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### Nat Hentoff discusses, "Is Any Form of Speech So Harmful, So Disgusting, So Dangerous, or So Offensive That It Should Not Be Spoken or Published?" at Ford Hall Forum, transcript

Ford Hall Forum

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## Ford Hall Forum: Transcript of Nat Hentoff Forum

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**Title:** Ford Hall Forum: Nat Hentoff speech, “Is Any Form of Speech So Harmful, So Disgusting, So Dangerous, or So Offensive That It Should Not Be Spoken or Published?” March 14, 1993.

**Recording Date:** March 14, 1993

**Speakers:** Nick Daniloff, Nat Hentoff

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### **Recording Summary:**

Transcription of a Ford Hall Forum that featured Nat Hentoff, a Northeastern University alumnus, former columnist, novelist, biographer, and Bill of Rights expert. Hentoff discussed current events relating to First Amendment rights in a forum entitled, “Is Any Form of Speech So Harmful, So Disgusting, So Dangerous, or So Offensive That It Should Not Be Spoken or Published?” Nat Hentoff is introduced by Nick Daniloff, the Director of the School of Journalism at Northeastern University.

**Transcript Begins**

**NICK DANILOFF:** Well good evening and welcome to the Ford Hall Forum. I'm Nick Daniloff, the Director of the School of Journalism at Northeastern University. And it's my great pleasure to introduce to you tonight Nat Hentoff, one of our most distinguished graduates who is here, having just chugged in from South Station. And he will be talking to you this evening about his latest book and other issues relating to freedom of speech, First Amendment and so forth.

[00:00:37]

As you know, the Ford Hall Forum, since its inception in 1908 has been dedicated to upholding the First Amendment and has never shied from controversy in that regard. One way that you could help show your support for freedom of speech is to join the Hall—Ford Hall Forum. So when this evening comes to a close, as you leave you may wish to visit the table outside where you can not only buy Mr. Hentoff's book but you can also contribute to this forum.

Before we get into tonight's program let me just note that the next meeting of Ford Hall Forum will be on May 19<sup>th</sup>. And on that occasion, which will held in the South Meeting House, the guest speaker will be former Colorado Senator Gary Hart. And he will be sharing his thoughts on his recently published book, *The Good Fight: The Education of an American Reformer*.

[00:01:46]

And now to tonight's program. Nat Hentoff, a native of Boston is a prolific writer of books, ranging from biographies to novels for children and, of course, the First Amendment. Among his works are the following books: *Does Anybody Give a Damn?*; *Nat Hentoff on Education*; *The First Freedom: A Tumultuous History of Free Speech in America*; *The Day They Came to Arrest the Book*; and *Boston Boy*.

[00:02:18]

His latest work, *Free Speech for Me But Not for Thee*, has already generated a great deal of discussion as he identifies the opponents of the First Amendment from both the political right

and the left and demonstrates why Nat Hentoff is regarded as one of the best known guardians of freedom of expression for all.

Mr. Hentoff's journalistic writings have appeared in many publications. Most notably he contributes a column to the *Village Voice*. He is a columnist for the *Washington Post* and a staff writer for the *New Yorker*.

Mr. Hentoff will speak for about 45 minutes and then he will take questions for about another 45. My pleasure, Nat Hentoff.

(applause)

[00:03:28]

**NAT HENTOFF:** Thank you. It's somewhat appropriate for me to be speaking in the Carl S. Ell Building because while I was a student here, Carl S. Ell was the president. He had been the president—the head of Northeastern for at least three or four hundred years. And he essentially had created, had built Northeastern University. And, like many creators, he wanted it to reflect his image. We at the *Northeastern News*, where I was the editor, did not—did not reflect his image. We liked to call ourselves muckrakers. Some of us had read George Seldes.

And we broke a lot of stories both about the university and about outside. We broke stories about antisemitism in Boston long before the Boston dailies did. They knew about it but they didn't think it was quite the appropriate thing to write about. Anyway, we finally got a U-case through a subordinate of President Ell that we could either continue staffing the *Northeastern News* and concentrating on the food in the lunchroom and the fortunes of the sports teams or we could leave.

And we all left, except one. There is always one scab and he became the editor.

(laughter)

One thing I learned from all that was that you could have a distinction however transient from being a heretic for free speech. The last year I was here, my senior year, I won what was called the President's Letter. I don't know if they still have it. It's the highest award you could get. Unfortunately, it's just a piece of paper. It's no bread, no money. And you get it for grades, not character. Traditionally, always, the president was there at the dinner where this award was given, to hand over his letter. This was the first time in the history of Northeastern he refused to come.

(laughter)

[00:05:31]

So, as I say I don't know how—how he would feel about my speaking in a building named after him, and I prefer not to contemplate that.

(laughter)

The bitter conflict about which kinds of speech are protected by the First Amendment or its equivalent when there is no state action and which kinds of speech are not or should not be, has been going on since the beginning of the Republic. In 1798, only seven years after the ratification of the Bills of Rights, very much including the First Amendment, our second president, John Adams, had Congress—had Congress, they were delighted to do it, they were Federalists—pass a bill called the Alien and Sedition Acts. And one of the provisions penalized by fine and imprisonment anyone who spoke, wrote, or published any, quote, “False, scandalous, and malicious speech against the government of the United States, including the president and the Congress.”

Also criminally seditious under the new laws was speech that would bring the president or Congress, quote, “Into contempt or disrepute or that might excite ridicule against them.” Of course, if that had happened in the last, oh, three and a half months, most of the journalists in this country, including me, would be in prison and Rush Limbaugh would be drawn and quartered.

Not only were journalists—in fact, they did, indeed, imprison 25 editors and four, I mean 25 reporters and four leading newspaper editors, also a civilian, a man named Luther Baldwin who lived in Newark. President John Adams was coming to town one day. And he was being honored by a 16-gun salute. And Mr. Baldwin, who apparently had spent some of the morning getting his spirits regenerated in a spirit shop, said as he heard the guns, the cannonade, “I don’t care if they fire it through his ass.”

(laughter)

[00:07:43]

He was not imprisoned. He was fined \$100 dollars. In 1798 the average worker’s salary ranged from \$300 dollars to under \$600 dollars a year. Then—I mean I’m just going to give you a couple of low points of our—of our experience with freedom of speech and press. In the Civil War, Abraham Lincoln, and they never mention this or hardly mention this when they give him tributes, not that he doesn’t deserve them, but he suspended habeas corpus.

And the Supreme Court was too cowardly to say anything about it until he was dead and the Civil War was over. He also imprisoned newspaper reporters and editors who didn’t agree with the way he was conducting the war, or were Copperheads. Then in the World War—the First World War, was I think the nadir of freedoms, speech freedoms, all kinds of freedoms under the Bill of Rights and the Fourteenth Amendment. And they seldom mention that when they give—give tribute to Woodrow Wilson.

For just one example, Eugene Debs, the labor leader, made a speech in which he said he was opposed to the war. That’s all he said. Right, smack in the Federal pen. McCarthyism—some of you I can see are my age and so you are old enough to remember that period. A lot of people suffered very badly. Some committed suicide. More people were like—woops! My wife who is—Pardon me? I didn’t hear either of those things but something fell down. Anyway.

Oh, louder? Louder? Okay. I’ll push this—how is this?

