

JUSTICE RUTH BADER GINSBURG

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Location: Justice Ginsburg's Chambers

Host: Brian Lamb, C-SPAN

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BRIAN LAMB, HOST, C-SPAN: We're with Justice Ruth Bader Ginsburg in her temporary office and we're going to take a look at some of the items you have in this office. The first thing I noticed Justice Ginsburg was this photograph over here on your bookstand of former Chief Justice Rehnquist. When was that taken?

RUTH BADER GINSBURG, ASSOCIATE JUSTICE, UNITED STATES SUPREME COURT: Yes, that picture was taken in October 1993. It's traditional when a new justice comes on board for the chief to welcome the new justice at the bottom of the stairs. We walked from the door down the stairs together. He greets me and then we go back into the Court together.

LAMB: What is your philosophy in your office? There's a lot of pictures in here?

GINSBURG: Well, we'll talk first about the paintings that I have two from the National Gallery, both early Rothko's and about five from the Museum of American Art from a collection called "The Frost Collection." Its painters all from the United States in the period roughly 1920 into the 1930s.

LAMB: Did you pick them yourself?

GINSBURG: Yes.

LAMB: And which one in here is your favorite?

GINSBURG: My favorite, in fact, is in the outer room. It's called "Infinity." It looks like a figure eight.

LAMB: What's the one behind your desk?

GINSBURG: Well, these are the two from the National Gallery, these are two early Mark Rothko and those are my number one favorites of the items from the Museum of American Art. I like Ben Cunningham's "Infinity."

LAMB: Talk about these photos over here. Tell us just about any one that comes to mind?

GINSBURG: In this photo, Justice Kennedy, Justice Breyer and I are taking part in the Washington National Opera's production of Fledermaus. We were supernumeraries, extras. This is the ball scene from Die Fledermaus. The prince welcomes guests of various kinds. So he welcomed the ambassador of Russia, the ambassador of Hungary and then he greeted the three Supremes and we marched on to the stage and sat on a bank for the rest of that act and watched the show.

LAMB: What about the gavels?

GINSBURG: The gavels, they were given to me by various people. They all have inscriptions and I don't know that any of those are particularly memorable. But there is a photograph there, I don't know if you can...

LAMB: The one in the corner?

GINSBURG: Yes. And that was taken in 1978. Justice Marshall and I were judging a moot court at the University of California at Berkley Law School and it's one of my fondest remembrances. He was still in very good health.

LAMB: So when you work in an office like this what atmosphere do you want? Does it matter to you where you are when you do your writing and thinking and reading?

GINSBURG: I like to be in a quiet place. I like to have my law clerks close at hand. In my regular chambers all of the law clerks were inside chambers. Now, I have two that are in that office and two down the hall. But I like a quiet place. I'm glad to be overlooking a courtyard and not the front of the building so I'm not disturbed by demonstrators.

LAMB: What are these masks right here?

GINSBURG: These masks are from my first trip to China which was in 1978 when China was barely set up for tourists. And someone gave me this set of masks while I was there.

LAMB: What about the photos? There's a whole series of them back here.

GINSBURG: Those are also from that 1978 trip to China. I was with the first American Bar Association delegation to visit China at the request of their government. And I was most fortunate because I was the only woman on the delegation. China was not well set up for tourists, yet. So I had a room of my own throughout the trip. And these pillars of the bar, these distinguished gentlemen had to double up in a room. This is the same photograph that was on my book cart.

LAMB: Right next to that is a photograph of Senator Mikulski it looks like. When was that taken?

GINSBURG: Yes. That was taken also in 1993 when I was the new justice. And it's my example of how relative most things are. So if you ask me, am I short? I'd say yes, compared to Justice – Chief Justice Rehnquist but next to Senator Mikulski I'm a giant.

LAMB: So this desk, is that your personal selection and where did you get it?

GINSBURG: This desk is made here at the Court. All of the chambers have similar desks. The variation in these chambers is that I have put a granite top on the desk as I have at the work table.

LAMB: And what kind of books do you keep right there on the shelf in front of you.

