



The Context of Public Discourse

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JUDITH RODIN: Good morning, and welcome to the 5th plenary meeting of the Penn National Commission on Society, Culture and Community. I'm Judith Rodin, president of the University of Pennsylvania, and the commission's convener.

Penn National Commission was formed to examine what seemed to many observers to be an explosion of public intolerance and incivility in our public discourse. We think that one of the most important contributors to that phenomenon may have been the breakdown and fragmentation of our communities in the United States and around the world. And we've come to the Getty Center in Los Angeles to explore the notion of community in the

21st century. Our surroundings in this beautiful facility could not be more modern and more appropriate.

To set the stage for our later discussions on community, we turn first this morning to the context of public discourse, particularly the extraordinarily changing boundaries between public and private. This is an issue that's been widely discussed in recent months, and certainly this week's events in Washington will no doubt be a touchstone for our conversation.

To lead our first session, I'm delighted to introduce Robert Wiebe, who is professor emeritus at Northwestern University, the author of many distinguished works, including *The Search For Order*, *The Segmented Society* and most recently *The Opening of American Society*. Bob is currently finishing *Self-Rule: A Cultural History of American Democracy*. He will be joined by an exceptionally diverse and interesting panel and so, let me turn this over to Bob. Thank you.

ROBERT WIEBE: As an introduction to this morning's meeting, it seems worthwhile to recall the first problem that the commission's deliberations identified: How to reconcile Judith Rodin's initial plea for public civility, and Joyce Appleby's immediate warning that civility has a way of masking exclusions. Here it is again in the uneasy joining of the two halves of our meeting's title. Although enriching the conversation may also suggest deepening its rational content, its primary associations for me are expansive: diversifying the participants, enlarging the agenda, welcoming new points of view. Community in any century, on the other hand, is regulative — determining membership, containing differences, defining responsibilities.

At the extremes, all of us want both openness and orderliness. Who likes apartheid? Who chooses chaos? Hence the impulse to seek common ground between them. Conversations also require boundaries. Communities also need ways to expand. Perhaps thoughtful insiders speaking in behalf of voiceless outsiders will enlarge the community through an effective system of representation.

But no matter how hard we shove the halves of our title together, they continue to sit sullenly side by side. Outsiders clamoring to join the conversation tend, first of all, to disrupt communities. As Ronald Dworkin reminds us, genuinely free speech matches expression to feelings. If insiders do not find ways of talking with the intruders, it's everybody to the barricades. Strengthening community becomes a euphemism for defending it.

The potential of representation to enlarge a community depends on reciprocity. When people of education and wealth let Spanish-speaking hotel workers represent their interests, they establish a democratic claim to represent the interests of Latino laborers. A vulgarized golden mean — "let's not move too far in any direction" — is certainly no solution. Among other things, it implies that we already know where we are. On the contrary, our first task is to identify where the crucial deficits in civil society lie. At least in the short run, new efforts at widening access are likely to disrupt community and new commitments to control conduct are likely to constrict it. How do we position ourselves?

Historical perspective offers another way of getting our bearings this morning. You knew that was coming. Lie down with an historian and you get up scratching your head over the past. On the counts that most distress commentators today, the level of political discussion has risen substantially since the United States' first century when charges of treason, conspiracy, corruption and deception buzzed incessantly around America's leaders. During much of the 19th century, public officials routinely threatened one another with violence, and newspaperman routinely carried pistols. And yes, sex was fair game. My favorite is the election of 1828, when Andrew Jackson was pilloried for wedding a married woman. And in a wondrous flight of fancy, John Quincy Adams was accused of pimping for the Russian czar.

But historical checklists have very little value. What matters are the patterns. Savagery and national politics declined as the significance and stature of the national government rose. Political discussion achieved a new plateau of decorum, some would say rationality, during the progressive period early in the 20th century, then reached its peak with a repudiation of McCarthyism

about 50 years later. By contrast to the brutality of authoritarian rule, the hallmarks of democratic government were said to be muted discord and quiet compromise. Although presidents, assuming responsibility for economic welfare, social justice and national security, profited the most, a wide range of other officials benefited as well. Circles of silence buffered leaders from unwanted publicity.

Trust in government underwrote privacy in government. Sometime between the mid-1960s and mid-1970s, that moment of special deference passed beyond recall. With growing skepticism and suspicion came greater scrutiny, and layer by layer the insulation protecting public officials unraveled. By and large, the lower the faith, the wider the lens of publicity.

Today, many commentators still draw their norms of civility from this unique mid-century moment. Starting there, the story necessarily becomes one long lament of decline with no end in sight. Nobody knows how to repair the Humpty-Dumpty of public trust. We may hope to bore people out of their minds with the sex lives of the mighty, but not to recap the bottle of voluntary silence.

Concentrating on losses in civility weakens our attention to gains. Delegitimizing a century's-old language of racism and sexism and devising public forms of respect for the disabled to cite two examples. Above all, tenacious old norms complicate the commission's challenge to imagine and facilitate a vital new public life.

The historian's second introductory lesson seeks to inter forever and ever the myth of the stable, small communities that soulless industrial forces destroyed. Except in the back waters, those communities simply did not exist. During the years when most Americans lived in and around small towns, opportunity-seekers rushed through them at astonishing rates. It was common for towns in the 19th century to show no more than a 10 percent persistence, decade to decade. I cannot overemphasize how good that news is. Rather than mourn the passing of static family clusters, we have reason to cheer democracy's traditional reliance on what people carried with them as they moved and moved again.

Then and now, democracy's best social capital has been invested in mutual funds, associations that routinely welcome a flow of new members and bid as many others farewell without sacrificing the group's continuity. What has held America's heterogeneous society together is not so much a common culture as a common acceptance of decisions in which many diverse parties have participated. Notice how compatible this is with Judith Rodin's exciting vision of multiple centers of discourse sharing civic space in a multicultural society.

The relation of private to public life provides a final theme for our considerations. Here again, hand-wringing is less useful than situating ourselves. What requires special bolstering, and why? For almost half a century, an impressive line-up of social critics have argued the impoverishment of the public at the expense of the private. Endless repetition may deceive us into thinking these are self-evident concepts when, in fact, they are unusually elusive. In the commission's deliberation, for instance, communities, as agents of a healthy, public life, appear to be natural allies of the state. For other populations around the world, on the contrary, communities serve not as adjuncts to the state but as alternatives to it. Perhaps many Americans have been inching in that direction without our recognizing it.

As another example, private, contrary to common usage is not a cultural default consisting of everything left over from public life; it is a consciously constructed sphere. In my adult lifetime, no movements have mattered more than those among people of color and white women to free their vital concerns from what they consider a private prison. When those concerns do hit the public light, little wonder their champions phrase them as rights, absolute guarantees against a return to private invisibility.

Kenneth Starr, in other words, did not make the private political. It has never been otherwise. Whether we think his political use of private affairs contributes to a dangerous trend may depend on the role we assign character as a qualification for high office. Would those who dismiss telephone sex have the same reaction to obsessive gambling or family abuse? Certainly,

nothing chills the heart of an unreconstructed Democrat faster than the thought of a quasi-sacred aura surrounding the presidency.

So much for the warm-up. Now for the main event. Our four speakers this morning leave me in some awe at the extraordinary breadth of their interest. Have you glanced at these biographical sketches? Well, if you have not, let me, at least very, very briefly in the order in which they will appear, introduce: Jonathan Franzen, at the end of the table, author and essayist on all manner of contemporary social and cultural subjects, ranging from the Postal Service to pulp sex and now at work on his third novel. Edward Rothstein, cultural critic whose columns in *The New York Times* probably 90 percent here have read. Just think, he has done graduate work in social thought, English literature and mathematics. Match that. At least hints at the breadth of his knowledge. Richard Weisberg, professor of constitutional law, has written extensively on the place of law in literature and has added a word to our vocabulary, "poethics," and has authored a grim account of French complicity in the Holocaust. Samuel Popkin, participant in presidential elections since 1972, author of *The Reasoning Voter*, which every presidential campaigner must now read. And he's even an expert on the Asian peasant societies. And if we're very nice to him, he may do his Ronald Reagan imitation.

