

## BOOK REVIEW

### SCALIA BEING SCALIA

SCALIA SPEAKS: REFLECTIONS ON LAW, FAITH, AND LIFE WELL LIVED.  
Antonin Scalia. Edited by Christopher J. Scalia & Edward Whelan.  
Forward by Ruth Bader Ginsburg. Crown Forum (2017).

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#### INTRODUCTION

*Scalia Speaks* is a treasure. It collects and preserves Justice Scalia's voice, as captured in dozens of his speeches over the past three decades. The Justice was an inveterate traveler and lecturer. Although he often talked about the virtues of a "dead Constitution" over a living and evolving one, the range and sheer volume of speeches he gave is impressive. The Justice's youngest son, Christopher, and one of his early law clerks, Edward Whelan, have curated this selection from that considerable universe of material. Their editorial touch is deft and unobtrusive. Christopher introduces the volume by explaining the selection process and the challenge of reproducing the speeches of a gifted public speaker who often spoke from a combination of memory and the most skeletal of notes. The editors then trade off setting the stage—the who, where, when, and why—for each of the speeches. The volume features a foreword by Justice Ruth Bader Ginsburg that alone is worth the price of admission.

But the glory of this book lies in the words and insights in the collected speeches. Justice Scalia's legal opinions are rightly celebrated as models of judicial writing.<sup>1</sup> They are witty and

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1. Justice Elena Kagan, *In Memoriam: Justice Antonin Scalia*, 130 HARV. L. REV. 1, 5–9 (2016).

wise and filled with memorable prose.<sup>2</sup> The most memorable of those opinions are often dissents, especially lone dissents, such as his solo opinion in *Morrison v. Olson*.<sup>3</sup> The reason the dissents are particularly memorable, as the Justice himself explains in one of the speeches in this volume, is that in a dissenting opinion a judge can speak his own mind in his own voice. There is no need to compromise or trim rhetorical sails to keep a majority or pick up a fifth vote. The speeches collected in *Scalia Speaks* share that quality and take it to the next level. In the speeches, there was no need to convince even a single colleague to join him in an argument or turn of phrase, and unlike the dissents, the Justice was free to pick the topic. To borrow the Justice's words, the speeches are "the *ne plus ultra*, the Napoleon Brandy, the Mahatma Gandhi, the Cellophane" of Scalia being Scalia.<sup>4</sup> As a consequence, virtually every speech features an arresting phrase, a profound insight, and at least one laugh out loud line.

The speeches make for easy reading, but they offer important insights into law, life, and the perspective of this most consequential Associate Justice. While the editors group the speeches into topics—on living, on faith, on law, and so on—it is striking how many speeches on life include insights into the Justice's legal philosophy and how many speeches on law feature broader lessons for a life well lived. Fans of Justice Scalia will delight in this volume and in reading speeches that reflect his distinct approaches to everything from statutory construction to turkey hunting. But critics of his jurisprudence also will find the collected speeches useful for the sheer number of insights into how this influential and sometimes controversial Justice approached the law. Those who had the pleasure of hearing the Justice speak will be pleasantly surprised by how much of his distinct presentation style and personality jump off the page. But this collection may be even more valuable for those who missed out on that pleasure. For them, this volume represents a unique opportunity to hear from one of the most influential

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2. Paul D. Clement, *Why We Read the Scalia Opinion First*, 101 JUDICATURE 52 (2017).

3. *Morrison v. Olson*, 487 U.S. 654, 697–734 (1988) (Scalia, J., dissenting).

4. *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 861 (1998) (Scalia, J., concurring) (footnote omitted).

jurists in his own words, his own voice, and on his own choice of topics. It is a treat.

