washington Post, June 26, 1993)

A PRESIDENTIAL NOMINATION FORGET TR.

(By John C. Danforth)

I tend to call that he will nominate you for a job (if you are a member of the Senate, you may say.

The president's call should be a cause for immediate celebration. Presidents don't often offer nominations to just anyone. That he has offered you an important position in his administration shows that a lifetime of hard work and achievement has finally won you a seat at the table of the United States. Thank the president profusely for the honor.

Why risk the reputation you worked so hard to earn by subjecting yourself to what can become of presidential nominees? All those political points or further a philosophical position or establishing our own moral superiority or embarrassing the president, as some say, that may at the time occupy the White House.

But what is the point in raising this issue in the context of Hackett's nomination? He has not been accused of any wrongdoing in his university administration, and his ability to deal with campus crisis seems irrelevant to his nomination. He does, however, have a distinguished academic background and is well respected in his field.

First, you will submit to the administration details about the most intimate aspects of your life. Have you ever smoked dope? How about your sex life? What else do you belong to? Often, if officials in the administration feel that you are not an obvious beneficiary of the FBI investigation, they will pass you over to the FBI for a background check. That means that the FBI will make house calls on at least three downtown of your neighbors, friends and acquaintances. What if the FBI uncovers is supposed to be confidential. Don't count on it. Your file will be the subject of open scrutiny and then by at least one member of each party in the Senate.

What would the effect of such a file be? It may be leaked to the media or the House of your and your family. The fact that public disclosure of FBI files is a violation of both federal law and Senate rules should be of no comfort to you. Determined opponents are not deterred if leaking information will serve to undermine the nominee's nomination. Media leaks of the FBI file will claim the highest principles of their trade when they predict the outcome.

The career of presidential nominations now litters the landscape of Washington. Hiring illegal aliens, whether or not it violated the law, is an acceptable practice in the Senate. Nominees of a federal court of appeals are confirmed and then by a single member of each party in the Senate.

A presidential nomination is an invitation to engage in life's staple constitutional squabbles and watercooler conversations. It is a game in which those who win receive public applause while those who lose are decried by the media and embittered by the realization that their efforts are in vain.

The presidential selection process is not done in private. It is not a matter of reconciling the conflicting public spiritedness of the senators. It is a process where the nominee's name is leaked to the media before the Senate has even considered the nomination. The nominee is smudged for the job at hand. Rather, the entire episode is played out on the national stage and the Senate holds the line at the top of the evening news.

The real issue is not what has happened to the nominees who have previously lived exemplary lives. And that disqualifies our sense that those who have been nominated are not superior to those who have not. It is a social and political function of nominees to transform lives. And I ask unanimous consent that the full statement of Shelton Hackett before our committee 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 J. HACKETT, NOMINEE FOR CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES, JUNE 27, 1993

At first glance, my life does not appear to be one that was ever in need of transformation, yet I can attest to 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 working class, blue-collar family that eventually included five sons, the offspring of a marriage that is now in its sixty-fourth year. My childhood was relatively normal in the southern United States of 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 not impoverished. If anything, at least if one doesn't count my being continuously terrorised by my older brothers.

My father was a newspaperman before the war and later a highly respected and respected family who eventually included five sons, the offspring of a marriage that is now in its sixty-fourth year. My childhood was relatively normal in the southern United States of 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 not impoverished. If anything, it was a rich one. Material, his business evolved; and he eventually did very well.

As a child, I went through public school, in Birmingham, and as a teenager I went on to become successful and influential. I would like to imagine various...

grant to individuals, institutions and organizations. shovel is the word to use. The distinguished scholar, author and teacher qualifies him for this work.

The attack on Hackett for his management style, his adherence to the rules, while unrelated to the mission of the NEH, is directly related to the politically lucrative "Character" theory. The character of one's university does not necessarily drive the political agenda of the Senate. This is a racial turmoils of a university campus can be transported to Washington, the political benefits are enormous.

The real issue is whether there are any limits to how far we can go in using a presidential nomination for the purpose of making a political point, of establishing 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 limits 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 for 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 superior to those who have not. They are human beings.

Until that recognition dawns upon us, my advice is, if the nominee can make a case, let him.
ures for myself, each of them honorable and productive, but I never imagined the life I have actually had. The early days were spent because of two superb History teachers—Ramsay High School, Mary McPhee and Ellen Calen, and in part because of the indescribable charm and wit of the town in which we grew up. As a child, I was often by my mother's side, listening attentively to her stories. I have long remembered her words about her childhood in this place.

The major reason, however, that the world was saved from having yet another lawyer was my older brother, Fain, 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 organise 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 everyone was their character and the other children were their followers. He was always the banker because he could draw so well and make beautiful dollar bills. He also always got the lemonade concession and ended up with all the money that Fain had issued from the bank.

Fain was a young man of grandiose hopes and limitless talent. He was always excited enough to draw in everyone else. Despite all his talent, he had an uneven academic record, failing most of his high school courses. Occasionally, it is true, but he had a great time and made all those around him a great time as well. He went on to the University of California, where he was not known to occur. He had a wonderful time his freshman year, and his abysmal grades showed it.

Something 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 issues. He was a Humanities Center, and Cornell College, and started to work at his courses. I was fascinated.

Part of his plan for remarking his life was to broaden his horizons. When I went off to Vanderbilt on a Naval ROTC scholarship, he was on the West Coast and in the South, where parties were taken to known things. Letters from him were not only reports of adventures in exotic places but also of free-thinking, witticisms, and guile-and-questions about my intellectual life, which even at Vanderbilt could be as sparse as one wanted it to be.

It was at this time, because of Fain's example, if not his specific recommendation, that I was captured by the novels of William Faulkner, Ernest Hemingway, and especially Virginia Woolf. I am almost embarrassed to remember: how much I identified with Eugene Gant, a young Southerner coming of age by trying to read his way through Harvard. Vanderbilt was saturated, of course, with the tradition of the Fugitive poets and the Agrarians, and I studied them with their writing. I was not taken in the way that the Agrarians had taken their stand twenty years before in very different times and had since then taken their place in the academic life. I am almost embarrassed at the influence they had on me, especially in what is the good life, and what is the value of tradition, and what is the value of change, and what are the perils of modernity. These values were common and lively topics of debate among my friends.

We also talked of race relations, an omnipresent concern of Southerners black and white. My first exposure to Southern prejudice and the Court's ruling in the Brown case that put an end to the policy of "separate but equal" was an owner's mark in the middle of my college years. For reasons that I find difficult to explain, I never set out to do anything to advance the cause of my religious training. I had broken away from southern white orthodoxy even before I had concluded that official segregation was wrong. As a historian, I have continued my interest in race because it is a material in history. Each individual, I have continued my commitment to racial equality because I believe it is right and that group relationships are one of the facts of the domestic scene. In the more formal curriculum at Vanderbilt, Dewey Grantham, Herb Baily and Henry Swint in the History Department, increased my interest in History.

I was devastated by the death of my brother in a military plane crash in Japan in 1945, but he had meant so much to me that I realized I must give permission to use my mind in a serious way, to risk pursuing a subject that I enjoyed. To spend my life in pursuit of knowledge is a justification for other lives. For others. Watching him change, and being lured into the pleasures of thought as a way of enhancing experience, transformed my mind and gave it purpose.

After three years on a destroyer and two years as a civilian in the United States Naval Academy in Annapolis, I went to Yale to study under C. Vann Woodward, the leading historian of the South and the man who had been my greatest influence on my career as a historian and on my devotion to academic freedom, intellectual honesty, freedom from domination. My traditionalism, which had been attracted to Woodward not only by his reinterpretation of the history of the South from Reconstruction to World War I, but by his suble exploration, in his essays collected in The Burden of Southern History, of what it means to be a Southerner and what the history of the South means to me and the nation and the world.

After Yale, I joined the faculty of Princeton University, one of the best known in the country, and the best teacher and scholar I could possibly be while raising a family and doing the sort of committee assignments and quasi-administrative work that one must do. My career as a historian, fact, was diverted because I kept saying yes to such requests. I became the President of Princeton in 1972, he invited me to become Provost. The slippery slope turned me into a warden of the University of Tulane 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 responsibility in universities has prepared me to say good-bye for the humanities. For the past generation, universities have provided tough environments. I see the current need for a powerful and conflicting currant. To succeed, one must have a clear sense of strategic direction, a fundamental commitment to the core values of the University, and the strength to persevere through contentious times, and the ability to gain and keep the support of the faculty and the students. It is not only survived in that environment; I have proposed, and my institutions have thrived.

I believe the values that I hold dear is a belief that a university ought to be open to all points of view, even if some of those views expressed are personally abhorrent. I take some pride in having protected the right of every student to have freedom of expression and the right to that of the student body. I have not only survived in that environment; I have proposed, and my institutions have thrived. The country has changed the humanities more. We not only face the challenge of a new geopolitical situation and the problems of adjusting to economic competition...
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 stand for? Can we put together as a nation and what do citizens owe to each other? What is the relationship of the individual to the community, 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 every one of us. They have the power to transform individual lives, not necessarily in the external circumstances of those lives, but in the Humanities themselves.

A 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 technically 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 composition, and I think others will see it through a lens different from mine. The task of the NEH is to enrich the conversational capacity of the people.

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. WOPFORD. Madam President, I find it hard to believe anyone can say that full statement without being moved as members of the committee were. We heard a man of strong clear convictions.

