

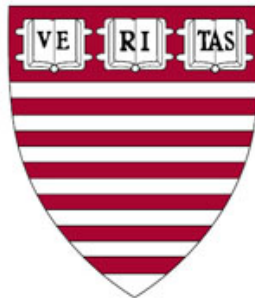
THE THEODORE H. WHITE LECTURE

WITH

WILLIAM SAFIRE

Joan Shorenstein Center

PRESS • POLITICS



• PUBLIC POLICY •

Harvard University
John F. Kennedy School of Government

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The Theodore H. White Lecture on Press and Politics commemorates the life of the late reporter and historian who created the style and set the standard for contemporary political journalism and campaign coverage.

White, who began his journalism career delivering the *Boston Post*, entered Harvard College in 1932 on a newsboy's scholarship. He studied Chinese history and Oriental languages. In 1939, he witnessed the bombing of Peking while freelance reporting on a Sheldon Fellowship, and later explained, "Three thousand human beings died; once I'd seen that I knew I wasn't going home to be a professor."

During the war, White covered East Asia for *Time* and returned to write *Thunder Out of China*, a controversial critique of the American-supported Nationalist Chinese government. For the next two decades, he contributed to numerous periodicals and magazines, published two books on the Second World War and even wrote fiction.

A lifelong student of American political leadership, White in 1959 sought support for a 20-year research project, a retrospective of presidential campaigns. After being advised to drop such an academic exercise by fellow reporters, he took to the campaign trail and, relegated to the "zoo plane" changed the course of American political journalism with *The Making of the President 1960*.

White's *Making of the President* editions for 1964 and 1972, and *America in Search of Itself* remain vital historical documents on campaigns and the press.

Before his death in 1986, Theodore White also served on the Kennedy School's Visiting Committee, where he was one of the early architects of what has become the Joan Shorenstein Barone Center on the Press, Politics and Public Policy. Blair Clark, former senior vice president of CBS who chaired the committee to establish this lectureship, asked, "Did Teddy White ever find the history he spent his life searching for? Well, of course no, he would have laughed at such pretension. But he came close, very close, didn't he? And he never quit the strenuous search for the elusive reality, and for its meaning in our lives."

WILLIAM SAFIRE Pulitzer prize-winning political columnist for *The New York Times* and author of *The Times* magazine's "On Language" column, has had a wide-ranging career. He has been a reporter, publicist, White House speechwriter, historian, novelist, lexicographer and, in the current Washington parlance, a pundit. His columns are syndicated in more than 300 newspapers.

He began his journalism career in 1949 at the *New York Herald Tribune* as a reporter for its "close-up" column. He worked with Tex McCrary, a radio and television show host, and later the head of a public relations agency that handled campaigns of the local GOP. With McCrary, Safire helped organize the "Draft Ike" movement, which persuaded Dwight Eisenhower to run for president. In 1960, Safire started his own company called Safire Public Relations. Through his many corporate and financial clients, he came in contact with some of the major players in the Republican party, such as Nelson Rockefeller, Richard Nixon, Jacob Javits and William Casey. Safire was drawn into the Nixon sphere and was a dedicated supporter of Nixon's career.

In 1968, when Nixon won the White House, Safire headed to Washington to serve as a special assistant and senior speechwriter. In addition to organizing presidential press conferences and writing public addresses, Safire occasionally wrote speeches for Vice President Spiro Agnew. It was Safire who conceived the notorious "nattering nabobs of negativism" phrase.

In 1972, Safire left the Nixon White House and wrote *Before the Fall*, a history of the pre-Watergate White House. In 1973, he joined *The New York Times* to write his twice weekly "Essay" column. In 1978, Safire won the Pulitzer Prize for exposing the questionable banking practices of Jimmy Carter's budget director, Bert Lance, which later culminated in Lance's resignation.

Writing from a libertarian conservative point of view, William Safire has over the years earned the respect of his critics as well as his supporters. His readership spans the political spectrum. His political commentary is read and admired widely for its inventive, incisive, challenging and provocative nature. Today, Safire is considered to be one of America's most influential political columnists. His Sunday column "On Language" has made him what some refer to as the "nation's arbiter of usage" or as Safire likes to say "pop grammarian."

William Safire is the author of 24 books which range from volumes on politics and language to anthologies and fiction. His most recent books include a second edition of *Lend Me Your Ears*, a compendium of historical and contemporary speeches, *Watching My Language*, a collection of his "On Language" columns, *Safire's New Political Dictionary*, and *Sleeper Spy*, another novel. He is a trustee of Syracuse University and member of the Pulitzer Board.

THEODORE H. WHITE LECTURE
NOVEMBER 6, 1997

Dean Nye: Good evening. I'm Joe Nye, Dean of the Kennedy School. It is my pleasure to welcome you to this forum event which is co-sponsored with the Joan Shorenstein Center on the Press, Politics and Public Policy.

Tonight's lecture is the eighth in a series honoring the life of the late political journalist and historian Theodore H. White.

In the audience tonight, we have the presence of Walter Shorenstein whose family pressed the idea behind the Center. And Daniel Schorr, NPR Senior News Analyst and himself, a former Teddy White Lecturer. And welcome to many friends of Teddy White who are here in tribute to this series.

Tonight, we're lucky to have *New York Times* columnist William Safire join a very distinguished group of past Theodore H. White Lecturers that has included William F. Buckley, Ben Bradlee, Cokie Roberts, Reverend Jesse Jackson and Walter Cronkite.

Teddy White began his journalistic career delivering newspapers for *The Boston Post*. He came to Harvard in 1932 on a newsboy scholarship. His study of Chinese history at Harvard was put to good service when as a freelance reporter, he witnessed the Japanese bombing of Peking in 1939.

And his coverage of East Asia in World War II for *Time* magazine led to the well renowned book, *Thunder Out of China*. He is of course also known for his ground breaking reportage of the presidential campaigns, beginning with *The Making of a President* in 1960, his book on the Kennedy-Nixon campaign.

He was also a member of the visiting committee of the Kennedy School of Government. And in that capacity, he helped to create and design what became the Shorenstein Center on Press, Politics and Public Policy.

To introduce tonight's Teddy White Lecturer, I'd like to call on Marvin Kalb, the director of the Shorenstein Center. Marvin is the Edward R. Murrow Professor of Press and Public Policy here at the school. He has been at the school for a decade now after a distinguished 30-year career as Chief Diplomatic Correspondent for CBS and NBC News. He is a popular and highly respected member of our faculty. A man who has authored two best selling novels and six non-fiction books.

Let me ask you to please join me in welcoming Marvin Kalb. (Applause)

Mr. Kalb: Thank you very much, Dean Nye.

It was March 20, 1973, and William Safire had a choice. He had just resigned from his speech writer's job in Richard Nixon's White House. And as he headed to the exit sign, he paused for a moment outside the door of the Oval Office. Should he enter and shake hands with the president one more time? There was always an awkwardness in saying goodbye with Nixon, Safire recalled, "so I said the hell with it, passed by the door and continued on out."

But supposing he had decided to go into the Oval Office. What he later learned was that a lawyer named John Dean was there at that very moment telling Nixon that a cancer was growing on the presidency. (Laughter)

And if Safire had popped in, Nixon probably would have said, sit down, Bill, listen to this. Do you have any ideas? (Laughter)

Safire, who has at least a hundred ideas in an unproductive hour, thinks, obviously with 20-20 hindsight, that he would almost certainly have become involved in what ultimately came to be called the Watergate coverup.

In this way, Safire dodged the Watergate bullet and started a brilliant Pulitzer Prize-winning career as a columnist for, of all newspapers, *The New York Times*. Twice a week

his column called "Essay" appears on the Op-Ed page of the *Times* and in over 300 other newspapers. And his other column called "On Language" appears in *The Times* magazine every Sunday, a column that has transformed Safire into the nation's pop grammarian. He is, as Walter Shapiro wrote in *Time* magazine, as comfortable with punnery as with punditry.

In addition, Safire has written, at least at last count, 24 books, histories, novels, dictionaries, collections of one sort or another. He is a compulsive writer without any plans for calling it quits. "I've got the greatest job in the world," he says.

Safire's credo is "kick them when they're up." (Laughter)

He's leveled his big guns at Republicans as well as Democrats, presidents as well as secretaries of state. Nancy Reagan once described Safire's columns as "vicious and unbelievable." It's safe to say, I think, that Hillary Clinton, whom Safire once described as a congenital liar, might share Nancy Reagan's judgment. (Laughter)

Question: How does one become a columnist for *The New York Times*? Not usually the way Safire became one. He chose the path of public relations and Republican politics. In 1949, after leaving Syracuse University, Safire became a 19-year-old legman for Tex McCrary, a New York powerhouse who had one foot in journalism and the other in GOP politics.

In 1952, Safire helped him organize a "Draft Ike" rally at Madison Square Garden. In 1959, Safire arranged the famous Moscow kitchen debate between Soviet leader Nikita Khrushchev and Vice President Nixon.

In 1961, Safire started his own public relations firm in New York. He had many Republican clients, among them the former vice president. In 1968, after Nixon's election, Safire sold his firm to become a speech writer for Nixon, and occasionally for his vice president, Spiro Agnew; known for two things at least, first, his slashing attacks on journalists and second, his embarrassing resignation for financial corruption. Agnew was mouthing Safire's words when he denounced TV journalists, including me, I must add, as "nattering nabobs of negativism."

The Nixon administration's attitude toward journalists was a mixture of hostility and anger, fear and suspicion, an attitude that trickled down from the president himself. This was the time, after all, of anti-war demonstrations, the Pentagon Papers, of contempt citations against CBS's Frank Stanton, of Woodward and Bernstein, and of talk of impeachment.

But it was also the time, ironically, when Arthur Ochs Sulzberger of *The New York Times*, on a flight of inspiration, plucked Safire from the Nixon White House to become a columnist for *The New York Times*, and of course, Safire accepted. But when he checked into the Washington bureau of the *Times*, he was at first treated like a pariah. After all, his background was not exactly the same as James Reston's. Reporters went out of their way to cold shoulder the conservative voice that Sulzberger felt *The Times* lacked.

Then Nixon, unwittingly no doubt, came to his former aide's rescue. It was disclosed that his White House had wiretapped Safire's phone. Suddenly the pariah seemed like just one of the boys, though he never made Nixon's enemies list. (Laughter)

This reputation plus his bulldogishness, relentless reporting turned critics into admirers and many, many into friends. Now, according to Stephen Hess of the Brookings Institution, Safire comes closer to influencing American policy than any other columnist.

But, like other columnists, Safire can be wrong, even horribly wrong. (Laughter)

His hubris way out in front of his judgment. For example, Watergate. Safire thought it would be a one-day story. George Bush, in the 1992 election, Safire was positive he would win. Mikhail Gorbachev, Safire was absolutely certain the Soviet leader would

never allow the reunification of Germany, never, he stressed. And so forth and so forth.
(Laughter)

Playboy once asked Safire how he would like to define the meaning of his life. "I think I was put here," he answered, "to object, to cry, to prod, to challenge, to educate myself and to teach as much as I can." And he added, "to discombobulate, not just for the sake of discombobulation, but to push my own envelope, maybe I can do a little good."

Our 1997 Theodore H. White Lecturer has prodded and discombobulated a succession of administrations and in the process, he has learned and he has taught. His life and work have been rich and rewarding to those who read him with profit and on occasion, without doubt, fury, and to those who are privileged to be among his friends.

So, let me introduce my friend, William Safire. His topic is "Our Tradition of Sedition." Wouldn't you know it.

Bill. (Applause)

Mr. Safire: First of all, let me get off the bum rap. Marvin gave me a bum rap on this congenital liar business. It was during the blizzard of last year and I was writing this column about the First Lady. And I came to the deadline and I started to send on my little modem in my hotel room and the modem wouldn't work. Andy Glass was not available to teach me how to do it and I started to panic. But there's one thing that all the columnists have which is a last resort if your stuff doesn't work and that is to call the recording room of the *Times* and to dictate your column and then they would transcribe it and it comes out in the paper. Which I did.

And what I said about the First Lady was that she was a congenial lawyer.
(Laughter)

Well, if you believe that, there's a bridge I can sell you, to the 21st Century.
(Laughter)

And next, I would like to congratulate Marvin Kalb, Professor Kalb, Director Kalb, as they say at the F.B.I., on the anniversary of "Meet The Press." This is the 50th anniversary of "Meet The Press." Marvin Kalb was, for seven years, the moderator of that great program. So this is, in a sense, at least a piece of his anniversary.

I was on that program. As of now, I do it every month or so. I come out for the last 15 minutes to shoot the wounded. (Laughter)

But I went on long ago when I had no television experience with Marvin Kalb. And after the show I said, how did I do? And he said, "Look, sit down kid. First of all, sit up straight, you're on television and you're making an impression, so you have to sit up and look alert. And don't start pulling your chin and looking at the ceiling and wasting seconds, every second costs God knows how much money." And he gave me all this advice, none of which I took.

And I've discovered that the trick to being on television is to break all the rules. But if you break all the rules, you're okay. If you break one or two, then you're in trouble. So, I owe you a great deal, Marvin, for straightening me out.

The story, of course, the classic story they tell about Brother Kalb here, he and his brother Bernard are great fixtures in American journalism. And at one point they were both working for CBS—

Mr. Kalb: That's not true. Let me tell you something, that's not true.

Mr. Safire: I think it's true. (Laughter)

But it may be apocryphal.

Anyway, the story is that Marvin Kalb is more famous than Bernard Kalb. And Marvin and Bernard's mother called one day and said to the operator, "This is Marvin Kalb's mother, is Bernie there?" (Laughter)

Which we now know today is not true. (Laughter)

I wrote a speech. I'm a speech writer. And instead of ad libbing it, I'm going to give it as a speaker would ordinarily give a written speech. This is a great disappointment to all, but we'll see if we can do it.

The subject, as Marvin suggested, is our tradition of sedition.

One of the most mouth-filling and satisfying words used by irate politicians to denounce a type of journalism that raises questions about their character is scurrilous. I am no stranger to accusations of scurrility.

A State Department spokesman, long since forgotten, once denounced a column I did as "scurrilous and contemptuous." And when a reporter said, "Isn't the word you wanted to use 'contemptible'?" the spokesman said, "That, too." (Laughter)

So all those zesty adjectives of outrage — "vicious, slanderous, mean-spirited" — are as nothing compared to "seditious." Seditious in American was, and in many countries still is, a crime. The word is heavily freighted with political oppression; it is rooted in the Latin for "tearing apart." It means "the stirring up of discontent to the point of inciting rebellion." Seditious is considered by many world leaders today as just one step short of treason.

And yet one of the blessings of America is the home that sedition found in our history. In this Theodore White lecture, I intend to show how sedition — usually accompanied by charges of scurrility — became part of our tradition of free speech. And I want to introduce you to a couple of sedition's patron non-saints, and show how they influenced — and were manipulated by — some of our most revered Founders.

