The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER
The Chaplain, Dr. Barry C. Black, offered the following prayer:
Let us pray.
Our Father in Heaven, Your counsel stands firm and sure. Fashion the hearts of our lawmakers so that they desire to do Your will. Today, as we remember George Washington’s Farewell Address, may we not forget that our Nation is not strong merely because of military might, but that integrity and righteousness are also critical to national security. Lord, keep our Senators from forgetting Your promise to surround the righteous with the shield of Your Divine favor. Help us all to continue to find hope in Your loving kindness, for we trust in Your Holy Name. May we take refuge in the unfolding of Your loving providence.
And, Lord, thank You for the life and integrity of Justice Antonin Scalia. We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE
The President pro tempore led the Pledge of Allegiance, as follows:
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME
The PRESIDING OFFICER (Mrs. Ernst). Under the previous order, the leadership time is reserved.

READING OF WASHINGTON’S FAREWELL ADDRESS
The PRESIDING OFFICER. Pursuant to the order of the Senate of January 24, 1901, the Senator from Delaware, Mr. COONS, will now read Washington’s Farewell Address.
Mr. COONS, at the rostrum, read the Farewell Address, as follows:

To the people of the United States

FRIENDS AND FELLOW-CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself, and every day the increasing weight of years admonishes me more and more that the shade
of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence infuse into the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often in situations in which not unfrequently want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these United States, so dear to the heart of patriotism more than any appendix of pride of attachment by services faithful and for the opportunities I have thence enjoyed of manifesting my inviolable attachment to it, your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; while scrupulously watching with jealous anxiety: disowning that whatsoever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appendage, though the appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils and joint efforts—of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your heart, must be at least not to be outweighted by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and agencies for manufacturing industry. The South in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of maritime and commercial operations, and to give a more vigorous impulse to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications by land and water will find more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation.

Any other tenancy by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to unite a mass of means and efforts greater strength, greater resources, proportionally greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce.

While, on the other side, the same Nation is enabled to command the interests of internal and external enemies by the same government, which their separate pursuities of interest in union, all the parts combined, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation.

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With such powerful and obvious motives to union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken it.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expediency of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have been convinced by their own experience that without a policy in the general government and in the Atlantic states unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they procured? Will it henceforth be dear to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have suffered. Separate States, if they have at this momentous truth, you have improved upon your first essay by the adoption of a Constitution of government better calculated than your former for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers uniformly and in all the relations of the national government to the states, containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community, which may frequently disjoint the alternates of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans and principles, and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system and tend to weaken its desiderata. Such attempts may be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinions; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in governments, more or less stilled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

The alternate domination of one factious over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to more or less complete and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which neverthe- less may not be out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and the duty of a wise people to discourage and restrain it. It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, foments oc- casion and hastens war. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of
the popular character, in governments purely elective, it is a spirit not to be encouraged. From their national tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of its being abused, it ought to be counteracted by the force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest in stead of warming it should consume.

It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one and thus to create, what is called a federal despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories and constituting each the guardian of the public weal against invasions by the others has been evinced by ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or mode of holding public powers, has a tendency to encroach upon the liberty of the people, the strong remedy of doing it by exercise of the power in the hands of the people is the proper and natural remedy. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of circumspection in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always just, always generous, a panic to their punishment inevitable, a sense of justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than to that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave to its own animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult or injury, to lay hands on the possessions of the other. A volume could not trace all the maxims by which public councils! Such an attachment of the favorite nation for privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in every possible manner and at every possible occasion. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of circumspection in the measures for obtaining revenue which the public exigencies may at any time dictate.

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since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one or another nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may generously despise commercial politics, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us start.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, let them be extricating infidelity to existing engagements, let them be fulfilling with perfect good faith. Here let us stop.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people under an efficient government, the period is not far off when we may defy the intrigues of the favoring belligerent powers, and resist the inroads of pretended enemy.

The duty of holding a neutral course is one of the most difficult of practical politics. It is an illusion which experience must erase from the minds of the people. It is the true policy to steer clear of permanent alliances with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy)—I repeat it therefore, let those engagements be observed in their genuine sense. But in my opinion it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal balance between the rival claims of interest and the sweetest sense of duty. The last, in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them—conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another that it must pour out of its independence for whatever it may accept under that character—that by such acceptance it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may contribute to remove the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, unless attempts to deter or divert me from it. After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take—and was bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the principles of right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet infant institutions by a progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes. Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorable object of my heart, and the happy reward, as I trust, of my mutual cares, labors and dangers.


UNITED STATES, 19th September 1796.

Mr. McConnel, Madam President, I suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McConnel, Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT OFFICER. Without objection, it is so ordered.
RECOGNITION OF THE MAJORITY LEADER
The PRESIDING OFFICER. The majority leader is recognized.

MOMENT OF SILENCE IN MEMORY OF JUSTICE ANTONIN SCALIA
Mr. MCCONNELL. Madam President, I ask unanimous consent that the Senate observe a moment of silence in memory of Justice Antonin Scalia.

The PRESIDING OFFICER. Without objection, it is so ordered. (Moment of silence.)

REMEMBERING JUSTICE ANTONIN SCALIA
Mr. MCCONNELL. Madam President, I wish to say a few words about a towering figure of the Supreme Court who will be missed by many. Antonin Scalia was literally one of a kind. In the evening, he loved nothing more than a night at the opera house. During the day, he often starred in an opus of his own.

