



**GO! LINKS**

- [Gazette Online](#)
- [News Headlines](#)
- [May News Index](#)



*Give Them  
A Reason To!*



# Scalia lectures at Cornell

## Justice, morality and the law

### Scalia says morals have place in making laws, not interpreting them

Posted May 7, 1999

By Dale Kueter  
*Gazette staff writer*



MOUNT VERNON -- Supreme Court Justice Antonin Scalia, blending legal savvy and timely wit during an appearance at Cornell College on Thursday, said moral values must be used in making laws but not in interpreting those laws.

Scalia, appointed to the court in 1986 by President Reagan, said much of the law is based on morality, drawn from philosophical sources or religious principles.

As for him, "all of my power comes from the Constitution," he said.

Scalia calls himself a textualist, one who relies first on the words of the Constitution in interpreting the law. There is no room, he said, for applying his moral beliefs to the law.

"I tell people to take a walk, that they can't do what they want because the Constitution prohibits it," he said. "I can't replace the Constitution with what I think. That would be the worst form of tyranny."

Scalia, 62, replaced the rites of the Supreme Court with an informal but scholarly talk and exchange about the law and morality during his Cornell visit. Nearly 600 listened to his 45-minute address in King Chapel, and many returned for a panel discussion in the afternoon.

Smoking a cigarette outside The Commons following lunch, Scalia said the court, by wavering from the textualist approach, "has made itself a political institution."

But Scalia clearly enjoys stirring the pot, too.

He said he likes to speak at universities, particularly colleges of law, "because the Constitution is not taught much these days." Rather, he said, most law professors preach the "living" Constitution, a body of law that changes with the times.

Amy Ihlan, assistant professor of philosophy at Cornell, challenged Scalia's idea that morality should be injected into lawmaking but not into law interpretation. She said morality in law is "nothing more than the will of the majority at the moment."

"If it's bad for judges to impose morality on people, why is it not bad for the majority to impose its beliefs on the minority?"

Craig Allin, a Cornell professor of politics, said he doubts that the Constitution really represented the will of all the people when it was written and adopted by white men who owned property. Neither, he said, is he certain the Constitution's language is always that clear, or if it retains the support of the people today.

But following the Constitution, Scalia said, "is a given in my role as a judge. How can I apply the Constitution and at the same time question its validity?" Those notions, he asserted, "are not questions for judges or really anyone -- except academics."

Textualism, he said, is neither easy nor perfect. He said Allin is correct in raising questions about judges sometimes having to choose between what the Constitution says and precedent -- how the document was interpreted in the past by another jurist.

"But what do you put in textualism's place? What other system can restrain the biases of judges? If you are not looking for the original meaning, what are you looking for?"

"You are either an originalist, or you tell the judge: Do what you want."

"I don't treat moral sentiment with any more consideration than I do economic or political sentiment."

That means a judge may have to act courageously "in upholding the Constitution, regardless of the views of the people."

While defending morality's place in the law, Scalia said government should not be chosen on the basis of what's best for a person's faith. "Government is not meant to save souls but to protect life and property and serve the common good. Its responsibility is the here, not the hereafter."

He cited a philosopher who said all units, from government to families, are governed by two principles -- a legal system and the idea of shared commitment. "Of the two, the law is second best. We must respect the law, but it is not as important as the rule of love."

He also quoted another legal philosopher, Grant Gilmore:

"In heaven, there will be no law, and the lion will lie down with the lamb. In hell, there will be nothing but law, and due process will be meticulously observed."



[BACK TO INDEX](#)

[GAZETTE ONLINE](#)

[NEWS HEADLINES](#)

[SPORTS HEADLINES](#)

*All local content copyright © 1999 by The Gazette Company, Cedar Rapids, Iowa*

# **GO!** GAZETTE ONLINE **GENERAL NEWS**



U.S. Supreme Court Justice Antonin Scalia delivers a lecture Thursday, May 6, 1999, on "Law and Morality" at Cornell College in Mount Vernon.  
(Gazette photo by Miranda Meyer)

[BACK TO INDEX](#)

[GAZETTE ONLINE](#)

[NEWS HEADLINES](#)

[SPORTS HEADLINES](#)

*All local content copyright © 1999 by The Gazette Company, Cedar Rapids, Iowa*