



## ON THE TARMAC, ON THE COURT, ON THE BALL

Sunday, June 7, 2009

*Every weekend CUIP's president Jacqueline Salit and strategist and philosopher Fred Newman watch the political talk shows and discuss them. Here are excerpts from their dialogues compiled on Sunday, June 7, 2009 after watching selections from "The NewsHour with Jim Lehrer," "The Chris Matthews Show," and several Charlie Rose interviews.*

**Salit:** We started with an interview that Chris Matthews did with Richard Wolffe, who has a new book out about Obama called "Renegade: The Making of a President." I started reading it and it turns out that Wolffe got the idea for the book from Obama himself. He was on the campaign trail with Obama for *Newsweek*. And at some point, Obama said to him 'You know, you should write a book like Theodore White's book, "The Making of the President." So he did. Chris Matthews focused on the sections of the book where Wolffe gets into Obama's relationship to the Clintons. Wolffe describes a private clash on an airport tarmac between Obama and Hillary in December of 2007. It was before the Iowa caucus, before any votes had been cast. Wolffe saw it from a distance and saw only the body language. But his description was that in that moment, Obama saw something about Clinton's vulnerability. It wasn't just that her position on the war made her vulnerable with the Democratic Party ranks. Wolffe says that Obama saw that the fact of his candidacy was getting to Clinton, and Obama saw that he could take her. What is your perception of the psychological aspect of the contest? Matthews likened it to being a prizefighter and being in the ring and seeing something about your opponent wherein you realize that you're going to be able to get in there and overpower them.

**Newman:** I don't think it's psychological.

**Salit:** No?

**Newman:** I think it's purely political.

**Salit:** How so?

**Newman:** She and her husband wanted to be in a position to say *We're not impediments to the election of the first African American president of the United States*. How can they make that claim? If Obama didn't stand a chance of winning. But, by that point in the process, it was clear that he did stand a chance of winning. So the Clintons were somewhere they didn't want to be. And that political fact produced subjective reactions and whatever tensions Wolffe thinks he saw on the tarmac. And, it was a big

setback for the Clintons. They had not lost at that point, but if they were going to win, it was going to be at Obama's expense.

**Salit:** They were going to have to defeat an African American candidate who was within striking distance of the White House.

**Newman:** Yes. Now, the Clintons are tough players. But even so, Democrats are strategically polite with each other, because if things go too far in a primary, there are internal problems for the Democratic nominee. But, the Clintons play hardball. Hillary didn't have to be the least bit polite with Lenora Fulani and with the independents. There was no holding back. The dealings with us were minor, but nonetheless they were even more revealing of Clintonian hardball. What's more, Fulani is a leftist, so Hillary felt she had the moral high ground to be vicious. So we've seen the Clinton attack mode firsthand. I don't think there was anything psychological. I think it's mainly political.

**Salit:** After the scene on the tarmac, in a handful of weeks they were in Iowa, which Obama won, then on to New Hampshire, which Hillary won, and then to South Carolina, where the drama you're talking about came to the surface.

**Newman:** Yes.

**Salit:** In South Carolina, Bill Clinton calls the Obama campaign the biggest fairytale he's ever seen, he took off the gloves. And that's the point at which the African American community closed ranks for Obama.

**Newman:** Yes.

**Salit:** But, at the time of the scene on the tarmac, Clinton was up among black voters by 15 or 16 points over Obama.

**Newman:** And therein lay the conflict. The Clinton-type liberal, including both Bill and Hillary, have produced a fairytale – namely that black people can achieve everything, if they play ball within the Democratic Party system. Obama wasn't putting out a fairytale. He was running an election campaign about turning the page, about moving beyond the old political games. And he was doing quite well, thank you.

**Salit:** And at that point, it's clear Obama can go the distance.

**Newman:** And he might well win. Every boxer knows this, if you go the distance, there's no telling who's going to win.

**Salit:** We watched the Charlie Rose interview with attorney David Boies.

**Newman:** It was interesting.

**Salit:** Boies and Ted Olson, who've been on opposite sides of the fence on many political cases, including the famous Bush v. Gore case, have joined forces now to get to the Supreme Court on the constitutionality of Prop 8, which just passed in California overturning the legalization of gay marriage there. The basic legal argument that Boies and Olson are putting forth is that marriage is a fundamental right, and they have an extensive case history in which various prohibitions against marriage, between blacks and whites, between prisoners and non-prisoners, etc. have been overturned as unconstitutional. In these contexts, the courts, including the Supreme Court, have affirmed that marriage is a fundamental right. Once you accept that, which the courts have done, then the argument is that you cannot deny that right to any American, which is to say that you can't deny lesbians and gays the right to marry. And so it's fundamentally an equal protection and a due process argument. What do you think of the building blocks of the legal argument?

**Newman:** Well, I think they're strong. However, I think that Boies may have been disingenuous when he said he didn't know what the opposition was going to argue. He can't not know what they're going to argue. They're going to argue that gay people aren't people. Just as they argue that the fetus is a person, the Right is going to argue that gay people, according to the Bible, are not human beings. They are Americans, but, the argument will go, they're not human beings. So how can Boies not know that?

**Salit:** Well, wouldn't the counter-argument be that the Constitution doesn't make those distinctions, because they're Americans.

