

MARVIN KALB: Hello, and welcome to the National Press Club and to another edition of the Kalb Report. I'm Marvin Kalb. And our program tonight, 45 Words: A Conversation about the First Amendment with Supreme Court Justices Antonin Scalia and Ruth Bader Ginsburg. It would be an honor, obviously, to have one Supreme Court Justice as my guest. But to have two is, indeed, a very special privilege, especially these two, who generally represent contrasting opinions on the Court, one liberal the other conservative. And yet, they are great friends who dine together, travel together, love going to the opera together. In fact, they inspired a new opera called, of all things, *Scalia Ginsburg*. [laughter]

They are like the old days in this capital, when political differences would not stop a good friendship from flourishing. Justice Scalia is the longest serving Justice on today's Supreme Court, appointed by President Ronald Reagan in 1986. He's called an originalist, meaning he believes that the Constitution ought to be interpreted, more or less, as the founding fathers meant for it to be interpreted. "You want change?" he says, "Change the legislature, change the law." His job is to interpret the law.

Justice Ginsburg was appointed to the Supreme Court by President Bill Clinton in 1993. Her view is that the Constitution is what has been called a living document. Meaning, it changes as society changes, one linked to the other. Tradition and precedent matter, of course. But they do not necessarily determine her legal judgment. Both Justices, despite this difference between them, have devoted their lives to the law, to teaching, to democracy, and to freedom.

We're going to discuss freedom of the press. But let's start with what the concept of freedom means, its origin, its meaning at the time of the American Revolution, and its meaning in today's America. I've always been fascinated by the fact that the First Commandment of the Ten Commandments in the Bible, and the First Amendment in the Constitution, both stress the central importance of freedom, the First Commandment

saying, “I am the Lord thy God who brought thee forth out of Egypt, out of the house of bondage. And thou shalt have no other god before me.” Out of bondage to what, if not freedom? The First Amendment guarantees us freedom of religion, of speech or of the press, of the right peaceably to assemble, to petition our government for a redress of grievances.

Justice Scalia, in your view, is there a link between the First Commandment and the First Amendment? Did one possibly inspire the other?

ANTONIN SCALIA: Oh, I doubt it. [laughter]

MARVIN KALB: Okay.

ANTONIN SCALIA: I think our Constitution was inspired by the traditions of the common law. And I think what our framers meant by “the freedom of speech,” for example, was that freedom of speech which was the birthright of Englishmen, at the time. I don’t think it had anything to do with Moses. [laughter] There is-- I think what freedom meant, at the time, was the absence of constraint, the absence of coercion. So freedom of religion, for example, meant that you could not be constrained to contribute to the support of a church that you didn’t believe in. You could not be disabled from holding certain public offices because of your religion. The absence of coercion. And I think it was the same for freedom of speech.

MARVIN KALB: And Justice Ginsburg, your view?

RUTH BADER GINSBURG: Marvin, this is the one question you told us you might ask us. I was puzzled by it, because as I read the Ten Commandments, the first four of them are not about freedom, they're about humans’ obligations to God. So “Thou shalt

have no other god before me, no graven images, keep the Sabbath holy,” everything, obligations that people owe to the Almighty.

But I also mentioned to you that your question comes at just the right season, because this is Passover. And the Passover is, indeed, a celebration of the liberation of a people. And there are many words in the Haggadah that celebrate freedom. So I would pick the Passover service rather than the stern first four Commandments advancing the idea of freedom.

MARVIN KALB: Well I knew I’d be wrong. [laughter] But, I mean, I knew that to start with.

ANTONIN SCALIA: You thought you’d be wrong on the law, not on theology.
[laughter]

MARVIN KALB: No. But what I would like to get at is really, what your sense is that the people who wrote the Constitution had in their minds, when they talked about freedom. Now you mentioned common law. Common law was not explicit about freedom. Many different interpretations were there. And, what I'm trying to get at is, before we get into the specifics of freedom of the press, I would like to know what the concept meant, in your understanding.

ANTONIN SCALIA: Well, I don’t think the common law was that diverse, as far as what every aspect of freedom consisted of. The freedom of speech, for example, it was very clear that that did not include the freedom to libel. That you could be subject to a lawsuit for libel. And that-- that type of coercion was not considered incompatible with the freedom of speech. Now some aspects of it, I suppose, were more vague. But some things were pretty clear.

MARVIN KALB: And Justice Ginsburg, the concept of freedom is very prominently featured in the Constitution. It's right there in the First Amendment. And the writer Tom Paine had a simple explanation. He wrote, "It would be strange, indeed, if so celestial an article as freedom should not be highly rated." So it does seem, to me-- and I'll get back to this again and again, I think, that if you're going to feature the concept of freedom right up there at the top, you had to have had something in your head about the importance of freedom to what it is that you were doing at that time, which was beginning to build a democracy.

RUTH BADER GINSBURG: There's a point Justice Scalia made in his opening remark. He said he sees this First Amendment as protection against constraint, government constraint. And there, I think, our expression of the First Amendment is quite different from, for example, the expression in the Declaration of the Rights of Man, the great French document[?]. This First Amendment is saying, "Hands off, government." It doesn't say, "Everyone shall have the right to speak freely." That's what the Declaration of the Rights of Man says, "Everyone shall have the right to speak freely."

Not at all. This says, "Congress shall make no law abridging the freedom of speech or of the press." So it's directed to government. And it says, "Government, hands off. These rights already exist. And you must not touch them."

MARVIN KALB: Jon Stewart-- I'm sorry, please.

ANTONIN SCALIA: It should not be painted as the foundation of the American democracy, this concept of freedom. Don't forget that the Bill of Rights was an afterthought. It was not what they debated about in Philadelphia in 1787. Now a couple of the states that ratified the Constitution made it clear that they expected there to be a Bill of Rights added. But it was added in 1791 on the proposal of the first Congress. What they thought would preserve a free society was the structure of the government.

That's what they debated about in 1787. And, if you think that's false, just look around the world. Every tinhorn dictator in the world today has a Bill of Right. [laughter] It isn't the Bill of Rights that produces freedom. It's the structure of government that prevents anybody from seizing all the power. Once that happens, you ignore the Bill of Rights. So, you know, keep your eye on the ball. Structure is destiny.

MARVIN KALB: The eye on the ball being to keep your eye on the structure of the government.

