

GROVE CITY COLLEGE

JOURNAL OF LAW & PUBLIC POLICY

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GROVE CITY COLLEGE

Grove City College was founded in 1876 in Grove City, Pennsylvania. The College is dedicated to providing high quality liberal arts and professional education in a Christian environment at an affordable cost. Nationally accredited and globally acclaimed, Grove City College educates students through the advancement of free enterprise, civil and religious liberty, representative government, arts and letters, and science and technology. True to its founding, the College strives to develop young leaders in areas of intellect, morality, spirituality, and society through intellectual inquiry, extensive study of the humanities, the ethical absolutes of the Ten Commandments, and Christ's moral teachings. The College advocates independence in higher education and actively demonstrates that conviction by exemplifying the American ideals of individual liberty and responsibility.

Since its inception, Grove City College has consistently been ranked among the best colleges and universities in the nation. Recent accolades include: The Princeton Review's "America's Best Value Colleges," Young America's Foundation "Top Conservative College," and U.S. News & World Report's "America's Best Colleges."

GROVE CITY COLLEGE *JOURNAL OF LAW & PUBLIC POLICY*

The *Grove City College Journal of Law & Public Policy* was organized in the fall of 2009 and is devoted to the academic discussion of law and public policy and the pursuit of scholarly research. Organized by co-founders James Van Eerden '12, Kevin Hoffman '11, and Steven Irwin '12, the *Journal* was originally sponsored by the Grove City College Law Society. The unique, close-knit nature of the College's community allows the *Journal* to feature the work of undergraduates, faculty, and alumni, together in one publication.

Nearly entirely student-managed, the *Journal* serves as an educational tool for undergraduate students to gain invaluable experience that will be helpful in graduate school and their future careers. The participation of alumni and faculty editors and the inclusion of alumni and faculty submissions add credence to the publication and allow for natural mentoring to take place. The *Journal* continues to impact educational communities around the country and can now be found in the law libraries of Akron University, Regent University, Duquesne University, the University of Pittsburgh, and Pennsylvania State University. The *Journal* has been featured by the Heritage Foundation and continues to be supported by a myriad of law schools, law firms, and think tanks around the nation.

EDITOR'S PREFACE

Dear Esteemed Reader,

It has been a little over a year since the global COVID-19 pandemic began. Our lives have all been greatly affected by the immense amount of uncertainty and the new challenges that the pandemic has created. Yet, throughout this unprecedented time, I have been able to rely on Grove City College—its President, Paul J. McNulty '80, its Board of Trustees, its faculty, the rest of its staff, and its students—to make wise decisions to keep our campus safe and to continue to fulfill our educational purpose. The entire college has made great sacrifices to continue its noble mission to promote *faith*, guided by and consonant with reason, and *freedom*, wisely balanced to protect and preserve order and the well-being of society. While the world may be unpredictable and uncertain, Grove City College has been steadfast in its purpose and in meeting these new challenges head on.

The same rings true for the *Grove City College Journal of Law & Public Policy*. In a year of uncertainty and challenge,

the *Journal* has become stronger than ever. I do not use these words lightly, nor do I wish to take all the credit for our strengthened position. The work of the *Journal* staffs from the last two years, especially the efforts of Falco A. Muscante, II '20, allowed our new team of editors to come into the year with an increased understanding about how to operate the *Journal*, with new and improved processes, and with an example of intellectual and organizational excellence before our minds.

The labor of the *Journal* in the two previous years provided a solid foundation from which our team of editors soundly built upon this year. Our team was able to improve the application process for associate editors; to further streamline and improve the editing process for submitted articles; to increase marketing for the *Journal* on social media and around campus; and to revamp the Editorial Board in order to help further the mission of the *Journal* to empower students interested in writing, editing, public policy, and the law to gain practical experience at the undergraduate level. In

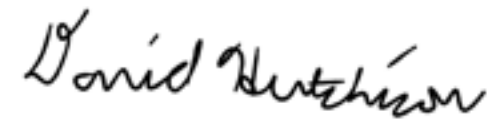
addition to these accomplishments, we were able to create organizational by-laws to help establish consistent practices, to greatly improve upon previous processes for creating a smooth transition of leadership in the *Journal*, and to significantly reorganize our office space. On top of this, I believe we have a very intelligent, active, and interested team of editors who have worked diligently to produce the twelfth volume of the *Journal*, about which I am especially excited—this volume has the most articles of any volume since 2014, and its keynote article is written by the prominent economist Lawrence Reed. I have truly been blessed to work with such an amazing team of editors. In the midst of an uncertain year, I have been able to rely on each and every one of them. Without such a strong team effort, we could never have accomplished what we did this year.