Now, this is a scholarly dissertation, but it's about scandal and sex, so stick with it. (Laughter)

First a word about Teddy White, for whom I was an eager source starting in the Nixon-Kennedy campaign of 1960. The first thing I think of is his crabbed but legible handwriting. When he interviewed me over the years for the *Making of the President* book, he took notes that he could actually read back later in a notebook that he did not lose. Most of us never get the hang of that; we scribble notes on a variety of papers in a hand that never catches up to what was said, or in a scrawl that cannot be deciphered later, or in a file you cannot find. But Teddy, though personally ruffled, was professionally tidy; his notes were sequential and legible and usable. And the way he smiled in appreciative wonderment at what you were saying would give any source a sense of self-importance conducive to spilling one's guts.

Teddy White was inclined, as so few of us are today, to give a pol or even an advocate we now call a "spinmeister" the benefit of the doubt. When he erred in judgment, it was on the side of generosity. And you trusted him not to rat on you until after all the dirty deeds were done and his recounting of your inside stuff couldn't hurt you with the boss. But Teddy was looking for more than an inside story; he wrote that he spent his life "in search of history" and he was one of the rare reporters who found it.

Scurrility was not his thing. Nobody ever called him a scoundrel, nor did he ever write a seditious word. Yet I'm sure that Teddy would have been fascinated by the vituperators, the prurient purveyors of paranoia — I've still got it, right? (Laughter)

— who are the heroes of my talk today.

I hold that what used to be the crime of sedition — the deliberate bringing of the government into disrepute, the divisive undermining of public confidence in our leaders, the outrageous assaulting of our most revered institutions — is a glorious part of the American democratic heritage.

Let me justify that position by telling you in some detail about a couple of seditious journalists who despised each other. These press antagonists are all but forgotten to most students of history, but their examples are central to the tradition of sedition in America.

One is William Cobbett. As a self-educated recruit in the English army, he wrote a denunciation of the corrupt officer corps then routinely stealing from the pay of the men in the ranks. Driven out of England by threats of prosecution for that offense to the established order, he came to America in 1792 and at first allied himself with the establishment, supporting George Washington, Alexander Hamilton and the pro-British Federalists against Jefferson, Madison, Monroe and the pro-French republicans.

But it wasn't in Cobbett's nature to support anyone; he was a pioneer in the art of all out attack and savage ridicule. He was a John Bull who saw red flags everywhere — and in a lifetime production of 10 million words — charged at all of them. Cobbett called himself a "newsmonger" — on the analogy of "fishmonger" — and delighted in infuriating the radical republican Jeffersonians. When his targets derided him as no better than a prickly porcupine, Cobbett seized on that name for his daily newspaper — *Porcupine's Gazette*. He started a near riot by hanging a picture of the hated King George III in the window of his printing shop in Philadelphia.

Cobbett saw the French Revolution, with all its bloody excesses, as a threat to orderly free government, not only in Britain, but in an America less than a generation removed from revolution. Indeed, he used the "sedition" against one of those that he maligned; an early blast of *Porcupine's* was titled "Observations on the insolent and seditious notes by the late French Minister."

His newspaper survived and thrived because of the way he wrote — plainly, understandably, making use of colorful metaphor. "Even those he abuses read him," wrote the English essayist, William Hazlitt, years later. In England's past, as we all know, there were three estates, or power centers, that made up the establishment: the King, the nobility and the church. In writing about Cobbett's unique influence, Hazlitt coined a phrase about a new power center rising to challenge the others: "He's too much for any single newspaper antagonist; ... he bears hard upon the government itself. He is a kind of Fourth Estate in the politics of the country." The great stylist thought Cobbett to be mercurial and unprincipled — and he might have added bigoted and cruel. But Hazlitt wrote: "He is not only unquestionably the most powerful political writer of the present day, but one of the best writers in the language." And Cobbett had a way of intimidating other writers who tried to enliven their prose with awkward figures of speech: "When I see you flourishing with a metaphor," Cobbett wrote an opponent, "I feel as much anxiety as I do when I see a child playing with a razor."

In our formative decade of the 1790s, the Federalists behind Washington and Hamilton and Adams, and the emerging anti-Federalist opposition behind Jefferson and Madison and Monroe, each had its hireling editors and subsidized press. Politicians conscious of their dignity tried not to directly criticize each other; instead, they egged on their favored pamphleteers and editors. But the Federalists also had *Porcupine*, who was on nobody's payroll but wrote and published the most widely read paper in the new country; President Washington sent a friend what he called "a production of Peter Porcupine, alias William Cobbett. Making allowances for the asperity of an Englishman; for some of his strong and coarse expressions ... it's not a bad thing." Washington's opinion changed later when Cobbett turned on him for overdrawing his salary and — *Porcupine* speculated — lending it out at usurious interest. The newsmonger had no permanent heroes.

To counter Cobbett, the Jeffersonians had Benjamin Franklin Bache and his *Philadelphia Aurora*. *Porcupine* reviled him as "Young Lightning Rod," a reference to a famous experiment of Bache's distinguished grandfather. Cobbett described Bache as "an ill-looking devil. His eyes never get above your knees." (Laughter)

But that was untrue, as were many of Porcupine's quills; Bache was a worthy opponent of the Federalists, and one of the writers that he employed from time to time is the other newsmonger I want to focus on today. His name is James Thomson Callender, a refugee from libel prosecution in Scotland, and a specialist in scurrility referred to by generations of eminent historians as "that scoundrel Callender."

Here's how Cobbett drew his caricature of Callender in words: a "little mangy Scotsman who has a remarkably shy and suspicious countenance; loves grog; wears a shabby dress ... and leans his head toward one side, as if his neck had a stretch, and goes along working his shoulders up and down with evident signs of anger against the fleas and lice." (Laughter)

That's some word picture.

But the hungry and often drunk little Scotsman was a better reporter than Cobbett or — I submit — any journalist of the day. Callender developed a valuable source and financial resource: the Vice President of the United States, Thomas Jefferson, who had run second to John Adams in the race to succeed President Washington. Jefferson came to Callender's office above a printshop one day in the summer of 1797 — and there's proof of that — to introduce himself and offer some financial support to a book that Jefferson had heard the writer was finishing.

The book was destined to contain a political bombshell. At just about that time, when Jefferson was visiting Callender above the printshop, an ally of Jefferson's named John Beckley — who was angry at being fired by the Federalists as Clerk of the House, leaked some documents to Callender calling into question the financial probity of Washington's Treasury Secretary, Alexander Hamilton. It seemed that five years before, Hamilton frequently met late at night with, and had corresponded with, an unsavory character named James Reynolds, who was suspected of using inside information to speculate in government securities. That matter had been investigated secretly by Senator James Monroe, who was a Jefferson supporter, and two other members of Congress; they apparently believed, at the time, Hamilton's explanation. Monroe had given the dossier of damaging letters to a man he identified only as "a respectable person in Virginia" — probably his mentor, Jefferson.

Callender avidly went with the story that the anti-Federalists had given him. His book, publishing all the letters of Hamilton and memos of the investigators, made the Federalist Treasury Secretary appear to be corrupt. President Adams was aghast. Hamilton suspected that James Monroe was the leaker and only the skillful intercession of Aaron Burr, then respected by both men, saved the antagonists from fighting a duel.

Then Hamilton, the man who was as close to Washington as a son, who had edited out of Washington's draft of a farewell address an ill-tempered diatribe against the press, fired off a broadside at the scurrilous Callender in a pamphlet intended to save his financial reputation.

The late night meetings did take place, the former Treasury Secretary confessed; the documents published by Callender were authentic. But the reason for the secret meetings was rooted not in financial corruption, but in plain old-fashioned sex. Hamilton asserted that he had been having an affair with Reynolds' wife Maria, sometimes at Hamilton's own home when his wife was away; and when the husband discovered the affair, he demanded that Hamilton pay him blackmail. That explained the transfers of money; he was an adulterer, Hamilton insisted, not a speculator in government securities. (Laughter)

Most Americans believed the stunning confession. The delicious details of sexual immorality, which Hamilton was impelled to spell out at great length, marked the end of his ambition to be president, but it saved the Federalists from accusations of corruption.

He was a philanderer, Hamilton insisted, but not a crook. Callender was one of the few who did not believe him — he answered Hamilton's "Reynolds pamphlet" with a pamphlet of his own, arguing that the blackmail story was what he called, and this was his word, a "cover-up." But most Americans of the time thought that a politician would be crazy to humiliate himself, and to bring shame and dishonor on his family, merely to prove himself honest. (Laughter)

From that point on, Callender was a marked man, as were some of his anti-Federalist press colleagues. Bache, arrested for sedition, died at age 29 from the yellow fever that decimated Philadelphia; his successor as editor of the *Aurora*, William Duane, was also prosecuted for that same crime of sedition. To protect himself against the anti-alien act of 1798, which was aimed at the Irish and the Germans, the Scottish Callender hastily became an American citizen, but the Sedition Act of 1798 caught him. That law attempted to stop a two-party system before it took hold. Naturally, it took aim at that portion of the fourth estate that acted as surrogate for the emerging opposition party. And here is the law: "If any person shall write, print, utter or publish ... any false, scandalous and malicious writing or writings against the government of the United States ... or to bring the Congress or the president into contempt or disrepute; or excite against them ... the hatred of the good people of the United States," the miscreant shall be punished by a fine of up to two thousand dollars and imprisonment up to two years.

Well, what about the First Amendment? The Federalists argued that a law against seditious libel did not abridge the freedom of the press any more than copyright laws did. But anti-Federalist James Madison put the question as dramatically as he could. He asked: "Is then the federal government ... destitute of every authority for restraining the licentiousness of the press and for shielding itself against libelous attacks...?" Madison pointed to the Constitution that he helped write and answered yes, "the federal government is destitute of all such authority."

But the Supreme Court had not yet asserted its power to declare laws unconstitutional. The Jeffersonians in Congress did manage to get in one provision that truth was a defense against seditious libel and another that ended that law on the last day of the current presidential term. But most important, by opposing the law, the Jeffersonians gained an issue of principle, and could appeal to our revolutionary generation's innate fear of tyranny. President Adams could claim that the new nation was too young for disunion, especially as he was trying to keep it out of a war with France, but that great spokesman for American independence could not abide the expression of independent Americans. An angry public reaction to his pernicious Sedition Act hastened the defeat of the Federalists in the next election.

And Callender, in this period, all but asked for prosecution. "It is time," he wrote in his *Richmond Examiner*, "for Americans to case aside that trimming tone of sycophancy, which is too well calculated to oil the wheels of despotism." Campaigning for Jefferson against Adams all the way, Callender was arrested, tried for sedition by the infamous Federal Judge Samuel Chase, convicted and jailed in June of 1800. And he saw himself as a martyr.

What about William Cobbett while this was going on? The other side got him. A malpracticing physician sued him for libel. The state court in Pennsylvania was in the hands of Jeffersonian Governor Thomas McKean, who was every bit as prejudiced and corrupt as Federal Judge Chase. Cobbett had depicted the Governor as a henpecked drunk. The Governor's crony was judge; the Governor's nephew was the complainant's lawyer, the case was a setup.

About the only defender of Peter Porcupine in the press was his longtime ideological adversary, the same James Callender that Cobbett had scorned as mangy and lice-ridden.

"If a man is attacked from the press," Callender wrote, "let him reply through the same channel." Libel, he held, was a weapon of "powerful and profligate men who, being unable to meet their accuser on the fair ground of argument and detail, had recourse to law, that they might overwhelm him by the expense of litigation."

(And that, of course, is precisely what's happening in Singapore today — and that Singapore model is in danger of being adopted by China.)

Well, Cobbett was indeed overwhelmed by the Jeffersonian judge. Chase hit the Federalist editor with the highest fine yet imposed for that crime: \$5,000, enough to break Cobbett financially and send him home to England, railing all the way at the hypocrisy of America's pretense of free speech.

Tangentially, at first welcomed home in England, Cobbett's habit of sedition and his willingness to risk libel ultimately got him into Newgate Jail, but — as the wheel of political fortune turned — he flipped from Establishment to Reform and wound up as a Member of Parliament. (Laughter)

Jefferson, with Hamilton's perverse help, defeated John Adams for president in 1800. One of the new president's first actions in office was to pardon James Thomson Callender and all 13 others convicted under the Sedition Act, which had just lapsed. Callender, as an editor, had delivered for Jefferson mightily, and as a prisoner, for four months, suffered for Jefferson as had no other supporter. Too poor to support his four children, the editor asked for the return of his \$200 fine — money that he needed desperately — and appointment to a sinecure, the postmaster's job in Richmond.

He was stiffed. Callender appealed to Monroe and Madison; those Virginia gentlemen, always uncomfortable with the lower-class immigrant from Scotland, froze him out. Frustrated, Callender turned up the heat; he pointed out to Monroe (whose packet of documents, you will recall, had been used by Callender to all but ruin Hamilton), that Jefferson had helped him financially over the years. People did not know that Jefferson, while serving as Washington's Secretary of State, had helped finance attacks on the president's policies.

When Monroe asked Jefferson about those payments to Callender, he was told that they had been merely acts of charity, not what they really were, sustenance to a journalist vilifying the men in power. Curiously, Jefferson worried about what he called "hush money." Monroe told Jefferson that nobody would believe that charity line, and that he would be better off saying nothing, which is what he said.

The victorious Jeffersonians made a historic mistake in turning their backs on a loyalist with a hot pen. (I once worked for a Rockefeller campaign manager, a wonderful guy named Jack Wells, who used to have a button that he wore on election day that said, "Great Job, Kid — Now Get Lost.") (Laughter)

Our disgruntled office seeker, Callender, hungry and vengeful, now turned his reporting talents on the ungrateful Thomas Jefferson. As co-editor of the *Richmond Recorder*, a bi-weekly, Callender quoted Thomas Paine's dictum that "government, at best, is a choice of evils" and proceeded to expose the evil he saw in the miscegenation practiced by the Virginia gentry. He found private vice behind public virtue, as he condemned the sexual abuse of female slaves by respected plantation owners.

That soon turned up a juicy story: "It is well known that the man whom it delighteth the people to honor," wrote Callender about the new president of the United States, "keeps and has for many years has kept, as his concubine, one of his slaves ... By this wench Sally, our president has had several children." The editor offered no proof, only common report: "There is not an individual in the neighbourhood of Charlottesville who does not believe the story ... "

That revelation about the widowed president's sex life was spread across the country by its 100 newspapers. Most of them couched their reports of every detail in denunciations of that scoundrel Callender, thereby pioneering the journalistic technique of re-telling the story by blasting the original storyteller. We've refined it, but there it was. (Laughter)

Although most people — and certainly most historians for two centuries — refused to believe Callender's gossip, the story of Sally Hemings has scholarly defenders today. Jefferson refused to dignify the charge with a reply, and nobody dared ask him about it, but he wrote to his friend Robert Livingstone that Callender had embarrassed even his Federalist allies: said Jefferson, "Every decent man ... revolts at his filth."

Callender was assaulted and beaten with a heavy cane by a Jefferson supporter, but his Richmond paper gained a thousand subscribers. (Laughter)

Under pressure to follow up his account of the woman he called "the luscious Sally," the muckraker spread another embarrassing story. Back in 1792, at the time that Hamilton was convincing Monroe not to go public with that Reynolds accusation, the Treasury Secretary sent a warning to Jefferson that if that story about blackmail and Maria Reynolds came out/ so would the story of "the Walker affair."

