Editorial

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Kudos to Roskens

Action needed to effect proposals

Three cheers for NU President Ronald Roskens. At Saturday's regents meeting Roskens presented four principles which he argued should guide the future of the university: (1) NU is one university; (2) NU must regain its stature in research; (3) NU must foster a sense of community and dedication to service; (4) NU must foster change, and work with other schools.

These principles should be engraved in stone. It is all too obvious that NU has lacked clarity of vision on all levels: From the level of the teachers through the administrators, Regents and the Unicameral. Roskens accurately noted the university malaise, "We seem increasingly uneasy, confused and divided."

Rosken's comment portends a change in all this. He's set a tone for the school that, if followed, can't help but bode well for a more positive future. But action must follow these potent words for any lasting good to be done. Roskens had several concrete suggestions to begin a follow-through.

First, providing budget data to the legislature on financial priorities. This will require "strategic planning," which presupposes that decisions be made and that priorities be explicitly set. Very good.

Second, of course, salaries need to increase.

Third — a very, very good suggestion — entrance requirements even stiffer than those going into effect this fall should be implemented. Roskens should be lauded for pointing out the little heard proposition that student quality is very important to setting the academic tone of a university. Roskens was absolutely correct in arguing that "we should concentrate more on student quality rather than quantity."

Perhaps we should not blither so much about propositions that have all been heard before. But Roskens seems to have placed them together in a cogent framework. And that's what has been so lacking up to this point. President Roskens deserves a lot of encouragement for proclaiming his bold vision to return NU to a high quality institution. Thank you, President Roskens, and good luck.

Judicial nominees

Conservative court reinforced

Perhaps the single most lasting decision a President makes is in selecting Supreme Court justices. Taking that one step further is the power to appoint the Chief Justice to the Supreme Court.

With the retirement of Warren Burger after 17 years as Chief Justice, President Reagan was given that most delightful job. He chose William Rehnquist.

Along with the nomination of Rehnquist as Chief Justice, the President also filled the spot vacated by Rehnquist with Antonin Scalia.

Supreme Court justices are given one of two labels, conservative or liberal. The recent nominations by President Reagan leaves the count at roughly four conservatives, two liberals and three who swing from side to side. Of the nine justices only two, Thurgood Marshall and Byron White, were nominated by Democratic presidents.

The concern with any new appointment to the high court is that politics will influence the justices' decisions. President Reagan has now nominated two members to the Supreme Court. But, once nominated, the justices should hold no allegiances toward the views of their nominator.

The U.S. government is set up so that the three branches of government can check each other. Yet, there is always the concern that a president will be able to apply pressure on a nominee and, therefore, have more control than the Constitution dictates.

The new nominations will likely turn the court toward an even more conservative vein than it has taken under Burger.

The Supreme Court now includes four members 75 years or older. With more than two years left in the Reagan administration, it's possible the President could nominate a majority of the justices. This proposition is one the country might not want to face. With the youth of the new nominees, Reagan would have a distinct influence on the court and the country, long after his term ends.

One justice, Marshall, won't go easily, though. When asked one time about retirement, Marshall said, "I was appointed for life and I intend to serve out the term."

Editorial Policy

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Libel law merits overturning

Columnist says Safire's 'knee-jerk' reaction unnecessary

Recent anti-Scalia fulminations have brought the state of libel law to the front of the public mind. Antonin Scalia, for those of you who do not slavishly attend to the news, is President Reagan's nominee to take Justice Rehnquist's spot on the Supreme Court. (Reagan nominated Rehnquist to take over the Chief Justice seat from Warren Burger, who is retiring.)

As a result of several rather modest suggestions on libel law, William Safire recently fumed that Scalia is "in the vanguard of the bench's trendy media-bashers" and is "the worst enemy of free speech in America today." To turn a Kilpatrickian phrase: balderdash.

Safire's greatest fear seems to be that Scalia might favor reversing the 1964 New York Times v. Sullivan case. In this famous libel decision, the Supreme Court carved out an exception to traditional libel damage recoveries possible to public officials unless "the statement was made with 'actual malice' — that is, with knowledge that it was false or with reckless disregard of whether it was false or not."

