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

I know that some of my Republican colleagues remain opposed to Dr. 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 had no choice but to fulfill that policy. His actions should in no way be interpreted as anti-Boy Scout. In fact, Dr. Payzant was a Boy Scout Scout and his son is a Boy Scout, 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 work force that is competitive with the rest of the world. We can only accomplish these goals by increasing the participation of parents in their children's education, 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 answer some of the concerns of my constituents with similar concerns who are opposed to this nominee and the power he will have over the education of their children. I share that concern and will be opposing the nominee.

Mr. HATFIELD. Mr. President, I am pleased to support the nomination of Dr. Thomas W. Payzant to the position of Assistant Secretary for Elementary and Secondary Education. Although Dr. Payzant has held positions of educational leadership throughout the country, I am especially pleased to report that he earned high marks for his record of service in my home State of Oregon while serving as superintendent of the Eugene School District from 1973-76. Dr. Margaret Nightingale, present superintendent of the Eugene district wrote the following about Dr. Payzant: 'Tom's entire life has been and continues to be devoted to service to young people; he is a powerful advocate for 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 urban school district for 10½ years through an era of budget cuts, rapid enrollment growth, and major demographic strains is an accomplishment. His longevity is particularly impressive considering the average tenure for 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. Thomas W. 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. RICKLES) 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

NAYS—27

NOT VOTING—1

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities. The NEH has an important and difficult mission to fulfill. It is responsible for supporting and sustaining

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

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

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

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

The Senate resumed consideration of the nomination.

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities.
August 3, 1993

CONGRESSIONAL RECORD—SENATE

(Read Roll Call Vote No. 234 Ex.)

YEAS—78

Akaka              Feinstein         Mikulski
Bagus              Feingold         Mitchell
Bennett            Ford              Morse—Braun
Biden              Gifford           Murray
Bingaman           Graham            Markwalski
Boren              Gregg             Murray
Boyer              Harris            Nunn
Bradley            Haslam            Packwood
Bryan              Heflin            Pryor
Bumpers            Hollings          Reid
Byrd               Hollings          Rob
Campbell            Hucay             Rockefeller
Chafee             Jeffords          Roth
Chesick            Johnson           Sacred
Cochran            Kennedy           Shelby
Conrad             Kerry             Simon
Danthorst          Kohl             Simpson
Dascalho            Kohl             Simpson
DeConcini         Lautenberg         Stevens
Dodd                Leahy             Thurmond
Dole                Levin             Walsone
Dorgan            Lagard             Wofford
Durenberger         Matthews          Wyden
Eisen              Metaxas            Wyden

NAYS—23

Bond                Gorton            McCain
Brown              Gramm             McConnell
Cannon             Graham            Nickles
Coverdell          Helms             Plain
Craig               Kempthome         Smith
D'Amato            Kennedy           Specter
Domesticos         Lemke             Waddan
Fairbanks         Lott              Walsone
Falko               Mack

AMENDMENT NO. 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. 2463, the Treasury, Postal appropriations bill, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2463) 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.

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

The result was announced—yeas 76, nays 22, as follows:

[List of yeas and nays]

(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. WOFFORD.

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

Mr. WOFFORD. Mr. President, I rise to make the 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 reads 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 his designee, or Senator from Kansas, Mrs. Kashebaum, or her designee, may 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. WOFFORD. Mr. President, I rise in strong 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 Pennsylvania. We have honored him in election as the President of the University of Pennsylvania for the past 12 years as he has ably steered the university and helped build its reputation for excellence and scholarship. He has earned our respect, friendship, and support.

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

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

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

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

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

The PRESIDING OFFICER. The material was ordered to be printed in the RECORD, as follows:

ROYAL BURGESS HALL

FRANCIS SHELDON HACKNEY

A principal figure in the Progressive tradition, you honed 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.

At the University of Pennsylvania, you have set a standard for excellence. You are an empathizer on the campus with its deeply rooted urgings to serve in the heart of the city, since colonial times. Your cordial welcome to all groups is fabled—as is your hospitality to all points of view. Your conviction that diverse viewpoints are the hallmark of a healthy university. A listener and a voice of moderation yourself, as Penn's first black and longest-serving president, you modelo de la Iglesia, you planned Penn's Future—and did not meet a student who wasn't having a terrific time. Overseeing a period of planning processes, 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 campus—and still found time to teach that other notable era, "The Decade of the Sixties."

If you were planning something else, we will miss your exemplary civility, inclusivity and humor, if not always your Commissariat movie reviews. And, finally, if you were watching at Penn, Sheldon Hackney—officer, gentleman, and both teacher and maker of history—will miss you. And, indeed, 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. WOFFORD. In a previous life, I spent 20 years at the University of Pennsylvania. I know something of the challenges of heading a university, especially in a time of sharp debate in a diverse and changing society. We are all aware that Penn is in competition with the University of Pennsylvania this spring. But I know from experience that half a season goes by without controversy on a college campus. Most college presidents are charged with being controversial by others, too interventionist by some, and too removed by others.

That is the life of a college president.

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

We have all heard—and undeniably will hear more—about two widely publicized cases on the Penn campus. In each case, Dr. Hackney was criticized for not intervening in the university's procedures. Others have been criticized. 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 faculty, or students, or the university administration could decide on their own how to handle these problems.

And by the way, the chairman of Penn's board of trustees, Mr. Shoemaker, recently said:

One can debate whether Penn's student judicial procedures are effective or appropriate. But having established such a process, the university president should not be in the middle of it.

And before leaving Penn, Sheldon Hackney initiated a comprehensive review of established guidelines and procedures that in an appropriate way, appropriately relied on judicial processes to resolve this type of incident or case.

Questions have also been raised about the role of the faculty in the administration of the school's newspaper, the Daily Pennsylvanian. During his confirmation hearing before the Labor and Human Resources Committee, members of the Senate, led by Senator Orrin Hatch, asked thoughtful, constructive, probing questions. Sheldon Hackney responded, in a forceful, clear and direct manner. We answered our questions and the way he took, or the controversies at Penn convinced even the most skeptical members 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 already made up, but changed their minds for the better.

That is why every member of the Labor Committee, Democratic and Republican, liberal, moderate, and conservative, voted to confirm Sheldon Hackney. Every member. We might not agree with each other, but we had no objection to this President. The American people are tired of this politically divisive form of confirmation. EveryHttps://www.congress.gov/committees/committees-oversight/senate-committees/labor-and-human-resources/record. And it is perfectly fair to condense a career
over 30 years into a couple of well-publicized incidents. Nominees are used as pawns to further the personal agendas of those holding power.

Citizens United, a group that brought us the infamous Willie Horton ad of 1988, is now leading the charge against the American people. They are using the support of or interest in the humanities, as far as I know, Citizens United is now portraying itself as the protector of first amendment rights. Their only real ally is the Senate's political director, David Bossie, who said, "Free speech is not our main focus. Our goal was and is to defeat Bill Clinton."

The no-longer-true practice of trashing political appointees was described by Senator DANFORTH. Writing in the Washington Post, Senator DANFORTH said:

Why risk the reputation you worked so hard to earn by subjecting yourself to what can become of a President's nominees? All that can go wrong is that you will be wiped out in the months that will pass between your nomination and the confirmation that may or may not come from the Senate. And whether there are any limits as to how far we can go in using a presidential nomination for purpose of making a political point or furthering a philosophical position or establishing our own moral superiority or embarrassing the President.

Today, there are no such limits, and no political nominations are safe. (By John C. Danforth)

A PRESIDENTIAL NOMINATION FORGETTEN?

...if the president calls to say that he will nominate you for a job subject to confirmation by the Senate, just say no.

The president's call should be a cause for great national satisfaction. Presidents don't 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 paid off. 

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The major reason, however, that the world was saved from having yet another lawyer was my older brother, Fair, whom I worshipped. 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 played. At the age of five, he was always the banker because he could draw so well and make beautiful dollar bills. The two of us always got the lemonade concession and ended up with all the money that Fair had issued from the bank.

Fair was a young man of grandiosity, he would tell everyone to look at him and watch him, and always excited enough to draw in everyone else. Despite all his talent, he had an uneven academic record, railing at the injustices of the system but he had a great time and made all those around him have a great time also. He went off to the University of Denver but he did not stay too long, he wanted to be a lawyer and he could not find a summer job. He had a wonderful time his freshman year, and his abysmal grades showed it.

I was about this time, because of Fair's example, if not his specific recommendation, that I was captured by the novels of William Faulkner, Ernest Hemingway, and especially Finegan's A Theft of Time. I went off to Vanderbilt on a Naval ROTC scholarship, he was on the West Coast and I was on the East Coast and where parties were were known to occur, He had a wonderful time his freshman year and his abysmal grades showed it.

It was about this time, because of Finegan's example, if not his specific recommendation, that I was captured by the novels of William Faulkner, Ernest Hemingway, and especially Finegan's A Theft of Time. I went off to Vanderbilt on a Naval ROTC scholarship, he was on the West Coast and I was on the East Coast and where parties were were known to occur, He had a wonderful time his freshman year and his abysmal grades showed it.
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 as a people? Who are we as a nation and as a people? Do we condemn those who are not like us, or do we condemn those who are like us? What is the relationship of the individual to society as a whole? Whose political order is based upon individual rights and in which group membership is still a powerful social influence.