John Walker was Jefferson's Virginia neighbor. According to Callender and another editor, when Jefferson was in his mid-twenties, he made a pass at Mrs. Walker; she angrily rejected the advances. Later Jefferson supported Monroe against Walker for Virginia Senator, adding political insult to personal injury. The Walkers must have spread the word about Jefferson's lust; Hamilton surely knew about it, and Callender justified his prominent use of the story on the grounds that the public had a right to know the character of men in high office.

We now have persuasive evidence that this second Callender report was true. When Monroe and others went to Jefferson to get his denial, thereby to castigate Callender as a salacious liar, the president wrote privately that "when young and singlet I offered love to a handsome lady. I acknowledge its incorrectness." Credit Jefferson with being a master of language. (Laughter)

That was a really graceful way of alluding to an adulterous proposition. He again said nothing in public about the charge.

Now, were these attacks by a vengeful editor and office seeker on the moral character of the nation's Chief Magistrate seditious? Surely they brought him into disrepute. They might have engendered hatred of the government that the president headed, at least in the minds of some of Callender's more avid readers. Fortunately, Jefferson, who had used the popular revulsion at the Sedition Act as one of his levers to power, had no desire to revive it. He won re-election handily in 1804, interpreting that victory in his Second Inaugural as proof that "the artillery of the press" — with its "demoralizing licentiousness" — was no match for the "cool and collected" judgment of the people. Jefferson rightly reminded his generation and ours that governments demonstrate their strength by tolerating dissent, and that the press should be restrained primarily by "the censorship of public opinion." Smarting from Callender's attacks, however, he suggested that others make full use of "the salutary coercions of the law" in suing "false and defamatory publications." That's Jefferson.

And what happened to the journalist who at first acted as Jefferson's hatchet man, and then later turned into his chief tormentor? Callender's body was found on the banks of the James River one night in 1803, drowned in three feet of water; the coroner assumed he had been inebriated. The judgment of historians, writing his epitaph, has ranged from "the most outrageous and wretched scandalmonger of a scurrilous age" to the more evenhanded "drunken, vicious and depraved, albeit talented." (Laughter)

What happened to the laws against sedition and seditious libel in America? The Lincoln Administration jailed its foremost Northern dissident, which some people excuse because it was in the midst of a civil war. The notion of sedition reared its head again several times in this century, especially during World War II, in a 1918 amendment to the Espionage Act that made it a crime to "willfully utter, print, write or publish any disloyal, profane, scurrilous or abusive language about the government of the United States." As World War II approached, the Smith Act of 1940 made it a crime to advocate the violent overthrow of the government, which was used after the war to prosecute communists. The tendency of government officials to protect themselves from the danger of discord was not stopped until the Supreme Court, in the 1964 *New York Times v. Sullivan*, enshrined William Brennan's phrase, "uninhibited, robust, and wide-open" in its judgment, adding that political debate "may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."

I see my colleague Anthony Lewis here, who has written a book on the subject and wrote columns about it, probably at the time. (Laughter)

What can we take from our long and honorable, albeit — I like the word "albeit" — previously dishonored, tradition of sedition?

We see that a lip-smacking interest in the sex lives and private finances of our leaders is rooted deep in American history, part of the warping and woofing of our journalistic hounds. Moreover, these were not just attacks in the nascent free press on our Founders; these were attacks often stimulated and even authored by our Founders and their illustrious hatchetmen.

We see from these early examples that the secret leakers often profit while the news-mongers get it in the neck. The polemicist Cobbett was bankrupted, then driven out of the country, and the reporter Callender was jailed and his memory reviled by historians. But a couple of sources whose identity the reporter took to his shallow, watery grave — Beckley and Monroe — went on to become the first Librarian of Congress and the fifth president of the United States.

We see, too, the mistake we made in the past of confusing the leaders of government with the government itself. We can be personally disloyal to our elected officials, just as they can double cross their political followers when they get into power; this has nothing to do with disloyalty to country. Those who are led or refuse to be led, and not those who do the leading, are the sovereign power.

But what about good taste; isn't scurrility awful, and doesn't an obsession with the private character of candidates demean our national character? Yes it is and sure it does. But tastes differ; one person's meaty story is another person's poisonous invasion of privacy. When the criticism gets destructively caustic or unpleasantly sharp, or when some people's appetite for salacious detail leads to invasion of privacy and entrapment, then we should turn, as Jefferson suggested, to the "censorship of public opinion" — which is manifested in not buying a newspaper or in turning off that channel. Callender had some good ad vice, "If there were no buyers, there could be no sellers."

Sedition is not scurrility; it has little to do with good taste. Sedition is the law that gags the bringing of government into disrepute, and the passage and enforcement of such law is as disreputable an act that any government can commit. For disrepute should come to those who act disreputably, and its cause should not be laid at the door of those who expose that act.

The government that relies on sedition law to protect itself — and there are many powers that do so today — is weak. The government that grimly tolerates the seditionist demonstrates its strength and stability.

In a nation that was just beginning to learn that opposition did not mean disloyalty, James Thomson Callender called the weapon he wielded "the hammer of truth." His anvil was whoever was in power. Thanks to Callender, Cobbett and the often vindictive, wrongheaded and unfair journalists who established the tradition of sedition in America, today that hammer rings out loud and clear.

Thank you. (Applause)

Mr. Kalb: Thank you very much, Bill Safire, for fascinating insights into American history and the role of the press in early American history.

Mr. Safire has agreed to take questions.

Ms. Fan: My name is JoAnn Fan. I'm a second year at the Kennedy School.

I actually would like to touch a little bit upon foreign affairs, which I know you are very well versed.

The U.S. China policy has long been governed by the one China policy. And recently the People's Republic of China has shifted the long held statement of Taiwan is part of China to Taiwan is part of the PRC and this position has been seriously rejected by the Taiwanese government. Why do you think that the suspicious media has not caught the hidden significance of this tension given that the president, Jiang Zemin, has just been here and that this might be the People's Republic of China's deviation from this one China policy?

Mr. Safire: The one-China policy was cooked up by Henry Kissinger in the Shanghai communique with Chou En Lai. It was a brilliant move where they could agree on something that both understood differently.

So when Taiwan said there's one China and we are China; and the communists said there's one China and we're it; we could say, essentially, you're both right. And there is one China. And who it is, we're going to leave for you guys to work out. (Laughter)

That has been the basis of our policy and it's a pretty good basis when you think about it. We don't take sides in what would be an unequal struggle. I think that the most important thing that we did when the PRC made an effort to rattle its scabbard with a military threat to Taiwan, President Clinton, to his credit, sent in the fleet to just parade around, to show that we are serious about the essential, which is not the trappings of a one China policy, but the essential which is: don't fight, and reach a peaceful conclusion.

So, to that extent, I think the media have been — I construe media as plural — the media have been fairly adept at understanding it and particularly good, really, I think in calling to the president's attention and discomfort, the human rights violations in China.

I don't know if that answers your question, but that evades it my way. (Laughter)

Mr. Cunningham: Hello. My name is Philip Cunningham. I'm a Nieman Fellow. And I hope you won't be insulted if I ask you a question that I intended to ask President Jiang Zemin when he came here this weekend, but I didn't quite get the question out. I was shouted down by the moderator. It was reported in the *Times* as a protest, I was described as a protester. The *Harvard Gazette* has a transcript of that today.

But the question was, I'll change it a little bit for you because you're not responsible for putting Wei in jail. But who is Wei Jingsheng? You've written about him a lot. Why should we care about him? And what can we do to help people like him?

Mr. Safire: Well, Wei Jingsheng is an electrician who came up with the idea of the democracy wall 16 years ago and was jailed for 14 years. He is the Chinese equivalent of Andrei Sakharov. And when he was out of jail, an Assistant United States Secretary of State, John Shattuck, met with him. As a result of his meeting with a high U.S. official, Wei was rejailed.

For this reason, and without going into all the human rights ramifications, the United States was profoundly insulted that someone meeting a United States official should be jailed for that crime.

That was followed by, I think, the absolute craven action by the Nobel Prize Committee to continue to ignore him. They could possibly save his life by giving him the Peace Prize. Instead they gave it to the land mine lady. (Laughter)

While it's easy to stick your thumb in the eye of the United States, it's much more difficult to stick your thumb in the eye of the PRC.

But those of us who felt very strongly about the jailing of Sakharov and Sharansky, were derided at the time by the geo-politicians who said you're just upsetting detente. Well, it turned out that a combination of the stress of an arms race plus the cracks within the Soviet Union led by the dissenters, changed history. And I think our focus on, our — forgive the expression — Jeffersonian principles, in our dealings with China, were not necessarily containing them or treating them as a new Soviet Union or evil empire.

But putting the pressure on expresses what we are all about and, indeed, with some subtle diplomacy on the side, can help the dissidents and the people who believe in free speech in China.

Mr. Green: Hi, my name is Matthew Green. I'm a student here at the Kennedy School.

In the definition of sedition that you read to us a few moments ago, you included the word false; as in false, libel, et cetera. My question is, how do you compare or balance or weigh the value of the constructive scurrilousness and sedition that you described here tonight versus responsibilities toward complete factual accuracy and intellectual honesty in writing a newspaper column or anything?

Mr. Safire: In the tradition of sedition, 250 years ago and 200 years ago, truth was the defense against libel. And that was the way it was until relatively recently when that changed; when a report, unintentionally inaccurate, could no longer be used to break a newspaper.

The chilling effect on small newspapers — not *The New York Times* and *The Washington Post*, which have money to defend themselves, but on small newspapers — would be to say: don't run anything controversial that you can't absolutely prove.

And so the necessity to prove the truth of what you say has been removed as long as you're not reckless or malicious. Now it is effectively impossible to try anybody for the crime of sedition in America, thanks to the Supreme Court ruling in '64 and then again in '69 in *Brandenburg*. If you want a follow-up on that, you might ask Anthony Lewis.

Mr. Sosnowik: My name is Daniel Sosnowik. I'm a mid-career student here at the Kennedy School.

Mr. Safire, I'm just curious, there's been some recent criticism of the two-way door that is occurring between the press and politics and how easily journalists move between the two areas. And having spoken of the hammer of truth, I was curious what your comments on that door and the way that people go in and out might be?

Mr. Safire: David Broder and I disagree completely about this. He feels that the virginity of journalists is sullied or broken by going to work in government and then, even worse, coming back on television in a food fight as a commentator.

I don't see that at all. I started out as a journalist, as a leg man at the *Herald Tribune*. And then I went to work as a politician and managed to stay out of jail and came back into the reporting world.

Now, when I read a press release or listen to a White House spinmeister, I can hear the preparations for that press release; it takes one to know one. I can see through it and I

can watch some of the qualifiers skillfully slipped in so you can hardly see them. I was there and I know those qualifiers.

So the experience of being on the inside helps you on the outside. And there's a difference between objective reporters and opinion-mongering columnists. There's no trouble at all with an opinion-mongering columnist having been an insider in politics.

Look at Tim Russert. He was Mario Cuomo's and Moynihan's aide. Now he's the adversary of whoever comes on, left or right, on "Meet the Press." And look at me, I happily take pops at both sides. And, indeed, get some of my greatest satisfaction of savaging my own kind. (Laughter)

Mr. Rosenberg: Hello, my name is Daniel Rosenberg and I'm a second year student here at the Kennedy School.

Thirty years ago, people used to have faith in government institutions. Today, outside of the Kennedy School, most people don't. (Laughter)

And I think that makes it very difficult for anybody in government to accomplish anything. And I think in order for dramatic change to happen in America, people have to have faith in government again.

And given the history of sedition in America, how will that occur again? And how will the press play a role in helping to make that happen, if all the stories are always negative or predominantly negative, what are we going to do?

Mr. Safire: Precisely why I made this speech, to show that the institutions and indeed, the memory of the leaders can withstand the most savage, scurrilous, mean-spirited attack. And the cool collective judgment of the people in the long run, combined with a golden haze of memory, has a way of re-legitimizing government.

So if we err on the side of suspicion, we are going up against a government that always has an edge on us in secrecy and can slam down the door and not — if you'll pardon the expression — answer all the subpoenas.

The contest between the free press and a free government — and it is a contest, that tension — is to be gloried in. If it upsets some people who can't take it, as Harry Truman said, get out of the kitchen.

Mr. Venkatramin: Good evening, Mr. Safire. My name is Anish Venkatramin. I'm a freshman at the college. I would like to thank you for coming tonight.

My question is, a lot of the sex stories you spoke of have manifested themselves into the tabloid journalism of today. As a writer for what is considered to be the pillar of respectable journalism in our media, I was wondering if you could comment on the attraction and the rise of popularity of tabloid journalism, and what you see as the future of respectable journalism and whether its days are numbered?

Mr. Safire: Respectable journalism is an oxymoron. (Laughter)

Somewhere in here I had that quote from Callender that essentially said, if there were no buyers, there would be no sellers. And I think that one of the greatneses of the American media is that it has a *National Enquirer* and a *New York Times*. It has a sense of local news saying if it bleeds, it leads, and a sense of some responsible television journalists — I'm looking at one right here, with his gray hair, Dan Schorr — who fearlessly take on big shots and big issues, and the fearlessness carries over into the courage to occasionally be dull and talk about dull subjects like Bosnia or NAFTA or things that don't have to do with a trial. (Laughter)

So there's a place in American society for both the scurrilous and even pornographic, in some cases, expressions.

Somebody said to me recently: did I want to buy a pornographic CD record? And I said, I'd love to, but I don't have a pornograph. (Laughter)

But for a serious answer, the multiplicity of the media is the safety that the people have.

Mr. Stewart: Hi, my name's Douglas Stewart. I'm in the English Department here.

I just have a small point to make about the fourth estate. And I just have a quote here from 1762 actually, where the term is used. It's by an author named Jay Marriott in a book called *Political Considerations on the Present Crisis*. And he writes: "In such times it is very dangerous to create and introduce a fourth estate as it were of a democratical kind into the Constitution and which is therefore more liable in its nature to be played off as an engine against government by the arts of any able set of men who have a private interest in inflaming others not quite as wise as themselves."

Just that the term is current in England in the 1760s, I had the impression that you suggested that it had just come into usage a little later.

Mr. Safire: See? You come to Harvard, you learn something. (Laughter)

I was persuaded that the term "the fourth estate," and I'm a political etymologist, was coined by Hazlitt in 1832. If you have a citation from the 1760s, I'd like to have it. So would the *Oxford English Dictionary*. You would straighten us all out.

Mr. Stewart: Just give me your address.

Mr. Safire: The address is *The New York Times*, Washington Bureau, in Washington.

Mr. Kalb: Professor Kendall.

Dr. Kendall: My name is Kathy Kendall. I'm a Fellow at the Shorenstein Center. I had a question about the presidential primaries.

You were working for Eisenhower in 1952 and in February 1952, Eisenhower was in Europe and he was the head of NATO and never came back during the primaries until the very end. I wondered if you could reflect back about that work that you did with Tex McCrary? I think that was a very interesting passage where Eisenhower, though he wasn't even in the country, was quite successful in the primaries.

Mr. Safire: Well, just briefly.

