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Modern American Conservatism: Science, Activism and Political Identity in an Age of Fracture

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**Modern American Conservatism:  
Science, Activism and Political Identity**

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Institute for the  
Study of  
Societal Issues

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From 1981-2005 creationist legal strategy underwent a transformation that belied several foundational conservative attitudes towards postmodernism and epistemological relativism. The upshot of a series of developments in the philosophy and historiography of science, as well as in the United States Supreme Court's Establishment Clause jurisprudence, this shift constituted a radical break with wide-spread conservative resistance in post-World War Two America to any philosophy that held truth to be somehow sociological or culturally "constructed." The historical—intellectual and cultural—context within which this change in legal strategy took place is the subject of this thesis. So too, of course, are the conservatives that affected it.

In many ways this is an intellectual history. Ideas here, however, are treated as historical phenomena, not tidy abstractions. My goal in this thesis is to historicize, rather than provide a history, of conservative ideology and identity in modern America. Much, recently, has been written about conservatism in America during the latter-half of the twentieth century. But for reasons I explore in this thesis not enough attention has been paid to its ideational and ideological dynamism. By tracking several ways in which conservatives were less than successful politically, less than coherent ideologically, and, ultimately, less "conservative" than they have previously been portrayed, this thesis attempts a history of an ideology in motion, and an identity in flux, in a fractured post-World War Two American intellectual and cultural environment.

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MODERN AMERICAN CONSERVATISMS: SCIENCE, ACTIVISM AND POLITICAL  
IDENTITY IN AN AGE OF FRACTURE

Jesse Scarborough

A Thesis Submitted to the  
University of North Carolina Wilmington in Partial Fulfillment  
of the Requirements for the Degree of  
Master of Arts

Department of History

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## ABSTRACT

From 1981-2005 creationist legal strategy underwent a transformation that belied several foundational conservative attitudes towards postmodernism and epistemological relativism. The upshot of a series of developments in the philosophy and historiography of science, as well as in the United States Supreme Court's Establishment Clause jurisprudence, this shift constituted a radical break with wide-spread conservative resistance in post-World War Two America to any philosophy that held truth to be somehow sociological or culturally "constructed." The historical—intellectual and cultural—context within which this change in legal strategy took place is the subject of this thesis. So too, of course, are the conservatives that affected it.

In many ways this is an intellectual history. Ideas here, however, are treated as historical phenomena, not tidy abstractions. My goal in this thesis is to historicize, rather than provide a history, of conservative ideology and identity in modern America. Much, recently, has been written about conservatism in America during the latter-half of the twentieth century. But for reasons I explore in this thesis not enough attention has been paid to its ideational and ideological dynamism. By tracking several ways in which conservatives were less than successful politically, less than coherent ideologically, and, ultimately, less "conservative" than they have previously been portrayed, this thesis attempts a history of an ideology in motion, and an identity in flux, in a fractured post-World War Two American intellectual and cultural environment.

For my family; for those who have helped me understand what love is—and what it should be.

This thesis is dedicated to them.



## ACKNOWLEDGMENTS

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as Blake Hagan are also due more thanks than I can give them here. For them, for those above, and for those not mentioned by name, I hope this gesture is sufficient.

“...viewed by its acts of mind, the last quarter of the century was  
an era of disaggregation, a great age of fracture.”

-Daniel T. Rodgers, *Age of Fracture*

## INTRODUCTION

“If struggles over the intellectual construction of reality are inherent in all human societies...they took on new breadth and intensity in the last quarter of the twentieth century...most striking of all was the range across which the intellectual assumptions that had defined the common sense of public intellectual life since the Second World War were challenged, dismantled and formulated anew”<sup>1</sup>

-Daniel T. Rodgers, *Age of Fracture*

A curious thing happened in America between 1981 and 2005 on the political right with respect to science and science education. Creationists and conservative activists who had previously attempted to claim the mantle of science, espousing what they called creation-science, pivoted at the turn of the century. In the mid-1990s these conservatives increasingly began to “problematize” science. Relying upon Thomas Kuhn’s model of paradigmatic incommensurability conservatives who had once demanded that creation-science be taught as bone fide science now rejected the concept of a singular, objective, science altogether. In its place they offered the theory of Intelligent Design (I.D.). This model, these conservatives maintained, represented a legitimate alternative to Darwinian materialism. I.D., it was argued, should therefore be taught in public schools.

While this argument was relatively unremarkable the rationale that undergirded it was extraordinary. Advocates of I.D. contended that their theory was being excluded in science curricula not because it was not true, or unscientific, but because it was unpopular with scientists. I.D., it was argued, was not more or less scientific than Darwinian Evolution—it was simply a

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<sup>1</sup> Daniel T. Rodgers, *Age of Fracture*, (Massachusetts: Harvard University Press, 2011), 2.

competing paradigm whose appeal had less to do with its inherent scientificity than with the sociological imperatives of the scientific establishment. Between 1981 and 2005 the conservative relationship to science and to science education had changed dramatically. Conservative advocates for creation-science and I.D., many of them evangelical Christians, and many of them inveterate opponents of postmodernism, had become enamored with a relativized, postmodern conceptualization of science.

In just over two decades conservative activists had gone from courting scientific authority to vigorously contesting that such a thing even existed outside of a specific socio-historical context. In the process they adopted many ideological, legal and philosophical positions that had once been anathema to conservatives. As this transition played out in the legal system odd things took place. Postmodern sociologists of scientific knowledge, once the *bete noir* of conservative intellectuals, were called by advocates of I.D. to testify on their behalf; a vast national conservative legal and academic infrastructure was brought to bear to litigate local disagreements between school board members and a philosophical posture that had been condemned as intellectually bankrupt and inherently immoral was adopted. Conservatives, when it came to the fight over science curricula at the turn of the twenty-first century, at least by definition, appeared to be anything but conservative. At least by definition.

## **Cultural Context and the Construction and Articulation of Conservative Identity**

The era when these legal battles over science education took place was a time of intense and acute cultural struggle in America. Everything it seemed was being contested. Affirmative action and gun rights, as well as the morality and constitutionality of repealing anti-sodomy statutes, were all objects of intense and relentless debate. So too were things like ratings for video games, music and television programs. Even the question of whether or not Tinky Winky, a member of a roving band of British children's television characters, furthered the "subtle"—and favorable—"depiction" of the "homosexual lifestyle" presented itself as a particularly evocative flash point in the cultural struggle.<sup>2</sup> And yet more abstract concerns also animated conservative activists.

In popular, religious and intellectual circles relativism became a particularly strong buzz word. In the context of popular and academic debates in theology, literature, history and science, epistemological indeterminacy and the belief in socially constructed provisional truths increasingly captured the attention of conservative culture warriors. Many of these conservatives feared the consequences of philosophical perspectives that cast doubt as to whether objective knowledge could exist. To reject Truth, the thing upon which aesthetics and ethics were predicated, appeared to them as something that was masochistic, or perhaps even suicidal. Even amongst self-proclaimed liberals, and even in the academy, debates over the ultimate nature of truth during this era were often characterized less by collegiality and deliberation than by vituperative recrimination. So struck by the tenor of some of these exchanges, James Davison Hunter, a scholar and contemporary observer, in 1991, helped popularize the term "culture wars"

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<sup>2</sup> Michael Ellison, "Tinky Winky Falls Foul of the Moral Majority," *The Guardian*, February 11, 1999, <http://www.theguardian.com/world/1999/feb/11/michaelellison>.

to capture the intensity of the *kulturkampf*.<sup>3</sup> The phrase was appropriate. Battles raged on so many topics and at so many levels of intellectual abstraction that debate hardly seemed capable of reflecting the reality of what was taking place in America in the closing decades of the twentieth century.

Profound cultural disagreements, however, had characterized life in post-World War Two America decades before Hunter proffered his apt formulation in the early 1990s. In the context of public primary and secondary education alone, conflict, rather than consensus had long been the rule not the exception. In 1968 and 1974 hostile camps had formed in opposition to the adoption of Family Life and Sexual Education curricula in Anaheim, California, and against the introduction of new textbook standards in Kanawah County, West Virginia. And in 1977 a nationwide campaign against gay rights coalesced partially in response to the attempt in Dade County, Florida to shield public employees—many of them school teachers—from termination on the grounds of their sexual orientation. Before conservatives began their legal struggle, first for creation-science in 1981, and later, for I.D. in the mid-1990s, there had been a long and continuous conservative engagement with public education. The cultural and intellectual context within which this engagement took place constitutes the backdrop of the present study.

### **Conservatism in an Age of Fracture**

With popular and elite understandings of so many subjects fragmented at so many different sites of engagement in the closing decades of the twentieth century the meaning of basic concepts like truth and science became balkanized and localized. Consensus, as result, was increasingly relegated to more and more specific cultural and historical contexts. Whether Americans in this period lived during what Daniel T. Rodgers has called “an age of fracture”—

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<sup>3</sup> James Davison Hunter, *Culture Wars: The Struggle to Define America*, (New York: Basic Books, 1991).

an era in which ideas and ideologies had become more local and fluid, more abstract and more dislocated from a common cultural or epistemological context—is debatable.<sup>4</sup> What is apparent is that there was an undeniable ideological and ideational dynamism during the culture wars.

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<sup>4</sup> Andrew Hartman, for instance, an intellectual historian who has, over the last two years, chronicled the inception of a historiography of the culture wars on the U.S. intellectual history blog for the *Society for U.S. Intellectual History* takes issue with Rodgers' central thesis in *Age of Fracture*. As Hartman explains "in attaching anxieties about ethical chaos— anxieties about the fracturing of American culture—to the specific political concerns of conservative Americans," his work, including his most recent book "argues against a growing trend in US intellectual history that downplays the political distinctions of left and right." Rodgers, Hartman argues, in employing his metaphor of the Age of Fracture cannot account for the causal agent in cultural fracturing or cultural conflict: the upheavals of the 1960s. Upheavals, Hartman maintains, that were predicated on partisan disagreements. For Hartman "the culture wars works as a better metaphor because it reflect[sic] the post-sixties power struggle." This struggle, Hartman suggests, is very much rooted in a partisan divide.

While Hartman, in his rejection of Rodgers' metaphor of the Age of Fracture, makes a valid point about the partisan nature of cultural conflict in the latter half the twentieth century, and while I think his coverage of the growing scholarly literature on the culture wars is and has been invaluable, I think he somewhat misreads Rodgers in this respect. Rodgers does not suggest a lack of partisanship in *Age of Fracture*. Or even a lack of deeply rooted partisanship. What Rodgers identifies is a common intellectual and cultural context in which partisanship was comprised and in which it expressed itself. For Rodgers it was not what conservatives and liberals believed that was similar but the *way in which they believed*. As Rodgers' writes in the introduction *Age of Fracture* the story of the culture wars "is not a story that falls into the neat left-right camps that the partisans of the 'war of ideas' slogan imagined. But neither is it a tale of isolated arguments. Across the multiple fronts of ideational battle...conceptions of human nature that in the post-World War II era had been thick with context, social circumstance, institutions, and history gave way to conceptions of human nature that stressed choice, agency, performance and desire." Rodgers' point is that both conservatives and liberals shared a common intellectual experience in the closing decades of the twentieth century. It was not what they thought and believed but how they thought and believed that united them. As Hartman has written elsewhere "Age of Fracture is" essentially "an environmental study [wherein Rodgers] seeks to reconstruct the ideational environment — the shared cultural imaginary — that gave rise to [a] particular, and particularly important, way of understanding the world." This environment *is* Rodgers' Age of Fracture. And in this environment partisanship is not downplayed or dismissed but recontextualized in its intellectual and ideological dimensions.

In this thesis I rely on Rodgers' work to argue that partisan positions, rooted as they are in culture, even though they might appear foundational, are often circumstantial. I employ the metaphor of ideological and ideational fracture to underscore a shared intellectual response amongst conservatives and liberals to the postmodern reconceptualization of science that took place in post-World War Two America. I then leverage this metaphor to isolate conservative attitudes towards science and science education and show how these attitudes, which were elemental in terms of the construction and articulation of conservative identity, changed. Looking for any firmly established conservative—read partisan—position with respect to science, science education or postmodernism in the conservative relationship with science and science education that I explore from 1981-2005 would obscure the astounding ideational and ideological dynamism of both science as concept, and conservatism as political identity, during the era. This is why I think Rodgers' metaphor of the Age of Fracture, while not universally or unconditionally accepted, is still extraordinarily useful. For Hartman's coverage of the growing historiography of the culture wars see Andrew Hartman, "A Emerging Historiography of the Culture Wars," U.S. Intellectual History Blog, *Society for U.S. Intellectual History*, January 29, 2013, accessed April 8, 2015, <http://s-usih.org/2013/01/an-emerging-historiography-of-the-culture-wars.html> and "A Boom Year in Culture Wars Historiography," U.S. Intellectual History Blog, *Society for U.S. Intellectual History*, January 21, 2015, accessed April 8, 2015, <http://s-usih.org/2015/01/a-boom-year-in-culture-wars-historiography.html>. And for his analysis of *Age of Fracture* see "Age of Fracture v. Age of Culture Wars," U.S. Intellectual History Blog, Society for U.S. Intellectual History, March 11, 2015, accessed April 8, 2015, <http://s-usih.org/2015/03/age-of-fracture-v-age-of-culture-wars.html> as well as "Summarizing an Age of Fracture," U.S. Intellectual History Blog, Society for U.S. Intellectual History, April 25, 2013, accessed April 8, 2015, <http://s-usih.org/2013/04/summarizing-an-age-of-fracture.html>.



Understandings of what constituted truth, as well as what characterized science, changed in accordance, not just with one's ideological perspective, but with historical/cultural circumstance. What it meant to be a conservative during the culture wars was therefore not at all clear. Or at least not as clear as it once may have been—or certainly not as delineated as historians would like it to be.

Throughout much of the post-war era conservatives had fought vigorously against a brand of relativistic philosophizing they viewed as pernicious and pervasive. Expending tremendous amounts of intellectual and political energy the conservative crusade against what they called postmodernism—especially the postmodern trends they identified in public education—stoked the fires of conservative culture warriors across the intellectual and cultural spectrum.<sup>5</sup> In the 1990s, however, with respect to science and science education, many of these same conservatives turned to postmodern philosophy and postmodern intellectuals in their legal battles against the instruction of Darwinian evolution. This was a stunning ideological about-face.

At the turn of the century conservatives, who had often articulated their conservative principles and political identity in opposition to postmodernism, effectively became postmodernists themselves. Semantically this is a difficult circle to square. In a world where conservatives often thought, acted and behaved unconservatively it is hard to discern what

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<sup>5</sup> Though academics and intellectuals, especially those tagged as postmodernists themselves, disagree vigorously about what postmodernism is and about what postmodernity might ultimately mean, perhaps the most cogent, if not concise, definition of the term can be found in Terry Eagleton, *The Illusions of Postmodernism*, (Cambridge, Massachusetts: Blackwell Publishers), vii. "Postmodernity is a style of thought which is suspicious of classical notions of truth, reason, identity and objectivity, of the idea of universal progress or emancipation, of single frameworks, grand narratives or ultimate grounds of explanation. Against these Enlightenment norms, it sees the world as contingent, ungrounded, diverse, unstable, indeterminate, a set of disunified cultures or interpretations which breed a degree of skepticism about the objectivity of truth, history and norms, the givenness of natures and the coherence of identities." I have confined Eagleton's definition to a footnote here because my goal in this thesis is not to define the term but to let the conservatives and conservatism I study define it for themselves. It is their definition of postmodernism, not a more comprehensive/exhaustive abstraction that I am interested in.

conservatism might ultimately mean. But these are semantic not ontological problems. Only a definition can displace the reality of conservative activism surrounding science and science education in the culture wars. Unsurprisingly this definitional tension exists at the core of where the study of modern American conservatism has been and where it may be headed.

### **Situating the Present Study within the Existing Scholarship on Modern American Conservatism**

Recently scholars of the new right have called for change in of a field they view as saturated with monographs and overly concerned with coming to terms with the political successes of modern American conservatism.<sup>6</sup> Many historians believe it is time to shift focus away from charting the ascendancy of the modern conservative movement to exploring its struggles, not only with its political opposition, but with itself. While some have called for synthesis others maintain the story of conservatism's failures has not yet be adequately told. The failure on the part of social conservatives to alter science curricula in public schools from 1981 to 2005 is a large part of the story I tell here. But I also strive to provide a robust context within which these legal efforts took place.

The cases I consider, *Dover* and *McLean*, have both received substantial popular and scholarly attention.<sup>7</sup> And evangelical opposition to teaching Darwinian evolution in secondary

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<sup>6</sup> While these arguments will be considered in much greater detail in chapter one for reference see Alan Brinkley, "Conservatism as a Growing Field of Scholarship," *Journal of American History* 98, no.3 (December 2011): 751, Kim Phillips-Fein, "Conservatism: A State of the Field," *Journal of American History* 98, no.3 (December 2011) and Julian E. Zelizer, "Reflections: Rethinking the History of American Conservatism." *Reviews in American History*, Vol. 38, no. 2, (June, 2010), 374.

<sup>6</sup> Phillips-Fein, 723

<sup>7</sup> For coverage of *McLean* see Langdon Gilkey *Creationism on Trial: Evolution and God at Little Rock* (Charlottesville, Virginia: University of Virginia Press, 1998), Marcel C. La Follette, editor, *Creationism Science and the Law: The Arkansas Case*, (Massachusetts: MIT Press, 1983) and Norman L. Geisler, *Creator in the Courtroom: "Scopes II,"* (Fenton, Michigan: Mott Media, 1982); For *Dover* see Matthew Chapman, *40 Days and 40 Nights: Darwin, Intelligent Design, God, OxyContin, and Other Oddities on Trial in Pennsylvania*, (New York: HarperCollins, 2007), Gordy Slack, *The Battle Over the Meaning of Everything: Evolution, Intelligent Design, and a School Board in Dover, PA.*, (San Francisco: Jossy-Bass, 2008) and, for the legal context immediately preceding the trial, see Francis Beckwith, *Law, Darwinism & Public Education : The Establishment Clause and the Challenge of Intelligent Design* (Lanham, Maryland: Rowman and Littlefield, 2003).

education has been chronicled by many historians.<sup>8</sup> Many outstanding accounts of the war against SEICUS in Anaheim and the textbook battles in Kanawah County also exist.<sup>9</sup> But these struggles have not yet been situated within the larger conservative engagement with science education in public school curricula nor have they been adequately contextualized within the arc of conservative opposition to postmodernism. Many histories of the new right have also explored the role conservative evangelicals played in the post-war conservative coalition. Unlike other scholars, however, I attempt here to place evangelical conservatism within, rather than apart from or supplementary to, conservatism in general.<sup>10</sup> My aim to is to reveal a set of shared concerns regarding the devaluation of truth and the deleterious effects of postmodernism—and to demonstrate how these concerns, which helped to define conservative identity, shifted or were abandoned as conservatives encountered new cultural circumstances. My ultimate goal is to not only show that conservatism could mean different things in the same cultural moment but that it could be dynamic, that it could change—that it could confound some its foundational principles.