### I. GINSBURG SPEAKS

*Scalia Speaks* begins with a few words from Justice Ginsburg. Justice Ginsburg, of course, knew Justice Scalia exceptionally well, as their warm friendship began before the first of the collected speeches and endured throughout their shared tenures on the D.C. Circuit and the Supreme Court. Justice Ginsburg's unique vantage point positioned her well to assess and introduce the collected speeches. As she writes: "This collection of speeches and writings captures the mind, heart and faith of a Justice who has left an indelible stamp on the Supreme Court's jurisprudence and on the teaching and practice of law."<sup>5</sup>

The most valuable aspect of the foreword, however, is not its perspective on the speeches, as readers will assess those for themselves, but Justice Ginsburg's observations on her enduring friendship with Justice Scalia. In a reaction that foreshadowed their relationship on and off the bench, Justice Ginsburg explains that the first time she heard him speak—on an administrative law topic, what else—she thoroughly disagreed with him on the merits, "but his acumen, affability and high spirits captivated me."<sup>6</sup> Justice Scalia, on the occasion of then-Judge Ginsburg's tenth year on the D.C. Circuit, noted that they "formed a very close friendship," and in light of their diametrically opposed view on a number of subjects, "one of us must be mistaken. Perhaps both."<sup>7</sup>

Justice Ginsburg details the many qualities she admired in Justice Scalia. "Most of all," his "rare talent for making the most sober judge smile."<sup>8</sup> Justice Scalia perhaps got more than a smile out of then-Judge Ginsburg when he pointed out that "it is sometimes as hard to get her to stop laughing as it is to

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5. Ruth Bader Ginsburg, *Foreword* to SCALIA SPEAKS: REFLECTIONS ON LAW, FAITH, AND LIFE WELL LIVED at ix, xi (Christopher J. Scalia & Edward Whelan eds., 2017).

6. *Id.* at ix.

7. ANTONIN SCALIA, SCALIA SPEAKS, *supra* note 5, at 377.

8. Ginsburg, *supra* note 5.

get her to start.”<sup>9</sup> Justice Ginsburg closes her foreword with the observation that if her friendship with Justice Scalia “encourages others to appreciate that some very good people have ideas with which we disagree, and that despite differences, people of goodwill can pull together for the well-being of the institutions we serve and our country, I will be overjoyed, as I am confident Justice Scalia would be.”<sup>10</sup>

## II. SCALIA SPEAKS ON THE NON-LEGAL

The vast majority of the collected speeches in *Scalia Speaks* focus on topics that are not expressly legal. The breadth and sheer number of topics covered is striking. The Justice addresses everything from the “Italian View of the Irish,”<sup>11</sup> to “Games and Sports,”<sup>12</sup> to “The Holocaust.”<sup>13</sup> But while the topics are varied, some issues plainly interested the Justice more than others. Certain topics and themes recur. Those recurring topics, in turn, are a fair reflection of his biography, his passions, and his influences.

The Justice’s New York roots, for example, are in full display in a number of speeches. His talk on “Games and Sports” is a celebration of the distinctly urban games of his childhood in Queens, such as stoop ball and street hockey.<sup>14</sup> His reflections on “Courage” were delivered to his alma mater, Xavier High School, and underscore the enduring influence that unique institution—both Jesuit and military—had on the Justice.<sup>15</sup> But while I had always thought of the Justice as a New Yorker, and a denizen of the federal government, I was struck by the degree to which he identified himself as a Virginian. He told an audience at the George Mason University Law School, which now bears his name, that “I am at heart a Virginian, and so especially pleased to be present at the dedication of this splendid new

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9. SCALIA, *supra* note 5, at 377.

10. Ginsburg, *supra* note 5.

11. SCALIA, *supra* note 5, at 19.

12. *Id.* at 52.

13. *Id.* at 342.

14. *Id.* at 54–55.

15. *See id.* at 307–17.

law building for the commonwealth.”<sup>16</sup> And his speech about George Washington delivered at Mount Vernon focused on “George Washington as a Virginian.”<sup>17</sup>

A number of the speeches focus on education in various forms. His George Mason speech addressed legal education,<sup>18</sup> but the Justice also tackled civic education,<sup>19</sup> college education,<sup>20</sup> and Catholic education.<sup>21</sup> Justice Scalia was Professor Scalia (and the child of another Professor Scalia) long before he was Judge Scalia or Justice Scalia, and he never really stopped being Professor Scalia, as his innumerable visits to law schools attest. His deep-seated interest in and opinions about education are well illustrated in these speeches.