**AUDIENCE MEMBER:** Better.

**HENTOFF:** Okay.

[00:09:19]

She is the boldest person I know but during that period—and she’s not been a—even a comsymp. She would buy certain magazines like *The Nation* and put it in a brown paper bag as she went back to school. I had a brief experience with the Massachusetts Un-American Activities Committee because I taught a course on jazz at the Samuel Adams School. Samuel Adams School was a Communist front school but I just wanted to teach jazz.

Anyway, we—what we have now are—is a two kinds of suppression, real momentum in terms of suppressing speech. One has to do with the religious right. Less the political right because they—I think they learned a lesson from the Republican convention. But around the country, and this didn’t get much attention, sure the Democrats won the presidency and they won a lot of, not a lot, they won some congressional races and the like—but Pat Robinson’s [sic Robertson] legions and other similar Christian right groups did very well in city councils, state legislatures, municipal bodies like school boards and the like, library boards.

And I think you’re going to see a resurgence of the kind of censorship, attempted censorship of school books, curriculum books, library books, that started under Ronald Reagan.

The other, the other—it’s not only a threat, it’s here, it’s been here for several years now, and I find it very dismaying because I’m on the left and the people who perpetrate this are on the left. Except they don’t believe in freedom of expression. I mean the main, current danger to freedom of expression is on college campuses. Because of what is being learned there now, is that if your motivation is good, if you’re against racism, sexism, homophobia, suppression of certain kinds of speech is okay, is essential as a matter of fact, is virtuous.

[00:11:26]

Let me give you a couple of stories that are not in my book. Oh, there it is. Unbreakable Timex watches. They gave lousy jazz spectaculars on television but they’ve got good watches. Anyway, let me start with—you may have been—I don’t know if *The Globe* or *The Herald* covered this. I

bet *The Herald* did, what's been going on at the University of Pennsylvania. A lot's been going on. But I want to focus on something that is of particular interest I would hope to journalist and to people who read newspapers.

First of all, no group, no group is a reliable defender of free speech, although individuals within groups may be. During the 1970s, for example, much of the Jewish establishment in the United States was vicious in attacking those Jews, including some rabbis, rabbis who came out of the civil rights and antiwar movements, who objected to Israel's human rights violations in the occupied territories.

One of the ironies was, I covered that field. I knew some of the leaders of the establishment groups. They opposed what was going on in the territories, too, but they wouldn't say so. They just—because the idea was you had to be in solidarity with Israel or Israel would be in terrible trouble.

[00:12:40]

I knew a rabbi in St. Louis who was treated as if he was a traitor to all the Jews who ever lived. And I got, from vigilantes, death threats because of what I'd written about Palestinian rights. I usually ignore those. I get them from all kinds of people. I got them from Farrakhan's people. I'm sort of an equal opportunity receiver of death threats.

(laughter)

But these, the ones about Israel seemed fairly substantial so I called the Intelligence Division of the New York City police department. And two people came up and they said, they gave me two pieces of advice. One was, "Separate out your mail. The letters and other—and packages you get from people you don't know, don't open. We'll come up once a week and open it." I said, "All the mail I get is from people I don't know." Then they said, "Okay. But in the street, be very, very careful. Watch people's faces." That was terrible.

(laughter)



[00:13:40]

For two or three weeks I could see a baby in a carriage and figure that she had a Uzi—a Uzi underneath the blanket. Then it went away, I think.

Anyway, University of Pennsylvania has a newspaper called *The Daily Pennsylvanian*. It's a good paper. It has a wide range of columnists including a white conservative columnist who makes Pat Buchanan seem a little benign. And he has angered a number of black students at the University of Pennsylvania. And instead of—about three weeks ago *The Pennsylvanian* ran a long letter, which reportedly was signed by 202 black students and faculty members in which point by point they attacked this white conservative. But that wasn't enough.

One day, two weeks later--*The Daily Pennsylvanian* has a run of 14,000 every day. They disappeared. Fourteen thousand newspapers disappeared. They had been taken by a group called the Working Committee of Concerned Black and Latino Students in a protest against what it called blatant racism. Now, I've covered a lot of censorship stories around the country by perpetrators on the right and on the left. No one, no one has ever admitted being a censor. They all say they had the right to suppress speech that was harmful.

Now at the University of Pennsylvania the Concerned Black and Latino Students not only claimed they had the moral right to destroy all the newspapers, they insisted it was a legal process. This ranks as one of the lamest excuses for what was undeniably a deliberate suppression of press. They claimed, first of all the newspapers are free. So it wasn't theft, it wasn't hijacking, okay? Then they say, there is no explicit restriction on the numbers of papers any given student may remove.

[00:15:35]

I knew Malcolm X pretty well. I knew him from the time he was in the nation of Islam. And I can't imagine if he had ever done anything like this, which he never did, I can't imagine him diluting the impact of his act in order to swivel out any real responsibility for it.

Now the president of the University of Pennsylvania is Sheldon Hackney, whom I would nominate, if anybody asked me, as the most politically correct university president in the United States. There's a big competition for that—

(laughter)

—But I think he wins. Now he has been nominated by Clinton to head the National Endowment for the Humanities. Typical Clinton appointment, in view of Clinton's own integrity on these matters.

[00:16:22]

Anyway, what did Hackney do? Well, he said he didn't condone the taking of the newspapers. He didn't condone it. On the other hand he said, "It shows what happens when you have diversity on campus. Because," he said, "two important University values, diversity and open expression seem to be in conflict." I love that, "Seem to be in conflict." What he implied in his statement is, if you have diversity on campus more blacks, more Asians, more Latinos, then there is going to be a conflict with open expression.

Where does he get the idea that all blacks, Latinos, and Asians want to suppress expression they don't like? Some do. Some Jews do. Some Catholics do. But to reach the utterly shallow notion that diversity and open expression are in chronic conflict, are in total conflict, is to set up yet another prejudicial stereotype of blacks and Latinos.

[00:17:22]

Now the last I heard yesterday from sources at the University is, they're not going to do anything to those, to the people who took the newspapers, nothing at all. Meanwhile, as you may have read, they're hounding this other kid, Eden Jacobowitz but that's another story. But what—that whole approach is so pandering, it's so patronizing. It's saying to those students, "Look. You're angry. You're frustrated. Therefore we have to treat you special—as special. We have to treat you as if you're too fragile to really live up to the standards that everybody else has to live.

It's the kind of thing that drove Malcolm crazy. And it reminds me also of a debate that was at Harvard Law School about three years ago. There was a—the question was, should there be a speech code at Harvard Law School, a code that would punish people for saying things that offended blacks and women and whatever. And one student got up, a white student, and said, “We need a speech code because without them blacks students would be driven away from colleges and thereby deprived of the equal opportunity to get an education.”

[00:18:36]

A black law student got up and said that the white student had one hell of a nerve to assume that he, in the face of racist speech would pack up his books and go home. He said he'd been all too familiar with that kind of speech all his life and he had never felt the need to run away from it. He had handled bigotry before. He could do it again. He then looked at his white colleague and said that it was condescending to say that blacks have to be protected from racist speech. “It is more racist and insulting,” he said, “to say that to me than to call me a nigger.”

Meanwhile, at the University of Pennsylvania—a letter came in to *The Daily Pennsylvanian* signed by a number of black students saying that they were horrified at the taking of the newspapers. They didn't like the *The Daily Pennsylvanian* either. And they said why. But to take a newspaper to destroy, they said, “That does not represent us.”