ANTONIN SCALIA: Well, our structure is so different from that of most of the world. There are very few countries, for example, that have a bicameral legislature-- a genuine one, even, including England. They don't have a real bicameral. The House of Lords can't do anything. [laughter] They can make the Commons pass the bill a second time. And, when they pass it a second time, it becomes law. There are very few countries-- None of the parliamentary countries that have a separately elected President, the Chief Executive in all the countries of Europe is the tool of the parliament. There is never any serious disagreement between them. When there is, they kick them you. They have a no-confidence vote and have an election and appoint a new tool.

I mean we are so different from the rest of the world. And it is that that has, more than anything else, preserved our liberties. And you wouldn't want to live in most of the countries of the world that have a Bill of Rights which guarantees freedom of speech and of the press. You wouldn't want to live there.

RUTH BADER GINSBURG: I have to disagree with my colleague, in that respect.

MARVIN KALB: I'm glad that you can do it. I can't.

[laughter]

RUTH BADER GINSBURG: First, I don't think that the rest of the world is regarding our legislature at the current moment as a model to be followed. [laughter] [applause] And second, however it was understood in the beginning, yes, the structure of government was to protect our liberties. But there was always the idea of rights. Think of our first great document, the Declaration of Independence.

Also, it is true that the great protections that the press now has came rather late. The First Amendment was developed in a serious way around the time of the First World War it began. So the freedom that's enjoyed today, the freedom to speak and to write, was not a big ticket item in the Supreme Court until rather late.

ANTONIN SCALIA: Well, it was a big ticket item, mostly because, until the middle of the 20th century, believe it, the middle of the 20th century, it was not thought that the Bill of Rights applied to the states. It was only a limitation on what the federal government could do, not a limitation on what the states could do. That's why we never had, until the middle of the 20th century, these cases about whether you can have a crèche in the city square. Is it okay if you have a menorah next to it? Maybe Santa Claus on top? [laughter] We didn't have any of those silly cases. It was only when the Bill of Rights was imposed upon the states that we began to have it.

And so, a lot of the restrictions on speech that would be imposed by states would not have been thought to violate our Bill of Rights. Maybe the states' Bill of Rights, but not ours.

MARVIN KALB: But I'm wondering, at the time that the structure of government was set up, plus-200 years ago, what is it that the founding fathers had in mind when they thought about freedom? And one definition advanced by John Stewart Mill, I found very compelling. But I don't know whether that's what they had in mind. He spoke about

absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral or theological. And I'm wondering if that is what Madison and Monroe had in mind at that time, or whether they had a more narrow vision of freedom. Justice Ginsburg?

RUTH BADER GINSBURG: I wouldn't call the vision narrow. But there are no absolute rights, even though, if you read the First Amendment, it does sound that way. It says, "Congress shall pass no law." But, of course, there are laws that Congress can pass. So the idea of an absolute right, I don't know any right that doesn't have limitations.

MARVIN KALB: Even at that time, in the minds of the founding fathers?

RUTH BADER GINSBURG: Yes, I think so.

MARVIN KALB: Explain why, in the First Amendment, after listing the phrase "freedom of speech," the founding fathers found it necessary or wanted to add four crucially important words, "or of the press." Freedom of the press is what they were talking about. But why did they add that phrase? Why was it necessary, Justice Scalia?

ANTONIN SCALIA: I think it's a natural addition. All it means is the freedom to speak and to write. It wasn't referring to the institutional press, the guys that run around with a fedora hat, with a sticker in it that says "Press." That was-- I'm not sure that they even referred to the institutional press in those days. It meant the freedom to speak and to publish. And that clause has been interpreted not to give any prerogatives to the institutional press, it gives prerogatives to anybody who has a Xerox machine.

MARVIN KALB: What do you mean "institutional press"? Forgive me. What does that mean?

ANTONIN SCALIA: I mean those organizations whose business is writing and publishing, NBC, CBS, you.

MARVIN KALB: I like that.

[laughter]

RUTH BADER GINSBURG: One idea that we didn't take from England was the Office of the Censor who censored books before they were published. And that, I think, is part of putting in this protection of the press. And we have never had, in the United States government, an Office of the Censor, which plagued people in England, and on the continent-- think of Verdi and having to put his opera plots.

ANTONIN SCALIA: Oh you have to bring opera into it, don't you? [laughter] I knew you were going to do that.

MARVIN KALB: Was it understood that there were limitations on the press back then? Was it understood that there were limitations?

ANTONIN SCALIA: Well, yes, yes, on speech and on oral speech and written speech, both. I told you, libel, libel laws were one thing.

MARVIN KALB: Yes. But what about the press at that time? What were they thinking about at that time?

ANTONIN SCALIA: I don't know that there were any special rules applicable to the press. The press did not have to get permission of a censor to publish. But neither did anybody else.

RUTH BADER GINSBURG: And the press anointed some very important figures in our history, like Thomas Jefferson.

MARVIN KALB: Yes, indeed. And it's interesting that Jefferson, before he became President, spoke very highly of the press. But, while he was President, spoke about it as a polluted area. And you couldn't believe a thing in any newspaper.

RUTH BADER GINSBURG: But how it survived, one thing that epitomizes, for me, the importance of freedom of speech, is in the *Ballad for America*. "The right to speak my mind out, that's America to me."

ANTONIN SCALIA: I think, if you had to pick-- and you probably shouldn't have to-- but, if you had to pick one freedom that was-- that is the most essential to the functioning of a democracy, it has to be freedom of speech. Because democracy means persuading one another. And then, ultimately, voting. And the majority-- the majority rules. You can't run such a system if there is a muzzling of one point of view. So it's a fundamental freedom in a democracy, much more necessary in a democracy than in any other system of government. I guess you can run an effective monarchy without freedom of speech. I don't think you can run an effective democracy without it.

MARVIN KALB: But, on this matter of press freedom, John Adams wrote that, "Mankind cannot now be governed without it, nor present with it." And it seems that the idea of a free press has always been a problem for a succession of American Presidents. But, in a broader sense, do you feel we could have endured as a democracy, from then to now, without a free press? What do you think, Justice Ginsburg?

RUTH BADER GINSBURG: I don't think so. I think the press has played a tremendously important role as watchdog over what the government is doing. And that keeps the government from getting too far out of line, because they will be in the

limelight. So yes, there are all kinds of excesses in the press, too. But we have to put up with that, I think, given the alternative.

MARVIN KALB: Justice Scalia, you want to comment on that issue?

ANTONIN SCALIA: No, I agree with that, of course.

