TEN SMALL LESSONS FROM THE CAMPAIGN TRAIL

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IT is likely true that I now have a somewhat unusual perspective for a law school dean. After an almost eight-year stint at the University of Colorado, I left the academy to run for political office—twice. The races were substantial ones, involving lots of people, lots of hope, lots of energy, lots of heartache, lots of inspiration, and lots of tears. Finally, we lost—both times. I do think some good came from the effort—for me and for others, but not, I daresay, for my family. I am not inclined, however, to give anyone political advice. The bulk of my experience entailed losing elections.

I do, however, see the world a good deal differently since I ran for office. You don't spend three years in non-stop campaigns—eighteen hours a day, seven days a week—without it changing you. Democratic Party meetings, Rotary Clubs, welfare lines, Common Cause and ACLU sessions, union halls, picket lines, gay bars, senior centers, trailer parks, bowling alleys, migrant worker camps, labor parades, trial lawyer conferences, African-American churches, Sierra Club banquets, state conventions, veterans' assemblies, Jefferson-Jackson Day dinners, NEA interviews, tribal dances, grocery workers' strikes, Teamster rallies, abortion rights demonstrations, sit-ins with disability activists, Chamber of Commerce meetings, League of Women Voter candidate forums, block parties, editorial board meetings, and all the endless fundraising calls. Enough of that changes you. I am not sure, ultimately, whether for good or ill. But it changes you, nonetheless.

In many ways, of course, my experiences were politically atypical. I ran an insurgent, populist, avowedly liberal campaign. We sought to represent, as we immodestly put it, the democratic wing of the Democratic Party. Folks like Paul Wellstone, Jesse Jackson, Jim Hightower, Gary Hart and Sara Weddington campaigned with us in Colorado. Al Gore, John Breaux, Tom Daschle, Roy Romer, Al From and Martin Frost tended to help the other guys. We were not exactly, in other words, sailing in the deepest channels of the mainstream. But I think a good number of the impressions burned into my psyche would have been the same even if I had been a Christian Coalition candidate. Hands-on, street level, grassroots politics is something.

Now that politics is done with me, I am immensely glad, and fortunate, to be back in the academy. But, to be candid, I also see the law school world a bit differently than before I left it. None of the alterations are earth shattering or immensely profound. We learn, though, from the experiences we have, the turns we take, the mistakes from which we recover. I am now a law school dean for the second time. A recidivist. However, the new dean at Carolina is not exactly the same as the old dean at Colorado. Here, then, are ten brief lessons from the road.

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1 *Despite All Our Marvelous Efforts, Law Schools Remain Radically Insular Institutions*

Like many professors and administrators, for decades I have worked, fretted, jawboned, threatened, and strategized to diversify the faculties and student bodies of various institutions of legal learning. At least some significant progress has been made. I have celebrated the steps forward and despaired at the steps back. But running a statewide political campaign hammers you with the reality that we still draw from but a tiny corner of the world around us. Most of the people I met campaigning, from welfare moms to beat cops to truck drivers to motorcycle helmet law activists to marijuana advocates, have no counterpart in the halls of the major American law schools. It is not because they are not smart enough, committed enough, or deserving enough. As ever, opportunity flows most generously to those who are already privileged. "Merit" is a complex and artificial notion. We should not be confused or flattered by it.

2. *It Sometimes Takes More Skill to Talk Politics with Average Americans than to Teach a Constitutional Law Class*

It can be demoralizing, I admit, to work closely, day after day, month after month, with politicians. Almost none of them, state or federal, care about ideas or values in the way I thought they would. They wear their "issues" like a jockey wears his colors—"I'm pro-choice," "I'm an environmentalist," "I'm against big government." The banners simply describe the team you are on. Most of them would be glad enough to change colors if it would clearly further their prospects. They almost never adopt colors in the first place without polling samples to guide their consciences. Candor is even more scarce than I assumed.

But it is tougher than you might think to walk into a room of people who are grumpy about seeing you and convince them that we ought to change the way we govern ourselves. You do not have much time. You have to talk in ways that appeal to them, not to yourself. They usually do not care if you seem intelligent. If they do, they are more apt to hold it against you. You do not have the luxury of fifty-minute lectures to captive audiences who know you control their grades. Stump work requires that you know what you think and how you want to get it across more clearly, more succinctly, and more cleverly than academics usually manage. It demands that you reach the heart as well as the head. Law teachers could learn a lot from good politicians. There are not many, but there are some.