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

Every human experience is enhanced by higher levels of knowledge. When I listen to a piece of music, I may like it and think it beautiful, but the person who knows the historical context of its composition understands what the composer was trying to accomplish 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 what I learn from the humanities, and why I believe the Senate should see it through a lens different from mine. The task of the NEH is to enrich the conversation among 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. WOFFORD: Madam President, I find it interesting anyone can make 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 characteristics that are the Labor Committee saw and heard, and it is these characteristics that will make Sheldon Hackney an outstanding chair of the National Endowment for the Humanities.

In considering Sheldon Hackney's nomination, the Labor and Human Resources Committee lived up to its tradition of fairness and bipartisanship in unanimously recommending this nomination. I hope that the full Senate will act 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.

Mr. HEMS. I thank the Chair.

Madam President, all of us are aware of what George Bush called "the political correctness" that has been complained against, but when one examines it closely, including the cause-and-effect aspects of it, political correctness is—as someone has noted—a radical philoso-
emotional damage, that we will be able to outlaw verbal terrorism without chilling the open expression of ideas.

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

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

Dr. Hackney's "free speech for me, but not for thee" double standard would be amusing if it were not for President Clinton's efforts to grant Dr. Hackney the power to make significant and important impact on this Nation's culture.

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

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

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

Perhaps the Wall Street Journal said it best in its column June 25 when the Journal's editors wrote:

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

If Senators had any real concern for the message the confirmation of Mr. Hackney would send about university free speech and the importance of choosing leaders to defend it, we would expect as much of his confirmation.

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

1. THE "WATER BUFFALO" CASE

This past January an Orthodox Jewish student at Penn—Eden Jacobowitz—called a rowdy group of black sorority women water buffalo when they were making noise outside his dormitory window. This past January an Orthodox Jewish student at Penn—Eden Jacobowitz—called a rowdy group of black sorority women water buffalo when they were making noise outside his dormitory window. It was impossible for him to study.

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

She did offer him a deal, however. If he would: First, allow the University to punish him; continue under his course; and, second, undergo a sensitivity training, then she would allow him to remain a student at Penn. Some deal.

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

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

2. HOMOSEXUALS FIRST, AMERICA'S SECURITY LAST

Dr. Hackney recently spoke out in favor of the homosexual community's efforts to kick the ROTC off the University of Pennsylvania campus because it allows military personnel to promote open homosexuals to serve in the Armed Forces. By supporting this campaign, Dr. Hackney demonstrated a callous disregard for the students at his university and for their country by joining ROTC.

3. THE EX-SLAVE COMMENT

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

Several times during the months following his comments, Mr. Dolfman had
Seventh, the June 25, 1993, Washington Times editorial titled, "Sheldon Hackney's Turn,"

The Senator's sitting at the hearings to begin with the President's nominee for head of the National Endowment for the Humanities can be certain of at least one thing: He will not play the role of a statesman, or even of a government official. Mr. Hackney's nomination will be a test of the nation's commitment to the principle of free speech.

Mr. Hackney's nomination will have, to say the least, an attention-getting'sby-now, to explain why. Mr. Hackney is the university head who presided over the world-famous water buffalo case, which challenged a Penn law student's right to call a black person a "race hustler" and "Penn's administra in full cry, pressing the case. They did it to the administration, because the administration had to "abide by the procedures that are in place." Moreover, the reasons for these procedures were in his view "just and fair."

He has already been an advocate for free speech, in the light of the national outcry over the Penn case. He said he was committed to the principle of free speech, and that the procedures were in place to protect the university's legal interests.

No overhauling can fix what is wrong with the university's academic climate, which many believe to be a "legal" machine. But more to the point, those codes and their machinery did not come out of thin air. They were produced by a compliant university administration and were the result of a long history of" insensitive "and "harassing" language, university administrators' resistance to the students' demands for change, and a climate of "civility and free expression."

The Senate at today's hearing, might begin by asking some hard questions about Mr. Hackney's response to the students' demands for change. He is to be commended for his willingness to listen and to respond. But the Senate should also ask him about the procedures and "solutions" that he has put in place to address the issues raised by the students.

The Senate should also ask him about the importance of the Senate's role in the confirmation process. The Senate has a responsibility to ensure that the President's nominee is qualified to serve in the position. It should also ask him about the need for an independent review of the procedures and "solutions" that he has put in place.

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political correctness. She could prove this was a petty ploy by linking it to the most dramatic crime of all: From out of nowhere, a national disaster. Instead he aids who think Lani Guinier and Sheldon Hackney are in the mainstream. It’s a matter of prestige. From out of nowhere, Democratic Leadership, Council is writing op-eds in the New York Times instead of fearing they are potential sources of bad publicity and bad language to the mean-foul or thoughtless person. It has no racial connotations whatsoever.

In the course of her interrogations, Ms. Reader, Council. There would be no further charges if he would agree to hold a racial sensitivity seminar in Penn’s University on Saturdays for free. Charge noted on his transcript. Mr. Jacobowitz refused the offer, which is why he is now on trial, facing the possibility of expulsion from Penn if found guilty. What happens to him at today’s tribunal should be of interest to anyone concerned with the state of reason and sanity in our society.

[From the Washington Post, June 23, 1983] (By Charles Krauthammer)

The only reason to regret Bill Clinton’s abandonment of Lani Guinier is that it deprived the country of an open debate on the issue of whether the president’s or by another friend, Sheldon Hackney, his nominee for chairman of the National Endowment for the Humanities, and if the Senate was right in allowing Ms. Guinier to sit on his nomination hearing, such nominations today have any gumption, we shall have a debate on the issue.

Hackney, president of the University of Pennsylvania, became a symbol of political correctness when, on April 15, a group of minority students, offices, to a black column-<n>umnist at the student newspaper, The Daily Pennsylvania, stole and destroyed nearly its entire press-run of 14,000 copies. President Hackney’s statement “On the Campus Controversy of April 15-16,” as he delicately called this little piece of campus fascism, gives the falsehoods new meaning. It forthrightly promised to reassign to desk duty a campus security officer involved in the “protest activity.” But then, what does ‘protest activity’ mean? What is the rule—it’s not an act of any book-burning if not a protest against editorial policy).

Hackney also appointed two committees to investigate the strained relations between minority students and campus police. A separate report that “any violation” of university policy banning newspaper confiscations will be pursued through the university judicial system.

When asked what is the rule of free speech? “Two important university values now stand in conflict,” namely “dissent and debate,” must work together to narrow the distance that now seems to preclude their peaceful coexistence. This unwise moral equivalence between writing a newspaper and destroying a newspaper once too much for 18 Pennsylvania Law School students. They jointly signed a letter saying the obvious: “The important university values of diversity and open expression were not in conflict here. The offensive column was an attempt to maintain a debate. Let’s carry on its policy of diver-

[From the Washington Post, July 8, 1983] (By Richard Cohen)

Gregory Pavilik is not my cup of tea. The 20-year-old former columnist for the University of Pennsylvania newspaper is a mighty conservative young man. He thinks Martin Luther King is unworthy of a com-
been applied at Penn. Some who have read him recognize him as a social-ethno-cultural phenomenon—one of those guys who punctuates his writing with a sneer.

Pavlik is about to become famous. He figures in a chapter of a major biographical tome about former Penn President Sheldon Hackney to be published by Harvard University Press later this year. Hackney's black students explained why—their feelings had been hurt.

Hackney understood. He condemned the entire campus newspaper and commissarized with the black students. "Two important university values now stand in conflict," he said in a statement released after the papers were taken down. "One is freedom of the press, the other was Penn's attempt to make minority students feel "comfortable." Penn must now express and uphold the supreme common value," Hackney wrote, not that it must also become "a diverse and welcoming campus." With that, he took no action against the students who had seized the newspaper.

The statement falls only a tad short of the right though, the black student protest as the First Amendment—a constitutional right, not a "value"—or a vociferous condemnation of the publishing of lies. The balance that Hackney attempted—he twice referred to the "pain" felt by the black students—is a bogus one. It's material that someone's feelings were hurt.

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

The black students seemed not to appreciate that point. Pims. They are young, and angry. But not for a moment was that what Pavlik seemed to believe. That's where the university steps in. It is a custodian of our culture. Its role is to instruct, to show that a bad idea is rebutted by a better idea; that amounts to violence. Bruised egos are often the collateral damage, as the Pentagon might put it, of a frank exchange of ideas. But in a letter to the Philadelphia Inquirer, 203 black students and faculty members expressed only one concern: Their feelings were hurt, and they did not feel well treated. Hackney's tour de force in other-handedness, coupled with some other genuflections in the direction of political correctness (his positive expression of the possibility that the paper's not being the paper has made him the target of conservatives. This leaves me perplexed. How did conscious choice—more accurately, our First Amendment rights and intellectual inquiry in general? The answer is this: Too many liberals, instead of applying the rules of their argument and its consequences, have crossed the line from empathy with the plight of minorities to a sympathy with the hurt of everyone. To understand what the black students are saying, but my empathy with their wounded feelings does not extend to sympathy for their action. Liberal is not, Life-threatening and is subjective. As any newspaper reader knows, pain—along with the comics—is part of the package.

Sheldon Hackney is a virtuous man, the personification of a cliché: both a gentleman and a scholar. But his nomination to a presidency of a university to which he has been attracted by the opportunity to assert that the values he held dear during the McCarthy period will be upheld. Even when the government abused its power during the Vietnam era or, to be almost quaint, when the newspaper and the movies, are still part of our ideological creation of the hypocrisy and the new value—"public tolerance of private tolerance"—"the ""new value values, diversity, and open expression—seem to be in conflict."