RUTH BADER GINSBURG: It's hard to keep the freedom of the press, because there are many people who don't like what the press is publishing. And there was a cartoon around the time-- just after the Revolutionary War. And it shows a Tory being carted off by the police. And the caption is, "Liberty of speech to those who speak the speech of liberty." So the right to speak against government, against what is the prevailing view of society, is tremendously important.

MARVIN KALB: That's interesting.

ANTONIN SCALIA: Well, including the right to speak against democracy. I mean don't forget that. Some of the biggest fights were whether free speech includes freedom to speak against freedom of speech, or against democracy. And it's plausible that it doesn't. But, of course, we have rejected that view. Communists were entitled to say, "This Democratic system does not work. Let's get rid of it."

RUTH BADER GINSBURG: Yeah, it took a while for that idea to take hold, because there were laws against--

ANTONIN SCALIA: -- did indeed.

RUTH BADER GINSBURG: -- anarchy and sedition, syndicalism.

MARVIN KALB: It takes us, perhaps, I think, to the 1964 ruling of the Supreme Court on *The New York Times v. Sullivan*, which is certainly called a landmark decision. And you spoke earlier about the importance of libel at that time. And in this particular ruling, very specific regulations-- that's the wrong word-- but concepts are written into this ruling. And I'd like to just read what Justice Brennan has said, because I think it deserves to be quoted as often as possible.

“Public discussion is a political duty. And it must be ‘uninhibited, robust, and wide open,’ and may well include vehement, caustic and sometimes unpleasantly sharp attacks on government and public officials.” And you were mentioning this, in a sense, a moment ago. And I'm wondering, Justice Scalia, if this kind of an issue were brought before the court today, at that time, in 1964, I believe the court's ruling was a 9-nothing, was a unanimous vote. What would happen today?

ANTONIN SCALIA: I don't recall whether it was unanimous. I'm not sure it was.

MARVIN KALB: It was. It was 9-nothing. [laughter] But I stand to be corrected.

ANTONIN SCALIA: Even so, it was wrong. [laughter]

MARVIN KALB: It was wrong?

ANTONIN SCALIA: The issue is not whether it's a good idea to let the institutional-- I'm sorry, to let anybody-- What *New York Times v. Sullivan* holds is that, if you are a public figure, and it's been a matter of some doubt what it takes to become a public figure, but it's certainly any politicians is a public figure, if you are a public figure, you cannot sue somebody for libel unless you can prove effectively that the person knew it was a lie.

MARVIN KALB: Right.

ANTONIN SCALIA: So long as he heard from somebody, you know, it makes it very difficult for a public figure to win a libel suit. I think George Washington, I think Thomas Jefferson, I think the framers would have been appalled at the notion that they could be libeled with impunity. And, when the Supreme Court came out with that decision, it was revising the Constitution. Now, it may be a very good idea to set up a system that way. And New York State could have revised its libel laws by popular vote to say, if you libel a public figure, it's okay unless it's malicious. But New York State didn't do that. It was nine lawyers who decided that that's what the Constitution ought to mean, even though it had never meant that. And that's essentially the difference between Ruth and me concerning a living Constitution. She thinks that's all right, and I don't think it's all right.

RUTH BADER GINSBURG: The situation didn't exist in 1787 or 1791 that the court confronted in *Times* against Sullivan. The history of *Times* against Sullivan, it was a sheriff who said he was libel in an advertisement in the *New York Times*. It was in the midst of the Civil Rights era, where libel laws could be used as a way of squelching the people who were asserting their freedom. So I think that *Times* against Sullivan is a decision of major significance.

Now I will say, the lawyer who argued that case for the *New York Times*, Herbert Wexler, a great Constitutional law scholar, when its story is told, when he told Salzburg, "We won. We won unanimously," Salzburg's response was a little hesitant. He said, "It's great for the *New York Times*. But what about all those other papers that don't have our high, high status?" But I think that *Times* against Sullivan is now well accepted. And I quite disagree with my colleague. I suspect that, if the founding fathers were around to see what life was like in America in the 1960s, they would have agreed with that.

MARVIN KALB: So you would have voted for it?

ANTONIN SCALIA: Oh God yes, she would have voted for it. [laughter]

RUTH BADER GINSBURG: Yeah.

ANTONIN SCALIA: Come on, Mr. Kalb. [laughter]

RUTH BADER GINSBURG: I would mention, but I won't say anything more about it, because this is case we're going to hear next week, I think. A state has passed a law that says, "Thou shalt not make false statements in a political campaign against any candidate, any ballot initiative, no false statements in elections." The question that the court will face is, is that statute prohibiting false statements in political campaigns, is that Constitutional?

MARVIN KALB: What are we going to expect on that? [laughter]

RUTH BADER GINSBURG: Well--

ANTONIN SCALIA: A decision by the end of June.

MARVIN KALB: Okay. [laughter]

RUTH BADER GINSBURG: But it was another decision, and I don't remember where Justice Scalia was, but it was the Alvarez case. The man who lied about having the Medal of Honor.

ANTONIN SCALIA: Oh yes, yes, yes.

RUTH BADER GINSBURG: What was it called? Something Valor.

ANTONIN SCALIA: Stolen Valor Act. Stolen Valor Act.

MARVIN KALB: Before we get into that and the subject of digital democracy, which I want to spend a few minutes on, I'd like to take a moment, now, to remind our radio, television and internet viewers and listeners that this is The Kalb Report. I'm Marvin Kalb. And I'm discussing freedom of the press with Supreme Court Justices Antonin Scalia and Ruth Bader Ginsburg.

I want to point out that there is a new report out by an organization called Reporters Without Borders, very highly regarded, that the U.S. has experienced what it called "A profound erosion of press freedom" in 2013, dropping 14 points to number 46 in global ranks. Now reporters are a little nervous these days. And they like to feel that they have friends. And I want to know, in your judgment, whether reporters are right in considering the Supreme Court today as a friend of the concept of freedom of the press.

ANTONIN SCALIA: You want me to say no to that? [laughter]

MARVIN KALB: No, I want--

ANTONIN SCALIA: Of course. Everybody on the court believes in freedom of the press. Now there is some difference as to what that means, okay. As to whether it means, for example, that a member of the press, no matter what the national emergency may be, need not disclose his or her source. That's, you know, that's a question that hasn't come up before us. And I think it's very-- a very interesting and not necessarily, not a question with a clear answer. So, you know, you can believe in freedom of the press and still have fun disagreeing, okay.

RUTH BADER GINSBURG: I'd like to know how it was determined that that was the-- the 46 was the right view. As I'm just thinking of the tradition in England, which holds to this very day, that the press can't report about trials, about ongoing trials.