3. *Fighting and Then Having a Beer*

While we are on the topic, there is at least one other thing that politicians do better than academics. After spending several years in their culture, I can report that politicians really are capable of disagreeing vehemently during the deliberative processes of the day, and then enjoying each other's company after hours. When I was young, of course, I thought this much-described phenomenon was merely another sign that elected officials were hypocrites who did not believe in anything. Now, as in much of the rest of life, I see the matter differently. If one is to play a

serious, effective role in a mature legislative body, it becomes necessary to develop and sustain human relationships with both your friends and your adversaries as the deliberations proceed. All disagreements need not be about character or moral worth, nor need today's disputes stand as barriers to tomorrow s agreements. In my experience,[1] academics understand this far less clearly than their political counterparts. Law school grudges are sometimes held for years, even decades. Colleagues can frequently relate, with precision and high emotion, the details of a faculty fight that occurred fifteen years before. The motives of faculty opposition are an endless source of speculation and dispute. The responsibility of governing seems to temper politicians' hatred for their adversaries. Would that we could all do as well.

4. *Law Students Are More Idealistic and More Capable than We Assume*

There are a lot of lousy things about electoral politics, but there are some good things as well. One of the best is coming to know the many hundreds of folks who will work tirelessly, selflessly, passionately, and effectively in what they regard as a cause greater than their own. There is a sense afoot that law students, and generation Xers more generally, are not as idealistic as their predecessors. As it turns out, that sense is not only wrong, it is badly wrong. When I was their age, I would not have worked 100 hours a week, for very little or (far more likely) no pay, for months at a time, with no reasonably-based assurance of success, in order to do something for someone else. To see hundreds of present and former (and hopefully future) law students do exactly that has made me think the cynicism abroad comes more from us rather than from them.

Political campaigns, especially high visibility ones, also can be brutal endeavors. Everyone involved seems to think that there is a lot at stake. Many of the participants will do almost anything to prevail. I quickly realized that meant the young lawyers and students who were running my campaign had my life almost literally in their hands. I think the circle of forty or fifty young people who were at the heart of each of our campaigns was perhaps the most talented group of people I have ever worked with—including law firms, law faculties, deans' councils, and the like. If we knew our students better, if we understood what they bring to the classroom, if we saw them work under pressure together, I am convinced that we would challenge them more effectively. I think it is likely that clinical professors already knew this. I am just learning it.

5 *Seeing Ourselves as Others See Us*

Many of the academics I have worked with over the past two decades are remarkable people. They are brilliant, tremendously hard-working, prolific, and humane. They also have typically turned aside more financially rewarding opportunities in order to work on issues and values that are close to their own hearts. It is an uplifting formula. They are great folks to be around.

1. I should perhaps make it clear that I am speaking about legal academics generally. My North Carolina colleagues are actually quite collegial.

It should be said, perhaps at least briefly, that this is not, uniformly, the way the rest of the world sees us. To many, we are ideological, self-indulgent, lazy, greedy, and hopelessly out of touch with the real world. Since I have returned to the academy I have almost come to the conclusion that, on one front, the last of those labels (hopelessly out of touch) is almost deserved.

Like many other professors, I am asked with some regularity to sign petitions, statements, advertisements, briefs, or what have you that indicate a particular group of law professors is either for or against some fated legal or political result. I have, in moments of weakness, signed and even organized such efforts in the past. Of late, I have also been added to various list-serves in which law professors discuss an array of strategies to bring their predilections to bear on the political process. In these arenas, friends and colleagues explain that such concerted efforts will lead to the election of enlightened senators, the defeat of Supreme Court nominees, or even the determination of presidential elections. It is hard to explain how deeply out of touch with reality these measures and conversations are. We are lucky our students cannot generally see the list-serve discussions. Political power is tough to amass and to exercise in the United States. It does not spring from the reputations of law professors. It is ironic for me to say this, of course. We should just stick to what we do best.

6. *ADAPT and the Academic Life*

I will limit myself to one anecdote. A few months into my senate race, I met with the members of a local ADAPT chapter. They were citizens with severe physical disabilities, then working principally for changes in Medicaid rules that would allow for more independent living. I was scheduled to meet with about twenty-five of their members for an hour one afternoon. It was one of about fifteen events scheduled that day

We sat in a circle. All of them were in wheelchairs. They struggled to explain the challenges of their lives and the lives of their loved ones. In some instances, it was difficult for me to understand what they said. They were, however, both patient and persistent. They would not allow me to misunderstand their claims. I became too embarrassed not to listen closely. To my good fortune, the meeting stretched into a couple of hours.