GINSBURG: Books that I consult most often and I have them in two places those and also on this cart would be books to which I refer.

LAMB: What would be the book that you refer to the most often?

GINSBURG: It would be a toss up between these two. This one is Hart and Wechsler's *The Federal Courts and the Federal System* now in the seventh edition. And the *Constitutional Law* casebook by now Kathleen Sullivan, but for many, many years Gerald Gunther who's – Gerald Gunther produced this book by himself until two editions ago when Kathleen Sullivan joined him. And now she's – since Professor Gunther's death she's carrying on the work.

LAMB: Is this a book that all judges and justices would have in their office?

GINSBURG: They would certainly have some constitutional law reference. I don't know that they would all choose the same one. This is one of the finest casebooks in all of law school. And Gerald Gunther was my teacher at Columbia and my good friend ever after.

LAMB: And what do you remember most about him?

GINSBURG: His brilliance and his humanity.

LAMB: You have on the other side of your desk here you have kind of a president's corner.

GINSBURG: Yes.

LAMB: How many presidents have you known?

GINSBURG: We start with Jimmy Carter who gave me my first good job in this capital city. There is a photograph that should be seen in association with this one. When Jimmy Carter became president there was only one woman on a federal appellate bench in the entire country. And Jimmy Carter was determined to change the complexion of the U.S. judiciary. There's a photograph that shows President Carter in October 1980 when he may have sensed that he would lose the election but he held a reception for women he had appointed to the bench and said that he hoped he would be remembered for changing the face of the U.S. judiciary for appointing women and members of minority groups in numbers.

He chose people of the very best quality but people who hadn't been looked for before. After he set that pattern, no president ever retreated from it. And so President Reagan was determined to be the president who appointed the first woman to this Court as he did and he made a splendid choice in Justice Sandra Day O'Connor. But it is Jimmy Carter who decided that federal judiciary should draw on the talent of all of the people of the great United States and now just some of them.

LAMB: What did you do in his administration?

GINSBURG: I was on the U.S. Court of Appeals for the D.C. circuit that U.S. courthouse just a few blocks down the road.

LAMB: So before that, you had not had any government experience?

GINSBURG: Before that I had been a law teacher for 17 years and general counsel to the American Civil Liberties Union.

LAMB: And one of the things that you talk about from time to time is the fact that you were before the Court representing the ACLU.

GINSBURG: Yes. Representing a client that was supported by the ACLU.

LAMB: Before we go back to some of the presidents what's the difference between standing in front of the Court and then being on the other side?

GINSBURG: The difference is that on the other side you ask the questions and being at counsel, counsel's podium, you answer questions.

LAMB: From your own experience of standing before the Court have you treated the attorneys any differently because you had that experience originally?

GINSBURG: I think I have a keen understanding of what it's like to be at the receiving end of questions. But I also know that as an attorney I welcomed questions from the bench. I know that some lawyers regard questions as an interruption in an eloquent speech that they are preparing – prepared to make. But an advocate wants to know what's on the judge's mind. So she will welcome questions as a way of satisfying the judge on a matter that the judge might not resolve as well without counsel's response.

LAMB: I've got to ask you about this picture back here.

GINSBURG: That is my husband of 55 years, Martin David Ginsburg, Professor of Law at Georgetown University Law Center. And this is a typical Marty pose, relaxing on our patio with a good book.

LAMB: One of the things you often talk about and you have in speeches - his cooking.

GINSBURG: Yes. He is the master chef in our house. I was phased out of the kitchen by my food loving children, now 30 years ago.

LAMB: Has he – does he ever cook for the Court?

GINSBURG: Yes. Martin is much in demand at the quarterly lunches that Supreme Court spouses have. I may be a little biased and prejudiced on this point but I think he's by far the best cook among all of the spouses.

LAMB: How do those quarterly lunches work? Are they just for the justices?

GINSBURG: Just for the justices' spouses. For the husband, now the lone husband and the wives of justices and we also – they also regularly invite the widows of justices. So Cathy Douglas Stone and Annie Stewart and Cissy Marshall are regularly at those lunches.