Madam 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 characteristic 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 looked up to its tradition of fairness and bipartisanship in unanimously recommending this nomination. I hope that the full Senate will act in 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.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Madam President, all of us are aware of what George Bush called “the political correctness” syndrome. It is right, but when one examines it closely, including the cause-and-effect aspects of it, political correctness is—as someone has noted—a radical philoso-

phy which despises, and seeks to rewrite, the history of our Nation and Western civilization.

It has the unmistakable appearance of advocating that rights and benefits be scattered 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 always challenge any dissent from their beliefs. And they do it with what has been described as a group of fed up—reeducation 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 Dr. Hackney’s nomination based upon no 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 such disparate voices as the Wall Street Journal, Charles Krauthammer and Richard Cohen of the Washington Post, Nat Rentoff of the Village Voice, Georges 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 nerve, the fear of failure of nerve, to defend principle—that is the shame of American academic leadership. To elevate Hackney to the Chairmanship of the National Endowment is to endorse those 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, is he sure why, the military refused to allow 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 were water buffaloed when the commotion 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 was proscribed for having made a racially offensive statement under the speech code at Dr. Hackney’s university. Come on. What phony balance—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 them being described as white and 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 today’s 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 sickening obscenity 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 our funds, is to be involved in attempting to suppress certain forms of expression in an attempt to cleanse public discourse of offensive material.

Then he 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 Academe magazine in defense of his university’s so-called hate speech code prohibiting all speech that “creates an offensive living-or 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.

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Mr. Hackney's nomination

The Senator's sitting at the hearings—to begin by expressing his private desire for the nominee head of the National Endowment for the Humanities can be certain of at least one thing: he will not be in obscurity. Thanks to recent notorious 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 presided over the world-famous water buffalo case, which Democratic campus leaders, with "rational" harassment and Penn's administration in full cry, pressing the case. They did this, we are told, because the administration had to "abide by the procedures that are in place." Moreover, we were told, those procedures were in his view "just and fair."

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

No overhauling can fix what is wrong with university harassment codes, which deserve to be called these university's derogatory, obvious loss of prudence, adult judgment or common sense. Only after the publicity—and after the university officials denied their charges—did Mr. Hackney conclude that the university's legal machinery, designed to punish "offensive" speech, needed overhaul.

Mr. Hackney's mishandling of the water buffalo affair and newspaper thefts is bad enough. But the much more insidious problem is how the American higher education system has lost its ability to discipline the disrupters. On day by day extended to the public figures mercilessly flayed and garroted on "60 Minutes" every week.

Like Mr. Wallace, other supporters of Mr. Hackney attest again and again to his civil rights and sensitivity. These are virtuous needle to make and less a problem.

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If the Senators at today's hearings, might begin by asking some hard questions about Mr. Hackney's response to the senator by a student newspaper called the Pennsylvania Daily Penn, the Daily Pennsylvania. It would tell them volumes about the candidate's ability to act in defense of free expression and 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 roundly condemned the taking of the papers. What Mr. Hackney in fact did after the theft was to issue a statement swiftly in plausibly exonerated, which was repeated by the media. The measure of the papers as "a protest activity."

A note from CBS's Mike Wallace, published in Oneota's student newspaper last week, helps us for judging Mr. Hackney by his mistakes and adds: "he has inevitably, fumbling. Who was he to say, is the one million. Mr. Hackney's solicitude on behalf of those who make mistakes, and with interest to see some of the they might one day be extended to the public figures mercilessly flayed and garroted on "60 Minutes" every week shall be considered.

Aside from Mr. Hackney's double, what Mr. Hackney's new nomination adds: "he has inevitably, fumbling. Who is the American campuses. Mr. Hackney now well known as the president of Penn who tried to prosecute a freshman for shouting "water buffalo" at some of the. He was moved to discipline the disrupters. On day by day extended to the public figures mercilessly flayed and garroted on "60 Minutes" every week.

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political correctness. She could prove this by hiring experts from the Noise Abatement Office, and use free speech as a tool to suppress the.Hackney nomination.

The bigger point here is that Mr. Clinton needs a personal processor that can digest and act on much more information. Instead of asking Mr. Clinton what he can do to stop the free speech abuses, he should be asking Mr. Clinton what he can do to stop the free speech abuses. The way to do this is to hire experts who can understand and act on the complex issues surrounding free speech.

As for Mr. Clinton, he needs to take a more active role in these matters. He should be more visible and vocal in his support of free speech. It is not enough to simply issue statements or give interviews. He needs to be out there, on the front lines, standing up for free speech and the values it embodies.

In conclusion, we must continue to work towards a future where free speech is valued and protected. It is not just a right, but a fundamental part of what it means to be a free society. Let us not forget that free speech is not just about saying what we want to say, but about allowing others to do the same. It is about the exchange of ideas, and the clash of viewpoints. It is about the freedom to express ourselves, and to be heard.

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been applied at Penn. Some, who have read him recently as an academic layman—one of those guys who punctuates his writing with a sneer.

Pavlak is about to become famous. He figures in an article that appeared recently in the Pittsburgh Post-Gazette, the newspaper of the University of Pittsburgh, and it is a sonorousness with the compactness of the Compact, an academic layman—one of those guys who punctuates his writing with a sneer.

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In September, after the defeat of the Compact by a margin of 400 to 900, Pavlak wrote an article for the Pittsburgh Post-Gazette, the newspaper of the University of Pittsburgh, which was later published in the Compact. In his article, Pavlak described the Compact as a "garbage" and a "rubbish" that would be "utterly shallow notion". He also criticized the Compact's handling of the student affairs, stating that it was "utterly shallow notion".

The Compact, which was a student newspaper, was established in 1973 to provide a forum for student opinions and viewpoints. It was the only student newspaper on the campus of the University of Pittsburgh at the time. The Compact was known for its controversial and often harsh criticism of the administration and the university community. Some students and faculty members were opposed to the Compact, arguing that it was a "garbage" and a "rubbish".

In 1975, the Compact was faced with a crisis when the University of Pittsburgh administration decided to ban the Compact from its campus. The administration argued that the Compact was a "garbage" and a "rubbish" that would be "utterly shallow notion". The Compact was forced to move its offices to an off-campus location and to print its issues from there.

The Compact was later re-established by a group of students and faculty members who were committed to the principles of free speech and academic freedom. The Compact continues to publish today, and it remains a vibrant forum for student opinions and viewpoints on the campus of the University of Pittsburgh.
about Jewish-black tensions on their campuses.

Andi Milens of Washington University in St. Louis fiercely attacked officials of the Association of Black Students, and then told this of incident: "A Jewish student on campus is a blatant racist," he said. "To look only where one of the black sororities was selling an obviously anti-Semitic book, he had a watermelon. When such an incident was inter-
volved, 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 said, 'What do you want me to do? You know he's a racist, and that we don't desist to his beliefs. What do you want me to do? You want me to disapprove of this.' And he issued a Hillel statement saying just what he told him.

The Jewish racial got worse, putting up a poster that accused Andi Milens and her friend from the Association of Black Students of being a "traitor." The poster read: "Andi Milens. He's a traitor." The poster was taped to a tree. It's like telling blacks that their legacy had never taken place.

The Jewish students at Washington University, who protested against the ad, not against the college paper's right to print it. There were Christian organizations at the schools, the Gay and Lesbian Community Alliance. But what about the Association of Black Students? Andi Milens himself is president of the student's organization, 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 in-
vite. Some black students tell the students from other colored groups to protest the paper. But don't tell me whom I can and can't have.

Andi Milens 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 bland passivity when black students in-
vite 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-
one.

Ross Werner of the University of Virginia said of the administration there that it was treading "on thin ice, but treading."

The latest victim of Jacobowitz's doctrine of "diversity" (or "racism") against free expression is Eden Jacobowitz. Late one evening he and others in his dorm were bothered by a noise gathering of black students who were shouting at the noisy students. Some persons shouted ra-

cial epithets. Jacobowitz shouted: "Will you water buffalo get out of here?"

When campus police arrived, others who belonged to the Jacobowitz group said he had had, and that he knew the race of the peo-

ple he was shouting at, but he adamantly, denied shouting any racial slur.

Hackett administration tried to get Jacobowitz to plead bargain. I won't stop per-
secuting him if he'll accept the punishment preferred by totalitarian regimes and American campus liberal—education, in the form of "castration," he refused.

Hackett's university is mild, "understand-
ing" students. "Two are better than a single," a correct columnist is a black group's excuse for brownshirt tactics against a newspaper.

But the university is loudly aroused by Jacobowitz's empiricism. He's a de-}


cision. The Hackney administration tried to get Jacobowitz to plead bargain. I won't stop per-
secuting him if he'll accept the punishment preferred by totalitarian regimes and American campus liberal—education, in the form of "castration," he refused.

Hackett's university is mild, "understand-

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brev, non-racial insult meaning "cease"; that one faculty member who characterized water buffalo as "large, dark primitive animals that live in Africa," only to debate whether their presence on campus was illegal, is one of many that merely amplifies what should have been clear already, the futility and intrinsic self-defeating nature of any down on race because it offends somebody.