Under the rubric of the culture wars ideologies have often been aggregated into dualistic, oppositional, worldviews, with one well-defined side confronting another over a particular

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<sup>8</sup> The two most comprehensive examples being Ronald L. Numbers, *The Creationists: From Scientific Creationism to Intelligent Design*, (Massachusetts: Harvard University Press, 2006) and Peter J. Bowler, *Monkey Trials and Gorilla Sermons: Evolution and Christianity from Darwin to Intelligent Design* (Massachusetts: Harvard University Press, 2007). But other exemplary narrative accounts exist as well see, for example, Mano Singham and Charles J. Russo *God vs. Darwin: The War Between Evolution and Creationism in the Classroom* (Washington D.C., Rowan and Littlefield Education, 2010) ;Dorothy Nelkin *The Creation Controversy, Science or Scripture in the Schools* (New York: Norton, 1982) and Edward L. Larson, *Summer for the Gods*, (New York: Basic Books, 2006).

<sup>9</sup> See especially Janice M. Irvine *Talk about Sex : The Battles over Sex Education in the United States* (Berkeley: University of California Press, 2002), William Martin, *With God On Our Side: The Rise of the Religious Right in America*, (New York: Broadway Books, 1996): Chapter Four “The Battle for Anaheim,” and Chapter Five “Culture War” as well as *The Invisible Bridge: The Fall of Nixon and the Rise of Reagan* (New York: Simon and Shuster, 2014): Chapter Fifteen “New Right?”. An incisive account of the Dade County Ordinance’s place in the burgeoning anti-gay rights movement can be found in Fred Fejes, *Gay Rights and Moral Panic: The Origins of America’s Debate on Homosexuality*, (New York: Palgrave-Macmillan, 2008).

<sup>9</sup>Kim Phillips-Fein, “Conservatism: A State of the Field,” *Journal of American History* 98, no.3 (December 2011)

<sup>10</sup> See Clyde Wilcox, *Onward Christian Soldiers?: The Religious Right in American Politics*, (Colorado: Westview Press, 1996); William Martin, *With God On Our Side: The Rise of the Religious Right in America*, (New York: Broadway Books, 1996) and Daniel K. Williams, *God’s Own Party: The Making of the Christian Right*, (New York: Oxford University Press, 2010).

issue.<sup>11</sup> I employ Rodgers' framework of the age of fracture as well as the historiographical trajectory of science studies and the history of science wars to show that these kinds of Hunteresque positions are often slipperier and more unstable than he and other scholars have depicted. In a cultural environment where the meaning of concepts of science and truth were fragmented at different sites, and at varying levels of intellectual abstraction, no *one* position could be taken with respect to science. In this age of fracture a group of different and developing conservativisms engaged a contentious, balkanized understanding of science. What emerges from the period, when viewed from a non-binary perspective, is a shifting relationship between two equally dynamic concepts: science and conservatism. This thesis represents an attempt to provide a history of that relationship and of the context—intellectual and cultural—within which it was negotiated.

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<sup>11</sup> Hunter, for example, grouped his combatants into two antagonistic camps: the progressives and the orthodox. In his schema individuals belonging to either deposition staked out positions opposite one another on a host of cultural issues ranging from gay rights to abortion. Distinguishing the cultural struggle in America in the latter half of the twentieth century from the Bismarckian *kulturkampf*, where Protestants fought Catholics over “the religious content and character of public education” in nineteenth century Germany, Hunter argued that any number of things could manifest themselves as sites of cultural contestation. Values, he maintained, were what were really important; issues simply presented themselves as arenas in which to air them. Ideologies, on the other hand, were different. For Hunter ideologies were bound up in his articulation of the discrepancy between progressive and orthodox identity. Effectively, despite his otherwise nuanced account of the culture wars, this meant that systems of belief were ultimately static. Needless to say I disagree with Hunter on this point.

I do agree with him about taking “social issues” and “values politics” seriously, however. Like Hunter I believe these things are “not just flashes of political madness but reveal the honest concerns of different communities engaged in a deeply rooted cultural conflict;” and that politics predicated on values are “not just cranky utterances of America’s political fringe but the articulation of concerns that are central to the course and direction of mainstream American public culture.” My disagreement with Hunter stems from the rejection of any notion that these politics need to satisfy any standard of rationality that exists outside their immediate cultural context. Part of the correction I seek in the thesis with respect to the historiography of the new right is related to this perspective. Too often, especially in the context of intellectual history, ideas and ideologies take on a definiteness they did not possess and are ordered by those who study them in way that’s entirely inorganic. I am completely comfortable incorporating Hunter’s beliefs concerning the importance of value politics while at the same time rejecting any artificial schema that renders these politics out of the historical milieu in which they were developed, espoused, appropriated and/or discarded. There is nothing stopping historians from approaching intellectual history this way, that is, from an anthropological or ethnographical perspective. Nor is there anything standing in way of revealing how dynamic and temporal ideas and ideologies are/were. Understanding does not denote acceptance, *or* judgement, for that matter. And the study of the past should not involve the ahistorical regimentation of otherwise dynamic, developing and perhaps, again, without consideration of their own internal logic, incoherent ideas and ideologies.

The most central element of present study, however, is related to a criticism of the field most forcefully leveled by historian Hyrum Lewis. In *Historians and the Myth of American Conservatism* Lewis argues that scholars of the new right have a very real and profound problem with language.<sup>12</sup> The words conservative, or conservatism, he maintains, if they are to adequately represent the past, cannot have fixed meanings. The main goal of this thesis is to argue that static definitions of conservatism essentialize a movement that is not only not monolithic but often hardly ideologically stable. By placing issues, in this case science and science education, at the center of the construction of conservative identity I wish to move the scholarly conversation away from taxonomy and the discussion of conservative accession in modern America towards what Clifford Geertz called “thick description,” an interpretative strategy that underscores the importance of cultural context in the construction of meaning and identity.<sup>13</sup>

In order to effect this change I have chosen sites at which conservatives appeared to confound basic tenets of their own ideology. Unlike many who study the new right I believe ideological coherence is not a prerequisite for reform or political identity. In a field that has long sought to distance itself from pathologizing, dismissing or marginalizing modern American conservatism this may strike some as a heterodox position. But its heterodoxy is only superficial. To fully understand the reality of conservatism during the latter-half of the twentieth century it is important that one not only look to its political failures and coalitional tensions but to its ideological fluidity and dynamic relationship with ideas. The conservative relationship with science in the culture wars is but one example of the ways in which conservatism, I believe, has

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<sup>12</sup> Hyrum Lewis, “Historians and the Myth of American Conservatism,” *Journal of American History* 12, no.1 (March 2012): 27-45.

<sup>13</sup> Geertz articulated his ethnographic program of “thick description” against what he called the “thin description” of traditional anthropology. For Geertz thin description was predicated on ordering cultural phenomena around preexisting methodological/conceptual frameworks whereas thick description sought to study such phenomena as it existed in its own cultural—semantic, theological, phenomenological—logic. For Geertz’s explication of thick description see Clifford Geertz, “Thick Description: Toward an Interpretive Theory of Culture,” *The Interpretation of Cultures*, (New York: Basic Books, 1973).

been much more dynamic and ideologically unstable than many scholars, struck by the modern conservative movement's political successes and averse to repeating the historiographical mistakes of some of the field's first practitioners, have portrayed it to be.<sup>14</sup>

### **Methodology, Objectives and Narrative Structure**

Tracking the way in which conservative activists negotiated a relationship with science and science education during the culture wars will hopefully contribute productively to the ever-growing body of scholarship on the new right in other ways. This study attempts a history of an ideology in flux, underscoring the malleability and dynamism of political ideology and identity. In doing so it uses a key site of conflict throughout the rise of the new right, education, more specifically, the public school.<sup>15</sup> And in employing a non-essential understanding of conservatism it attempts to overcome the tendency of intellectual history to deracinate ideas from the historical and cultural context in which they are developed, appropriated and refashioned. Finally, by historicizing a number of things simultaneously—science and the debates surrounding its essential nature as well the conservative struggle against postmodernism and the campaigns for creation-science and I.D.—I hope to more carefully explore the relationship between abstract intellectual debate, political identity and political activism.

The conceptual framework upon which this work based, in addition, is also inverted. Instead of attempting a history of a given definition of conservatism I employ sites of cultural contestation to historicize concepts and issues—in this case science and the struggle against relativistic epistemology and postmodernism, as well as conservative activism and conservative

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<sup>14</sup> Again, this position will be more fully articulated in Chapter One.

<sup>15</sup> While I explore the conservative engagement with public education in the context of purposed curriculum changes, other scholars have emphasized the role of busing, suburbanization and desegregation played in the development of the post-World War Two conservative coalition. Many historians have argued that public education presents itself as a catalyst for the development and articulation of conservative identity and for the mobilization of the modern American conservative movement. Indeed, for many of these scholars the role of education is a central one. As Hartman has recently remarked, "I can't imagine a history of the culture wars not focused on education." See Hartman, "An Emerging Historiography of the Culture Wars."

ideology and identity. Conservative identity, I maintain, is wholly dependent on its historical context. Any definition of conservatism that is limited by semantics or that attempts to transcend spatial and temporal boundaries is, I argue, ahistorical and therefore poorly equipped to reflect the past it exists to represent.

To frame my investigation I have chosen two cases, *McLean v. Arkansas* in 1981 and *Kitzmiller v. Dover Area School District* in 2005 that involve disputes over proposed changes in science curricula.<sup>16</sup> My narrative, however, does not begin with these cases. After surveying the historiography of the new right in chapter one, in order to establish the intellectual and cultural context within which *McLean* and *Dover* took place, in chapter two I outline the fragmentary nature of science as a concept as well as the larger conservative struggle against postmodernism in post-World War Two America. In the process I explore the contours of something called the science wars as well as several sites of conservative engagement with primary and secondary education that *did not* involve disputes over science curricula. As a result, not only do I begin my narrative with a liberal, Alan Sokal, and his place in the science wars, but I do not pick up my account of conservative legal advocacy for creation-science and I.D. until chapter three. While I fear this approach may disorient some readers I believe it is imperative to ground the history of what I call the Kuhnian or postmodern turn in creationist legal strategy that took place between 1981 and 2005—and which I discuss in my final chapter—within the larger sweep of conservative activism regarding education and postmodernism that occurred in latter half of the twentieth century. By beginning an investigation into conservative activism and identity with an exploration of the intellectual and cultural context in which these things existed, and not a static definition of what conservatism is or may have been, the structure of this thesis embodies the

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<sup>16</sup> *McLean v. Arkansas Board of Education*, 529 F. Supp. 1255, 1258-1264 (ED Ark. 1982); *Tammy Kitzmiller, et. al. v. Dover Area School Board, et. al.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005).

attempt to tell a story about the new right without essentializing it. Ultimately I believe the kind of narrative structure I employ here provides the most effective means to underscore the ways in which conservative attitudes towards science and science education, much like conservative identity itself, relate to, and were affected by, broader intellectual and cultural developments.

It is my hope that such a wide ranging exploration of the conservative engagement with science and science education will facilitate the kind of multifaceted historicization that is needed to understand the modern conservative movement in America. Ideologies are not static, transcendent, ahistorical things. Ideologies are dynamic, they exist only context; they are negotiated and articulated as the people who espouse, adopt or appropriate them engage with issues. A case study provides an excellent avenue to explore the ways in which conservatism has changed as it has encountered new issues and entered into new cultural environments.

Fundamentally, I believe, it is in the context of specific cultural moments like the clash over science education at the end twentieth century that modern American conservatisms have revealed and refashioned themselves.

In order to situate my approach within the larger body of scholarship on the right, however, before exploring *McLean* and *Dover* and their historical, intellectual and cultural context, I turn to the historiography of modern American conservatism and chart the ways in which scholars have written about the subject.



## CHAPTER ONE: THE HISTORIOGRAPHY OF MODERN AMERICAN CONSERVATISM

It is no small irony that many of the first scholars who wrote about American conservatism in the twentieth century denied that it actually existed. For the most part this denial was predicated on a belief that everything commonly associated with conservatism was viewed as inherently un-American. The reverence for European style monarchial rule, hereditary nobility and the theories of Thomas Hobbes commonly associated with conservatism cut violently against a belief in popular sovereignty, democratic governance and social mobility. Conservatives were counter revolutionaries, it was believed, defenders of institutionalized privilege. America, in principle, was founded on enlightenment ideals. If anything such a nation was the embodiment of liberalism. From such a perspective it was therefore difficult to discern how conceptually, or even ontologically, conservatism and America could coexist.

A widely shared enthusiasm for American exceptionalism only further reinforced the apparent incompatibility between the Burkean and Jeffersonian worldviews. Arthur M. Schlesinger, writing in 1922, accordingly denied the possibility, and therefore the existence, of conservatism in America.<sup>17</sup> Unlike Europe, Schlesinger argued, America lacked the aristocratic heritage and vested privilege of nobility. Founded by revolutionaries and committed, in principle, if not in practice, to Enlightenment ideals, there was no estate system to defend in America; there was no revolution to counter. Without these things it seemed conservatives qua conservatives could not exist. And indeed for Schlesinger there simply were no conservatives in America, only a vague, abstract, conservative disposition. Today's political ingénue could become tomorrow's defender of the status quo. In this schema conservatism was more an attitude towards politics than a political identity. Tracing the presidential transference of power

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<sup>17</sup> Arthur Meier Schlesinger, "Radicalism and Conservatism in American History," in *New Viewpoints in American History* (New York: The MacMillan Company, 1948).

Schlesinger concluded, true to his exceptionalist ethos, that conservatism in America was predicated not on some Aristocratic—read Continental—defense of privilege but on the defense of one’s political power. It is not surprising then that, at one time or another, Schlesinger identified almost every American president as a conservative.<sup>18</sup>

Though he wrote about the right decades before many of the field’s current scholars begin their periodizations of the subject, Schlesinger’s “Radicalism and Conservatism in American History” is nevertheless indicative of the historiography of modern American conservatism. The inception of new conservatisms and new conservatives have often preceded or coincided with new historiographical perspectives. The definition of what conservatism is and who conservatives are—or have been—has depended both upon a shifting American political landscape as well as the historiographical disposition of those who attempt to study it. The historiography of twentieth century American conservatism, as a result, is characterized by the relationship between historians, the evolution of a political identity and a definition. Those writing about American conservatism after Schlesinger, especially those writing after 1945, began to alter their definition to fit new political realities. New historiographical schools developed in concert with new conservatisms, which in turn influenced the scholars who studied them. The relationship between the historian and his or her subject is mediated by many things. With respect to scholarship of the modern American right, one thing in particular stands out: the tension between a word, “conservative,” and the past it seeks to represent.

Another defining characteristic of the historiography of the new right is its age. The organized study of twentieth century American conservatism by historians is a relatively modern phenomenon. Unlike the scholarship on progressivism, New Deal liberalism or 1960s liberal activism, for example, before the 1990s the study of the new right as a discipline was

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<sup>18</sup> Schlesinger, 105.

underdeveloped and sparsely populated by non-polemical works. While many factors led the relative absence of serious scholarship of modern American conservatism nothing has exerted more influence on the field than the consensus scholars of the 1950s. Any assessment of the historiography of the new American right must therefore begin with this school and with the appraisal of the work of one of its most prominent members, Richard Hofstadter.

### **Hofstadter and the Consensus Opinion of the New Right**

Every scholar writing about American conservatism in the twentieth century identifies 1945 as a pivotal moment in its history. And for almost every historian of the new right the post-war years serve as the starting point for their periodization. The inception of the Cold War, the rise of Joseph McCarthy and the founding of populist right-wing groups like the John Birch society, for many, was indicative of a shifting political landscape. For historical observers as well as contemporary chroniclers there appeared to be something new about these conservatives, something different about their kind of conservatism. No historians' writing reflects this view more than the post-war scholars of the consensus school. Unlike Schlesinger these academics believed they could clearly identify a distinct American conservatism. Members of the consensus school did not disagree with Schlesinger, they simply inverted his conclusion. Conservatives were still viewed as un-American but, for the consensus school, it was their very un-Americaness that made them so readily identifiable.

Consensus historiography, generally, as the name implies, was predicated on agreement. American culture, like American institutions, were viewed as embodiments of a distinct American ethos. Americaness, for Consensus scholars, was something particular; it was a definite, holistic identity. Such an ideology meshed well with post-war geo-political developments. The Cold War that was raging outside the academy prompted those within it to

define an American nature, undergirded by democratic ideals and animated by the republican spirit, which could be held up as a foil against the Soviet style communism. Consensus historians were confident they had identified a distinct American character, embodied in American institutions and reflected in the un-Americaness of the Soviet Union: the Soviets were the enemy because they were not Americans; because they were different, other. American opinion, at least concerning itself, seemed uniform.

The rise of Senator Joseph McCarthy threatened this narrative. For academics espousing a politics of agreement McCarthy's anti-communist crusade was deeply troubling. The Wisconsin Senator's very existence confounded the consensus belief that American republicanism inherently militated against the kind of exclusionary extremism McCarthy embodied. In an attempt at reconciliation consensus historians therefore conceptualized McCarthy and his supporters as not working within the American tradition but working against or outside of it. This had a profound effect on the way in which American conservatism in the early 1950s was understood. McCarthy and his McCarthyites, close to home and increasingly influential, consensus scholars argued, might well be recognized as conservative but not until certain serious qualifications had been made.

No scholar was more emblematic of the consensus treatment of the new right during this period than Richard Hofstadter. A preeminent historian in the 1950s, Hofstadter was struck by the activism of a group whom he argued, in an essay published in 1954, "show[ed] signs of a serious and restless dissatisfaction with American life, traditions and institutions."<sup>19</sup> For Hofstadter these "pseudo-conservatives" as he called them, actually harbored a profound

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<sup>19</sup> Richard Hofstadter, "The Pseudo-Conservative Revolt," in *The Radical Right: The New American Right-Expanded and Updated*, ed. Daniel Bell (New York: Anchor Books, 1964), 43.