[00:19:39]

On the other hand there is a—a sort of consortium of black faculty members and staff members at the—at Pennsylvania. And some of them signed a letter saying first of all that it was an ingenious First Amendment way for the black students to handle their discontent. And that anybody who doesn't think it was an ingenious First Amendment way is a racist.

(laughter)

I was at a southern college a couple of years ago with Bill Raspberry who writes a syndicated column for *The Washington Post*. And I tagged along when Bill was speaking to primarily black students. And he said, “You know,”—I assume you know that Bill is black—he said, “You

know, the word racist—racism used to have tremendous moral clout but is now used so casually, so cavalierly, so meretriciously that it hardly means anything at all any more. It's a point.”

[00:20:33]

Now let me go on to something I'm sure you have never heard of, because I only covered this story two days ago. As I think you're aware college campuses now have become caldrons of sensitivities. Black students compile pervasive illustrations of institutional racism. Jew students bridle at growing evidence of black antisemitism and wonder why they are hated so. Women students and women faculty are convinced that although they've grown in numbers, they are still devalued.

And that's just the beginning of the dissonance. There are charges of insensitivity by Asian-American, Latino, Native American students. I—there's a woman in—at Stanford. She's a Native American. She runs a sort of Native American center. And she said recently, “Everybody is so careful when they speak to me. They are so careful. They don't want to offend in any possible way. I don't know what the hell they think.”

[00:21:35]

Anyway. This is a story—well, before I get to the story, and I will distill this. It's one of my chief obsessions. Instead of dealing with these real feelings and frustrations and anger and, indeed real racists and sexist incidents on a lot of campuses, most college administrators, very much including college presidents, cravenly avoid educating their students to know each other. And instead put into place these magical speech codes. The thesis is, if you punish verbal bigotry, the underlying hostility will vanish. There is also the problem of due process because these codes are so overbroad and vague that they would ensnare James Madison if he were to come back to earth to weep over what's happened to the First Amendment.

This is another story apart from all of the speech codes. I've been doing this for years. I haven't put it all together though. I wish somebody, it would take a team of reporters, to go all over the

country and examine the judicial inquiries, the trials that go on at colleges and universities, including in the most prestigious. They are like the Star Chamber. There is no due process.

[00:22:54]

You may in some cases have a lawyer but he can't speak. He can't cross examine witnesses. I've asked several college presidents why. And the answer is always the same, "We don't want an adversary situation. This is supposed to be collegial." Collegial for whom? The student can have on his permanent record something that will prevent his getting into law school or medical school. Very strange.

Now, the—oh, I also should—one thing I forgot. Two things. Hilary Clinton, I'm sorry, Hilary Rodham Clinton. I didn't mean that. I just forgot it. It takes a while—is giving a commencement address at the University of Pennsylvania today. And some people I know there are going to see to it that she gets a copy of the latest issue of *The Pennsylvania Daily*, which has a scorching editorial on why president of the University of Pennsylvania, Sheldon Hackney, should not be made head of the National Institute for the Humanities. I hope she brings it home.

[00:24:00]

Yesterday, I got a call from a producer at CBS News. You know, Bob Schieffer has the Saturday and Sunday evening news—would I come on and talk about what's been going on at the University of Pennsylvania, including the taking away of the 14,000 papers? And that was the same day yesterday, well I don't know about *The Globe*, but there were long stories in *The Washington Post* and *The New York Times* on this constriction, to use a polite word, of free speech at Penn.

I got a call about half an hour later saying, My—that part of the program has been canceled. Well, like Duke Ellington use to say, "God didn't want me to be to famous, too young." But I was, I was curious. How come? How come is that Schieffer, the journalist, did not want a segment on the University of Pennsylvania on that night because today he was speaking at the University of Pennsylvania. It would be too insensitive to have a report on the various

embarrassments hanging to the president of the University of Pennsylvania around his neck like albatrosses.

[00:25:08]

So you can see how far this plague of sensitivity has reached when a journalist cancels a news segment so that—so that he won't be uncomfortable at ceremonies where he's a guest. Can you imagine? Is he stoned during that? Now here's a story he could have used because it has nothing to do with the East. And it has had no national coverage until next week. I hope it will be in *The Washington Post*. It's a classic illustration of sensitivity run rampant on a college campus. I told this story to several First Amendment specialists and they thought I made it up. But I have the documents and the correspondence and I have the interviews.

[00:25:50]

It begins with Chris Robinson, a graduate student in psychology at the University of Nebraska at Lincoln. That's the flagship of the state university system, 20-something thousand students. Robinson also works in the psychology department giving tests to undergraduates. Until recently he had on his desk a photograph of his wife. In the picture she is wearing a bikini.

However, the head of the psychology department, John Berman has apparently been much taken with that picture because he describes it as something else. He sent me a copy. He proudly sent me a copy of his professional opinion on the matter of whether this now-fabled photograph should stay on Robinson's desk. Professor Berman sees it as what he calls a boudoir photograph. "She's wearing two-piece lingerie outfit," he says, "made of some sort of mesh material. It has been portrayed as bikini." he writes. "It appears instead to be the type of clothing one would buy in a lingerie department. This is a university, rather than a swimwear department. Although," he says—"Although," he says "the distinction may be trivial."

(laughter)

[00:26:59]

Now, working in that office with Chris Robinson are two women graduate students who are also teaching assistants. The photo of Robinson's wife offended them. They said it violated the university's, you know what's coming now, sexual harassment policy by creating a hostile working environment.

By the way, this was not a gigantic photo. It's 5 X 7. The two complainants did not say that Robinson himself had ever sexually harassed them in any physical way or in his language. This was a matter of the photo damaging the sensitivities of all women, which is now, by the way, the position of the American Civil Liberties Union, which has changed its sexual harassment policy into mush.

In his eventually ruling, Professor Berman said, that the photo being, quote, intimate, unquote, could be offensive to many of the female students who come into the office. They would be uncomfortable and no college worth its tuition these days wants to make anyone at all uncomfortable, even briefly.

[00:28:14]

Education has to be easy. At the University of Nebraska, Eric Jolly, who is director of the Affirmative Action Office, emphasizes that the goal is to make the campus completely hospitable. Like, let's stay, the House of International Pancakes. "As for the First Amendment," says Jolly, "if we are hospitable, we will certainly be legal." And of course, that's what it says right in the First Amendment. Freedom of speech and of the press can only be exercised in a hospitable atmosphere.

(laughter)

As for that photo and its putative effect on female students, I know that there is no ocean in Nebraska, but surely people go swimming somewhere, maybe a lake. They also maybe watch movies and television. I've lectured there twice.

[00:29:08]

And my sense was that women students there are intelligent and independent and are not likely to be spooked by the photo of somebody's wife.

By the way, there's a marvelous woman named Robyn Blumner, who is the executive director of the Florida ACLU. She should be the president or some high, national office, but she'll never get it. She believes too strongly in free speech. But Robyn objected bitterly to the way that the ACLU transformed its sexual harassment policy to say that you don't have to target a particular person. All women in the shop are thereby likely to be—to be part of a hostile working advancement.

She said, "You know, that's sexist. That is so patronizing. That says that women don't have the—the independence and the intelligence to decide for themselves." Anyway.

[00:30:00]

What happened to the photo? Well, you can guess. It's no longer on Robinson's desk. He says, "I cannot risk the very real consequences of putting the photo up again. As a first year graduate student there would be serious, indirect consequences of doing that." Well, I think it's too late for him. I think he is already a marked man in the dossiers of the sensitivity police.

