

Legal Pad: Scalia, in S.F., Talks Textualism, Touches on ‘Argle-Bargle’



Justice Antonin Scalia, United States Supreme Court
Image: Jason Doiy/The Recorder

By Scott Graham
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Justice Antonin Scalia would like to set the record straight: He does not consider himself a strict constructionist.

Discussing his book “Reading Law” with co-author Bryan Garner in San Francisco on Tuesday, he said the idea of strictly interpreting laws is a misnomer even for a textualist like himself.

“No canon of interpretation is absolute,” he quoted from the book. “Each may be overcome by the strength of differing principles that point in other directions.”

What that means is the words of statutes and the Constitution must be in-

terpreted reasonably, Scalia said — not strictly nor sloppily.

Scalia, the most influential conservative voice on the nation’s highest court, and Garner, who is the editor of Black’s Law Dictionary, explained how they interpret legal texts to about 400 members of the Association of Business Trial Lawyers. California Supreme Court Justices Marvin Baxter, Ming Chin and Goodwin Liu and Ninth Circuit Judge Carlos Bea were among the jurists in attendance.

The duo steered clear of political subjects, though Garner said Scalia considers him “a big lib.”

“You’re good on words, Bryan,” Scalia said.

Over the 3 ½ years they spent working on the book, most of their disagreements came on finer points, like the use of contractions. When compromise was necessary, Scalia was usually the one who compromised, Garner said.

“I’m that kind of guy,” Scalia quipped.

There was one reference to last June’s decisions on same-sex marriage, however tangential. An audience member asked Scalia when he first came across the word “argle-bargle” — a highlight of his dissent in *U.S. v. Windsor* — and what made it “*le mot juste*.”

Shrugging, Scalia said it was just another way of saying “nonsense.”