“hatred” for American society.<sup>20</sup> Modern American conservatism, according to Hofstadter, was not so much a political tradition than some kind of vulgar, paranoid reactionary impulse. Insofar as Hofstadter and consensus school were concerned, American conservatism was therefore best understood as a type of civic pathology masquerading as ideology. The “incoherence” of McCarthy and his supporters’ politics was evidence enough that the conservatives of the post-war era represented not only something new but something entirely antithetical to the American political tradition the consensus school had articulated.<sup>21</sup>

The history of conservatism written by Hofstadter the consensus school is characterized by an impulse not to simply chronicle McCarthy and his ilk but to proffer a diagnosis capable of accounting for such an aberrant population. As a result, their work is denunciatory and highly polemical. Though each member of the consensus school proffered a different etiology for the conservative disease, the fundamentals of the affliction often remained the same: conservatism was a pathology and understanding it meant identifying and describing how a social or psychological reactionary politics expressed itself in a civic setting.

For Hofstadter a deeply felt anxiety about one’s status constituted the essence of post-war conservatism. It was not strife but success, he argued, that the new right was wrestling with. He was not alone in this conclusion. In the words of Daniel Bell, conservatism was, as he described it in 1955, a reaction to the “turbulence of prosperity.”<sup>22</sup> Pursuing a similar line of reasoning Peter Viereck in his 1955 essay *The Revolt Against the Elite* described conservatism as “populism gone sour,” an inversion of populist animus that reflected a variation on the consensus

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<sup>20</sup> Hofstadter, 44.

<sup>21</sup> Ibid.

<sup>22</sup> Daniel Bell, “Interpretations of American Politics,” in *The Radical Right: The New American Right-Expanded and Updated*, ed. Daniel Bell (New York: Anchor Books, 1964), 47.

theme.<sup>23</sup> For Viereck the new right was not anti-American—it was rooted in the American populist tradition after all—the new conservatives simply suffered from a perversion of American ideals.<sup>24</sup> Irrespective of the position taken regarding the root of this new conservative ideology, consensus historians all agreed that, contrary to Schlesinger, American conservatives did exist. The fact that these conservatives were viewed as un-American did not preclude their identification, rather it facilitated it. Consensus historians had come to a consensus about modern American conservatism: the new-right was a vibrant, if not remarkably incoherent and somewhat vulgar, political force.

There were serious flaws in this argument. Beginning in the 1960's scholars of the New Left would disagree, often vehemently, with the consensus idea of a monolithic American identity. The view that Americanness meant simply one thing, or for that matter, anything at all, was called into question by these academics. The New Left's rejection of the consensus school had substantial implications for the historiography of modern American conservatism. If, after all, a monolithic American identity was nothing more than an idea, what was one to make of the consensus school's singular conception of conservatism? If being an American could mean many different things could not the same thing be said of conservative identity? Moreover, the imperatives of the kind of reform advocated by the New Left, and the resistance with which these attempts were often met, created a heightened sensitivity to not only the existence, but pervasiveness of conservatism in America.

Additionally, at the same as the New Left was reassessing modern American conservatism, a growing group of conservative intellectuals led by Russell Kirk and William F.

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<sup>23</sup> Peter Viereck, "The Revolt Against the Elite," in *The Radical Right: The New American Right-Expanded and Updated*, ed. Daniel Bell (New York: Anchor Books, 1964), 164.

<sup>24</sup> Viereck, 163. "McCarthyism is the revenge of the noses that for twenty years of fancy parties were pressed against the window pane."

Buckley began to challenge the consensus assumption that American conservatism was somehow ideologically confused or intellectually bereft. This trend, culminating in 1976 with the publication of George H. Nash's monumental *The Conservative Intellectual Movement in America Since 1945*, forever discredited the consensus argument that American conservatism only manifested itself as a reactionary political pathology.<sup>25</sup> Finally, as populist conservatisms proliferated and mobilized politically in the 1960's, expressed most emphatically in the Republican nomination of Barry Goldwater for president in 1964, historians increasingly began to suspect that the conclusions of Hofstadter, Bell and Viereck were incapable of accounting for the vibrancy, effectiveness and popular appeal of the new conservative movement.

### **The New Left and the New Right**

One of the first historians of the New Left to reassess the history of conservatism in America was Gabriel Kolko. When Kolko looked back, in 1963, at the turn of the nineteenth century he did not see reformers radically reshuffling the American order, he saw capitalists writing policy; he saw American institutions undergirded by private interests. Kolko, the more he looked back at the period, could not understand how the progressive era could ever be considered progressive. Kolko offered another explanation: the progressive era was characterized less by muckrakers and urban reformers than by "the triumph of conservatism."<sup>26</sup>

In his attempts to rebrand the progressive era conservative, Kolko not only refuted Schlesinger, there were in fact American conservatives prior to 1945, but Hofstadter and the consensus school, arguing that conservatism, far from some modern derangement, was the foundational American political ideology at the turn of the twentieth century. There was also a

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<sup>25</sup> George H. Nash, *The Conservative Intellectual Movement in America: Since 1945*, (New York: Basic Books, Inc., Publishers, 1976).

<sup>26</sup> Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916*, (New York: The Free Press, 1977), 2.

curious echo of Kolko's thesis in Russell Kirk's 1953 intellectual history of conservatism *The Conservative Mind from Burke to Elliot*.<sup>27</sup> A work of significant erudition *The Conservative Mind* confounded the consensus school's appraisal of the new right in two ways. First, its author, an accomplished intellectual, embodied a type of modern conservatism unaccounted for in the consensus indictment of the right and second, despite their differences—Kolko did not consider conservatism at the same level of abstraction as Kirk had, for instance—Kirk managed to situate conservatism squarely within the American political tradition.

Kolko's thesis also embodied many elements of the New Left's critique of the consensus school. Seeking to upend the belief in a monolithic American identity and complicate the consensus narrative of American history, the New Left posited that to be an American meant to be many things. Contrary to the consensus school, the New Left, generally speaking, saw not uniformity but diversity—and conflict—as the defining characteristics of Americanness. This belief profoundly affected the way in which the New Left conceptualized American conservatism. The consensus view that sociological or psychological explanations alone accounted for the modern conservatism seemed incapable of accounting for the diversity of conservatives and their political victories. Something other than an angst-ridden reactionary politics seemed to be fueling the new right in this respect.

If the New Left wanted to locate diversity in America, and in its politics, all they had to do was look rightward. And they did. Scholars of the New Left, no less than their consensus collages, were influenced by exigent political realities. Only this time the New Left's historiographical perspective complemented rather than contravened the growth of modern American conservatism from the early 1960's to the mid 1970's. This was a propitious

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<sup>27</sup> Russell Kirk, *The Conservative Mind: From Burke to Elliot*, (South Bend, Indiana: Gateway Editions, 1978).



development, for the seemingly sudden success of an Arizona senator complimented a historiographical perspective concerned with accommodating, rather than condemning, diversity.

### **New Conservatism, New Conservatives, New Historiographical Perspectives**

Barry Goldwater was not Joseph McCarthy. McCarthy was undoubtedly ambitious and politically adept but, unlike Goldwater, personal issues coupled with several political missteps precluded any chance of being a serious candidate for the highest federal office. Even though Goldwater's nomination at the 1964 Republican convention sent shockwaves through the political world, his success confirmed what the New Left already implicitly believed: if America was made up by many disparate and often radically different cultures, why could not a candidate for the highest office be himself equally unique? Furthermore, if Goldwater's ideology was innately pathological why was he able to cultivate a vast network of grass roots supporters and, in the process, capture the Republican nomination for president?

The polemic condescension of the consensus school seemed incapable of accounting for this new reality. Though, of course, this did not stop Hofstadter trying. "Goldwater's capture of the Republican nomination," the venerable professor from Columbia concluded, "was the triumphal moment of pseudo-conservatism in American politics."<sup>28</sup> But while Hofstadter attempted to fit Goldwater and his supporters squarely within the pathological tradition of the new American right, members of the New Left sought to understand what it was that made a Goldwater candidacy possible. In searching for answers they came to a major conclusion: modern American conservatism, contrary to Hofstadter's arguments, actually had deep and robust historical roots. More than this, the movement was not just a cadre of febrile political rubes but existed, in large part, in the academy. These were impactful observations. The

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<sup>28</sup> Richard Hofstadter, "Goldwater and Pseudo-Conservative Politics," In *The Paranoid Style in American Politics*, (New York: Vintage, 2008), 93.

recognition of a conservative tradition in American politics lined up well with the work of conservative intellectuals who sought to legitimize and hopefully cement a growing conservative movement.

Indicative of the attempt to seriously explore the historical and intellectual dimensions of American conservatism was the scholarship of Allan Guttman. In 1967 in his *The American Conservative Tradition* Guttman placed American conservatism firmly within American history.<sup>29</sup> Modern American conservatives, he argued, were not the anxiety ridden reactionaries identified by the consensus school. These thinkers were instead the inheritors of a long-standing intellectual tradition. Furthermore, Guttman identified several schools of intellectual conservatism operating concurrently to one another. According to Guttman modern American conservatism was made up of two movements: “‘libertarians’, who [sought] to conserve the heritage of nineteenth-century Liberalism, and ‘traditionalists’ whose Conservatism derive[d] from Burke and other opponents of Liberalism.”<sup>30</sup> In his analysis not only could modern American conservatism be linked to the past but it could be many things at once. George Nash, writing a decade later in 1976 would accept Guttman’s premise while fundamentally altering its implications.

The images of prominent conservative intellectuals, in Nash’s *The Conservative Intellectual Movement* stand out.<sup>31</sup> These portraits are not trivial. Nash, in another challenge to consensus conservative historiography, presented his readers with portraits of venerable, staid, intellectuals not Hofstadter’s reactionary pseudo-conservatives. What Nash explored in *The Conservative Intellectual Movement* was a culture, not a definition or vulgar

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<sup>29</sup> Allen Guttman, *The Conservative Tradition in America*, (New York: Oxford University Press, 1967).

<sup>30</sup> Guttman, 159.

<sup>31</sup> George H. Nash, *The Conservative Intellectual Movement in America: Since 1945*, (New York: Basic Books, Inc., Publishers, 1976).

sociological/psychological reaction.<sup>32</sup> Nash's work is representative of the first major shift towards cultural history with respect to conservative historiography. Nash's history also suggests that more than a political orientation, conservatism could be a cultural identity. The conservative intellectuals he wrote about, after all, were not necessarily directly engaged in the political process. In many ways Nash's study presages the historiography in the 1980's and 90's, which, with its focus on cultural identity and experiences outside of traditional political processes, tended to complicate the relationship between the personal and the political. While conservatives were by definition political, scholars of this era increasingly began to look for conservative cultures rather than only identifying the sites wherein conservatives expressed themselves in the political process.

Guttmann asks, at the end of his book what "conservatives can contribute to a new synthesis of American ideals."<sup>33</sup> Ideals, this word, in the plural, perfectly captures the essence of the New Left's critique. According to the New Left there could be more than one type of Americanism, just as there could be more than one type of conservatism. Modern American conservatism, as the New Left saw it, could not only be politically successful, it could constitute the very identity of serious intellectuals. In their critique of the Consensus school, the New Left started a trend that would inform the work of future historians of the new American right. In the New Left historiography, conservatism is both legitimized and balkanized. It is indeed something substantial but it is also many things at once. This was an auspicious development in the historiography of modern American conservatism—though it took some time for those in the academy to fully realize its potential.

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<sup>32</sup> Though it must be noted that Nash excludes what he calls the "Radical Right" and the conservatism of everyday retail politicians from his analysis. Nash, xi.

<sup>33</sup> Guttmann, 176.

In the late 1970's a "new" breed of conservatives, an elite group of intellectuals and political activists, would increasingly contend for political power. These neo-conservatives, whose previous political affiliation had often been with the far-left, would prompt historians to ask novel questions about modern American conservatism. In addition, an equally new, and no less powerful group of evangelical activists would force historians to locate politics outside of traditional political spaces.

Though the 1980's marked a period of general quiescence in the historiography of the new American right, the 1990's bore witness to a recrudescence in the field. The popularity of cultural history with its focus on history "from the bottom up" precluded many new scholars in the 1980's from approaching a subject whose only avenue of entry seemed to begin at the top. High politics simply did not fit within the emerging cultural historiography. However, as the field of cultural history matured into the 1990's scholars increasingly sought to reintegrate politics into their analyses. All of a sudden an area of study that had been dismissed as relatively unappealing and stale represented a verdant and untapped subfield. Scholars writing in the late 1990's and early 2000's began to argue that the home as much as the church and legislature were political institutions and that politics were as much a product of culture as gender and race.

These scholars had also lived through a period of conservative political success that their predecessors would most likely have dismissed out of hand as even being a remote possibility. The Reagan Revolution, Newt Gingrich's Contract with America, and a general rightward shift in the American politics that occurred in the closing decades of the twentieth century demanded new appraisals of modern American conservatism. Amidst all the epitaphs written about the new American right—after Goldwater, after Nixon and after Ford—for many scholars there seemed to be a lost reality of conservative ascendancy waiting to be recovered.

## The Current State of the Field

“It will not, I suspect,” wrote Alan Brinkley in 1994, “be a very controversial claim to say that twentieth century American conservatism has been something of an orphan of historical scholarship.”<sup>34</sup> First delivered as a lecture at a symposium on the twentieth century right in 1989 Brinkley’s critique reflected a general dissatisfaction with the state of the field. The dearth of new scholarship represented, to Brinkley, a “problem of historical imagination.”<sup>35</sup> Historians, he maintained, simply were not doing the subject justice.

Brinkley’s criticism, while generally correct, was somewhat incomplete. The cultural historians who eschewed writing about elite politics in the 1980s were anything if not imaginative. Drawing on disparate fields; sociology, anthropology and cultural, literary and linguistic theory, historians in the 1980’s advanced powerful and transformative arguments concerning the politics of gender, race and power and their influence in history and upon historical scholarship. A focus on social history and a general antipathy for traditional political history did, however, prevent these historians from applying their techniques to the modern American right. This was not a lack of imagination, however, but a misallocation of it. It is unfair to criticize Brinkley for not predicting the shift in attitude within the academy with respect to political history that took place during the years subsequent to the publishing of his article. In fact, Brinkley’s very dissatisfaction can itself be interpreted as evidence that, even as he spoke in 1989, the historiography of modern American conservatism was beginning to change.

Just because historians avoided writing about conservatism in the 1980s did not mean conservatism had ceased to be socially, culturally or politically relevant. To the contrary, conservatism, in the 1980s, was everywhere. Ronald Reagan won landslide elections, the young

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<sup>34</sup> Alan Brinkley, “The Problem of American Conservatism,” *American Historical Review* 99, no. 4 (April 1994): 409.

<sup>35</sup> Brinkley, 429.

professional was venerated in culture and American values were seen as undergirding the resurgent optimism concerning the country's future. Stagflation had been defeated, the Soviet Union had collapsed. It was "morning in America." But one also must be mindful to not allow conservative successes obscure the diversity of conservative opinion. Political coalitions, like politics in general, make for strange bedfellows. Two "new" conservatisms, neo-conservatism and evangelical conservatism, increasingly came to constitute powerful elements of the movement. Their influence signaled to historians that a much more sophisticated approach to studying new right was in order. And indeed, ever since Brinkley's rather dismal assessment of the field there has been what Julian E. Zelizer has called a "burst of innovative scholarly activity on the history of conservatism"<sup>36</sup>

Throughout the 1980's and 90's the political successes of conservative movements resulted in an increased conservative engagement with the state. And while historians writing cultural history in the burgeoning days of the field actively avoided focusing on topics they believed were the provenance of traditional political history, contemporary scholars have increasingly felt comfortable blurring the boundaries between the two. Steven M. Teles and Thomas M. Keck, for instance, argue that small-government, anti-statist, conservatives existed in perhaps the most surprising place of all: the federal government.

In *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* Teles demonstrates that conservatives, who had defined themselves in opposition to it, had successfully appropriated, if not embraced, the rise of the modern state and much of its bureaucratic apparatus.<sup>37</sup> Tired of fighting against the federal government as outsiders in the 1950s and 60s,

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<sup>36</sup> Julian E. Zelizer, "Reflections: Rethinking the History of American Conservatism." *Reviews in American History*, Vol. 38, no. 2, (June, 2010), 367.

<sup>37</sup> Stephen Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of The Law*, (New Jersey: Princeton University Press, 2008).

Conservatives, Teles argues, co-opted the legal infrastructure erected by the New Dealers, and controlled in large part by the left, to advance their ideology via legal precedent. By soliciting cases these conservatives labored to ensure their participation in a vital aspect of country's political process—the legal system—that not only had previously been the object of wide-spread rightwing disapprobation but a venue that conservatives believed had excluded them for so many years. Keck in *The Most Activist Supreme Court in History: The Road to Modern Judicial Conservatism* takes Teles' argument a step further.<sup>38</sup> Standing the charge of “judicial activism” on its head, Keck maintains that, with respect to the law, it is conservatives and not liberals who have proved to be the most eager to consolidate political power in the judicial branch. In both cases, a synthesis of cultural and political history enables Teles and Keck to look past the rhetoric of a group that often defines itself in opposition to the state, to a robust culture of legal conservatism.

While conservatives may have espoused a politics predicated on an outright rejection of federal authority—outside of what was necessary for the national defense—and against the use of the legal system to articulate policy positions and affect political change, many of them, these scholars argue, have accepted the modern state and chosen to work within it. And through it. Other scholars, most notably Justin Vaïsse, have identified a similar conservative symbiosis with the state embodied, they argue, in neo-conservatism.<sup>39</sup> Vaïsse's superlative history of neo-conservatism traces the movement's roots to the ideological milieu of the radical left in 1930s New York. It is no surprise therefore, Vaïsse argues, given their intellectual heritage, neo-conservatives feel comfortable working within, and not against, the federal government.

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<sup>38</sup> Thomas M. Keck, *The Most Activist Supreme Court in History: The Road to Judicial Conservatism*, (Chicago: The University of Chicago Press, 2004).

<sup>39</sup> Justin Vaïsse, *Neoconservatism: The Biography of a Movement*, Trans. Arthur Goldhammer, (Massachusetts: The Belknap Press of Harvard University Press, 2010).

The religious right has also inspired an impressive amount of recent scholarly activity.<sup>40</sup> Historically a demographic that resisted political engagement—though, of course, this statement cannot be made categorically—evangelicals, beginning in the mid-1970s, increasingly became politically active. The profusion of evangelical advocacy groups, coupled with the appeal of “family values” politics that culminated in the impeachment of President Bill Clinton, prompted scholars to identify what and who it was that animated this “moral majority.” Historians blending political and cultural history, attuned to the dynamic relationship between personal, social and political beliefs, found no more verdant place than the church to explore the role faith, the family and one’s religious affiliation played in shaping conservative identity.