The Penn speech code has been characterized by a local ACLU chapter as "one of the worst in the country" and its rules include any "verbal or symbolic behavior that among other criteria, is intended by the speaker to focus blame or injure on the person or persons to whom the behavior is directed; or is sufficiently abusive or intimidating that a reasonable, disinterested observer would conclude that the behavior is so intended; or occurs in such a context such that an intent only to inflict direct injury may reasonably be inferred."

We have added the italics; note that this astonishingly expansive formula does not allow the suspension of his own words to be accepted over the interpretation of a listener or third party.

Educational institutions should educate, not legislate, and the need to do it with stronger arguments; this, not suppression, continues to be the best way to combat the occasional "speech issue" that occurs. But that responsibility to educate is also a serious one. It's shameful and ridiculous for such institutions to then squander the moral purity they have the arguable responsibility of pressuring insupportable, trivial positions. Mr. Hackney ought to speak on this subject before asking the subsequent issue to ask this new job from the post after all is about education too.

[From the Washington Times, June 25, 1993]

SHELDON HACKNEY'S TURN

Being a Clinton administration nominee is clearly not a bed of roses. But hope springs eternal, and today yet another ambitious soul will trust his name and reputation to the White House handlers who are supposed to steer him through the Senate confirmation process. His name is Sheldon Hackney. Mr. Hackney is president of the University of Pennsylvania. He is seeking the chairmanship of the National Endowment for the Humanities (NEH). But many people will know him better as the man who made water buffalo the most discussed animals of the spring, a subject that many frivole.

Will Mr. Hackney be the right man to step into the power and prestige NEH's previous and highly capable chairman? Observers of the academic scene have found him personally to be a man of integrity and a scholar of note. His long career has included posts at Princeton and Tulane universities. However, the incidents relating to Penn's speech code that have come to light in the past few months have not been reassuring. The speech code promulgated under Mr. Hackney's stewardship has been subjectively, and sometimes irrationally, against those whose voices are construed not to be in line with mainstream (that is, in this context, left-wing or Marxist) political views on campus. In the case of Eden Abramowits, the student who yelled "water buffalo" at a group of African-American students accused of being black girls and almost got himself expelled as a result, Mr. Hackney's failure to appeal the penalty abroad and unfair prosecution does not reflect favorably on his judgment or leadership abilities.

Perhaps Mr. Hackney himself believes that Dracudenial and the perversions of racism, homophobia and other assorted "isms" on the nation's campuses. He may well believe that—many academics do these days—and if he does, it will be illuminating to hear him say so. A lot of people do not share that view. Whether or not Mr. Hackney is to blame for some of the country's worst, the current danger today is the restrictions on freedom of expression that occur whenever the concern for a "politically correct" constituency.

On the other hand, it may be that Mr. Hackney is held blame with the prevailing trends in academia but is not confident enough or strong enough to buck them. It could be that Penn's student-life officials have been talking with their own agenda. Mr. Hackney has eloquently defended the free exchange of ideas, though to people can be timid when the ideas in question belonged to the liberal left part of the political spectrum. Some people are not vigorously defended. Penn's exhibition of Robert Mapplethorpe photos. However, when it came to defending the campus newspaper's right to publish controversial and informative action program, his response has been pretty lukewarm. Suspicions of a double standard at work would be strong.

As in the case of the National Endowment for the Arts, it is clear that people don't have a constitutional right to federal funding. Still, the least one should expect from an agency such as the NEH is that grant applications be judged on their merit or their scholarly merit, as opposed to their political affiliation. An NEH chairman has to believe in academic freedom. That is why the Senate Committees on Labor and Human Resources today must ask Mr. Hackney clearly if he will fully believe in those things. If he does, then clearly he is not the man for the job. If he does, the senators will need assurances that he will stand up to the pressure of the quota crowd and the politically correct academic community. There is no doubt those pressures would be there.

Mr. HELMS, 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 proved wrong. I pray that I will be 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 confirmation.

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. Those 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 complaint raised by the UNI union. The Committee did not agree with every action that was taken by the university or every 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, one of the most serious points raised was the most glaring one that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

5. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1993, please explain your reaction at the time of the incident, including the complete statement issued by your office.

Appoint the statements issued at the time of the incident. I would like to assure the Senator that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

4. What your administration did to identify and bring charges against those responsible for the theft.

Appoint the statements I issued at the time of the incident. I would like to assure the Senator that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

...
The Committee on Open Expression (an important faculty group that monitors the Open Expression guidelines) has ruled that the incident was a violation of the Open Expression Guidelines. The group has also charged that a "judicial" hold" put on his transcript sent to employers or graduate schools. In response, the students have asked that if Helms's disciplinary status before receiving his degree or being able to have his transcript sent to employers or graduate schools. The group returned. the next day and renewed their graftiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not relate to Andres Serrano's visit to Penn, which took place on December 6, 1990.

6. Please explain your criticism of the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill—when it did not include the final version of the appropriations legislation—was the only way to prevent Helms from using the NEA-NEH appropriation to defend the University's university property. Members of the group returned the next day and renewed their graftiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not relate to Andres Serrano's visit to Penn, which took place on December 6, 1990. As with much that the Wall Street Journal reported about the Serrano case, for me personally. I do not believe that the Wall Street Journal reported on the basis of a University policy. I have repeatedly done so when under considerable pressure to cancel approved courses or to discipline students or faculty who have earned the disapproval of groups or the pageantry of the event. The study group therefore drew the conclusion. As soon as I heard of this situation and realized that the University was based on a University policy. I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the student group from disrupting the event. The new policy was thus in effect when all subse- quent speakers, including Louis Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of speaking engagement by artist Andres Serrano of the University of Pennsylvania campus in 1983-84, you refused to order the removal of campus sidewalk graffiti depicting nude and graphically sexual symbols. Please explain what occurred.

As with many that the Wall Street Journal reported about the Serrano case, for me personally. I do not believe that the Wall Street Journal reported on the basis of a University policy. I have repeatedly done so when under considerable pressure to cancel approved courses or to discipline students or faculty who have earned the disapproval of groups or the pageantry of the event. The study group therefore drew the conclusion. As soon as I heard of this situation and realized that the University was based on a University policy. I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the student group from disrupting the event. The new policy was thus in effect when all subse- quent speakers, including Louis Farrakhan, have been invited to speak on campus.

8. Please explain your criticism of the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill—when it did not include the final version of the appropriations legislation—was the only way to prevent Helms from using the NEA-NEH appropriation to defend the University's university property. Members of the group returned the next day and renewed their graftiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not relate to Andres Serrano's visit to Penn, which took place on December 6, 1990.

9. You have been quoted in the past as stating that the impact of "political correctness" on campuses has been "greatly exaggerated." Do you believe that "political correctness" contributes to the free exchange of ideas and tolerance of different points of view in American academia today?

The term "political correctness" is almost hopelessly vague and in a term of self-decision, and now it has taken on a life of its own as a caricature of a certain kind of liberal left orthodoxy that is so solicitous of the interests of groups that can claim the status of having been victimized by society that the general interests of the University are of secondary importance and at times even the search for truth is threatened. Unfortunately, "political correctness" does not dominate. American campuses, thought it is something about which faculty and academic leaders are worried, talk about, I believe that I am representative of the belief that those who are responsible for the task of free and open debate should be responsible to see danger in any potentially intolerant orthodoxy, but that may also see partial merit in some ideas that may be part of a "position." As with many that the Wall Street Journal reported about the Serrano case, for me personally. I do not believe that the Wall Street Journal reported on the basis of a University policy. I have repeatedly done so when under considerable pressure to cancel approved courses or to discipline students or faculty who have earned the disapproval of groups or the pageantry of the event. The study group therefore drew the conclusion. As soon as I heard of this situation and realized that the University was based on a University policy. I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the student group from disrupting the event. The new policy was thus in effect when all subse- quent speakers, including Louis Farrakhan, have been invited to speak on campus.

Dr. Sheldon answered: As with many that the Wall Street Journal reported about the Serrano case, for me personally. I do not believe that the Wall Street Journal reported on the basis of a University policy. I have repeatedly done so when under considerable pressure to cancel approved courses or to discipline students or faculty who have earned the disapproval of groups or the pageantry of the event. The study group therefore drew the conclusion. As soon as I heard of this situation and realized that the University was based on a University policy. I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the student group from disrupting the event. The new policy was thus in effect when all subse- quent speakers, including Louis Farrakhan, have been invited to speak on campus.
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revise 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 core values, in fact, when those tensions produce conflicts that we must work to resolve. We shall not do so.

SHELDON HACKNEY, President.

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

Freedom of expression is essential to academic life. At Penn, freedom 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 seized newspapers, in fact, were arrested. Some of them were handcuffed. All of them have been identified as 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.

Those are just a few examples of how the Board of Trustees of the University of Pennsylvania has resolved the situation.

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 ask 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 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 that committee members voted unanimously—17-0—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 as a great tribute to Dr. Hackney's brilliant credentials. With bipartisan support and this strong mandate, Dr. Hackney will be able to provide strong leadership at the Humanities Endowment.

The Endowment is an important agency that offers Federal support for advanced scholarly research. It plays an effective role in encouraging academic research. Dr. Hackney has had a remarkable career and lifelong commitment to public service. He has outstanding professional qualifications for this position.

One impressive aspect of Dr. Hackney's career is his unequivocal view that the humanities belong in all of our lives. At the University of Pennsylvania, where he most recently served as president, Dr. Hackney undertook a series of initiatives to make the university a more effective part of its community in the city of Philadelphia.