ANTONIN SCALIA: And they can libel public figures in this, you know.

MARVIN KALB: Well, since 1964, and the Sullivan-*New York Times* case, as you were pointing out before, it's extremely difficult, now, for anybody to libel a reporter on this issue. What I would like to get to here is something that is current and very important to an awful lot of people in this country. And I suspect that the court is going to face a number of major decisions in the area of government surveillance. The National Security Agency, the NSA, its newly disclosed activity, then all of the problems of whistle-blowing journalism. And it's worth noting that the *Washington Post*, just this week, won its Pulitzer Prize for its reporting on Edward Snowden and the NSA thing.

So I'd like to start by asking you, do you think *The Post* deserved the prize? Justice Ginsburg.

RUTH BADER GINSBURG: That's a question that the journalists in this audience are much better equipped to answer than I am.

ANTONIN SCALIA: I don't read *The Post* so I have no idea what they-- [laughter] I have no idea what they got the prize for. [laughter]

RUTH BADER GINSBURG: I do, including the announcement-- Was it the bottom of the first page, when it says what's coming up this week. And this evening was announced as an event.

MARVIN KALB: Yes it was. We're very proud of that. So tell me. I didn't get terribly far on that. [laughter] Do you believe that Snowden is a whistle-blower or a traitor?

ANTONIN SCALIA: Oh I don't-- You know, that's not part of what I worry about, really. That's a policy-- a policy question, not a legal question. And I stay on that stuff.

RUTH BADER GINSBURG: And it's also possible, is it not, that the question you raise could come before the court.

MARVIN KALB: That is possible.

RUTH BADER GINSBURG: Yes. And we are not at liberty to preview.

MARVIN KALB: No, I appreciate that. Let me ask the question from another angle. [laughter]

ANTONIN SCALIA: If it's the same question, you're going to get the same answer. [laughter]

MARVIN KALB: That may be. That may be. But I'm going to try it anyway.

ANTONIN SCALIA: All right.

MARVIN KALB: If somebody were to say to you that, "What I am doing, you may disagree with."-- I don't mean you personally, "You all may disagree with. But I am doing this because I feel a moral obligation to do this. I feel, deep in my heart, that my country is doing something wrong. And I have an opportunity to change that. And I want to change it."

ANTONIN SCALIA: So did the Germans who killed Jews. I mean is that the criterion, whether you honestly believe what you're doing is good? You have an obligation to form your conscience according to what is right. And you know, that's the issue. The issue is whether it's right, not whether you believe in it. I'm sure Hitler was very sincere.

MARVIN KALB: But the idea of it being right, you mean right according to the law as established?

ANTONIN SCALIA: Well, in the context you put it, right according to--

MARVIN KALB: -- some moral judgment.

ANTONIN SCALIA: Right, to the Ten Commandments. [laughter]

RUTH BADER GINSBURG: But we should note that the point that was brought up before about hateful speech, there was a case, oh some many years ago, involving the Town of Skokie, Illinois, where many Holocaust survivors lived. And the American Nazi Party decided they would pick that town for their demonstration. The case never came to the U.S. Supreme Court. But other federal courts said that the demonstration is going to be peaceful. There will be police protection. We don't anticipate any violence. This group wants to march. We hate what they say. But we believe in their freedom to say it.

ANTONIN SCALIA: But that doesn't mean that it was good for them to say it, or right for them to say it. And it sometimes annoys me that, when somebody has made outrageous statements that are hateful, somebody says-- Sometimes the press will say, "Well, he was just exercising his First Amendment rights," you know, as though First Amendment rights are like muscles. The more you use them, the better. [laughter] And it doesn't matter what purpose you're using them for. I mean you can be using your First Amendment rights, and it can be abominable that you are using your First Amendment

rights. I'll defend your right to use it, your right to use it. But I will not defend the appropriateness of the manner in which you're using it now. That can be very wrong.

RUTH BADER GINSBURG: But I'm sure that Justice Scalia was praised by some, criticized by others, for his decision in the flag burning case. Now I imagine that you thought the act itself was reprehensible.

ANTONIN SCALIA: I would have sent that guy to jail if I was king. [laughter] Yeah.

MARVIN KALB: But, by your ruling, he'd have the right to burn the flag.

ANTONIN SCALIA: Yes, that's what the First Amendment means. You have the right to express your contempt for the government. That doesn't mean it was a good thing for him to do that, in that manner, by burning a symbol that meant so much to so many other people. But he had the right to do it.

MARVIN KALB: Justice Scalia, a recent event in Brooklyn, you were quoted as saying that basically, the Supreme Court should not be deciding matters of national security. And you're quoted as saying, "The Supreme Court does not know diddly about the nature and extent of the threat"--

ANTONIN SCALIA: Diddly? Did I say diddly? [laughter]

MARVIN KALB: That's what you're quoted as saying. "It's truly stupid," you went on, "that my court is going to be the last word on it." First of all, did you say that?

ANTONIN SCALIA: No. I think I probably did. I certainly believe it. [laughter]

MARVIN KALB: What did you mean? Justice Ginsburg, please?

RUTH BADER GINSBURG: I don't think we have a choice. The court decide, we're going to pick this are and straighten it out today. There are petitions for review. And if there is a law that the government says was violated, and the other side says, "No, the government can't do this, can't engage in that kind of surveillance," that case comes to us, we can't run away and say, "Well, we don't know much about that subject, so we won't decide it."

ANTONIN SCALIA: You know what I was talking about, this related to the Fourth Amendment, not the Fifth Amendment, the Fourth Amendment, which prohibits unreasonable searches and seizures, all right. The first time my court had a case involving wiretapping, it held that the way the Fourth Amendment reads is, "The people shall be secure in their persons, houses, papers and effects, possessions, against unreasonable searches and seizures." And the court said, quite properly, "Hey, conversations are not persons, houses, papers and effects." Wiretapping may be a very bad thing. States had laws against it. But it does not violate the federal Constitution, all right.

About 20 years later, during the Warren Court, we did a 180 degree turn. And we said, "There are penumbras, and emanations and conversations are covered by this vague right of privacy that's contained in the Constitution." Now, that is the living Constitution, okay, changing what the text says, and what it originally meant.