This is a man whom President Bill Clinton. Hackney will soon be in charge of the National Endowment for the Humanities, a successor to his predecessor, Lynn Cheney, think Hackney will be open of mind and heart. They will not be in the presence of a cautious company man. Unorthodox in personal and grants—indeed, independent and irreverent in their research and—research are not likely to be welcomed.

Now look at what Hackney implied in his statement on the stolen papers. If you have diversity on campus—more blacks, more Asians, more Latinos, etc.—then there's going to be a conflict with openness. Where the hell does Hackney get the idea that all blacks, Latinos, and Asians want to continue expressing all they feel and think? Some blacks do. Some Jews do. Some Catholics do. But to reach the utterly shallow notion that diversity and openness are in chronic conflict is to set up an entirely unprofitable and unprofitable stereotype of blacks and Latinos.

What Hackney should have said, if he'd have had the vision or the inclination, is that the substance open expression in the newspaper had been treated with destructive contempt, and the culpability should be the same for the Concerned Black and Latino Students as it would be for any white group that destroyed a day's run of a newspaper.

Hackney and some other college presidents are engaging in a form of paternalism. These young black students—so the reasoning goes—cannot be expected to take full responsibility for such acts as preventing other students from reading their newspaper. The black students are frustrated and angry, and we must understand that.

Many of them are indeed frustrated and angry. But the answer is not to deal with them to do something real about the roots of the frustration and anger. Not treat them as if they're "special people." That's not respect. That's a con game.

I've lectured at a lot of colleges, and with very few exceptions, I've taught at the University of Pennsylvania and the University of Buffalo during a jamboree, and the president I meet are ignorant of how to get people who do not look like each other to see "the other," as individuals. As a teacher, you have to take all of them, or most of them, as individuals. But it's a start to breaking down group stereotypes.

Depending on the size of the college and the composition of the student body, there are a number of ways to begin direct, uninhibited dialogue among diverse students; to create some kind of interconnection between diverse students and administrators.

A couple of years ago, I saw truly open exchange among students and administrators. It was a three-hour meeting at a college with blacks, whites, Asians, gays, and lesbians. There was rage and parity and hurt and frustration and cleansing and anger, among others. They were students. But it no longer any mistaking of individuals for groups, although there was no large extent, group loyalty. I hope we can continue to have such conversations. They ought to take place at every campus.

Some months ago, I was in Washington at a meeting of the Final Five Hillel Foundations for your college. When I got there, the thing we were talking about was the new student leadership at the Hillel centers of their colleges. They were talking
about Jewish-black tensions on their campuses.

Andi Milens of Washington University in St. Louis founded the newsletter of the Association of Black Students, and then told this of incident:

"A Jewish student on campus is a blatant racist. He has a look only where one of the black sororities was selling an obviously anti-Semitic book, he had a watermelon which was seized and inter

between, 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, 'Do you want me to do? You know he's a racist, and that we don't ascribe to his beliefs. What do you want us to do?'

The black students have no problem with black passivity when asked. The Association itself said, 'Tell us what to do!' And it called upon the Association, 'Tell us what to do!' And the Association, 'Tell us what to do!' And the Association, 'Tell us what to do!'

At some campuses, Jews understand that black students have no patience with anyone telling them how they can or cannot live. Some black students tell the students from the Jew-Lesbian and Gay Community Alliance. 'Tell us what to do!' And the Association, 'Tell us what to do!' And the Association, 'Tell us what to do!'

Andi Milens and her friend from the Association of Black Students conferred, and he sug

ggested that the newspaper print it. The Jewish student was taken to the media office, 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.

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

A few days later Hackney's even limper defense of the First Amendment was: "Taking newspapers is wrong." But also: "I recognize that the numbers of the minority community that gave rise to the last week's protests are serious and legitimate." Hackney's "vague" meanit, the person engaging in "right-wing opinion is being published.

The university will investigate whether

"Whether-whether-whether the paper was violated of the paper writing the limited freedom of expression. The severity of this investigation can be gauged by all official's statement that the university will take into account the fact that those who suppressed the newspaper "did not see their protest in the context of its being an in

fringement on the right-wing opinion,"

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

**ALLEGED BLURS**

The latest victim of Hackney's doctrine of balancing "diversity" (or "multi-sanity") against free expression is Eden Jacobowitz. Late one evening he and others in his dorm were bothered by a noise gathering of black students shouting at the noisy students. Some persons shouted racist epithets, Jacobowitz shouted: "Will you water buffalo get out of here?"

When campus police arrived, others who claimed "Jacobowitz said he had, and that he knew the race of the people he was shouting at," but he adamantly denied shouting any racial slurs.

Hackney, one of the university's administrations, thought and speech enforcers de

manding that "jewish thoughts" be censored. I insist that the phrase, "water buffalo" was racist. However, some students, black and white, have defended him. He was for 12 years a Yeshiva student and on the face of it should not be used the English translation of the Hebrew word. "bubbeh." It means water buffalo, and is slang means a thoughtless, foolish person.

The Hackney administration tried to get Jacobowitz to plea bargain. I would stop per

suing him if he would accept the punishment preferred by totalitarian regimes and American university liberal-reeducation, in the form of "thinking" training. He refused.

Hackney's university is mild, "undertaking bigoted, anti-Semitic and anti-black columnists is a black group's excuse for brownshirt tactics against a newspaper. But the university is ludicrously aroused by Jacobowitz's eminence and the United States. As Hackney heads for Washington to prevent the disbursement of millions of dollars to scholars, the Chronicle of Higher Education reports: Scholars praise Hackney as even-handed, moderate."

**STUDENT NEWSPAPERS' RESPONSES**

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

The facts of the case, which has gotten among the action hosts of the Pennsylva

nia Senate President Sheldon Hackney is President Clinton's nominee to chair the Na
tional Endowment for the Humanities, has been dictated to him; that young named Eden Jacobowitz is said to have shouted out his dorm window at a group of black students who were calling them "water buffalo" and saying there was a zoo nearby if they wanted to party. When school authorities asked if anyone in the dorm had shouted racial epithets—apparent

ly some other students, had—Mr. Jacobowitz told them what he had shouted but said it was not a racial epithet. Nonetheless, school disciplinary authorities are now investigating whether his words are actionable under Penn's speech code. One college official reportedly asked him whether he had been thinking "racist thoughts" at the time.

As a constitutional matter, "overbroad" means that the policy can cover behavior that isn't prohibited as well as behavior that is, "vague" means the person engaging in the behavior can't tell beforehand whether it is covered, and "narrow" means that it covers speech regulation in a nutshell. Bad enough that this incident has led to inquiries like the involvement of a panel of racist epithets scholar

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**SPEECH CODE SILLINESS**

[From the Washington Post, May 2, 1993]
brev, non-racial insult meaning "coon"; that one faculty member would characterize water buffalo as "large, dark primitive animals that live in Africa," only to debate whether that stereotype was true. Recent incidents, however, demonstrate that merely amplifying what should have been clear already, the futility and intrinsic self-defeatism in indulging in such attacks. All it does is to feminize, in a negative sense, the faculty member himself. It is an act of self-destruction which any reasonable, dispassionate observer would conclude is 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 a description of his own words to be accepted over the interpretation of a listener or third party.

Educational institutions should educate, not indoctrinate, and the need to do it with stronger arguments; this, not suppression, continues to be the best way to combat harassment. It occurs. But that responsibility to educate is also a serious one. It's shameful and ridiculous for such institutions to then sacrifice the moral argument. We've argued away pressuring insupportable, trivial positions. Mr. Hackney must plead serious questions about Penn's policy. He does that here, and he's ignored Penn's own remarks. Penn's speech is not the issue. It's clear that Penn's academic community did the right thing, and that in the long term, the university may end up doing the right thing. Penn's own researchers have been the most supportive of this proposition. Yet, Penn's own researchers have been the most supportive of this proposition.

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

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR SHERMAN HICKENLY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT OF THE HUMANITIES

1. Regarding the Edna Jacobowitz affair, do you think the clash of values against Mr. Jacobowitz was justified? If so, please explain why.

2. I do not think that the charge of racial harassment was justified. Penn's policy is very narrowly focused. It applies only in situations where there is a charge of racial or ethnic slurs are used in face to face encounters with and no other intent than to inflict harm. The facts of the case do not meet these criteria. In addition, because of the nature of the policy and the confusions about the case, I have come to feel that even though it may be important and useful in some contexts, it is a mistake to try to enforce it among members of the campus community through a judicial system.

In the past, 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 a whole as the spring was, I still think it was not appropriate for me to intervene in the judicial procedure. There is no provision for the President or for any officer of the University to intervene. However, if it would have called into question the legitimacy of the entire system that handles disputes, it might have been important and useful. But in the end, it is a mistake to try to enforce it among members of the campus community through a judicial system.

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

Mr. WOFFORD addressed the Chair.

THE PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

This past spring was not an easy time at the University of Pennsylvania. The Labor Committee fully examined each case. The Labor Committee did 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, I want to assure you that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

2. What are your administration did to identify and bring charges against those responsible for the vandalism that took place? What role had been charged in the theft? If so, what was the result in terms of penalties meted out?
The Committee on Open Expression (an important faculty student group that monitors the Open Expression guidelines) has ruled that the incident was a violation of the Open Expression Guidelines. The specific charges would be brought. A number of students apparently involved in the incident have been identified and will be referred to the campus code of conduct for the fall term. The one senior involved has had a "judicial hold" put on his transcript, which may curtail the football season or other academic pursuits. He is a law student from another state and may have to leave the university. Members or the group returned the next day and renewed their graffiti 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.