A full section of the book and at least six of the collected speeches are directed to topics of faith.<sup>22</sup> Two speeches are directed to the intersection of law and faith—one on separation of church and state<sup>23</sup> and another on faith and judging.<sup>24</sup> But even more revealing are his talks that offer insights into his own faith, such as a talk on religious retreats that he gave to students at Georgetown (another Scalia alma mater) after they had returned from a retreat. In underscoring the value of retreats, the Justice observed: “In the Gospels, of course, Jesus is constantly going off all by himself; and he doubtless needed it less than we do.”<sup>25</sup>

Each of these varied speeches is worth reading for its insights into the topic specifically addressed. For example, anyone engaged in legal writing for a living would be foolhardy not to read, and reread, the Justice’s short and insightful talk on “Writing Well.”<sup>26</sup> It is, not surprisingly, well written. While he acknowledged that there is such a thing as writing genius that

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16. *Id.* at 84.

17. *Id.* at 350.

18. *Id.* at 84.

19. *Id.* at 64.

20. *Id.* at 76.

21. *Id.* at 124.

22. *See id.* at 105–54.

23. *Id.* at 134.

24. *Id.* at 148.

25. *Id.* at 145.

26. *Id.* at 57.

cannot be taught, his primary and reassuring lesson is that the difference between most writing and good writing is "time and sweat."<sup>27</sup> For the many who admire the Justice's accomplishments as a legal stylist, the admiration for his handiwork is amplified by knowing that it was the product of "time and sweat," as well as genius.

But while each speech is interesting in isolation, collectively these speeches throw substantial light on the influences that shaped the Justice's worldview and his approach to judging. For all his love of hunting and embrace of the wide expanses of rural America where the hunting is best, Justice Scalia remained a son of Queens and at home in northern Virginia. Although the Justice warned students about spending "too much of your time [taking] courses on Law and Ice Cream,"<sup>28</sup> and bemoaned "the gradual estrangement of the academy from practice,"<sup>29</sup> he never stopped teaching, and he wrote his opinions to be read by law professors and especially by law students. And while he insisted that there is no such thing as a Catholic judge,<sup>30</sup> one cannot read these speeches without being struck by the depth of the Justice's faith and its centrality to his life. Indeed, because the Justice worked hard to keep his own influences from surfacing expressly in his judicial opinions, these non-judicial works, where the Justice perceived no institutional pressure to keep his personal influences and views concealed, are that much more important in assembling a full view of the Justice.

### III. SCALIA'S HEROES

Christopher Scalia makes clear in his introduction that, in culling the Justice's many speeches down to the forty speeches that made the final cut, the editors strove to avoid undue repetition. Despite those efforts, certain ideas and influences recur, sometimes surfacing in very different contexts. Two historical figures, in particular, populate the Justice's speeches with enough frequency that it is perhaps fair to conclude that the

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27. *Id.* at 59.

28. *Id.* at 87.

29. *Id.*

30. *See id.* at 152.

two very different men ranked as heroes in the Justice's estimation.

The first is not surprising. The attraction to Saint Thomas More of a Catholic scholar and lawyer who had served in high public office is straightforward. In the Justice's case, though, the connection was more personal. In 1960, in the year immediately following law school, Justice Scalia and his new bride (another of the Justice's heroes, as the dedication of the book attests) traveled throughout Europe on an academic fellowship. While in London, they attended a production of Robert Bolt's then-new play, *A Man for All Seasons*. The play, both in its specific dialogue and general portrayal of Saint Thomas More had a profound effect on the Scalias.<sup>31</sup> The young Professor Scalia reportedly closed many of his law school classes with a stirring passage from the play in which Saint Thomas More explains his dedication to the letter of the law. And in the collected speeches, the Justice invokes Saint Thomas More and the play while addressing a variety of topics and a variety of audiences. Everyone from lay audiences to fellow judges to graduating high school students was treated to a helping of More as portrayed by Bolt.