During the confirmation process, a handful of critics raised questions about two incidents that occurred recently on the Penn campus. The hearing of the Labor Committee provided ample opportunity to examine these incidents in full.

Dr. Hackney was able to explain the facts to the satisfaction of the committee and thus averts any holders against him.

I am convinced that Dr. Hackney is a strong advocate for free expression. He has often spoken of the importance of including all points of view in the humanities. He will oppose any attempt to impose any concept or orthodoxy or political correctness on the scholarly process.

I am especially pleased that Dr. Hackney, by training, is an historian. His knowledge, understanding and perspective in this area will be of great value to the agency. He has a clear sense of the Nation's past and an equally clear vision of its future.

His stature in the academic community will also be a great asset to the Agency. The National Endowment for the Arts, has been on a political rollercoaster in recent years.

Dr. Hackney offers the Humanities Endowment a vessel of bipartisanship that will set the course for the Agency for its second quarter century. Under his leadership the Agency will, I am sure, do an effective job of achieving its purpose.

I commend President Clinton for his nomination of Dr. Hackney, I urge the Senate to confirm him.

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

I ask unanimous consent to print in the Record the letter from Mrs. Walter H. Annenberg.

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


HON. EDMOND 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 Sheldon Hackney for the position of Chairman of the National Endowment for the Humanities and I urge the Senate Labor and Human Resources Committee to approve his appointment without reservation.

Since becoming Penn's 15th chief executive in 1981, 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 difficult situations, he has proved that he can bring together complicating elements to produce a constructive solution. But such accomplishments are even more meaningful to someone of Dr. Hackney's deep and abiding commitment to freedom of expression.

In recent months, two incidents on the Penn campus have put Dr. Hackney's per-
OFFICE OF THE GOVERNOR

Senator Harris, Hon.
U.S. Senate, Russell Senate Office Building,
Washington, DC.

Dear Senator Harris: It is with great enthusiasm that I commend to you the nomination of Sheldon Hackney as Chairman of the National Endowment for the Humanities. I bring to this endorsement extensive knowledge of and experience with 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 Americans' 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 climate of change. The leadership of the president of the university is vital to our critical role as a nation.

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 this 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 the community.

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 inspire 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, to me, is the quintessential idealist, in the tradition of our Founding Fathers, who has a passionate commitment to learning and a profound knowledge and understanding of 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, 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 material was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL ON EDUCATION,

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 place claimed to be a “liberal” and “admittedly misbegotten….” nearly $1 million in federal grants earmarked for academic research.” But the story fails to note that Penn received $18 million in research grants during the five years covered by a government audit. In other words, the amount in question is roughly the percent (.001) of the total received. Time also neglected to mention that Penn repaid the money in dispute.

To the organizations, public or private, can match this performance. Indeed, if Dr. Hackney demonstrates equally good stewardship of the taxpayers’ money as chairman of NEH, he should get a medal.

Sincerely,

Robert H. Atwell
President.
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 настоящее лидер в коммуникациях, а также в образовательных организациях.

Дж. Хекнейс утверждает, что его усилия благотворительно власти национального фонда для научных исследований университета Пенсильвания, что подводит к созданию суперадминистративного образования. Он также подумал бы, что ученых, руководителей и преподавателей университета Пенсильвания, что подводит к созданию суперадминистративного образования, и их мероприятия

Специалист технических наук и образования, Средост. аллактивы и ассамблеи, и учения Средост. аллактивы и ассамблеи, и учения Средост. аллактивы и ассамблеи, и учения

Дж. Хекнейс утверждает, что его усилия благотворительно власти национального фонда для научных исследований университета Пенсильвания, что подводит к созданию суперадминистративного образования, и их мероприятия

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Mr. LIEBERMAN, Madam President, I yield myself up to 12 minutes of the time allocated to the minority, in opposition to the nomination of Dr. Sheldon Hackney to be Endowment Director for the Humanities. I do so without pleasure, may I say, because this nominee is, by all accounts, a distinguished man. Indeed, I spoke to Dr. Hackney recently and found him to be as thoughtful, charming, and well-intentioned as his many supporters promised 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 judgment of such expression to be open to debate and scrutiny.

The first amendment of our Constitution embodies this principle with respect to free 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 need to protect 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 McCarthyism frightened and outraged honorable men and women in our academic communities to impose quotas—religious, ethnic, racial quotas—on the admissions 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 invasions 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 second-term 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 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 with 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, is being 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 on our campus. As I read that statement, that elevation of free speech was smothered in a statement that was otherwise loaded with the kind of Orwellian truths on the supposed threat to speech and diversity that also have become too common on our campuses.

Sixteen professors at the University of Pennsylvania, of the 64 who 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. May I express the hope that a copy of their public statement, their letter, be printed in the Record.

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

ON REMOVAL OF DFS

(Those following was submitted under the title "Open Letter to President Hackney.")

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 onecolumnist 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 cannot be excused or tolerated.

Second, the fact that the newspapers were confiscated as an act of protest cannot excuse the action of those who disagree, of course, entitled to protest, but not attempting to silence those who disagree with them.

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.
Removal of the newspapers struck at the heart of the most fundamental diversity which the University should foster—diversity of thought, views and expression. It may well be that the newspaper diversity has not done all that should be done to promote racial diversity. That must occupy a high place on the list of steps that can be taken to promote democratic values if, in our efforts to promote that diversity, we chill diversity of expression.

Carrie W. Summers, Jefferson B. Fortham Professor Emeritus
Stephen B. Burbanck, Robert G. Fuller, Jr. Professor
Golin S. Diver, Dean and Bernard G. Sagel Professor
William B. Ewald, Assistant Professor
Michael A. Pitsa, Professor
Frank I. Goodman, Professor
Robert A. Gorman, Kenneth W. Gemmill Professor
John G. Hennold, William A. Schneider Professor
Leo Katz, Professor
Seth E. Professor
A. Leo Levin, Leon Molster Professor
Emeritus
Richard G. Lonsdorf, Professor of Psychiatry
and Psychology
Charles W. Mooney, Jr., Professor
Stephen J. Morse, Ferdinand Wakeman Hubble Professor
Edward B. Rock, Assistant Professor
Edmund B. Speth, Jr., Senior Fellow
Mr. LIEBERMAN, Madam President, as an example of the slippery slope, the dangerous path down which these proceedings can go, I ask unanimous consent to print in the RECORD excerpts from the report of a panel of university administrators appointed to study the theft of these copies of the Daily Pennsylvanian on April 15, 1993.

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

From the Wall Street Journal, July 26, 1993

Douglas J. Johnson, University of Pennsylvania

Following are excerpts from the report of a panel of University of Pennsylvania administra-tors appointed to study the theft of one entire press run of the student newspaper. The papers were seized all over campus by black activist students opposed to The Daily Pennsylvanian's editorial content.

The report, which criticizes security guards, absolves the students of any wrongdoing—except failure to show I.D. cards. The panel analyzed what supposedly transpired at each of the campus sites involved.

A related editorial appears today.

INDIVIDUAL INCIDENTS ON APRIL 15, 1993

DUPONT-LIBRARY-JOHNSON PAVILION (6:32 a.m.): Incident involving two students and two officers responding to a call from a School of Medicine security guard.

The panel found that one officer behaved in a disconcerting manner toward the students by ordering them to leave before determining whether they were giving the opportunity to explain their presence. The panel found that his actions violated Section 6.4.02 of the “UPPD Policies and Procedures Manual” and should be reviewed by his supervisor for possible disciplinary action.

The panel found that the Medical School security should act appropriately by contacting the UPFD.

The panel recommended that all security personnel receive training on working and interacting with people from diverse backgrounds. This training should include information about the diversity of the Penn community and the expectation that all members of the community should be treated with civility and respect regardless of race, religion, nationality or ethnic (or sexual) orientation, age, disability, or status as a disabled or Vietnam veteran.

E. BROAD STREET PAVILION (7:06 a.m.): Incident involving two students, one Medical School security officer, one Medical School Supervisor of Security, one security officer responding to a call to UPFD that “A black male at Blockley Hall tried to take all the DP’s (Daily Pennsylvania)”.

The panel found that one officer behaved in an unprofessional manner in violation of Section 6.4.02 of the “UPPD Policies and Procedures Manual” by cursing at the student and using excessive force by striking the student with his baton. The panel also found that the officer failed to conduct a proper and thorough investigation because he neglected to interview the security personnel who were in pursuit.

A. LIVING LABORATORIES (8:20 a.m.): Incident involving two students, four officers, and the UPFD dispatcher. When two officers stopped the students carrying a large load, they were informed by the students that they were a protest.

The panel found that the responding officer violated Section 5.2.00 of the “UPPD Policies and Procedures Manual” by not requesting that a supervisor be dispatched to the scene in response to a demonstration.

The panel found that the dispatcher violated Section 6.4.02 of the “UPPD Policies and Procedures Manual” by not consistently making a command decision without consulting a supervisor.

A. CHEMISTRY/SPORTS MEDICINE (6:18 a.m.): Incident involving two students, a Museum security guard, a Museum administrator and two officers. The Museum administrator pursued the students, who took the DP’s from Kress Gallery, and caught up with them in Weightman Hall, where he made a “citizen’s arrest” and detained the students.