As scholars have continued to work to situate conservative politics locally, identifying disparate political environments wherein conservative ideology was cultivated and politicized they have produced an astounding number of, to borrow Zelizer’s description, “finely textured, micro-social” analyses.<sup>41</sup> Both Jonathan M. Schoenwald and Lisa McGirr, for example, in *A Time for Choosing: The Rise of Modern American Conservatism* and *Suburban Warriors: The Origins of the New American Right*, respectively, trace the origins of popular support for the John Birch Society and the candidacy of Barry Goldwater to the suburbs.<sup>42</sup> Modern American conservatism, these scholars argue, was as much a cultural and domestic institution as it was a political one. Moreover, both historians also underscore the role women played in organizing political groups and fostering conservative identity. For McGirr and Schoenwald, gender and politics of defining domesticity in new suburban environments helped forge a politics predicated

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<sup>40</sup> See Clyde Wilcox, *Onward Christian Soldiers?: The Religious Right in American Politics*, (Colorado: Westview Press, 1996); William Martin, *With God On Our Side: The Rise of the Religious Right in America*, (New York: Broadway Books, 1996) and Daniel K. Williams, *God’s Own Party: The Making of the Christian Right*, (New York: Oxford University Press, 2010).

<sup>41</sup> Zelizer, 371.

<sup>42</sup> Jonathan M. Schoenwald, *A Time for Choosing: The Rise of Modern American Conservatism*. (New York: Oxford University Press, 2001); Lisa McGirr, *Suburban Warriors: The Origins of the New American Right*, (New Jersey: Princeton University Press, 2001).



on the defense of the “traditional” family—not to mention a conservatism shaped by novel professional arrangements, like occupations predicated on the growth of the defense industry, and residential spaces, made up of households cordoned off from more urban and perhaps more culturally diverse populations.<sup>43</sup>

Increasingly scholars have seized upon these kinds of insights to locate a different kind of diversity in 1960s America. Highlighting the interplay between national politics and cultural identity, Rebecca E. Klatch and Mary C. Brennan argue persuasively that the conservative

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<sup>43</sup> The process of suburbanization that took place in America following World War Two looms large in the recent historiography of modern American conservatism. Foremost among these many analyses is Kevin Kruse’s *White Flight: Atlanta and the Making of Modern Conservatism*, (New Jersey: Princeton University Press, 2005). In *White Flight* Kruse uses Atlanta as a backdrop to explore the impact suburbanization, and the resistance to racial integration in Atlanta’s suburban communities, had on conservative ideology and identity during the post-War era. For Kruse “white flight” helps explain both the genesis and appeal of a new kind of conservatism. As he notes “while many have assumed that white flight was little more than a literal movement of the white population,” Kruse argues “it represented a much more important transformation in the political ideology of those involved.” “Because of their confrontation with the civil rights movement,” Kruse argues “white southern conservatives were forced to abandon their traditional, populist, and often starkly racist demagoguery and instead craft a new conservatism predicated on a language of rights, freedoms, and individualism.” “This modern conservatism,” maintains Kruse, “proved to be both subtler and stronger than the politics that preceded it and helped southern conservatives dominate the Republican Party and, through it, the national politics as well.” “White flight, in the end” Kruse mordantly observes, “was more than a physical relocation. It was a political revolution.”

Other historians have skillfully linked the demographic changes wrought by the large-scale migration of African-Americans out of the south to urban centers like Chicago and Detroit to the development of new suburban conservative constituencies and the cultivation of new conservative ideologies. Colleen Doody, in her recent monograph, *Detroit’s Cold War: The Origins of Postwar Conservatism* (Champaign, IL: University of Illinois Press, 2012), for example, argues that the politics of labor in post-War Detroit were informed, in large part, by the influx of newly arrived African-Americans from the south. For Doody, Detroit’s shifting demography helped conservative blocs in the city’s labor leadership forge a coalition ostensibly predicated on anti-Communism but ultimately drawn from a wellspring of white ethnic resentment.

Demographic change also informs McGirr’s thesis in *Suburban Warriors*, in her case in the form of industrial migration to Southern California and the Sunbelt. McGirr’s analysis, however, like Kruse’s, centers not only of the cultivation of new conservative constituencies but of a new conservative ideology. “Post-World War II conservatism,” she argues, “explodes any easy dichotomy between tradition and modernity.” A new, far more conservative ideology took root in Southern California during this era according to McGirr. *Suburban Warriors* is an attempt, in her words, to address “the question of how conservative political ideology, often considered an antimodern worldview, attracted a large number of people in the most technologically advanced and economically vibrant of American locales.” For McGirr a combination of western individualism, entrepreneurial innovation heavily subsidized by the federal government and an intense evangelical religiosity resulted in a vibrant conservative ideology composed of, if not fueled by, a seemingly incompatible mix of modernist and antimodernist impulses. The ideological effects of suburbanization are apparent in the work Kenneth T. Jackson and Thomas Sugrue who both suggest that the migration to the suburbs by many white ethnics disabused many would-be progressives of a broader, more egalitarian, civic consciousness. Suburban isolation, for these authors, helped foster a set of deeply felt individualistic concerns. Concerns that ultimately were expressed in the conservative idioms of personal responsibility, economic liberty and anti-criminality. See, for both authors, Thomas Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North*, (New York: Random House, 2009) and Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States*, (New York: Oxford University Press, 1985).

experience in the 1960s and 1970s chronicled by Schoenwald and McGirr should call into question the once widely held view that the era was somehow predominantly left-leaning or liberal.<sup>44</sup> The new left, Klatch and Brennan argue, was coextensive politically and culturally with the new right. Echoing Kolko's call for revision of the progressive era, Klatch and Brennan argue that the 1960s, a decade often framed as an era of liberal protest, was instead a time of conservative mobilization and revolution.

Klatch and Brennan's work is also indicative of a recent development Phillips-Fein observes in the historiographical treatment of the new right: the attempt to "reconsider...ideas about the relationship of the Right to the broader trends of American political history."<sup>45</sup> Like Brennan and Klatch, Rick Perlstein, one of the most dynamic and productive scholars in the field, has become increasingly adept at situating conservatism within the same cultural and intellectual environment of its ideological rivals.<sup>46</sup> In *Before the Storm: Barry Goldwater and the Unmaking of the American Consensus*, *Nixonland: The Rise of a President and the Fracturing of America* and *The Invisible Bridge: The Fall of Nixon and the Rise of Reagan*, for example, Perlstein uses a common cultural backdrop, an intellectual and ideological space shared by the right and the left, to argue persuasively that the liberal consensus the governed political life in postwar America was little more than window dressing that papered over deep sociological fissures. Both ideological and political extremism, on either side of the political spectrum, Perlstein argues, helps explain why, in his view, outsider candidates like Barry Goldwater could steal the republican nomination for president; slick political operators like

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<sup>44</sup>Rebecca E. Klatch, *A Generation Divided: The New Left, The New Right and the 1960s*, (Berkeley: The University of California Press, 1999); Mary C. Brennan. *Turning Right in the Sixties: The Conservative Capture of the GOP*, (North Carolina: The University of North Carolina Press, 1995).

<sup>45</sup>Phillips-Fein, 724.

<sup>46</sup> Rick Perlstein, *Before the Storm: Barry Goldwater and the Unmaking of the American Consensus* (New York: Nation Books, 2009); *Nixonland: The Rise of a President and the Fracturing of America* (New York: Scribner, 2008) and *The Invisible Bridge: The Fall of Nixon and the Rise of Reagan* (New York: Simon and Shuster, 2014).

Richard Nixon could build political coalitions on the backs of a fearful, often racist, “silent majority” and an otherwise moribund Republican Party could endure the fall of Nixon and the Ford administration and go on to exercise almost unimaginable political influence during the Reagan years.

Regardless of how these developments are categorized it is abundantly clear that, when it comes to the state the field, much has changed since 1989.

### **Future Scholarship**

Historians writing history from the bottom-up in the early 1980s sought to distance themselves as far as possible from traditional political historiography. As a result they wrote the politics of everyday life out of their work. The separation of culture and politics, however, caused these scholars to overlook the diverse and often divergent political cultures that made up the conservative coalition in post-World War Two America. As scholars began to synthesize cultural and political history in the 1990s the aversion to “doing” traditional political history abated. These methodological developments coincided favorably with the successes of several new conservativisms. The growth of evangelical conservatism and the rise of the religious right brought private politics into the public sphere; public politics increasingly, as a result, were located by historians in the home.

The result of these trends was an efflorescence of scholarship of modern American conservatism that reflected the diversity of its subject. Modern scholars rigorously analyzed, and atomized the new-right. In the process they produced an astounding number of monographs that identified different kinds of conservativisms located in many different cultural spaces. It is no surprise, however, that contemporary scholars disagree over whether or not this trend can be considered an unalloyed good. If Brinkley, reflecting on the state of the field in the late 1980s,

saw a paucity of scholarship on modern American conservatism, contemporary scholars argue that there might now be an overabundance of it.

Just seventeen years after Brinkley decried the lack of historical scholarship of modern American conservatism Phillips-Fein, issued a bold reassessment in the December 2011 issue of the *Journal of American History*.<sup>47</sup> “The historical literature of American conservatism,” she declared “is at a crossroads.”<sup>48</sup> Like Brinkley, Phillips-Fein sought to underscore a problem, only this time the dilemma she identified was not the absence of new scholarship but a surfeit of it. Phillips-Fein was unequivocal. “Today,” she insisted “instead of decrying the absence of scholarship on conservatism, historians might be forgiven for asking whether there is anything left to study in the history of the Right.”<sup>49</sup>

Soliciting contributions from leading scholars in the field, *The Journal of American History*, in 2011, gave scholars an open forum in which to discuss Phillips-Fein’s conclusions. Though many different perspectives were offered a consensus opinion emerged: a general need to reassess the direction of scholarship existed and the means to this end was synthesis. Emblematic of the astonishing transformations in the study of the new right that had taken place during the preceding two decades none other than Brinkley himself best articulated this view. “The problem of conservatism today is not a lack of scholarship,” Brinkley declared “but, among other things, the challenge of synthesizing the extraordinary amount of scholarship that is now before us.”<sup>50</sup>

Perhaps this is true. But if Phillips-Fein, Brinkley and the *AHA*’s roundtable contributors are correct and it is synthesis that is needed, it is synthesis capable of accommodating and

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<sup>47</sup>Kim Phillips-Fein, “Conservatism: A State of the Field,” *Journal of American History* 98, no.3 (December 2011).

<sup>48</sup> Phillips-Fein, 723.

<sup>49</sup> Ibid.

<sup>50</sup> Alan Brinkley, “Conservatism as a Growing Field of Scholarship,” *Journal of American History* 98, no.3 (December 2011): 751.

underscoring, not obscuring, the diversity of modern American conservatism. Moreover, synthetic accounts would have to be flexible enough to make room for conservativisms and conservatives whose stories have often been overlooked or ignored by historians. As Zelizer has argued “the scholarship has spent so much time looking for *the* explanation to the rise of *the* Right that it has missed one of the most interesting stories about the era: the multiple factors that fueled the rise of different segments of the Right and the struggles to keep these different factions together.”<sup>51</sup> Any attempt to bring the myriad strands of conservative scholarship together in a meaningful way would have to take into account the successes and failures of the conservatives, as well as the large number of competing conservativisms, that may not have up to now garnered a sufficient amount of scholarly attention.

Some historians, most notably Hyrum Lewis, argue that the call for synthesis simply postpones or ignores a more pressing problem.<sup>52</sup> Lewis maintains that historians of modern American conservatism need to fundamentally alter their methodological approach before synthesis would even be possible, let alone productive. Only after a fundamental transformation in the field has occurred, he argues, can scholars begin to successfully synthesize the voluminous body of work on the subject. Calling the very term conservative into question, as well as the way in which it has been deployed by historians, Lewis argues persuasively that historians cannot continue to use the term conservative unselfconsciously.

In *Historians and the Myth of American Conservatism*, published in the March 2012 edition of the *Journal of the Historical Society*, Lewis contends that the historiography of modern American conservatism has been, because of the rampant misuse of the term

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<sup>51</sup> Zelizer, 374.

<sup>52</sup> Hyrum Lewis, “Historians and the Myth of American Conservatism,” *Journal of American History* 12, no. 1 (March 2012).

“conservative,” “dominated by an essentialist myth.”<sup>53</sup> According to Lewis, historians in the field have often labored under “the false notion of that a single set of characteristics, beliefs, tendencies, attitudes unites conservatives of all areas and places.”<sup>54</sup> While Lewis’ argument is perhaps unjustifiably broad it does enable him to make an important point about the way in which scholars have approached writing about the new right: Conservatism, he argues, cannot be understood outside the context in which it existed *and* in which it is being interpreted. This is because conservatism, according to Lewis, has no “fixed meaning.”<sup>55</sup> “Evolution,” he argues “not essence, is the story of American conservatism”<sup>56</sup> Scholars of the new right, Lewis maintains, would be better served using term conservative heuristically. Instead of approaching the past in search of a well-defined conservatism Lewis argues that historians should seek to explore the ways in which both the meaning of the term has changed as well as the conservatives it seeks to describe. What Lewis champions is a kind of concurrent historicization wherein historians self-consciously deploy a non-essential definition of conservatism to tease from the past a number of different, and perhaps heretofore overlooked, conservatives and conservatisms. Absent such a perspective, synthesis, he maintains, would be incapable of accounting for the reality of the conservative experience in modern America.

So where to now? Perhaps with all the prognosticating historians of the new right are currently doing it may behoove those whose profession depends upon it to pause and reflect on the past. If there is any common dominator that currently unites the field it is the categorical rejection of the views of its first practitioners. In fact, it is safe to argue that the trajectory of scholarship on modern American conservatism can be traced in the footprints of the vast

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<sup>53</sup> Lewis, 27.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid., 11.

<sup>56</sup> Ibid., 19.

majority of modern historians scrambling to distance themselves from consensus scholarship. As Leo P. Ribuffo has observed, Hofstadter and the members of the consensus school have long served as “straw targets” for modern scholars of the new right.<sup>57</sup> Held up as a foil, consensus scholarship has been used by these academics to demarcate modern sophistication from a kind of procrustean chauvinism. It may be time, however, to abandon this perspective and revisit the consensus school’s appraisal of modern American conservatism—not to repeat its mistakes but to recast its focus. Hofstadter and his colleagues’ work should not be anathema to contemporary scholars. What it points to is a politics about more than material, programmatic, results born out of a coherent ideology but a politics that reflects and communicates fundamental values and concerns.

Appropriating Hofstadter’s perspective in no way requires historians to endorse his conclusions, or repeat his mistakes. Ideologies should not be judged period, let alone judged for their coherence or objectives. Systems of belief should instead be understood on their own terms. The imposition of a foreign standard of rationality will accomplish little. But a focus on internal inconsistencies and, perhaps, ideological incoherence, might enable historians of the new right to recapture the immediate realities of political activism. An ethnographic approach is needed. One supported by a heuristic perspective that conceptualizes conservatism as many, different, developing things and seeks to study these manifestations as they existed in themselves.

Historians in their rush to distance themselves from the gross excesses of the consensus treatment of the new right have unintentionally cultivated a myopia of their own. A return to Hofstadter, stripped of his desire to pathologize and dismiss modern American conservatism, may actually enable historians to grapple with some of the more dynamic manifestations of the

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<sup>57</sup> Leo P. Ribuffo, “Conservatism and American Politics,” *Journal of the Historical Society*, vol. 3 no. 2 (March 2003), 165.

movement, and revitalize elements of the new right that have been marginalized in contemporary scholarship. I believe this kind of approach will help recapture a fascinating relationship between conservatives, science and science education from 1981-2005. No fixed definition of conservatism can account for the dynamism of the conservative relationship with science during this period. Like Lewis, I believe that by approaching the era without one I will be better positioned to more fully appreciate the conservative experience in modern America during the culture wars.

When conservative activists set their sights on altering science curricula in public schools in the 1980s, 1990s and 2000s they did so in superheated intellectual climate. The conservative relationship with science during this era was negotiated in a larger cultural context where ideas, ideologies and the very nature of knowledge were all objects of fervid debate. As will become apparent “science” itself was one of these concepts. It is only appropriate then that an account of the transition in creationist legal strategy with respect to science and science education that occurred from 1981-2005 begin with another aspect of the *kulturkampf*, the science wars, and with the cultural and intellectual context within which these battles took place.



CHAPTER TWO: THE SCIENCE WARS AND THE CONSERVATIVE STRUGGLE  
AGAINST POSTMODERNISM AND EPISTEMOLOGICAL RELATIVISM IN POST-  
WORLD WAR TWO AMERICA

“Knowledge, it is rightly said, does not stand outside of practical activity: it is  
made and sustained through situated practical activity.”<sup>58</sup>

-Steven Shapin, *A Social History of Truth: Civility and Science in Seventeenth  
Century England*

“The West is defined by its need for justification of its ways or values, by its need  
for discovery of nature, by its need for philosophy and science. This is its cultural  
imperative. Deprived of that, it will collapse. The United States is one of the  
highest and most extreme achievements of the rational quest for the good life  
according to nature.”<sup>59</sup>

-Alan Bloom, *The Closing of the American Mind: How Higher Education has  
Failed Democracy and Impoverished the Souls of Today's Students*

In the 1980s conservatives increasingly became concerned with something they called  
postmodernism. Though a notoriously difficult—and contentious—term, postmodernism was  
viewed by these conservatives as part of a broader philosophy hostile to notions of inherent  
facticity or value. Wary of a perspective that held the truth to be a product of culture and that  
threatened to erode any number of standards, moral, aesthetic or ethical, conservative academics

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<sup>58</sup> Steven Shapin, *A Social History of Truth: Civility and Science in Seventeenth Century England*, (Chicago:  
University of Chicago Press, 1994), xix.

<sup>59</sup> Alan Bloom, *The Closing of the American Mind*, (New York: Simon and Shuster, 1987), 39.

vigorously attacked postmodern trends they identified in the academy and in the culture. The conservative concern with relativistic epistemology and education also manifested itself at the grassroots level. In the 60s, 70s and 80s massive conservative opposition coalesced in places like Anaheim, California and Kanawha County, West Virginia and Dade County Miami, Florida against curriculum changes in primary and secondary public education that appeared to destabilize static conceptualizations of truth.

Running concurrently to these battles was an intense academic struggle over the nature of science. As the field of science studies developed from the mid-twentieth century into the 1980s a critical perspective that regarded science as the product of culture and not empirical fact finding gained a foothold in the field. By the time conservatives approached the courts to further their claims regarding the constitutionality of teaching creation-science and later, I.D., they therefore carried with them a legacy of inveterate opposition to postmodernism and to the belief in the cultural construction of truth, *as well as* a working knowledge of several different postmodern conceptualizations of science. In terms of the coherence of conservative identity and ideology, this was problematic. As we will see, conservative advocacy for I.D. was predicated on theories that rejected science's inherent authority and epistemological claims on the grounds that these things were products not of empiricism but cultural consensus. In order to fully appreciate this extraordinary transition an investigation into the history of the conservative legal struggle to include I.D. in public school science curricula must begin with a survey of the cultural climate in which it took place. A logical place to start is with the shifting of the status of science in the academy. As will become readily apparent in the *Kulturkampf*, science was hardly above the fray.

