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## Seriousness Aside, Scalia Keeps Chapman Audience in Stitches

ORANGE, Calif., Aug. 30, 2005 Known for his sense of humor and dry wit, Supreme Court Justice Antonin Scalia didn't disappoint the capacity crowds that showed up to hear what he had to say during his visit to Chapman University.

Scalia played the role of the chief justice in the Chapman School of Laws re-enactment of a famous 1905 U.S. Supreme Court case, *Lochner vs. New York*, involving a bakery owner who needed to keep his employees, most of them Italian immigrants, at work longer than state law allowed during the Christmas season.

The laughter began when Chapman law professor John Eastman, playing the role of counsel for *Lochner*, said that the case was about a poor immigrant baker needing to work extra hours to buy Christmas presents for his children or to put a duck or goose on the Christmas table. Scalia retorted: Or to buy a new crutch for Tiny Tim? Please, counselor, don't read all these tenderhearted things into it.

Eastman further argued that this is a case of the bakers union and the National Biscuit Company which I predict will be known in 100 years as Nabisco trying to put the small shops with non-union workers out of business. Scalia chided, Enough with the rhetoric.

As the keynote speaker in Chapmans annual Madison Lecture series, Scalia complained that todays judicial nomination process focuses too much on selecting so-called moderate or mainstream judges and not enough on professional credentials and ability. What in the world is a moderate interpretation of a constitutional text? Halfway between what it says and what we'd like it to say?

Reminded that most of his opinions were from the dissenting point of view, he responded that dissents are more fun. You can say what you want to say, and there's no one to say, Take that out. In a majority opinion a lot of good stuff ends up on the cutting-room floor.