Yet even if Safire's worst fear were true, and the Sullivan decision were overturned, the only result would be the advancement of responsible journalism. It hardly entails the destruction of the first amendment as Safire predicts. Given the emotion of the issue, it would serve well to explain my claim.

What must be kept in mind is that false, injurious statements are *not* recoverable unless the Court's Sullivan criteria are met. That is, a person may suffer severe loss due to defamation by the press and have no means of recovery because a newspaper printed the words rather than a regular, unprotected person.

In reaching this result the Court employed the well-known "chilling" argument: "Whether or not a newspaper can survive a succession of such judgments, the pall of fear and timidity ity imposed upon those who would give voice to public criticism is an atmosphere in which the First Amendment Freedoms cannot survive."

James Rogers

What this reasoning amounts to is the subsidization of newspapers at the expense of those they admittedly injure. The bottom line is that fair libel laws are bad for the profit of corporations that run the press, and therefore newspapers don't have to compensate individuals for certain injuries. In a phrase, a class of plaintiffs were turned into a human resource for the profit of a business.

The Sullivan rule violates basic intuitions of justice and fairness. Kant's categorical imperative sums up the notion in this fashion: "Act in such a way that you always treat humanity . . .never simply as a means, but always at the same time as an end." There is hardly any clearer instance in the law of treating people as chattel than exists in post-Sullivan libel law.

Certainly some "news" won't be printed if Sullivan is overturned. But this result would occur only when the newspaper is not reasonably sure of the accuracy of the story. Decisions based on this criteria hardly portend the demise of the First Amendment. After all, the free press in the American republic survived for well over a century and a half without the rules which the Sullivan Court touted as essential for First Amendment freedoms.

The above argument should not be taken to say that no distinction between the press and other potential libel defendants can reasonably be made. For example, newspapers are certainly more affected by abuse of process in libel cases than are regular people. That is, newspapers are more susceptible to intimidation merely from the transaction costs of litigation: litigation aimed simply at intimidating papers still costs the press lots of money. But there are better remedies available to forestall this lamentable result than the overbroad Sullivan exception. For example, making losers pay attorney fees would avoid most of the cost to newspapers of defending against frivolous suits filed merely to "punish" newspapers for running an accurate, but politically embarassing story.

Neither Safire nor I know if Scalia believes that the Sullivan case should be overturned. But quite contrary to Safire's knee-jerk reaction, the reasonable man can only hope that Scalia will manifest a much more balanced approach to the business of the press and its responsibility than is represented by the extreme license accorded to the press by current law.

Rogers, typically an economics graduate and law student, is picking up some math hours this summer.

Nomination of Rehnquist, Scalia insure Reagan's influence into future

Zeke Bonura was a large and remarkably immobile first baseman whose slowness did not grieve him because he understood a vital principle of baseball: You are rarely charged with an error when you do not touch the ball.

Conservatives have hoped the Supreme Court would adhere to the Bonura Insight, sometimes known as judicial restraint. The Burger Court has not. Indeed, its judicial activism has been as marked as, and arguably more destructive than, the Warren Court's.

None of the Warren Court's most important rulings has been overturned or even significantly circumscribed in the 17 Burger years. The sweep of the Miranda ruling on the rights of suspects has been only slightly circumscribed. The Burger Court is responsible for the ruinous spread of forced busing as a "remedy" for segregation. The Burger Court misconstrued the 1964 Civil Rights Act to permit reversed racial discrimination on behalf of government-approved minorities.

George Will

Burger Court activism extended procedural due process guarantees to public-school students accused of behaving badly. The Burger Court has done nothing significant to reassert reason in the interpretation of the ban on "establishment of religion" — nothing, that is, to re-establish the principle that government must be neutral between sects, not between religion and secularism.

And nothing the Warren Court did was as raw and radical an exercise of judicial power as the 1973 decision that swept away the laws regulating abortions in 50 states.

Supreme Court appointments are the premier spoils of presidential politics. Each appointee is 20 percent of a majority at the apex of one of the three branches of government, the branch that has assumed custody of the issues (race, abortion, etc.) the political branches have been pleased to relinquish. The Court is where American public philosophy is published as an unending serial. The departure of Burger, the elevation of William Rehnquist and the nomination of Antonin Scalia are important episodes in the process of lengthening the shadow today's President will cast into tomorrow.

The Court is a small, face-to-face society where politics has subtle dy-

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