Taft was going out to win the Republican nomination. A bunch of, well, we didn't call ourselves moderates, I guess we called ourselves liberal Republicans at the time, in the Northeast, wanted somebody to carry the banner. Both the Democrats and the Republicans wanted Eisenhower. But Eisenhower would not commit. He wanted to see a groundswell, and just the pundits talking didn't impress him as a groundswell.

We put on a rally at Madison Square Garden and filled it with 18,000 screaming people calling for Ike. We got Irving Berlin to write a song, "I Like Ike." We made a kinescope recording and had the aviatrix, (that's when you could use those sexist words) Jacqueline Cochrane fly it over to Shape Headquarters and play it in there for the first time so that Eisenhower could see the people — he didn't know that we got them by busloads and brought them in — calling out for him. And that then enabled us to get him to agree to run in the primary.

But I was very young. (Laughter)

Mr. Therum: My name is Alexander Therum, a student at the Fletcher School up the road. Thanks for the delightful speech.

Something that's often been referred to, I think, as the liberal paradox which is that a government which allows free speech may also ultimately allow speech which can also be interpreted as actions that could bring about its undoing. A much more recent example could be somewhere like Algeria where the election of Islamic militants would allow the government no longer to have elections.

I'm just wondering what you think about the limitations of free speech in light of that?

Mr. Safire: I'm an absolutist on that and a libertarian. I just think that the nature of a society is such that if it must repress democratic decision, then it's too weak to exist. If it enforces democracy by tyrannical means, it's a tyranny.

So, the only thing you can do is let some weak democracies slip under. And in the few instances when you do, it's certainly outweighed by all the instances where you defend the right of the people to advocate the overthrow of the government, provided that they don't, say, in the next three minutes, pull a gun and shoot somebody; that's the limitation on free speech.

Mr. Cox: Hi, my name is Simon Cox. I'm at the Graduate School of Arts and Sciences. You say that censorship should lie with public opinion expressing a decision not to buy. I was wondering how those market signals could ever be discriminating enough to constrain writers given that newspapers are a bundle of many different articles which people buy for many different reasons?

Mr. Safire: I don't understand the question; sorry. Say it again?

Mr. Cox: You said that the best form of censorship is people's decision not to buy a paper.

Mr. Safire: Right.

Mr. Cox: People's decisions not to buy a paper are made for many different reasons and I was wondering how those decisions could ever get the message through to writers to constrain their writing? Given that people will continue to buy papers out of habit, given that papers include many different articles.

Mr. Safire: Well, you assume that the good end is the triumph of respectability in journalism and the end of all scurrility. And I say it's not in the cards and it's not in our tradition. I like *The New York Times*. I don't like some of the entrapment tabloids. But I don't dictate American taste. I just dictate, you know, certain right-wing tastes. (Laughter)

But I'm for the diversity of media and I don't presume to dictate what people's tastes are in other publications.

And if I can conclude, Marvin?

Mr. Kalb: Please.

Mr. Safire: I would just like to say that a lot of us in journalism read the publications that come out of the Nixon — the Kennedy School here. (Laughter)

I keep making that slip. (Laughter)

But seriously, the publications that come out of the Kennedy School are read, are well circulated and a great many of us in journalism are particularly proud that one of our graduates, Marvin Kalb, crossed the street to academe and has done so remarkably well.

Thank you. (Applause)

Mr. Kalb: Thank you very much.

Thank you very much for coming. Thank you very much for sharing your thoughts with us. (Applause)

THEODORE H. WHITE SEMINAR NOVEMBER 7, 1997

Mr. Kalb: Ladies and gentlemen, if I could have your attention, we'll start. Welcome to Part II of the Theodore H. White Lecture for 1997. I'm Marvin Kalb, Director of the Shorenstein Center and it is my pleasure to be able to moderate this panel discussion this morning.

The point of Part II is always to take apart Part I. And we all had the privilege and pleasure of listening to William Safire deliver his lecture last night on "Our Tradition of Sedition." And today we have a distinguished panel. All panels at Harvard are called distinguished panels. We have another distinguished panel that will talk about the central theme in Bill's speech last night. And then we'll see where we go from there.

I did want, before we actually get started, to say something about Isaiah Berlin. I noticed on the front page of *The New York Times* today that Isaiah Berlin passed away yesterday at the age of 88. And as a student of his, back here at Harvard in the early 1950s, I always remember a year long course with him on the intellectual history of Russia from 1825 to 1917.

We started in 1825 somewhere in central Germany and never got out of Germany because he focused almost entirely on Hegel. And I think at the end of one year, we did get to the year 1848. And Berlin made the point that if you wanted to understand Russian intellectual history, you had to go to Germany, and anything beyond 1848 was simply an extremist elaboration of Hegel's thoughts.

I don't know what he would have said about sedition, but he was a great believer in human freedom. And I think all of his essays spoke to that point very eloquently. So I just wanted to make that point because there went a truly extraordinary mind.

What I will do is introduce our panel.

Starting from my far right, David Shribman, who is the Assistant Managing Editor, a columnist and the Washington Bureau Chief of *The Boston Globe*. He was awarded a Pulitzer Prize in 1995 for his coverage of Washington and the American political scene. His column, "National Perspective," is syndicated to more than 50 newspapers around the country.

To his left, is Pauline Maier, the William R. Kenan Professor of American History at MIT. She's on the Board of Editors of the *New England Quarterly*. And her most recent book, a wonderful book, is called *American Scripture: Making the Declaration of Independence*.

William Safire I introduced last night—

Mr. Schorr: At great length!

Mr. Kalb: No.

Mr. Safire: No.

Mr. Kalb: Did you think it went on too long?

Mr. Schorr: It was a stretch.

Mr. Kalb: I could have gone on introducing you for another 25 minutes.

You got away easy.

Mr. Safire: If you want to introduce me that way, you can go on as long as you want. (Laughter)

Mr. Kalb: The Honorable Margaret H. Marshall, to my immediate left, the Associate Justice of the Supreme Judicial Court of the Commonwealth of Massachusetts, she has been in that job since last year. She was formerly Vice president and General Counsel here at the University. In 1991 she was elected president of the Boston Bar Association.

And to her left is Daniel Schorr, the Senior News Analyst for National Public Radio. In his half century in print journalism, radio and television, he's won a host of awards for

international and national reporting. And Dan, I can mention every single one of them if you wish. (Laughter)

But I don't think you do.

Why don't we start with David, to my right. I've asked each of the panelists to give their thoughts about the Safire speech; do you agree, do you disagree, what do you interpret as the central theme.

Mr. Shribman: Thanks, Marvin.

Bill Safire may want a weekend like this to go on forever, but I can't wait till it ends so I can go back, go to the telephone and call the office and tell them that a *Boston Globe* reporter was seated to the right of Bill Safire. (Laughter)

Mr. Shribman: It's a moment to treasure. It doesn't get better than that. I thought it was an astonishing speech that Bill wrote and delivered, astonishing not only for the appearance of the word author as a verb on page 20, but — (Laughter)

But for one other sentence that also appears on page 20 in the text. And I want to just read it briefly and it will use up a little of my air time and it's also a nice segue to what I want to say.

And this is what Bill said on page 20: "We see, too, the mistake we made in the past of confusing the leaders of government with the government itself. We can be personally disloyal to our elected officials, just as they can double cross their political followers when they get to power; this has nothing to do with disloyalty to country."

At the heart of what Bill had to say last night and what I believe, I'm not a historian, although sometimes I play one on TV, is the nature of loyalty in an open society. And I often tell reporters who work for me and with me that this is an astonishing civilization in which it takes people like us, whose only ability is to make impertinent comments about our social betters, and it not only pays us fairly decently, in some cases handsomely, but it gives us some status in this society and it pays us and rewards us for criticizing the people who are to rule us.

And that is the most astonishing comment you can make about any government that's ever been created anywhere, although I do have a historian on this panel and she may take issue at that. It's an astonishing American characteristic and trait. It's something that we in the press, in our very few good moments, live up to and seek to redeem. And I want to thank Bill for pointing it out and to pledge, on behalf of Bill and Dan and some of the others in our craft, that that's the most American trait of all and that we'll try to redeem it in the future.

So thanks.

Mr. Kalb: Thank you, David. Pauline Maier.

Ms. Maier: Well, as so often happens, I find myself thrown by, in this case, William Safire's wonderful portrait of politics and the early republic, back to the wisdom of John Adams. In the 1820s, he had lived long enough that he could witness or he had already witnessed the canonization of Washington and was currently witnessing the publication of a long series of philiopatric biographies of revolutionaries and a general tendency to elevate that generation to an esteemed status, as if nobody quite like them had ever walked on the earth before.

Nonsense, John Adams said, I don't recognize the guys you're writing about, although clearly he worked with them. He said, it's all romance; this isn't history. And finally he said, politics is just the same today as it always was.

And I think Bill Safire has given us a wonderful sense that, indeed our disillusion with the grubbier part of politics should not lead us to think it wasn't that way in earlier times. The problems are there to be confronted in every age.

All right, true, John Adams was a wise man, but was it the whole truth? And we have a sense, clearly, that something has changed and what is it. And I want to just propose very briefly two things.

One, a topic I embark on with some trepidation, given William Safire's presence, and that is, don't we have a sense that the language has somehow become degraded? I don't mean, really, among journalists, I think certainly Safire and many of his colleagues in print journalism have showed us a capacity to use the language artfully, it continues well in place. And I think some of his colleagues on NPR do sometimes have such a delight with word play.

I remember an interview with Marion Barry by a correspondent whose name I'm not sure I can remember, where he kept suggesting what was wrong with Washington and wasn't Barry maybe part of the problem, was all done with a tone of such respect that the interview was extremely effective. And finally he said, "But suppose Washington had to be bereft of your leadership." It was such a wonderful word embedded in a sentence I can't possibly repeat, and you just think, oh, that is wonderful.

All right, the journalists are still fine. It's the politicians you wonder about. And it's, above all, what I'm really talking about is the art of vilification. I think that the politicians in the 19th Century, they lived in an oral culture, they spoke on the hustings. And I think that sort of reinforced a command of language that is conceivably lost among American politicians today.

I do think, particularly of a passage by John Adams and which I would love to read, in which he castigated Alexander Hamilton in the most wonderful language. I think I won't because of time constraints. And then you read Stanley Cutler's edition of the Nixon tapes and you say, no, no, something's lost. Now, it's an unfair comparison.

You know, we rely too much on four-letter words. They had such a range of vocabulary in references when they were dressing down an opponent. It was just done with an artfulness.

But the second difference, I think, has to do with the whole nature of politics. And the change that we're talking about is precisely the one that William Safire acknowledged in the passage that David Shribman just read. And the implication of this, from my perspective, is to question the title of the lecture. That is, do we have a tradition of sedition? And I would suggest no.

We do have a free press. God bless it. And it's freer today than it was at any point in the past, I think. As Mr. Safire reported or acknowledged in his questions, since the 1960s it's virtually impossible, I believe, to prosecute any criticism of public figures. Once you take office, you, in a sense, take that on as part of the game.

In the 1790s, however, there was no recognition that you could criticize men without criticizing the government. There was good reason for this. There was an old English tradition, the King could do no wrong or never criticize the King. One could say his ministers did bad things. But there was no acknowledged tradition of distinguishing between the people who were holding power and the legitimacy of the state.

And I think that contributed enormously to the character of the language with which politics was conducted in the 1790s. Neither side said the other side had read circumstances wrong. The Jeffersonians accused the Federalists of being Monarchists. What else could they be doing? If they wanted to undermine the regime, clearly they were trying to go back to a regime previous to 1776.

They called themselves Republicans because they were protecting the regime. The Federalists didn't call the Republicans, Republicans, they called them Jacobins. In their own way they were undermining the regime. John Adams couldn't see that because I think the change wasn't completely worked through by the 1820s.

But by the middle of the 19th Century we came to this wonderful situation where politicians could argue with each other, where we had a two party system, where we had this absolutely wonderful invention, the loyal opposition.

So, what I would say is we have a free press. God bless it. We do not have a tradition of sedition.

Mr. Kalb: Thank you very much. Margaret Marshall.

Ms. Marshall: I suppose one always views any subject from where you sit. And that is not an original view. And listening to Bill last night, I won't go right at him the way Professor Maier has, as to whether we have a tradition of sedition. But I think, when I look more closely at his speech, he focused a lot on laws and what elected officials had done to enact laws and what had happened to those.

I think what I find most remarkable about whether we have a tradition of sedition is the extent to which the courts, almost out of whole cloth, have drawn away from the country which has no tradition of sedition, namely England, and fashioned, in a sense, judicial remedies which really buttress the ideas and freedoms that are embodied in a tradition of sedition.

And let me suggest two quick ones which Bill mentioned in passing, and a third which he didn't which I think really does go to a new Professor Maier tradition of sedition.

The Doctrine of Prior Restraint for example, there's a long debate of whether the First Amendment meant only stopping things before they were published or once you published, going into prison. That debate was never resolved until the Supreme Court addressed it in the 20th century and said, no, you can't do that.

The whole *New York Times v. Sullivan*, it's essentially taking, because of Herb Wexler's brilliant arguments to the Supreme Court, the history of our tradition of sedition and deciding that libel laws, state laws that had very little to do with the tradition of sedition, whole cloth onto the tradition of sedition, and we now have essentially made federal all of libel law, and not only for elected representatives, but also for private people.

But the one that I find most astounding, and which clearly differentiates this country in very significant respects from any other country that I know of, has to do with contempt of court. Contempt of court really had three parts. One, are you disobeying the law or an order of the judge; that's easy, you can't do it even if you're CNN or *The New York Times*. If a judge says don't do it, you can't disobey.

The second is disorder in the court and order, order, order; a judge can say, order, order, order and that's it, there will be order.

But there was a third piece of contempt of court which is that you could not comment, you, Bill Safire, or anybody else, could not comment on judicial proceedings. Why? Because that might bring into disrepute a judicial branch of government. And in a wonderful case, involving a delightful gentleman from California, Harry Bridges, a union organizer, made its way to the Supreme Court and there was a knock down, drag out, blow by blow fight in the Supreme Court of the United States, of which I will talk about just a little bit.

The upshot of course is that thee and me can comment *ad infinitum* about judicial proceedings. And we certainly bring the judicial branch into disrepute when we do it. And if there's any question about that tradition of sedition, I can take that on very readily.

But essentially what happened in the Supreme Court, which is wonderful, and I have to refer to my notes because I'm not good enough on history, is when the case came up, it

came up actually under two cases which is a really wonderful thing that I love about watching how cases get to the Supreme Court.

There was Harry Bridges, union organizer, left wing, probably card carrying if not sympathizer, who had written to the then Secretary of Labor, complaining about an order of a judge in a dispute between two unions. Contempt and a heavy fine, heavy for Bridges and his union.

The *L.A. Times*, violently anti-labor, writing an editorial essentially saying to a judge, don't you dare let those thugs, a couple of Teamsters, out on probation. *L.A. Times*, also held in contempt, went up to the Supreme Court.

Two Roosevelt nominees, Hugo Black and Felix Frankfurter, locked horns and Felix managed to twist a few more arms, and the original vote was six to three upholding the contempt convictions. Hugo Black drafted a wonderful dissent that would ring rather like Safire was talking last night.