The consequence of that, I was pointing out in Brooklyn-- I like Brooklyn. The consequence of that is that now, the institution of the government that is going to decide this highly significant NSA question about, you know, what information can you get by wiretapping, the institution that will decide that is, without a doubt, the institution least qualified to decide it. It will be my court. You know, it's a questioning the emergency against the intrusion. When the emergency is high enough, you can have a higher

intrusion. It's why we all get searched when we board an airplane. That's a terrible intrusion upon-- Well, just let me finish.

We know nothing about the degree of the risk, nothing at all. The Executive knows. The Congress knows. We don't know anything. And we are going to be the one to decide that question.

RUTH BADER GINSBURG: So what do we do when the case comes to us? Before you answer that, I would like to remind everyone that, in the wiretapping case, the argument that wiretapping was not an unreasonable search or seizure, there was a very strong opinion the other way by Justice Brandeis. So, and if I were on that court, I would have voted the way he did. I'd like to know how Justice Scalia distinguishes that kind of intrusion by the government from the decision you made in the heat emissions case. Now the helicopter that was flying over roofs to see-- to test the level of heat, because if it was of a certain heat, then maybe marijuana plants were growing. That the helicopter never touched the roof, and yet you said that was a violation of the Fourth Amendment. That was an unreasonable search.

ANTONIN SCALIA: Because the people were not being secure in their houses from unreasonable-- I mean that's a clear example of one of the facilities that is protected by the Fourth Amendment.

RUTH BADER GINSBURG: So to wiretap someone in their house?

ANTONIN SCALIA: Yeah, if you have to break into their house to wiretap, yes. But, if you listen in to conversations, you know, when they're in the phone booth, oh, intruding upon their generalized right of privacy? It was never covered by the Fourth--

RUTH BADER GINSBURG: You don't have to worry about that anymore. There are no phone booths. [laughter]

ANTONIN SCALIA: You're right about that. You're right about that.

MARVIN KALB: Let me ask you this.

ANTONIN SCALIA: But anyway, we've gotten away from the Fifth Amendment, haven't we?

MARVIN KALB: No, no, I wanted--

RUTH BADER GINSBURG: The First Amendment.

ANTONIN SCALIA: The First Amendment, I'm sorry.

[laughter]

MARVIN KALB: Yeah, but stick with the Fourth Amendment for just a sec. And I don't know terribly much about it. And I can always add up front. But my question is could data that is considered terribly important, either by the media or by the government, stored in a computer or stored in a cloud up there somewhere, be considered effects, one of the four words you used?

ANTONIN SCALIA: Could be. That's very perceptive. I've thought about that. I've thought about that.

MARVIN KALB: Thank you. But, if you thought about that, doesn't it follow that the U.S. government would not be able to justify its NSA surveillance program. And that therefore, conceivably could be in violation of the Constitution?

ANTONIN SCALIA: No, because it's not absolute. As Ruth said, there are very few freedoms that are absolute. I mean your person is protected by the Fourth Amendment. But, as I pointed out, when you board a plane, somebody can pass his hands all over your body. That's a terrible intrusion. But, given the danger that it's guarding against, it's not an unreasonable intrusion. And it can be the same thing with acquiring this data that is regarded as effects. Depends on how-- And that's why I say it's foolish to have us make the decision, because I don't know how serious the danger is in this NSA stuff. I really don't.

MARVIN KALB: But don't you, in the Supreme Court, have the ability to pick up the phone and call somebody at the White House and say, "I have a question"?

ANTONIN SCALIA: No.

RUTH BADER GINSBURG: Absolutely not.

ANTONIN SCALIA: Absolutely not. [laughter] We are at the mercy of whatever people happen to bring to us. If they don't bring it to us, we don't know it.

RUTH BADER GINSBURG: And we can't make a decision based on something outside the record of the case. The parties and their lawyers have to know everything, have access to everything that we will factor into our decision. I don't know how many times I would have loved to call law professor so and so who is the biggest expert in the area.

ANTONIN SCALIA: Call your husband in a tax case, for example.

RUTH BADER GINSBURG: Right. Right.

ANTONIN SCALIA: Marty was one of the best tax lawyers in the country.

RUTH BADER GINSBURG: But we can't do that, because the other sides, the parties aren't there and don't have access to the same information. So we are hemmed in by the record of the case. And the court cannot resort to information that the parties do not have.

MARVIN KALB: Justice Ginsburg, I want to ask you the same question that I asked Justice Scalia about the data, the storage in computers, and linking that to the word "effects." And if that justifiably is linked to the word "effects," doesn't it follow logically that the case could be made that the government is in violation of the Constitution by this government surveillance program?

RUTH BADER GINSBURG: An argument could be made, certainly. But it's not an argument that either of us could answer. Well I think Justice Scalia suggested we can't answer at all. I don't think that's so. If we have to answer it, we will. But we don't get questions in the form you posed them, Marvin. We get a concrete case and not abstract question. The effects are up there, what can the government do?

ANTONIN SCALIA: I would answer that one, Ruth. You know, that is a person's houses, papers and effects. It's not conversations.

MARVIN KALB: What are you saying?

RUTH BADER GINSBURG: But you couldn't answer it in the abstract.

ANTONIN SCALIA: Oh, certainly. Certainly.

MARVIN KALB: Can we expect the Supreme Court to rule on the NSA issue?

RUTH BADER GINSBURG: It depends if there is a case that will begin, not in the Supreme Court, but in a federal district court, and then go to a court of appeals, we do have the luxury of not having to decide things until they have been decided by other good minds, by judges in the federal trial courts and courts of appeals.

ANTONIN SCALIA: And it's not our responsibility to shape up the Executive and make sure they're doing what they're supposed to, or shaping up the Congress. That's not our job. Our job is to prevent people from being harmed. If nobody is being harmed, we don't get into the matter. And, even if somebody is harmed, unless he comes to us, we don't have any self-starting powers. We're at the mercy of whoever wants to bring a case, or whoever doesn't want to bring a case.

Ruth and I visited India one time, a long time ago. And the Indian Supreme Court, India has a Bill of Rights which says that the Apex Court, their Supreme Court, will assure the preservation of the liberties set forth in the Bill of Rights. And that court interpreted that to mean that if they're sitting around on a Sunday reading the *Bombay Times*, and they see that the police commissioner--

RUTH BADER GINSBURG: Mumbai.

ANTONIN SCALIA: Look. [laughter] [applause] I don't say *Paree*. And I don't say *Veen*. And I will not say Mumbai. It's Bombay. We have an English word for it. Anyway-- [laughter] They're sitting around, reading the *Bombay Times*. And they see that the police commissioner in Punjab is holding people without charge, which violates the Constitution. That court will, on its own, summon the police commissioner to give an

account of himself. Our court can't do that. We can't do that. It's only when people bring problems to us.

