

GROVE CITY COLLEGE

JOURNAL OF LAW & PUBLIC POLICY



ARTICLES

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Federal Communications

Commission *Kyle Jorstad '17*

Social Meaning: Making
Sense of the Court's

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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 20th edition of *The Bluebook*.

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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, 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 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

“Learning is like rowing upstream; not to advance is to drop back.”

– Old Proverb

Ours is the generation described as the best-educated in history. But do we remember the purpose of our learning? As one commentator has observed, “We’ve got a brain dressed up with nowhere to go.” The end of true scholarship and academy – the same end to which this publication was chartered – is the advancement of knowledge, the widening of wisdom, and above all the installation of truth into our hearts and minds. With this seventh edition of the *Grove City College Journal of Law & Public Policy*, it is my pleasure to invite you into such a learning dialogue.

Every conversation begins in the context of a tradition. This edition’s staff is proud to have these ideas added to the young and burgeoning legacy wrought of our past contributors, serious professionals and high-achieving students, alike. In their spirited inquiry of issues both timely and timeless, I trust you will find the following pages to be guiding the shared national conversations. As with every edition of our undergraduate journal, this publication seeks nothing less than to set the example for a choice-worthy public character, one with a commitment to careful and scholarly engagement.

Indeed, despite our short history, a survey of past authors and mastheads reveals individuals who have since entered the most elite law schools, eminent businesses, and offices of government. They first honed their influence in these pages and now are molding the character of our leading institutions and the very destiny of our country. Is it surprising that we have come to view the *Journal*, nested within Grove City College and the rest of American higher education, to be an essential investment in the future?

As the Journal looks to its own future, it will do well to heed

Michelangelo when he said that “the greater danger . . . lies not in setting our aim too high and falling short; but in setting our aim too low, and achieving our mark.” This year has observed a number of improvements to the *Journal’s* sustainability and infrastructure, with developments to our production timeline, expansion of editing resources, and new skills-based investments in our student editorial staff. The *Journal* must continue to prioritize longevity, quality, and expansion of readership. The first lesson learned at the founding of this undergraduate journal must also be the guiding principle for its future expansion: Success is the child of audacity.

And yet, success, like a child, only matures with careful attention and discipline. The publication you hold in your hands has come to fruition only through the significant and innumerable efforts, repeated day-in-and-out, by our student editors and leadership. It has been an honor to work alongside such diligent examples. Special gratitude is extended to the professionals on our Editorial Board, the faculty, friends, and alumni of Grove City College, and to all who charitably sponsor this project – your support is simply indispensable to the Journal.*

But most importantly, reader, I thank you for your interest. It was for you that these words were written, pages were printed. On behalf of the *Grove City College Journal of Law & Public Policy* editorial staff, I encourage you to employ the ideas herein to the advancement of your learning. Join us as we row upstream, seeking knowledge, wisdom, and truth!



Elijah Coryell
Editor-in-Chief

* I must offer specific thanks to our adviser Dr. Caleb Verbois, and to Adam Nowland in the GCC Advancement Office. Without their advice and guidance, this edition could not have been possible.

FOREWORD

Dear Reader,

Welcome to Volume 8 of the *Grove City College Journal of Law and Public Policy*. As the new advisor to the Journal, and the pre-law advisor at GCC, I have the privilege of working with an excellent group of students who work hard to publish one of the few undergraduate peer-reviewed journals in the country.

In this edition, and going forward into future editions, I have encourage the editors to consider broadly the *Public Policy* side of the *Journal of Law and Public Policy*. As you read this edition's articles, you will see several articles that address the public policy side of a legal case, or focus almost exclusively on policy issues.

For example, the first essay deals with yet another free speech controversy, this time, on the seemingly innocuous yet actually quite knotty issue of personalized license plates in Texas, that has substantial policy implications. The second essay asks whether it is possible, within the legal framework of *Roe* and *Casey*, to create a public policy prohibition on sex-selective abortions, a practice that gives horrifying new meaning to the idea of a war on women. The third essay addresses the Takings Clause and the nature of economic freedom through the lens of Texas state regulations on craft breweries. The fourth essay distinguishes Justice Marshall's understanding of Judicial Review in *Marbury v Madison* with Justice Warren's understanding of Judicial Supremacy in *Cooper v Aaron*, and argues that the latter risks shifting the government from a republic to an oligarchy. The fifth essay is a timely piece on the importance of the Electoral College that suggests that opposition to the Electoral College on the theory that it is undemocratic misses the legitimate concerns of the Founders about the wisdom of absolute democracy and the importance of their insistence on federalism.

We hope you will enjoy reading these essays,

Caleb A. Verbois
Assistant Professor of Political Science
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