In a letter to Carman Moira, the University's Assistant General Counsel, Robinson had the hutzpah to actually challenge the feel-good orthodoxy of the University of Nebraska. He wrote, "Since this started I was told by an administrator, quote, 'We want you to do and say whatever you feel, at home.' Public debate on this campus," unquote, "Public debate on this campus," says Robinson, "is being discouraged, even restricted. A political ideology is being enforced in an environment intended to promote diversity." Diversity these days on college campuses means everything but diversity of ideas. It's safer that way.

[00:30:58]

Now, let me tell you, having told you these appalling stories, let me tell you something of—that I find, anyway, very encouraging. The University—Arizona State University. Four young women, students, black students, were going with three friends to visit a student in the—in one of the



residential buildings on campus. Three friends went away. Four women are going upstairs and they see on the door of one of the rooms a flyer. And it said, “Work application,” parenthesis, “simplified form for minority applicants,” end parenthesis.

The next line said, “Black applicants, it is not necessary to attach a photo since you all look alike.” Among the questions on the form were, “Number of children claimed for welfare. Number of legitimate children, if any. List approximate estimate of income and indicate source: theft, welfare, unemployment. Marital status: common law, shacked up, other.”

[00:32:10]

One of the students, Nichette Smith said, “It hurt. It hurt real big time. And you began to wonder how many people actually feel that way.” Along with the hurt there was rage. Now they have a speech code at the Arizona—at Arizona State. It’s as stupid as all the other speech codes. And these women hadn’t—would have nothing to do with the speech code. They didn’t go to any administrator. They banged into that room and they found one, hapless, male white student who apologized profusely, said of course he had nothing to do with it, immediately ripped it off the door.

They didn’t stop with that. They spread the word and they were the main force in organizing and leading an open meeting the next evening at that same residence building. About 50 students, half white, showed up. One of the whites said, “It offensive for me as a white person because it looks like all white people feel that way.” Charlie Calleros was there, too. I know him. He’s a—he told me his story and he gave me all the back up. He’s a very laid back, shrewd, Assistant Dean of the Law School. And he’s a professor.

[00:33:29]

And the students went after him, Why the hell did the administration, rather than letting the four women do it, why didn’t the administration order the poster taken down? He gave them a short, unpleasant lesson on the First Amendment. He said, “Look. The First Amendment protects even the most offensive speech. Furthermore, the rules of the apartments here make it clear that

students living there can post whatever they like on their doors. And third of all, and maybe it should be first of all, this is a public university. It would be state action if you censored the poster.”

“However,” he said, “these students are not the state. They can do whatever they damn please.” And they proceeded to do that, repeatedly. They organized a rally and a press conference and an evening program on African-American history. It was a very interesting program. I don't know how many of you saw this. It was on Public Broadcasting System about three years ago. It was about Charles Houston who was the Dean of Har—Howard Law School and who was the mentor of Thurgood Marshall and a good many other black lawyers who created the background for Brown versus Board of Education. Which by the way, quiet as it's kept, was overturned two years ago by the Supreme Court in a case called Freeman versus Pitts.

[00:34:46]

Anyway, at the—at Arizona State there was a march and a rally. And I read the newspapers for three weeks, which were full of the kinds of racism people saw at the University. It was a very educational experience. As for the four students, the black students, they said when it was all over or mostly over, that when this thing happened, at first they felt that they were victims. But once they began to do something about it and didn't go to the administration and didn't go to that speech code, then they began to feel empowered.

By the way, there was—in all those letters to the newspaper there was one with no names. It said, “We did not realize the hurt that would come of this flyer. We now know that we caused great distress among many different people and we would again like to apologize to whomever was offended.” But no names.

[00:35:30]

I was at Stanford not long after that happened. It was one of Fred Friendly's PBS programs on speech codes and Benno Schmidt of Yale, who was—he was then of Yale until he took leave of his senses and went into some other kind of strange work—but Benno has always been the college president who was most adamantly against speech codes, and the two of us were making

that point. So I was surrounded afterwards by angry students of all kinds, I mean Jews and blacks and Latinos. And I told them this story. And naturally they said it never happened.

Now I think I have time, yes, I have time for one more thing. When Edwin Meese was Attorney General—by the way, I have debated Meese at least four times in the last couple of years. And I was shocked and dismayed to find out that although he remains totally wrong headed, he's a very nice person.

(laughter)

[00:36:31]

And I said to him, “What’s it like? You must—you go into any room you go into a college and they must think you’re, you’re (makes sound), you know, whatever the terrible word. He said, “That’s okay because I can only go up from there.”

(laughter)

Anyway, when he was Attorney General he scornfully described the American Civil Liberties Union as a lobbyist for criminals. Actually, the ACLU was and is a lobbyist for the Bill of Rights, including its prohibition of illegal search and seizure, the right of every alleged criminal to have a lawyer, and, in particular, the ACLU, since its founding in 1920, has been the lawyer for the first amendment defending the free speech and free assembly rights of the most clamorous, unpopular individuals and groups. It lost over 30,000 of its own members when it defended the First Amendment rights of home-grown Nazis to demonstrate with swastikas in Skokie, with a—with its large, Jewish population. The ACLU was utterly alone in that conflict. No bar association, including those in Chicago, would come to its support. The National Lawyers Guild accused it of poisonous even-handedness, which is what the First Amendment is all about, I thought.

In Mississippi, when the Ku Klux Klan wanted to hold a rally after hours in the yard of a public elementary school that was under orders to integrate, the Mississippi ACLU after bitter internal

debate took the Klan as a client. And ten of the 21 board members of the Mississippi affiliate resigned, including all seven black members but they didn't change their mind. They almost disappeared but they didn't change their mind.

[00:38:20]

This unyielding attachment to the First Amendment no longer characterizes the ACLU in certain basic respects. It's okay in others. I still recommend high school journalists to call their local, state affiliate when they get into a hassle with the school board or principal. And they'll get free and good—good legal representation from the ACLU.

But in two areas that I find extremely troubling, sexual harassment and hate crimes cases. The ACLU used to have a very clear, specific policy on verbal sexual harassment in the workplace. Speech that threatens a demotion or a dismissal, if certain sexual favors are not given, of course, has no protection. But otherwise they felt no legal action should be taken unless there had been a pattern of harassment against a specific employee that made it difficult or impossible for that person to continue to function at work.

[00:39:24]

A few months ago a new policy was adopted by the national board. Verbal sexual harassment can be punished, quote, "Whether or not it was directed at any particular employee," unquote. That means among other things, if there are posters or signs around, it is assumed for the—on the basis of this policy that all women in that shop were offended by those posters. If you're not, you're a traitor—or something. It makes it much easier to bring false sexual harassment suits that also, in time, if there are enough of them, make it more difficult to take the very serious ones seriously.

Now, in its eagerness to demonstrate solidarity with blacks as well as women, gays and lesbians, the ACLU is supporting the state of Wisconsin in a hate crimes case that'll be decided by the Supreme Court in June or July. Oral arguments have already been held and I'm not very—very sanguine.

[00:40:18]

This concerns the constitutionality under the First Amendment of imposing an additional prison sentence, when the victim of a crime has been selected, quote, because of, unquote, his or her race, religion, color, disability, sexual orientation, national origin or ancestry. Now, whether bigotry was the motive is to be determined by something allegedly said in the course of the crime or by telltale signs in the past history of the attacker. For example, to bolster the case for an additional sentence for an already punished crime, the prosecutor can subpoena the defendant's reading material at home, interview his friends and enemies, find out what sort of jokes he tells at the neighborhood bar. It's McCarthyism back under the most benign of motivations.