## The Science Wars and the Post-Kuhnian Developments in Science Studies

In the 1996 spring/summer edition of *Social Text* an article with an odd name written by a theoretical physicist named Alan D. Sokal appeared. “*Transgressing the Boundaries: Towards a Transformative Hermeneutics of Quantum Gravity*” stood out both in terms of its context-in a journal devoted to cultural issues and its source-an author not associated with being anywhere near “the forefront of cultural theory.”<sup>60</sup> The article nonetheless made bold claims “It has thus become increasingly apparent,” Sokal announced:

that physical ‘reality,’ no less than social ‘reality,’ is at bottom a social and linguistic construct; that scientific ‘knowledge,’ far from being objective, reflects and encodes the dominant ideologies and power relations of the culture that produced it; that the truth claims of science are inherently theory-laden and self-referential; and consequently, that the discourse of the scientific community, for all its undeniable value, cannot assert a privileged epistemological status with respect to counter hegemonic narratives emanating from dissident or marginalized communities.<sup>61</sup>

Sokal was just getting started:

“Here my aim is to carry these deep analyses one step further, by taking account of recent developments in quantum gravity...we shall see, the space-time manifold ceases to exist as an objective physical reality; geometry becomes relational and contextual; and the foundational conceptual categories of prior science-among them, existence itself-become problematized and relativized. This conceptual revolution, I will argue, has profound implications for the content of a future postmodern and liberatory science.”<sup>62</sup> Sokal had promised, in one article, to facilitate nothing less than a scientific revolution.

This revolution never took place. This was because the article was a farce. Sokal, instead of initiating a revolutionary conceptual shift in quantum physics had, in the pages of *Social Text*, executed an elaborate hoax.

Revealing his hoax in the May/June edition of the journal *Lingua Franca* Sokal freely admitted that “nowhere in [ the original article was] there anything resembling a logical sequence

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<sup>60</sup>Alan D. Sokal, "Transgressing the Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity," *SOCIAL TEXT*, (Spring/Summer, 1996), 46/47: 217-252; Social Text Journal Description," Duke University Press, accessed March 13, 2014, <http://www.dukeupress.edu/Catalog/ViewProduct.php?viewby=journal&productid=45631>.

<sup>61</sup> Sokal, 217.

<sup>62</sup> Ibid., 218.

of thought; one finds only citations of authority, plays on words, strained analogies, and bald assertions.”<sup>63</sup> Deeply suspicious of the kind of “subjectivist thinking” parodied in his article and decidedly pessimistic about its intellectual and political implications, Sokal had resorted to satire in order to expose *Social Text*’s—and by implication what Sokal called the border postmodern academic left’s—general “lack of intellectual rigor.”<sup>64</sup>

A self-avowed “leftist” Sokal worried about the deleterious effects of the kind of “epistemic relativism” he believed undergirded the work of the theorists he had lampooned.<sup>65</sup> According to the physicist the theoretical assault on science had much broader and more profound implications than a simple reordering of the academic understanding of science. “Epistemic relativism,” Sokal argued “undermines the already fragile prospects for progressive social critique.”<sup>66</sup> “Theorizing about ‘the social construction of reality’ won’t help us find an effective treatment for AIDS or devise strategies for preventing global warming. Nor can we combat false ideas in history, sociology, economics, and politics if we reject the notions of truth and falsity.”<sup>67</sup> Writing almost a decade later, Sokal in a preface to a collection of essays relating to the hoax, put it even more plainly: “At a superficial level the topic is the relation between science and society; but the deeper theme is the importance, not so much of *science*, but of the *scientific worldview* in humanity’s collective decision making.”<sup>68</sup> Science, even in the immediate aftermath of the hoax, strangely enough, seemed to have disappeared from Sokal’s analysis. In its place emerged a series of deeply felt reservations about the direction of politics in America. A struggle to define science had become a struggle over the trajectory of American culture.

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<sup>63</sup> Alan D. Sokal, “A Physicist Experiments with Cultural Studies,” *Lingua Franca*, May/June 1996, Accessed on March 13, 2014, <http://linguafranca.mirror.theinfo.org/9605/sokal.html>.

<sup>64</sup> Sokal, “A Physicist Experiments.”

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Alan D. Sokal, *Beyond the Hoax*, (New York: Oxford University Press, 2008), xi.

## ***The Structure of Scientific Revolutions and the Sociology of Scientific Knowledge***

The Sokal Affair threw the contours of the science wars into sharp relief but the debate over the nature of science that had metastasized into full-fledged cultural conflict began long before Sokal launched his salvo in the pages of *Social Text*. In 1962 a scientist and historian named Thomas Kuhn published a book called *The Structure of Scientific Revolutions*.<sup>69</sup> The work would fundamentally alter the way scholars approached the study of science. In *The Structure of Scientific Revolutions* Kuhn laid out a compelling critique of the traditional narrative of accreted progress and objective fact finding that had dominated accounts of the history of the discipline. Science was *not* characterized by the Whiggish cultivation of knowledge, Kuhn maintained, instead it was better understood in the light of certain sociological imperatives. Most importantly, Kuhn argued, science did not and could not exist outside of a community of scientists; experimentation and hypothesizing instead took place within a particular context. For Kuhn the nature of science was therefore ultimately contextual. And changes in science were, as a result, predicated not on some Enlightenment spirit of discovery but on the normative demands of scientific communities.

To explain scientific developments in the place of linear progress Kuhn proposed a theory of paradigmatic rupture. In this model a period of experimentation and puzzle solving within a particular scientific paradigm would actually postpone discovery by displacing anomalous data and alternative explanatory frameworks. Only when the pressure from a competing paradigm became so great that a community of scientists faced a choice between irrelevancy or adoption did a paradigm shift take place, and a new period of experimentation and puzzle solving begin. In Kuhn's schema scientific revolutions were not the upshot of empirical observation and methodological rigidity but a number of "non-cumulative developmental

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<sup>69</sup> Thomas S. Kuhn, *The Structure of Scientific Revolutions*, (Chicago: The University of Chicago Press, 2012).

episodes in which an older paradigm [was] replaced in whole or in part by an incompatible new one.”<sup>70</sup> This, in itself, was a revolutionary insight. After Kuhn scholars interested in the history of science increasingly moved away from charting scientific discoveries and scientific progress to mapping the disparate communities where this knowledge was produced or “constructed.”

The sociology of scientific knowledge or SSK became a robust sub-discipline in the years following the publication of *The Structure of Scientific Revolutions*. As Jan Golinski, who traces the development of the field in *Making Natural Knowledge: Constructivism and the History of Science* observes the “notion that scientific knowledge is a human creation, made with available material and cultural resources, rather than simply the revelation of a natural order that is pre-given and independent of human action” lay at the core of the discipline.<sup>71</sup> Undergirding this perspective was “a determination to explain the formation of natural knowledge without engaging in assessment of its truth or validity”<sup>72</sup>

Emblematic of these trends, one of the most influential scholars of the SSK, David Bloor, a founder and proponent of what became known as the strong programme in Edinburgh, Scotland, argued vigorously that the understanding of science had historically been underdetermined by sociological factors. In Bloor’s model scientists could never be seen as autonomous individuals objectively observing an empirical reality. Scientists, argued Bloor, were instead communal actors subject to all kinds of social pressures. Far from passive observers, scientists, according to Bloor—and according to many in the SSK—were inextricable participants in the mediation and construction of “reality.” For Bloor and for these scholars what constituted science and what constituted knowledge therefore varied from time to time and place to place. Truth, falsity, objectivity—science—from this perspective were all things whose

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<sup>70</sup> Kuhn, 92.

<sup>71</sup> Jan Golinski, *Making Natural Knowledge: Constructivism and the History of Science*, (Chicago: University of Chicago Press, 2005), 6.

<sup>72</sup> Golinski, 7.

meaning depended not on any correspondence with an external reality but on a host of semantic, socio-historical conditions.

As the SSK developed into the 1970s and 1980s sophisticated inquiries into the construction of natural knowledge took the field in a number of disparate directions. Different methodologies and theoretical frameworks were deployed to probe increasingly diverse areas of knowledge production. Bruno Latour, a prominent figure in the discipline, for example, advocated for something called the Actor Network Theory (ANT) which sought to focus on relationships not only between scientists in a given setting but between scientists and different objects, signs and symbols.<sup>73</sup> A sociology of science could not treat the places where science took place as sites only acted upon by scientists; meaning, Latour argued, was instead created and transmitted through a myriad of human and non-human symbolic relationships. According to Latour if one wished to understand what was happening in the laboratory one had to appreciate the setting's semiology. Effectively this meant that for Latour various "black boxes," like computer programs, occasionally more so than scientists themselves, helped define the contours of science.

Regardless of the theoretical perspective, as the SSK grew as field the concept of a stable, empirical, thing called science seemed to be receding before a wealth of scholarly work concerning the concept's dependence on its social and theoretical context. What had emerged after Kuhn was a number of radically different understandings of what science meant and what it meant to be scientific or to "do science." In a post-Kuhnian world, science had become a fractured concept whose meaning was both highly contested and ultimately contextual. Though he would later reject much of its implications, Kuhn had inspired a paradigm shift of his own

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<sup>73</sup> Bruno Latour, *Science in Action: How to Follow Scientists and Engineers through Society*, (Cambridge, Massachusetts: Harvard University Press, 1987).

and, in the process, fundamentally transformed the way in which science was understood. Not everyone welcomed these developments.

### **Science Warriors**

As Sokal's hoax made apparent, many academics worried that a belief in localized knowledge production eroded standards of truth and falsity to the point where objectivity became impossible. Indeed, some on the other-side of the argument, like the philosopher Paul K. Feyerabend, for example, appeared to readily welcome such an outcome.<sup>74</sup> For scholars, and for scientists like Sokal, the reduction of science, which had long been associated with the Enlightenment, empiricism and human progress, to a cultural artifact carried with it the potential to strip appeals to science, and scientific evidence, of their rhetorical force. As Andrew Ross, who wrote the introduction to the volume of *Social Text* where Sokal's article first appeared put it, after Kuhn, science no longer could be said to have "a monopoly on rationality."<sup>75</sup> Far from opening the door to other standards of evidence, however, the critical perspective that undergirded the SSK seemed to many observers to destroy the prospects that these standards could exist altogether. This in itself was deeply troubling. But not as disturbing as the treatment science was getting in other academic disciplines.

As academics became more familiar with the conceptualizations of science being formulated in the SSK scholars from other disciplines began questioning science's claim to objectivity in more biting terms. Those working from a Foucauldian, feminist or deconstructivist perspective in the late 1970s, the 1980s and the 1990s, for example, argued forcefully that truth making was not only a social enterprise but an inherently political activity. Depending on how one was theoretically disposed knowledge existed simultaneously as a form and byproduct of

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<sup>74</sup> Paul Feyerabend, *Against Method* (New York: Verso, 1988).

<sup>75</sup> Andrew Ross, "Introduction," *SOCIAL TEXT*, (Spring/Summer, 1996), 46/47: 3.



discipline; something that was gendered or helped gender subjects; or, most radically, a kind of non-thing whose meaning was continuously postponed in a process of intertextual *différance*. Regardless of where one stood in this respect, however, refuting science's objectivity or naturalness was seen as part of a larger process of liberation from hegemonic oppression. If knowledge *was* political, after all, exposing the power that aided in its artifice and articulation might help subaltern groups—the poor, minorities, the colonized, etc.—subvert its authority. But there was a conflict brewing. What some saw as an act of liberatory protest others viewed as a gesture of irresponsible nihilistic destruction.

In *Higher Superstition: The Academic Left and its Quarrels with Science* Paul R. Gross and Norman Levitt laid out their case against the critique of science that was being articulated in the humanities and against what they saw was a dangerous antipathy towards science in general.<sup>76</sup> Central to the authors' argument was the belief that the most vociferous critics of scientific knowledge often had little to no scientific acumen. "We encounter books," wrote Gross and Levitt, "that pontificate about the intellectual crisis of contemporary physics, whose authors have never troubled themselves with a simple problem in statics; essays that make knowing reference to chaos theory, from writers who could not recognize, much less solve, a first-order linear differential equation; tirades about the semiotic tyranny of DNA and molecular biology, from scholars who have never been inside a real laboratory, or asked how the drug they take lowers their blood pressure."<sup>77</sup> In *Higher Superstition* Gross and Levitt pointed to, in their view, the utter inanity of many of the arguments advanced against science and scientific thinking, the kind that had been parodied by Sokal, in the hope of demonstrating how troubling, and potentially destructive, the lack of evidentiary standards could be.

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<sup>76</sup> Paul R. Gross and Norman Levitt, *Higher Superstition: The Academic Left and its Quarrels with Science* (Baltimore: Johns Hopkins University Press, 1998).

<sup>77</sup> Gross and Levitt, 6.

A similar effort was made more systematically by Jean Bricmont and Sokal himself in *Fashionable Nonsense: Postmodern Intellectuals' Abuse of Science*.<sup>78</sup> In *Fashionable Nonsense* Bricmont and Sokal pulled apart texts from Jacques Lacan, Luce Irigaray, Latour, Jean Baudrillard and Julia Kristeva in order to demonstrate how scientific concepts had been grievously misunderstood or misappropriated to bolster each author's larger arguments about science. The result was a portrait of a critique of science by many in the humanities that was hardly flattering. Like Gross and Levitt, Bricmont and Sokal advanced compelling arguments concerning a general and perhaps purposeful ignorance or misuse of scientific concepts in the writing of those who had often forcefully criticized the field of inquiry. This misuse, the authors argued, was intellectually irresponsible—and ethically dubious.

Ultimately, however, it was the political implications of the reduction of science to another ““story,”” ““narration”” or discourse that most worried Gross and Levitt and Bricmont and Sokal.<sup>79</sup> If science, and by extension objective standards of truth and falsity, were simply discursive were value judgments of right and wrong not similarity situated? Social progress predicated on ethical imperatives seemed threatened by such a conceptualization. Even more disconcerting, morality itself, bound up as it was in ideas of human progress and advancement, appeared to be endangered by the relativization of science and of truth. By the time Sokal perpetrated his hoax in *Social Text* in 1996 many left-of-center authors had become extremely concerned about the implications of epistemic relativism, and of what they viewed as the radical, irresponsible, reconceptualization of science. Observers on the right might have wondered why it had taken them so long.

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<sup>78</sup> Jean Bricmont and Alan Sokal, *Fashionable Nonsense: Postmodern Intellectuals' Abuse of Science*, (New York: Picador Press, 1999).

<sup>79</sup> Bricmont and Sokal, 209.

## The Conservative Struggle against Postmodernism and Epistemological Relativism

“There is one thing a professor can be absolutely certain of: almost every student entering the university believes, or says he believes, that truth is relative.”<sup>80</sup> So began the philosopher Alan Bloom in *The Closing of the American Mind*. Published in 1987, Bloom’s work identified an American university culture not only threatened by relativism but defined by it. Tracing the growing influence of openness in the academy—to other cultures and to alternative modes of inquiry and education—that began in the 1960s, Bloom argued that an adherence to relativism had diminished rather than enhanced the character of America’s youth. While predicated on a leveling impulse, Bloom maintained that the empathy that supported efforts to inoculate an appreciation for diversity had eroded the capacity for a true appreciation of real cultural value. Bloom argued, should these trends continue, the very essence of America would disappear, leaving in its place only a vulgar agreement regarding the commensurability of other cultures. Though they may have not taken the same shape or have been directed at the same object, his concerns were shared many others on the right.

Lynne Cheney was one of these conservatives. Every chapter in her 1995 work *Telling the Truth* begins with an epigram from George Orwell’s *1984*.<sup>81</sup> Cheney’s decision to use *1984* in this was telling. The politics of purposeful dissimulation in Orwell’s novel helped Cheney communicate an unambiguous stance concerning the state of intellectual *and* popular attitudes towards truth. Expounding upon many of the objections Bloom had raised seven years prior, in *Telling the Truth* Cheney attempted to demonstrate just how pervasive, institutionalized and political the rejection of truth had become in the academy and the culture at large. She also took her analysis a step further. Whereas Bloom had identified the ailment, Cheney attempted to

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<sup>80</sup> Bloom, 25.

<sup>81</sup> Lynne Cheney, *Telling the Truth: Why Our Culture and Our Country have Stopped Making Sense-and What We Can Do About It*, (New York: Simon and Shuster, 1995).

proffer several viable remedies for the relativistic disease. It was not enough to simply reject postmodernism; one had to expose the deleterious effects it was having on society—and combat them.

Cheney’s experience chairing the National Endowment for the Arts lead her to the conclusion that “a corollary to the idea that there is no truth is that there are no standards, no intellectual standards and no aesthetic ones either.”<sup>82</sup> Because the postmodern belief “that there are no true stories, but only useful ones, no overarching principles, but only the interests of the moment, [were] ideas...deeply embedded in our [American] culture” it was up to conservatives to reclaim the mantle of truth, first in the academy and then in society at large. “It is from our colleges and universities,” Cheney maintained “that messages radiate—or fail to radiate—to schools, to legal institutions, to popular culture, and to politics about the importance of reason, of trying to overcome bias, of seeking truth through evidence and verification” For Cheney “telling the truth,” was therefore part of a larger political mission predicated on the *defense* of truth. “The virtues that we have increasingly come to believe we must nurture if we are to be successful as a culture,” Cheney argued “simply make no sense if we turn away from reason and reality. “Thus,” she concluded, “whether we as a society find the will to live in truth more than a matter for idle speculation. *The answer may very well determine whether we survive.*”<sup>83</sup>

### **The Religious Right and the Conservative Coalition against Postmodernism**

Bloom and Cheney’s belief in the corrosive effects of postmodernism had a special resonance on the religious right. While often cast as anti-intellectual many conservative evangelical pastors and theologians actively engaged a number of different academic debates, many of them abstruse, concerning the postmodern critique of objective knowledge. As Molly

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<sup>82</sup> Cheney, 146.

<sup>83</sup> Cheney, 206. Emphasis mine.

Worthen has observed American evangelicals, despite their reputation, have had “a habit of taking certain ideas very seriously.”<sup>84</sup> Postmodernism was one these ideas.