The panel found that the Museum administra- tor’s actions in pursuit of the students were inappropriate after they left the property of the University and not in accordance with the authority and responsibility of his job function. His actions should be reviewed by his supervisor for possible disciplinary action.

The panel found that the students should have shown their Penn cards.

In summary, the panel concluded that once the incident occurred at DRL (David Rittenhouse Laboratories), the UPFD should have recognized that the removal of the DP’s from at least three different locations was a form of student protest and not an indicator of criminal behavior. According to the University of Pennsylvania’s Code of Student Rights and Responsibilities... the UPFD should have contacted the Office of the Vice Provost for University Life as soon as it was recognized that the students had taken their copies.

On the other hand, the panel found that the UPFD was not guilty of incompetence in removing the Daily Pennsylvanians from at least three different locations, notably at University Hall, where they were taken to an undesignated building and not returned to be reviewed or counted.

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On the other hand, the panel found that the UPFD was not guilty of incompetence in removing the Daily Pennsylvanians from at least three different locations, notably at University Hall, where they were taken to an undesignated building and not returned to be reviewed or counted.
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 affronting. A complaint 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 go by the name of “Community,” an alleged violation of the码 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 and it would all be over.

That just should not happen at a university community, no matter how obnoxious it is, no matter what the sensitivity training. 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 has an investigator suggest to this student that if he goes for敏感 training the complaint would be withdrawn.

He, the student, refused that suggestion. Subsequently, the complainants decided not to go through with the complaint and that case has ended. But, unfortunately, it again illustrates the destructive nature of these codes, which require a judicial-like setting to evaluate these 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 all---well-intentioned or not. 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.

As 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 real problem. It is alleged, 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 unswerving 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 very heart of its mission, 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 any intimidating or offensive speech, we are on the road to censoring speech and undermining 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 28 “Buffaloed at Penn,” about a student disciplinary proceeding of 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 public text:

Freedom of expression is the paramount value of Penn, and we are unswearing 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.

Penn is a special kind of community. Not only does it put the free exchange of ideas at the very heart of its mission, 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 or only in an insinuation, our narrowly defined policy 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.—Sheldon Hackney

President

University of Pennsylvania

THE PRESIDING OFFICER. The Chair might advise the Senator he has spoken for 15 minutes and 53 seconds.

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

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

Mr. LIEBERMAN. Madam President, to sum up, let me say this. Speech ought to be as free as possible and it can be hateful. In such circumstances, it is perfectly appropriate—and, indeed, it is essential—for members of the university community and especially the leaders of a university community, its President, to speak out and confront those ideas that are the property of the educational and educational institutions. But it is not proper for an educator, for a university president to condone, tolerate or seek to put in perspective either the suppression of free speech, as evidenced by the chilling discouragement of free speech in a proceeding that presumed 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 this 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 integrity, force, and zeal, particularly in this 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 I know that in most regards Dr. Hackney has been supported by Senator WOFFORD and others, a super president of the University of Pennsylvania, and while I accept the fact that he is a distinguished scholar and teacher, I believe that he has not met 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 work 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 that are not supposed to be voted 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.
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The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAPMAN. Madam President, I think that the two of us have 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 Democratic 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 the facts. She belongs to the country club in Brookline for many years that clearly had discriminated.

It seems to me very, very unfortunately that the nominee does not have something to quote by the ball. 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 fall.

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 that 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. Yes, 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. The 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 a different party. The previous party had been that of President Johnson, the Democratic Party. And I was processed, investigated, confirmed, and sworn in with a new administration.

The new Secretary of the Navy, chosen under exactly the same circumstances, a new administration coming from a different administration coming from a different party, was sworn in the end of July. That is 6 months' difference. Indeed, there is a patently small 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 Vice President 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, we went out of our way to get him through the process. He was subjected to the FBI checks, then pushed 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 have, for 47 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 what those 47 people thought was written in those interviews, but they are 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 those 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 and unconstitu­
tional consolation, it is that no official, high or petty, can prescribe what shall be ortho­dox in politics, nationalism, religion or other matters of opinion, and cannot也希望 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, the 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 against 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, I think it is fair to say that the Secretary of Labor, Donna Shalala, the Secretary of Health and Human Services, and Jocelyn Elders for Surgeon General, I reject those nominees who fall the Barnette test—those who are inch 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, who have been so widely condemned by Republicans and Democrats alike, among them Thomas Payzant and now Sheldon Hackney, the President's choice for the National Endowment for the Humanities.

Mr. Gorton. Madam President, I will dispose of these 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, the Foundation entrusted with more than $150 million a year in taxpayer money to spend for the advancement of the humanities.

In each case, Dr. Hackney showed an alarming willingness to act or 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 a willingness to persevere where courage was required.

Sheldon Hackney fails miserably short of the qualities required of our Nation's 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 campus-wide coordinated assault to retrieve 14,200 copies, the entire press run, of the campus newspaper, the Daily Penn­sylvaniaian. 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
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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 instituted one of the Nation's more absurd speech and conduct codes. According to author of "Illiberal Education," Diane Sorin, "Examples of violations of the University President's Policy on Harassment, for which the penalty ranges from a reprimand to expulsion, include calling what are generally considered derogatory names, "inconsiderate jokes," and even "mocking laughter" and "crosstalk.""

Such nonsense is worth harpooning until it is taken seriously by the university administration that promulgated it. Ask Edna Jacobowitz, an Israeli born freshman at Penn who spent several years 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. Mr. Jacobowitz was the only one in the dorm who admitted to having shouted at the women, Mr. Jacobowitz shouted " Shut up your 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 to be absolved of all wrongdoing. It is quite a lesson for a first year student to have shouting at him by women who were screaming at the women: but it is a frightening lesson in prosecution and coercion by the administration of Sheldon Hackney.

Mr. President, at this point I ask unanimous consent that Mr. Jacobowitz' 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 EDN JACOBOWITZ, FRESHMAN AT THE UNIVERSITY OF PENNSYLVANIA, JUNE 23, 1993

Mr. name is Edna Jacobowitz, and I am a Freshman at the University of Pennsylvania. I am here this morning to tell my story and to 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 in the last election. I cast my ballot for Bill Clinton, believing, like many others that he was a new kind of leader who was going to bring real change to America. I voted for Bill Clinton to help protect freedom of speech and expression in our country and especially on college campuses.

My story like so many others at Penn reflect the university's and Mr. Hackney's tendency to restrict free speech whenever and wherever their voices are not to be heard in their view. That is —politically correct in their view. As you probably already know on Monday, January 18, I shouted "Shut up you water buffalo!" when a black sorority group was shouting at my dorm and screaming outside our dormitory window at approximately 11:30 p.m. I later
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learned that because of this truly innocent response to disruptive noise, racial harassment charges were filed against him. The incident was in complete shock that anyone had taken my words racially, and I made it clear to the university's judicial officers and to President Hackney that I did not share this sense of crisis. Because of serious racial tensions on campus, which should definitely concern President Hackney, this sensitive semester ruined by unjust charges. The Judicial Officers attempted to ruin my future by creating a judicial record for me and adding notations to my transcript. These damaging and very serious charges hung over my head from January to late May and created extra punishments and adverse publicity.

The abuses of a grossly imperfect judicial system and the unjust suffering of a student should certainly concern a university president.

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 irreparable—a semester of my freshman year. I wish I knew 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 students. It is clear that "water buffalo" was not a racial epithet. I should have been 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 the term "water buffalo" was a racial epithet. Jacobowitz quickly told the administration intended to pursue this prosecution to the fullest extent possible. Two days after the incident, a distraught Jacobowitz approached Hackney and asked him to be reinstated as university 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 Officers continued to pursue the case despite findings by several university language experts who concluded that the term "water buffalo" was, as Jacobowitz stated repeatedly, only the Hebrew slang word "behemah" 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 President Hackney was aware of the Jacobowitz complaint about the irregularities, and opinions, but that there was no cause for intervention even though he was now well informed about everything that transpired, though at the time he cannot remember Mr. Jacobowitz' anguished 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 charges, a group of ten students 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. It is clear that this case was able to drag on so long is because the university has a speech code limiting the Constitutional rights of students.

Mr. 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 ports of this tribunal, Sheldon Hackney should have intervened and stopped the nonsense. 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 defense of the student level judicial system by which Mr. Jacobowitz was raked, he said:

...the student judicial system at Penn is set up to be independent of me; I am not involved in it, nor in the provost.

Later, Senator Coats from Indiana asked Dr. Hackney:

Was there any point in that process where your authority as president of the university came to bear in the decisions that were made up to the point where the complaint was dismissed?

Dr. Hackney responded:

My role was first to try to get the case to a hearing panel, because I was relatively confident that there would be a fair hearing. I did state my opinion about that to the judicial administrator, that it would be good if this case could be heard by a panel this spring. I don't think that was interfering in the substance of it at all; it was just an admonition to him.

With regard to the time at which the student level proceedings were completed and sent over to a faculty-student panel, Dr. Hackney stated:

So charges were brought after an investigation, and at that point the procedure was off, and I was not in a position to intervene.
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 we made the right decision.

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:

What is the 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 for 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 related to me absurd in the extreme. Someone who wrote things in the student newspaper could even be deemed to be in violation of the policy, whether or not they have any relationship at all between the policy and someone who expresses opinions in the newspaper.

My assistant then asked the JIO what was the policy, and this was 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 Eden 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, if someone did not report it, the school administration, implying that many people do not share the same sense of crisis and calamity 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."