8. Please explain your criticism of the Helms Amendment to the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill did not include in the final version of the appropriations legislation — was, I believed, exact language. The Helms Amendment to the FY90 appropriations bill would have imposed unreasonable content restrictions, and I believe that Congress has been wise in its judgment not to adopt it.

Q. The Wall Street Journal reported that you proposed banning ROTO from the University. What occurred? And Cree Corum wrote an article which has been published since then which the military's prohibition on gays and lesbians serving in the Army. Is this true?

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

I might add, if you note the biography of Sheldon Hackney, you see he gave distinguished service in the military, as well as in public service in Washington and after his service in the ROTC.

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

I submit the statement for the RECORD of April 22, I ask unanimous consent the full statement be printed in the RECORD. There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT APRIL 22, 1993

The following statement was issued by University of Pennsylvania President Sheldon Hackney today in response to last week's events at the University in which copies of the independent student newspaper, the Daily Pennsylvanian, by students protesting the university's editorial policy were destroyed. Freedom of expression is essential to academic life. At Penn it is foremost among our core values, and we are committed to upholding it. The University has long-established policies to protect it.

As a student or faculty member, I have defended free inquiry, free speech, and freedom from censorship from all parts of the political spectrum, left, right, and center. I have repeatedly done so when under considerable pressure to cancel appointments of controversial speakers or to discipline students or faculty who have earned the disapproval of persons or groups on the campus and off. The list of speakers whose security arrangements I have personally supervised is a veritable who's who of controversy over the past 20 years. From William Shockley to Louis Farrakhan and all shades of opinion between.

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. Our student group was then informed that University policy (which preceded my arrival at Penn) did not allow host groups to host speakers who were to pay costs of invited speakers, including security costs. Special security required for the South African Ambassador would have incurred additional costs. The student group therefore withdrew the invitation. As soon as I heard of this situation and realized that it 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 speaker from disrupting the event. The new policy was thus in effect when all subsequent 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's visit to Penn campus in 1989-90, you refused to order the removal of campus sidewalk graffiti depicting and graphically sexual symbols. Please explain what occurred.

As with so much that the Wall Street Journal has reported, these facts are wrong in important respects, highly distorted in other respects, and the story presented in a misleading way. Early on the morning of April 13, 1993, members of Public Safety and members of the Penn Police arrived on campus to find, written in chalk, graffiti depicting religious symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the campus. Graffiti crews were on their own initiative, immediately washed off this graffiti. Later that day the students, including members of a gay rights group on campus, took the graffiti writing, protested to Penn's Assistant Vice Provost for Student Life that the erasure of Serrano's work was against the rules on Open Expression. The Committee on Open Expression, following precedent, found that the graffiti was protected speech as long as it was not obscene and did not permanently deface University property. Members of the group returned the next day and renewed their graffiti 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.

8. Please explain your criticism of the Helms Amendment to the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill did not include in the final version of the appropriations legislation — was, I believed, vague and sociologically incorrect. The Helms Amendment to the FY90 appropriations bill would have imposed unreasonable content restrictions, and I believe that Congress has been wise in its judgment not to adopt it.

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review its training and procedures as appro-
appropriately.
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, if those tensions produce conflicts that we
must work to resolve. We shall not do

SHELDON HACKNEY, 
President.

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

Freedom of expression is essential to aca-
demic life. At Penn, freedom is foremost among our
core values, and we are committed to up-
holding it. The University has long estab-
lished 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
self-arrested were actually arrested. Some of them were hand-
cuffed. All of them who have been iden-
tified are part of a university process of
discipline. The one student who
graduated before the proceedings could
come to a close this fall had his papers
withheld, which means that he cannot use his transcript to be sent to employ-
bers or to graduate schools until the
matter has been cleared up.

In view of the seriousness of this
case, the vote 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 seised that newspa-
per.

Those are just a few examples of how
the University went about it in the
Sheldon Hackney case that has appeared in some publications
has no basis in fact.

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

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

The assistant legislative clerk pro-
ceded 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 Na-
tional 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 in-
volvement with the life of this agency.

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

Dr. Hackney is a man of tremendous
stature and intelligence who will bring
years of scholarly and administrative
experience to this important position.

His impressive record includes 18
years as the president of two major univer-
sities—Tulane and the University of
Pennsylvania. Prior to this he was pro-
Ful and professor at Princeton Univer-

As my colleagues know, I have long
been involved in the life of the Human-
ties 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
number of 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 capacity as a member of the
Endowment Committee. The委员
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 nomi-
nated 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 Mr.
Sheldon Hackney to be Chairman of the
National Endowment for the Hu-
manities.

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

The Labor and Human Resources
Committee approved the nomination
unanimously. That is 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 aca-
demic work.

Dr. Hackney has had a remarkable
career and lifelong commitment to
public service. He has outstanding pro-
fessional qualifications for this posi-

One impressive aspect of Dr. Hack-
ney’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 presi-
dent, 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 re-
cently on the Penn campus. The hear-
ing of the Labor and Human Resources
Committee provided ample opportunity to examine these in-

Dr. Hackney was able to explain the
cases to the satisfaction of the commit-
tee, and he made it clear he does not
mean all the student actions were illegi-

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 hu-
manities. He will oppose any attempt to
impose any concept or orthodoxy or
political correctness on the

I am especially pleased that Dr.
Hackney, by training, is an historian.
His knowledge, understanding and per-
spective 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 commu-
nity will also be a great asset to the
agency. The Endowment for the Arts,
has been on a political rollercoaster
recent years.

Dr. Hackney offers the Humanities
Endowment a voice and a role in a
process 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 mission.

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 read to be printed in the
RECORD, as follows:

WHYNESWOOD, PA, 
June 3, 1993.

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

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

Since becoming Penn’s 5th chief executive in
1965, Dr. Hackney has focused on a range
of institutional needs, including curricular
reform, research enhancement, development
and long-range planning, public involve-
ment, and internationalization, and has
achieved an exceptional record as a national
leader in each of these areas. In spite of this,
in some situations, he has proven that he can bring together competing
elements to produce a constructive solution.

But such accomplishments are even more
monumental in the context 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-

S10057
OFFICE OF THE GOVERNOR,
HARRISBURG, PA, June 19, 1983

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

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

As a former chair of the Pennsylvania Humanities Council and past president of the Federation of State Humanities Councils, I have worked with the Endowment for over twenty years. The agency, although modest in size, is of primary importance in fostering and supporting research and dissemination of ideas which are critical to 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 recession. The challenge facing federal agencies today is to nurture understanding of ourselves and others. It requires, more than ever before, the leadership of one who is deeply grounded in the humanities and with the skills, experience and vision to guide this major agenda into the future.

I have had the privilege of knowing Sheldon Hackney since he came to Pennsylvania to assume the presidency of one of our premier academic institutions. During 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 insure a well-conceived and well-managed Endowment, one which will preserve the principles and purposes which informed its creation by the Congress. It will be an agency for the people.

Dr. Hackney's ideologue: he is a pragmatist-idealist, in the tradition of our Founding Fathers, who has a passionate commitment to learning and a profound knowledge and love for the future of American democracy.

I have full confidence that he will 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,

SONNDRY MYERS,
Cultural Advisor to the Governor.

Mr. WOFFORD. "I also ask unanimous consent to print in the RECORD several other letters, including 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 piece claims that a "admitted misappropriating...a nearly $1 million in federal grants earmarked for academic research." But the story fails to note that Penn repaid the aid for nearly $1 million in federal grants during the five years covered by a government audit. In other words, the amount in question is a mere .001 of the total received. Time also neglected to mention that Penn repaid the money in dispute.

It is unfortunate that private organizations, public or private, can match this performance. Indeed, if Dr. Hackney demonstrates equally good stewardship of the taxpayer's money as chairman of HEFL, he should get a medal.

Sincerely,

ROBERT H. ATTWELL,
President.

JUNE 24, 1993.

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

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

I urge you and your fellow Senators to confirm his appointment...it will be a great service to the Nation.

With warmest personal regards.

Sincerely,

LEWIS A. LAUBER,
Chairman, Committee on Labor and Human Resources, Dirksen Building, DC.

DEAR TED: I want to add my voice to those supporting Sheldon Hackney. As Chairman of the National Endowment for the Humanities, he would serve the American Council on Education.

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

Dr. Hackney is a noted scholar of the Southern United States and an award-winning author. He is also a professor of history at Princeton University and at several other institutions.

He has served on several boards and has contributed to the education of many undergraduates. He has conducted one of the most successful fund-raising campaigns in higher education history and has been an effective leader in promoting academic freedom and diversity.
Sheldon's appointment, which is yet subject to Senate confirmation, has accelerated what has been his intention to step down at the end of his second term as chancellor of the University of California at Berkeley. However, taking many factors into account, including the uncertain timing of the Senate hearings, Sheldon informed me this week that he intends to resign as president of Penn no later than June 30, 1993, to give the Trustees the opportunity to begin a search for Penn's next president and to identify an acting president to serve in the interim. The executive committee met yesterday on campus; we have begun to move forward in the process of committee meetings to advise us on Penn's next president and will be prepared to announce the acting president we have selected.

Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives, leading one of higher education's most thorough and effective institutional planning processes. While many other institutions regional based, Penn's student body has become nationally and internationally diverse. Looking toward Penn's long-term future as well as its current operations, Sheldon has continued our tradition of solid fiscal management. His presidency has seen endowment increase five-fold to top $1 billion for the first time in history. The Campaign for Penn is fast becoming one of higher education's legends, already having raised $550.3 million toward the $1 billion goal, and providing funding for 132 endowed chairs, the highest number in the history of higher education development efforts.

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

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

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

Sincerely,

ALVIN V. SHOEMAKER

THE SHELDON HACKNEY I ADMIRE

The 72 Quick, its title register, but another one local, this time not about a professor at the University of Pennsylvania, but about the president of that same Ivy League university. Sheldon Hackney, who has been a member of the Board of Trustees of the University of Pennsylvania for 12 years, has been nominated to chair the National Endowment for the Humanities, an appointment that he has accepted.

Sheldon is a man of many talents, both professional and personal. He has been a leader in the field of higher education, serving as president of both the University of Pennsylvania and the University of California at Berkeley. He has also been a leader in the field of political science, serving as president of the American Political Science Association.

I am sure that Sheldon will continue to be a valuable addition to the Board of Trustees, and I look forward to working with him in the future.

Sincerely,

JOSEPH M. McCANN

Member of Congress.

CONGRESSIONAL RECORD — SENATE

August 2, 1993

S10059

THE METROPOLITAN MUSEUM OF ART,
Hon. EDWARD M. KENNEDY
Senate Russell Office Building, Washington, DC.

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

I have known Sheldon for 15 years and have watched his entire presidency at the University of Pennsylvania. Indeed, my son was a student at Penn when I first met him. I believe that he is the ideal person to lead the Humanities Endowment.

Sheldon's appointment is a testament to the strength of Penn's faculty and their commitment to the highest standards of scholarship and teaching. It is a significant achievement that Penn has been selected to lead the Humanities Endowment, and I am confident that Sheldon will use this opportunity to further the goals of the Endowment and to enhance Penn's reputation.

Sincerely,

JOSEPH M. McCANN
American Society for Legal History
American Sociological Association
American Studies Association
Association for Asian Studies
Association for Jewish Studies
Association of American Colleges
Association of American Geographers
Association of Research Libraries
College Art Association
Committee on Preservation and Access
Shelby White and Leon Levy Center for Historical Studies
Princeton University
Federation of State Humanities Councils
The George Washington University
History of Science Society
Independent Research Libraries Association
Linguistic Society of America
Medieval Academy of America
Middle East Studies Association
Modern Language Association
National Council of Teachers of English
National Humanities Center
Organization of American Historians
Phi Beta Kappa Society
Renaissance Society of America
Research Libraries Group
Social Science Research Council
Society for the History of Technology
Society of Biblical Literature
Special Libraries Association
Speech Communication Association
Teachers for a Democratic Culture
ASSOCIATION OF MEMBERS OF THE NATIONAL
HUMANITIES ALLIANCE

African Studies Association
American Dialect Society
American Literary Association
American Numismatic Society
American Society for Theatre Research
Association of American Law Schools
Association of American University Presses
Center for the Humanities, Wesleyan University
College English Association
Commonwealth Center for Literary and Cultural Change, University of Virginia
Community College Humanities Association
The Council of the Humanities, Princeton University
The Hastings Center
Institute for Advanced Study
Institute for the Humanities, University of Michigan
Institute for the Medical Humanities, University of Michigan Medical Branch, Galveston
Institute of Early American History and Culture, College of William and Mary
International Research and Exchanges Board
Midwest Modern Language Association
Northeast Document Conservation Center
Philological Association of the Pacific Coast
Popular Culture Association
Shakespeare Association of America
Sixteenth Century Studies Conference
Society for Ethnomusicology
Society of Architectural Historians
Society of Christian Ethics
South Atlantic Modern Language Association
South Central Modern Language Association
Doreen B. Townsend Center for the Humanities, University of California, Berkeley
City College of San Francisco Humanities Research Institute, University of California, Irvine
Virginia Center for the Humanities
Mr. WOFFORD. I yield the floor.
Mr. LIEBERMAN addressed the Chair.

THE PRESIDING OFFICER. The Senator from Connecticut.

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

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

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

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

History is unfortunately replete with examples of the damage that can result when the media and related 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 inner party conflict and otherwise honorable men and women in our academic communities to impose quotas—religious, ethnic, racial quotas—on the admission of students from various minority groups or prevented scholars who were members of those minority groups from becoming tenured faculty members.

We now look back on these and other periods with shame and remorse, as well we should. I am convinced that we will also look back on today's speech codes and similar examples of the rule of political correctness with that 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 effects of accusations 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 segment of the news story appeared in the student newspaper, the Daily Pennsylvanian, took it upon themselves to confiscate 14,000 copies of one edition of the daily and destroyed that 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 the press, and a criminal act, namely, the theft of newspapers that did not belong to them—instead of doing that, Dr. Hackney's immediate reaction was to express sympathetic 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's edition of the Daily Pennsylvanian, has been repeated at too many of our great universities across the country today.

Dr. Hackney paid tribute in his statement to the preeminence of free speech. But as I read that statement, that elevation of free speech was smothered in a statement that was otherwise loaded with the kind of Orwellian truism on the sanctity of speech and diversity that have become too common on our campuses.

Sixteen professors at the University of Pennsylvania this spring 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 and I am very loath to consent 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
(The 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 one columnist which some students found offensive was a flagrant violation of freedom of thought and freedom of discussion. It was a direct denial of the principle which is most basic to the University's mission. It was conduct which cannot be excused or tolerated.

Second, the fact that the newspapers were confiscated as an act of protest cannot 1888.1441 be excused or tolerated. Those who disagree are, of course, entitled to protest, but not to 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 created an environment carrying out its policy of diversity and its many programs to promote understanding.
CONGRESSIONAL RECORD—SENATE

August 2, 1993

RECOMMENDATIONS

It is vital that all UPPD personnel receive additional training about appropriate responses to student demonstrations and protests. This training must include extensive training of any university's Open Expression Guidelines (and) the role and responsibility of Open Expression Monitors.

The UPPD Policy on handcuffs, Section 5.7.06, should be reviewed ... to ascertain if there are circumstances when it may be inappropriate to handcuff detainees... The roles of any university's Open Expression policy should be monitored ... to ensure that the policy is applied consistently, is non-dis

As an example, in going from episode to episode, describing students taking the newspapers, being seen by security officers of the University of Pennsylvania... And I quote:

The panel found that one officer behaved in a discourteous manner toward the students by ordering them to leave before determining who they were or giving them an opportunity to explain their presence. The panel found that his actions violated section 8.402 of the "University of Pennsylvania Police Department Policies and Procedures Manual" by not requesting that a supervisor be dispatched to cease action in response to a demonstration.

The panel found that the dispatcher violated 8.402 by not making a command decision without consulting a supervisor.

The panel concluded that the actions of students were inappropriate after they left the premises of the Daily Pennsylvania Student.

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 UPPD 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's "Protocols" ... the UPPD should have contacted the Office of the Vice Provost for University Life as soon as it recognized that the students were not engaging in conduct which was criminal in nature... Once the VPUL was notified of the protest, Open Expression Monitors would have dispatched to observe and monitor the students' activities to determine the propriety of the Open Expression Guidelines. Since this act was a form of protest and not a criminal offense, appropriate personnel were appropriate for Open Expression Monitors, not police officers, to mediate and attempt to resolve any further conflicts that resulted from the protest.

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

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

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

At an early stage of the proceeding, after an initial investigation by one member of the investigatory panel—I guess the other—obviously, it 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 complainant would probably drop the complaint and it would all be over.

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

He, the student, refused that suggestion. Obviously, the complainants decided not to press 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 the complaint—which is the beginning of a problem right there in our society—as to content and meaning, and require a panel or a 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 the university can or cannot say. That, as I have said, is a slippery slope all of us should have the instinct not just to avoid but to condemn clearly and unequivocally.

I am opposed 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 character of the all imaged mad but ultimately I think too ambivalent and off point on the critical role and respect we should give to free speech. Dr. Hackney says:

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

Then he goes on to say:

Penn is a special kind of community. Not only does it put the free exchange of ideas at the center of its mission and striving 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 intimidate expression, and 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 Dr. Hackney's 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 29 "Buf faloed 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 its context:

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

Penn is a special kind of community. Not only does it put the free exchange of ideas at the center of its mission and striving 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 intimidating speech is a very 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 55 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 obligations can be serious 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 leader's a university community, its president to speak out and confront those ideas that they might be possibly offensive to educational and educational goals. But it is not proper for an educator, for a university president to condone, to tolerate or seek to put in perspective either the suppression of free speech, as evidenced by the criminal act of newspaper or the chilling discouragement of free speech in a proceeding that presumably that certain kind of offensive view must be sanctioned and punished as evidenced in the second case that occurred this spring.

Madam President, speech codes are other attempts to suppress what is not politically correct, what is not politically fashionable at a given moment and our history simply cannot be tolerant. 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 leading, not just the university, the presidents of our universities. I respectfully suggest that in this battle there really is no room for equivocation or compromise. The president of a university is the trustee of a great and proud tradition of freedom in university communities. That goes back through the course of Western civilization, and has been upheld with integrity, force, and zeal, particularly in the United States.