In the case before the Supreme Court, Wisconsin versus Mitchell, the assault was black on white. But if the convicted black assailant, Mitchell, had badly beaten a black man or a black woman he would not have received any extra prison time at all. Yet the ACLU supports this ingenious approach to the Fourteenth's Amendment—Fourteenth Amendment's guarantee of equal protection of the laws.

[00:41:34]

Fortunately there is dissent among the affiliates. The Ohio affiliate was so appalled at this position of the National Board that it sent a brief to the Supreme Court opposing the national headquarters. Also against it is Florida, good ole Robyn, and Vermont. The Supreme Court of Ohio came down against hate crimes laws. But that won't mean anything if Supreme Court decides they're okay. But the Ohio court said, "If the legislature can enhance a penalty for crimes committed by reason of racial bigotry, why not by reason of opposition to abortion, war, the elderly or any other political or moral viewpoint?"

This is—you know, when you consider that the ACLU is by far, sometimes really the only group and certainly the most powerful and influential and the best staffed in the country on Bill of Rights matters, when it begins to sink into feel-good orthodoxy on these matters it's very discouraging.

[00:42:42]

But I want to say that the ACLU does remain valuable in other respects, the National Prison Project, which is a superb operation, all the more remarkable because there is no constituency in this country for prisoners' right. And it does try to save what's left of habeas corpus from raids by Chief Justice Rehnquist and Congress and President Clinton. And it lobbies to prevent any further exceptions to the search and seizure protections of the Fourth Amendment.

But its most fundamental mandate, [is] to protect all of the First Amendment. Justice Brennan once told me, "You know, I don't like to say this amendment is more important than another. But you have to admit that from the First Amendment everything else flows. If you can't protest, if you can't write against all other inequities, injustices in the country then the rest of the Bill of Rights becomes hollow.

[00:44:07]

Years ago there was a guy—a guy, he was 80 years old—on the New York Civil Liberties Union Board when I was there. His name was Osmond Fraenkel. He was one of the really great civil liberties lawyers. And he used to say that the ACLU should focus on neutral civil liberties principles without reference to any particular cause. That ain't the way it's going.

Very last thing before the questions and denunciations. Jamaica Kincaid is a writer. She writes for *The New Yorker* and other places. And she is black. She was talking about writing and life to students at Dunbar High School in Washington. Dunbar has had many prestigious graduates, the most prestigious having been the most original composer in all of American history, Duke Ellington. As *The Washington Post* reported, I always mention Ellington any place I can--*The Washington Post* reported a male student, the first to speak in this class of mostly young women asked if Jamaica Kincaid had any trouble getting strong language into her books. "Nope," she said. "Express everything you like," she said.

[00:45:33]

She was energized by the question. "No word can hurt you. None. No idea can hurt you. Not being able to express an idea or a word will hurt you much more." "What about," she was asked,

“what about the whole question of banning speech that’s offensive to women or to other groups?” She was angrily dismissive. “A lot of energy is wasted on these superficial things. I can’t get upset about offensive to women or offensive to blacks or offensive to Native Americans or offensive to Jews. Offend.” She waved a long arm at them. “Offend,” she said. It was an exhortation.

Mine, too.

(applause)

[00:46:02]

I see—I see there’s a microphone here. Are there any other microphones? I guess that’s the one. Okay.

**AUDIENCE MEMBER:** Your position on the subject of abortion is well-known and I’m not asking you to discuss that. But I’m interested in your analysis of the claims of free speech by the people, Operation Rescue, et cetera, who go to great lengths to interfere with the process or the entrance to the abortion clinics, et cetera. And how you view that action in terms of free speech issues.

**NAT HENTOFF:** It’s one thing to picket, to demonstrate, to quote, counsel, unless you’re harassing a woman going to an abortion clinic, and I think that’s pretty close to the line. But when you blockade or take over, or try to take over the clinic then obviously that’s not speech anymore. That’s not protected speech. What bothers me is both of the bills, Kennedy’s bill in the Senate and Sherman’s bill in the House, which Janet Reno has supported, she supported both of them, I think are unconstitutional of the face of it.

[00:47:07]

Not that there shouldn’t be legal action against people who, again, blockade, prevent access, because it is a constitutional right so far. I happen to be pro-life but I’m also pro—pro-First Amendment. But the—both these bills are targeted only at obstruction to medical facilities that

do abortions. Which means that if an animal rights group—I'm also animal rights—but if an animal rights groups try to do these things, to blockade, to take over, to smash up equipment, they're not covered by the bill. You cannot have a law, no matter what Larry Tribe says. He's rather slippery. He's—he's result oriented. If he likes an idea he's for it.

You cannot have a law that specifically says that there can be legal punishment for only one kind of activity at a facility that has other kinds of activities or could have other kinds of activities. There was a case in Chicago, Thurgood Marshall wrote the opinion. I think it was called Mosley versus Chicago. The—this must have been Daley because he was the only person who made laws then.

[00:48:23]

There was a law that said, that prevented all kinds of picketing, except for labor picketing, because I guess he got a lot of labor votes. And the Supreme Court said, "You can't do that. You either stop all picketing. But you've got to have a compelling reason because that's a First Amendment right. But you can't just focus on one." So I think that will be knocked down by the courts. But they're not doing it for any other reason except to—because of the murder of Dr. Gunn and it's good for the voters. And so, as usual they'll—

You know, I've heard all too many members of Congress and people in New York legislature saying, "Don't bother us with the Constitution. We're going to put it through, let the courts decide. I think that's the motivation here. Yes.

**AUDIENCE MEMEBER:** First of all, I just want to say I enjoyed your speech.

[00:49:42]

**HENTOFF:** Thank you

**AUDIENCE MEMBER:** And also, I like your writings. And I don't know if you're familiar, I think you kind of mentioned the guy's name, but at the University of Pennsylvania I saw on



NBC News last week where a law student, in his dormitory was studying and there were four black girls underneath making a lot of noise. Pardon?

**HENTOFF:** No, that's another—yes, it's related. Yeah go ahead.

**AUDIENCE MEMBER:** It's related. And so he yelled down, "Keep quiet, water buffalos." And they interpreted that it was because they were black that he said that. And he's claiming he would have said the same thing if it were four white girls. I just wondered if you'd com—if you'd—your thoughts

[00:50:19]

**NAT HENTOFF:** That has become a very touchy case at the University of Pennsylvania, at least for the president. What happened was that this guy, Eden Jacobowitz, he's a freshman, he comes out of an Orthodox Jewish household. Parents came from Israel. His parents try to tell him to go to Yeshiva, a Jewish college. He said, "No. I want to be with other people that I don't know much about, et cetera." So he went. He's like Candide. And he's studying one night around midnight and he hears a lot of noise out the window.

So did some of the other people on his floor. The other people shouted down some racists epithets because they looked out the window. And they saw, I guess, five or six young black students. It was a sorority kind of initiation. He didn't look out the window. He just yelled out, "You're a water buffalo. Go to a zoo." And when the campus police came up, he—they asked the other students, "Did you say anything? Did you yell anything?" "Oh, no. No. We were sleeping."