I learned of their struggles—the demonstrations, the sit-ins at the capitol building, the governor's refusal to meet with them, the rejection of their claims by federal agencies, the chaining of themselves to government facilities, and the like. I became amazed at their continued willingness to fight, hope against hope, defeat after defeat, to try to improve the world as they saw it—pushing their ideas when their bodies would hardly move. Each of them had greater courage, greater perseverance, greater optimism, and greater heart than I have often mustered. In the years since, I have continued to be inspired by their courageous efforts. I have even joined them a time or two. I have also whined a bit less, felt sorry for myself a bit less, and understood, at least sometimes, that others' work may be more important than my own. I have also had less patience with the parking disputes, the scheduling disagreements, the assertions of faculty prerogative, and the occasional student fits of pique that too

frequently mark academic life. As a dean, I am unsure whether this is a good or bad development.

7 *The Call for a Scholarship of Engagement*

Since my return to the academy, the ADAPT folks have plagued me in another way as well. Despite a gushing economy, we face real problems in the United States. Some work with a near fevered dedication to alleviate those problems—in homeless shelters, food banks, domestic violence shelters, at-risk educational endeavors, community healthcare facilities, anti-discrimination groups, grassroots organizations, and the like. Academics, not surprisingly, approach the problems of the twenty-first century in other ways. But, I must confess, I now regard my colleagues' disagreements over alienation, dominance, subject-object distinctions, civitas, hermeneutics, and choice theory with a diminished intensity Ernest Boyer has argued that, across the academy, it is essential to develop a "scholarship of engagement"—connecting the rich resources of the university to our most pressing social needs.[2] I am increasingly inclined to believe that our scholarship ought to prove its worth in service to the nation. I am less apt to ask whether academic efforts are theoretical or applied and more concerned with whether they are directed to humane ends. While still an academic, Woodrow Wilson wrote that we "dare not keep aloof and closet ourselves" from the problems of the nation.[3] I am guessing he had it right.

8. *Legal Scholarship Too Frequently Ignores the Most Important Problems of American Life*

Spending years outside the academy can also convince one that, as scholars, we have turned our attentions away from issues that ought to be at least a major focus of our work. Legal scholarship, no doubt, has done much to explore successfully social privilege and cultural discrimination. We have become expert, as well, at piercing the philosophical and hermeneutic underpinnings of law It is vital that those efforts continue. Working in community-based political efforts, however, leads me to worry that as a nation we have surrendered to an increasing, and apparently inexorable trend toward economic separation. We seem to accept tremendous disparities in wealth—in politics, in political philosophy, and in law—sweeping aside many of our rhetorical claims to equal citizenship. The richest nation in human history allows shocking numbers of its members to live in poverty. Children have become the poorest segment of our society, as if any theory of justice or virtue could explain the exclusion of children from the promises of the American dream. Many millions of Americans live without access to health care, even though all other industrial nations do far better. We build walls, tangible and intangible, to separate the royalty from the riff-raff. We create rich and poor *public* schools, granting the greatest educational opportunities to those who are already blessed. We offer only a feigned justice, opening the courthouse to those who cannot realistically

2. *See* ERNEST L. BOYER, SELECTED SPEECHES, 1979-1995, at 92 (1997).
3. *Id.* at 82 (quoting Woodrow Wilson).

afford to walk through it. The channels of power, in both state and federal government, are increasingly closed to all but the most economically powerful. There is a danger that as we probe the intricacies of deconstruction, cultural dominance, and grand theory, the foundational tenets of the American aspiration of equality are receding from view Legal academics, even legal academics of the left, are complicit in taking questions of economic justice off of the table.

9 *The Importance of Trying to Change the World*

Given the fact that I lost two hard fought, costly, and demanding elections, I have spent some time trying to understand why I do not regret running. I think the answer lies in something I read once, by Vaclav Havel. Hope, Havel claimed, is essential to human happiness. It is not, as one might claim, a mere naïve failure to comprehend the complexities and trials of the world around us. It is not a prediction of success. It is, rather, "an orientation of the spirit"[4]—an affirming sense of how life is to be lived. It is a conscious, emotionally-charged choice to prefer the belief that we should try to make a difference in the quality of our private and public lives. In this sense, it embraces the nobler of hypotheses. No small percentage of lawyers now express dissatisfaction with life in this profession. Few claim that they tried too hard to do something they really believed in. Perhaps there are lessons in that for us all.

10. *If You Think Money Isn't Crushing Our Democracy, Don't Kid Yourself*

Enough said.

4. VACLAV HAVEL, THE ART OF THE IMPOSSIBLE: POLITICS AS MORALITY IN PRACTICE 236-37 (Paul Wilson et al. trans., 1st ed. 1997).