Unidentified Man: There you go again.

JONATHAN FRANZEN: Hi. Good morning. I think I've been brought here to talk about privacy, which I'll try to do in the 10 to 15 minutes allotted to me. Fifteen is a max max, we've been told, and I will try to do well under that.

I come not as as an academic scholar of privacy but just somebody who hears the word and thinks about it. And I'd like to start by asserting that privacy is a spongy, overused, ill-defined, all-purpose, feel-good word that's especially popular with marketers. And I was just noticing this morning in my hotel room that used to say `Do Not Disturb,' but that wasn't a nice enough word, so we now have `Privacy Please.' We all want our privacy. If you stare hard at the concept of privacy, try to figure out what it really is, what's special and unique about the concept of privacy as opposed to liberty or any number of

other related concepts, you may find, as I do, that it boils down to something like: we have a visceral sense of privacy, and I'm just going to put it out there, what my argument is.

We have a visceral sense of privacy of which we're most sensible when its being threatened or violated. It's as if each of us is equipped with a sense of what's properly public and what's properly private, and we feel a distress—many of us feel a distress, a sense of invasion, when the boundary between those two worlds is breached. And to me, it seems that the issues that touch on this emotional distress are the ones that are genuine privacy issues.

But there's a whole raft of issues that kind of have come aboard, I think in part because privacy has picked up over the decades this extraordinarily positive connotation in American discourse so that questions about reproductive rights, gay rights, euthanasia, drug testing, just to name a few obvious constitutional questions which formerly might have been spoken of in terms of the liberal concept of personal autonomy, of liberty, of Fourth Amendment, home is castle, all of those things, now have come aboard the privacy train. And the problem, I think, is to isolate those genuinely—there is a distress if your parent is dying in a hospital and a team of six physicians barge in and perform extraordinary measures. There's a sense that something bad has happened there.

But many of the issues that get discussed and cited in the current not quite hysteria but extreme and exaggerated concern about the state of American privacy don't really, it seems to me, involve harms to that sense of person that I'm talking about or that sense of what is appropriately in the left column, what is appropriately in the right column, so that we talk about electronic privacy or genetic privacy in addition to the right to privacy which comes up in something like *Roe v. Wade*. And there—of course, there's reason to be concerned when employers can gain access to our medical records or strangers can get hold of our credit card information, but the harm's in — I would say — really the very substantial majority of such cases are concrete harms, like workplace discrimination, fraud, theft, stalking and so forth. And that is all getting called privacy, and I think it obscures what is

essential about privacy, and it's why I admire the European activists who prefer to speak of data protection rather than privacy.

I'm going fast. I'm skipping over large portions of my argument, which is contained in its entirety in a piece I did for *The New Yorker* a couple of months ago called "Imperial Bedroom," which I will cite here. What we have, then, is a situation where a large assortment of largely unrelated harms is lumped together under the heading of privacy infringement, the result being a widespread perception that there is a crisis in privacy. And this perception, in turn, abets the notion—I'm really talking in the kind of the popular imagination, the evening news imagination, more than very astute observers' view, such as Dr. Wiebe's.

But this perception of a crisis in privacy does abet the notion that the state of American privacy today is much worse than it was, say, 100 years ago, which, again, I think anyone who has any sense of history of the—you know, the large beds that the entire family slept in, the one-room houses, the incredible overcrowding, the lack of private transportation, the panoptical surveillance by, you know, storekeepers and clergy. It's just a silly idea. I mean, people live in enormous houses. Everybody has their own bedroom and bathroom and then drive in, you know, these enormous kind of smoked-glass vehicles. And anonymity is extremely easily achieved, and it seems just silly to say that we're getting so much worse in that regard.

Indeed, when you think about it, privacy, I think, is almost the essence of contemporary transportation, residential architecture, landscape, communications, mainstream political philosophy in the United States. And all of this, meanwhile, at a time when private enterprise and the private sector have emerged as the unchallenged models for the organization of society. That is speaking broadly. We may challenge it here, but by and large, that's—those are the principles according to which the country is increasingly organized. And so I would submit that we're preoccupied with privacy because privacy is all we've got and that our national distress about privacy is, in fact, a kind of referred pain, that the real crisis consists in the loss of the

very notion of a public sphere as something to be cherished and protected apart from the private.

I don't think ordinary Americans particularly care that Monica Lewinsky's privacy was violated or that Bill Clinton's privacy was violated. What they care about, if anything, is the violation of their own sense of an appropriate division between public and private, which may be an artifact of the last century and, indeed, there is perhaps no expectation that we can't—that there is this division, but it's one that we're accustomed to and that, however brief its life, appears, again, to be receding as the bedroom runs rampant in Washington, DC, and privacy invades the last bastion of a genuinely public world.

So that was a really rushed presentation of a somewhat more complicated argument. I'd like to insert two paragraphs, just read straight from my own writing, because I think I write better than I speak. This is from the New Yorker piece. `Walking up Third Avenue on a Saturday night, I feel bereft. All around me, attractive young people are hunched over their StarTacs and Nokias with preoccupied expressions, as if probing a sore tooth or adjusting a hearing aid or squeezing a pulled muscle. Personal technology has begun to look like a personal handicap. What I really want from a sidewalk is that people see me and let themselves be seen, but even this modest ideal is thwarted by cell phone users and their unwelcome privacy. They say things like, "Should we have couscous with that?" And I'm on my way to Blockbuster. They aren't breaking any law by broadcasting these dining conversations. There's no publicity guard that I can buy, no expensive preserve of public life to which I can flee. Seclusion, whether in a suite at the Plaza or a cabin in the Catskills, is comparatively effortless to achieve. Privacy is protected as both commodity and right. Public forums are protected as neither. Like old-growth forests, they're few and irreplaceable and should be held in trust by everyone. The work of maintaining them gets only harder as the private sector grows ever more demanding, distracting and disheartening. Who has the time and energy to stand up for the public sphere? What rhetoric can possibly compete with the American love of privacy?'

And one thing I'm trying to suggest here is that we're able to worry about privacy because it so neatly fits the two models of social behavior that still make sense to broad segments of the country, which is, the consumer buys and the individual sues. Privacy is eminently—it works well with that, whereas a public space, it just doesn't work at all. You can't buy it. You can't—an—and an individual doesn't have a stake in it. It's a collectively achieved thing. So that this seems to be one of those instances where liberal democracy and free-market capitalism, which in most regards are very happily married, indeed, find themselves utterly at odds. And when two otherwise friendly ideologies disagree without knowing it, the result tends to be anxiety and distress and confusion.

The particular confusion about privacy arises, I think, from something like an obsolescence or near obsolescence of our intellectual apparatus. The old distinction between private and public still seems to make sense, you know, there's public. There's TV and there's private, there—you know, me in my bedroom. But, in fact, I don't think it's really adequate any longer to the description of American reality. On one side, we do still have our little spheres of interiority and subjectivity, the feeling of privacy. And these are rugged little spheres which we maintain without much conscious effort and which seem likely to survive as long as it's possible to have experiences that don't have anything to do with making or spending money. On the other side, we have a desperately threatened public world. And in between these two worlds, we have an enormous, cancerously expansive, market logic-driven, commercialized, non-private, non-public no space which is kind of elbowing both worlds out.