**Newman:** Right, but the Right will argue they're not people.

**Salit:** And what's the legal basis for arguing that they're not people? I assumed the anti-gay marriage claim was going to be that all of the prior case law still involved marriage between men and women and that the courts implicitly accepted that and any notion of marriage being a fundamental right took as a given that marriage was between a woman and a man.

**Newman:** That will be a part of their story, yes. And, Boies and Olson will answer that at every juncture in those cases, the fundamental question was whether the partners involved were qualified, as human beings, to marry. And that takes the argument back to the threshold.

**Salit:** In which the right wing argues that homosexuality opts you out of personhood.

**Newman:** I assure you that will be the core of their argument.

**Salit:** What do you think about some of the tactical objections that have been raised to Boies and Olson pursuing this?

**Newman:** Which are?

**Salit:** *Let's not go to the Supreme Court with this, because if we lose, it will be an utter disaster. Let's engage in the state-by-state long-term fight to change the culture, because that's really where you win it.*

**Newman:** I think that's very important. I don't know how to assess that argument. I think it's valid. In pragmatic terms, who wants to take that chance?

**Salit:** Staying on the subject of the courts, obviously the Sonia Sotomayor nomination has been a big story for a couple of weeks. Members of the Judiciary Committee, Lindsey Graham, Republican from South Carolina and Ben Cardin, Democrat from Maryland, discussed the nomination on the *NewsHour*. Graham, the Republican, says 'Here's what I'm dealing with. When Judge Ginsburg was confirmed' and he named several others, 'these judges were confirmed with 98 votes in the Senate.' Basically, he said, you had a process whereby a consensus was reached among the members of the Senate relative to the legal qualifications. But, now it's the case, and he lays this at the doorstep of the Democrats, including Obama, now it's the case that the empathies and the sympathies of the judge have become the litmus test and that's why Obama, when he was in the Senate, voted against Alito and voted against Judge Roberts.

**Newman:** Look, I'm not a lawyer. But as I understand it, the law doesn't establish the criteria by which the Senators vote. All it establishes is that the Senators vote.

**Salit:** Right.

**Newman:** So that's the beginning and end of this issue, it seems to me.

**Salit:** In other words, the Senate can set whatever criteria it wants.

**Newman:** As can each individual senator, because he or she has a vote and that is prescribed by law. The other stuff, the culture wars, the smulture wars, the vulture wars, are not real issues. So, Graham is just talking politics. Now, the Democrat, Cardin, lost a great opportunity I thought.

**Salit:** How so?

**Newman:** He could have said something very Lincolnesque, like *Senator Graham, I've always respected you, I've always valued your opinions and so on. But you're caving in to what is obviously Republican Party strategy, to turn every issue in the world into a political attack. But that undermines your very own position.*

**Salit:** Exactly.

**Newman:** And then he should have said *Feel free to do that but I will not participate in that.*

**Salit:** Even Graham, who I think is a bright guy – said at one point, ‘This is a game.’ He even added, ‘This is a game that has hurt the country.’

**Newman:** And Cardin could have said to him, *Yes, and you’re playing it right now.*

**Salit:** Now to a new feature of Talk/Talk which is a sports question, which has come to us via a longtime Talk/Talk reader, Mary Fridley. I’m going to present her question to you.

**Newman:** Mary Fridley is a big sports fan, particularly a big baseball fan.

**Salit:** Mary describes a Charlie Rose interview with Selena Roberts, the author of a book on Alex Rodriguez and a writer for *Sports Illustrated* and Bob Costas, the sportscaster and commentator about baseball, in which they discussed the use of steroids in baseball. Mary says that while Roberts and Costas are probably two of the more reasonable sports media figures, she describes their “hysterical morality” about steroid use, and calls them “gatekeepers” of the game. So she asks ‘What’s the “gate” that sports journalists are acting as the gatekeepers for? Why is it so important to them?’ And ‘Is there something in particular about baseball that promotes this kind of moralizing?’

**Newman:** Well, I’ll tell you what the “gate” is for the moralists.

**Salit:** OK.

**Newman:** It’s the gate.

**Salit:** As in the tickets sold.

**Newman:** Yes. As in the gate, the money that is made. That drives baseball as a sport and a lot of other sports also. It’s no more complicated than that.

**Salit:** OK.

**Newman:** That’s the gate they’re protecting. Now, why is the moralizing about baseball so extreme? Because baseball has a long history as the pure American sport. And, it has a long history of being susceptible to being negatively affected, both financially and in every other way, by signs of impurity.

**Salit:** Examples?

**Newman:** Take the "Black Sox Scandal" in 1919. It devastated baseball at the gate and in the minds of the public. In contrast, football comes later in American history. It's kind of a postmodern sport where the general principle is anything goes.

**Salit:** On the field, in the locker room...

**Newman:** But not in baseball. It has a different history.

**Salit:** Mary also asks whether you think sports coverage has changed, since the sportscasters have become very moralistic and are playing this gatekeeper role. Do you think that sports coverage has changed?

**Newman:** I don't think that's changed. I think America has changed. And sportscasting reflects that.

**Salit:** Finally, she's asking for your comment on steroid use, on Costas' comment that players who get into the Hall of Fame while on steroids, should have that fact noted on their plaques.

**Newman:** Oh, I don't agree with that at all. Should their plaques also include the fact that they played for a franchise that had ten times as much money as the other franchises, and that they had certain advantages that went along with that? No one is arguing that point.

**Salit:** True enough. Thanks.