Litigating for Liberty— and the Lessons Learned from Grove City College

Scott Bullock *

*Scott Bullock '88 is President and Chief Counsel of the Institute for Justice.

Reflecting on a legal career that's now approaching its 35th year, I am struck by how my experiences with three professors from Grove City College (GCC)—Drs. John Sparks, Hans Sennholz and Richard Trammell—taught me lessons that I have carried forward as a public interest litigator and now president of a non-profit law firm, the Institute for Justice (IJ).

Even before I started at Grove City, I thought I wanted to go to law school. The law allows you to combine an adherence to principles with the ability to effectuate real-word change. And the area of law where this ability is most pronounced is constitutional law, which is always at the heart of the intersection between the proper role of government power and the guarantees of individual liberty enshrined in the Constitution.

My primary motivation throughout my education and career has been to advance individual liberty and to pursue justice for those whose rights have been violated. My nascent idea that constitutional law was the most effective vehicle for accomplishing those goals was confirmed by the constitutional law class I took from Professor Sparks. Many of the cases we studied—where individuals challenged the abuse of government power and to enforce the rights guaranteed by the Constitution—are the types of public interest cases we've litigated at IJ for the past 34 years.

One of the quintessential constitutional cases we studied in class was *Brown v. Board of Education*.[1] In that case, the U.S. Supreme Court overturned the doctrine of separate but equal, which had sanctioned racial segregation in the public schools and other public institutions for decades.[2] *Brown* was litigated by one of the first public interest organizations, the National Association for the Advancement of Colored People (NAACP). Even though the Supreme

1 Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
2 *Id.* at 495.

Court had previously upheld legal segregation in its infamous *Plessy* case in the late 1800s,[3] the NAACP established a multi-year, strategic campaign to challenge legal segregation and to eventually overturn *Plessy*, which it finally accomplished in the *Brown* decision from 1954. The NAACP's campaign to overturn segregation established the template for the approach to public interest litigation followed by IJ and many other organizations.

In our constitutional law class at GCC, Dr. Sparks brought cases like *Brown* to life. It further convinced me that if I were going to go to law school I wanted to focus on constitutional litigation. I graduated from Grove City and headed straight to law school. And, from there, I immediately began my work at the Institute for Justice. We opened our doors in September 1991. I was the first attorney hired by IJ's two co-founders. We were a very small but determined public interest law firm adhering to the principles of classical liberalism and committed to shaping the future course of American constitutional law.

In the regular practice of law, lawyers are typically hired guns. You represent the interests of the people who are paying you without any overarching purpose or goal in mind, and you are comfortable arguing either side of a case or controversy. In the regular practice of law, for instance, you might in one case represent a governmental agency trying to take property for a project and then in another case represent a landowner trying to save his land. And most lawyers in private practice are very reluctant to speak to the media or members of the public about their case or client.

But public interest law is different. There, you have strategic goals in litigation that you try to achieve by carefully selecting cases and championing both the interests of a client along with a larger cause. You seek not just to win your individual case, but to have as broad an impact as pos-

3 Plessy v. Ferguson, 163 U.S. 537 (1896).

sible by setting legal precedent that will impact thousands of others. Moreover, in public interest law, you are not just arguing your case in court, but making your broader case in the court of public opinion, to shift the minds of as many people as possible on the issues you champion.

So in public interest law, it is essential to be zealous, persuasive, and principled in your arguments. And I had an outstanding role model at Grove City by majoring in economics and taking every class offered by the legendary Dr. Hans Sennholz. Like so many GCC graduates from the late 1950s through the early 90s, I could fill this entire article telling stories—some hilarious—about Dr. Sennholz. But Dr. Sennholz was more than just an inspiring and often amusing teacher. He took the sometimes dry subject of economics and made it interesting and relevant through his passionate style of teaching (or, more accurately, lecturing). Moreover, Dr. Sennholz zealously advocated for the free market and for the principles of Austrian economics, which he learned directly from one of its founders, Ludwig von Mises. And Dr. Sennholz spoke not in the jargon of an economist but in plain English (albeit with a lingering German accent). Finally, Dr. Sennholz was devoted to principles, not to partisanship or political parties. (Apart from perhaps Ron Paul, I got the sense that he didn't really like politicians or political parties).