And it's this enormous thing in the middle, which will lead me to the other paragraph I want to quickly read here, and then a quick conclusion. Since really serious exposure in public today is assumed to be synonymous with being seen on television, it would seem to follow that televised space is the premiere public space. Many things that people say to me on television, however, would never be tolerated in a genuine public space, in a jury box, for example, or even on a city sidewalk. TV is an enormous, ramified extension of the billion living rooms and bedrooms in which it's consumed.

You rarely hear a person on the subway talking loudly about incontinence, but on television, it's been happening for years. TV is devoid of shame, and without shame, there can be no distinction between public and private.

Last winter, an anchorwoman looked me in the eye and, in the tone of a close female relative, referred to a litter of babies in Iowa as 'America's seven little darlins.' It was strange enough 25 years ago to get Dan Rather's reports on Watergate between spots for Geritol and Bayer aspirin, as if Nixon's impending resignation were somehow situated in my medicine chest. Now shelved between ads for Promise margarine and Celebrity Cruises, the news itself is a soiled cocktail dress, TV, the wardrobe, and nothing but.

So, in closing, I would like to say that it seems to me that—that one of the big challenges that a group like this faces is how to if not reframe the discussion then at least allow into the discussion of public life and private life the idea that much of life for most Americans nowadays can honestly be called neither public nor private. Thanks.

BOB WIEBE: Thank you.

EDWARD ROTHSTEIN: I don't know if I'm going to be repeating things that have been said in previous sessions or not, but we were given a fairly free hand in designing these statements, so I'll take a chance, and if this is repetitive, please forgive me.

How have we come to this peculiar moment when we have to even ask questions about the relationship between public and private realms? How is it that we are so uncertain about the boundaries of either? And why does all this seem to be out of control—or, out of our control? Think of recent icons of our public life—Monica's dress, pubic hair on a Coke can, a distinctive genitalia, date rape, condom distributions, sexual harassment. For widely varying reasons, these icons of what would have once been determined to be private behavior and private life have become issues of public concern. At the same time, issues of public concern, like education or transportation, are becoming privatized, and debates about some public issues often end up splintering into opposing relativistic stands, each marked by phrases like,

'You wouldn't understand,' essentially privatizing argument and experience. It is as if the public realm had at once expanded and contracted, expanded to include issues once thought private and contracted so that very little of substance really ends up deserving the name 'public.'

Meanwhile, the private has done the same, expanded so that there's no escape from the confessions, the bare-all, therapeutic, tell-all memoir, the recent assertions about personal prerogatives and rights, and it's contracted so that nothing really of substance is left in the private world. We can argue that in expanding the public scrutiny of things once thought private that we are actually—not really doing anything other than becoming more sensitive, let's say in considerations of date rape, doing anything more than becoming more sensitive to once-suppressed private events, that there's a public interest in—in this kind of scrutiny; that we are expanding rights, eliminating a certain kind of puritanism, engendering another kind of respect.

But at the same time that we define, say, something like date rape, we also open up a whole other realm to scrutiny and to legal activity. And we can end up, as this proceeds, becoming more puritanical rather than less puritanical. There's no simple consequence to this kind of examination of public life—this kind of examination of the private, however much public interest then may be in doing so. The boundaries shift in part because we push at them.

In contrast, if we consider an instance of what we consider the public overstepping its bounds into private life—for example, the Starr report—the converse questions end up suggesting themselves. After all, we expanded the public realm to redefine the notion—to define a notion of sexual harassment, which is, in a sense, itself considered to be a violation of the private by the public. We have also made it a crime to perjure oneself in sexual harassment cases; that is, to publicly take a stand violating the private violation of a public realm. So it probably should be no surprise that the Starr report itself seems like a public violation of a private realm caused, presumably, by violating a public trust. I have no simple answers to any of this, and there probably are none, but it may be helpful at this point to define some of the boundaries of private and public, coming at this question from another direction.

When we think of a society without a notion of private, with—lacking a private realm, as we think about it, we tend to think of totalitarian states, where every aspect of life is supervised and regulated. And in most extreme circumstances, where even the relationships between the family become subject to the rule of the state.

But there's another historical example of a society without our notion of the private realm. I'm thinking of a theocracy, or at least a society that has agreed communally to govern itself according to what is considered to be divine law. In Judaism, for example, there are traditions of privacy that develop during centuries of legal interpretation and debate. But in a more important sense, for those who accept the regulations of divine law, there is no really fully private realm. There is no realm cut off from responsibilities to the outside world or to the claims of that divine law.

And as in other religious legal systems, like Islam, every aspect of one's life is meant to be conducted according to these regulations. This extends even into the activities in the privy. The distinction in such a theocratic way of organizing society is not between the public and the private but between the sacred and the profane. The sacred is meant to extend as far as possible and carries in it many of the aspects of both—what we now consider to be both public and private. It is—the sacred is like the private because it is meant to be inviolate, free from trespass by the profane, but it is like the public because the recognition of the sacred actually creates what we now call public; that is, binds the individuals into a community.

When a religious society and a secular one meet, or evolve together, conflicts arise in part because of the mixed nature of these distinctions. How does one render unto Caesar what is Caesar's? One would first have to recognize Caesar's authority over some part of the whole. But by what right does Caesar trespass on the realm of the sacred? In a relatively homogeneous society, one solution is that the sacred is incorporated in some way into public life, as a kind of state religion. Or else, as is now more common, it—the sacred becomes increasingly identified with the private realm, the inviolate world of the self that proclaims, 'Don't tread on me.' This may even be a source of

some of our notions of privacy; that is, we link it in some way to something like the sacred, to the practice of rituals, to the holding of faith, whatever that faith may be, political or religious or something else, that owes nothing to Caesar's rule.

But what happens in societies like those of the West since the enlightenment, when religious claims shrink even further? We know that as the modern state came into being, many of the feelings that were associated with religion, the imperatives of the inner life, the notion of a higher immaterial calling, the sense of a mission demanding some sacrifice—these feelings often ended up becoming associated with culture and with the creation of art. This, in romanticism, took the shape of the world of the individual becoming almost sacred, that is this private realm — what we now call the private — is the source of wisdom and enlightenment. The state could be an impediment to that sort of realization. Maybe our strong sense of opposition between public and private derives in part from these kinds of sentiments. After all, in a secular universe, the demands of the public can begin to seem arbitrary, willful — by what source do they gain their authority? — particularly in contrast to what we consider to be the authentic self, the authentic private realm. The inner life can start to seem like the only guide for shaping public life, and yet, the public demands much more. In fact, it demands precisely the opposite; that is, it claims this heritage of the sacred under whose aegis the individual pursues a sanctioned path.

And so these modern confrontations may have these roots; that is, this is part of what I think we mean when we talk about civilization and its discontents, except for one thing. I mentioned before that perhaps art and culture, at a certain point in the West, began taking over the role — the place of religion and became the terrain of the individual in modern society, as formed for self-expression, self-representation. But the matter is more complex, because somehow, these two great monoliths, the state, say, and the self, actually seem to meet in the ground of culture. Their culture, in some way, acts as a sort of mediator between them. Culture, in the broadest, modern sense, actually moves between the public and the private, communicating issues of the private realm into the public, translating demands of the public into the

realm of the private. And this may even be what culture in the broadest sense is actually about. Culture maps out the meanings of one realm to the other, bringing this under our scrutiny.

Consider, for example, just very briefly the novel, with its tales of private life which, in the debased sense, may have evolved into something like tabloid journalism. We have *Moll Flanders* and prostitution; *Pamela* and courtship; *Frankenstein* and scientific ambition; *Anna Karenina* and adultery. These are some of the mythic tales of Western civilization in which private sensations, intimate chronicles, are brought into public view. Culture speaks of the private to the public. But this is also a dialogue and perhaps even something more profound.