Reflecting on my time as Editor-in-Chief, I cannot help but be thankful. First and foremost, I am thankful for the wonderful team of editors that have worked alongside me. This volume is truly the product of their efforts. The Executive

Board and I are also deeply thankful for the support and wise counsel of President Paul J. McNulty '80, Dr. Caleb Verbois, and Adam Nowland '07. There are a host of others to whom we are grateful: to Dan Snyder and others in Print Production & Mail Services for helping to print and mail this volume of the *Journal*, to members of our Editorial Board who have supported and advised us in many aspects of our work, to our authors who not only submitted stimulating articles but also were responsive to the edits of our staff, to those in the Office of Institutional Advancement who assisted with finances and distribution, and especially to our donors and readers. We cannot express how truly thankful we are for each one of you.

The *Grove City College Journal of Law & Public Policy* provides a unique opportunity for students like me and it helps to promote the ideas of faith and freedom around the country. We operate solely based on donations, so please consider making a financial gift—your contributions truly make a difference. If you wish to learn more about the *Journal* or support us by donating,

subscribing to the *Journal*, requesting print copies of past editions, or submitting an article, please email us at LawJournal@gcc.edu or visit our website at www2.gcc.edu/orgs/GCLawJournal. Electronic copies of all previous editions are archived in the HeinOnline database, which maintains over 2,600 law-related periodicals. Again, thank you for your readership and continued support of the Grove City College Journal of Law & Public Policy.



David S. Hutchison '21

Editor-in-Chief

FOREWORD

Dear Reader,

In my home office, one of my most treasured possessions is a framed copy of the first issue of the *Grove City College Journal of Law and Public Policy* (Volume 1, Number 1, Spring, 2010). It was signed and presented to me by a number of the students who conceived of the idea of a scholarly, yet readable undergraduate Journal “devoted to the academic discussion of law and public policy.” I think often of those student co-founders whose signatures appear on my framed copy—James Van Eerden ’12, Kevin Hoffman ’11, and Steven Irwin ’12. I remember them bursting into my Dean’s office in 2009 and announcing the plan they had to create such a scholarly Journal. As I recall, I told them that editing and publishing such a publication was a formidable task. There would be difficult moments, disappointments, but Grove City College would stand with them and help make this happen. As I predicted, my long-time friend, then President,

Richard G. Jewell '67, our Provost Dr. Bill Anderson, and our Vice President for Institutional Advancement, Jeff Prokovich '89, gladly provided their strong support for the undertaking.

I was pleased to serve as first Executive Faculty Editor, but the hard work of the student editorial team made my job one of minimal oversight and often amazement at what the students produced. In that first issue, we were honored to feature a contribution by Attorney David M. Lascell, who argued Grove City College's case for independence from government intrusion into higher private education before the US Supreme Court in 1983.

As I wrote this Foreword, I had another unexpected blessing. I had the pleasure of looking through the names of the students who made up the Executive Board of that first issue and noting the many who went on to law study. Students responsible for "Volume 1, Number 1," according to my memory, eventually attended the law

schools of: Columbia, Harvard, University of Virginia, Indiana University, Regent, Akron, Ohio State, New York University, Cleveland Marshall, and Penn State-Dickinson. Others went on to responsible positions in government, the military, financial advising, education and business.

It is a testimony to Grove City College students—their mental acumen, their abiding interest in public policy issues, their diligence despite demanding academic schedules—and to the grace of God that a decade later we find the latest issue still maintaining the quality of submissions that characterized that ground-breaking first issue. Special thanks to Grove City College's President, Paul J. McNulty '80, and to Dr. Caleb Verbois for their enthusiasm for yet another issue of the Journal.

