A Second Bully Pulpit?

By Natalie Fahlberg

Justice Scalia is an anomaly among the Supreme Court justices. His bombastic nature as a method of showing his philosophies has made him a hero of the conservative movement and a household name. His arrival signaled a new era for constitutional originalism, and has changed the history of constitutional law through his confrontational nature and witty dissents.

Scalia’s status as such a well-known public figure stands in stark contrast to the public personas of most of the other Justices. The idea that one Justice has caused so much of an uproar deserves to be examined. He left claims that he is polarizing, self-centered, and intolerant, while the right hails him as an icon of the modern conservative movement. But how would a justice cause so much admiration and resentment when, according to him, he usually loses the vote?

His conversational and blunt behavior has definitely angered liberals, but he is not the catalyst of party polarization in modern American politics; he is a result of it. Justice Scalia is a masterful politician that has used his rhetoric to gain his own political victories. The many news articles, impassioned speeches, and sassy dissents may have contributed to the alleged “polarization” of the Court. However, Scalia has only helped conservatives; while he may be pushing liberals away, the two sides were not close to begin with. People generally object to the highest court in the land deciding cases along party lines, and that Scalia’s originalism is, in a sense, an extension of the Republican Party. Despite Senate Majority Leader Harry Reid’s claims that the Supreme Court is dominated by “five white men,” a recent NBC news poll recently showed that 40% of Americans think the court is too liberal, with 38% claiming it is too conservative. Clearly, there is *not* an overwhelming majority of the American public that believes the court is too conservative. It would seem the court is quite balanced.

Is it his attention-seeking nature that has called separation of powers issues as tricky as a “wolf clad in sheep’s clothing,” claimed that Justice Kennedy’s majority opinion in *Sykes v. United States* was “tutti frutti” or accused Justice O’Connor of holding “irrational” views that “cannot be taken seriously?” No, he does it on purpose. One might say he is laughing all the way to the bench, as he gains recognition for his interesting portrayal of his views.

Scalia gets the attention, and he loves it. But the claim that he is “self centered” goes too far – the attention is not a bad thing. Scalia came to the bench, saw the polarized remnants of the Burger Court of the 1970s, and used his personality to swing it back to the center. His personality has gained attention for the conservative cause and provides a balance to the Court.

Thanks to the 24-hour news cycle, Justice Scalia’s comments spread like wildfire, and are often criticized for being intolerant. For example, Business Insider recently asserted that Scalia “boasts” about his enemies as a way of showing his dominance. That assertion goes too far – he may be proud of his enemies, but that is not because he is trying to show his dominance over the Court. Having outspoken justices, however, forces the American public to pay attention to the judiciary, which is so influential but so easy to ignore.

“If you didn’t feel like having a good debate, you’d better avoid him,” a friend once said of Scalia. He is not intolerant, he is just outspoken; he does not mean to anger liberals, he merely wants to gain support for his conservative values and make others think about how to apply the Constitution today.

Rather than conform to the long-practiced belief that Supreme Court justices should be seen but not heard, Scalias fearless nature makes his policies well-known and influential.

# Scalia provides liveliness to the Court. It is an effective tool – he brings attention to his causes, which does not take away from the office. If anything, he has made the Supreme Court more interesting by writing for the common man. Scalia has bridged the gap between this incredibly intellectual view of conservatism and the average American citizen. Kevin Ring, author of *Scalia Dissents: Writings of the Supreme Court’s Wittiest, Most Outspoken Justice,* claims that Scalia’s “opinions are … highly readable. His entertaining writing style can make even the most mundane areas of the law interesting.”

Justice Scalia has transformed the legal debate in this country, which will leave a lasting legacy even after his booming voice is no longer heard ringing throughout the chamber. But until then, he is here to stay – after all, as Scalia directs towards his opponents: “Can’t scare me, I have life tenure.”