How else are we to make sense, for example, of the public world of musical performance once music is separated from its religious foundations? From C.P.E. Bach to Balleos to Mahler, the private and public engage in an intricate sense of conflict in negotiation. This is really dramatized in the form of the concerto, which was really, I think, an iconic representation of certain ways of thinking about the relationship of the individual to the larger society, demonstrating, dramatizing what was at stake in these sorts of relationships, what material gets passed back and forth when authority is asserted, when is—when it is submitted. And actually, one could probably analyze the evolution of the concerto as a very interesting way of thinking about the relationship between the solo and the communal.

There's also an aspect of culture which reinforces the public claims on the private. That is, there is a sort of retribution taken, and we know this in the form of many sorts of tragedies—literary tragedies, novelistic tragedies—where the price must be paid for the violation of the public realm.

And you're right, one can select any number of examples. I mentioned *Anna Karenina* earlier. *The Mayor of Casterbridge*; in the 20th century, the dystopian novels, like *Brave New World* and *1984*, represent the public completely overwhelming the private. And, in fact, I guess, one of the final turns, if I'm remembering correctly, in *1984* is, one knows that the public has

won when the private betrays itself to the public. I think at the very end, there is an act of private betrayal that becomes a sign of the victory of the public.

So I would say that culture in this broadest sense is about the relationship between the public and the private, possibly because it still somehow bears in it the aura of the sacred, transcending any secular Caesarean boundaries. And shifts in culture can either—can seem to cause tremors in public-private relations and they also reflect them. And this is very hard to separate. But if culture is skewed towards—as I've argued, towards private preoccupations, then art becomes weighed down with confession and self-display, and politics can turn into gossip. If culture is skewed toward the public realm, then art can veer toward bombast or jingoism and politics can turn into ideology. And obviously, we now, in contemporary society, have quite a bit of both. Private life is politicized. Public life is rife with private passions. And culture, which even despite its sort of hint of the sacral, can become mass entertainment. So what is to be done? This is one of the questions I was interested in hearing about at these meetings.

WIEBE: Thank you.

RICHARD WEISBERG: It's not just to ingratiate myself potentially with an audience that are largely not lawyers that I suggest drawing on my legal and literary background as subtitle for my remarks today, and that's "the first thing we do, let's kill all the lawyers." Because I want to suggest that an institution that perhaps we haven't looked at carefully enough, shares some of the blame for an unease that many of us feel in developments in public discourse lately is the law.

On the other hand, I want to suggest with a certain irony that if we look to traditional models of legal thinking, including constitutional models connected to the framing generation and the First Amendment, we may be able to improve the situation that most of us here are trying to work on. My own trajectory into this topic began, like the Commission's, before anybody had heard of Monica Lewinsky, when I was applying for a series of grants to research the topic, up from the privatization of our public discourse. Then Monica came along, and I wrote a piece that you have in your voluminous

materials called Monica's Stars and Stripes. That was kind of a funny piece that was written out in the Hamptons on July 4th. The issues have gotten considerably more serious. They were always serious, but what's happening either today or tomorrow or Monday tells us that we are in a grave constitutional crisis, very, very complex, and one that implicates, I think, just about every issue that we're trying to discuss at these meetings.

To show that I don't think that my subtitle is a fair appraisal, however, of what our profession offers, I also wanted to, in a sense, dedicate the more formal part of my remarks to Leon Higginbotham, who I believe was on the Commission, and whose last public performance before his tragic death a couple of days ago was before the House Judiciary Committee, in which he expressed in his inimitable way, full of both passion and reason, his incredulity that a President's refusal to confess to a private impropriety for which nothing in the American system of jurisprudence had given him warning that it might be investigated, could rise to the level of high crimes and misdemeanors. But in thinking through — over this period and up through Higginbotham's remarks and others that I followed from my colleagues in the law and from other professions, it began to occur to me that what needed to be discussed was the very difficult question of truth. Where does truth fit in here? Not necessarily epistemological or moral or theological conceptions of truth, although I think they're all related and I think my colleagues have already, in some respects, hit on this, but a model of truth telling in American civic discourse.

And I want to just briefly outline what I consider to be a dichotomy that has arisen, I think fairly recently, but probably it's cyclical in nature, between what I call the quest for literal truth, regardless of subject matter, and an older model of public discourse which I call civic truth-speaking. And I'll be contrasting this model of literal truth-seeking with civic truth-speaking in the 10 or 12 minutes left to me.

It does seem to me that the quest for literal truth, whatever the subject matter of that quest, seems to be a non-starter for American public discourse, although I'm starting my remarks with this. We are not so much in a period,

it seems to me, of special incivility. In fact, incivility has a revered place in our discourse. We are in a period of mass passivity, of almost complete astonishment at the subject matter of current political discourse. The idea has not caught on with the general public, although it seems to have married such disparate types as Kenneth Starr and the elite media, that whatever someone decides to look into, whatever the goal of the inquiry, uncovering and publicizing its literal truth is somehow automatically a public good. And I say this with—very much with deference to Robert and many others who recognize that the introduction of character—and I'm really not discussing that centrally today, but I know we have that in mind—the introduction of the discussion, the character of our public leaders, is not always baleful and may very well, as you've suggested, have a positive effect on the discourse, although I'd like to discuss it a little more with you, particularly given your hypotheticals about gambling and drinking.

One might, for example, suggest that—supposing instead of looking into either the sexual habits of our leaders or, let's say, gambling or drinking, if that should arise, supposing there were an inquiry that just arose into, for example, the religious beliefs and practices of our leaders. This is typically a very private realm. You've referred to it, though. It definitely it has a public aspect in our culture. We expect our presidents to go to church every Sunday, typically. We have had very difficult discussions of the connection between religious faith and high political office. And those certainly have not been totally quieted.

But supposing someone just decided that he would inquire into the religious practice of a leader and discovered certain hypocrisies or certain inconsistencies. And it undoubtedly wouldn't be hard to do, any more so than if one looked into the sexual peccadillos of certain individuals, maybe all individuals, it wouldn't be hard to find something. Well, all of a sudden, that's in the middle of public discourse. That's not necessarily a good. And the literal truth-seeking that would follow in that direction, which may lead to some lying, prevarication, frustration, obfuscation—particularly if a lawyer is doing all of those things, it can sometimes be done very artfully—isn't necessarily something that automatically is I would say even blameworthy,

much less rises to the level where we are right now in terms of high crimes and misdemeanors.

What we do know is that literal truth-seeking in the present environment has not captured the imagination of the American public, and we have lost to American discourse a good majority of the citizens in this country. And I think that that may have less to do with incivility or with other factors—and there are many that are involved—than with a kind of, ‘What’s this all about? Why are we spending so much time on this? This can’t be right. This isn’t what we should be discussing as a polity.’ I feel that lawyers have a responsibility, as everyone does within his or her own field, to assert competing notions of public discourse. And fortunately for constitutional lawyers—and there are a few in our midst here, and there won’t be complete agreement as to the account I’m about to give, but there might be substantial agreement—there’s already, at the heart of our republic, a tradition of public participation and discourse that maintains a certain private space and directs citizens not towards literal truth but instead towards what I want to call provisionally civic truth.

Civic truth can be and has been defined throughout our history as a process, increasingly inclusive of all citizens, and that—that little subordinate clause—people on this commission and people in our polity have had to work on to become included. So it’s just a subordinate clause that covers an enormous amount of work. But I believe the process has become increasingly inclusive. And the process is designed to reach the truth, a process dignified by the mutual choices we make as to what constitute important public issues. Part of the process of public conversation in this country is a decision made by individuals involved in the conversation as to what counts as important public issues. These issues are never fixed, but Americans seem to have a pretty good idea that they involve our public responsibilities at home and abroad. In its paradigm, civic truths involve constant debate, constant conversation.