Then a wonderful thing happened, first Justice McReynolds retired. The vote was six to three. That brought the vote to five to three. Then a very new justice on the Supreme Court, Justice Murphy, changed his mind. I cannot imagine, as a new justice, what it must have been to write a little note to Frankfurter. He did write the note, he didn't go tell him, saying, Dear Mr. Justice, I've reconsidered. (Laughter)

You have to know Felix Frankfurter to know how much he loved the English. And the notion that this old English rule would disappear was absolutely awe inspiring. I liked Justice Murphy's, I have the little letter on my wall just to remind me that you, too, can go against Harvard professors. I do from time to time. (Laughter)

Anyway, Justice Murphy got it to four to four. Then Chief Justice Hughes retired. Four to four meant it was at the end, and they put it over to the next year. Then Chief Justice Hughes retired. He was on the convict side. That got it down to three to four.

Then Justice Burns was appointed. He was in favor of convicting so we were back up, that got it back up to four to four. And then finally, Justice Jackson was appointed. He was in favor of overturning the conviction. So the whole thing swung around. The decision was issued the day after Pearl Harbor, December 8, 1941, and Harry Bridges and the *L.A. Times* had their convictions set aside.

And since then, all of us have been able to hold judges in ridicule. And we do so, I would suggest, with even greater fervor than we do elected officials. (Laughter)

So the third branch of government is alive and well, I think, Mr. Safire would say, because all of his colleagues can throw pot shots at us endlessly.

As a recipient of that, there's only one thing I can say is, in Massachusetts we have life tenure for judges and I will make up my mind, notwithstanding what any of you say about me. (Laughter)

Mr. Kalb: Thank you very much. Daniel Schorr.

Mr. Schorr: Bill, just out of friendship, if nothing else, I'm going back to Washington and propose that our morning program be renamed "Morning Sedition." (Laughter)

I've been thinking a lot about your speech since I started reading it before coming up here. And let me see where I come out on it.

First of all, it should be emphasized that you are dealing with an American Libertarian tradition which is set against an older European tradition which goes another way. In France they have this phrase, *raison d'état*, the reason of the state, and that's supposed to override what individuals might like to do.

In most European countries, the state is given a kind of a dignity and stature which we have never given the state in our country. In the Soviet Union in the days when Marvin and I were there, in the 1950s, a joke went around that said that a man had called Nikita Khrushchev a drunken fool and an idiot and was sentenced to 10 years in prison.

When somebody asked what the charge was, the answer was revealing a state secret.

(Laughter)

So, I go along with you in this idea because it also resonates with a late great friend of mine named Alan Barth who once a piece in the *Washington Post* headlined: "A Free and Irresponsible Press." The notion that with freedom you also have the freedom now and then to be irresponsible is ingrained in our whole approach, those who believe in the press and those who wish it well.

Having said that, I still must say that parts of the exposition that Bill gave left me a little bit uncomfortable, and I'll tell you why. First of all it must be said that history and context, historical context is important here. Where we're dealing with the early days of our republic, newspapers were mainly small; there's a reference here to a circulation of 1,000 as being a respectable circulation in those times.

And where we're dealing with pamphleteers, people who wrote tracts and it was taken for granted in the early days of our republic that the newspapers were not necessarily or not entirely a medium of communication, but also where you made arguments, where you denounced things and all the rest. And that was really very, very American and was one of the things that made us so different from the European forebears from which we sprang.

Technology has made a difference, however. A newspaper of 1,000 denouncing the president or the Secretary of the Treasury is one thing. Today, if you get the media all steamed up on a subject, it gets to be a much bigger deal than it was in those days, as we saw from what happened, for example, with the deposing of President Nixon, in part, because of the activities of the press.

So, where I come out is like this. Free, unlimited, irresponsible, in dealing with governments and presidents and what they do. We've had ample reason to know that what a president says is national security is not necessarily national security. I have personal reason to know because on tape President Nixon at one point suggested to Haldeman that they explain his orders to have the FBI investigate me as being necessary for national security. The wiretapping of various officials and reporters, including as it happens both Marvin Kalb and Bill Safire, they justified, at the time of the Vietnam War, as this is necessary for national security.

Well, no official, and not even a president and maybe especially not a president, has a monopoly on deciding what the national interest is. And that is where we are. It's an adversary proceeding, and if you want to call it sedition, that's all right with me, the word itself doesn't scare me.

Having said all of that, I would allow greater freedom for attacking the government on policy matters or even on personal scandals involving corruption, obviously. I'm a little bit uncomfortable with the exploitation of personal scandal. And obviously I'm not suggesting that anything be done from outside to control it.

But I really think that the license that this phrase of sedition gives you to do anything, should be, at least from inside the profession or the industry, be considered in terms of how relevant it is to attack Jefferson on the ground that he fathered children with a slave and so on. Is it interesting; certainly. Would it be, in our television age today, where the only things that really matter is somewhere between the Simpson trial and the trial which has just ended here in Cambridge? Yes.

But I still think we have to look at ourselves and say, when are we going to reach the point which was reached in France when President Mitterrand died, and at his funeral there was a picture that showed his wife and next to his wife was his mistress and next to her the daughter by the mistress. And everyone in France thought that was a very, very normal thing to do.

I would therefore say, yes, about 75 percent of where you argue, I am with you. I'm a little troubled on the personal scandal side.

Mr. Kalb: Thank you, Dan. Bill Safire, your turn.

Mr. Safire: Well, I came to Harvard and I took a class. Yesterday afternoon, Professor Kalb told me that Dean Schauer was having a seminar on sedition, with a dozen or so students. And I went over there, quickly, to it because I figured I might as well study up on this because I might be asked about it.

And in the course of it, learned that the great breakthrough that ended sedition in America, *New York Times v. Sullivan*, did not come about as a result of the Supreme Court's desire to free the press. It was an outgrowth of the civil rights revolution. And the concern that the Supreme Court had that the State of Alabama and residents therein, were using the libel law as a means of circumventing its decisions on civil rights. And by suing a newspaper and essentially breaking that newspaper, it was nullifying or intervening in a flow of civil rights decisions that the Supreme Court had made.

Therefore, just as in Singapore today, we see the courts suing for libel people who oppose the government, not suing, approving libel judgments, bankrupting people who oppose the government — we saw that happen in Alabama in 1964.

And so, although the Supreme Court knew what it was doing and knew that it was expanding the freedom of the press and perhaps extending the First Amendment, its impetus came not from a desire to end all sedition in America. This was a byproduct of the civil rights revolution. And I submit, having learned it yesterday, a powerful accident.

Had it not been for that, we would still have, not sedition laws so much, but certainly not the standard of "absence of malice" that we now have. And so it's remarkable to me that here we are with the freest press in the world and the freest press we've had in our history, as a direct result of the civil rights revolution rather than any development of freedom of the press, First Amendment law.

Mr. Kalb: Bill, taking that into account, do you think that there is right now in the U.S. a trace of seditious journalism?

Mr. Safire: A delicious trace. Bringing government leaders into disrepute is the mother's milk of journalism. And we're seeing it everywhere.

Unfortunately we don't see too much of it in your old medium. Television, with its accent on action and violence and pictures, doesn't cover a lot of the stories — I don't say issues because issues is a pompous word — but a lot of the stories that affect us all.

Mr. Kalb: Dan was putting a limitation of some sort on broadly speaking seditious journalism and that it should be less seditious when it comes to the exploitation of the personal side of a politician's life. Do you share that?

Mr. Safire: I did a column coming to the defense of the privacy of Gary Hart, when it all began.

Not when it all began, it began with Jefferson, but we remember it with *Monkey Business* and the picture of Gary Hart with Donna Rice, a name that just came back to me — (Laughter)

— in his lap.

I felt that the staking out of the candidate by cameras hidden in front of the house was distasteful. Certainly the press had the right to do it. But that's where we come into the censorship of public opinion. It's unseemly, distasteful and I don't think it's a good thing to do to eavesdrop on candidates for public office and to exploit human foibles.

But, if a Jimmy Swaggart is inveighing against immorality and employing a prostitute on the side, that is not only a good story, that is important to cover and reveal and expose.

Mr. Kalb: What does it say about American journalism today that there is so much more of a tendency to put the cameras in the bushes outside a politician's house than there was what, 25 years ago?

Mr. Safire: Well, one of the reasons that I went into such detail on the Hamilton story and all is to say that this is not a new phenomenon.

Mr. Kalb: No, not a new phenomenon, but the emphasis which contemporary journalism places upon the private lives of public officials has set a lot of teeth on edge and suggested to a lot of people that the press at this stage has gone "too far."

Mr. Safire: Well, the furthest the press has gone is essentially in the Paula Jones case, where we have quoted court proceedings. And we've come to the point where a president who used to be quoted for I am not a crook, is now in the position of having to say I am not crooked. (Laughter)

And this comes directly from court testimony.

So, the licentiousness is out there. It's not something the reporters have caused. I don't think it's possible not to cover that sort of thing, particularly when it involves a president.

Mr. Kalb: I think what I'm trying to get at here, not well, is that the press today is not the press of the Jeffersonian era, with the new technological breakthroughs that have taken place, with the Internet, with all of the stuff that you're very familiar with.

The kind of impact that a story has today is so much greater that the criticism is that the journalist has an additional responsibility to be aware of the instantaneous nature of the coverage, the widespread nature of the coverage; that you can't hide from it anymore.

Mr. Safire: The damndest thing is that back then, in the 1790s, everybody read the papers. I mean Tom Paine's *Common Sense* pamphlet was read by almost every American. The circulation was maybe 100,000. How many people were there here then? Everybody who could read, read that. And the same thing with the newspapers. It was the only thing they had to read, that and some books.

So, the impact of the media then was a lot greater than we think. And when we look at little circulations, well, there weren't that many people here. And as far as opinion leaders are concerned, everybody read it. So the current impact of the media, I would argue, might even be less today than it was 200 years ago.

When today we have this totally fractionated media, where you can look at a hundred channels and vegetate by so doing, or read a bunch of things that are of only interest to you and not through serendipity be able to read the rest of the paper, we can tailor information now so that we are becoming a kind of compartmented hermits. And that was not possible back in the early days of our history, when most people were interested in what affected their lives and what affected their lives directly was revolutionary politics.

Mr. Kalb: I would like to ask other members of the panel now to come on in.

Margaret.

Ms. Marshall: Could I just make one distinction where I both agree and disagree with Mr. Schorr.

I think that we are fighting or commenting on a losing battle to the extent that we're talking about the private lives of public officials. That is to say I think it is very difficult, as the Paula Jones case suggests. The difference between financial corruption and some other kind of character attributes may be relevant to voters.

But with the benefit of Mr. Safire's summary of *The New York Times v. Sullivan*, essentially what that case did, albeit accidentally out of the civil rights movement, is to change libel law. So we went from libel law with respect to public officials and then very fast went from libel law with respect to private, albeit public figures, whatever that

means. But we all know that we make public figures and then we write even worse things about them.

I think that is not encompassed within the topic of sedition because sedition really is bringing branches or parts of government into disrepute. But I think there would be considerably greater satisfaction if we said in a way then, yes, you can, it's no holds barred if somebody goes into the public arena. And by that I don't mean a public figure, I mean an elected official or judge or whatever it is. But when it comes to private citizens, the law of libel is out of whack.

And the huge benefits which the press and others receive from *The New York Times v. Sullivan* and its progeny have really exacted a high price in the society that really has nothing to do with what *The New York Times v. Sullivan* was attempting to address, that the anti-sedition laws were attempting to address, and where we broke away from the British in terms of which instruments of government we can hold in disrespect.

So I think if one made that distinction, you would get a lot further along than trying to suggest that a president or a vice president or even a cabinet member couldn't have his private life dispersed.

Mr. Safire: So you would go with Jefferson's second inaugural proposition, that the people should use the coercion of the laws against other private people? When he said coercion of the laws, he meant libel law.

Ms. Marshall: He meant libel law. I think one then gets into a more interesting dispute as to where the burden of proof is. For example, truth as a defense, as you know, in the original sedition laws, truth wasn't a defense in any event. But to have truth as a defense and to sort of flip the burden as between private citizens which have nothing to do with government or governance, I should say, governance rather than government, I think that that's a more interesting debate than the ups and downs.

I think when you're dealing with governance, to try and draw the line between corruption of a financial nature versus corruption of a personal nature, I mean, Gary Hart, for example, in one of the responses to *Monkey Business*, was that he invited the press, follow me, come and see, check me out. Well, you know, who's winning and who's losing on that. I think there are lots of cases where even with respect to an elected official, we think the press has "gone too far." I don't think that was one of those instances, when he says come follow me. And that was in your paper, Bill, not mine. (Laughter)

Mr. Shribman: When Gary Hart invited the press, through E. J. Dionne, to come follow us, that appeared in the *Sunday New York Times Magazine* 12 hours after the *Miami Herald* decided to go follow him. So, I think to argue that the *Miami Herald* was invited by Gary Hart to follow them, I mean that's got history kind of in reverse.

But that's not really why I asked for the microphone.

I think that the convergence of a bunch of technological and legal changes are making it harder and harder for what we used to quaintly call the quality press to resist the impulses of the tabloid press. And you can see this in Bill Clinton's own life and within a five-and-a-half-year period between the end of January 1992, where he was forced politically to go on television and to say that while he believed in marriage, he wasn't necessarily a fanatic about it. (Laughter)

Ms. Marshall: Talk about putting history on its face. (Laughter)

Mr. Shribman: Right, right.

But, to next year when he'll likely have to face a trial in the Paula Jones case.

Now, the first instance on the "60 Minutes" interview when he talked vows with Hillary Rodham Clinton. The second one involves all sorts of political pressures and questions about who is funding the Paula Jones case, plus the fact that President Clinton is charged with having committed a crime.

So, those factors are making it harder and harder for people in our business to decide what it is we should tell the public. And it's becoming a very wrenching, difficult thing. And in newsrooms across Washington and across the country, we're all trying to figure out how much we do say about the Paula Jones case and when we say it and how graphically we explain it all.

And there are no good answers yet. And the fact is my paper and Bill's paper and others, we're stuttering, much like I am now, because we don't know quite what to say or how to say it.

Mr. Kalb: Dan, do you know how to say it?

Mr. Schorr: Oh, sure. I thought Bill gave a formula very well last night.

First of all, you stay way high up there and look down with utter contempt at people who would print this salacious material and denounce them for publishing or putting on this salacious material, meanwhile making reference to what it is that you're denouncing. And you get the story out that way. (Laughter)

Mr. Safire: But the wonderful thing, Marvin, is that the reaction of the public to all this salacious material is to let it kind of roll off their knives.

The president's popularity, even after all this has hit him, is really a reflection of the prosperity in the country. And we have to stop and think of the inefficacy of the media to affect public opinion or the change in morals in America that kind of tolerates this.

So the attacks or the invasions of privacy or the moving of the line, as it were, into the private lives of politicians hasn't had the effect of ruination that it might have had.

Mr. Kalb: Well, it hasn't had the effect on Clinton, but it certainly has had the effect, and there have been studies on this, on discouraging any number of politicians from actually plunging in and trying to become elected officials themselves. In other words, it may very well be the case that for someone —

Mr. Safire: A chilling effect.

