

Bathroom Reader

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WORDS FOR A FRIEND

Justice Antonin Scalia passed away on the night of February 12. Whether loved or hated, many had strong feelings about him, including his colleagues. Justice Clarence Thomas described him as having a towering intellect and being a legal giant and “a dear, dear friend.” “It is hard to imagine the Court without [him],” he continued, “I will miss him beyond all measure.”

Justice Elena Kagan: “I treasured Nino’s friendship: I will always remember, and greatly miss, his warmth, charm, and generosity.” Scalia helped her fulfill a “campaign promise” she made to a Senator during her confirmation: If she joined the Court, she’d ask Scalia to go hunting.



L-R: U.S. Judge Charles Pickering, Scalia, Kagan, MS Sec. State Delbert Hosemann

Perhaps the most touching words were from Justice Ruth Bader Ginsburg, whose relation-

ship with the late justice was legendary: “[W]e were best buddies. We disagreed now and then, but when I wrote for the Court and received a Scalia dissent, the opinion ultimately released was notably better than my initial circulation. Justice Scalia nailed all the weak spots - the “applesauce” and “argle barge” - and gave me just what I needed to strengthen the majority opinion.”

“PLATONIC GOLF”

Scalia described as one of his favorites a case in which the Court had to “confront what is indeed an awesome responsibility.” It was “the solemn duty of the Supreme Court of the United States, laid upon it by Congress in pursuance of the Federal Government’s power ‘[t]o regulate Commerce with foreign Nations, and among the several States,’ to decide What Is Golf.”

The case involved a golfer who was disabled under the ADA and requested to use a golf cart (prohibited by the rules of golf).

In dissent, he continued: I am sure that the Framers of the Constitution, aware of the 1457 edict of King James II of Scotland prohibiting golf because it interfered with the

practice of archery, fully expected that sooner or later the paths of golf and government, the law and the links, would once again cross, and that the judges of this august Court would some day have to wrestle with that age-old jurisprudential question, for which their years of study in the law have so well prepared them: Is someone riding around a golf course from shot to shot *really* a golfer? The answer, we learn, is yes.

The Court ruled in favor of the player. *PGA Tour, Inc. v. Martin*, 532 U.S. 661 (2001).

PEPPERY PROSE

Ginsburg said that Scalia had a “rare talent to make even the most sober judge laugh.” In a speech made during his visit to WSRS in February 2014, he implored the crowd to “banish from your mind the idea that everything stupid is unconstitutional.” In a speech to a group at Wesleyan in March 2012, he said that, despite being a “law-and-order conservative,” he should be “a pinup for the criminal defense bar!” On pizza? “[Chicago style] shouldn’t be called pizza. It’s very tasty, but it’s not pizza.”

His prose, if not him, will be sorely missed.