The model is one of civic truth-speaking more even than civic truth-seeking. Isn’t so much that we ever feel—and this is very much in the tradition, as

others will speak about and have written about so well for the two days that bring us together here—very much in the liberal tradition, beginning with Milton, John Stuart Mill, Holmes, the notion that it's a multiplicity of voices. Well, what happens, as in the current environment, when those voices are quieted, not through any, I think, tyranny or any deliberate impulse on the part of leaders or others to quiet voices, although there may be a little bit of that in a strange way, but just because the subject matter that has arisen strikes people really as being not worth a candle?

The literal truth seekers differ from the civic truth speakers in almost every relevant respect, it seems to me. The source of their legitimacy, for example — and Edward has asked already a little bit about — what are the sources for claims of important public discourse? Where do we find the roots of what someone might say is important compared to what isn't important? And I think there are such sources, there are such roots. The focus of the conversation—the sense each side has a public and private space.

For the literal truth-seeker, public and private subject matters are increasingly conflated, while conversely — and I think this is important, I can't do much with it, but others have, I think, already here, or will continue to do this. While the subject matters between public and private are increasingly conflated, an increasing distinction is drawn between the speakers themselves. That is, the status of individuals who are deemed worthy of commenting on these issues is bifurcated. That is, there are celebrities, there are gurus, there are people—pundits, there are people in the business of commenting on these things, and then there's the rest of the population.

I think this is ironic and, of course, I'm overstating it because we do have the Internet. We do have—and have to be thinking about a kind of process of democratization. I don't think we know very much about what's going on all over the Net—that would seem to speak against what I just said, yet I think you might think through that model, generally speaking, of a conflation of public and private subject matter contrasted with what I feel to be an increasing bifurcation of those who are permitted to speak, those who are

listened to and all of the rest of the American population. This is not constructive for, I think, American notions of civic discourse.

The literal truth-seeker needs to unpack the presumptively false public statements of anyone claiming to lead or even to spark a debate on a key issue. And this, I think, is very destructive. You get the feeling that we've moved to the point where confessional talk is acceptable and, in fact, it's almost the key moment of any inquiry, is to get somebody to confess to something, and it's usually some private human failing. Or from a private person, it's the blazoning forth, as others have discusses on television, of their own private worlds or, in private conversation, that moment when people start to talk about their use of Viagra or other purely private confessional moments. We have this in both spheres.

Public pronouncements of positive policy leadership are distrusted. The idea is, as you look at someone, maybe making some good points, we think in the current environment, or we tend to, 'Well, what really makes that person tick?' Certainly not what he or she is saying. There's something underneath that that has to be gotten to before we really can credit, much less follow, the pronouncements of that public person. That, I think, is a baleful outgrowth of what I call the tendency towards literal truth-seeking.

I think that the civic truth speaker is really interested in the ideas that are being generated. They don't have to be purely rational. They can be — like Higginbotham — they can be a combination of narrative, of emotion. I don't see any distinction between narrative and rational, logical discourse. Rhetoric is good rhetoric. There's always a combination of both. But there is some faith projected towards the statement made and its potential validity. We don't necessarily accept it. In fact, we're supposed to debate it. We're supposed to criticize it. We're supposed to find the holes in it. But we're not constantly looking through to see what the private individual, who is making this statement, in fact, is like — as though that were the most important end result of our reception of that individual's remarks.

I just want to turn — because I only have a minute or two left—to some topics that really already have been taken up by my colleagues. I think that

another baleful result of what I call literal truth-seeking is a result on culture. And as we increasingly dominate our public conversation with what have traditionally been considered private matters, we are not only projecting a model of fairly trivial but true confessional discourse in our public discourse, in our public domain; we are also taking from culture precisely those elements that I think were paradigmatically theirs — that is, explorations of what is much more difficult to understand, much more complex, much more fearful—human sexuality—matters that, indeed, have been masterfully handled traditionally through the medium of cultural discourse.

I saw Tom Wolfe, who I like very much, on the air the other day about his new novel, and he introduced it at a journalism school. And it's not uncommon of excellent, recent novelists who adopt a model really of journalism, or in the case of E.L. Doctorow—who lives out near me in the Hamptons; is also on the Commission—the choice of historical subjects, not that these are insignificant cultural artifacts and modes of expression, but it is significant that the search for the imaginative individual world is very often mediated on the stage these days, and even in our best narrative through something else, something historical, something journalistic, something, so to speak, that's true.

What is the model that—in closing, that I think we can actually look to? Well, literal truth-seeking and a literal faith in language to convey ideas is not something that I think the framing generation believed in. They really had in mind a constructed conversation of as much civic participation as possible. I know there'd be a little bit of bickering, maybe, about this point, both historically and otherwise, and there is even in the materials for the next panel. But I know that—from Federalist 37 that the framers did not believe in the notion of a literally graspable language that we could rely on as we go about our business of seeking the truth. They said about the debates on the ratification of the Constitution and how difficult it was for each side to make their point—and I'll close on this—they said the following about literalism. `The use of words is to express ideas. Perspicuity, therefore, requires not only that the idea should be distinctly formed but that they should be expressed by words distinctly and exclusively appropriate to them. But no language is so

copious as to supply words and phrases for every complex idea or so correct as not to include many equivocally denoting different ideas.'

I don't know if they had in mind the word `is,' but this is a very important model. And here comes the metaphor. `Hence, it must happen that however accurately objects may be discriminated in themselves and however accurately the discrimination may be considered, the definition of them may be rendered inaccurate by the inaccuracy of the terms in which it is delivered. And this unavoidable inaccuracy must be greater or less, according to the complexity and novelty of the objects defined.' And they close as follows, in typical late 18th century neo-classical style. `When the Almighty himself condescends to address mankind in their own language, his meaning, luminous as it must be, is rendered dim and doubtful by the cloudy medium through which it is communicated.'

Words are all that we have in public discourse. We should relish the fact that it is an imprecise medium that opens up the opinions of many to the answers, to the sympathies or to the antipathies of others. And this is how I think we move ahead in our public discourse. Thank you.

SAMUEL POPKIN: I guess it falls to me to say some of the good things about the current scandal and what we've learned in the last year about public and private and the way things work in the age of the Internet and where we're going as a polity. And I suppose it's appropriate to quote former governor of Louisiana Edwin Edwards, who said, "The voters will forgive anything I do in my private life as long as they don't find me with a live boy or a dead girl." Every time you get—I've, in the past, been fortunate to study Bob Wiebe's work — because the turn of the century and the expansion of the railroads and the telephone was a time when people had a lot of the same fears they do now about how fast things were changing and how everything was coarsening.

Every time you have a new media system, the fears become overwhelming about how things will work out. I'm a pollster, I confess, and voting studies really started out of concerns about what radio would do to overwhelm us with Big Brother. And it's ironic that now, in the age of the scandal, those of

us who grew up violently criticizing the shallowness of the 30-minute news broadcasts of the '70s and '80s are longing for the days when 80 percent of the public watched a national news show vs. the 40 percent that regularly do so today as opposed to all the other media. But relevant to the discussion of public and private, something we've seen that we didn't know about the public during the year of the Monica is the extent to which people can distinguish between political character and personal character. This is something I've always worried about.

Long before I ever heard of Bill Clinton or Gennifer Flowers, I wrote in *The Reasoning Voter* that my biggest concern was the way in which, in the United States, people projected from the good character of a person to the fact that he would be a good president. And I was concerned as a pollster for Jimmy Carter, with how many people said, 'Well, he's a good person, so he'll be a good president.' And that scared me tremendously. And I suppose if as a Jew/secular, that the most rapidly growing part of the population is not the fundamentalists but the 20 percent of us who are ex-religious or non-Christian in some way.