The adrenalin generated by the Black History Month rhetoric brought about a dem- ocratically mandated hearing. The student body brought a dozen of whom occupied Dolfsman's class and prevented him from teaching. "They read a transcript of the evidence to my students," Dr. Dolfsman said. President Sheldon Hackney met with Dolfsman and asked to refrain from public comment, even to abstain from de- fending himself against accusations. Then Hackney joined the ranks of his accusers, dictating the campus newspaper that conduct such as Dolfsman's would "absolutely inad- equate." Dolfsman was pressured to issue what he termed a "forced apology," and to attend "rollin awareness" sessions on campus. The university decided not to renew Dolfsman's teaching contract for a year.

Dolfsman is now back at Penn, a chaste man, "the only one who has been driven home very clearly," Dolfsman said. "You can't open your mouth on these issues now without fear of being humiliated.

This case exemplifies the vulner- ability of the university and the constant attacks on the campus, including Sheldon Hackney, to the double standards of their anti- intellectual world. In a clear violation of the campus conduct code, about 300 black students, faculty, and staff disrupted one of Dolfsman's lectures without any accountability. In a clear vi-
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stitutional freedoms of expression; ac-
quised to illegal behavior and con-
doned blatant violations of freedom of
expression; stood by while an adminis-
tration out of control pursued a ridicu-
loous charade, and almost destroyed a young man's career; and pre-
sided over the hysterical pursuit and
humiliation of a non-PC professor.

Taxpayers demand accountability in
government, and in recent years, Hackney can-
not accept accountability for his ac-
tions at the University of Pennsylvania.
How can the Senate possibly expect him to be accountable to the tax-
payers as NEH chairman? An editorial in the Philadelphia Daily News ac-
curately rephrased this inquiry as fol-

Read the National Endowment for the
Humanities calls for genuine sensitivity (not alter-
ately bucking to conflicting pres-
sures), the ability to deal with delicate situ-
tions, and above all, profound respect for
and insistence on accountability. 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 righteous indignation which unfolded under his leadership at
Penn, I will vote against his confirm-

ation and conclude by concurring 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 with a 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 witnessed an administration that
occurs at the University of Pennsylvania both from
a distance and also first hand. Under the ad-
ministration of Sheldon Hackney, my title was
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 some reason, they disagreed. 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 occurred in January
1989. I am an editorial writer for the
Daily Pennsylvanian, a newspaper that is
wholly independent from the school. I was
during invasions of our offices. The day
was scheduled to run the next day. I con-
tacted a prominent member of the Hackney administration to discuss the
coming 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-
quently published, and seven days later I was
awakened at my home by a phone call from
either President Judith Orr or S. Michael In-
quiry Officer for the University of Pennsyl-
via. Ms. Schiffer informed me that there were 31 charges of racial harrassment
but that the act was not a fact that she
found an "unpopular opinion, and that I
was under investigation by the university. I
asked Schiffer what my defense was, "you need to ask?" Then came one of
the most Orwellian statements that I have
ever heard. Ms. Schiffer intimated to me
that I was losing my job if I did not disqualify
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-
boring incorrect thoughts and to be vilified
by a haggry student led me to grant abso-
olutely for disagreeing with them is per-
hance one of the most blatant and chilling at-
tempts to stifle free speech and a free press
that I have ever heard of. The alternative
was to face a court system that could have
rendered a decision of expulsion. According
to the National Endowment for the Future con-
vocations, Sheldon Hackney was fully aware
of what was happening from the start.
This is not only a case of zealots trying to
suppress free expression, it was also a violation
of the policies of the University of Pennsylvania. The university
has a solid agreement that
stipulates that no students will be pro-
esed by the Judicial system based on the
content of their writing. This was willfully
disregarded by the administration, in
accordance with Hackney's knowledge. The University of Pennsylvania also has a policy called the
censorship act which states
that, "The freedom to voice criticism of ex-
isting practices and values is fundamental
rights and must be protected and exercised
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-
tulty member, I was told that the charges
were going to be dropped, although it was a
case of a month of harassment. It was then
that the investigation was going to be ended.
In the meantime, I was then invited to a
"multicultural" sensitivity seminar, where I
was forced to contemplate this dilemma. Carrying
a full engineering load and coping with the
outrage 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 expect con-
demnation of tactics that are so reminis-
cent of those used by Nazi brownshirts. Shel-
don Hackney, however, was only bold enough
to try the inversion tactic of simply calling it open expression and diversity." He did not
denounce 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
caroused with the words of the
white, this is correct. If people un-
derstand the history, they will under-
stand the intima-
dation 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	heir shoulders before they speak, for fear of
being considered "wrong" or "badly disciplined. It is a school where friends
whispering from class to class, for fear a politically
in-cor rect phrase will cause them to be
detained, expelled or suspended.

The portal 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
to the university; he has been, measurable. Sheldon Hackney is ready and
willing to play favorites and to dump on
those with whom he simply disagrees. Our
through our committees hearings with the
long and careful probing of col-
leagues from both sides of the aisle, would have come to the same conclu-
sion that all members of the commit-
tee came to, to vote in favor of Sheldon
Hackney's nomination—Senator
Kassebaum, Senator Jeffords, Sen-
ator Coats, Senator Gregg, Senator
Thurmond, Senator Hatch, and Sen-
ator Listerman.

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 does this change in favor of 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 speak for him.

As to concern for substance of justice
and not just for procedure, Sheldon
Hackney's life has been a story of
concern 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 articulates freedom of expression, civility, and respect as the core values of the University.” I do not believe if he were a candidate 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为您 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 affair, after the rowdy students were shooting at each other and one student admitted that he had called out “water buffalo”—that student process is initiated under procedures set up by those with no expertise in the university; wrongly, 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. I have read all of 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, or any other student publication. I also enjoy all the protections of the first amendment.

In addition, because of the overriding importance of freedom of expression, the very purposes of the University of Pennsylvania, it has explicit guidelines on open expression that allows the expression of diverse views in the University community. Any violation of this or other University policies will be investigated in accordance with established 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, 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 22:

Taking newspapers is wrong as I made clear in a policy statement 4 years ago and reiterated that to the University on a political week’s events and repeated 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 denounce, which Sheldon Hackney denounced, has been spreading around the country and it should be stopped. Nat Hentoffs 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 evenhandedly over his career. He gave the committee many examples of just that, that he has had his 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 contradictory 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 the best you can and I intend to support you in this committee and on the floor.”

Mr. President, I yield the floor. Mr. WOPFORD, 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. WELLSTONE). Without objection, it is so ordered.

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

Mr. HATCH. Mr. President, Dr. 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 colleague from Pennsylvania [Mr. Worford] has spoken quite eloquently to the recommendations of Dr. Hackney for this position.

He underwent some lengthy review before the Senate and Human Resources Committee, and in the course of my own lengthy review of that, 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 publicized. And those 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 from Dr. 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
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 and that both a product and vocal supporter of the ROTC program.

Mr. President, although I do not think the various allegations asserted against Dr. Hackney should disqualify him for the position of the National Endowment for the Humanities chairmanship, I do believe it will be necessary for Dr. Hackney to exercise strong leadership as he takes the helm of the endowment. The National Endowment for the Humanities is a publicly funded entity. As such, the NED should be distinguished from the privately funded entities over which Dr. Hackney has served as provost and president.

Ultimately, Dr. Hackney will be accountable to the people of NED funds – a responsibility which demands a sensitivity to the humanities as well as to the tax-paying public. Firm guidance from the top is essential to assure that the endowment is not constantly exposed to the charge that its process is not substituted for judgment.

I am with the advice that he exercise discretion, and that he stand against the pressures of ideological bias that I will look forward to supporting Dr. Hackney and will vote for him when the vote will be called tomorrow.

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 material was ordered to be printed in the RECORD, as follows:

QUESTIONS FOR THE RECORD BY SENATOR KASSELMAN FOR SHELTON HACKEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harassment was justified? If so, please explain why.

I did not think the charge of racial harassment was justified. Penn’s policy is very narrow and focused. It applies only in situations in which racial or ethnic slurs are used in face to face encounters and with no other incident. The incident described in the case do not meet these criteria. In addition, because of the misapplication of the policy the reexamination of this case, I have come to feel that even though civility is very important in an educational setting it is a mistake to try to enforce it among members of the campus community through rules and penalties administered through a judicial system.

2. In your statement, 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 an officer of the University to intervene. To have intervened in the incident, I believe would make clear that I recognized the seriousness of the violation and emphasized the privacy of free speech on a university campus.

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 make clear that I recognized the seriousness of the violation and emphasized the privacy of free speech on a university campus.

4. Pedestrian safety – what your administration did to identify and bring charges against those responsible for the Daily Pennsylvanian theft, have they ever been charged in the theft? If so, what was the result in terms of penalties meted out?

The Commission on Open Expression (an important faculty-student advisory committee that monitors the Open Expression Guidelines) has ruled that the incident was a violation of the Open Expression Guidelines, thus making clear that charges would be brought. A number of students apparently involved in the incident, some identified and others not, face judicial processes. Some have returned to campus for the fall term. The one senior involved has had a “judicial hold” put on his transcript meaning that he will not be granted his disciplinary status before receiving his degree or being able to have his transcript sent to his employers or graduate school.