MARVIN KALB: You can't do that because that's the way it's always been done? Or there's a rule that says you can't do it?

RUTH BADER GINSBURG: We can't because the Constitution limits us to actual cases or controversies. There are many courts in the world that do operate by answering abstract general questions. Constitutional courts have been set up-- There's a Constitutional Council in France that will preview a law if a certain number of deputies question the consistency of the bill with the Constitution, the Council will look at the bill, no actual case before them, just look at the words of the bill, decide whether it's compatible with the Constitution. And, if the Council holds it isn't compatible with the Constitution, then the bill never gets enacted. But that kind of judicial preview is foreign to us.

MARVIN KALB: Right. Let's talk for a minute or so about televising hearings of the Supreme Court.

ANTONIN SCALIA: Ooh. [laughter]

MARVIN KALB: Other courts do permit television. Why not the Supreme Court? Justice Scalia?

ANTONIN SCALIA: You know, when I first came on the court, I was-- I was in favor of it. I have long since changed my view on that. Those who want to do it say that they want to educate the American people. Now, if I really thought that it would educate the American people, I would be in favor of it. And indeed, if the American people watched our proceedings from gavel to gavel, they would be educated. They would come to

realize that a low-- You know, now and then we do these sexy cases. Should there be a right to abortion? Should there be a right to suicide? Should there be a right to this or that? Most of the time, we are not contemplating our navel. We are not engaging in this broad philosophical, ethical search. Most of the time, we are doing real law. We are doing the Internal Revenue Code, the Bankruptcy Code, ERISA, really dull stuff. [laughter] And nobody would ever again come up to me and say, "Justice Scalia, why do you have to be a lawyer to be on the Supreme Court?" Because they think what we're doing is, you know, looking up at the sky and saying, "Should this right or that right exist?" Well, they can guess that as well as I can.

Now, the problem is, for every person who watches us from gavel to gavel, there will be 10,000 who will watch a 15 or 30 second takeout on the nightly news. And I guarantee you, that will not be characteristic of what we do. It will be "man bites dog." So why should I participate in the miseducation of the American people?

MARVIN KALB: What about your feelings, Justice?

RUTH BADER GINSBURG: There's another factor. If you are televising a trial, everything that's unfolding is before the camera. If you're dealing with an appellate argument, well if you would come to our chambers at the moment, because we're starting sitting on Monday, you will see carts with briefs and briefs and briefs. The oral argument in court is fleeting. It is only 30 minutes a side. I don't know how many hours we have spent preparing, reading what had gone on in the case before it got to the Supreme Court. Reading the briefs that the parties filed, and the many friends of court who want to be heard on questions of importance to them.

So the notion that an appellate argument is a contest between lawyers, and the better one will win, is really a false picture of what the appellate process is.

MARVIN KALB: So you would be, as Justice Scalia, opposed to televising it?

RUTH BADER GINSBURG: I think it's probably inevitable, because there's going to be so much pressure for it, and because other courts do it. But I would be very much concerned with misportraying what an appeal is. The written part is ever so much more important than the-- than the hour total in court.

MARVIN KALB: In the couple of minutes that we have left, I want to just ask a question. You've both been great buddies for a long time, now. But when did you meet? And what were the circumstances?

RUTH BADER GINSBURG: He doesn't know. [laughter]

ANTONIN SCALIA: Go ahead Ruth.

MARVIN KALB: When did you meet?

RUTH BADER GINSBURG: Well, we were buddies on the D.C. Circuit.

MARVIN KALB: And that is when you met, at that time?

RUTH BADER GINSBURG: I met Nino for the first time when he was giving a speech to some unit of the ABA. It must have been administrative law section.

ANTONIN SCALIA: Law section probably, yeah.

RUTH BADER GINSBURG: And it was on a case that had recently been decided by the D.C. Circuit. It was before either of us got there. And it was about--

ANTONIN SCALIA: We were both academics.

RUTH BADER GINSBURG: Yeah. It was about the Vermont Yankee case.

MARVIN KALB: Vermont Yankee.

RUTH BADER GINSBURG: And you were inveighing against it. And I was listening to him, and disagreeing with a good part of what he said, but thought he said it in an absolutely captivating way. [laughter]

MARVIN KALB: I think we should leave it at that. Great point. I mean as you know, as you know, Composer Derrick Wang, who is with us tonight, has produced this opera called *Scalia-Ginsburg*. And in it, to beautiful music, you are both locked in a room, I understand, unable to get out unless you agree on a compromise consistent with the Constitution. And at one point, Scalia roars in despair, “Oh Ruth, can you read? You're aware of the text yet so proudly you have failed to derive its true meaning. The Constitution says absolutely nothing about this.” To which Ginsburg replies, “How many times must I tell you, Dear Mr. Justice Scalia, you are searching in vain for a bright line solution. But the beautiful thing about our Constitution is that, like our society, it can evolve.”

So we've got only about a minute or so left. Are you two ever going to agree on big issues and still maintain the friendship?

ANTONIN SCALIA: We agree on a whole lot of stuff, we do. Ruth is really bad only on the knee-jerk stuff. [laughter] She is a really good textualist. You know, in those things where the text is what she's got in mind, she's terrific. She's obviously very smart. And, you know, most cases, I think, we are together. I think we're together in a lot of criminal defense cases, upholding the rights of the criminal defendant. Ruth and I are

quite frequently in dissent from the court's decision. So no, we agree on a whole lot. You have it wrong.

MARVIN KALB: I keep seeing these five-four decisions where you're on one side and she's on the other.

RUTH BADER GINSBURG: Well, that's because the press focuses on what the 20-25 percent of the heady cases, the Constitutional cases. Most of what we're doing is trying to interpret dense statutes that Congress passed that are very difficult to parse. And on those cases, there isn't the usual lineup that the press expects to see in the most watched cases. So we agree on many procedure cases, not always. You got one wrong last year.
[laughter]

But-- And also, I have to say something else. We both care about the way opinions are crafted. And it's not easy to write an opinion. And I think you care very much about how it's said, and so do I. Of course, the way we say it is quite, quite different.

ANTONIN SCALIA: And one reason we became such good friends on the D.C. circuit was that we were both former academics. I guess Harry Edwards was another academic on the court. But in academia, at a law school, when you wrote a Law Review article, you would circulate it to your colleagues. And they would make comments, helpful comments, not just, "This is wrong." But, you know, there's an additional point you could make.