[00:50:45]

But Candide said, "Oh, yeah. I yelled." So they sat him down and they said, "The women said you called them water buffalo." And he said, "Yes, I did." Now as it turned out and the imprimatur on the leading black scholar on linguistics and languages of the sort at the University of Pennsylvania has agreed with him, that first of all water buffalo don't come from Africa. They come from Asia, but that's not the point. If you grow—if you grow up in a cheder, in a Jewish

Hebrew school and in an Orthodox home, you hear the word behemoth, behemoth, which is—and they're like synonymous with water buffalo. It means, it means somebody is making a lot of noise.

But that's—even that's not the point, because that's not—what happened is they have this judicial process at the University of Pennsylvania. And at the first—the first questioning he had the woman who was the judicial inquiry officer said, “Tell me, did you have racist thoughts that night?” I asked him, I asked Eden, if he had read *1984*. And I told—he hadn't. And I said, “You better read it this summer.”

[00:51:56]

Then they offered him a plea bargain. He could admit that he had yelled a racial—racist epithet and—but they wouldn't put anymore penalties on him, except that they would put on his permanent record that he did use a racist remark and he would have to be part of a sensitivity training group. And he said, “Look. I didn't do anything.” So then they held him over for trial. In the meantime, most—like most colleges there are only two or three professors who care about these things or have the courage to do anything about them. The University of Pennsylvania there's a man named Alan Kors, who's in the history department.

So he became Eden's advocate. And they promised Kors that they would get it over with one way or the other by the end of the semester so he wouldn't have to have this hanging over his head all summer. Meanwhile, by the way, he has two imperfect grades, imperfect in his studies, so he screwed up his first year. Then they decided that because of the publicity, there were articles in the *Wall Street*—I mean I must say, I helped in that. I told him who to write to, Eden I mean.

[00:53:42]

There were articles in *The Wall Street Journal*, in *The Washington Post*, in all of the Philadelphia papers, they didn't need any help from me. This made Hackney very embarrassed. He's going to be head of the National Institute of the Humanities. Who need this? So Friday they put it off until the fall. So this kid—he's—it is so bad that a number of people, including some black faculty

members are appalled that they would do that to this kid just to save Hackney's hide. But that's the University of Pennsylvania, so far.

**AUDIENCE MEMBER:** Thank you.

**HENTOFF:** Yeah.

**AUDIENCE MEMBER:** I wish to bring this discussion on free speech to a higher plane because free speech is obsolete when you cannot be heard. For example, if Plato did not acknowledge the teaching of Socrates, the world would not know the Socratic wisdom. My complaint is this, our understanding is limited to influence our monopoly our so-called free expression by the narrow spectrum of mass media and academic.

[00:54:52]

How could little people like me be able to challenge like popular talk show hosts, like right wing propagandists like Rush Limbaugh?

**HENTOFF:** Well—

**AUDIENCE MEMBER 3:** I just can't understand it.

**HENTOFF:** One of the things that is wrong with curriculum in high schools, let alone colleges, is that most Americans know very little about the history of labor. At the beginning labor unions in this country were the most reviled, oppressed, battered physically, organizations you could think of. By using the First Amendment, by organizing—and they're still going today, as weak as the A-F of L-C-I-O is you still have unions in separate—in separate areas, in separate areas of work doing that.

[00:55:00]

There is always a way. I've seen in the Village, in the East Village, we have some terrible slum lords, and without a printing press, although I guess you could do it now on desk tok—desk top

computers—but without a printing press tenants have issued broadsides, have picketed the bastards in their—at their homes. That’s the use of First Amendment. What do you do?

Actually Rush Limbaugh is not too bad if he can get on the air. That’s a matter of volume. He’s one of the few people on the right—I can’t say on the left. We have one left-wing talk show host in New York. I don’t know if you have any here. But Limbaugh is one of the few people who does not hassle his questioners from the left. He doesn’t hang up on them. He lets them talk and he tries to deal with the, with the issues they bring up.

There are any number of ways you can use your First Amendment rights. I see it all the time, or almost all the time, in high schools. Now there is a very—you talk about oppressive atmosphere, that is now the case or has been the case but is increasingly the case in most high schools because of the terrible Supreme Court decision called the Hazelwood case, oh, about five years ago that gave principals much more power to censor students—not only newspapers but students.

[00:56:59]

And yet these kids keep going to the ACLU, keep going to the student press law center, keep going to the city council. The point is, if you give up and say, Oh, man, it’s just too much of a monolith to do anything against, then they win. You can always make enough trouble to be heard. And sometimes you can even get something done. Yeah.

**AUDIENCE MEMBER:** I agree with almost everything you say but I want to play devil’s advocate—

**HENTOFF:** Sure.

**AUDIENCE MEMBER:** —On the subject of penalty enhancements and hate crimes. It seemed to me that they argument for such a provision in the law may be one more narrowly constructed than the one that you said, which sounds like it goes well beyond constitutionality. But the rationale behind it, as I’ve always understood, is that these crimes are singled out as being more

hurtful to the community than, you know, a murder committed with racial bigotry as a motive, you know, damages allowed indirect victims in a way that an ordinary murder does not.

[00:57:56]

And so what I want to ask is, do you see there's any way—and also it seems like often motive is taken into account when sentencing criminals. We punish a crime of passion differently than we punish a totally random shooting of a stranger on the street. You know, whether that's good or not I don't know. But it's a long-established law that we take that into account. Do you think there is any narrower construction of penalty enhancement, hate crime ordinance that would pass constitutional muster?

[00:58:30]

**HENTOFF:** In a word, no. Because anytime you enhance—that's the euphemism they use in sentence, by tagging it to what the person thought or said, then you've opened up all kinds, especially in this area. For one thing what this is going to do, and I've got some people in the ACLU to admit it quietly, what this is going to do is put many more black people in jail than are in jail now—and that's much, much too much. Because who is going to decide whether a bias crime, as they call it, has been committed, a police bias officer, also a local magistrate.

And unless you get somebody who has read Louis Brandeis or Thurgood Marshall, most of these judges and cops, when they see a black on white crime, they will see it as a bias crime and they'll say, "Let's give this guy another four or five years." If they see a white on black or a white on Asian crime, "Well, there must have been some kind of reason for that."

[00:59:33]

Also, the ACLU itself, I've never seen this before, in their brief to the Supreme Court supporting this marvelous, new innovation, there's a section that says, "The opponents of this statute believe and we do, too, that there are serious constitutional dangers in this. And we urge the Supreme Court to construct it in a very narrow way." Now I can see Scalia and Kennedy and O'Connor and all those folks as they write their opinions saying, Oh, let's see, what did the ACLU say?

The—they're not going to construct it in a narrow way. They have this case. What—the only thing we can hope for, for the time being is, the Wisconsin law, which is up before them and that's what they'll be adjudicating, has been changed since the Mitchell case. It now says that if you commit a bias crime, or rather a crime that is motivated by bigotry, if it's motivated in whole or in part, in part, you get extra prison time.

[01:00:24]

What does “in part” mean? Who decides? It's crazy. It's a crazy statute. Every civil rights group that I know of is for it. The ACLU is for it. And it's part of the—you know, Louis Brandeis, I'm going to screw this up, but he had a marvelous line once. He said that, People of zeal and good will can be responsible for the very worst violations of civil liberties. And that's what this is all about.

And as for—you know, the rationale is, you're going to send a message to blacks and women and gays and lesbians that the state or the city takes violent crimes against them seriously. What about everybody else who gets mugged? The state doesn't give a damn? I mean the whole thing is bizarre. It's part of this feel good kind of orthodoxy that is sweeping the country on college campuses and now including the ACLU. Yes.