A speech that the Justice gave dozens of times, and which caused a minor stir when it first surfaced, was one in which the Justice embraced Saint Paul's admonition to be fools for Christ's sake.<sup>32</sup> The Justice nicknamed this speech, "The Two Thomases," as he contrasted the world-wise Thomas Jefferson, who had the hubris to put together a substantially abridged version of the Gospels over a few spare evenings, and Saint Thomas More, who was beheaded over a dispute that seemed trivial to the worldly. As the Justice emphasized, "You will have missed the deep significance of More's martyrdom—and you will not understand why More is a particularly apt patron saint for lawyers, scholars, and intellectuals—unless you appreciate that the reason that he died was, in the view of almost

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31. *Id.* at 107.

32. Jack W. Germond & Jules Witcover, *The Scalia speech: raw meat to the religious right*, BALT. SUN (Apr. 17, 1996), [http://articles.baltimoresun.com/1996-04-17/news/1996108119\\_1\\_justice-antonin-scalia-judicial-independence-scalia-speech](http://articles.baltimoresun.com/1996-04-17/news/1996108119_1_justice-antonin-scalia-judicial-independence-scalia-speech) [<https://perma.cc/RRV4-JVQE>].

everyone at the time, a silly one.”<sup>33</sup> The Justice leaves no doubt as to which of these two Thomases he viewed as heroic.

The second hero that emerges from these speeches was more surprising, at least to me. Justice Scalia was deeply attached to the Constitution, especially its structural aspects. Although Justice Scalia would be the first to say that his job was to apply even exceptionally silly statutes and constitutional provisions as written, he confronted many more of the former than the latter and held the Constitution and its authors in high esteem. He likewise had great admiration for the Federalist Papers, imploring everyone to read them front cover to back and using the fact that very few law students have done so as a barometer of the sad state of civic education.<sup>34</sup> Thus, it would seem natural for the Justice to hold Hamilton and especially Madison in distinctly high regard. But the somewhat surprising hero of the Framing in Scalia’s eyes is none other than George Washington, his “favorite of the Founders—the one I would most have liked to meet.”<sup>35</sup>

The Justice admits that Washington “was not a great intellect.”<sup>36</sup> The Justice freely conceded that Washington lacked the educational pedigree of many of his contemporaries at the Constitutional Convention, that his role in fashioning the specifics of the Constitution was minimal, and that he left no great collection of scholarly or political writings.<sup>37</sup> But three aspects of Washington’s legacy recur in the Justice’s speeches. First, Washington’s views on the role of religion in public life plainly struck a chord. More than once the Justice invoked Washington’s embrace of religion as a necessary ingredient of public virtue in his Farewell Address.<sup>38</sup> Second, and relatedly, the Justice plainly admired the spirit of religious tolerance reflected in Washington’s letter to the Hebrew Congregation in Newport, Rhode Island, which Justice Scalia references in multiple speeches.<sup>39</sup> There are certainly strains of the Justice’s own Es-

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33. SCALIA, *supra* note 5, at 114.

34. *See id.* at 72.

35. *Id.* at 64.

36. *Id.*

37. *See id.*

38. *See, e.g., id.* at 70–71.

39. *See, e.g., id.* at 27.

tablishment Clause jurisprudence in Washington's views on religion. Third, and perhaps most obviously, there is Washington's character. In an admirably brief address to the graduating class at Langley High School in Virginia, Justice Scalia conceded that "I have no doubt, the likes of Jefferson and Hamilton could do intellectual cartwheels" around Washington.<sup>40</sup> But at the Constitutional Convention, "the unquestioned leader of this brilliant circle of men" was Washington, because of his character.<sup>41</sup> "Washington was a man of honor, of constancy, or steady determination."<sup>42</sup>

#### IV. SCALIA ON LAW

For all its variety, the compilation does not give short shrift to legal topics. Nearly a third of the collected speeches address legal subjects, and those speeches are some of the volume's longer entries.<sup>43</sup> For those familiar with the Justice's Supreme Court opinions, many of the topics will not surprise. Original meaning,<sup>44</sup> legislative history,<sup>45</sup> and the use of foreign law<sup>46</sup> are all issues that recur in the Justice's jurisprudence and in this volume. But there are two critical differences between the speeches and the Justice's treatment of comparable topics in judicial opinions.