Indicative of the evangelical treatment of postmodernism in the decades leading up the turn of the twentieth century was the work of Douglas R. Groothuis. In *Truth Decay: Defending Christianity against the Challenges of Postmodernism*, Groothuis articulated why, for many religious conservatives, debates over the nature of knowledge were deeply important. At stake, argued Groothuis, was “not simply the question of what things we take to be true or false, but what we take the nature of the truth to be.”<sup>85</sup> For Groothuis these were “not philosophical games reserved for intellectuals or the otherwise bored [but] matters of personal rectitude and integrity;”<sup>86</sup> the erosion of truth had the potential to degrade both faith and culture:

Truth decay has ramifications for all religious truth claims, including those of Christianity, because traditional schemas of the sacred claim to represent ultimate reality... But truth decay also affects every other area of life, from politics to art to law to history. If the idea of objective truth falls into disrepute, politics devolves into nothing but image manipulation and power mongering. If law is not grounded in a moral order that transcends any criminal code or constitution, it becomes a set of malleable and ultimately arbitrary edicts. If no objective facts can be discerned from the past, a novel cannot be distinguished from history, nor mythology differentiated from biography. History becomes a tool for special interest groups who rewrite the past on the basis of their predilections.<sup>87</sup>

For Groothuis, Christianity represented the best way to stave off such a condition. Faith was important, so was scripture, but a belief in a God who both embodied and revealed Truth was ultimately the best antidote. While he admitted the Bible did not stake out a firm “philosophical position” regarding the nature of truth Groothuis argued that it did “offer a unified perspective on the matter of truth and falsity” that “flatly oppose[d] the postmodernist

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<sup>84</sup> Molly Worthen, *Apostles of Reason*, (New York: Oxford University Press, 2014), 1.

<sup>85</sup> Douglas R. Groothuis, *Truth Decay: Defending Christianity against the Challenges of Postmodernism*, (Downers Grove, IL: InterVarsity Press, 2000), 10.

<sup>86</sup> Groothuis, 10.

<sup>87</sup> *Ibid.*, 25-26.

orientation.”<sup>88</sup> Through biblical exegesis Groothuis maintained that truth, linguistically, culturally and theologically, was something stable and unconstructed in the Christian ethos.<sup>89</sup> According to Groothuis God had revealed Himself through truth. Truth therefore had to be universal, objective and unbound by linguistic and/or cultural conventions. Christians, as a result, he argued, had a special role to play in its veneration and protection. For Groothuis “the task of Christian theology [was] to identify and articulate the revealed truths of Scripture in a logical, coherent and compelling manner.”<sup>90</sup> Because postmodernism not only made this task an impossibility, but a fool’s errand, it had to be opposed. “If the proper understanding of truth is undergoing decay,” Groothuis urged, Christians “should be alarmed, as well as animated to reverse it.”<sup>91</sup>

Mirroring Groothuis’ work the 1990’s saw the emergence of a large evangelical literature regarding postmodernism and the perils of epistemic relativism. Collections of essays that offered a systematic appraisal of postmodernism like Dennis McCallum’s *The Death of Truth: Responding to Multiculturalism, the Rejection of Reason and the New Postmodern Diversity* proliferated.<sup>92</sup> And while these works often matched Groothuis in their attempts at rigorous intellectual analysis, the Evangelical response to postmodernism and its interrogation of objective truth was not just a matter of elite criticism or speculation. Texts like Cheney’s *Telling the Truth* appeared on popular Evangelical reading lists.<sup>93</sup> And a litany of publications by Christian authors that dealt exclusively with postmodernism evinced a popular awareness of, and

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<sup>88</sup> Ibid., 62.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid., 10.

<sup>91</sup> Ibid.

<sup>92</sup> Dennis McCallum, *The Death of Truth: Responding to Multiculturalism, The Rejection of Reason and the New Postmodern Diversity*, (Minneapolis, Minnesota: Bethany House Publishers, 1996).

<sup>93</sup> Gerard Reed, “Reed’s ‘Reedings’,” <http://reedings.com/archive/60Apr97.htm>.

interest in, the subject.<sup>94</sup> Debates over the social construction of knowledge, as a result, while highly abstract, were not entirely unfamiliar to a wide-swath of Evangelicals.<sup>95</sup>

They were also not new. While the 90s bore witness to the flowering of a popular intellectual consideration of postmodernism, a long history of grass-roots conservative activism surrounding the destabilization of truth, especially in public education, testified to a sustained and wide ranging engagement amongst religious conservatives with debates over the nature of knowledge. Conservatives, across intellectual, religious and cultural divides in post-World War Two America had long been intensely concerned with the nature the truth, of truth's political implications, and of the way in which the "truth" was being told to their children.

### **The Conservative Engagement with Epistemological Relativism and Public Education prior to *McLean and Dover***

Conservatives had been fighting against perceived attempts to inculcate relativism in public education long before Bloom issued his scathing critique of the American academy in 1987. Two such campaigns of particular importance are explored by William Martin in his landmark history of the religious right *With God on Our Side: The Rise of the Religious Right in America*.<sup>96</sup> The first effort occurred in Anaheim and was inspired by a sexual education program called Family Life and Sex Education (FLSE) that was introduced in Southern California in

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<sup>94</sup> See, for example, Stanley J. Grenz, *A Primer on Postmodernism*, (Grand Rapids, Michigan: Wm. B. Eerdmans Publishing Company: 1996); Gene Edward Veith Jr., *Postmodern Times: A Christian Guide to Contemporary Thought and Culture*, (Wheaton, IL: Crossway Publishing, 1994) and *Loving God with All Your Mind: Thinking as a Christian in the Postmodern World*, (Wheaton, IL: Crossway Publishing, 2003); Graham Johnston, *Preaching to a Postmodern World: A Guide to Reaching Twenty-First Century Listeners*, (Grand Rapids, Michigan: Baker Books, 2001); Millard J. Erickson, *Postmodernizing the Faith: Evangelical Responses to the Challenge of Postmodernism*, (Grand Rapids, Michigan: Baker Academic, 1998) and *Truth or Consequences: The Promise and Perils of Postmodernism*, (Downer's Grove, IL: Intervarsity Press Academic, 2001); Heath White, *Postmodernism 101: A First Course for the Curious Christian*, (Grand Rapids, Michigan: Brazos Press, 2006) and David S. Dockery Ed., *The Challenge of Postmodernism: An Evangelical Engagement*, (Colorado Springs, Colorado: Victor Books, 1995).

<sup>95</sup> Worthen notes that members of the Emergent Church movement have had a more salutatory view postmodernism. Postmodernism, for these evangelicals, provided a way to place their worldview on equal footing with that of liberal rationalism or secular humanism, see *Apostles of Reason*, 255.

<sup>96</sup> William Martin, *With God on Our Side: The Rise of the Religious Right in America* (New York: Broadway Books, 1996).

1965.<sup>97</sup> Part of a larger trend in the 1960s FLSE was a local manifestation of other programs like the national Sex Information and Education Council of the U.S. (SIECUS) which sought to correct a perceived lack of public knowledge concerning sexuality. Predicated on naturalistic explanations of sex and sexuality both SIECUS and FLSE ran afoul of religious conservatives who objected to the lack of consideration of the moral dimension of human sexuality in the programs' recommendations and curricula. In what would become a familiar response these conservatives questioned, and vigorously contested, a perceived displacement of traditional morality and Truth with situational ethics and relativistic epistemologies.

### **“The Battle for Anaheim”**

Though initially uncontroversial, FLSE came under fire in 1968 when a woman named Eleanor Howe saw the notes her twin boys were taking in their family life course. After interrogating her sons for over “four hours” Howe decided that she needed to thoroughly review the FLSE program. Having sat in on classes, obtained a copy of the curriculum from the district office and reviewed many films and adjunct materials used in the course Howe concluded that FLSE was completely unacceptable. According to Howe, not only was there a wealth of sexual explicit imagery but a message of moral subjectivity seemed to imbue much of the materials with what she called “situation ethics” a philosophy, in her words, of “if its right for you, do it.”<sup>98</sup> Howe decided to assemble the most egregious examples in a dossier she entitled *Adult Bulletin* which was then distributed to other parents within the district. The response was overwhelming.

At a meeting organized to discuss possible remedies to the situation, Howe met James Townsend, a conservative activist who agreed to fold the burgeoning opposition to FLSE into an organization he ran called the California Citizens Committee (CCC). Originally formed to

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<sup>97</sup> Martin, 105.

<sup>98</sup> Ibid., 110.



support Barry Goldwater's 1964 presidential campaign the CCC threw its considerable resources behind Howe. A veritable campaign infrastructure was erected, funds were allocated to support the cause and the *Adult Bulletin* was rechristened *The Educator* and given a managing editor. In less than a year Howe's activism against her local school district had become a full-fledged national campaign against FLSE.

Though activists like Townsend often linked SIECUS and FLSE to more nefarious schemes—Martin, for example, discusses the CCC's screening of a film during meetings to discuss strategies against FLSE called *Pavlov's Children*, a film whose premise involved the use of "Pavlovian conditioning techniques, in sex education and elsewhere, to render American youth susceptible to totalitarianism—the real objection to the programs was their relativistic account of human sexuality. In their epistemological and moral dimensions the perspectives of SIECUS and FLSE appeared, to conservatives, to threaten stable conceptualizations of human sexual behavior. The fight against the introduction of such curricula, as a result, can be seen as part of larger struggle to not only defend the truth but the family from the corrosive effects of relativism. And while Howe's fight against FLSE was vigorously—and successfully—fought it paled in comparison to the struggle over another proposed curriculum change in Kanawah County, West Virginia.

### **The Kanawah County Textbook Wars**

In 1974 a war erupted in Charleston, West Virginia over a change in the K-12 language-arts curriculum. 325 texts had been added to a pool from which instructors could draw their materials. The authors of these new books were ethnically diverse and the content of the material was occasionally overtly sexual and political—both Eldridge Cleaver's *Soul on Ice* and Alex Haley's *The Autobiography of Malcolm X*, for example, appeared on recommended reading

lists.<sup>99</sup> This made Alice Moore, a member of the school board, uncomfortable. Like Howe, Moore had become politically active in 1970 when the Kanawha County Board of Education approved a sexual education program to be implemented in area schools the following year. Unsure of what to do but certain that the proposed change intruded upon her prerogatives as a parent, Moore decided to run for an empty seat on the school board. She won. Moore's presence on the board, as an avowed conservative and opponent to the type of curriculum change the other board members supported, set the scene for a struggle that would take place outside the confines of the board meetings. As the disagreement over the proposed textbooks spilled out into the community, the demographic tensions that belied the apparent ethnic uniformity of the region inflamed an already volatile conflict.

Ethnically, Kanawha County in the 1970s was unremarkable. Almost uniformly white and Protestant the area was racially homogenous. This uniformity, however, obscured profound cultural rifts. As Martin observes “cutting across...[these] broad categories were divisions of religion, class, and world-view that made real community for whites...all but impossible.”<sup>100</sup> On one side of the divide sat “Creekers,” blue color working class people with fundamentalist leanings; on the other were “Hillers,” members of Kanawha's upper and middle classes.<sup>101</sup> As the nomenclature suggested class distinctions between the two groups colored their political exchanges. When Moore cast a losing vote against adopting the proposed textbooks on April, 11<sup>th</sup> 1974 the Creekers organized themselves politically. At contentious meetings in the community Creekers and Hillers debated the merits—and the implications—of using the new texts in the upcoming school year. An impasse quickly formed between those who thought the addition of multicultural texts lent a valuable and heretofore absent perspective to the Language

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<sup>99</sup> Perlstein, 92-93.

<sup>100</sup> Martin, 116.

<sup>101</sup> Perlstein explores Kanawha County's demography well in *The Invisible Bridge: The Fall of Nixon and Rise of Reagan*, 297.

Arts curricula, and those who believed the new materials threatened to undermine traditional morality and stable conceptualizations of truth. Tensions in Kanawha County between the Creekers and Hillers ran high.

After the school board voted three-to-two in June to reaffirm the adoption of the new books various organizations were formed to publicize the outrage many felt about the decision.<sup>102</sup> Their activities caught the attention of national groups like the Heritage foundation who sent resources and advisors to help Moore. And a Texas based couple called the Gablers who had developed a national reputation as conservative textbook reviewers also lent their expertise.<sup>103</sup> By September the debate over the new texts had manifested itself in a concerted effort to boycott the upcoming school year. The strike was successful. As Perlstein observes on the first day of school “about a fifth of the district’s children stayed home” including “four-fifths of the county’s Creekers.”<sup>104</sup>

These children were joined the following day by thirty-five hundred coal miners despite orders from their union to the contrary.<sup>105</sup> And on September 10<sup>th</sup> Charleston bus drivers stopped work “leaving more than ten thousand regular riders without service.”<sup>106</sup> On September 11<sup>th</sup> the school board announced it would withdraw the textbooks pending approval by a newly formed Textbook Review Committee.<sup>107</sup> Though this represented a victory of sorts for Moore and the conservative anti-textbook activists, unrest in Kanawha County continued. As Martin points out

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<sup>102</sup> Martin, 127.

<sup>103</sup> The Gablers are widely credited with shaping the conservative strategy with respect to textbook reform in the state of Texas. Operating, originally, from their home in Hawkins, Texas, Norma and Mel Gabler poured through textbooks looking for errors of fact and interpretation. Part of their mission was assembling a list of these mistakes, focusing specifically on factual errors, in document they called “The Gabler Scroll of Shame.” From its inception in 1961 to the turn of the twenty-first century the Gablers’ “scroll” grew considerably. In 2001 *Time Magazine* measured it. It was fifty-four feet long. See Douglas Martin, “Norma Gabler, Leader of Crusade on Textbooks, Dies at 84,” *New York Times*, August 1, 2007, B.8 and Perlstein, “*The Invisible Bridge*,” 294.

<sup>104</sup> Perlstein, 298.

<sup>105</sup> Martin, 128.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

“while the Textbook Review Committee formed and began its work, one school was dynamited, two others were firebombed, and several were damaged by gunfire and vandalism.”<sup>108</sup> Two men, in addition, were also shot. Eventually the violence in Kanawha County abated. In other parts of the country, however, local struggles over public education continued to resonate on the national level.

### **Anita Bryant and the Dade County Ordinance**

Eleanor Howe’s aversion to FLSE, and the part of the reason why Alice Moore initially got involved in the textbook wars in Kanawah County, West Virginia, was centered upon the introduction or augmentation of sexual education programs. Especially jarring, for conservatives like Howe and Moore, was the way in which homosexuality in these curricula was presented as a normal part of human sexuality. For these activists, when tailored to children the message that homosexuality was somehow natural seemed to contravene a belief in the inherent sinfulness of same-sex acts and relationships. While a national conservative campaign against gay rights would coalesce in the 1980s and 1990s around opposition to campaigns to decriminalize sodomy and campaigns to extend various civil rights protections to homosexuals, its origins ultimately lay in another struggle over local school policy: the disagreement over the way in which the truth about morality and about sexuality was being told to children in Florida in the late 70s.

In 1977 when the Dade County, Florida board of commissioners proposed adding homosexuality to its civil rights ordinances guaranteeing equal access to housing, public accommodation and employment Anita Bryant, a popular singer and born-again Christian, took notice. Deeply uncomfortable with the proposal, Bryant decided to oppose its adoption.<sup>109</sup> “As

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<sup>108</sup> Martin, 129.

<sup>109</sup> Fejes posits the response was more coordinated. The leader of Bryant’s church, the Rev. William Chapman, maintains Fejes, was initially responsible for prompting Bryant to get involved. Not willing to risk unwanted political exposure as “a minister of a large, tax-exempt church,” Fejes argues that Chapman was “circumspect”

an entertainer I've worked with homosexuals all my life" Bryant told the board "and my attitude has always been live and let live."<sup>110</sup> But an apparent public endorsement of homosexuality and the possibility that openly gay teachers might be shielded from termination in public schools was too much. "As a mother," Bryant explained "if we don't have the right to protect our children from this kind of thing...our children would be very vulnerable...if they're exposed to [homosexuality] I might as well feed them garbage."<sup>111</sup> "I want people to know I am not a bigot," but, Bryant concluded, "in my own heart, I know that the important thing is that I please God and not man."<sup>112</sup> In a May, 1978 interview with *Playboy Magazine* Bryant talked about her decision to spearhead the campaign against the Dade County ordinance in greater detail. "When I was a child you didn't even *mention* the word homosexual, much less find out what the act was about. It was too filthy to think about."<sup>113</sup> For Bryant it was not simply homosexuality itself that was destructive but what the act represented: a state of general disregard for Christian ethics as well as the normative behavior they prescribed.

Bryant's outrage at the Dade County decision resulted in the formation of an advocacy group called Save Our Children to lobby for its repeal. Attracting the support of well-known political leaders on the religious right like Jerry Falwell, the campaign garnered an intense amount of regional and national interest. It was also remarkably successful. Less than half a year after its adoption the decision to include gays by the Dade County Board was repealed. Like Moore and Howe before her Bryant had succeeded in taking a local issue national and, in the

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about becoming too openly involved in the campaign. In order to avoid controversy Fejes maintains that Chapman turned to Bryant to spearhead the effort against the ordinance. See Fejes, *Moral Panic*, 78.

<sup>110</sup> Martin Merzer, "Anita Bryant Fights Gay Rights Law in Fla.," *Schenectady Gazette*, February 16, 1977. <http://news.google.com/newspapers?nid=1917&dat=19770216&id=5XwhAAAAIIBAJ&sjid=RYgFAAAAIBAJ&pg=1230,3296931>.

<sup>111</sup> Merzer, "Anita Bryant Fights Gay Rights Law in Fla.".

<sup>112</sup> Ibid.

<sup>113</sup> Ken Kelley, "The Playboy Interview: Anita Bryant," *Playboy Magazine*, May 1978, 74.

process, solidifying conservative opinion regarding educational standards, the cultural construction of truth and the state of public education in America.

### **Conclusion**

According to Bloom, the natural sciences were the only branch of inquiry in the academy untouched by the epistemological upheavals in post-1960s America.<sup>114</sup> Developments in the historiographical and critical treatment of science during the period, of course, belie this conclusion. Though unfounded, his claim is nevertheless important. Science, in Bloom's estimation, represented something antithetical to the prevailing intellectual trends he abhorred in American culture. Science was something static, something stable. If the truth was to be sought and not constructed Bloom was confident one could go about finding it through science. He was wrong. At least insofar as science's status in 1987 was concerned.

