

TRIBUTE TO PROFESSOR CARROLL “WITHOUT A DOUBT”

*W. Wade Berryhill **

Without a doubt, one of my favorite and most memorable, in fact unforgettable, teaching moments involved John while he was a 1L in my property class. The landmark constitutional takings case of *Lucas v. South Carolina Coastal Council*¹ had recently been handed down by the U.S. Supreme Court. The question for the Court was whether the state’s regulation that prohibited the petitioner from constructing a house on his beachfront lot amounted to an unconstitutional taking of private property without compensation. Justice Antonin Scalia had written the majority opinion and was our distinguished guest speaker in room 101. I asked Justice Scalia if he would discuss the decision with the class. He, being a former law professor himself, quickly and easily went through the key points of the opinion, finishing with the statement that the issue of the case was quite simple. As the State of South Carolina had stipulated that the petitioner had no reasonable use of his property remaining because of the regulation, Justice Scalia explained that the issue then simply became whether the petitioner’s proposed use constituted a nuisance. Justice Scalia finished and asked for questions. All students seemed enamored with Justice Scalia’s mere presence and pleased with his explanation. A hand rose from the back row of the student-filled classroom. After Justice Scalia recognized the student, John politely offered, “Justice Scalia, if the issue is as simple as you say it is, why did it take you thirty-eight pages to write the opinion?” The room hushed. Myself, I was frozen in place and my mind was flooded with alternating thoughts, “Oh #*@%!” and “That is a really good question that I have always wanted to ask.” Equally as polite, and with professional aplomb, Justice Scalia answered John’s question.

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1. 505 U.S. 1003 (1992).