Something that I find very encouraging for the future is that people know the difference between a president and a role model. So I don't have to worry when Kenneth Starr becomes president or somebody Kenneth Starr likes that I'll have to tell my kids not to think of them as a role model. We've learned the difference between a political leader and a role model. And, in fact, at any one time in this year, we have a situation where half the people in the country have thought of the president as an excellent president and a bad person or a bad person morally. And they're able to hold these at the same time and to make also, I think, the very important distinction between sin and crime or similarly, the public and the private.

Constant over this last year, from the beginning to the end, whether the news was vivid and garish or rumors that we imagined the content, two-thirds of the public have said this is a private issue, not a public issue. And there's even further distinctions that people have made. Several polls have asked people for which occupations do you think adultery should render a person

unfit to hold the job, and at one extent, only 15 percent to 18 percent of the people in this country think that if you're adulterous, you can't serve as a CEO of a major corporation. At the other extent, 70 percent of the people in this country think that if you're adulterous, you should not be a rabbi or a minister. So people clearly ma — I don't know if you'll be relieved or sad to find out that for academics, it's only 25 percent to 30 percent. You'll have to decide whether that's good news or bad news. And, interestingly, when asked about the future and say, 'How do we prevent scandals like this from, you know, dominating our life in the future?' and offered the choice between having better, purer, more upright candidates and having a press that ignores private life, by over two to one, people say, 'Have a press that ignores private life. Don't try and find a politics of virtue for the political realm.' And I find that 'don't ask, don't tell' very encouraging.

And another important thing we've learned this year and we—this is one we didn't know about, and it's been written about—John Zowler here at UCLA wrote a wonderful piece 'The Contribution of Monica Lewinsky to Political Science,' about some of the findings that people have had to acknowledge. One very important one that we saw with the recent election, is that there is a very big difference between issues that you like to talk about and issues that you think are important—and having nothing but a constant Letterman, Leno, barrage of cigar jokes, Linda Tripp jokes. My favorite was on Halloween when they said, 'Lots of people have Bill and Monica masks. You don't need to worry about them. The people you need to worry about are the ones with the Linda Tripp masks. They go to the bedroom window.'

Now this, again, says something about notions of privacy and public. And people talk about the Lewinsky thing probably 100 times as much as the other issues, but when people went to vote, very clearly, exit polls and all those other forms of looking at what people were thinking about, they thought much more about education, Social Security and the standbys. And, in fact, where the Republican Party got in so much trouble was that the emphasis on the scandal to satisfy their sense of principles and showing us that they would ignore polls—and I wished they'd picked a different time to do it, but one of the things that came out very clearly was that people think that when you

talk about scandal or you talk about somebody's shortcomings, it's a smoke screen for not talking about issues.

Now I was originally asked to be here to be in Andy Kohut's circuit, because given the pecking order in Washington, I can leave town for a half a day, Andy can't leave town for an hour this week. And Andy—I was pleased to work with Andy on some very important work on studying distrust. Ever since the famous 'malaise' speech and Jimmy Carter's communing with Christopher Lasch and other distinguished thinkers to think about what we could do about the growing distrust of government, there's been concern. One of the easy answers for anything is, either people don't vote because they don't trust government or people don't vote because we have Tweedledum and Tweedledee parties with no differences between them. And I've worked with Andy on a lot of work, at polls and done research of my own, and I can say both of these analyses of why people don't vote are empty. They've become ritualistic explanations.

The simple fact is, levels of distrust of government are much higher in Europe than they are in the US, and voting rates are higher in Europe than they are in the US. The big difference in—is that, in fact, in this country, we have so many elections so much of the time, and the number of choices confuses many people. What we have that only Switzerland and Japan have, of all the modern industrial democracies, is a turnout gradient where the highly educated vote much more than the lower educated. The fact is, it's not people who are looking at the political parties and rejecting them or who don't trust government who don't vote; it's the people who can't figure out the complexities of the federal division of power system. So you get the same kinds of turnout differences between the highly educated and the less educated here that you've had in Japan and Switzerland, the other two complicated systems.

In fact, the top seventh of this country in education, the 15 percent of Americans with advanced degrees, produce more votes on Election Day than the third of Americans who have not finished high school. That means, by the way, that this commission can have an enormous power whether or not

it ever reaches the rest of the country. One of the —when I read the commission documents, I see that we talk about overcoming divisions of race and class and gender, the dirty word `religion' isn't mentioned in the documents. I referred to it earlier. One out of five Americans has nothing to do with churches. They are not even a Christmas and Easter Christian. You know, they have nothing to do with Christianity. They're secular or they're a very small minority religion, like Judaism or Buddhism. That group, by the way, which has, you know, enormous overlap with the educated class, surprise, surprise, is the group, just for the record, that if they didn't vote, there would never be a Democratic president in the country, should such mundane partisan matters be of interest to you.

Let me say one last thing about trust and turnout. Whereas social trust has little or nothing to do with who votes or how turnout goes up and down over time, the feelings of trust in government and trust in people around us have a lot to do with the policy choices we make when we do vote. When social trust is high, people are less nervous about immigration, foreign trade, foreign aid or involvement in the world. When social trust is low, people are much more negative and concerned about people away from their group. It's when people feel the distrust around them. If you want to get people more involved and engaged in the world, get the squeegee people off the streets. Really follow the 'broken windows,' Giuliani approach because the one thing we know about social trust is that having dangerous places that you go by every day predicts very well over time how much trust or distrust there is in the society. And that those kinds of trusts have a lot to do not with whether you participate but whether you want a government based on trust or a government of a police state based on high levels of distrust. It's not whether you participate but whether you want us to be erecting barriers or putting down barriers between our kind and the rest of the world that trust affects. I'll stop there.

WIEBE: Thanks, all four of you. And now it's yours. I think we might be well-served if we ask questions rather than made speeches. Not very civil of me after having made a short speech. But I think if we ask questions, we can

probably elicit the best from our panel. So if there are people who have things on their mind—questions on their mind.

Yes, Kathleen.

KATHLEEN HALL JAMIESON: I wonder about the use of the—the phrase `literal truth' in an environment in which Clinton's defense is that he told the literal truth and wonder if there isn't a better word for `literal' to capture your meaning.

POPKIN: Can I say one sentence about that? If Bill Clinton gets away—get—does very well with the public because they can distinguish between the public and the private, one fact that kills him over and over is that nobody in the public, outside of the lawyering class, believes there is anything different between lying and perjury. Nobody in America will believe in their gut that there should be a difference between them.

WEISBERG: I wonder if I could take a shot at that, and it's a very good comment. The phrase `literal truth seeker' and `civic truth speaker'—they are provisional phrases, but I think there's a real difference between literalism as it's commonly understood, and maybe here a religious model might be important to use. That is, that there is a use of language that, in an unmediated way, gets through to the listener. And what Clinton admittedly—a brand of literalism is really arguing, which is—I would argue more of a deconstructive, heavily contextualized notion of the fluidity of language. Now it comes out as—and it's been used, I guess, with success by the Republicans on the committee, it can be attacked as a form of literalism or, what's even worse, legalism, even though most of them are lawyers and they're using language in very similar ways, too. So I appreciate your suggestion. I think it'll take a little more work, but we still might wind up defining it better with that adjective.

WIEBE: I would like to ask the panel where they find leverage for change. I—I hear a good deal about each person's sense of distress in what he finds and very little encouraging the commission—at least by implication, encourage

the commission to believe that we might be able to find some levers to change these deeply cultural flaws that you've examined.

FRANZEN: I'm not so sure I think that things are so broken. I gue...

WIEBE: Just on the streets of New York.

FRANZEN: Streets of New York—well, we all, in New York, have mixed feelings about the mayor, but when I was doing this piece in October, I was returning at seven in the evening every night through Grand Central, which is newly renovated, and the extraordinary beauty of a city that works, especially growing up in the suburbs, I just—I dreamed of a city. And that city exists and it works pretty well, whatever—I mean, you know, I don't like the attitude of the cops, but, um — so —this is quickly to clarify that one can sort of voice distress, but it's—you have to put it in context, it's a pretty great country. And...

