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Saturday, May 15, 1993



Associated Press

Eden Jacobowitz, right, a University of Pennsylvania student, leaving a hearing yesterday in Philadelphia with his faculty advisor, Alan Charles Kors.

The hearing was to determine whether the freshman violated a policy forbidding racial harassment when he shouted at several black sorority women.

A Campus Case: Speech or Harassment?

By MICHAEL deCOURCY HINDS
Special to The New York Times

PHILADELPHIA, May 14 — Amid preparations for Monday's commencement exercises, University of Pennsylvania officials spent much of today dealing with the racial tension that has plagued the campus over the last semester.

The university's Judicial Inquiry Office held a closed hearing today to determine whether a white student who had called some black students "water buffalo" had violated the university's policy forbidding racial harassment. The policy prohibits racial epithets meant to "inflict direct injury" on people.

The inquiry office will decide within 10 days whether it will dismiss the case or schedule it for a full-blown evidentiary hearing later this year.

Lawyers at the American Civil Liberties Union here say the case should have been dismissed, and they vowed to take the case to Federal court if the university penalized the white student.

Didn't Intend Racial Slur

That student, Eden Jacobowitz, said earlier this week that he had intended no racial slur when he shouted at several black sorority women who were making noise outside his dormitory window. Mr. Jacobowitz, who was born in Israel and speaks Hebrew, said "wa-

as a mild epithet to chide an uncouth individual.

This incident, and a more recent one in which black students threw out nearly the entire press run of the student newspaper because they did not like a columnist's conservative opinions, may not have been as dramatic as the racial unrest on some other college campuses this year.

But the university's handling of the incident has drawn a chorus of criticism and ridicule from civil libertarians and columnists, who say the university's effort to regulate speech is a prime example of an overzealous attempt to be politically correct.

The case is drawing special attention because Sheldon Hackney, the president of the university, is President Clinton's nominee to head the National Endowment for the Humanities.

Criticism of University

University officials said today that Mr. Hackney, who has been an outspoken advocate of free speech when controversial figures like Louis Farrakhan or Robert Mapplethorpe appeared on campus or displayed their works, would not discuss the "water buffalo" case while his confirmation hearings are pending.

Criticism of the university revolves around two issues: the university's effort to police free speech and the ap-

Civil libertarians say that the university should not try to restrict speech, but should try to educate students when they use racial slurs.

The second criticism is that university officials appear to have a double standard in disciplining minority students involved in racial incidents. For at the same time as the university is bringing disciplinary charges against Mr. Jacobowitz, it has taken no action against a group of black students who destroyed 14,000 copies of the student newspaper because they objected to the opinions of a student columnist, Gregory Pavlik, a junior from Delran, N.J., who used his column to attack racial preferences, Martin Luther King Jr., and, what he saw as the university's favored treatment of blacks in admissions and disciplinary procedures.

Last month, Mr. Hackney issued a statement about the black students' actions. "Two important university values now stand in conflict," he said. "There can be no compromise regarding the First Amendment right of an independent publication to express whatever views it chooses. At the same time, there can be no ignoring the pain that expression may cause."

The university is continuing its investigation of whether the students violated the freedom of expression by trashing the newspapers.

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'Patronizing Paternalism'

Several columnists have criticized Mr. Hackney for what they says is a double standard. George F. Will wrote in an April 29 column, "Hackney's institution has a propensity for behavior both cowardly and bullying, trimming principles to pander to political fashion." Nat Hentoff, in the May 4 issue of the Village Voice, accused Mr. Hackney of engaging in "patronizing paternalism." The foreign press has had a heyday, too: A May 7 Toronto Star article, under the headline, "Exactly What Race Is a Water Buffalo?" called the incident "egregiously absurd," noting that water buffalo are not found in Africa, but only in Southeast Asia.

Black leaders of campus groups were reluctant to discuss the Jacobowitz case today. Over the last few months, though, some black students have told reporters that what is important is that the women perceived "water buffalo" as a racial epithet, and that the campus generally is inhospitable to minority students.

University officials would not re-

involved, or the faculty adviser representing them in the case.

But Mr. Jacobowitz, an 18-year-old freshman from Lawrence, L.I., gave his account of the incident in a telephone interview today. Mr. Jacobowitz, who has a room in the sixth floor of High Rise North residence hall, said that it began around midnight, Jan. 13, when about a dozen black sorority women began "shouting, stomping, singing and screaming things like 'woo, woo.'"

After enduring the noise for about 20 minutes, Mr. Jacobowitz, who said he was trying to write an English paper, said he shouted at the women to "shut up." By that time, he said, lots of other students were shouting, too, but their language was laced with swear words. Mr. Jacobowitz said he did not hear any racial epithets used, but he said the campus police subsequently showed him a list of racial epithets that the women had reported.

Told Police What He Said

The women ignored the white students' complaints, Mr. Jacobowitz said. "When I got no response, I finally shouted, 'Shut up, you water buffalo.'"

A student shouted 'water buffalo' at blacks.

he said. "Then I heard one of them say they were looking for a party and I said, 'If you're looking for a party, there's a zoo a mile from here.' There was absolutely no racial intention on my part when I said those words, and I did not mean the words to be racist in any way."

The women complained to the campus police, who investigated. All of the white students questioned, except Mr. Jacobowitz, denied shouting. Mr. Jacobowitz said he voluntarily told the police what he had shouted.

In March, the university's Judicial Inquiry Office determined there was a reasonable possibility that university's racial harassment code had been violated, and it tried to reach a settlement with Mr. Jacobowitz.

Mr. Jacobowitz said the inquiry office suggested on March 22 that he settle the case by apologizing for racially harassing the women. In addition, he was asked to agree to being put on dormitory probation, with the understanding that any further violation would cause him to be evicted from university housing.

The settlement would also be noted on his permanent record as well as on his transcript. The transcript notation would be removed in his junior year and would then be expunged, unless he again violated university policies.

Declined Settlement

"I was completely shocked," said Mr. Jacobowitz, who declined the settlement. A hearing was scheduled for April 26, the beginning of final exam week. But on April 15, the campus was jarred by the destruction of 14,000 copies of the student newspaper, which prompted so much publicity about racial tensions on campus that the university postponed the hearing until today.

The black students who removed nearly the entire press run of The Daily Pennsylvanian posted signs taking responsibility for the action, saying that they were not willing to accept "the blatant and voluntary perpetuation of institutional racism against the black community by the D.P. and the university." The signs added, "Sometimes inconvenience is worth the price, think about it."

The black students maintained they had done nothing illegal since the newspapers are free and no limits are set on