Mr. Kalb: A chilling effect.

Mr. Schorr: May I add something there?

We are now, as I suppose we ultimately had to be, down to the president and stories about the president and what's right and what's wrong and what's permitted and what should not be permitted and all the rest of it.

But I think where we come back to the original suggestion that Bill made when he talked about sedition, I think that sedition is being practiced in another way. Today we are finding one government agency after another is losing respect and support of the people of the United States because of the way it's being undermined, most recently, the Internal Revenue Service.

And before then, there were attacks made, not so much by the press although the press was a willing purveyor of the information, but made by another party. And we have found that since we got this so-called Republican revolution, people have come in devoted to tearing down the government. Even Jimmy Carter, when he ran for president, started out on an anti-Washington, anti-government kick by saying he wanted a government as good as the people. I'm afraid if we get that, we'll be in real trouble. (Laughter)

But notice today how the polls indicate how little American people value different agencies of government, the White House, the Congress at various times and all the rest of it. That is sedition being practiced, and very successfully.

Mr. Shribman: But Dan, as you point out, part of that sedition is being practiced by the government itself.

Now, if you were to design an absolutely ridiculous scenario, you might start with this. You take a congress that was elected to balance the budget. And then you put in place a budget agreement that's designed to do that. You have a roaring economy where

the tax revenues are just rolling in and then you kick the living daylights out of the folks who are supposed to collect the money that's supposed to make your deficit reduction promise possible. It's the most preposterous combination of factors you can imagine.

So some of this undermining is coming from inside, not from us. It's coming from the members of the government themselves.

Mr. Kalb: I want to get Pauline Maier in this.

Ms. Maier: Well, I go back to this question of sedition, you have all kinds of criticisms of the government, but it seems to me that those that get a hook on people are those that aren't, in fact, raised by the press in the first instance but which are commonly acknowledged already. And I think the attack on the IRS is a perfect example of this.

Is the criticism seditious in that sense or does it leave a message that actually this problem, which everybody has acknowledged for a long period of time, is capable of being addressed? I mean how many people knew that if you asked the IRS for advice on any tax problem, that you would be a total fool to follow that advice because they were giving out bad information on the tax laws themselves. Now, if they can't even advise citizens on the laws that they are supposed to administer, how much respect can they command?

Now, this is on the basis of private experience. It seems to me the press was simply confirming what people knew and that it wasn't seditious, it was in a sense constructive and that it led to what has, in fact, happened, a movement toward addressing the problem in a serious way. It means that problems can be repaired. Ultimately it's constructive.

Mr. Shribman: But a lot of it was done for cheap, craven, political gain. And it became blood sport for a while.

Mr. Safire: I once asked an educator which he thought was the greatest problem facing American education: ignorance or apathy? And he replied, "I don't know and I don't care." (Laughter)

I think the problem we have now is apathy and the absence of outrage. We in the media can point out these terrible things that are happening, these rapes of privacy, these intrusions into illegality in our campaign finance system and the suspicions of conspiracy. And it's getting nowhere. Everybody is shrugging it off. And so sedition doesn't have ground to grow in, it seems. And that, I think, is the greatest danger to American democracy. It's public opinion's shrugging off of what would ordinarily be considered outrageous behavior.

Mr. Schorr: New term limits for voters. (Laughter)

Mr. Kalb: This was one of the points that I was trying to get at before. If one had, you spoke of a hundred newspapers 200 years ago, and today there are, I think, 1,500 newspapers, down from a high of probably twice that. But in its place there is this explosion of media, of cable, Internet. And that information is no longer the privileged possession of the few, it is open to everybody. And it's international as well, as we know from this case here in New England recently. So there is an immediate affect upon public opinion, but it may not be the affect that you want of outrage when presented with what you take to be fact on illegal activity at the White House. Now, why does that happen? Because we're surrounded by so many facts that people lose the capacity to judge an important one from an unimportant one.

Mr. Safire: No, I think we're attracted by drama.

Mr. Kalb: But why are we attracted by drama? From what cause? Is that television?

Mr. Safire: Perhaps that's human nature. But also, it's the damn judges. (Laughter)

Ms. Marshall: I knew it would get around here sometime. (Laughter)

Mr. Safire: What stories dominate all the news? And the stories that are all over the place are these trials.

Ms. Marshall: The reason, Bill, is because all newspaper people really wish that they were lawyers, they just weren't bright enough or smart enough to be lawyers. (Laughter)

Mr. Safire: Boy, you're right about that. (Laughter)

Mr. Shribman: There's another historical factor here. I think there's a critical, historical factor at work here. What we loosely call the Industrial Age, which was a time of centralized control of production, more centralized control on government and more centralized control in journalism. With the growth of the editor, the growth of the big newspaper, where the editing function, and I don't mean the guy who changes 'that' to 'which,' and that made Bill Safire's life rich and possible. (Laughter)

But I mean the function of sorting out the news and making priorities, this is more important than that and giving some order to world events.

That's kind of over and now we're in a more decentralized, post-industrial period where there's less control in politics, there's less control across the world of central governments on their people, there's less centralized production of the main instruments of the economy. The big engines of growth are no longer the big steel plants and the auto plants. And the big newspapers and the big networks are no longer the central gatherers and sorters and, by the way, regulators of the news.

So now that we've moved into this new era from that era of centralized, maybe benign maybe not, of centralized authority in news gathering, I think all the controls that Dan and I and others wish were on the conduct of the press are gone. And so we're trying to, we're floundering trying to figure out how to survive both economically and intellectually in a period where there's less of the central control that we deploy in other parts of our lives.

Mr. Schorr: David, I think we may have only a semantic difference.

Mr. Shribman: I was agreeing with you.

Mr. Schorr: But I was surprised to hear you because it seems to me that one of the problems we have today is the greater centralization of the media. And the fact that what we used to call the news media are now basically wrapped up in large conglomerates whether they be Disney or whether they be Murdoch News Corporation or the rest, in which they function under central authority, which is not authority that's terribly interested in information on the whole.

Mr. Shribman: No, there surely is that. But at the same time there are so many other sources of information that Disney can't control, that The New York Times Company, just to choose a company at random, can't control, that CBS can't control. The Internet, all this other stuff is kind of making information uncontrollable itself. The Drudge Report is the best example.

Mr. Kalb: I think it's time to go to the audience now. And if you would like to ask questions, please just let me know and I will start.

Professor Patterson.

Mr. Patterson: I loved the speech last night. I thought it was as well crafted as any talk I've heard here.

Let me suggest there's some trouble with reasoning about today from events of 200 years ago. Dan Schorr talked about one of them. And that's the problem of the power of the media. It wasn't the case that the public 200 years ago was deeply steeped in the media. Ninety percent lived on farms and 90 percent of those people couldn't read. They were essentially outside the media system. We have today a media system that's pervasive. And I think there's great power that attends that kind of media.

But there's a second difference that we haven't talked about. And that's, if you look at the press of the 1790s, it was deeply embedded in partisan argument and debate. And so there was an internal check within the press. The press was aligned, in many ways, the way the political forces were aligned. And so you had an internal check on the press and the structure of the press.

And today that's pretty much lacking, I think, in the American press, except on the editorial and opinion pages. And so journalists, I think, don't fight over argument in the way that they did. They essentially delve into reality and that reality, I think, ultimately begins to push toward the personal lives.

And I think where you have that combination of great power and not much in the way of kind of an internal check, then it seems to me that you have to have some heightened sense of responsibility that attends that power.

And I would suggest one of the reasons why the public isn't very responsive, say, to campaign finance reform, is that that sense of responsibility hasn't been there. And so many issues have been pushed at the American public that seem trivial and small, that in many ways, the press, by acting less than fully responsible by my standards, has in many ways kind of muted its own capacity to make a difference.

Mr. Safire: Well, I'm hesitant to take issue with a former great professor of Syracuse University, who has come down here to Harvard. I'm a Syracuse grad and that's why I say that.

I don't see the power of the press as powerful as you see it. When you're in the press and you go up against government and you go up against trying to get information out of government, you realize how difficult it is and how little power you have. When you are in government and you are in the White House and you're surrounded by the hounds of the press, you have a smirking satisfaction that you know a lot of the things that they don't know. And if only they knew, they wouldn't do what they did.

David, I think, put his finger on something fascinating. The democratization of the press and the shattering of the power centers that determined what the news was only a generation ago reflects the same thing that happens in the political system, where we used to be able to pick some pretty good candidates in smoke filled rooms. Now we've got this primary system that everybody was for because there was more democracy, and got over the politicians making the choices, and today's choices aren't that hot. Maybe we've overdone the primary system. And maybe we've overdone democratization in the press.

But the point, to answer you, is that the power of the press is overstated. And you don't realize the impotence of the press until you're in it and you try to go up against government to find something out.

Mr. Schorr: I would just like to make a short comment on that.

There was a semantic problem. When we talk about the press today, we're not talking about the press as it was in the 1790s or even in the 1900s. The press today forms a part of the media. If you talk about the press, you're talking basically something that's white hat. If you talk about the media, people get to think of that as black hat. And why?

Because television isn't only journalism. Television is a medium of communication that can be bought and manipulated by people for their own reasons. And as long as television is there as a willing accomplice of any person running for office who happens to have many, many millions of dollars, then you will find as we found in this past election this week, that the amount of money you have available to buy television has a powerful effect on whether you win or lose. That's not the press, but it is the news media.

Mr. Shribman: Bill talked about the press and the primaries and the power of the press and he used the phrase, you're in the press and you go up against government. How about being in the press and you go up against ignorance?

We have this kind of happy assumption that every three or four years, we say that the kind souls of New Hampshire and Iowa are the most informed, most literate, they know everything about the candidates, they know all the issues. Just by landing in Des Moines, Iowa you've increased the level of debate and everybody that surrounds you knows everything about politics.

Well, you know, I've got to confess a sin, I have helped convey this notion for years, for five elections. But the fact of the matter is, I don't think I've ever run into anybody in either state who knew anything about anything. (Laughter)

Mr. Shribman: And if you talk about the power of the press to influence people's opinion, I mean you walk into a shopping mall in Iowa or to a farm in Iowa and try to have a conversation, or in New Hampshire or anyplace or just three blocks from here, and try to have a conversation with people about civic affairs, and I think you're just assaulted with, and by ignorance, I don't mean bad and unworthy opinions or unsound opinions, just no opinions or no information and just no background.

When we talk about the power of the press, I don't think we have any because I find very little evidence of people who have actually read what we write.

Mr. Kalb: Pauline.

Ms. Maier: I think my role here is to be the appointed spokesman for the 18th century. It's a heavy responsibility, but I think I should execute it. (Laughter)

With regard to the 20th century, I feel like a walking testimony to what many people have said, you know, how there's so much information that you look at specialized information. Basically, I've come to the position, I am out of it. Gary Hart, yeah, I remember reading something about him!

I think, in fact, the press was far more powerful in the 18th century. Think about it. And politics, people knew about politics. The idea that 90 percent lived on farms is of course true, it might in fact have been 95 percent, but that these were illiterate and they had no access to information is just patently false.

I came across, in writing my book, a whole series of these state and local statements on independence. And, you know, you have this image of these farmers in out of the way places coming together and talking about what was going on in political events in 1776 with extraordinary knowledge of what was going on.

Now, it's true the press was small, the presses were in the cities. But presses in other cities would pick up news items from say, Boston or Charleston, New York. You'd find them reprinted. The information was conveyed by press through letters; people would send them to other people.

What we did end up finding is that an enormously, surprisingly well-informed population, except conceivably on the frontier where they were invincibly ignorant, as we used to say in my childhood.

But there were fewer distractions. Politics was the only game in town. There were no professional sports. There were no, I mean, go through the list. There was no television. You know, occasionally you have to emphasize the obvious, that if you wanted the population to know about independence you could, yes, put it in the newspaper and then you would print a declaration and have it read in places where the population collected. Ten minutes on prime time news was simply not an option.

So my notion is that in fact you can underestimate how well informed people were. I think, by and large, Bill Safire is quite correct on the power of the press. Add that to the

fact that the press became an educational medium. You look at Isaiah Thomas, this great printer of the 18th century, the Massachusetts spy, there was scurrility for you.

He himself wrote a history of printing and noted how the newspapers after the revolution came to use. They included lots of information from people who were trying to pick themselves up by the boot straps to make it a meritocracy, who could educate themselves.

We have lots of alternatives. But the press did it. So it got people into the papers. They were personally important. They conveyed information they felt they needed. There were no alternative games in town. Yes, it was enormously powerful.

Mr. Kalb: Professor Entman.

Dr. Entman: I want to counterpose the tradition of sedition with what I think is at least as powerful a tendency and that is the reference for deference.

You only have to go back to the Gulf War and what virtually everyone would agree was not a terribly aggressive performance. Iran Contra, which was not really followed aggressively to its logical conclusion. So, it's not that we're in an either-or situation where there's this strong tradition of trying to undermine the government and call it into ill repute, but rather these two tendencies which I think are at war.

And I want to suggest that the real problem with the seditious tendency is the form it is taking now. And I think that's a little bit what Dan and some others have suggested. The form now is truly formulaic. I mean, it's a ritual. It involves being nasty and condescending and cynical and disbelieving of the possibility that what a politician is suggesting is anything but politically motivated.

And, as a result, this seditious impulse is not illuminating what's going on in government. It is not assisting the citizen, which presumably is the purpose of this seditious impulse.

And I suggest it's hard work. It's really pretty easy to ask a series of nasty questions, which all say aren't you doing this for political gain, I don't trust anything you say, rather than doing the hard work of digging out what's really happening, what are the facts, how does this affect the citizen. As Dr. Maier just suggested, maybe it was more common in the old media. In that sense, I guess I would argue that the seditious impulse has degenerated and the preference for deference is at least as strong.

Mr. Safire: That's a very good point. I can see that happening, too. The preference for deference, besides being a nice phrase, has what Henry Kissinger always used to say, the added advantage of being true. (Laughter)

It is easy to adopt a quickly cynical point of view. And a lot of young reporters do it. And that's a cheap and easy way of appearing sophisticated and with it. And as you get deeper and deeper into the world of politics, you realize, like every other world, there's good, bad and indifferent people in it and some motivated by cynicism and some motivated by altruism and idealism.

And we in the press, which is a nice big amorphous phrase, are faced with the need to grow up every now and then, and to say where does this guy or woman come out? What really is the motive here? It's hard to read motives and that's why we slip into does this or that candidate have a zipper problem or you know, is character the thing?

I think the absence of outrage and the willingness of the public to not become aroused at what used to be horrendous character issues will reflect itself in journalism. And I think and I hope that what we'll see is the direction of sedition directed at government itself in financial corruption or political corruption and less about personal lives.

Mr. Kalb: Professor Graber.

Dr. Graber: I would like to go back to an example of the power of the press which was given earlier and that is to discourage people from entering public life.

And we focused this morning pretty much on the impact of the media on the public and the lack of outrage. I think we need to also focus on the impact of the media on public officials. Because I think many people in public life after press exposure or in anticipation of press exposure will abstain from doing things or do things because they're afraid of what public opinion might do.