LAMB: The wife of William O. Douglas, and the wife of Potter Stewart.

GINSBURG: Right.

LAMB: Who else do you want to talk about on this table? You have Bill Clinton. George W. Bush. His father. Any remembrances from there?

GINSBURG: And, two more. This was Condoleezza Rice's swearing in as our Secretary of State. Condi lived in the building where my husband and I live. And she is an accomplished musician. We were fortunate to attend one of her musical evenings. And she called me and asked if I would administer the oath of office. And I thought that was a great thing to do. It showed a bipartisan spirit. And we're all proud to be servants of the USA. And it shouldn't matter that I happen to have been appointed to the bench by in a row first Jimmy Carter and then President Clinton, both democrats. So I thought that that was a very nice gesture on her part.

LAMB: Who else on this table you want to talk about?

GINSBURG: Well, we might talk about this one. This is my granddaughter, one of three granddaughters. It was taken in the fall of 1992 when President Clinton was running for office. And his wife, Hillary Clinton, happened that day to be visiting the nursery school attended by my then three-year-old granddaughter. They are doing the toothbrush song together. And this picture was featured in the New York Post. When I saw it I got a copy and sent it to Kara (ph) my granddaughter, then three now 18 and wrote on the bottom, "May you always know where to stand."

LAMB: Who is this lady right here?

GINSBURG: That's my mother. Perhaps the most intelligent person I ever knew but sadly she died when I was 17.

LAMB: I read that she died the day before you graduated from high school.

GINSBURG: Right.

LAMB: What impact did that have on you in those days?

GINSBURG: It was one of the most trying times in my life, but I knew that she wanted me to study hard and get good grades and succeed in life so that's what I did.

LAMB: Behind here are some more pictures. I want to ask you about this one over here because this has actually, I think, been published before.

GINSBURG: Yes. That is a photograph of Justice Scalia and me. We are taking an elephant ride at the Rombat Palace. It was the Palace of the last Maharaja of Rajasthan. It was a very elegant elephant as you can see but a rather bumpy ride.

LAMB: It's often – why don't we walk around your desk here and we'll go in back where the robe is and you can show us that but it's often reported that you and Justice Scalia are good friends.

GINSBURG: Yes, that's true.

LAMB: And people don't understand how you could be so different in your thinking and still be friends. Can you tell us how that happens?

GINSBURG: I have known Justice Scalia since the days that he was a law professor and I was so taken by his wit and his wonderful sense of humor. I heard a lecture that he gave. I disagreed with most of what he said, but I loved the way he said it. Justice Scalia is a very good writer. He cares about how you say it. And he's a very amusing fellow. When he sat next to me both on the D.C. circuit bench and now not this configuration but when Justice O'Connor was with us I was sitting next to Justice Scalia, he could say something that was so outrageous or so funny that I had to pinch myself so I wouldn't laugh out loud in the court room.

LAMB: So it's humor.

GINSBURG: It's that, and because we both care about family and about each other's families.

LAMB: So back in here I know you've got your robes. Tell us how that works on court day.

GINSBURG: On a court day the robes are kept in the Robbing Room and we all have closets there. And we'd enter the robbing room. An attendant would help us put on our robe. In this closet I brought up the robe that I use most often in court. This one, the robe is from England. The collar is from Cape Town, South Africa.

You know the standard robe is made for a man because it has a place for the shirt to show and the tie. So Sandra Day O'Connor and I thought it would be appropriate if we included as part of our robe something typical of a woman. So I have many, many collars. This one is one of my favorites.

LAMB: What's the symbolism of this being from South Africa and this being from England, anything?

GINSBURG: No symbol except I liked the style. This is a Lord Mayor's robe, in fact, it's not a judge's robe. And I saw this in the museum in Cape Town.

LAMB: What is the importance of the robe for a judge?