First, many of the speeches were delivered to lay audiences. While the Justice certainly wanted his judicial opinions to be accessible to a broad audience, his primary intended audience was judges, lawyers, and especially law students.<sup>47</sup> In his speeches, by contrast, he aimed to bring his views concerning the First Amendment to undergraduates,<sup>48</sup> his crusade against the use of foreign law in constitutional interpretation to the

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40. *Id.* at 328.

41. *Id.*

42. *Id.* at 65.

43. *Id.* at 155–304.

44. *Id.* at 180.

45. *Id.* at 234.

46. *Id.* at 250.

47. See Clement, *supra* note 2.

48. SCALIA, *supra* note 5, at 201.

American Enterprise Institute,<sup>49</sup> and his theory of the proper role of the judge to the University of Applied Sciences in Peru.<sup>50</sup> In attempting to persuade a lay audience on these issues, and to do so orally, Justice Scalia reduced his arguments to their essentials.

Second, and relatedly, these speeches address these issues in the abstract, shorn from the context of particular cases. While the Justice's criticisms of legislative history resurface in countless opinions, one would be hard pressed to identify a single opinion that comprehensively reflects his basic argument against legislative history. And that is to be expected. Opinions address the arguments of the parties and the *ratio decidendi* of competing opinions. And in Justice's Scalia's view, judicial opinions (like commencement speeches) generally should be concise. Thus, a majority opinion invoking a floor colloquy is likely to provoke an observation about the limits of floor debate. A use of post-enactment legislative history or the text of a failed bill would be met with observations about why such materials are particularly unreliable indicators of legislative intent. But no one opinion is likely to include the basic Scalia argument against legislative history soup to nuts. The speeches in this volume fill that gap.

One other aspect about the audiences for these speeches merits mention. Justice Scalia did not always, or even very often, tell his audiences what they wanted to hear. Rather than bring coals to Newcastle, Justice Scalia came to challenge his audience and to ask them to reconsider their preconceived notions. He told the Meese Justice Department why original intent, as opposed to original meaning, was a misnomer in describing an authentic method of constitutional interpretation.<sup>51</sup> He told a group dedicated to shared American and European interests about the fundamental differences in American and European values.<sup>52</sup> And, in one of his last speeches, he even managed to

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49. *Id.* at 250.

50. *Id.* at 169.

51. *Id.* at 180.

52. *Id.* at 29.

tell an audience of Dominicans that Saint Thomas Aquinas was all wet when it came to the proper role of a judge.<sup>53</sup>

#### V. A PEEK BEHIND THE CURTAIN

I clerked for the Justice during the Court's 1993 October Term, and by virtue of living and working in the Washington, D.C. area, stayed in reasonably close contact with the Justice thereafter. Justice Scalia was a valued friend and mentor. And, still, many of the speeches in this volume were a complete revelation to me. While I thought I followed the Justice and his public utterances relatively closely (at least in the pre-Twitter sense), I missed that he delivered the keynote at the centennial celebration of the Illinois Supreme Court building in Springfield,<sup>54</sup> or contributed to an Arts and American Society symposium at Julliard,<sup>55</sup> or commemorated victims of the Holocaust at the U.S. Capitol.<sup>56</sup> I had heard one or two of these speeches in person, and had read about a few others, but most of the speeches—some delivered to private groups, others delivered to audiences abroad—were completely new.