In view of the seriousness of this case, the Vice Provost for University Life has appointed a respected senior faculty member to serve as the Special Judicial Inquiry Officer for this case.

5. Do you believe your response to the incident was appropriate considering the seriousness of the act in the context of First Amendment rights to freedom of expression?

I believe that, though it has been a mistake in my original statement I had not used a formula that was so easily taken out of context and misrepresented. If I could write the document again, I would remove the language that was even clearer and stronger in condemning the divisions.

One incident in particular has been used to suggest that I am less than even handed. In the early 1980s, the South African Ambassador to the United States accepted an invitation to speak from a student group. The student group then was 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 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 it was being addressed at the University, I changed the policy. The University isn’t really open to all points of view if a host group is unable to pay the costs involved in keeping opponents of the speaker from disrupting the event. The new policy was this: in return for all subsequent speakers, including Louis Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of a speaking engagement by artist Andrea Serrano on the University of Pennsylvania campus in 1985–86, you refused to order the removal of campus-wide graffiti depicting anti-religious and graphic sexual symbols. Please explain what occurred.

As with so much that the Wall Street Journal has reported about academic freedom, the details are wrong in important respects, highly distorted in other respects, and the story presented never happened. On the morning of April 15, 1983, members of Penn’s groundkeeping crew arrived on campus to find, written in chalk, graffiti depicting religious and sexual symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundkeeping crew on its own initiative, immediately washed off this graffiti. Later that day the student government called a rally on campus, who had originally done the graffiti writing, protested to Penn’s Assistant Vice
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Provison for Student Life that the erasure of the graffiti violated the University's Guide- lines for 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 referred to the Student Senate and to the appropriate University open expression policies and procedures. I was not personally involved in it. The incident did not concern Dr. Hackney in any way.

I also once again pay tribute to Senator Hatch's probing, critical ques- tions that led to his support of Sheldon Hackney, and to note that as a former Hastiean, I was again, in finding Senator Hatch's observations as to what happens to university and college presidents extraordinarily perceptive, as well as witty and humane.

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 the hearing, as indicated above, were answered, they joined in the unanimous recommendation for the nomination of Sheldon Hackney.

Mr. President, I suggest the absence of a vote on the nomination here.

WARRIOR OFFICER. The clerk will call the roll.

The assistant legislative clerk pro- ceeded to call the roll.

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

The PRESIDENT. 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 Endow- ment for the Humanities. Dr. Hackney's reputation as an outstanding edu- cator is well known both on the na- tional level and across the Common- wealth of Pennsylvania, where he most recently served as president of the Univer- sity 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 has made significant contributions, not only for all 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, not only in 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 degrees from Yale University in 1961 and 1966, respectively. He is an accom- plished historian, having written sev- eral books on the American South; he has received numerous honorary de- grees; and Dr. Hackney has served on numerous panels and commissions in academia.

Although his reputation is most no- talaby one of educational leadership, Dr. Hackney has also received numerous awards outside the University of Pennsylva- nia. Through his chairmanship of the West Philadelphia Partnership, Dr. Hackney directed the growth of a working partnership among Penn, neighboring institutions, and the resi- dents and business people of West Philadelphia. Dr. Hackney has also served as a member of the board of di- rectors of the Greater Philadelphia Chamber of Commerce, the Greater Philadelphia Urban Affairs Coalition and the University City Science Cen- ter.

Overall, my knowledge of Dr. Hack- ney while he has served the University of Pennsylvania and the surrounding community has been positive. Re- cently, I have been very con- cerned with his handling of two widely publicised incidents at Penn: One, of a student shotting an alleged racial epit- hets—water buffalo—at 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 its alleged support for a columnist who wrote the paper.

Regrettably, these highly publicized events left something to be desired; these events were in substance subver- sionally outweighed by the balance of his record.

One word of caution: I am concerned about Dr. Hackney's move from academia to the muddle of Washington politics. He will face many tough challenges from advocates at various positions on the political spec- trum. I am optimistic that Dr. Hack- ney will be able to adapt to this chal- lenge, and I urge him to keep this fac- tor in mind as he takes on this new as- signment.

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 Human- ities. I have known Dr. Hackney, his wife Linda and Dr. Hackney's three children, for a number of years, and know firsthand of his impeccable credentials and unique qualifications for this position.

Sheldon is currently serving as presi- dent of the University of Pennsylvania. In his capacity as Penn's 21st chief ex- ecutive, he is responsible for all aca- demic and administrative functions of its 12 schools, its medical center, and the more than 30,000 employees who make the university the largest em- ployer in Philadelphia, outside the local government there. Sheldon is also a history professor at Penn. Before join- ing Penn, he was president of Tulane University from 1976 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-per- cent increase in annual voluntary con- tributions. At the same time, Penn's operating expenditures have increased $273 million. In 1992, Penn's net income was well above $1 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 bil- lion 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 and 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 an agency with a fiscal budget of more than $175 million. The Endowment awards grants to scholars, teachers, and libraries working in this area.

Born in Birmingham, AL, Sheldon is a noted historian and authority on the American South. He authored the winner of the 1989 Albert J. Beveridge 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 1975 to 1976, 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 “Blacks and the Populist Revolt.”

Sheldon enjoys a reputation as one of the foremost experts on Southern history and culture, which makes this selection especially welcome to support him. 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 1980’s, 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 University of Alabama. It has been very important to me. Even in high school, a group of friends and I went to Methodist youth fellowship every Sunday. We credit our parents with helping to shape the values by which we live today.”

Mr. President, Sheldon Hackney has a distinguished record as a first-rate scholar, author, educator, and astute, fair, and temperate administrator. He has been the leader in a major challenge of the moment: 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 protect the values associated with the academic mission of the University. Fortunately, tensions like these have existed at the University of Vermont, as well as virtually every other college campus in America. And unfortunately, tensions like these are an index 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 a bit 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 this difficult issue, nor will he 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. Its mission must be stabilized and depoliticized. Despite the attacks it has endured, the NEH has been a major force in intellectual life in America in 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 has been a responsible and visionary leader. As a man who has devoted his professional life to the academic community, and as a man who has dedicated his life to the service of humanity, I know of no one who has handled this issue. 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 Committees unanimously approved this nomination. I believe the full Senate should do the same.

Mr. LEAHY. Mr. President, I rise to support the confirmatory nomination 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 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 through literature, music, 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 unanimous 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 the help of the Senate. Both of the NEH have been removed from the National Endowment for the Humanities over the years. This is a serious loss for the humanities and the country. The Senate must act to prevent this from happening.

The Chairperson of the NEH needs to be an activist for balance, fairness, and the public. When Federal money is involved, no Chairperson can be allowed to pick favorites in academic debates—no matter what pressure is applied. No matter how enlightened 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 response to my questioning him during his confirmation hearing, I believe him.

But his past record does raise some questions. About his treatment of free speech and about his forcefulness in opposing the strident voices of the politically correct.
But these are questions, not disqualifications. And I will vote for Dr. Hackney. But 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 his words and actions 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 ensure that he fulfills the charge that I believe we both share.

Mr. WOFFORD. 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:

"I received the new job. I am very proud, and am very, 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 months 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 subscripted 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 lauded.

Some who have noted the recent convergences of Pennsylvania Avenue and Rodeo Drive might think the anti-Federalists fear of an American imperial court have been realized. But the President is not a monarch, a shah, a sultan, or a grand poobah—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 preeminent branch of Government, and should conduct vigorous oversight of the executive.

During the Reagan and Bush administrations, I frequently differed from my Republican colleagues in my unswerving belief to defer to the judgment of the White House. I did not make any friends in my party by subpoenaing the Attorney General before Congress and bringing 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 in this land. I believe that Dr. Hackney is more than capable for the public肢, for declarations of war and regulation of the armed forces, for the regulation of commerce—for the functions the framers most strongly wished vested in the President. The President's enumerated powers are quite limited. He is the commander in chief of the armed forces, responsible for making treaties with foreign powers and charging with ensuring that the laws are faithfully executed. If the Constitution really made the President the one-man quasi-legislature many conservatives have advocated, it probably wouldn't have been ratified.

Our federal system of Republican government ensures the preservation of liberty through the atomization of power. The centralization of power in a single individual is anathema to the Americans of the 1780's, who had endured the tyranny of monarchs. They were willing to tolerate creation or the executive; but his constitutional clothes.

Unfortunately, the massive growth of the Federal Government in the 20th century has resulted in the accretion of vast new power in the executive. In a heavily regulated industrial society, the faithful execution of the laws is far more important to the average person in a sparsely populated agrarian society.

This growth in the executive is the result of the increasing regulatory posture of Congress, which has frequently pushed the bounds of its powers beyond the constitutional envelope. But conservatives err when they contend that the best counter to congressional power is to grant even more power to the President.

In a question of Roll Call, Lllewellyn Rockwell, Jr. sets out an excellent case for "why conservatives are foolish to push [an] imperial Presidency." I recommend Rockwell's piece to my colleagues, and ask unanimous consent that the text of the article be printed in the Record as following my remarks.

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

(See exhibit 1.)

Mr. ROCKWELL. Mr. President, Rockwell makes the case that conservatives' partisan advocacy of executive power is both constitutionally and politically inappropriate.