By the mid-1990s a full-fledged war had broken out over whether or not science denoted a process of empirical fact finding or was instead a sociological activity where facts were not so much discovered as constructed. At the center of this struggle existed a disagreement concerning the status of knowledge. As one scientist caught up in the fray observed, as far the science wars were concerned the argument was not necessarily over science *per se*; "the battleground... of the science wars [was] epistemology."<sup>115</sup> Undergirding the controversies over the nature of science was an argument over the nature of truth. Either truth was something that was universal, discoverable, and external to human activity, or something that was local, manufactured and only meaningful in context. It was this belief in epistemological relativity that really offended

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<sup>114</sup> Bloom, 348, 356. "Natural science is doing just fine. Living alone, but happily, running along like a well-wound clock, successful and useful as ever. There have been great things lately, physicists with their black holes and biologists with their genetic code. Its objects and methods are agreed upon. It offers exciting lives to persons of very high intelligence and provides immeasurable benefits to mankind at large. Our way of life is utterly dependent on the natural scientists, and they have more than fulfilled their every promise."

<sup>115</sup> James Robert Brown, *Who Rules in Science?: An Opinionated Guide to the Wars*, (Cambridge, Massachusetts: Harvard University Press, 2001), x.

conservative scholars and activists. Most could readily identify why this was: epistemological relativism had tremendous political implications. While unabashedly elitist, Bloom's critique of the state of American higher education had managed to give voice to concerns held more generally, and at every level of intellectual abstraction, by conservatives regarding the deleterious effects of relativism.

Nowhere were these concerns felt more intensely than on the religious right. By the mid-1990s a whole movement seemed to be turning its attention to consider the implications of epistemological relativism and postmodernism. What had once been the province of recondite philosophical speculation increasingly became a popular rallying point for conservative activists. Though the battles in Kanawah County, Anaheim and Dade County evinced a long-standing antipathy and willingness to mobilize against perceived relativistic reforms in education, the 1990s represented a high point of synthesis between grass-roots and academic awareness of, and activism against, relativism in general. By the turn of the century relativism, cultural, epistemological or otherwise, had become a catch-all term to describe any number of troubling developments in American society. Its presence anywhere, in the academy, in secondary education, film and other popular media was something to be confronted—and defeated.

The most unlikely intellectual posture a religious conservative could assume at the end of the twentieth century then would be one that held that knowledge was somehow sociological, constructed or the product of cultural consensus. Grass roots battles fought over public education curricula as well as the lamentations of those in the academy against postmodernism pointed to broad consensus amongst conservatives that relativism, in whatever form, was wrong. For these conservatives and for scholars like Bloom when it came to science this was especially true. At least, that is, until it was not.

Though there was a long history of activism on behalf of religious conservatives regarding science education in public schools this advocacy took a surprising turn in the years from 1981-2005. In the legal struggle over the inclusion of creation-science and I.D. in public education science curricula, conservatives that had once recoiled from theories espousing the sociological nature of truth slowly adopted a Kuhnian stance towards science and scientific knowledge. By the mid-1990s many creationists had all but abandoned their attempts to persuade the legal and educational community that creation-science was sufficiently scientific. Instead these former advocates of creation-science began interrogating the concept of science itself. Though shaped very much the legal imperatives of constitutional jurisprudence, this transition also depended a great deal on the fragmentary and dynamic nature not only of science, but truth, ideology and political identity in the latter half the twentieth century.



CHAPTER THREE: *McCLEAN, DOVER* AND THE POSTMODERN TURN IN  
CREATIONIST LEGAL STRATEGY

**[Jack D. Novick Attorney for the Plaintiffs in *McLean*:]** Doctor Ruse, having examined the creationist literature at great length, do you have a professional opinion about whether creation science measures up to the standards and characteristics of science that you have previously identified in your testimony here today?

**[Dr. Michael Ruse:]** Yes, I do.

**[Mr. Novick:]** What is that opinion?

**[Dr. Ruse:]** I don't think it does<sup>116</sup>

-*Mclean*, 1981

**[Vic Walczak Attorney for the Plaintiffs in *Dover*:]** And personally, you believe that evolution is a better explanation of biological life than intelligent design?

**[Dr. Steve Fuller:]** At the moment, yes.

**[Vic Walczak:]** But you're dissatisfied with that explanation?

**[Dr. Fuller:]** Well, you might say as a philosopher I'm professionally dissatisfied with all explanations that claim to be final. And so there is going to be a special suspicion sort of drawn toward the taken-for-granted theories in any given discipline.

**[Mr. Walczak:]** So you're not saying that intelligent design is the correct or the better explanation for biological life?

**[Dr. Fuller:]** No, I'm not. I'm certainly not. They're not -- they haven't developed it enough to really be in a position to make any kind of definitive judgment of that kind.

**[Mr. Walczak:]** So you think it's just worth something that we should be pursuing further?

**[Dr. Fuller.]** Well, yes, and that there have to be some conditions put in place in order for it to happen. *It's not just going to happen spontaneously.*

<sup>117</sup>-*Dover*, 2005

From 1981-2005 creationist legal strategy took a postmodern turn. After several resounding legal defeats, creationists, once initially concerned with underscoring the scientificity what they called creation-science, began interrogating the concept of science itself. As these creationists exchanged advocacy of creation-science for advocacy for I.D, many of the same conservatives who had articulated a conceptualization of science as an objective, empirical

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<sup>116</sup> Transcript of Dr. Ruse's Testimony in *McLean* from *McLean v Arkansas* Documentation Project. <http://www.antievolution.org/projects/mclean/newsite/pftrans/mvattpruse.html>, 289.

<sup>117</sup> Transcript of Dr. Fuller's Testimony in *Dover* from The Talk Origins Archive <http://www.talkorigins.org/faqs/dover/day15am2.html>. Emphasis mine.

discipline set to work adumbrating a vision of the science that resembled something out of the SSK. Talk of paradigms and of the sociological nature of scientific truth circulated in arguments made before the court and in popular creationist discourse. Even more symbolic of evolving creationist attitudes towards a more Kuhnian conceptualization of science was the juxtaposition between the disproportional number of scientists called upon to testify to the scientific nature of creation-science in *McLean* and the appearance in *Dover* of one of the world's preeminent social epistemologists. While it was often obscured amidst the legal maneuvering and myriad abstruse, technical, interpretations of constitutional law, the apparent magnitude of this change never disappeared entirely. The transition in advocacy from an empirical to Kuhnian conceptualization of science that took place from 1981-2005 remained a radical philosophical and ideological departure from widely held conservative positions regarding postmodernism and relativistic epistemology. Other changes, perhaps no less important, were also apparent.

Creationism itself underwent substantial transformations in the latter half of the twentieth century, especially from 1981-2005. As much as creationist legal strategy was affected by larger cultural pressures and the evolving standards of constitutional law so too was creationist ideology and identity. As the court refined its interpretation of the Establishment Clause and began articulating tests it could employ to adjudicate disputes over what kind of laws and policies constituted unconstitutional religious encroachments in civic life, creationists were forced to develop alternative approaches to combating the instruction of evolution in public schools.

As the process of incorporation of the First Amendment unfolded in the twentieth century the tact creationists had previously taken with respect to Darwinian evolution became increasingly vulnerable to First Amendment challenges. Eventually their approach had to be scuttled altogether. After the court's ruling in *Epperson v. Arkansas* in 1968 it was no longer

constitutionally permissible to proscribe, outright, the instruction of evolution in public schools.<sup>118</sup> Creationists, as a result, were forced to formulate alternative legal strategies. The confluence of these pressures and other broader trends regarding the status of science in American culture greatly informed the shifting construction and articulation of creationist identity.

At the same time creationists were searching for a constitutional approach to combating the instruction of evolution in public schools, science's place in American popular culture was reaching a general apogee. By the 1950s a pervasive reverence predicated on larger geopolitical dynamics had come to characterize the popular attitude towards science. The launch of *Sputnik* and the proven utility of cutting-edge atomic weaponry had convinced many Americans that science and scientific inquiry were not only generally good but necessary to ensure the future of their country.<sup>119</sup> Additionally, while constitutional law changed from *Scopes* to *Epperson*, so too did the cultural fortunes of modernism and fundamentalism.<sup>120</sup> The combination of the waxing prestige of science and the waning popularity of fundamentalism with the growing constitutional barriers against proscribing the instruction of evolution in public schools signaled to creationists that, in order to retain some modicum of influence in American culture, they needed to stop opposing and start doing science. This proved to be a propitious environment in which to cultivate a marriage of both creationism and science. And indeed, in the 1950s creation-science

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<sup>118</sup>*Epperson v. Arkansas*, 393 U.S. 97 (1968).

<sup>119</sup> For the status of science in American society in the 1950s and 1960s see Audra J. Wolfe, *Competing with the Soviets: Science, Technology, and the State in Cold War America*, (Baltimore: The Johns Hopkins, 2013).

<sup>120</sup> *John Thomas Scopes v. State of Tennessee*, 152 Tenn. 424. (1925). Known popularly as the "Scopes Monkey Trial," *Scopes v. Tennessee* represented the high water mark of fundamentalist activism with respect to science education in America. In many ways, however, the trial's cultural importance outweighed its legal significance. Though Clarence Darrow and the defense effectively discredited William Jennings Bryan and the fundamentalist movement's campaign against the instruction of Darwinian evolution, John Scopes was still found guilty of violating Tennessee's Butler Act. But even the force of this decision was fleeting. While Scopes was assessed a fine his conviction was thrown out on a technicality; and the constitutionality of Tennessee's law, as a result, was not called into question until the late 1960s.

became a key aspect creationist identity. It did take some time, however, for these developments to manifest themselves in creationist legal strategy.

As I will show in this chapter a similar constellation of dynamic cultural pressures worked to inform the transition from creation-science to I.D., the legal advocacy for both positions, as well as of the nature of conservative identity and ideology from 1981-2005.

### **Creationism and Constitutional Law**

In March of 1981 Governor Frank White signed into a law an act passed by the Arkansas state legislature. Known as the “Balanced Treatment for Creation-Science Act” Arkansas Act 590 immediately became a site of intense controversy.<sup>121</sup> On its face the Balanced Treatment Act was fairly straightforward, its intent clearly enumerated in Section One of the bill which stated plainly that “Public Schools within this state shall give balanced treatment to creation-science and evolution-science.”<sup>122</sup> Arguing that the taxpayers of Arkansas, and, by extension, their children, would be better served if the public school system’s science curricula were expanded to include creation-science the Arkansas legislature reiterated within their bill that its purpose was entirely academic, completely neutral and exclusively secular. Many Arkansans disagreed. Two months later, on May 21, an ecumenical group of teachers, priests, rabbis and other community leaders filed suit contending that Act 590 was, contrary to the claims of the legislature, explicitly sectarian and therefore undeniably unconstitutional. *McLean et al. v. Arkansas Board of Education* began on December 7<sup>th</sup>, 1981.

The conflict over including creation-science in science curricula in Arkansas, however, had much deeper historical roots. The passage of Arkansas Act 590 represented the culmination of a long campaign on behalf of religious conservatives who opposed the instruction of evolution

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<sup>121</sup> Abridged Text of Arkansas Act 590 in Marcel C. La Follette, editor, *Creationism Science and the Law: The Arkansas Case*, (Massachusetts: MIT Press, 1983), 15.

<sup>122</sup> La Follette, 15.

in public schools to proffer an equally scientific alternative. It also reflected the pressures of reconciling ideology, attempts at reform, and the strictures of Establishment Clause jurisprudence. Before turning to I.D., creationists and religious conservatives had long struggled to stay within the shifting boundaries of the First Amendment's Establishment Clause. Nowhere were these pressures better embodied than in the fluctuating dimensions of creationist identity itself.

### **The Establishment Clause and the Lemon Test**

Establishment Clause jurisprudence effectively began in 1947 with a case called *Everson v Board of Education*.<sup>123</sup> In *Everson*, for the first time, the Supreme Court held that the First Amendment's Establishment Clause was fully incorporated into the rights protected by the 14th Amendment's Due Process Clause.<sup>124</sup> Prior to this ruling the First Amendment's proscription of the establishment of religion only applied to the federal government, not the individual states. This meant that before 1947 it was left to the individual states to adjudicate the constitutionality of any statute, not pertaining directly to the federal government, that banned the instruction of evolution. These kinds of laws had had a long legacy. In fact, even after *Everson* anti-evolution statutes remained operative in many states.

It was not until *Epperson v. Arkansas* in 1968 that the court ruled that, because the Establishment Clause was in fact incorporated, the federal government had the duty to strike down any law that infringed upon the "neutrality between religion and religion and non-religion

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<sup>123</sup> *Everson v. Board of Education*, 330 US 1 (1947).

<sup>124</sup> According to the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." US Constitution, amend. 1. The purpose of Establishment Clause jurisprudence is to discern what does and does not constitute a violation of this clause. This jurisprudence is in turn dependent upon the doctrine of incorporation which, after the Civil War and the ratification of the Fourteenth Amendment, was part of process of applying the first Ten Amendments of the Constitution to the States. For a history of the Establishment Clause see Leonard W. Levy *The Establishment Clause: Religion and the First Amendment*. And for a history of Establishment Clause jurisprudence, as well a treatment of the various schools of thought regarding the Doctrine of Incorporation, see Alan Brownstein *The Establishment of Religion Clause: The First Amendment*.

and religion.”<sup>125</sup> Declaring that the Arkansas statute at question in *Epperson* that banned the instruction of evolution in public schools was not a “manifestation of religious neutrality,” the court enjoined Arkansas from enforcing it on the grounds that the “law select[ed] from the body of knowledge a particular segment which it proscribes for the sole reason that it is deemed to conflict with a particular religious doctrine; that is, with a particular interpretation of the Book of Genesis by a particular religious group.”<sup>126</sup> In *Epperson* the court clearly established a precedent: any law that sought to limit or prevent the instruction of evolution in a public school setting had to be undeniably neutral in its religious intent *and* effects. After *Epperson* the court grappled with how best to go about elucidating what exactly constituted neutrality and what did not. Three years later, in 1971, it settled on a test.

By far the decision that has proved to have the largest impact in cases like *McLean* and *Dover* is the court’s opinion in *Lemon v Kurtzman*.<sup>127</sup> This is due largely to the constitutional test developed in the case. The Lemon Test, as it has become known, consists of three prongs and is disjunctive, meaning that if a statute violates any of the three prongs it violates the Establishment Clause and is therefore deemed unconstitutional. According to the test a statute, if it is to survive constitutional scrutiny, must “have ‘a secular legislative purpose;’ principal effects which neither advance nor inhibit religion; and must not foster ‘an excessive government entanglement with religion.’”<sup>128</sup> Though the Justices have often disagreed, occasionally vehemently, about the merits of the Lemon Test, and while additional tests have been proffered—in 1984, for example, Justice O’Conner articulated a test in *Lynch v. Donnelly* that required a statute not endorse a

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<sup>125</sup> Abe Fortas writing for the majority in *Epperson v. Arkansas*, 393 US 97 (1968) quoted in Randy Moore, *Evolution in the Courtroom: A Reference Guide*, (Santa Barbara, California: ABC CLIO, 2002), 296.

<sup>126</sup> Fortas in Moore, 298, 298.

<sup>127</sup> *Lemon v. Kurtzman*, 403 US 602 (1971).

<sup>128</sup> *Lemon*.

particular religious viewpoint—for all intents and purposes the *Lemon* ruling has had the most profound influence in Establishment Clause jurisprudence.<sup>129</sup>

*Lemon* is also what has dictated much of the debate surrounding the definition of science in the courtroom. The Lemon Test's first prong, that a statute must possess a "secular legislative purpose," as we shall see, profoundly shaped the opinions in *McLean* and *Dover*. This jurisprudence has also affected something else in equally significant ways. Creationism, as much the decisions regulating its relationship with science curricula in public schools, has been profoundly shaped by the imperatives of the Lemon Test.

As the body of constitutional law surrounding the Establishment Clause changed from 1947 to 2005 so too did creationism and creationist legal strategy. Constantly adapting to the strictures laid down by the Supreme Court creationists pursued an increasingly dynamic agenda. This was hardly exceptional. As Ronald Numbers has shown, creationism has never been wedded to any specific political or theological program.<sup>130</sup> Shaped by the pressures of the contemporary cultural context creationism has been an indeterminate, at times balkanized, set of beliefs and goals. Creationism's historical relationship with science has been equally variegated and diffuse.

Originally relatively unconcerned with reconciling Christian theology with Darwin's theories, creationism underwent substantial revisions as fundamentalism became a more prominent aspect of the evangelical experience in the early twentieth century.<sup>131</sup> Science, once easily accommodated by modernists and theological moderates in the late nineteenth and early twentieth centuries, became increasingly incompatible with the kind of biblical literalism

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<sup>129</sup> *Lynch v. Donnelly*, 465 U.S. 668 (1984). O'Connor's Endorsement Test has been interpreted as being a "gloss" on the ruling in *Lemon*.

<sup>130</sup> Ronald L. Numbers, *The Creationists: From Scientific Creationism to Intelligent Design*, (Massachusetts: Harvard University Press, 1992).

<sup>131</sup> See Ronald Numbers *The Creationists*.

espoused by fundamentalists in the 1920s. However, as Numbers reveals, once this fundamentalist wave started to recede, creationists actively sought a reconciliation with science. The confluence of the ruling in *Epperson* with the increasingly diminished fundamentalist movement and the rise of science's prestige in post-World War Two American society fostered an atmosphere in which creationists increasingly sought, rather than rejected, a scientific imperator. Creation-science was born in this moment. And it grew quickly.

### **Creation-Science and the Creation Research Society**

By the early 1960s a small group of like-minded scientists united under the rubric of the Creation Research Advisory Committee had attracted sufficient interest to form a full-fledged society. In 1963 the Creation Research Society (CRS) was founded.<sup>132</sup> The CRS's mission was to foster a favorable environment for scientifically trained creationists to exchange ideas and cultivate a body of empirical evidence capable of supporting the story of creation found in Genesis. Because they were committed to the biblical theory of sudden creation members of the CRS rejected uniformitarianism, the belief that extent natural laws had also governed natural phenomena in the past, in favor of catastrophism, a theory that held that natural laws had been interrupted or suspended during certain cataclysmic events. To prove that the earth had been created suddenly creation-scientists turned to disparate scientific disciplines to marshal evidence for their claims. Geology was a particular area of interest.

While the belief that the earth had been created was certainly supported by catastrophism, events in the Bible, like the Noachian flood, provided more tangible opportunities for creation-scientists to proffer empirical support their hypotheses. Flood geologists, as a result, made up a large part of the society's membership. In their work flood geologists sought to gather a body of data that would not only meet scientific standards but be capable of convincing other scientists,

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<sup>132</sup> Numbers, 254.



outside the society, that the Noachian flood had been a natural event. Regardless of the specifics, however, the overriding argument advanced by these flood geologists and by the members of the CRS remained the same: the story of creation told in the Bible should not exist outside of scientific discourse; the story of creation told in the bible *was* scientific discourse.