One notable exception was the Justice's 1994 speech on dissenting opinions delivered to the Supreme Court Historical Society and included in the "On Law" section of *Scalia Speaks*.<sup>57</sup> I was not only familiar with this speech, but I was in Chambers when the Justice crafted the speech and I provided some modest research help. The speech is a fascinating read. It is essentially an apologia for the dissenting opinion from one of the great practitioners of the art. In that regard it displays one of the virtues of many of the legal speeches in this volume. They provide a unique perspective; one of the Court's insiders commenting about the Court in the abstract, as if from the outside. No dissenting opinion is going to take the time or reflect the felt need to justify the very existence of dissenting opinions. But here, Justice Scalia considers the evolution of the dissenting opinion in the American system, from the seriatim opinions

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53. *Id.* at 241.

54. *Id.* at 358.

55. *Id.* at 43.

56. *Id.* at 342.

57. *Id.* at 271.

inherited from Britain to the unanimity of the Marshall Court to modern practice, and the justifications for dissenting opinions in terms of both their internal effects on the Court and external effects on the law.

The speech is vintage Scalia. He starts out by defining what he means by dissenting opinions. He includes concurring opinions that reach the same result as the majority by different reasoning. "Legal opinions," he explains, "are important, after all, for the *reasons* they give, not the *results* they announce."<sup>58</sup> The latter could simply be pronounced in an order. But then in a line that is both classic Scalia and helps explain the passion and number of his dissents, the Justice makes clear his view: "An opinion that gets the *reasons* wrong gets *everything* wrong."<sup>59</sup> Then, after quoting T.S. Eliot on Saint Thomas a Becket, the Justice excludes from his definition "separate concurrences that are written only to say the same thing better than the court has done, or, worse still, to display the intensity of the concurring judge's feeling on the issue."<sup>60</sup> The Justice dismissed such concurrences "as an abuse, and their existence as one of the arguments against allowing any separate opinions at all."<sup>61</sup>

Having defined his terms and allowed for at least one argument against separate opinions, the Justice evaluates the various arguments pro and con and the various effects of dissenting opinions on the Court and the broader legal community. It is no great surprise that the great dissenter comes down in favor of dissenting opinions. But his reasons are revealing about how he conceived dissenting opinions and the way he went about writing them. One of my favorite aspects of the speech, then and now, was the Justice's recognition that majority opinions will be read even if they are poorly written because "what they say is authoritative; it is the law."<sup>62</sup> Not so dissenting opinions. "They will not be cited, and will not be remembered, unless some quality of thought or of expression commends them to later generations."<sup>63</sup> It is hard not to conclude that the

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58. *Id.*

59. *Id.*

60. *Id.* at 271.

61. *Id.*

62. *Id.* at 287.

63. *Id.*

Justice's awareness of this limitation of dissenting opinions helps explain why his are so darn readable and almost always reflect a "quality of thought or of expression" that "commends them to later generations."<sup>64</sup>

The speech on dissents is not just vintage Scalia, but pure Scalia. Note that when I described my role in assisting the Justice with this speech, I did not say I helped him write it or provided him with a draft or did anything other than some minimal research. That is neither modesty nor a reflection that one of my fellow law clerks was pulling the laboring oar. It is the simple truth. I was the only law clerk assigned to help the Justice with this speech, and my role was truly minimal even compared to a judicial opinion. Justice Scalia was hardly reliant on his law clerks when it came to his judicial opinions. Reading even a handful of Scalia opinions across different Terms makes clear that the distinctive voice and unique ability to turn a phrase emanates from the Justice, not a series of law clerks. That said, he did ask his law clerks for drafts of opinions. As I have speculated elsewhere, he may have sought a draft only to avoid the trouble of formatting a new document on the computer.<sup>65</sup> But when it came to speeches, or at least this speech, he did not ask for a draft or almost anything else. He had a fully formed idea of what he wanted to say and then took the time to craft a speech that made the points in a voice that is entirely distinct and entirely him.

