

GROVE CITY COLLEGE

JOURNAL OF LAW & PUBLIC POLICY



ARTICLES

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Illegally Adopted? *Michael P. Farris*
- The G.I. Bill, Higher Education
and American Society *Dayne D. Batten*
- Constitutional Reapportionment?
An Examination of *Reynolds v. Sims* *Kristie L. Eshelman*
- The Unfinished Revolution:
The Rehnquist Court and
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BOOK REVIEW

- Ourselves and Our Posterity:
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The *Grove City College Journal of Law & Public Policy* invites submissions of unsolicited manuscripts, which should conform to *The Bluebook: A Uniform System of Citation* (18th ed. 2005). Manuscripts should be submitted electronically in Microsoft Word™ format to LawJournal@gcc.edu.

The editors strongly prefer articles under 15,000 words in length, the equivalent of 50 *Journal* pages, including text and footnotes. The *Journal* will not publish articles exceeding 20,000 words, the equivalent of 60 *Journal* pages, except in extraordinary circumstances.

To facilitate our anonymous review process, please confine your name, affiliation, biographical information, and acknowledgements to a separate cover page. Please include the manuscript's title on the first text page.

Please use footnotes rather than endnotes. All citations and formatting should conform to the 18th edition of *The Bluebook*.

Selection takes place on a per-volume basis; thus, a piece is selected for a particular volume, but not necessarily a particular edition. Submissions are reviewed on a rolling basis, beginning in February and concluding when the volume is filled, typically around mid-October.

For additional information about the *Grove City College Journal of Law & Public Policy*, please email us at LawJournal@gcc.edu or visit us online at www.gcc.edu/lawjournal.

*The views expressed within these articles are those of the authors and do not necessarily reflect the policies or opinions of the *Journal*, its editors and staff, or Grove City College and its administration.

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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 value. 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, and 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 conception, 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, Duquesne University, Pittsburgh University, 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

The opening line in Plato's dialogue *Phaedrus* asks the question "from whence to wither?" As I prepare to step down from the role of Editor-in-Chief of the *Grove City College Journal of Law & Public Policy*, and as the *Journal* continues to improve, this question has particular relevance. In the same way that Plato framed philosophic discussion by looking to the past and projecting into the future, the following letter will provide both a review of the process of founding the *Journal* and a vision for its future.

From its inception, the *Journal* was intended to be a unique "voice" that contributed to public debate both at Grove City College and beyond. The fulfillment of the first aspect of this purpose statement is evidenced by the plethora of Grove City College students who have participated in the "discussion" prompted by our publication. Students have contributed by editing, writing and reading articles about significant issues—plumbing to depths that were previously unexplored. Professors and college officials have similarly contributed to this discussion by editing articles and sharing the *Journal* with co-workers and friends.

The *Journal* has also been successful in reaching beyond the College. By distributing copies to thousands of alumni around the country, and by publishing articles from "friends of the college" like this edition's featured piece by Dr. Michael Farris, we have advanced scholarship in a meaningful way and opened our discussion to other important voices. This approach is modeled by other legal publications that have similarly attempted to fill a niche in the great conversation. In an article entitled *The Founding of the Review*, John Woosley explains the purpose of the *Columbia Law Review*: "The Law School needs the *Law Review* in order to express itself. Without the *Review* the Law School would necessarily be somewhat inarticulate." Woosley continues, "It is pleasant to realize that the foundations of the *Law Review* were, apparently, well laid, and to see that the standard has improved from year to year."

With its voice established and foundation laid, the *Journal's* continued growth is dependent upon adherence to the principles that have brought it to this point. The collaboration between students and professors is unique and should be perpetuated. According to Garrard Glenn in his article *Twenty Five Years of the Review*, "It was better, therefore, to preserve, even at the cost of stopping publication, the balance between the contribution of the experienced observer and the editorial notes of the student." Publishing articles from both legal and policy perspectives is also important and provides a diverse range of content for readers. The *Journal* should continue to expand its readership by incorporating effective marketing strategies and cutting edge technology. Finally, the *Journal* should always remain an academic publication and should not be infected by partisan advocacy that all

too often poisons honest research and scholarship.