Being a university president is 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 that know in those regards Dr. Hackney has been criticized 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 he is a great realist, I believe that the same critical principles that I have discussed, the primary principle of freedom of speech which distinguishes our society, is at the heart of the National Endowment for the Humanities which Dr. Hackney has been nominated to head. And because I am profoundly troubled by the way in which he presided over the University of Pennsylvania during the time when it adopted and enforced speech codes and because I cannot be profoundly troubled by the ambivalence of his response to the theft of those 14,000 copies of the magazine New Republic, I voted against the nomination of Sheldon Hackney to lead the National Endowment for the Humanities.

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

I yield the floor.

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

Mr. CHAPMAN. Madam President, I think the Senate should 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 different 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 belonged to the country club in Brookline for many years that clearly had discriminated.

It seems to me very, very unfortunate that the same double standard existing within the committees because we all served during the years when President Reagan and President Bush were nominating various candidates. America is a different place than applied to Ms. Acheson and Dr. Hackney, applied.

I am going to vote for both of those nominees. I do not think the transgressions they may have done something that we can applaud by a long shot. But I have heard from many who have known him for many, many years and do not think that one or two transgressions, if you would, should cause his nomination to fail.

So I am going to give them the benefit of the doubt. I do not think our Republic is going to collapse if Dr. Hackney is nominated, and if the 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 organization that ranks up in the top in sensitivity or the disclosure of national secrets of some farthing. Yet, the background checks of both of those individuals that came before us, the FBI said they spoke to 46 different people—46 different people for a nominee to be on the board. 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 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 over the weekend.

The new Secretary of the Navy, chosen under exactly the same circumstances, a new administration coming from a different administration, from a different political party, was sworn in the end of July. That is 8 months' difference. Indeed, there is a paucity 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 in 1979, 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, he took to get him through the procedures of the FBI checks, that take 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 a different standard. So, I think that goes with it, Thomas Payzant and now Sheldon Hackney, the President's choice for the National Endowment for the Humanities.

There are three well-documented and publicized events during Dr. Hackney's tenure at the University of Pennsylvania illustrate his lack of potential for effective leadership of the National Endowment for the Humanities. Mr. Hackney was sworn into office on July 30, last. He had served as the FBI agent and they would have interviewed 47 people about Dr. Hackney. Mr. Payzant had 47 interviews by the FBI for a nominee for the TVA. This is a well-documented and publicized event.

If there is any fixed standard constitutional compliance, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion. The constitutional guarantees of free speech and free press were not meant to protect persons who would use words to incite or act their malevolent.
the university's infamous speech code and was under investigation for racial harassment.

The plot to steal the newspapers as a protest was conceived when the university decided to drop the charges against Mr. Pavlik. This was apparently the only instance in which the proposed use of the university's speech code against a politically correct recipient was extreme enough to combat Sheldon Hackney's action. But he equated the right to publish an opinion with the right to destroy that publication.

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

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

(See exhibit 1.)

Mr. GORTON. This destruction of a newspaper run was such a violation of freedom and expression as to cause most students to anticipate total condemnation by the university administration. Instead, in words that would send chills down the spines of those who want to undermine and destroy the Constitution, Sheldon Hackney responded with these immortal words:

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

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

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

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

"Two important University values of diversity and open expression were not in conflict here. The offensive columns in no way prevented the editors from carrying out its obligation 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."

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

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

It is vital that all university police personnel receive additional training about appropriate and inappropriate demonstrations and protests. This training must include extensive information on the University's open expression policies, as I have described them."

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

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

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

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

For instance, a year after his Parrakh speech, when Dr. Hackney spoke at a conference for the National Endowment for the Arts during its controversial funding of Robert Mapplethorpe's photographic display, he criticized NEA critics at a 1990 conference an academic freedom and artistic expression by stating:

"My own career is built on knowing when and when not to compromise * * * I generally refuse to compromise a virtue, but I aren't very nervous when fundamental principles are at stake."

Madam President, what boldness and courage it must have taken to recognize the Patry of Senator from North Carolina at a conference of academics.

But where was such boldness and courage in defense of the first amendment later at his campus when newspapers were stolen? When, if at all, did Dr. Hackney find an attack on conservatives an occasion at which fundamental issues were at stake? It is precisely his well-recognized capitulation to the politically correct and selective defense of fundamental principles that make this Senator and the American taxpayer, unconvinced and skeptical of his dedication to open and free expression for all our students a necessary foe."

Mr. KERREY assumed the chair.

Mr. GORTON. Mr. President, under the leadership of Sheldon Hackney, the University of Pennsylvania became 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 Sorby:

"Examples of violations of the University President's Policy on Harassment, for which the penalty ranges from a reprimand to expulsion, include "inconsiderate jokes," "condemning the police," and "misdirected laughter and conscious exclusion of others.""

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

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

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

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

STATIONMENT BY EDEN JACOBOWITZ, FRESHMAN AT THE UNIVERSITY OF PENNSYLVANIA, JUNE 23, 1993

Mr name is Eden Jacobowitz, and I am a Freshman at the University of Pennsylvania. I am here this morning to tell my story and her story, and it is true what I believe about 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 eight-year-old, I voted for Bill Clinton at time this year. I cast my ballot for Bill Clinton, believing, like many others that he was a new kind of leader and was the right man for America. I voted for Bill Clinton to help protect freedom of speech and expression in our country and especially on our college campuses.

My story is so many others at Penn reflect the university's and Mr. Hackney's tendency to restrict free speech whenever a word is not in their view. That is—politically correct in their view. As you probably already know on Tuesday, January 15, I shouted "Shut up you water buffalo" to a group of sorority women who were stomping their feet, shouting and screaming outside my dormitory window at approximately 11:30 p.m. I later
most students, black and white, including those who organized a free speech rally at the university this year, have been disturbed by the university's mishandling of the situation.

It is abominable that President Hackney does not share this sense of crisis. Because of serious racial tensions on campus, which should definitely concern President Hackney, the entire semester was 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 extremely unpleasant conditions. 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 took away something irreplaceable—a semester of my freshman year. I still have not learned 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 was because of this speech code that 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 that the term "water buffalo" was a racial epithet. Jacobowitz quickly pointed out to the university's Judicial officers that I did not even know had been shouted.

It took four and a half months, or 131 days for the charges to be dropped and Dr. Hackney knew on January 15, 46 days after the incident, who shouted the words. Dr. Hackney therefore knew the person who shouted the words was not me and would not have been involved in the incident.

But neither the university nor its judicial officers ever indicated that Dr. Jacobowitz was absolutely no racial intentions and apologized for shouting that word.

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

Was there a 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 it 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 was referred to me absurd in the absurdity of the doctrine, that someone who wrote things in the student newspaper could even be deemed to be in violation, that there was no relationship at all between the policy and someone who expresses opinions in the newspaper. * * * My assistant then asked the JIO what was transpiring. This was happening 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, some people were still flatly denying that many people do not share the same sense of crisis and calumny that has been so much in the news—reassuring words from a university president whose indifference inspired the college freshman to insist recently: "The damage Sheldon Hackney has done to me is immeasurable. * * * My future was almost ruined.

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

A classic case of absurdity and hypocrisy by the Hackney administration was the politically correct pursuit and punishment of Prof. Murray Dolfman in 1984—a case which received no or little media attention. According to a university report investigating the incident involving Prof. Dolfman, a legal study professor at the University of Pennsylvania who taught in the traditional, hard-questioning, Socratic method to prepare his students for a future career.

Mr. Dolfman asked the class what Constitutional Amendment related to the concept of involuntary servitude. There was no response. Mr. Dolfman observed that if anyone should know the answer it would be the black students. He then asked the black students in the class * * * if they could recite the 13th Amendment. When none could do so, Mr. Dolfman asked one black student to stand and read the amendment out loud. Mr. Dolfman stated, "I had a fact I wanted to get across up until he had come out with a black student to change his pronouncements from "de" to "the." Dolfman said that he had test with the students and apologized if they had taken offense. "I told them that I understood and shared their concerns, that I am Jewish and during wert we pray. When we were asked the question, Dolfman also pointed out that it would be important for students, in courtroom argument later years, to be in a clear and comprehensible manner.

They seemed to understand, "Dolfman reiterated, and the matter was dropped for few months. But after that, during Black History Month, it was brought up again and again. Dolfman said to illustrate just how bad things are for us.

The adrenalin generated by the Black History Month rhetoric brought about a demonstration of several dozen of whom occupied Dolfman's class and prevented him from teaching. "They read a note to the students in my class," Dolfman said. President Sheldon Hackney met with Dolfman and asked to refrain from public comment, even to abstain from defending himself against accusations. Then Hackney joined the ranks of his accusers, telling the campus newspaper that conduct such as Dolfman expressed "sounded almost inexcusable." Dolfman was pressured to issue what he termed a "forced apology," and to attend "rolaai awareness" sessions on campus.

The university said it decided not to renew Dolfman's teaching contract for a year.

Dolfman is now back at Penn, a chastened man. "I have been driven home very clearly," Dolfman said. "You can't open your mouth on these issues now without fear of being humiliated.

This case exemplifies the vulnerability of the campus conduct code, including Sheldon Hackney, to the double standards of their anti-intellectual work. In a clear violation of the campus conduct code, about 300 black students engaged in disrupted one of Dolfman's lectures without any accountability. In a clear violation of principles of academic freedom and due process, Hackney intervened in the Dolfman's inquiry, strongly advised him not to defend himself, and badgered him into an apology before an investigation was completed.

Instead of providing leadership in the pursuit of academic freedom and fairness, Mr. Hackney pursued an agenda of political correctness and appeasement.