GINSBURG: It's, I think, a symbol of we are all in the business of impartial judging. And in the United States I think the pattern was set by the great Chief Justice John Marshall who said that judges in the United States should not wear royal robes. They should not wear red robes or maroon robes. They should wear plain black. But every once in a while, not in this court, but when I judged moot courts at a law school I will use this robe, let me take this, this one. This one was a gift to me by the Supreme People's Court in China when I was in China in, I think, it was 1995. I was a guest of their highest court and visited several courts in major cities. When I was in Beijing I admired the robes that the judges were wearing. By the time I was got to Shanghai they had made up a robe for me and presented it to me as a gift. So this is my Chinese robe.

In Canada, both the lawyers and the judges wear robes. This is the standard French rabat. You can see it in every Daumier print on lawyers. But the women jurists in Quebec thought that they should enhance their rabat with a lovely lace collar, so this is.

BRIAN LAMB, C-SPAN: Tell us about the traditions of – around the Robing Room before an oral argument begins.

GINSBERG: As we enter the Robing Room or if we're on the late side, the Conference Room, the first thing we do is we go around the room, each Justice shaking hands with every other. And that's a symbol of the work that we do as a collegial body, that is you may be temporarily miffed because you receive a spicy descending opinion from a colleague, but when we go to sit on the bench, we look at each other, shake hands, and it's a way of saying we're all in this together. We care about this institution more than our individual egos and we are all devoted to keeping the Supreme Court in the place that it is, as a co-equal third branch of government and I think a model for the world in the collegiality and independence of judges.

LAMB: When you're really miffed about some decision and something that somebody says, what do you tell yourself so that you don't take it to the – either the dinner afterwards or whatever? How do you keep it non-personal?

GINSBERG: You think first that there's another case ahead and it makes no sense, as a great colleague on the D.C. Circuit, Judge Edward Tamm once told me when I was a new court of appeals judge, when you're working on an appellate bench, where you're never making decisions alone, where you're always having to work with colleagues, you do your best in

every case. But when it's over, it's over, and you don't look back. You just go on to the next case and give it your all. And that's wonderful advice. Don't worry over what's happened. Just go on to the – to the next case.

LAMB: You gave a speech in Boston earlier in the year where you talked about the lighter side of the Court.

GINSBERG: Yes.

LAMB: Including the musicale. Explain that.

GINSBERG: Justice Harry Blackmun, who spent his summers at Aspen and enjoyed the music festival there, decided that we should have an annual musicale. When the Court's hearings are done, not all its work, because in May and June we're very busy writing opinions, but when we have no more Court hearings, we should take time out for a musical interlude that all of us can enjoy. So he started that in 1988, and initially it was every two years. Then it was once a year; now we have musicales twice a year. And when Justice Blackmun retired, he passed the baton to Justice O'Connor, and for the last seven years, I have been attending to the musicale.

LAMB: Where do they happen in the Court and how many people can come to them?

GINSBERG: They – musicales take place in our beautiful conference room, where our lovely Steinway grand is. And we can accommodate, I think, not more than 200 people. Each justice can invite up to six people and then many people from the Supreme Court

Historical Society attend and leaders of the Court's staff, for example, Kathy Arberg, with whom you have worked.

LAMB: So a new justice comes to this Court and they come to you and they sit in your office and say tell me what I should know about this court that'll make it a better experience. What do you tell them?

GINSBERG: I would say you will be surprised by the high level of collegiality here. This term, I think we divided five-to-four in almost one-third of all the cases. One might get a false impression from that degree of disagreement. Justice Scalia once commented that in his early years on this court, there was no Justice with whom he disagreed more often than Justice Brennan. And yet Justice Scalia considered Justice Brennan his best friend on the Court at that time and he thought the feeling was reciprocated. The public wouldn't know that from reading an opinion by Brennan, a dissent by Scalia, or the other way around, but these were two men who genuinely liked each other and enjoyed each other's company.

LAMB: When you're up on the bench, looking out at the Court, what do you see that we don't see, sitting in the Court, looking at you?