The Constitution with its direct and constant link to the people, is the branch of Government conservatives should look to for assurance of liberty through government. The President, presiding over the massive Federal bureaucracy and law enforcement mechanism, is the officer of Government most capable of limiting liberty. Congress is the best bulwark against the bureaucratic tyranny of an expansive Federal Government—as recent events have demonstrated.

While recognizing the primacy of the legislature, we must also recognize the need for congressional reform. Though Congress is the most accountable branch, it must be made more accountable. Congress should adhere to the laws of the land. The rest of society should have committee term limits, and the President should have line-item veto power. These and other reforms would enhance our democracy.

Congressional reform is essential. 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 combatted by an executive. The way to avoid Federal bureaucratic tyranny is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should divide power in a way that counteracts Congressional arrogance by returning power to States and municipalities while a liberal's idea of reinventing government is reaffirming bureaucratic centralism. Conservatives know that by reforming Congress and reviving federalism, we can reinvent democracy.

EXHIBIT 1

[From Roll Call, July 12, 1993]

WHY CONSERVATIVES ARE FOOLISH TO PUSH IMPERIAL PRESIDENCY

By Llewellyn H. Rockwell, Jr.

Conservatives are going through another of their periodic intellectual spasms over their supposed opposition to the executive branch of Government. The controversy, which date back to at least the New Deal, centers on which branch of government should have the power in budgets, taxes, foreign affairs, and judicial appointments.

Even though the Constitution makes Congress the preeminent branch of government
Congressional Record — Senate

August 2, 1993

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 in the face of the justly expansive powers of the president.

Conservatives had been semi-imperialists on this question when Nixon was chief executive, but they became fervent believers once Ronald Reagan became the House when Congress questioned Ronald Reagan’s foreign defensive policies, and naturally, the argument spilled over into domestic policy.

By the late 1980’s, it was an article of the conservative faith that the president had, and should have, policy autonomy. Conservatives even called the president the nation’s “commander-in-chief,” as if he were in charge of civil society.

But the president should have the line-item veto, they told us, because it would gut 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 fixed, and while bureaucrats serve for decades, further enhancing the arbitrary powers of the executive branch.

The President, they told us, should even assume the power to change tax laws on his own say-so, such as lower the capital-gains tax. The Journal also wanted the president’s executive fiat, the line-item veto, and to have full authority over international trade.

Surely they said, open the White House. Yet now, conservatives only friends are in the legislative branch. Congress, in fact, is the only bulwark against an even more totalitarian legislation.

And although grass-root conservativists cheered on Bob Dole’s attack on Clinton’s “stimulus,” this conservative leadership is in need of a wake-up call.

A prominent conservative think tank in Washington, D.C., has mailed out a million copies of The Penn Review, which traces all of America’s troubles to a handful of hill stitchers, 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 only Hill and Hillary’s new taxes, new spending, and socialized medicine is stopped, it will be thanks to Congress.

The habits of presidential delegation may be ingrained in the political fabric, but conservatives should do their best.

It is far better to trust a Congress controlled by either party than a president whose minions spend 9.9 percent of the federal budget and regulate our businesses, families, and communities with such menacing indifference.

For example, Congress is far closer to the people. A Member never gets through the day without meeting with constituents, people who pay the taxes and have to live under the laws voted on. Yes, many are seeking favors and privileges. But more complaints and requests for extensions of the federal bureaucracy, and Members and their staffs have to listen.

The millions of dollars in 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 less authoritarian than the executive tyranny that the Founders, and their English parliamentary predecessors, hated and feared.

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

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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, intelligent man and talented 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 make a decision about subsidizing a particular project with tax funds. Perhaps he regretts renouncing one of our Senate colleagues who understood that same distinction and was trying to get NEA to be more responsible in handling those taxpayer dollars. And he also writes 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 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. Instead, he said, "this is an instance had. What groups important to the university community valued members of Penn's minority community and students exercising their right to freedom of expression. Furthermore, the issue about misappropriation of about $1 million in Federal research funds, funds for alumni fundraising activities, overhead and expenses, to provide for the president's mansion—items specifically prohibited by Federal guidelines. But Dr. Hackney explained that the University of Pennsylvania itself had begun to uncover these problems before the Federal auditors even arrived, because when another major university was audited on the use of its research grants, he decided Penn should look into its own spending. Again, that car was in the water before the Federal Government knew it had reason to complain. I think this is good fortune for the American taxpayers that Dr. Hackney has had policies, changing the policies, specifically prohibited by Federal guidelines.

These incidents have been repeated again and again during the confirmation proceedings. Dr. Hackney has given us enough over and over. Dr. Hackney has given us enough over and over. None of them disprove the fact that he is a decent and scholarly man.

But there is one conflict I just can't get past. It is about Penn's antiharrassment 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 understand howson can take them over the leadership of this organization. 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 howson can take them over the leadership of this organization. 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.

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Imagine, for a moment, that we had the same kinds of restrictions in the U.S. Senate that exist on some college campuses today, and that for a time existed at Penn.

Imagine what it would be like to have a Senate colleague stop you in the middle of a speech and say to you: I don't like that argument, you're making. Even though you haven't mentioned me or my State directly, I don't like your ideas. As a matter of fact, I am personally offended by the argument you are making. You have no right to say things that offend me.

That is where freedom of speech stops: You have no right to say things that offend me. No right to say words—spread bad words. What would happen? Nobodies would know that words might provoke immediate violence are entitled to constitutional protection. But offensive words are not necessarily fighting words, and most assuredly they are not protected as constitutional.
CONGRESSIONAL RECORD - SENATE  

August 2, 1993  

LOG BOOKS TO A KIND OF INTELLECTUAL TYPANIC

Today, when you talk to many academicians, you will be treated to an incredible double speak about this very important issue. 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; in another breath, that we cannot maintain order and civility. I have heard from one university talk that speech codes cannot constitutionally restrict legitimate classroom discussion. Yet the courts ruled that particular school’s speech code to be unconstitutional because it was used to do exactly what it said it would do.

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 avoided. That is not true. There are no limits to legitimate classroom discussion or the open debate in a forum on campus.

I have had a college president tell me that the right to present 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 preach 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. Sheldon Hackney.

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 orthodox 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. He worked with the students 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 action.

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 lying, cheating, scoundrel, and I believe 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 freedom that he is now going to have to defend in a fair way. With what he himself identifies as more direct control over decisionmaker, this code does not maintain order and civility. I have heard from one university talk that speech codes cannot constitutionally restrict legitimate classroom discussion. Yet the courts ruled that particular school’s speech code to be unconstitutional because it was used to do exactly what it said it would do.

Dr. Hackney, you have your work cut out for you, and I am quite concerned that he has come off as a good, intelligent, scholarly figurehead. Will he be the person who arbitrarily restricted free speech and then made a change in a law in order to do it again?

- Those are the questions at hand, and in the coming weeks and months, I am sure we will know because I expect the doctor to be confirmed. But I will tell you that he is not a strong and decisive captain. He is a man who has allowed his ship to be blown off course by the winds of the winds of what he thought was a staidowter of constitutional and basic American principles and rights.

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

The PRESIDENT OFFICER. The clerk will call the roll.

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

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

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

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

SALUTE TO EWING KAUFFMAN

Mr. DOLE. Mr. President, a rag-to-wealth story, taking baseball from just a summer sport to a profession; a devotion to the philosophy of neighbor helping neighbor; what does he 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, Mr. Kauffman purchased the Royals, who then were members of the American League West Division titles and made two trips to the World Series, winning the World Championship in 1985.

The Royals were also winners off the field, as well. Mr. Kauffman knew that it just didn’t belong to him; it belonged to the people of the Kansas City area—in fact, for that matter, all the Midwest. And his leadership ensured that the Royals were also available to make public appearances on behalf of worthy causes and to reach out to young people.

Young people were also the focus of many of Mr. Kauffman’s philanthropic efforts. His Kauffman Foundation financed countless projects, including a program to teach children how to resist peer pressure at the age when they are most vulnerable to involvement with drugs.

Mr. Kauffman also made a life-changing promise to over 1,000 high school freshmen in Kansas City, KS, and in his hometown of Westport, MO—a promise that he would pay the cost of their college or vocational training if they steered clear of drugs, alcohol, teenage parenthood, and received their high school diploma.

Mr. President, when Mr. Kauffman was diagnosed with bone cancer, he typically did not think of himself; he thought of others; and he established a trust which would keep the Royals in Kansas City after his death.

Ewing Kauffman is survived by his wife, Muriel; three children, nine grandchildren, and three great-grandchildren. He was also survived by countless men, women, and children whose lives are better because of the leadership and generosity of this remarkable American.

SALUTE TO CONGRESSMAN PAUL HENRY

Mr. DOLE. Mr. President, I know that all Members of the Senate join me in extending our sympathies to the family, friends, colleagues, and constituents of Congressman Paul Henry of Michigan.

Congressman Henry passed away Saturday after a courageous fight against brain cancer.

Regarded by many as one of the rising stars of the Republican Party, Paul Henry made a career of making a difference in the lives of others.

As a Peace Corps volunteer, he made a difference in the lives of the people of Ethiopia and Liberia.

As a political science professor, he made a difference in the lives of his students.

As a 5-year member of the Michigan State Legislature and a five-term Member of Congress, Paul Henry made a difference for Michigan and America.

Mr. President, I was proud to call Congressman Henry my friend, and know that I am just one of many in this Chamber who will miss this truly outstanding public servant.

I suggest the absence of a quorum.