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This issue's lead piece is written by a long-time friend of liberty and friend of Grove City College, Mr. Larry Reed '75. Now retired from the Presidency of FEE (the Foundation for Economic Education),

President Emeritus Reed has been a tireless and effective advocate for the values of the free society. His article focuses on the two Englishmen, Thomas Clarkson and William Wilberforce, who led the antislavery movement, resulting in the abolition of this outrageous kind of human bondage. Both men were Christians as Reed points out, and both had the perseverance that enabled them to uncompromisingly, over three decades, put an end to this cruel institution. The article fits perfectly with Grove City College's unyielding belief in faith and freedom as the foundations of sound law and public policy.

Michael Reese '21 explores the impact of the COVID Pandemic and the shuttering of the US economy. He uses Austrian School Business Cycle theory to predict the effects of these events on economic activity. The magnitude of the CARES Act stimulus was expected to create substantial price inflation. But with the exception of the prices of businesses deemed essential, and

therefore open, consumers chose primarily to save rather than spend the new money. However, once the economy reopens, according to Austrian theory, one can expect a round of substantial inflation. Also, the uncertainty of political changes, which could be significant, will encourage investors to recast and reassess their investments.

Anna Claire Rowlands '22 surveys the unintended consequences of the Supreme Court's 1905 decision in *Lochner v. New York*. She maintains that in the short run, the outcome of the case protected the right of contract and severely restrained regulation of enterprises by state police powers. However, the eventual result of this "judicial activism" was to permit Franklin Roosevelt to create his own set of new economic "rights," such as a right to a job, and support them with New Deal legislation. Rowlands ultimately argues that if the *Lochner* Court had taken a more moderate view of liberty of contract, protecting it but not making it absolute, state governments

would have been able to regulate the excesses of economic activity within their boundaries, and a federal expansion into the regulatory area would not have been necessary.

Jack Everett '21 reviews the unseen effects of raising the minimum wage. He first carefully reviews the economic literature and concludes that recent studies which assert that the minimum wage has no disemployment effects have failed to identify other harmful consequences of minimum wage on low-skilled workers. Everett explains and provides evidence that a government-imposed wage hike produces a cutting of hours to workers, reduction in fringe benefits like health care, a reduction in on-the-job training, and a substitution of labor-saving devices for workers. Moreover, employers may refuse to take a chance on a low-skilled worker when the law requires that he be paid minimum wage.

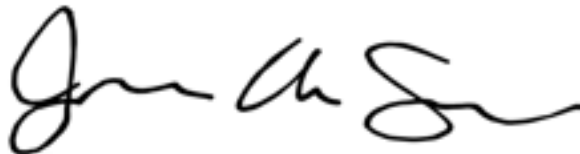
Reese Overholt '22, argues that legal philosopher

Lon Fuller's version of natural law, which emphasizes the purposeful, moral content of law, allows for the consideration of contrasting legal philosophies such as feminist jurisprudence and Critical Legal Theory. These legal philosophies are more like Fuller's because they purport to be based upon certain moral values intended to produce greater fairness for women and minorities. Overholt contends that Legal Positivists such as H.L.A. Hart, by contrast, "do not welcome anyone offering a critique of their assumptions about the legal system..."

Janna Lu '22 reviews the effectiveness of a 2008 federal program entitled Teacher Education Assistance for College and Higher Education (TEACH). TEACH aimed to increase the number of students who chose careers in teaching by offering federal grants to them if they majored in education. Lu uses a cost-benefit analysis which revealed that a large percentage (63%) of the students in the program failed to serve four years of their first

eight following graduation in certain “high-need” areas as required. Consequently, the grants became unsubsidized loans which had to be paid back. Lu concludes that the small pecuniary benefits offered by TEACH failed to produce the desired results.

In conclusion, this issue challenges the reader to thoughtfully consider law and public policy from a variety of viewpoints and disciplines. As Nobel laureate Frederich von Hayek wisely wrote: “Liberty not only means that the individual has both the opportunity and burden of choice; it also means that he must bear the consequences...Liberty and responsibility are inseparable.”

A handwritten signature in black ink, appearing to read "John A. Sparks". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John A. Sparks, '66, J.D.
Former Dean for the Alva J. Calderwood School of Arts &
Letters, and Professor of Business, Grove City College