Well, Ruth and I did that with one another's opinions. We wouldn't do it to anybody else's. But, you know, she'd suggest some additional stuff that I could put in. And I would for her as well.

MARVIN KALB: I would like us to go on, but our time is up. I'm sorry about that. I want to thank our wonderful, attentive audience. I want to thank the many who watched and listened all over the nation and the world. But, most important, I want to thank our remarkable guests, two sitting Justices of the Supreme Court of the United States, Antonin Scalia and Ruth Bader Ginsburg. Thank you both so much.

[applause]

MARVIN KALB: And, as we now close 20 years of doing these Kalb Reports, I want to say thank you to all of the people who have made this kind of civilized conversation possible. And they know who they are. But that is all we can do for now. I'm Marvin Kalb. And, as Ed Murrow used to say, many, many years ago, good night and good luck.

[applause]

[side remarks]

MARVIN KALB: This is still being seen on C-SPAN. And the first question in front of me is to Justice Scalia. Why are you the way that you are? [laughter] You could hit a homerun on that.

ANTONIN SCALIA: The devil makes me do it. [laughter]

MARVIN KALB: Justice Ginsburg, the next question from Josh Gibson, who is a student at the Kennedy School. The First Amendment is a bit of a grab bag of free expression rights. Did the founders consider then decide against including others? Are there others that they or you would wish that had been included?

RUTH BADER GINSBURG: Well, that was a concern about having a Bill of Rights, that if you wrote down what the rights were, maybe there were some you left out. And we do have this statement in the Ninth Amendment that says, “The enumeration of certain rights shall not be construed to deny or disparage others.” But one thing that we didn’t bring out before is, the First Amendment is the First Amendment. But the first thing that was on the mind of the framers was not freedom of speech or of the press, it was about not having an established church. The first thing is, “No law respecting the establishment of religion.” And then the freedom side of it, “or prohibiting the free exercise thereof.” So the first thing that they didn’t want to have was a Church of England.

MARVIN KALB: But that’s kind of a negative. I mean it’s something you cannot do.

RUTH BADER GINSBURG: Yes.

MARVIN KALB: But what's the positive side of that, would be freedom of religion, that you can--

RUTH BADER GINSBURG: Yes.

ANTONIN SCALIA: It’s all negative. I mean it’s all saying what the government cannot do. It is all limitations upon the government. That’s what the whole Bill of Rights is. The government can't do this. The government can't do that. Government can't do the other thing. They're all negative.

MARVIN KALB: And that, except for the government, everybody else can do what they want?

ANTONIN SCALIA: Absolutely.

MARVIN KALB: Yes?

ANTONIN SCALIA: Absolutely. Yes.

RUTH BADER GINSBURG: But to take an example, we have an antidiscrimination law, Title VII of the Civil Rights Act of 1964. Until then, discrimination in the private sector was okay, because the Constitution restricts what government can do. A private employer could say, “I don’t want any women in this job,” and that would be perfectly okay as it was until 1964.

ANTONIN SCALIA: Did you have something to do with that?

[laughter]

RUTH BADER GINSBURG: Well I’d say President Johnson and the Congress did pass the Civil Rights Act of 1964 that had everything to do with that.

MARVIN KALB: I have a question here from Catherine Cosin of *The Newsian*. [?] To whom does the First Amendment apply? Do undocumented immigrants have the five freedoms?

ANTONIN SCALIA: Well I think so. I think anybody who is present in the United States has protections under the United States Constitution. Americans abroad have that protection. Other people abroad do not. They don’t have the protections of our Constitution.

RUTH BADER GINSBURG: When we get to the Fourteenth Amendment it doesn’t speak of citizens, as some Constitutions grant rights to citizens. But our Constitution says person. And the person is every person who is here, documented or undocumented.

MARVIN KALB: I see. Thank you. I have a question from David Dorson, whom you know, prominent lawyer who is here with us. Where do you look to decide whether freedom of the press is or is not identical with freedom of speech? I have a feeling that's a loaded question. [laughter]

ANTONIN SCALIA: I have never thought that it was anything except identical. I can't imagine that you can limit some things that can be spoken but cannot limit things that can be printed. I think it's the same, same criteria as to whether the limitation is unconstitutional.

RUTH BADER GINSBURG: I think David must have a case in mind. [laughter]

MARVIN KALB: A question here from Nicky Schnabb of *U.S. News and World Report*. Was there any case that rattled your friendship? Justice Ginsburg.

RUTH BADER GINSBURG: Well, Nino, I think we were most at loggerheads over the VMI case.

ANTONIN SCALIA: Yes.

RUTH BADER GINSBURG: Remember that?

ANTONIN SCALIA: Yes I do.

RUTH BADER GINSBURG: And you had a stirring dissent.

ANTONIN SCALIA: It was a great dissent. [laughter]

RUTH BADER GINSBURG: Yeah. You were the only dissenter. [laughter]

ANTONIN SCALIA: Well that's only because Clarence was recused because he had a son there, didn't he?

RUTH BADER GINSBURG: That's true. But remember that the chief voted for my judgment.

ANTONIN SCALIA: I know.

RUTH BADER GINSBURG: Not your dissenting opinion. [laughter] And we went-- I don't know how many rounds we went.

ANTONIN SCALIA: We did, back and forth.

RUTH BADER GINSBURG: Yeah. And one time I had a footnote that referred to the University of Virginia at Charlottesville.

ANTONIN SCALIA: Oh yes.

RUTH BADER GINSBURG: That you had a footnote back saying, "Well, you have to forgive this ignorant person because she doesn't know that there is no University of Virginia at Charlottesville. There is only a University of Virginia."

ANTONIN SCALIA: And she even talked about the campus of the University of Virginia, my goodness.

RUTH BADER GINSBURG: But you know what he did do, he wasn't finished writing the dissent. It was getting rather late. We were into June already. He gave me

what was the pen ultimate copy of his dissent. He wasn't ready to circulate it yet. But he came to my chambers and gave it to me and said, "I want to give you as much time as I can to answer this." So I went off to my Circuit Judicial conference, read the thing on the plane, and it ruined my whole weekend. [laughter] But that he gave me the extra days to respond, I really appreciated that.

ANTONIN SCALIA: I have never gotten angry at Ruth or at any of my colleagues because of the way they voted in an opinion. I mean if you cannot disagree with your colleagues on the law without taking it personally, you ought to get another day job. I mean it's just not the kind of a job that will allow you to behave that way. So Ruth and I disagree on the law all the time. But it's never had anything to do with our friendship.