To what extent do you find that what you write about in the agencies which you feature, and comments which are not particularly flattering respond, in terms of behavior and the direction in which you would like them to go.

Mr. Safire: Alexander Hamilton and Bill Clinton are good examples of men who were extraordinarily resilient and tough about attacks and had the ability to come back off the floor. One of the great things that Clinton has done is to show that you can't easily be ruined or chased away by the assertions back in 1992 or today. And I think that courage or bullheadedness or whatever you want to call it, or insensitivity or toughness, is a good thing.

Mr. Kalb: Would anyone else like to comment on that?

Ms. Marshall: I think there's some evidence of that. It's hard for me to hear that without looking to what I see is the greater problem and I tend to look at it, again, from my gender rather than, I mean Alexander Hamilton and Bill Clinton have one thing in common that I don't have.

But I think the more imposing problem which I think has a peculiar gender impact is the amount of money that it now takes to raise in order to get access to the kind of media. That is to say, even if I disagree or agree with whether the public were more informed or the media was more powerful in the 18th century, it is clear today that in order to get one's message across, not because the press or the media are there counteracting one, but simply to get access to the channels of communication is extremely expensive. And I think that that is a greater inhibiting factor of the sort of pounding rubber chicken dinners night after night after night. And I'm talking not now about huge national office.

I had lunch with a member of the Alabama Supreme Court. They happened to have elected office for judges in Alabama. A million dollars for his last campaign. Now, I cannot imagine how I deal with lawyers, to say nothing of other members of my profession or the media when I know that I have to raise a million dollars. And I can't raise a million dollars in California, I have to raise it in Massachusetts. And I think that is a powerful inhibiting factor and makes a big difference.

Mr. Kalb: Moshe Negbi.

Mr. Negbi: Mr. Safire, last night in his very interesting speech and also of course today, advocated an absolutist view of free speech, actually giving up altogether all the kind of sedition laws. And this, of course, is very tempting for the journalists. I myself am a journalist, especially when I come from a country like Israel, where we still have some of those sedition laws left over from the time of the British colonial rule in Palestine.

But, I kind of wonder if we can really give them up altogether. This week we are commemorating the assassination of Mr. Rabin, our Prime Minister. And it is, I think, undisputed that the hate and incitement and propaganda, especially by religious leaders which is the most dangerous, played a part and maybe was actually the major factor in moving the assassin to shoot him and to kill him.

Actually, the assassin said that if rabbis didn't say Mr. Rabin was a traitor which, according to Biblical law, traitors should be killed, they wouldn't have done it with this religious sanction.

And now we have the same rabbis, unfortunately or maybe to your point of view fortunately, they will not go to trial because the view was, that, although we have those laws, we shouldn't use them. And as I said, in principle it's good for the media that we don't use those laws. Those rabbis are still justifying the murder and keep saying, for example, killing Arabs is not murder under Jewish law. So, you are allowed to shoot Arabs, et cetera, et cetera. When a person speaks or pretends to speak from religious authority, speaking the words of God, this of course has very much influence on his followers. Wouldn't you make an exception for this? It's not accidental that most terrible terrorist operations, suicide bombs, et cetera, are done by extreme religious people, again because some religious person advocated this. Wouldn't you make an exception?

Mr. Safire: You can always read into what people say or what people wish an incitement to commit a crime. Would that someone would relieve me of this troublesome priest; and they go out and they kill an opponent of the king.

I think the U.S. Courts have continuously narrowed the time between an incitement and an act. So you have to, say, go kill that person now in order to be committing a crime of advocating the violent overthrow. And if you simply say something short of that, you are not seditious.

Now, in a different culture and a different climate, maybe Israel is behind us on that one. I would like to think that in the generation to come in the Middle East, you'll have less power of the demagogue to incite actual action.

But I see your point in Israel and in a tinder situation that's so volatile and so potentially violent. But I think, certainly here, we're holding a beacon to the world in keeping us from coming up with a solution to a violent act that is worse than the problem.

Mr. Kalb: Would anyone on the panel like to contribute?

Ms. Marshall: I would like to see the courts tested where there was a serious and imminent foreign threat which is where we have always been the most willing to tolerate legislation in those cases, as you demonstrated last night, Bill, and I don't think we've had a real test of that recently. We've gone very far on internal speech, the RAB case on hate speech being the most recent.

So internally, I think we're pretty okay. But I think where there's an external threat, Israel, South Africa, places where internal hatreds are peculiarly powerful, I think present a challenge that we haven't had to face. And while I would like to hope that that third branch of government, not the Fourth Estate, the Third Estate, in fact has learned a great deal from the First World War, the Second World War, I'm not always sanguine about that.

Mr. Schorr: We have to bring a certain sense of reality to what we're talking about.

The American sedition laws mainly came about as a reaction to perceived emergency. We have special rules in war time where civil liberties can be suspended because of war. Short of war, you can have a kind of a state of siege. Israel today lives in something close to a state of siege.

And to sit here in this wonderful great country with all the luxury we have, for margins of error and for making mistakes, it doesn't matter, we'll catch up with it sometime, I don't think we can judge what happens in countries like Israel.

Mr. Karabell: I'm going to echo what a number of other people have said. First of all, it was a lovely and entertaining and educative speech which is extremely rare, even in environments like this.

But in the spirit of your columns, let me be blunt and brief and direct. One, a suggestion, which is that without penalty and without cost of one's convictions, there is no sedition. And that William Safire writing a column for *The New York Times* from a

perch of relative safety, security and affluence is no more seditious than a bunch of teenagers drunk in France walking down on Bastille Day and calling themselves revolutionaries.

The second, in terms of responsibility, the abstract of an absolutism, which a number of people have pointed to, are you personally comfortable with the notion perhaps, if you are writing in 25 years and can perceive a situation of such intense public disenchantment and such intense government cynicism and such inability to function and that were able to be tied in direct ways to things that you have written, would you be comfortable with the responsibility for a great public harm because of the abstract good of an absolute free speech?

Mr. Safire: I'd like to think so. I have not been faced with that, but it's easy enough, as you suggest, to tell Jews in Skokie, Illinois to let the Nazis march down the main street and not to demonstrate or try to stop them because civil liberty is a wonderful thing. To do that in Nazi Germany or something like that is something I have not experienced.

But when you look at yourself and you look at the world around you, you have to say: how would I like to react in an emergency? This is the way I would like to react in the hope that there is no such emergency.

Mr. Parker: I would like to follow up on what Professor Entman said earlier about "preference for deference" versus America's "tradition of sedition," because I found your argument last night persuasive only because of the way in which you defined sedition: that is, as focused on the *press' relationship to government*.

In fact, the common understanding of "sedition" is really of a threat to the *public order*. And the "public order" can entail both the government *and* the economic system.

In the history of the United States, particularly in the 19th Century, the powerful aimed focus claims of "sedition" on those groups, such as unions, that were greater threats to the *economic order* than to the *government*. Using such claims, the economic order used government to delay the coming of the unionization of the American work force for an extraordinarily long period. If you'll recall, the Sherman Anti-trust Act was first used against unions, not against corporations.

A second point: By defining sedition as the relationship between press and power, we lose sight of something I think Zach Karabell was pointing to, which is that freely attacking the ruler's misbehavior is not as tremendous an American achievement as one might imagine. The ability to ridicule the personal habits of royalty was well established in the European press long before the American Revolution. In the 1750s, you would have found in London, the world's newspaper capital, open discussion in many papers of the consumer excesses of the King's mistress — the Imelda Marcos of her day.

It's important here to distinguish, as Zach does, between sedition which threatens the larger public order, defined not just as a government's power but the order of economic *and* political relations.

And in that sense, I think Dan Schorr is a living embodiment of the problem of sedition in America, when he ended up leaving CBS over his attempts to report the Pike Commission report, which was a detailed documentation of the Central Intelligence Agency's misbehavior, to put it mildly. And he discovered that CBS would not allow him to air that information on CBS because —

Mr. Schorr: You have a point, but the way that you say it is incorrect. I had a great deal of the information about the report, with the blessing of CBS because I had what was apparently the only draft copy that was in the free world, so to speak. And it was when the House of Representatives voted to suppress the report that I was then prevailed upon by various people to make sure the entire report was published. And that resulted in a confrontation with Congress that made CBS very, very unhappy.

Mr. Parker: Because of its licensing relationship to the federal government.

Mr. Schorr: I was operating by analogy to the Pentagon Papers. *The New York Times*, after the story was out, published a paperback book, giving most of the text of it. And I said, that's what we ought to do and actually asked CBS, through one of the two publishing houses they owned, to publish it. And they said get lost.

Mr. Parker: And so this is my question: isn't Mr. Schorr's example the much more interesting and relevant one because, in fact, it talks about a triangulation of government, economic and press power in relationship to seditious behavior as distinct from your gossip mongering?

Mr. Safire: Let me take your definition and twist it to my own end.

The episode that you raise and that Dan referred to, was the threatened action of a contempt of Congress, when he went before Congress. And he actually risked jail, I mean there were those in the Congress who felt this was an issue of principle and that he had to fess up to what he did and where he got his information. And this problem of contempt of Congress is the 50th anniversary of the Hollywood Ten and where one of those 10 was convicted of contempt of Congress and went to jail for six months and then was broken and proceeded to name names.

And here today we have a threatened contempt of Congress being sent to the Justice Department in connection with the current testimony both in the Burton and Thompson committees. So this is extraordinarily relevant.

And I would like to ask Justice Marshall what does she see as the one uncovered area of protection against sedition, which is the power of Congress to jail people for contempt.

Ms. Marshall: I wonder if I can find a way to twist that to my purpose. (Laughter)

I think I would go back to the Massachusetts Constitution where John Adams made it absolutely clear that there were three co-equal branches of government and we are extremely hesitant, appropriately I think, to tread on each other's powers. So that is point number one.

That is to say, I think that when there's a confrontation between the judicial branch and one other branch, there is always the greatest hesitancy on the part of judges to exercise that power. I think you saw that in the language in the case that went to the United States Supreme Court on the disclosure of the tape recordings in the White House during President Nixon's tenure. So that's one tradition.

The second tradition is one that I've already alluded to which is what I said was a court order. If a court issues an order, you will be held in contempt. And I think courts tend to look at orders issued by the other branches of power, particularly the legislative branch, not in order to collect taxes or something, but about its own internal workings. That too will be given very high deference.

The only occasions where judges will step outside that is if they are firmly persuaded that there is some countervailing powerful principle, and in our instance, only rooted in the Constitution, that will override that. And then I think it is problematic because the Constitution is remarkably unclear on the source of that power.

So I think the bottom line, Bill, is it's going to take a very powerful case before courts will not uphold contempt. And what you will see is plenty of ways that the two branches of government try to work it out in some other kind of way.

But I think that if the form of sedition takes the form which arose out of Mr. Schorr's confrontation with Congress, he would not be comfortable in looking to the courts to protect him.

Mr. Schorr: Let me merely say I plead guilty to contempt of Congress.

Mr. Safire: You said that.

Mr. Schorr: No; I express my contempt. (Laughter)

Mr. Kalb: Kay Fanning, please.

Ms. Fanning: Maybe we've already covered this, but I would like to go back to Bill's concern about the lack of outrage and suggest that perhaps, although I totally concur in the importance of the freedom to be irresponsible, sometimes it isn't right or even effective to be irresponsible. That the sense of pile on in such matters as the charges of corruption, in government and particularly in fundraising, that people are simply desensitized because there has been so much piled on. In the 18th century, you didn't have the multitude of ways of piling on into people's homes in the way that they are piled onto now.

People's idealism has been undermined by the degree to which the press has covered these matters. And particularly when you get into something like the president's anatomy. I think it simply turns people off. And rather than being outraged, they are desensitized to the point that they don't want to react at all; that they just turn away, they don't read the papers anymore. And I wondered if you had any thoughts about what we could do about that?

Mr. Safire: I disagree with you, I don't think that the extent of coverage has turned people off. The problem in that case is not with the press, it's with the people. And I don't think the media deserves the rap for being excessive in its zeal to reveal corruption. Quite the contrary, I think there's not nearly enough of it.

Now, I'm at a loss to explain why there is this absence of outrage among most of the people in the public.

And if somebody could come up with the answer to that, I think we could advance democracy.

Ms. Fanning: The one point of such things as the allegations that somebody in the White House talked on the telephone about one thing and if they'd gone across the street that it wouldn't have been illegal, such charges as that, and I realize it has to be sorted out in terms of the legality. But I think that people feel that these things have always been done out of the White House, what's new about it? I think that's what they feel.

Mr. Safire: Two points.

One, the use of a trivial infraction to get to a much greater conspiracy. The whole reason for going after this — and you were in technical violation of the law — is to force the appointment of a special prosecutor who can then go beyond that single little infraction into the whole subject. That's an obvious thing.

But the other one, the everybody did it syndrome, gee, I tried that back in 1973 and it didn't fly.

People have changed or maybe the personality of the perpetrator changed. Or more likely, I think, there is a sense of if it ain't broke, don't fix it. These are great times and it's more important to have a lucky president than a good one. And that explains the apathy.

Mr. Kalb: Just to pick up that point and maybe just to push you a bit further on it, you're saying the problem is not with the press, it's with the people. And often you have gone back in your writings to the Nixon administration to parallel things, and to Nixon himself.

What then is the difference between the popular reaction, in your view, to Nixon and to Clinton?

Mr. Safire: Are you talking about press reaction or public reaction?

Mr. Kalb: You said that it's not with the press, it's with the people. I don't particularly buy that, but let's say you're right on that point. What is it about the people today that makes their reaction to Clinton different to their reaction to Nixon?

Mr. Safire: I will now say something that you rarely get from me, a pundit, and it's kind of revolutionary. I don't know. (Laughter)

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Ms. Marshall: The question, Bill, is do you care? (Laughter)

Dr. Kendall: To continue in the discussion of your point about the lack of the sense of outrage which I think is also linked to David's point about the ignorance of the public.

Looking at it from the point of view of the public, I thought of a book by Doris Graber, a wonderful book called *Processing The News* in which she uses the phrase about the view of the public and the way they process the huge amount of news that comes in, that they are cognitive misers. That is, they are very miserly about what they pay attention to because they have to deal with their daily problems, their daily family concerns, their jobs, their social life, their economic problems and so on, and they have to be miserly in this kind of situation.

Now, if this is what's happening now, which she found to be true in her study of the '70s, there's no reason to think that it would be different, you could say that the problems that you're talking about are not so serious or that you're not, as members of the press, linking them to the concerns of the public in a way that makes them pay attention.

Since they are cognitive misers and they have so much in their lives and therefore, either they're not so important in the first place or so serious, or maybe they're just not being tied to their problems adequately.

Mr. Safire: I'd like to hear Shribman on that.

Mr. Shribman: I think that's one of the questions that we grapple with.

I would rephrase it to say to what extent do we make news approachable and make it not difficult to consume. And once you start on that path, that's a nice path to start going down, but then you find yourself, when you go a little further down that path, of dumbing down news. It's a danger to dumb down your news to such an extent that you don't fulfill your other responsibility. Which I think Bill didn't talk about in the talk, but which he practices with great flair, and that's an education function.