WIEBE: Good; anybody else with levers in mind if—or the lack of need for them? Yes.

WEISBERG: I think that our law of libel is another part of my project this year, and I won't bore you, although, I think fortunately, most of you will be familiar with at least the first case that I'll mention, and that's *New York Times vs. Sullivan*, which I think is one of the two or three great cases out of the Supreme Court in the 20th century, which held that, essentially, someone criticizing government can be sued by that government official only with the greatest difficulty. It was a wonderful decision drawing on the very tradition of civic discourse that I was alluding to today. And the encouraging of discussions of government on the broadest level, even when, literally, erroneous and even when defamatory, would be protected.

But in answer to your question, it seems to me that rapidly, after *Times vs. Sullivan*, the Supreme Court went off in areas that, in my view, are directly responsible for the relatively impoverished discourse we see today. They expanded the rule to celebrities, public figures, so that somehow, public figures and celebrities and talk about them was deemed as important as talk

about our governments—talk about government leaders. I liked the decision when it first came out. Most people did. Now I'm not so sure it was such a good move.

And Goetz, 10 years after *Times vs. Sullivan*, which I think completely overturned the civic lesson of *Times* by dividing us into public and private people and creating a disincentive for public—for a private person to speak out about public issues because when that happens, you risk becoming a public figure who has the difficulties of proving reputational harm if, indeed, someone chooses to say something against you—a very, very bad, in my opinion, decision.

So one of the—I don't if the commission wants to get into all of this, but I think in addition to the disciplines that already have been brought to bear here, perhaps there could be some focus—I think that maybe there already has—on work involving very influential decisions by the Supreme Court, which I think do have an effect on the way people converse in the country.

ROTHSTEIN: I guess I would come at this question maybe from—trying to think about in what ways we can create or constitute a public right now. And I think there's a problem. I—take as one example the creation of the euro in Europe, which is very interesting sort of phenomenon, because now, for the first time, you have a — I think for the first time, you have an attempt to create a different kind of public, first by changing the financial apparatus rather than by doing anything as far as the people is concerned; that is, you create a public by somehow having their interactions centralized. I'm very curious as to what's happened, but I think what—what's going to end up happening — what's happened already is very peculiar, because what you have is, in the design of the currency itself, which won't be out for another three years—well, this is also interesting, because electronic currency transactions are going to start in a few weeks in the—with the euro, but the actual currency won't exist for a few years. So it's complete inversion of the way in which currency and transactions have existed before.

But the actual physical design of this money is that it—on bills, I believe—if I'm remembering correctly— the buildings on the design are abstract

renditions of buildings that don't really exist but that mark certain—the development of European architecture. So you'll have something from the gothic—a gothic cathedral that doesn't exist, maybe. I'm guessing—something in a classical style—the non-existent public buildings that are going to be on the back of these bills.

On the coins—there's been a lot of discussion over how — I just did a piece on this recently, so this is in my mind, but it seems sort of germane. Half of—one side of the coin is going to be the same throughout Europe and the other side of the coin is going to be differing—is going to differ from country to country. But since the Euro is going to circulate all over Europe, everybody's going to have coins with a little bit of everything on them. Now this is a sort of—it seems to me, looking at this, it's such an artificial sort of creation of the public. It may, over time, end up proving that economic transactions create a public where there is none. I don't know, but it's sort of interesting that this question of how to create a public is being enacted now in another realm that we wouldn't think of. Well, I have other examples, but that'll do.

FRANZEN: I have no idea where the leverage might come from, but I think there is a hunger for that sense of ceremony and that sense of — I think — speaking of New York, Giuliani's success has a lot to do with the — almost global distress over the lack of a safe public space. And the popularity of museums like this—museums in general, of coffee bars, bookstores, it all speaks to there being a hunger and a feeling that things have gone too far in the other direction. But, again, that's no suggestion of leverage.

WIEBE: The commission's code word this time around and for previous times, too, is 'conversation.' Sometimes they talk about it as exchange or discussion or debate or interaction, but it has to do with words. It has to do with talking with one another. Are those things you're talking about as possible levers? Do you think that this will encourage conversation, this will encourage the kind of—it's the wrong word perhaps—literal public exchanges that lead to policy outcomes or decisions in public life? If we have enough euros in circulation, we will—it will lead to conversation? Enough

bookstores, and we will learn to converse? I sense a gap between—there's nothing wrong, obviously, with what you said, but a gap between those things you see as levers and the agenda that's immediately before the commission.

POPKIN: One obvious source of leverage—and I don't know if it's a good source or a bad source—are all the groups of people who never meet very often, who talk with each other in — I guess chat rooms and news groups. I mean, there's an enormous number of kinds, and it's clearly a very positive thing when it's applied to diseases. The number of people who get help with an oncological problem...

Unidentified Man: Yes, absolutely true.

POPKIN: ...or an Alzheimer's problem...

Unidentified Man: Right.

POPKIN: ...in the family is e—is extraordinary.

Unidentified Man: Right. Right. Support group. Yeah.

POPKIN: It's—and it's certainly changed the entire practice of medicine in this country that patients very often—incredibly often know more than the doctors because they've been able to specialize for a week in a particular branch of a particular virus. But the question is, how does it change our notions of representation that the people we're closest to politically aren't part of any geographic place we live? Is this just another interest group? Is this a good thing or a bad thing?

Unidentified Man: Good.

WIEBE: Well—yes, Jim.

JAMES FISHKIN: Yeah, I have a question for Sam Popkin, since he's here. Sam—I'm over here, Sam. Thank you. The—because I'd like him to bring his very influential work on cues and heuristics from "The Reasoning Voter" that he alluded to in—in this discussion. Sam became — there's a famous

example at the beginning of his book of President Ford campaigning in the primary in San Antonio choking on a tamale. And...

POPKIN: Which he forgot to unhusk.

FISHKIN: He forgot to unhusk, thank you, yes. And so—then Sam concludes from the fact that—that—or, Sam says that—that Mexican-American voters in Texas should conclude from the fact that he didn't know to unshuck the tamale that he knew very little about their interests and, therefore, they could make a voting decision about that with what Sam calls low information rationality. Now Sam has become something of a poster child for the proposition, and I don't think he quite endorses this proposition, but it's relevant to the work of the commission—that low-information rationality is all that voters need and that—therefore, and his name has been invoked in—in discussions about whether we need a more deliberative democracy, a more thoughtful democracy, citizens being more informed—his name is constantly invoked, whenever I discuss this, as, 'Well, Popkin says low-information rationality is good enough. Why do we need to go to a lot of trouble to get more informed citizens?'

Now I've got a two-part question. One part...

(laughter)

POPKIN: I—I'm sorry, but I thought you'd already asked it.

(laughter)

FISHKIN: That's part of my question, but I want to connect it to this discussion today just for a second in the sense that we have a tabloid news agenda which is a machinery for creating cues, in your sense. These cues—you know, Gary Hart sleeping with Donna Rice was a cue, you know? But the Republicans thought Clinton lying was going to be a cue. It didn't quite work that way. Somehow, the public came to an informed—or, came to a different judgment then or they picked a different cue. I'm not sure. But the general danger that I'm worried about is that given the tabloid character of our news agenda, if public opinion works to some degree to the way that you outlined,

and I'm sure that it does work to some degree in the way that you—that heuristics do work to some extent, then we've got a process.

Unidentified Man: They've got that on camera.