RUTH BADER GINSBURG: And we do also have a difference in style. I'd say people might regard my opinions as rather dull, boring. Yours are really jazzy sometimes. [laughter]

ANTONIN SCALIA: Jazzy?

MARVIN KALB: Here is a question from Seth Dawson of the Office of Congressman Denny Hecht. Justice Stevens recently suggested a Constitutional Amendment to modify the Second Amendment. If you could amend the Constitution in one way, what would it be, and why? Justice Scalia.

ANTONIN SCALIA: I certainly would not want a Constitutional Convention. I mean whoa. [laughter] Who knows what would come out of that? But, if there were a targeted amendment that were adopted by the states, I think the only provision I would amend is the Amendment Provision. I figured out, at one time, what percentage of the populace could prevent an Amendment to the Constitution. And, if you take a bare majority in the

smallest states by population, I think something less than two percent of the people can prevent a Constitutional Amendment. It ought to be hard, but it shouldn't be that hard.

MARVIN KALB: Justice Ginsburg?

RUTH BADER GINSBURG: If I could choose an Amendment to add to this Constitution, it would be the Equal Rights Amendment. [applause] And that's--

MARVIN KALB: What do you mean by that? How would you define that?

RUTH BADER GINSBURG: It means that women are people equal in stature before the law. And that's fundamental Constitutional principle. I think we have achieved that through legislation. But legislation can be repealed. It can be altered. I mean we have, I mentioned Title VII of the Civil Rights Act. And the first one was the Equal Pay Act. But that principle belongs in our Constitution. It is in every Constitution written since the Second World War. So I would like my granddaughters, when they pick up the Constitution, to see that that notion that women and men are persons of equal stature. I'd like them to see that that is a basic principle of our society.

MARVIN KALB: Any doubt in your mind that that would pass the judgment of the American people?

RUTH BADER GINSBURG: Well, it didn't. Came pretty close. And I think that's an illustration of how powerfully hard it is--

MARVIN KALB: -- to get an Amendment?

RUTH BADER GINSBURG: Yeah.

ANTONIN SCALIA: You don't want me to comment on that, do you?

RUTH BADER GINSBURG: No I don't. [laughter]

MARVIN KALB: A question here, but no ID on who wrote it. To what extent do social media platforms, such as Twitter, where speech can be broadcast to millions instantly, challenge traditional concepts of free speech? Interesting question. What is your thought on that, Justice Scalia?

ANTONIN SCALIA: Well, I don't know that it challenges traditional concepts of free speech. It certainly challenges traditional manners of finding out who said what, where certain people say things that are unlawful, or that are punishable by law. But I don't think it-- I don't think it changes what the First Amendment means.

RUTH BADER GINSBURG: There's also the great danger for people who use those devices, is you can't take it back. You know, once you let it out, it's there for everybody to see.

MARVIN KALB: But you don't feel that it changes the concept of freedom of speech or of the press?

RUTH BADER GINSBURG: You'd have to give me an example.

MARVIN KALB: Okay. Sumdan[?] Newman asked this question. As it becomes easier to share opinions and events, should social media, i.e. Twitter, Facebook, etcetera, be required to limit what is shared? Is that a legal question?

ANTONIN SCALIA: No, that's a policy question. I don't do policy. [laughter]

RUTH BADER GINSBURG: I would agree with my colleague.

MARVIN KALB: Okay. Joshua Kurd[?] of the *Washington Center*. Do you feel the separation of church and state has been misunderstood with Congress and the Supreme Court taking a proactive stand on the establishment portion, but not on the prohibition part?

ANTONIN SCALIA: I don't understand what he means by the last part. Proactive stand?

MARVIN KALB: Well, I was hoping that you would understand it because I didn't. [laughter] I'm sorry, I'm not there.

ANTONIN SCALIA: Okay.

MARVIN KALB: Our last question. When you were a youngster, what did you want to be when you grew up? [laughter]

ANTONIN SCALIA: Oh Lord. Maybe I'm an unusual person. I don't ever recall wanting to be anything. I mean a baseball player, or a hockey player, or a lawyer, or-- Certainly never a judge. I never set my cap on being-- on being a judge. I didn't even want to be a lawyer when I was in college. When I graduated from college, I didn't know what I was going to do. I had an uncle who was a lawyer, Uncle Vince. Every Italian has an Uncle Vince. [laughter] Vince had an office in Trenton, and I used to go out there and hang out there now and then.

It seemed like a good life. So I went into the law. But no, I can't say I ever wanted to do anything, except to do well, what I was assigned to do. And, if I have any, what, quality that accounts for my making it this far, it's my ability to interest myself in whatever was

shoved under my nose, no matter how-- no matter how dull it was. I took pleasure in doing it to the extent I could perfectly. But I never set my cap on being even a federal judge, much less a Supreme Court Justice.

MARVIN KALB: Justice Ginsburg?

RUTH BADER GINSBURG: In my growing up years, there were so many limits on what a girl could aspire to be. She could not be a police officer. She could not be a firefighter. She could not be a coalminer. She could not work at night. There were all these restrictions. There were very few women lawyers, maybe three percent of the Bar. And there were even fewer judges. So I never aspired to be a lawyer, certainly not a judge, because if I had to make a living, I better be a teacher. That was a secure job for women.

And the exhilarating thing for me, when I think of my daughter and my granddaughters, is the opportunities open to them that didn't exist. I'll give you my favorite example of this is my granddaughter, who is now 23, when she was eight, was with me. And I was being interviewed. And she said, "Well I wanted to be part of this show, too." [laughter] So the reporter said, "All right, Clara. What would you like to be when you grow up?" And Clara's response was, "I would like to be President of the United States of the World." [laughter] And that, to me, the change in what girls can aspire to do, and can achieve, has been just exhilarating.

MARVIN KALB: Well unfortunately, we've come to the end of the line. I just want to share with you the essence of a conversation that was repeated over and over again with me and the producers of this program, especially the executive producer, Mike Freedman, whom you have met. And that is the thought that we live in a time in Washington when the idea that two people who have strongly different opinions on very important issues

can actually be good friends, and can actually respect one another. And that kind of mutual respect is so terribly important today.

And I hope, I truly hope, that this program, televised as it's been, can set an example and serve as a model for people all over the country who might have different opinions, but do recognize that, in this country, there's plenty of room for the different opinions. And we ought to have more room for mutual friendships. So thank you both so very much for being here.

[applause]

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