Whatever you may say about Bill's talk or Bill's political columns, some will agree and some will disagree, but there's very little disagreement that Bill's, I don't mean to make this a hagiography here but, that Bill's role on Sunday morning is that of an educator. And that he ranks with others at this university and an even better one in Hanover, New Hampshire, as one of the great teachers of his time.

And so I think we have to balance our roles as producers of news that's approachable and consumable with the other role which is of educator. So while there's a great tradition of sedition, there's also a great and maybe even greater role that the press has performed for more than two centuries, as educators.

And when I went into our business some 25 or 26 years ago, the editor I had at the *Salem Evening News*, not far from here, Jim Shea, used to refer to the newspaper as the poor man's university. Now, today we'd call it the poor person's university. But nonetheless, we still grant degrees every day for 50 cents. And I think that we ought to be really jealous of that responsibility and privilege and that we ought to play our role of lifting up as much as talking down.

Does that answer the question or does it talk around it?

Mr. Kalb: Did you want to say something else?

Dr. Kendall: I just wanted to know if Bill Safire had a comment on that?

Mr. Safire: I subscribe to what he just said. (Laughter)

I associate myself with his remarks.

Mr. Sobel: Your description yesterday described you as a civil libertarian.

And to a certain extent, civil liberties are the complement of sedition to the extent there's a tradition of civil liberties; many things are not defined as sedition to the extent of those civil liberties are vitiated, things become more seditious.

The Shorenstein Center invited one of your, you might consider him a colleague, from the *Washington Times*, Warren Strobel, to speak here about a month ago. His topic was foreign policy in the media. But he wrote two very good columns in the *Washington Times*, claiming essentially that the Clinton Administration had the worst record on civil liberties of any recent administration. I don't know whether he said the Nixon Administration is the complement or the contrast.

And he mentioned specifically the attack on *habeas corpus* and the use of the death penalty under the guise of fighting terrorism, government databases to keep track of all people who are employed, all air passengers, health care expenditures.

I want to ask you, and perhaps Justice Marshall, how would you evaluate the civil liberties record of the Clinton administration? And what are the implications of that for defining civil questioning as seditious as opposed to part of our tradition of liberty?

Mr. Safire: Well, first I think the Nixon administration did more for civil liberty in the United States than almost any administration in our history because we were caught at it. (Laughter)

Mr. Safire: The Clinton administration has been savagely and brilliantly excoriated on all the items that you just delineated by Justice Marshall's husband. Anthony Lewis' columns in the *Times*, I think, have done more to make people uncomfortable in the Justice Department and in the White House about what's been done to circumscribe American civil liberty and to invade privacy than I think any other medium.

Ms. Marshall: Let me respond this way, there are two columnists in *The New York Times* that I read regularly, and only two. They are Anthony Lewis and William Safire, and I will not say with whom I agree more. (Laughter)

But that is not because of spousal privilege, is it.

Let me say one thing that comes out of my history rather than my present position. I grew up, as many of you know, in South Africa. And I was white, I am white. That meant that my dealings with the apartheid government had very little to do with the fact that I didn't have the right to work or I couldn't live with my family or I didn't have enough food or didn't have a home in which to live.

It did have to do with the fact that I was terrified many days of my life about being arrested and taken away and knowing, because we did not have John Adams' system of government, we had the British Parliamentary system, that there was nothing that a judge or a lawyer could do about that. That was my own personal terror because that was the threat to me.

And so for me, in addition to anti-sedition laws, *habeas corpus* is the absolute bedrock of civil liberties. There are ones that we might disagree about, the death penalty pro or con, but I think *habeas corpus* is one that you can't move off. And I think when you combine *habeas corpus* with an independent judiciary, I really think that most of us can afford to go to sleep safely, more or less, give or take. Interfere with that and you are truly heading down the wrong path.

And so although I am not a sufficient historian to know whether or not he's the best or the worst, I do think that any government that interferes with *habeas corpus* should be held strictly accountable. And while Mr. Safire may wonder why the public is not more outraged about wrongdoing or purported wrongdoings in the White House, I am interested as to why people are not more outraged about *habeas corpus*.

Mr. Kalb: Thank you very much. Yes, please.

From the floor: I would like to refer back to Moshe Negbi's comment concerning the implications of sedition on the lives of leaders. I wondered if you think that our right to speak seditiously or freedom to speak seditiously about our own government extends to

a right to speak seditiously about other governments and to imply bodily harm to the leaders of other governments?

I'm referring to a column yesterday in *The New York Times* written by Mr. Thomas Friedman in which I feel he explicitly advocated the assassination of Mr. Saddam Hussein, in Iraq. And I wonder what you would say about that?

Mr. Safire: Assassination, I do not think was implied in that. You may have inferred it from it.

I think the action taken in the Reagan administration against Libya and against Muammar al Qaddafi, to attack his headquarters, sent a very clear message that an act of belligerence like that, a bombing, it was not an assassination attempt in the way we look at things. And so a military strike that knocks out the threat from a certain leadership is not equated with the sort of attempt that was perhaps aimed at Fidel Castro through the Mafia in the Kennedy administration.

When you come right down to it, it worked with Qaddafi. After that punishment, things changed in Libya. It hasn't become a democracy by a long shot, but it hasn't been nearly as aggressive as it was.

Mr. Schorr: Wait a minute.

First of all with regard to assassination, President Reagan said that if Qaddafi were to be killed as a result, he would not shed a tear, were the words that he had said.

Secondly, after the attempts to assassinate Castro and various other people, an executive order was issued which forbids the CIA to engage in assassination attempts anymore, but that was then amended to say unless it's a collateral result of a military operation.

That is a big wide loophole to say that if the CIA doesn't do it but the military does it by dropping a big bomb on him, that's not an assassination, that's a military operation. It's just factual. (Laughter)

Mr. Kalb: We have time for two more questions. Yes, please.

From the floor: I've been concerned in this discussion that we may be going to the other extreme or, as some people may be thinking in terms of the other extreme, of self-censorship.

And what brings this to mind is I've just come back from Hong Kong and I had a wonderful evening with Martin Lee. And Martin Lee, as you may know, is the leader of the Democratic Party who was turned out on July 1st by the now Chinese-influenced government in Hong Kong. And he expressed the fact that there have been no changes in Hong Kong since the takeover. But if you read the press, you find it has toned itself down and there is considerable self-censorship.

Not only that, but he said, things don't appear to have changed yet, but wait another year or so. And he said it would be self-censorship that concerns him, not actual censorship.

I would like to hear any comments.

Mr. Kalb: Briefly on that, the process of self-censorship by the Chinese, by the Hong Kong press started well before the turn over of power on July 1. It started about a year ago. And there have been studies on this and you can just see it, it's very, very subtle. But it is an advancing process.

And the Chinese journalists, in fact, make no secret of this. They say themselves that this is something that they feel they have to do at this time. They are not as yet, as they express it, alarmed by what has happened. But perhaps a year or two or five down the road, they have cause for alarm. But they're not expressing alarm at this point. They think that it's just the right thing to do. They're not saying they're not writing stories, but they're not writing them perhaps as sharply as once they might have.

Bill.

Mr. Safire: There's a classic and I'm sure apocryphal series of headlines when Napoleon made his attempted comeback and landed in France. And the headlines in the press in Paris were 'Monster Escapes from Jail and Assaults a Frenchman.' And then six other headlines culminating in 'The Emperor Approaches His Welcome in Paris.'
(Laughter)

So there is a tradition of this deference and this chilling effect, sort of a self-chilling effect, by cowardly journalists or journalists who want to stay in business.

Mr. Kalb: Or journalists who have to pay the rent.

Mr. Safire: Exactly.

Mr. Shribman: Bill, don't you think we censor ourselves, maybe not every day, but once every two, three weeks?

Mr. Safire: Well, there's the kind of social censorship of "I shouldn't write this column because I'm going to the New Year's Eve party at Sally Quinn and Ben Bradlee's and everybody is going to glare at me and nobody wants to be the skunk at the garden party." So there's that real social censorship.

But it's terrible. It's a wrong thing.

Mr. Shribman: Well, I don't mean to start a colloquy here, but—

Mr. Safire: Start it.

Mr. Shribman: —when you work for papers the way we do and when you have a paper that says all the news that's fit to print, just making that judgment, and we all make those kind of judgments. We decide, we self censor ourselves in a way. We decide what we think is proper news. Just the very act of selecting news is, in a way, self-censorship.

Mr. Safire: Well, editing is not censorship.

Mr. Kalb: That's news judgment.

Mr. Safire: Exactly.

Mr. Shribman: But where's the line between news judgment and self censorship?

Mr. Safire: I think the line begins with fear.

Mr. Shribman: Good answer.

Mr. Safire: As soon as the element of fear enters.

Mr. Kalb: Jennifer Jordan.

Last question.

Ms. Jordan: I would like to get back to the power of the press, and we woke up this morning to the news that Massachusetts will in fact not be becoming the 39th state to impose the death penalty because one legislator decided to change his vote after a week of mind boggling coverage of the Louise Woodward, au pair verdict.

And my question is, considering that in the press room that night when the verdict was read, the members of the press, many of whom were in tears of shock and dismay, which came first, the outrage of the family of this woman or the press' outrage at the verdict? And did it not become a self-perpetuating ball of energy that now we're all looking, really, will he either overturn or sharply reduce this verdict?

Mr. Kalb: David Shribman, you're elected.

Mr. Shribman: There's an old phrase, no cheering in the press box. And I think that we're all in the press box every day and we ought not to be cheering.

So I can only deplore that notion. I mean, we are paid to not have, we are paid to be virgins, in a way. So I think it's kind of stunning to me.

Mr. Safire: Call on her.

Mr. Kalb: Call on her.

Ms. Marshall: She will not comment on the pending case, obviously, because I'm a member of the court that is in all likelihood likely to review any decision that might be appealable.

Mr. Safire last night asked me a question, not related to that case, but in general about how the judges react when they are so much in the limelight? And of course, again, one responds from where one is sitting.

But I do think that there was something quite extraordinary about John Adams' perception. In Massachusetts, we are one of only two states, because we invented the system of having judges appointed for life, the good people of Massachusetts saw that there was a little glitch there and so we now all have to retire at the age of 70, but other than that, we are not elected. And in some ways, that is a profoundly anti-democratic concept because there's no accountability for judges.

But I do think that, at least in my experience, it permits judges to do what I think other people who have tenure positions such as faculty members, and to some extent columnists on *The New York Times*, that even though Bill may say he might censor himself before he goes to have dinner with Ben and Sally, for somebody who agreed to take a job in the Washington office of *The New York Times* and be treated like a skunk, I don't believe that.

I think that people in fact think very hard, if they do not have to face, for example, an election. Where you have elected judges, I think that that is a far harder job to overcome.

And there was a wonderful interview this morning by the Speaker of the House, Tommy Finneran, talking about the legislator who changed his vote. And the press interviewer said, don't you think this means he's going to be voted out of office? And Finneran's response was, in a sense, that goes with the turf. And I think it does if you're running for an elected office, it doesn't if you don't have to run for elected office.

Mr. Kalb: I want to ask, in closing, that each member of our panel give us 30 seconds of wisdom that wraps up his or her judgment of where we have come in the last day on this issue of our tradition of sedition.

And I'll start with David.

Mr. Shribman: Marvin, given the way sound bites are today, 30 seconds is—

Mr. Kalb: Is an eternity. (Laughter)

Mr. Shribman: Thirty seconds is opinion inflation.

Actually, I want to thank Bill for a multitude of things, but mostly for this notion which I'm going to steal and use or borrow, I guess, and that is that the difference between, I liked this very much, the difference between self-censorship and editing is the notion of fear. And I think that our fear, not fear and loathing, but fear and loyalty, are the questions that we've engaged here today. And I think the ultimate loyalty to one's country is not to have the fear to criticize it.

Mr. Kalb: Thank you, very much. Pauline.

Ms. Maier: I think in some measure what we've been discussing is an upward story. I mean we have a very free press. And I wonder if there isn't some guiding principle.

The question we've been asking over and over is to what extent the kinds of criticism that is leveled by the press at our standing institutions is in fact seditious. It seems to me that it's based with an essential respect for the tradition for the institutions as they are established, which I would continue to say is not seditious. Conceivably it's the greatest loyalty.

The notion that these institutions are of course open to criticism and that the ultimate jurors are ultimately the public. If they don't like what the press says, they can go somewhere else. And many of us do, which is the great pleasure of having so many choices of what to read or what to watch or what to listen to.

To the extent that the country is in a healthy state at this point, and certainly there are many factors that should give us pause, it probably has a lot to do with the help of criticism.

Mr. Kalb: Thank you. Justice Marshall.

Ms. Marshall: A personal comment. I arrived in this country in 1968 not expecting to stay and deeply opposed to the United States, primarily for its activities in Southeast Asia at the time. And I discovered, to my great joy and delight, that sedition is alive and well, not in Cambridge, Massachusetts, but in Nebraska and Tennessee and New Mexico, where every day in every way, in small towns with small newspapers and cable stations, the citizens and representatives of the media, press and electronic, confront local officials and pay high prices for it in lots of ways.

It is a remarkable experiment, to adopt a word, that we have embarked on. It has some glitches. There are some threats to it. But I think it is an absolutely extraordinary society to be part of.

Mr. Kalb: Thank you. Dan Schorr.

Mr. Schorr: Let's see, the tradition of sedition has come up against the preference for deference. The result is a standoff and I reserve the balance of my time. (Laughter)

Mr. Kalb: Bill Safire.

Mr. Safire: Well, the purpose of my selection of this topic was to get people, get myself thinking historically and to reach back for resonances in our own tradition for all these assaults on respectability and reputation and power. And to say that it's not new, that it's respectable to be disrespectful.

And what the result of this attitude toward sedition has been is, starting from the revolutionary times to our generation, from the '60s to today, we've seen progress in this degree of institutional freedom that has, I believe, extended the whole idea of freedom, not only in America, but around the world.

I'm very pleased to have come. I'm glad I knocked myself out writing this speech rather than try to ad lib it. And I learned a great deal from the questioning and from all of you. So I have to say there is something to be said for a Harvard education. (Laughter)

Mr. Kalb: Thank you. (Applause)

I want to give a members of the panel a little token of our esteem. This goes to William Safire. This is, well, read it, Bill. It's all yours.

And this goes to Margaret Marshall.

Ms. Marshall: Thank you.

Mr. Kalb: David Shribman.

Pauline.

Daniel.

Ms. Marshall: This campaign is really going so well, they can afford these very fancy gifts. (Laughter)

Mr. Kalb: That's just a token of our esteem from the Shorenstein Center to each of you for your effort, preparation, particularly Bill and his preparation and the writing of the speech, the delivery of it.

I want to thank the staff of the Shorenstein Center, particularly Edie Holway, for once again putting this all together. (Applause)

Mr. Kalb: I just want to say again, corny though it may sound, that I'm extremely proud of the Shorenstein Center for being able to host events of this sort where we can deal with some of the major issues concerning the intersection of press and politics, all within a context of a search for greater freedom for ourselves and for the rest of the world.

So thank you all very, very much for being with us. (Applause)