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

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

The Chairman of the NEH is entrusted with $150 million of taxpayer money every year to make balanced, rational, and fair judgments in promoting the humanities, a desperate cause that the NEH, the National Endowment for the Humanities, and publications. Hackney's lack of fortitude in the pursuit of intellectual honesty is a striking contrast to the straightforwardness his predecessor, Dr. Thomas Law,pies, who wrote recently:

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

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

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

Heading the National Endowment for
the Humanities calls for genuine sensitivity (not alternately bucking to conflicting pres-
ures), the ability to deal with delicate sit-
uation, and above all, profound respect for
and insistence on understanding. 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, it should be pointed out that which unfolded under his leadership at
Penn, I will vote against his con-
firmation and conclude by concuring with
the eloquent remarks of Charles Krauthamer 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 victim of the
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 events for which the post
at the University of Pennsylvania both from
a distance and also first hand. Under the ad-
ministration of Hackney post was crafted over the last twelve years, the com-

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 condemnation of tactics that are so reminis-
cent of those used by Nast brownshirts. Shel-
don Hackney, however, was only bold enough
toash to the mob. Carrying a full engineering
load and coping with the onslaught of the Hackney
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administration has been, of the least pleasant
experiences of my life.

The Committee of the Senate: Sheldon
Hackney is not qualified. The damage he
has done to my alma mater, the University
of Pennsylvania is incalculable. Sheldon
Hackney is ready and willing to play favorites and to dump on
those with whom he simply disagrees. Our
through our committee 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 against Sheldon
Hackney's nomination—Senator
Kassebaum, Senator Jeffords, Sen-
ator Coats, Senator Gregg, Senator
Thurmond, Senator Hatch, and Sen-
ator Lieberman.

I was 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
himself. He and his family have a long
record of courageous support of efforts to
overcome discrimination, and in no way anything 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 think of one.
I do not believe you would find Leonore Annenberg and Walter Annenberg writing to ask us to “give Sheldon Hackney an opportunity to serve this country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania,” where Mrs. Annenberg said, “he steadfastly articulated freedom of expression, civility, and respect as the core values of the University.” I do not believe if he were aware of political correctness the Annenbergs would be saying they cannot imagine President Clinton putting forward a better candidate from either the Republican or Democratic standpoint.

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

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

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

Sheldon Hackney has also pointed out to our committee that the student judicial system that was set up, that went into action after the water buffalo—after the teacher—after the rowdy students were shouting at each other and one student admitted that he had called out “water buffalo”—that student process is initiated under procedures that are not from 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 confederate and destruction of copies of the Daily Pennsylvanian. That simply is not true. He spoke up in all of his statements issued in the days that followed. He speaking to those statements in 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. Such an action enjoys all the protections of the first amendment.

In addition, because of the overriding importance of freedom of expression from the very purposes of the University of Pennsylvania, it has explicit guidelines on open expression that are different from the provisions of the law. Any violation of this or other university policies will be investigated in accordance with existing disciplinary procedures and those procedures call for the Vice Provost to set up a review board to look into the matter.

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

Sheldon Hackney said the following statement on April 23:

"Taking newspapers is wrong as I made clear in a policy statement 4 years ago and reiterated last week during a series of incidents at the University.

Of course it is wrong. Dr. President Mrs. Annenberg's, "he steadfastly purposes democratic the principle of freedom of expression, the importance of the first amendment on campuses. It has been spreading around the country and it should be stopped. Nat Hentoff's article in THE RECORD now tells of incidents with the Yale Daily News, Dartmouth Review, the Trenton State College publication in Trenton, NJ, Southeastern Louisiana University at Hammond, and Penn State University, to name only a few.

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

It has also been said he has not applied the principle of free speech evenlyhandedly over his career. He gave the committee many examples of just how he has not applied it and which have been covered here on the Senate floor.

Based on the review that I took, 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 against Dr. Hackney 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 racist or ethnic slurs are used in face-to-face encounters.

Mr. 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
It is with the advice that he exercise alacrity, and with a warning 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 KASSEBAUM FOR SHELDON HACKNEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harassment would have called into question the legitimacy of the enterprise? If so, please explain why.

I did not think the charge of racial harassment was justified. Penn’s policy is very narrow, focused. It is only in situations in which racial or ethnic slurs are used in face to face encounters and with no other incident that the case is admitted. The case at hand does not meet these criteria. In addition, because of the misapplication of the policy and the handling 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 contrast, 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 would have implied a conflict of interest for the university president and would have also cast doubt on the legitimacy of the entire system that handles dozens of cases every year, dealing to the complaint of a complainant that is adjudicated by a faculty-student hearing panel, and thrown the campus into an even more divisive crisis than the one in which it was involved. If it worked properly, and a hearing panel heard the case, I believe that justice would have prevailed. If the system did not work, it would have been diminished.

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. Jacobowitz and your complete statement issued by your office.

I appeal the statements issued at the time of the incident. I believe they make clear that I recognised the serious of the violation and emphasized the primacy of free speech on a university campus.

4. Pity is it that your administration did to identify and bring charges against those responsible for the Daily Pennsylvanian? If it has been charged in the theft? If so, what was the result in terms of penalties meted out?

The Comptroller’s Office Open Expression (an important faculty-student 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 have been identified and will face judicial processes as they return to campus for the fall term. The one senior involved has had a "judicial hold" put on his transcripts meaning that he cannot graduate with his disciplinary status before receiving his degree or being able to have his transcript sent to employers or graduate school.

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 free speech?

Yes, although I do wish in my original statement I had not used a formulation that was so easily taken out of context and misrepresented. If I could write the document again, I would not have used language that was even clearer and stronger in condemning the classifications.

6. How did you initially react to the Jacobowitz affair and to the newspaper theft incident have been characterised as employing a double standard?

What is your response to that charge?

The charge is absolutely false. Throughout my career, I have defended free inquiry, free speech, and the right of people from all parts of the political spectrum, left, right, and center. I have repeatedly done so as a responsible faculty member who comes before the students and the faculty who have earned the disapproval of persons or groups on the campus. In my career, I have personally supervised a veritable who's who of speakers, including William Shockley to Louis Farrakhan and all shades of opinion between.

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 was then informed that University policy (which preceded my arrival at Penn) required host groups to pay all the costs of invited speakers, including security costs. Special security 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 in violation of university policy, I changed the policy. The University isn’t really open to all points of view if a host group in violation, but I also recognized the costs involved in keeping opponents of the speaker from disrupting the event. The new policy was thus in the interest of 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 1989-90, 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 me, the facts are wrong in important respects, highly distorted in other respects, and the story presented was not the truth. The morning of April 13, 1993, members of Penn’s groundkeeping crew arrived on campus to find, written in chalk, graffiti depicting religious symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundkeeping crew took on its own initiative, immediately washed off the graffiti. Later that day the student membership of Penn’s groundkeeping group (who had originally done the graffiti writing), protested to Penn’s Assistant Vice
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Protest for Student Life that the erasure of the graffiti violated the University's Guideline on Free 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 handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did lead to Andres Serrano's visit to Penn, which took place on December 5, 1990.

8. Please explain your criticism of the Helms Amendment as it pertained to the work of art. Robert Mapleson and Andres Serrano.

I did criticize the language of the Senate amendment as it greatly exaggerated. Do you agree that bill for FY90 (the Helms Amendment) because I believe that the language of the amendment in its final version of the appropriations legislation—was impossibly vague and overbroad. The Helms amendment to FY90 would have precluded unwieldily content restrictions, and I believe that Congress has been wise in its judgment not to adopt it.

9. The Wall Street Journal reported that you proposed banning ROTC from the University's extramural activities campaign in 1990 because of the military's prohibition on gays and lesbians serving in the military. Is this true?

Yes, I have made a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, the Army ROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

10. You have been quoted in the past as stating that the impact of "political correctness" on American university campuses is "unbearable." 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 dogmatically vague and imprecise. It began as a thorny notion and as it has spread, it has taken on a life of its own as a caricature of a certain kind of liberal left orthodoxy that is so simple it is seeing the interests of groups that can claim the status of having been victimized by society that the general interests of the University and its employees, those of times even the search for truth is threatened. Fortunately, "political correctness" does not dominate American campuses, though it is something about which faculty and academic leaders ought to worry about. I believe that I can suggest the broad mainstream of the American professoriate that sees danger in any potentially intolerant orthodoxy, but that may not see political correctness in some ideas that may be part of a "politically correct" position.

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

Mr. WOFFORD. I thank the Senator from Kansas for her thoughtful statement with which I agree, and for her care and concern and instructive approach to this nomination. It is a tradition that I have so far experienced in the Labor and Human Resources Committee, and in no small part due to the Senator from West Virginia.

I also once again, pay tribute to Senator HATCH's probing, critical questions that led to his support of Sheldon Hackney, and to note that as a former collection curator at the Library of Congress and as an art historian, I found 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 a whole and the Senate were answered, they joined in the unanimous recommendation for the nomination of Sheldon Hackney.

Mr. President, I suggest the absence of a roll call vote.

Mr. SPECTER. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk procured the roll, and I call the roll.

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

Mr. SPECTER. Mr. President, today I express my support of the confirmation of Dr. Sheldon Hackney to serve as Chairperson of the National Endowment for the Humanities. Dr. Hackney's reputation as an outstanding educator is well known both on the national level and across the Commonwealth of Pennsylvania, where he most recently served as president of the University of Pennsylvania. Having been appointed to this office in 1981 after serving as president of Tulane University and as provost of Princeton University, Dr. Hackney has overseen the allocation of more than 600 million dollars 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 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 at Yale University in 1961 and 1966, respectively. He is an accomplished historian, having written several books on the American South; he has received numerous honorary degrees; and Dr. Hackney has served on numerous panels and commissions in academia.