While my role in assisting with the speech was truly minuscule, the experience still stands out as one of the more striking memories of my clerkship even twenty-five years later. My principal memory is how Justice Scalia kept being drawn to the dissenting opinions of Justice Jackson again and again.<sup>66</sup> When the Justice began the speech, he had the intention of being relatively ecumenical in praising various of his predecessors for the quality of their dissenting opinions. And the speech does invoke examples from Justices Holmes,<sup>67</sup> Cardozo,<sup>68</sup> Black,<sup>69</sup> and

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64. *Id.*

65. See *Supreme Court Bar Memorial for Justice Antonin Scalia*, C-SPAN (Nov. 4, 2016), <http://cs.pn/2Bb5m2a> [<https://perma.cc/3DY6-LJBS>] (statements of Paul D. Clement).

66. SCALIA, *supra* note 5, at 276–77, 288–90.

67. *Id.* at 282–83, 287–88.

both Justices Harlan.<sup>70</sup> But despite Justice Scalia's "original intent" to spread the praise and examples around, he kept on returning to the Jackson well. In the end, Justice Scalia gave up resistance and closed the speech with four straight Jackson dissents on everything from free speech to judicial activism to changing one's mind.<sup>71</sup> The speech was a tour de force, but the most enduring memory of its preparation process was Justice Scalia's insuppressible admiration for Justice Jackson as a judicial stylist.

## VI. FINAL THOUGHTS

I am hamstrung in judging the editorial decision making that went into selecting the speeches for this volume, as I do not know what did not make the cut. I can only hope that there is a sequel that allows readers to make robust arguments for what really belonged in the first volume. What I can say is that the material that made the first cut is essential reading.

Indeed, there are at least three reasons why the collected speeches are required reading for anyone, fan or foe, seeking to understand this most consequential of Associate Justices. First, the speeches on non-legal topics give the reader an appreciation for the Justice's passions and influences. The depth of his faith and New York roots, his vocation as a teacher, his self-identification as a Virginian, his admiration for More and Washington all come shining through.

Second, his legal speeches provide a more comprehensive argument for his deeply held positions on general matters of interpretation and methodology than a reader is likely to find in any one judicial opinion. While a reader could piece together the entirety of the Justice's argument against legislative history from a dozen dissents, it is far more efficient and rewarding to have the Justice present the argument comprehensively in a single sitting. And the legal speeches gave Justice Scalia the opportunity to address the phenomena of judging and opinion

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68. *Id.* at 287.

69. *Id.* at 283.

70. *Id.* at 276, 278.

71. *Id.* at 288–90.

writing in the abstract, rather than in the context of particular cases. In those speeches, we have the ultimate insider looking at the Court and judging from the perspective of an outside observer.

Finally, these speeches reflect the Justice's own thinking on a topic of his own choosing. In his speech on dissents, Justice Scalia contrasted the freedom of a dissenting opinion favorably with the task of writing an opinion for the Court:

To be able to write an opinion solely for oneself, without the need to accommodate, to any degree whatever, the more-or-less differing views of one's colleagues; to address precisely the points of law that one considers important *and no others*; to express precisely the degree of quibble, or foreboding, or disbelief, or indignation that one believes the majority's disposition should engender—that is indeed an unparalleled pleasure.<sup>72</sup>

But even a dissenting opinion is constrained by the issue before the Court and the arguments embraced by the majority opinion to which the dissent responds. Thus, for anyone who has ever taken pleasure in reading a Scalia dissent, *Scalia Speaks* is essential reading. The speeches are like the ultimate dissents on topics of the Justice's own choosing, unconstrained "to any degree whatever"<sup>73</sup> by a need to accommodate the limits of Article III jurisdiction or the wishes of even a single like-minded colleague. And they tend to come uniquely from the mind and pen of the Justice, with only the most minimal of interference or assistance from a law clerk. They are pure Scalia through and through and "that is indeed an unparalleled pleasure."<sup>74</sup>

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72. *Id.* at 286.

73. *Id.*

74. *Id.*