

VIRGINIA LAW REVIEW

VOLUME 102

APRIL 2016

NUMBER 2

TRIBUTE

A TRIBUTE TO ANTONIN SCALIA

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AS this issue of the *Virginia Law Review* went to press, we received the sad news of Justice Antonin Scalia's death. The Supreme Court has lost perhaps its most influential member; the University of Virginia has lost a former faculty member and good friend. I write today to celebrate his long and mutually affectionate association with the Law School.

In the late 1960s, the Law School embarked on an effort to hire young, ambitious, talented scholars to bring a faculty already known for exceptional teaching into the top ranks of scholarly research. One of those hires was Antonin Scalia, a recent Harvard Law School graduate who was in practice at Jones Day but who aspired to an academic career. He began teaching in the fall of 1967 and was an immediate hit, known equally for his sense of humor and his no-holds-barred Socratic style. Before classes even started that fall, an incoming student named Brian Donato called Scalia, who was his assigned Contracts professor. A moving company had badly damaged the furniture Brian and his wife were bringing with them to Charlottesville. He asked Scalia for advice on how to handle the uncooperative moving company. Scalia sprang into action and quickly obtained full reimbursement. Brian then sheepishly asked what he owed Scalia for the legal representation. Scalia replied, "Dinner at your apartment, and I'm bringing my wife." Brian became one of many students with whom Scalia remained friends for the rest of his life.

* Dean, University of Virginia School of Law. I thank Brian Donato for sharing his memories of Justice Scalia with me.

Meanwhile, Scalia's scholarly work, sharply analytical and expressed directly and confidently, won him tenure in 1970.

Scalia's warmth and ability to enjoy life also endeared him to his colleagues. In 1990, a few months after I joined the faculty, I sat in Caplin Auditorium as Scalia spoke at a memorial service for his dear friend, Emerson Spies.¹ Emerson had been Scalia's faculty colleague and later dean of the Law School, as well as a fanatical tennis player. Scalia recalled the inevitable invitations to join Emerson for a game. He tried to beg off with the argument that as a product of Queens, he had been raised on stickball, not tennis. Eventually Emerson challenged Scalia to a game of stickball. One has to smile at the thought of two grown men playing a kids' game with a broom handle and tennis ball alongside Clark Hall. Although on the occasion of the memorial service he was self-deprecating about his skill with a tennis racket, I have it on reliable authority that during his time in Charlottesville, Scalia became a proficient player who declared himself master of the "Sicilian drop shot."

Being Scalia's student or colleague was not all fun and games. His relentless, unyielding style of argument could be exhausting and infuriating. In a tribute some years ago, Dean John Jeffries said, "If even the most ardent of the Justice's admirers may be permitted to doubt that a Court of nine Scalias would be ideal, we should all be thankful for having the one."² The same might be said about the faculty and Professor Scalia.

Professor Scalia also wrote with the pungent prose and wit that became his trademark on the bench. Shortly after leaving Charlottesville for Washington, he was pressed into service at the last minute to give a speech to a bar association after the original speaker, Senator Robert Dole, had to cancel. Even these hasty remarks (on the fairness doctrine) were vintage Scalia. In discussing societal changes that were making it, in his view, nearly impossible to apply the fairness doctrine without venturing into government promotion or suppression of speech, Scalia noted, "[T]here has developed quite suddenly in the past decade a popular awareness of the power and influence of the broadcast media, so that where we once had the media seeking newsworthy events, we now have

¹ See Antonin Scalia, Tribute to Emerson G. Spies, Tribute at the University of Virginia, Caplin Auditorium (Nov. 2, 1990), *in* 77 Va. L. Rev. 427, 427 (1991).

² John C. Jeffries, Jr., Tribute to Justice Antonin Scalia, 62 N.Y.U. Ann. Surv. Am. L. 11, 13 (2006).

the events seeking the media.”³ It’s a delightful turn of phrase and perhaps even prescient about the era of reality TV and Instagram.

In 1971, President Nixon appointed Scalia General Counsel of the Office of Telecommunications Policy, which was then dealing with the challenge of applying regulations designed for over-the-air broadcasting to the growing cable television industry. Scalia did not initially resign his professorship at Virginia, but took the leave of absence frequently granted to professors who take temporary government posts. However, he decided to remain in public service during the remainder of the Nixon and Ford administrations, moving first to the Administrative Conference of the United States and then to the Office of Legal Counsel. He then joined the University of Chicago Law School faculty. Early in the Reagan administration, Scalia was appointed to the D.C. Circuit and on occasion taught at the Law School as an adjunct instructor until his appointment to the Supreme Court in 1986.

The Law School was honored to welcome the Justice back to Charlottesville on many occasions—to receive the Thomas Jefferson Medal in Law and the William J. Brennan, Jr. Award, to deliver the Henry Abraham Distinguished Lecture, and to speak at this *Law Review’s* 100th anniversary banquet, among others. He even put in a cameo appearance, by video, at the Libel Show. At the time of his death, we were preparing to welcome him as the keynote speaker at the Federalist Society’s National Student Symposium, held this year at the Law School. We are impoverished by his absence and mourn with his wife, Maureen, and the rest of his family.

³ Antonin Scalia, Don’t Go Near the Water, Address Before the Federal Communications Bar Association (Jan. 13, 1972), *in* 25 Fed. Comm. B.J. 111, 114 (1972).