Although his reputation is most notably one of educational leadership, Dr. Hackney's accomplishments outside the University of Pennsylvania. Through his chairmanship of the West Philadelphia Partnership, Dr. Hackney directed the growth of a working partnership among Penn, neighboring institutions, and the residents and business people of West Philadelphia. Dr. Hackney has also served as a member of the board of directors of the Greater Philadelphia Chamber of Commerce, the Greater Philadelphia Urban Affairs Coalition and the University City Science Center.

Overall, my knowledge of Dr. Hackney while he has served the University of Pennsylvania and the surrounding community has been positive. Reverting to the quorum call, I am concerned with his handling of two widely publicized incidents at Penn: One of a student shooting an alleged racial epithet (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 what is perceived as a columnist who wrote the paper.

Regrettably, these highly publicized events left something to be desired; the many substantial events that do not receive the same degree of scrutiny. I yield the floor.
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 as it joins 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 agency that has an annual budget of more than $175 million. The Endowment awards grants to scholars, teachers, and libraries working in the humanities.

Born in Birmingham, Ala, Sheldon is a noted historian and authority on the American South. He authored the 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 1972 to 1975, Sheldon was a member of the board of editors of the “Journal of Southern History.” He edited “Understanding the American Experience: Recent Interpretations” and wrote the introduction to Gerald Galbraith’s “Blacks and the Populist Revolt.”

Sheldon enjoys a reputation as one of the foremost experts on Southern history and culture, which makes this southern绅士 especially equipped to support him. But as we all know, he has established himself in the field in so many other ways as well. He has served on the Rockefeller Commission on the Humanities and the American Council of Education’s Commission on Women in Higher Education. In the early 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 South.” He said, “It was very important to me. Even in high school, a group of friends and I went to Methodist youth fellowship every Sunday. I also credit my parents with helping to shape the values by which he lives today.

Mr. President, Sheldon Hackney has a distinguished record as a first-rate scholar, author, educator, and astute, fair, and temperate administrator. He has shown how the senior executive of an agency can be a forceful leader, 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 diversity. Unfortunately, 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 indeed an effect of many of the burning social problems in America’s cities today.

I am not going to go into detail on these incidents, for I believe everyone is aware of them. Rather, I would like to say that I have spoken very candidly with Dr. Hackney about this very difficult issue. It is a tough issue, one to which there is no clear or easy answer. Should he have handled the situation 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 deal with a 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. It must be revitalized and depoliticized. Despite the attacks it has endured, the NEH has been a major force in intellectual life in America for the past 25 years. In Vermont, the Vermont Council on the Humanities is using NEH grant money to support literacy programs in an effort to achieve full literacy in my State by the turn of the century.

The NEH is a reasonable, and visionary, leader. As a man who has devoted his professional life to the academic community, and as a man who has served on the faculty at the University of Vermont through untimely times, Sheldon Hackney has proven he is up to the

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task. Clearly, he will bring this leadership to the NEH.

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

Mr. LEAHY. Mr. President, I rise to support the confirmation of Dr. 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 the 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 libraries, through presentations, and exhibits, and literally has taught thousands of Americans to read, bringing them into the mainstream of the democracy and economy.

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

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

Mr. COATS. Mr. President, the National Endowment for the Humanities needs a capable leader. It is under considerable stress. There is a new current in the academic community that moves toward the left. That current threatens to take institutions like the NEH along with it. And if that happens, a public trust is violated and public support is squandered.

The Chairman of the NEH needs to be an activist for balance, fairness, and free speech. When Federal bureaucrats are involved, no Chairman can be allowed to pick favorites in academic debates—no matter what pressure is applied. No matter how enlightened one thinks that a principle fairness may seem.

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

But his past record does raise some questions. About his treatment of free speech and the principle of 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 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 win confirmation and seats for the NEH 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:

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Congress should address and industrial.
The way to avoid Federal bureaucrat tyrann is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should divide it between the Executive, Legislative, and Judicial branches and ensure that the three branches of government remain independent of each other. The way to avoid Federal bureaucrat tyrann is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should divide it between the Executive, Legislative, and Judicial branches and ensure that the three branches of government remain independent of each other. The way to avoid Federal bureaucrat tyrann is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should divide it between the Executive, Legislative, and Judicial branches and ensure that the three branches of government remain independent of each other.
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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, intellectual and courageous scholar. Because, after meeting Dr. Sheldon Hackney, after reading the record of his achievements and reviewing the transcript of the hearing held by the Labor and Human Resources Committee, I am convinced he is a decent and scholarly man.

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

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

There is just one thing that has me concerned. Dr. Hackney said during his testimony before the Labor and Human Resources Committee that "university presidents operate in a sea of powerful and conflicting currents." I would submit that just as the mixed organizations like the National Endowment for Humanities operate in a stormy sea the likes of which Sheldon Hackney has not even begun to describe.

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

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

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

In this case, Dr. Hackney certainly stuck his oar in the water and put the boat back on course. Perhaps a little late. He did not tell me if there was any attempt after changing the policy to reinstate the South African consul. But maybe the students were not interested anymore in hearing those views. Surely we could not characterize this as a tendency to protect speech from one point of view and not speech from another point of view.

And I applaud him for the statement he made to the students protesting the Farrakhan speech: "In an academic society, the right of free speech is the most fundamental value. We can't have free speech just some of the time for some of the people." There is no question where he stands on freedom of expression in art. He ardently defended the decision of Penn's Institute of Contemporary Art to exhibit the Mapletonorke photographs. During this confirmation hearing, he agreed that there is a big difference between a university displaying controversial art and a National Endowment making a decision about subsidizing a particular project with tax funds. Perhaps he regrets denouncing one of our Senate colleagues who understood that same distinction and was trying to get NEH to be more responsible in handling those taxpayer dollars. And while he had a cheering audience, Dr. Hackney also has to realize 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 marketplace in expression." Those two statements I have quoted have quite a ring to them. And they certainly reflect an uncompromising stand on freedom of expression.

Maybe that's why his latest statement on the issue which has caused such a storm of criticism, is somewhat of a frustration. When students stole an entire run of the Penn student newspaper carrying articles that some claimed the minority community found offensive, Dr. Hackney said confiscation of newspapers was wrong. Unfortunately, he didn't say it as clearly as I wanted him to. He responded 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. Indeed, he said this is an imputation of the university to the university community valued members of Penn's minority community and students exercising their right to freedom of expression.

Imagine would be right. There is the question about misappropriation of $1 million in Federal research funds, funds for alumni fundraising activities, overhead and expenses. Dr. Hackney provided a 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 our was in the water before the Federal Government knew it had reason to complain. I think it is good fortune for the American taxpayers that Dr. Hackney has been there for us to uncover these problems before they become major.

Sheldon Hackney, simply the opening of the door and delivered the collective

Just imagine that the President of the Senate says to you: "Your colleague is exactly right. In this Senate we believe that the only way to conduct a healthy debate is a supportive environment. Each Senator has the right to dictate what he or she finds offensive. If your words or ideas are offensive, you are not allowed to express them. And if you do express them, you will be sanctioned. You could even be expelled." That is what some of the policies are like. It has been like at some of our university campuses. With politically correct speech. The kind that for a time Dr. Sheldon Hackney really did not know whether he could support or would support or did not support. And finally had the policies changed.

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

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

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

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

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

It may seem unthinkable for speech to cease ever to exist in the U.S. Senate, but let me warn my colleagues, it was not many years ago that these kinds of restrictions would have been equally unthinkable on college campuses. The abridgment of free thought and what happened? Well, it was not a revolution. Nobody stormed the citadel. There was not any rioting in the streets demanding speech codes. We did not see students being stripped of their rights. No, it was not a war; it was a surrendering. Good, decent, intelligent scholarly people—like Sheldon Hackney—simply opened the door and delivered the collective
leg campus to a kind of intellectual tyranny.

Today, when you talk to many academics, you will be treated to an incredible doublepeak about this very important 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; that we do not need laws to control classrooms—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 was not to 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 absent. I have had college presidents tell me in another breath that speech codes cannot constitutionally restrict classroom discussion or the open debate in a forum on campus.

—I have had a college president tell me that the right to have different 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 reaffirmed. 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 wearing academic blinders, to 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 very freedoms that he is now going to have to defend in a fair way. With what he himself identifies as more direct control over decision-making, he and even limited, scholarly figurehead will be. Will he be the person who arbitrarily restricted free speech and then made a change? Not unless certain words, not title, and not to remain a fair and balanced way the moneys of this great institution?

—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 wind, and not to remain a stalwart defender of constitutional and basic American principles and rights.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

SALUTE TO EWING KAUFFMAN

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

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

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

In 1964, Kauffman purchased the franchise of the people of Missouri and Kansas, when he purchased a new major league baseball franchise and brought it to Kansas City. And for the next 26 years, the Kansas City Royals have been one of the most successful franchises in baseball.

Under Mr. Kauffman’s ownership, the Royals won six American League West 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 his campus really didn’t belong to him; it belonged to the people of the Kansas City area—indeed, for that matter, all the Midwest. And his leadership ensured that the Royals were also available and that all 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 said he would pay the full cost of their college or vocational training if they steered clear of drugs, alcohol, teenage parenthood, and received their high school diplomas.

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 is 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.