For most watchers of the Court, even many of Scalia’s most ardent critics, the work he produced was quite indelible. Words had meaning to him. He used them to dissect and refute, to amuse and beguile, to challenge and persuade. And even when his arguments didn’t carry the day, his dissents often gathered the most attention anyway.

President Obama said that Justice Scalia will be “remembered as one of the most consequential judges and thinkers to serve on the Supreme Court.” I certainly agree. It is amazing that someone who never served as Chief Justice could make such an indelible impact on our country. He is, in my view, in league with Oliver Wendell Holmes, Louis Brandeis, and John Marshall Harlan as perhaps the most significant Associate Justices ever.

I first met him when we both served in the Ford administration’s Justice Department. I was fortunate, as a young man, to be invited to staff meetings that featured some of the most influential conservative judicial minds of the time. Robert Bork was there. He was the Solicitor General. Larry Silverman was there. He was the Deputy Attorney General. Everyone in the Department agreed on two things: One, Antonin Scalia was the funniest lawyer in whatever room he chose to walk in. Of course, he didn’t need to tell you he was the smartest. You just knew it.

I came back to Washington a few years later as a Senator on the Judiciary Committee, serving there when Scalia was nominated to the Supreme Court. His views on the Court were strong, and they were clear. Some tried to caricature his judicial conservatism as something it was not. It was not political conservatism.

Scalia’s aim was to follow the Constitution wherever it took him, even if he disagreed politically with the outcome. We saw that when he voted to uphold the constitutional right of protesters to burn the American flag. He upheld their right. This is what he said: “If it was up to me, I would have thrown this bearded, scandal-wearing flag burner into jail, but it was not up to me.”

It was up to the Constitution. “If you had to pick . . . one freedom . . . that is the most essential to the functioning of a democracy, it has to be freedom of speech.” Scalia once said. He went on:

Because democracy means persuading one another. And then, ultimately, voting . . . You can’t run such a system if there is a muzzling of one point of view. So it’s a fundamental freedom in a democracy, much more necessary in a democracy than in any other system of government. I guess you can run an effective monarchy without freedom of speech. I don’t think you can run an effective democracy without it.

Justice Scalia defended the First Amendment rights of those who would express themselves by burning our flag just as he defended the First Amendment rights of those who wished to express themselves by participating in the changemaking process of our democracy: the right to speak one’s mind, the right to associate freely, the rights of citizens, groups, and candidates to participate in the political process.

Numerous cases involving these kinds of essential First Amendment principles came before the Court during his tenure. I filed nearly a dozenamicus curiae briefs in related Supreme Court cases in recent years, and I was the lead plaintiff in a case that challenged the campaign-finance laws back in 2002.

These core First Amendment freedoms may not always be popular with some politicians who would rather control the amount, nature, and timing of speech that is critical of them, but Scalia recognized that protecting the core freedoms from the government to control their speech about issues of public concern was the very purpose of the First Amendment. He knew that such speech—political speech—lay at its very core.

It is a constitutional outlook shared by many, including the members of an organization such as the Federalist Society. You could always count on him to express himself even if it was unpopular, even if it was not always in abundant supply. One study from 2005 concluded decisively—or as decisively as one can—that Scalia was the funniest Justice on the Court.

He was also careful not to confuse the philosophical with the personal. I attack ideas. I don’t attack people. If you can’t separate the two, you gotta get another day job.

These qualities endeared him to many, who thought very differently than they did—most philosophers opposite on the Court, Ruth Bader Ginsburg. Their friendship began after Ginsburg heard him speak at a law conference. Here is what she said:

“I disagreed with most of what he said, she recalled, “but I loved the way he said it.”

Scalia put it this way:

She likes opera, and she’s a very nice person. What’s not to like?

Well, he continued, “except her views on the law.”

Ginsburg called him Nino. Scalia referred to the pair as “the Odd Couple.” They actually vacationed together. They rode elephants. They parasailed. And just a few months ago, their relationship was captured in the perfect medium: opera, their shared love.

“Scalia/Ginsburg: A (Gentle) Parody of Operatic Proportions” premiered last summer. In it, a jurist named Scalia is imprisoned for “excessive dissenting,” and it is none other than Ginsburg, or an actress faintly resembling her, who comes crashing through the ceiling to save him. It is the kind of show that is larger than life, and so was Nino Scalia.

He leaves behind nine children and a wife who loved him dearly, Maureen. Maureen would sometimes tease her husband that she had her pick of suitors and could just as well have married any of them. But she didn’t, he would remind her, because they were wishy-washy, and she would have been bored.

“Whatever my faults are,” Scalia once said, “I am not wishy-washy.”

Far from wishy-washy and anything but boring, Justice Scalia was an articulate champion of the Constitution. He was a personality unto himself, and his passing is a significant loss for the Court and for our country. We remember him today. We express our sympathies to the large and loving family he leaves behind. We know our country will not soon forget him.

RECOGNITION OF THE MINORITY LEADER
The PRESIDING OFFICER. The Democratic leader is recognized.

REMEMBERING JUSTICE ANTONIN SCALIA AND FILLING THE SUPREME COURT VACANCY
Mr. REID. Madam President, we were all shocked by the sudden passing of Supreme Court Justice Antonin Scalia. Justice Scalia and I had our differences. However, there was no doubting his intelligence or dedication to the Supreme Court he served on. The entire Scalia family, who laid to rest a devoted husband, father, and grandfather this weekend.