**AUDIENICE MEMBER:** A pervasive myth is that Nat Hentoff is an absolutist when it comes to the First Amendment.

[01:01:58]

**HENTOFF:** Yeah.

**AUDIENICE MEMBER:** So says Ellen Ray writing in a recent—

**HENTOFF:** Oh, God. I saw that thing. Yeah. She said—go ahead. Go ahead.

**AUDIENICE MEMBER:** —Edition of [simultaneous conversation] Times.

**HENTOFF:** I'm glad you're going to ask the question I hope you're going to ask.

**AUDIENCE MEMBER:** She-her evidence is that back in 1981 you were a support of the so-called anti-AG law—

[01:02:15]

**HENTOFF:** No, I wasn't.

**AUDIENCE MEMBER:** —Which would criminalize the publication of the names of agents even if it was available in public sources like libraries. And you were in support of that law.

**HENTOFF:** I wasn't. Can I tell you?

**AUDIENCE MEMBER:** Please respond.

**HENTOFF:** Okay.

(laughter)

The leading opponent of that law, in the House, was Don Edwards of California, who is probably the only member of Congress you can call the member from the Constitution. As soon as I heard about the law—pardon me? Don Edwards of California. He's a Democrat. I wrote against that law three time in *The Voice*, twice in *The Washington Post*.

[01:02:53]

I lectured against it. I worked with Edwards to try to get more people involved in fighting it. So Ellen Ray is a liar, which doesn't surprise me.

**AUDIENCE MEMBER:** Maybe she is just mistaken.

**HENTOFF:** I think she's a liar.

(laughter)

**AUDIENCE MEMBER:** Have you responded by letter to this?

**HENTOFF:** I decided—you know the older I get—you know, I used to answer all mail even if it took a while. But if the mail is dumb or just an exfoliation of ignorance I don't bother any more. I don't answer stuff that appears, in anything Ellen Ray writes, any more than I would answer Jesse Helms. I don't think they're honest so why waste my time?

[01:03:36]

**AUDIENCE MEMBER:** It appears that crimes that affect individuals more so than group, such as libel or slander prohibits speech to a certain extent and even plagiarism where someone unauthorized uses—

**HENTOFF:** I'm sorry. Could you speak into the mic? I can't quite make it out.

**AUDIENCE MEMBER:** All right. It seems that crimes that affect individuals monetarily or their reputation such as libel or slander or even the use, the unauthorized use of copyrighted intellectual property—and more recently the former ACLU stance that if sexual harassment is aimed at a specific individual then it can be considered to be sexual harassment. Do you find this to be a trend in the prohibition of speech, that if it hurts an individual's rights, another individual's rights—

[01:03:52]

**HENTOFF:** You mean like libel and slander and—what was the last thing you said?

**AUDIENCE MEMBER:** Well, libel, slander, plagiarism and also sexual harassment aimed at a specific individual.

**HENTOFF:** Well, Hugo Black—this is one of my losing battles. It was his losing battle. I just joined his army. Hugo Black used to believe that there should be no law of libel. That it was a



basic infringement of speech. And it was a hard position to take because some people are hurt. Not as many as you would think because most of the libel cases you hear about are politicians suing a newspaper or these awful slap suits by developers who are suing somebody who dared to speak up in a town meeting.

[01:05:01]

Anyway, Black's position never carried the court, never came close, nor has mine. Libel law now is really, mostly—I hear of very few private libel suits. They may exist but I get that thing that the B&A puts out. It's a weekly roundup of all the libel suits. Most of them are—well, like *The New Yorker* and Janet Malcolm against Masson. That's a very strange suit. But I don't know that—however it comes out—well, I'll take that back. That could affect the press and thereby, presumably affect the readers of the press.

Because if—one of the things they have against her is that she would do an interview one day and another interview the next week and another interview the next month and then push them all together. Which I think everybody does. I do it. But that, apparently may be vulnerable. They're both vulnerable.

[01:05:34]

But anyway, this is a long answer to your question. I don't think that sort of thing is anywhere near a danger to free speech. But the hate speech stuff is. This whole idea—first of all, you know, think about it. You get mugged or you get attacked violently. You are somewhat distracted because of that. How do you know what somebody said? Are you that sure? There are usually no witnesses. The whole thing is just—I mean it opens all kinds of very dangerous doors.

And what especially bothers me as I mentioned before is—well, there was a case about four months ago in California. It was—California has a hate speech law. And this was the first time it was tested in appellate court. California has millions of appellate courts. This one was somewhere in the middle. And this was a guy who was accused of beating a gay person. And indeed there was a video that the person had taken, expecting to be beaten, which I find odd, but never mind.

[01:07:14]

So there was no question he did it. But why did he do it? Well, the prosecution found somebody in another city who three years before had heard this defendant say something homophobic. And the judge admitted it into evidence. That's not—that does not help the First Amendment I think. I'm all for—if there is car hijacking for example, or all kinds of violent crimes, then enhance the sentences, period. But don't say only these people should have longer prison time, it seems to me.

**AUDIENCE MEMBER:** From your presentation I didn't get much of a feeling for what you regard the limits of speech. And I'd like to mention two cases and see what your attitude toward them is. One on a college campus a black woman is approached by some jocks who tell her she's a dirty nigger and there is no room for niggers on campus.

**HENTOFF:** Could you speak into the mic? There is something wrong with the, yeah—I'm sorry.

[01:08:15]

**AUDIENCE MEMBER:** Should I repeat myself?

**HENTOFF:** No. Just—a black—somebody is approached—

**AUDIENCE MEMBER:** A black—a young black woman is approached by some jocks and she is told she's a dirty nigger and there is no room for niggers on campus. The second case—

**HENTOFF:** Let's do it one at a time so it doesn't get confused.

**AUDIENCE MEMBER:** Okay.

**HENTOFF:** If this is a pattern, there was a case in California where a black student, a woman, used to go across campus every day at one o'clock to meet a class. And some bunch of white louts would follow her yelling things like that. And they were punished and I think deservedly so.

[01:08:52]

Because if there is a pattern of harassment, whether it's in the workplace or anywhere else, then I think the limit beyond which speech is not protected has been reached. Now in this case, let us— if it's a one-time thing, I would think if you had a university where they had people who believe in educating people—that's when you get these idiots aside, or not aside, and begin to find out what makes them so screwy. You begin to educate them. That's more important than punishing unless they do it again. The second one.

**AUDIENCE MEMBER:** But they were guilty of an implicit if not an explicit threat.

**HENTOFF:** They were guilty of being loud-mouthed boors, bigots. But I would rather educate them out of that than punish them for that one thing. If it's more than one, then it's another story.

[01:09:39]

**AUDIENCE MEMBER:** The second case is you hang a swastika out of you window—

**HENTOFF:** Oh, at Harvard.

**AUDIENCE MEMBER:** What?

**HENTOFF:** You mean the one at Harvard.

**AUDIENCE MEMBER:** Confederate flag.

**AUDIENCE MEMBER:** Yeah. There was a Confederate flag.

[01:09:49]

**HENTOFF:** The woman—she hung the swastika because the other woman hung a Confederate flag.

**AUDIENCE MEMBER:** I don't know what the statement is. I think in this case if someone wanted to make a statement they could have written a statement and published it. They just hung a swastika.