FISHKIN: Yeah. Then we've got a process whereby the tabloid news agenda will—will be throwing off these cues, many of which are completely irrelevant to the real problems facing the country. And if citizens do make their decisions based upon just these little snippets of impressions and sound bites, low-information rationality will confirm—move changes in public opinion will have this interaction between private life creating on s—creating sensational cues and we'll never get a really functioning public discourse. Now that's not a criticism of your work; it's an endorsement of the fact that your work is at least partly right — But it is also partly wrong. And the...

(laughter)

POPKIN: I'm not going to ask him to repeat the question, I promise.

(laughter)

WIEBE: The question is: 'Do you agree?'

POPKIN: Thank you, Jim. As Mark Twain would say...Um. Ok There's two little bits in there that are very, very important for the Commission. One of them is that everything we know about voters is that they've been overwhelmed by what's been thrown at them for at least fifty years — and we're only worrying about it now. But the average person who isn't paying much attention — and there's a sort of constant thrity minutes of news that people seem to have been putting in since World War II, and it's maybe a little more on the Net, maybe it's a little on the radio, but it's about thirty minutes a day of what's happened in the world, to Baby Jessica down the well, or, you know, what's going on in Washington, and of of the things that is just as important today as it's always been to the voters, and it's relevant to the commission. It's not what they know as much as it is who they know. A lot of what goes on, whether it's deciding that this was or was not a good time to bomb Iraq, is what the icons say. You know, they have to try— they wheel out

Kissinger and Eagleburger and Kirkpatrick and Vance and Schwarzkopf, and people sort of sense they're all on this together or they're divided; it's politics or it's national interest, and they figure something out. And a lot of this is understanding where the icons come from.

The other part of it is that even though there is a national conversation, and it goes from Don Imus to Walter Cronkite, and there's the high track and the low track and people are very good at playing on the low track and then thinking about the high track when it comes time to vote.

WIEBE: Yes, Mari.

MARI FITZDUFF: I was very struck by what is an obvious truism, but until you say it perhaps one doesn't realize it, that we like to talk about things, and—but they're often different to the things that actually are important, the sort of mental chocolate that smooths our conversations.

POPKIN: That's a great phrase. Is that new?

FITZDUFF: Feel free. And as a European, I must say, coming to this part of the world one is struck by the amount of time given to the conversation over impeachment/non-impeachment vs., presumably, the consideration that was given to sending 200 cruise missiles to Baghdad last night and the night before. So what I want to put to the panel is, given also that you've stated—and I must say, I was very struck by the assessment that perhaps the Penn Commission doesn't need to talk very widely because, in fact, there are very few who influence the important decisions—how important is it that, in a sense, I think what I heard you say—those who go to vote are essentially those who are already in possession of much of the knowledge and power, given the class system and the way that votes. I think you've far less voting here percentagewise than we would have in Europe on many issues, because, you say, the confusion of your system.

What I want to know is, how important is it that we widened the debate about important issues? Are we wasting our time? Do we want to widen the debate to include more, out of—because of a sense that this is how democracy

should work? Or do we want to widen it from a pragmatic base that if people don't talk about why we should bomb Iraq, then, in fact, we get decisions that blow up in our face? So how important is it that we widen the inclusion within the debate on public issues?

POPKIN: Can I—can I take a crack, very quick? You know, before I was invited here I knew about the commission, and I'll be very honest. I thought this was just the water buffalo commission. And I—I—I just assumed that that's the whole point of this. And, in fact, when I looked at the material...

JAMIESON: What a cynic.

POPKIN: I'm sorr—yeah, I mean...

JAMIESON: (unintelligible)

POPKIN: OK, no more. That's it for honesty. That's it for honesty. In fact, when I looked at the material, I saw a lot of very good material, and I actually took a day or two to read a lot of the dialogue, and thought it was extremely valuable. And the fact that there's an education gradient does not mean that people have to think about how to put the pieces below the national level together for the new situation. I think that there's a lot that could be done here with the commission, and I started out rather cynical about it, to be honest. And I'd like to think it was reading the material, not being invited, that changed my mind.

FITZDUFF: But could I just ask the—any other person on the panel to comment on the value of it? I mean, what is the value of people sitting around their dining tables talking about whether Iraq should be bombed or not, as opposed to whether Bob—you know, Bill Clinton did this?

POPKIN: Well, you know, every place in the question—in the country, you know, instead of saying 'Close, but no cigar,' they're talking about "Wag the Dog," and there's a very healthy discussion, which it would have been nice to have at the time of the Gulf of Tonkin and the Cuban missile crisis, about how much is this serious vs. how much is this cynical. And, you know, there are times when high-minded leaders complain that there's not enough trust

in government because they're not letting us bomb or they're not letting us do this or do that, but in fact, right now people are asking the questions about Iraq and whether it's necessary or not or whether it's crying wolf.

WEISBERG: I would—can I just...

WIEBE: Sure, you can.

WEISBERG: I mean, I think your question is just of capital importance, and I think without any doubt it's extraordinarily important for both of the reasons that you suggested, one pragmatic and the other just in terms of how we develop discourse in this country, that the broadest base of people in the country are discussing serious issues. And I think, although I agree and I can't disagree with a pollster on the polls, and I'm somewhat encouraged about the fact that when people who are otherwise silent in the process go into the polling booth, they apparently are thinking through important issues. I just think that indicates that, if there were a little bit more top-down in our own discussions of what constitute important issues, we would immediately get a resonance within individuals who I think, frankly, are perfectly capable of understanding our federalist system.

I totally resist the conclusion that people are not voting in this country as much as they do in Europe because our system is more complex. We have figures from—I think it's the next panel, although they're conflicting—but at some point in the 19th—throughout the 19th century—I think I'm right, and there are all kinds of explanations for why that happened — 80 or 90 percent of the people were going to the polls, though another person in the next panel says that it was 20 percent. So I'm a little confused by these figures.

We had a town hall meeting the other day. A Connecticut congressman had a town hall meeting on top—of—of empathetic of Kenneth Starr. I don't share that at all. I think his views have—are really aberrational. His view of what constitutes a legal process is continental in nature. It's inquisitorial. It has very little to do with what most American lawyers would understand as a process of investigation. It is literal truth-seeking.

And you brought in fundamentalism; I just don't think that a majority of Americans hold those beliefs. I think it's about 30 percent at any time. Yet—and I think this could only have happened because, apparently, the elite media—and the distinction in status between them, I think, is less than it used to be — yhe elite media decided that it was powerless to do anything but—not only to report this; I mean at the very beginnings, at the origins—but to foreground it—foreground it. Page-one news, a lot of other stuff getting pushed to the back of the paper.

Well, if everybody in the—in the society from the top down feels like they have no control over what's going on, all we'll be interested in looking at are the polls, the figures that tell us what our sense of collective passivity and powerlessness is wreaking at any given time. And I think we can all do a lot better than that.

WIEBE: One more question in the rear.

KENNETH REARDON: Getting to your point, Bob, about where we find leverage points, has the commission—or does it plan to — sort of look at local experiences that run counter to this trend? I'd like to suggest that Chicago, during the Harold Washington administration, was a place and it was a time when the public commons was reconstituted and expanded and extended to people in a place where, quote, unquote, "the machine had had its day forever." In East St. Louis, where I'm currently working, I think there's a similar process going on.

WIEBE: Eighty-four percent turnout in the Harold Washington re-election.

REARDON: And I think those exceptions to the rule are interesting. Bill White from Cornell would always s—recommend to us to not just look at where the bulk of the observations are, but those outlying observations which can give us some sense of what are the necessary requirements, preconditions, processes, participants, etc. Because I believe if we can reconstitute the commons in Chicago, under very, very difficult circumstances when the economy was much less robust, and we're doing it in East St. Louis, I think there's a possibility and lessons to be drawn that the

commission should take as part of its research agenda, doing those cases and pulling out common themes to provide some policy recommendations.

WIEBE: On that positive note, ladies and gentlemen, thank you very much. Thank you.