As I analyze the past, look to the future, and ask the question “from whence to wither?” I am overwhelmed with a sense of gratitude for the opportunity to work with so many gifted students, faculty, and alumni. I eagerly await the opportunity to return to my Alma Mater twenty years from now and pick up a newly-minted edition of the *Grove City College Journal of Law & Public Policy* and recall the many memories associated with it.

A Latin verse in chapter 1 of the Aeneid says, “*Forsan et haec olim meminisse juvabit*” (“perhaps this too will be a pleasure to look back on one day”). It will be a pleasure, indeed.

Sincerely,

A handwritten signature in black ink that reads "James Van Eerden". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James R. R. Van Eerden
Editor-in-Chief

*This edition of the *Journal* would not have been possible without the contributions of the authors, the forty-two member student staff, the editorial board, and many other individuals. First and foremost, we wish to thank those of our readership who have graciously donated to the *Journal*. Your financial contributions and comments of support are a continual source of encouragement to us. Additionally, we wish to thank President Jewell for his continued approval and support. Along those lines, we are incredibly grateful to Dr. Sparks for serving as our faculty advisor and providing an unlimited amount of wisdom that is always helpful and encouraging. Though it would be impossible to thank each individual that makes an edition of the *Journal* possible, notable gratitude is extended to Dr. Anderson, Mr. Hardesty, and Dr. DiStasi. A great deal of particular acknowledgement from the *Journal* staff is extended to Jeff Prokovich, Vice President of Advancement, for his continued assistance in publishing the *Journal* and his cornerstone of financial support. Others within the Office of Advancement, namely Melissa MacLeod, Tricia Corey, and Jordan Chaney have worked diligently to finalize logistics and give marketing advice. Finally, among the *Journal* staff, Lisa Herman and Dorothy Williams have diligently exceeded each and every challenge and have worked tirelessly to ensure the completion of the editing process. Jared Smith has also proven to be an extremely valuable asset to the *Journal* with his strong organizational skills that are required to keep our staff on task and on time. Most of all, we wish to thank the Author of Truth, from whom all wisdom flows and in whose principles we find true justice.

FOREWORD

Dear Reader,

I am honored to present to you Volume 2, Edition 1 of the *Grove City College Journal of Law & Public Policy*. This issue seeks to build upon the precedent of our first volume and opens several scholarly debates that will undoubtedly produce countless hours of discussion. Thanks to the many hours of work and gracious counsel from student, faculty, and alumni editors, this edition not only details important legislation passed under the authority of the Constitution, but also closely scrutinizes the document itself, a rare practice in today's society. The themes of meticulous research, judicial interpretation, and detailed analysis run a winding course through the pages, and it is a journey I am sure you will enjoy.

In the feature article of this edition, Dr. Michael Farris, Chancellor of Patrick Henry College and Chairman of the Home School Legal Defense Association, analyzes the legitimacy of the Constitution's ratification in 1788. Senior Dayne Batten '11 follows, providing a brilliant exposé on the G.I. Bill, outlining how America sent "The Greatest Generation" to the classrooms of higher education after enduring the battlefields of the Second World War.

Kristie Eshelman '13 and Chris Wetzel '12, look at two opposing eras of the Supreme Court. Eshelman offers an inquiry into state reapportionment as she analyzes the Warren Court's decision in *Reynolds v. Sims*. While studying the Rehnquist Court's decision in *United States v. Lopez*, Wetzel examines the notion of a "federalism revolution."

Finally, in the *Journal's* first book review, alumnus and College trustee, David Porter '88, provides insight into the recently published book, *Ourselves and Our Posterity: Essays in Constitutional Originalism*. The strength of his pen, combined with his valuable vision of the topic at hand, has produced a review that addresses a larger theme of judicial interpretation.

I encourage you to thoughtfully consider the content presented in this edition—an intriguing blend of scholarly research and stimulating insight.



Steven A. Irwin
Editor-in-Chief