**HENTOFF:** Well, first of all, if you hang a swastika outside a window, then maybe somebody will start thinking about what the swastika means and where it came from. It's like that phony ad about the Holocaust never happened. A lot of the college papers didn't run it. A lot of the college papers did run it. In those schools, I think particularly of Duke, where it was run. And, you know, the argument was, *a*, it shouldn't have been run. Two, the editor took blood money. That was the phrase of the local Hillel rabbi for running it.

[01:10:38]

But I found out—I followed this thing and I talked to some people about a month afterwards. And they said, You know, these students knew very little about the Holocaust. But because of the argument, because of the articles in the paper, because of the speeches that resulted from that ad, they know—now know a hell of a lot. It was a good thing. You know, you don't win anything by suppressing even a swastika. You really don't. Go ahead.

**AUDIENCE MEMBER:** Well, you haven't still—you've answered these questions but you haven't addressed the limits of—what you regard the limits of free speech.

**HENTOFF:** Oh, there some limits. I don't call myself an absolutist but Hugo Black did. And he used to say, for example, you know, twice a week at the Supreme Court they're in the conference room to get initial ideas of where each justice is on a case. And nobody's in there, no staff, no secretaries, no nothing.

[01:11:27]

Hugo Black said, if anybody came barging into that room and started talking about some case or something or anything else, I'd have the police throw them out. Well, sure. If—as I've said before, if there is a pattern of assaultive behavior by words that makes it impossible or difficult for somebody to function on campus, that's different. I would say that should be punished. Similarly, if you—and this is a hard one, if you draw a very, very careful law about, let us say atomic secrets, then I would be for that provided I knew somebody who knew anything about atomic secrets who would look at the law. Because I wouldn't trust the government to do it. But sure there are any numbers of areas where speech is limited.

**AUDIENCE MEMBER:** I just would like to make one side remark as far as the Jeffries case is concerned. In all discussions I hear people sometimes sort of mention as a side but don't quite emphasize what I think they should. Namely, there was no attempt to fire him as a professor. And I think even if he had said what he had said in class there wouldn't have been—

[01:12:35]

**HENTOFF:** I know. They're cowards.

**AUDIENCE MEMBER:** —Any attempt. There was just a question of demoting him from the chairmanship of the department, which of course the university could have done without violating his tenure. And they should have done it—for the—I agree with you. They should have done it simply because he was making life uncomfortable for the university. And the chairman of a department doesn't have the right to do that.

**HENTOFF:** Well, they should have done it because it's a fraud on the students to hear wrong information. But they had to lose on the chairmanship because there was nothing on the court record to indicate that they had been dissatisfied with him for 20 years until that speech. And then they lied and said the speech was not a factor.

[01:13:15]

**AUDIENCE MEMBER:** Well, it's true they lied but he has no right to be chairman just because—

**HENTOFF:** Believe me, now he has a life seat.

**AUDIENCE MEMBER:** Yes.

**AUDIENCE MEMBER:** In some instances it's gone even further than you describe. I had occasion to deal with the Assistant District Attorney's office in Middlesex County here in Boston, across the river in Cambridge, actually. And the door was covered with postcards of what I guess I would describe as male beef cake. And I guess while the female version isn't okay anymore in many places, it's—the male version is okay. A sort of—

[01:13:56]

**HENTOFF:** Did anybody protest?

**AUDIENCE MEMBER:** I didn't. I probably should have. I thought about it. And I was so happy to get out of there for other reasons that I didn't. And I don't share your opinion of Ed Meese, by the way, but that's another story.

**HENTOFF:** I'm just saying—look. There's a difference I find, anyway, between the personal and the political. I—there is nothing I agree with about with Catharine MacKinnon at all. I think she is a danger to free expression. But personally, I like her. So go do me so.

**AUDIENCE MEMBER:** I would like to see if I can ask the question that summarizes my—what I think is a difference with you. Take a situation, for—just to make it simple, the war in Vietnam. The government is lying to the American people. Young people are being taken off and—to kill and die in a war that they haven't a choice to have any participation in because for years they didn't even have the right to vote. And their voices—arguments have been made, ignored, et cetera, et cetera. And after years of this a major proponent, representative of the war policy, a Maxwell Taylor, for example, or Robert McNamara, is invited to speak on campus.

Would you say that it would be—you might say it's inappropriate. But what is a group of students decided as often happened to take the opposition to the war a step further and actually disrupt that—those particular, those kinds of individuals from speaking.

[01:15:29]

Or, for example, at Harvard University, Dow Recruiters, for example, would you defend the so-called right of speech for people who are obliterating people in another country and also killing people in our country while lying to them.

**HENTOFF:** Yes. You have that situation may be coming up at Harvard with Colin Powell.

**AUDIENCE MEMBER:** I was going to mention that by the way.

[01:15:53]

**HENTOFF:** Yeah, because apparently there is going to be a big demonstration there. First of all, I don't think anybody's speech should be disrupted. I don't think anybody should be shouted down, which does not mean that you can't protest. Some students have had very effective ways of protesting even without words by standing up in some kind of design in an audience with placards. When you have somebody like that coming, that is great chance or it can be to educate people who aren't thinking about it. But to simply just shout somebody down, I mean I—until recently I was able to shout people who wanted to shout me down. But when Robert Casey and I were speaking at Cooper Union I blew it. I just couldn't do it. And it's stupid. The most vociferous shouters that evening were defenders of a black journalist in Philadelphia who's on death row. I know the case. I know the trial record. I know how totally his rights have been violated. And I was going to ask Casey about them and spell them out. I never got a chance because they shouted us down.

[01:16:58]

Again, you don't anything by that sort of thing. It makes you feel good, I suppose. But when you think about it, what have you done? You've shown your opposition to that person and to the ideas he represents. But there's been no learning involved. There's been no exchange of ideas.

The only time—even CIA recruiters, they used to have a policy that CIA recruiters could never answer questions. They didn't trust them to reveal anything. They might tell something they shouldn't tell.

In that case then a university I think has the right to say that anybody who comes should be able and willing to answer questions from students. But otherwise, the more speech the better. Seems to me.

**AUDIENCE MEMBER:** I disagree with you but I'll let the other person ask the question.

[01:17:51]

**AUDIENCE MEMBER:** I wonder Mr. Hentoff, since you are an alumnus of Northeastern University whether you are aware that at this university it's considered sexual harassment to utter sexual jokes in the classroom or to even use material that has sexual jokes in it like Chaucer—

**HENTOFF:** You're kidding.

**AUDIENCE MEMBER:** —Shakespeare.

**HENTOFF:** Do you teach here?

**AUDIENCE MEMBER:** I do teach here and I'm an English professor.

**HENTOFF:** Could you send me some examples.

[01:18:18]

**AUDIENCE MEMBER:** And I take my tenure at hazard every time I go into the classroom and teach one of these authors.

**HENTOFF:** Where did these rules come from?



**AUDIENCE MEMBER:** Oh, from the affirmative action officer at this University.

**HENTOFF:** Before I leave, let me give you my address.

**AUDIENCE MEMBER:** Shall I name names?

(laughter)

**HENTOFF:** No. No. What would like is before I leave I'll give you my address. If you could send me a copy of the rules and some of the examples and the name and phone number of the affirmative action officer. God. Carl Ell would have been so pleased.

(laughter and applause)

**DANILOFF:** Well we've now come I think to the end of this session. And we want to thank you very much for coming here and shaking us up.

(applause)

**END OF RECORDING**