All of the above attributes of Dr. Sennholz are essential to the practice of public interest law. In public interest law, you have to be a zealous advocate for the principles you champion. You also have to discuss these principles and the cases you are taking on in a direct, simple manner without legal terminology. That way, you can make your case beyond the audience of judges and fellow members of the bar to the broader public. Also, it is essential to sustained success in public interest law to not be drawn into partisan score-settling nor to take part in whatever is the latest polit-

ical cause *de jour*. You must be willing to challenge those in positions of authority who abuse their power no matter who is in power or what political party they might belong to. You must base your arguments on principles and be committed to seeking long-range change in the law and in the greater world.

While passion is essential in public interest law, you are still representing real people in court whose freedom is on the line. Zeal must be balanced by cool, clear-headed rigor. This is needed for the practice of law in general, but it's doubly important in public interest law. Because you are trying to often challenge current legal doctrine, judges are more skeptical of you from the outset. So it's imperative to be rigorous in every document you file in court and every argument you make.

I learned so much about the importance of rigorous thinking and argument from GCC Professor Richard Trammell. Though my primary focus at GCC was economics and the classes and seminars of Dr. Sennholz, I ended up double-majoring in both economics and philosophy. My more practical-minded father—who never went to college but was thrilled that I did so—wasn't so delighted about my second degree in philosophy. ("What are you ever going to do with that?!" he proclaimed.) But I often tell people who are interested in going to law school that philosophy is actually a better major for learning vital critical thinking skills than the more traditional law school pathways of political science, history, and the like.

I took every class I could from Dr. Trammell, including an important course in Symbolic Logic, and, after I ran out of course offerings, I turned toward doing independent seminars with him. At that time, I was brimming with passion for the ideas and books I was reading by thinkers such as Milton Friedman, Frederich Hayek, Ayn Rand, and the Toms (Jefferson, Paine, and Szasz), and I was pretty zealous

in my advocacy of the ideas gleaned from these great thinkers. But from Dr. Trammell, I learned how to think through the problem areas in each approach—to be an advocate but also to be rigorous in answering objections and examining thorny questions with logic and a commitment to reason.

Also from Dr. Trammell, among other role models, I learned to keep my cool and offer criticism with a light touch. Those skills have proven especially invaluable after I became president of IJ. No one wants to see the person in charge losing his cool—even when things are not going the way you would like. You need to impart to the people you're leading that you've got this, and we'll all get through it together. Also, when you're in charge, you must sometimes have difficult conversations with people about their performance or other issues. It's important to be direct but also calm and understanding.

The above lessons I learned from these Grove City professors have served me well during the course of my career at IJ. I litigated public interest cases for 25 years at IJ in all of our areas of focus, including the infamous *Kelo v. New London* case at the U.S. Supreme Court, involving the abuse of eminent domain for private development projects.[4] Even though we lost the case in a narrow 5-4 decision, *Kelo* was a classic example in public interest law of how you can turn what was a setback in court into a victory by effectuating massive change through follow up litigation and significant legislative and constitutional reforms. You can raise the profile of an issue through your litigation so much that change must come about even when the highest court in the land doesn't agree with you.

I had the honor of becoming IJ's second president when I took over from our co-founder Chip Mellor at the start of 2016. Since then, IJ has experienced explosive growth. Our caseload, including the number of our Supreme

4 Kelo v. New London, 545 U.S. 469 (2005).

Court cases, our budget, and our team of litigators and other staff have all more than doubled. Despite all of this change, IJ remains committed to classical liberal principles and to the feisty, start-up culture we had from our earliest days. And I am still excited by what IJ can accomplish in the years ahead.

The inspiring Founding-era liberal Thomas Paine wrote in *Common Sense* about the drafting of our Constitution: "[W]e have every opportunity and every encouragement before us, to form the noblest[,] purest constitution on the face of the earth. We have it in our power to begin the world over again."[5] Thankfully, that is a power you have at your disposal in public interest law. Through deliberate and strategic yet bold public interest legal work, IJ has begun the world over again on causes like economic liberty, educational choice, eminent domain abuse, civil forfeiture, fines and fees, and free speech. We have made significant progress in each of these areas although more work remains.

Recently, we have begun the world over again on issues like qualified immunity and other doctrines that make it difficult to hold government officials accountable even when they egregiously violate constitutional rights; on better protecting Fourth Amendment rights against unlawful searches and seizures; and on challenging unjust zoning laws that prevent people from owning a home, starting a small business, or doing charitable works. And, like all public interest advocates, we are always looking for the next world-changing initiative to champion. I am forever indebted to my time at Grove City for instilling values that have helped facilitate IJ's success and growth over the past 34 years.

---

5 Thomas Paine, Common Sense 57 (Harvard Univ. Press 2010) (1776).