GINSBERG: I see the – our wonderful friezes and the magnificent proportions of that courtroom. And sometimes I say to myself, am I really there or is it all a dream? It's one of the most beautiful courtrooms, I think, in the world.

LAMB: You – in your lighter side speech, you talked about the lunches that you all have after you've been ...

GINSBERG: Yes.

LAMB: ... in the Court or at a conference and all. Where are they held and what's the atmosphere?

GINSBERG: They are held in the Justices' Dining Room, which is on the second floor. It is a beautiful room; very well-furnished. But the food, as I have said, is not exactly haute cuisine. It comes from the public cafeteria. The justices eat the same things that any visitor to the Court might choose for lunch here.

LAMB: Do you have to go to that lunch or is it ...

GINSBERG: No. It's not – it's not obligatory, but we generally do and I try not to miss a post-argument lunch, because you never know what my colleagues will be talking about. They may be talking about the case that we just heard and I wouldn't want to be absent from that discussion, so I can make my comments about it and listen to my colleagues so I will understand what's in their mind.

LAMB: Is there any symbolism to the paintings in the room of Marbury and Madison?

GINSBERG: *Marbury vs. Madison* is probably the most famous case this Court ever decided and it reminds us that we have a responsibility given to – not given to most judges in the world, that is what we call judicial review for constitutionality. We interpret statutes most of the time, but sometimes a question arises under our highest statute, that is the

Constitution of the United States. All people who serve government take an oath to support and defend the constitution, but this Court has the last word on what that constitution means.

That is not the typical pattern in parliamentary systems, where the legislature will have the last word on what the fundamental instrument of government means. The idea of judicial review for constitutionality, I think, is implicit in the constitutional document. But John Marshall made it explicit in the great case in the great case of Marbury against Madison.

LAMB: Let me just ask you a couple more questions about the conference itself. Explain to us that room and what happens in that conference and who's in there.

GINSBERG: Our conference room has a table where we all have a particular seat; the chief justice at one head, the more senior associate justice at the other, currently Justice John Paul Stevens. When we discuss cases, we go around the room in seniority order, so the chief will summarize the case and give his tentative view, and then the rest of us will say what we think about the case, how it should come out and why.

LAMB: Is there an argument that ensues or is it ...

GINSBERG: Generally there is limited argument. Initially we go around the table and each justice speaks. Then there will be some, but not a lot of cross conversation. One justice or another will say, after we've talked for several minutes, it will all come out in the writing. Let's leave it for now and that is just so, it will come out in the writing. What this Court produces is an opinion of the Court, so you're not writing just for yourself. You're writing,

hopefully, for the entire Court, but if not, at least for the majority of the members and you have to take account of what they think.

We don't have any observers in the conference room. No one can enter the room who is not a justice, no secretary, no law clerk, not even a message-bearer. And it would look strangely old-fashioned, I think, to most people. You will not see a laptop in that room. If notes are taken, they're taken by each justice individually, by hand. The conferences are not recorded. They're just a private conversation among the justices about the case.

What the public will see, eventually, is an opinion with reasons. The discipline that a judge follows and what makes judges unlike legislators; we don't just say I vote that the petitioner should win or vote that the respondent should win. We have to give reasons for every decision we make. Sometimes in the process of stating your reasons you begin to say am I right? Did I overlook this question or that question? And not often, but sometimes a justice will say this opinion will not write. I was wrong at the conference; I'm going to take the other position. And that justice will notify the rest of us and we will either agree or disagree and the justice will end up writing for the majority if we agree, or the dissent if we don't.

So the conferences then, they're what you would see in most appellate courts in the United States, except the typical appellate bench is three and it's easier to have a conversation among three than among nine. So you have to respect that your colleagues are not there to hear a long speech from you. We speak, as I said, in seniority order, so this term I'm number seven. Next term, I'll be number six. It's great to go first because you're the – you can tell the rest, in a persuasive statement, what you think of the case. But when you're on the end of that queue, you do have a certain advantage. That is you know what the others think and you

can incorporate what they've said into your own statement about how the case should come out.

LAMB: Thank you, Justice Ginsberg.

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