On the whole the founders of the CRS were remarkably successful and by the late 60s creation-science had carved out a significant place for itself in Evangelical circles. The next challenge faced by the CRS was establishing a similar role in American culture at large. To this end in 1964 a journal, *Creation Research Society Quarterly*, was founded. *CRSQ*'s mission was expand the reach of the CRS by fostering a growing scholarly conversation between members of the society and those in the greater scientific and secular communities. In 1970, the Institute for Creation Research was also established with the stated purpose of “[educating] the public both formally and informally through graduate and professional training programs, through conferences and seminars around the country, and through books, magazines, and media presentations.”<sup>133</sup> Most importantly, in another effort to reach a broader audience, the CRS began producing textbooks that could be used in primary and secondary schools.

As Numbers points out following a period of general pedagogical neglect after *Scopes*, evolution, by the mid-1960s, had been reintroduced into many of the nation's high school textbooks and science curricula.<sup>134</sup> The need to keep pace with the Russians, the shock and embarrassment following the success of Sputnik and the subsequent increase in federal funding for scientific development and research all led to an environment wherein evolution was conceptualized more as a salutary aspect of scientific inquiry rather than part of an atheistic attempt to corrupt American culture. This renewed interest in teaching evolution, however,

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<sup>133</sup> Institute for Creation Research, “Who We Are,” <http://www.icr.org/who-we-are>.

<sup>134</sup> Numbers, 264.

coincided with the burgeoning creation-science movement. It also ran headlong into the 1968 ruling in *Epperson*.

After *Epperson*, Creationists were aware that proscribing evolution altogether was no longer a feasible goal. They also recognized, however, that evolution was not exempt from criticism altogether. The need to simultaneously assume the mantle of science while disavowing the resurgent scientific/cultural authority and pedagogical popularity of Darwinian evolution informed the development of a textbook produced by the CRS entitled *Biology: A Search for Order in Complexity*.<sup>135</sup> *Biology*'s primary objective was to affect the equation of science and the evidence for special creation. To facilitate this task the authors of the text advanced a dualistic understanding of life and its origins while simultaneously reiterating the scientificity of the book's content.

As Henry M. Morris, a contributor to *Biology* and then president of the CRS stated emphatically in its preface, "*Biology: A Search for Order in Complexity*, [was] in the first place a textbook of biological *science*." "Every effort," wrote Morris, "has been exerted to make it both readable and teachable, as well as factually accurate and comprehensive. Evidences for evolution as a *theory* of origins are accurately presented and considered." *Biology*, however, was not without a theological bent. "At the same time," Morris reminded prospective readers "it is explicit throughout the text that the most reasonable explanation for the actual facts of biology as they are known scientifically is that of Biblical creationism."<sup>136</sup>

To account for any apparent contradictions in their approach Morris outlined the CRS's belief in the philosophical discrepancy between biological science and theistic creation. "There are essentially only two basic philosophies of origins among modern biologists-the doctrine of

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<sup>135</sup> John N. Moore and Harold Schultz Slusher, eds., *Biology: A Search for Order in Complexity*, Grand Rapids, Michigan: Zondervan Publishing House, 1970.

<sup>136</sup> Moore and Slusher, xx.

evolution and the doctrine of special creation,” wrote Morris. “The former postulates the gradual development of the various forms of life and of life itself by natural processes over vast ages of time. The latter assumes the essentially instantaneous origin of life and of the major kinds of living organism by special creative processes utilized directly by the Creator Himself.” As a result, Morris admitted, “discussion of origins is not, strictly speaking, *science*. This is because origins are not subject to experimental verification. No scientific observers were present when life began or when different kinds of organism first came into existence, and these events are taking place in the present world; therefore, the problem of origins is simply incapable of solution by scientific means”<sup>137</sup>

Despite its unorthodoxy, for Morris and the other creation-scientists at the CRS, there was a perfectly valid reason for *Biology’s* existence. “There...exists today,” argued Morris, “a significant body of biologists and other scientists who are convinced that special creation provides a more reasonable and satisfying philosophy of origins than evolution.” “The preponderance of evolutionists in the present-day scientific and educational establishments,” Morris maintained, “has led to an effective monopoly of evolutionist opinion in modern textbooks...[t]hus a great need exists for an introductory biology textbook that will both serve effectively in teaching the actual facts of biologic science and will as acknowledge the creation concept as the most acceptable underlying explanation of these facts.” “We believe,” concluded the CRS president “this book will go far toward meeting this need.”<sup>138</sup>

Any apparent philosophical disparities, according to Morris and *Biology’s* authors, did not impugn the text’s overall scientificity. At the end of the day for everyone involved in the development of the textbook the most important thing was that “both evolutionists and

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<sup>137</sup> Ibid., xix.

<sup>138</sup> Ibid., xx.

creationists agree as to the actual *facts* of biology."<sup>139</sup> And indeed, the overwhelming majority of *Biology* was devoted to relating and explaining these facts *as* facts.

### **Creation-Science—and Creation-Scientists—in the Courtroom**

Even though Numbers observes that “when promoting their beliefs as science, creationists sometimes denied similar legitimacy to evolution” in the context of the struggle over Act 590 creationists never extended this critique to science itself.<sup>140</sup> The emphasis was on proving the scientificity of creation-science, especially in public schools. By both design and coincidence establishing creation-science’s scientificity had the effect of diminishing evolutionary science’s credibility. Again, though, the real goal was showing just how scientific creation-science was while at the same time casting doubt as to the authoritativeness of Darwinian evolutionary theory.

This is exactly what the state of Arkansas attempted to accomplish during *McLean*. As Roger Lewin, who covered the trial for *Science* magazine noted, the Arkansas "attorney general presented six science witnesses, two more than had testified for the ACLU."<sup>141</sup> And this number could have been even greater; the defense actually had nineteen creation scientists listed as possible witnesses in their pre-trial papers.<sup>142</sup> Regardless of the actual count, the presence of so many creation scientists did much to reflect the state’s desire to unequivocally establish creation-science’s scientificity.

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<sup>139</sup> Ibid., xix.

<sup>140</sup> Ibid., 274.

<sup>141</sup> Roger Lewin, “Creationism on the Defensive,” *Science*, New Series, Vol. 215, No. 4528 (Jan. 1, 1982), 34.

<sup>142</sup> Roger Lewin, “Where is the Science in Creation-Science,” *Science*, New Series, Vol. 215, No. 4529 (Jan. 8, 1982), 142; Other notable creation-scientists deposed by both parties in *McLean* include Dr. Margaret Helder (botany), Dr. Scott Morrow (biochemistry), Dr. Duane Gish (biochemistry), Dr. Edward Boudreaux (chemistry), Dr. G. Russell Akridge (geology, radiation), Dr. Larry Vardiman (flood geology), Dr. Hilton Hinderliter (some philosophy of science, interesting comment about Kuhn), Dr. Vern McMahon (biochemistry), Dr. Gerald Van Dyke (botany), Dr. Terrance L. Smith (microbiology), Dr. Wayne A. Frair (zoology), Dr. Ariel A. Roth (zoology), Dr. Harold G. Coffin (zoology) and David McQueen (geology).

The defendants’ complete second pre-trial list of witnesses can be found at *McLean v. Arkansas*, “Defendants’ Second List of Witnesses,” “Other Legal Materials,” *AntiEvolution.org*, [http://antievolution.org/projects/mclean/new\\_site/legal/2ndlist.pdf](http://antievolution.org/projects/mclean/new_site/legal/2ndlist.pdf).

As Wendell Bird, an attorney for the defense wrote in a letter to prospective witnesses “it is vital that we put forth the best possible defense of creation-science.”<sup>143</sup> “Whatever one thinks of legislation or resolutions is irrelevant; the concept of creation-science in public schools,” urged Bird, “is under frontal assault.” “Part of the necessary strong defense is a group of expert witnesses to articulate the scientific evidence for creation.” “We are assembling a list of expert witnesses,” wrote the attorney “with outstanding scientific credentials; many of these will be asked to make statements for a deposition at a lawyer’s office near their residence, and a few will be asked to testify in court.” Bird concluded his letter with a plea. “Would you be willing to be on our expert witness list,” the attorney asked “and possibly to be deposed at a convenient time and at a place near your home?”<sup>144</sup>

In keeping with the strategy of linking creation-science with science the defense chose to rest its case with the testimony of Robert Gentry, one of the deponents solicited by Bird and the Arkansas Attorney General. Gentry was a creation-scientist with impressive professional credentials. He held a master’s degree from the University of Florida, had been enrolled in the doctoral program in physics at the Georgia Institute of Technology and had also worked for the federal government as a nuclear physicist at Oak Ridge National Laboratory. He was also extremely enthusiastic, both about the prospects of creation-science as well as of scientific method and science itself. Gentry was the defense’s ideal witness. And he most likely knew it.

According to Lewin, Gentry spent four hours on the stand in *McLean* detailing his belief that the earth was much younger than evolutionary scientists had historically presumed.<sup>145</sup> As Gentry outlined at trial, and to his deponents, his research regarding polonium halos in Plutonic Igneous rock led him to conclude that conventional geologic chronology was inherently flawed.

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<sup>143</sup> Wendell Bird, “Letter to Dr. Cecil Gerald Van Dyke,” September 9, 1981, Plaintiffs Exhibit No. 5 from ML 701 Box 14 File 1. Special Collections, University of Arkansas Libraries, Fayetteville.

<sup>144</sup> Wendell Bird, “Letter to Dr. Cecil Gerald Van Dyke.”

<sup>145</sup> Lewin, “Creationism on the Defensive,” 34.

According to Gentry the radioactive halos he observed in granitic rocks, due to polonium's relatively short half-life, proved that the rocks had cooled far faster, and were, as a result, far younger than the scientific community believed. "Primordial Po Halos," argued Gentry, "imply that Precambrian granites, pegmatitic micas, and other rocks which host such halos must be primordial rocks... therefore, I regard the failure to resolve the long-standing controversy, in geology which concerns the origin of the Precambrian granites to be because such rocks are primordial and hence not necessarily explainable on the basis of conventional principles."<sup>146</sup> For Gentry the science was overwhelming: conventional geological chronology was simply inherently flawed.

In a lengthy and highly technical refutation of this position Thomas A. Baillieul distilled the essential point Gentry was making about radioactive dating. "Polonium, part of the decay chain of natural uranium and thorium, has a very short half-life—measured in microseconds to days, depending on the specific isotope." "Concentric haloes," explained Baillieul, "associated with polonium decay—but without any rings corresponding to any other uranium decay series isotopes were taken to be evidence that the host rock had formed almost instantly rather than by the slow cooling of an original magma over millions of years."<sup>147</sup> Like the CRS, and the state of Arkansas, Gentry was effectively arguing that science, far from refuting theories of sudden creation, actually pointed to such a phenomenon.<sup>148</sup>

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<sup>146</sup> Transcript of Testimony from Robert V. Gentry from Anti-evolution.org, "Deposition of Robert V. Gentry," McLean v. Arkansas Deposition Project, 38.

<sup>147</sup> Thomas A. Baillieul, "Polonium Haloes' Refuted: A Review of 'Radioactive Halos in a Radio-Chronological and Cosmological Perspective' by Robert V. Gentry," <http://www.talkorigins.org/faqs/po-halos/gentry.html>.

<sup>148</sup> Similar testimony affirming the scientificity of creation-science was given by Dr. Larry Vardiman a Phd. in atmospheric science from Colorado State University and Dr. Cecil Gerald Van Dyke a mycologist who held a Phd. in botany from the University of Illinois during their pre-trial depositions. During his deposition Dr. Vardiman adumbrated an alternative climatic model that, he argued, provided empirical grounds for the Noachian deluge. He also proffered several scientific explanations for an alternative geologic chronology i.e. that of a relatively young earth. Similarly, Dr. Van Dyke outlined the difficulty of explaining parasitic symbiosis in evolutionary terms and also offered several alternative theories that pointed to a young—or younger—earth. These sentiments were captured in exchanges between both creation-scientists and attorney for the plaintiffs David Klasfeld and are

Gentry's appearance in court mirrored his performance at deposition. More than once during his pre-trial interview attorneys from both sides had to stop Gentry and remind him that time constraints required him to more succinctly relate his scientific credentials and findings.<sup>149</sup> Nevertheless, despite these warnings, Gentry succeeded in continuously reminding those taking his deposition that he was an actual scientist, with an actual scientific disposition and that creation-science was actually science. This was an entirely self-conscious decision. As Gentry told his deponents "I didn't want to go to the trial to present something for Creation that really is not a valid scientific phenomenon that is unexplained, and in my estimation, at least, the scientific community has a real good shot." "You see," Gentry continued, "I'm not bringing out something that is in the back page of some religious journal. I have honestly approached the scientific community with every known scientific format that I can in meetings, in publications because my whole view is, if there is truth in the creator, and he has left truths in the rocks, then we all need to know." If he hasn't," Gentry concluded "then I want to know, and I want my friends to know, as well."<sup>150</sup> After being thanked for his testimony Gentry closed his deposition with a nod to the spirit of scientific inquiry. "Well, it has been very informative," the creation-scientist remarked "and we are still looking for truth."<sup>151</sup>

### **The Legal Arguments and Judge Overton's Ruling**

In *Mclean* the plaintiffs' strategy was to demonstrate that Act 590, despite its ostensive purpose, violated every prong of the Lemon Test. In their pre-trial brief they argued that Act 590 was unique, as it was the only law of its kind emanating from the state legislature dealing with

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included as appendix A. Dr. Larry Vardiman, "Deposition of Dr. Larry Vardiman," ML 701 Box 14 File 2. Special Collections, University of Arkansas Libraries, Fayetteville; Dr. Cecil Gerald Van Dyke, "Deposition of Dr. Cecil Gerald Van Dyke," ML 701 Box 14 File 1. Special Collections, University of Arkansas Libraries, Fayetteville.

<sup>149</sup> "Deposition of Robert V. Gentry," AntiEvolution.org: "Doctor, pardon me. I don't like to interrupt. I'm concerned, because we've only got about four hours more to the deposition..."<sup>17</sup>.

<sup>150</sup> *Ibid.*, 82.

<sup>151</sup> *Ibid.*, 127.

specific academic standards, and more importantly, that it was uniquely sectarian, as its provenance pointed directly towards supporters of creationism.<sup>152</sup> The act, the plaintiffs pointed out, was “textually identical to a ‘Model Bill’ drafted by Paul Ellwanger, an activist who sought advice for its drafting from Wendell Bird himself who was part of the Institute for Creation Research’s legal team at the time.”<sup>153</sup> Furthermore, they argued, the act did not evince a secular purpose because part of the dual model approach it mandated, the instruction of creation-science, was not actually science. Creation-science, maintained the plaintiffs, “when stripped of all Biblical references [was instead] a body of factual inferences specifically designed to buttress belief in a literal interpretation of Genesis.”<sup>154</sup> According to the plaintiffs, Act 590 therefore embodied, in both its content and its origins, a sectarian purpose rather than a secular one; an attempt to advance religion rather than neutrality; and an excessive government entanglement with religion. If the Lemon Test were properly applied, they argued, Act 590 would fail every prong.

The defendants disagreed. They maintained that Act 590 was not unconstitutional because its purpose was to legislate a neutral positive mandate to teach a “dual-model” approach to origins in science classes; not a negative attempt to proscribe the teaching of evolution. Far from advancing religion, the only thing Act 590 furthered, the defense argued, was “scientific inquiry and academic freedom.”<sup>155</sup> More importantly, the defendants maintained, the Act, instead of fostering an excessive entanglement of religion, reflected nothing more than “a legitimate exercise of the state’s power to set curriculum in its public schools.”<sup>156</sup> Both the defense and the plaintiffs agreed on one thing, however: per the Lemon Test the constitutionality of Act 590

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<sup>152</sup> Plaintiff’s Pre-Trial Brief in La Follette, 21.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid., 25.

<sup>155</sup> Defendants Pre-Trial Brief in La Follette, 36.

<sup>156</sup> Ibid., 38.



hinged on its intent, whether or not it was in fact secular, and its effects, whether or not it advanced religion and fostered an excessive entanglement of religion with the government.<sup>157</sup> It was left to Judge William R. Overton to decide the case. His decision was handed down on January 5, 1982.

Overton's ruling was heavily weighted to demonstrating how Act 590 trespassed on the first disjunctive clause of the tree pronged Lemon Test. After giving a brief synopsis of religious fundamentalism and its relationship with creationism the judge moved to closely examine contemporary figures within the creation-science movement. Focusing on the Act's progenitor, Paul Ellwanger, an activist and author of the bill upon which Act 590 was modeled, Overton explored the legislative history of the statute. This history, he concluded, resembled a "religious crusade."<sup>158</sup> Overton based his assertion on the fact the bill's sponsor, State Senator James L. Holsted, "a self-described 'born-again' Christian Fundamentalist" had failed to pursue normal legislative channels in his sponsorship of the act.<sup>159</sup> "[Senator Holsted]," wrote Overton "did not consult the State Department of Education, scientists, science educators, or the Arkansas Attorney General. The Act was not referred to any Senate committee for hearing and was passed after only a few minutes discussion on the senate floor."<sup>160</sup> In light of this and other evidence the Judge was unequivocal.

"Senator Holsted's sponsorship and lobbying efforts in behalf of the Act," argued Overton, "were motivated solely by his religious beliefs and desire to see the Biblical version of creation taught in public schools." Moreover," noted the justice, "the author of the Act has

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<sup>157</sup> Compare this to the popular coverage which emphasized the question of whether or not creation-science was science in deciding the case. See, for example, James Gorman's "Judgment Day For Creationism: In a showdown in Little Rock, creationists defend their scientific claims – badly," Alex Heard "Validity of Creation-Science on Trial in Arkansas," Michael Ruse's "A Philosopher at the Monkey Trial" and Randy Moore's "The McLean Decision Destroys the Credibility of 'Creation-Science.'"

<sup>158</sup> Judge Overton's Opinion in *La Follette*, 51.

<sup>159</sup> *Ibid.*, 53.

<sup>160</sup> *Ibid.*

publicly proclaimed the sectarian purpose of the proposal [and] the Arkansas residents who sought legislative sponsorship of the bill did so for a purely sectarian purpose.” Considering “the lack of any legislative investigation, debate or consultation with any educators or scientists; the unprecedented intrusion in school curriculum; and official history of the State of Arkansas on the subject, it is obvious that the statement of purpose,” argued Overton “has little, if any, support in fact.” Because “the State failed to produce any evidence which would warrant an inference or conclusion that at any point in the process anyone considered the legitimate educational value of the Act,” a reasonable person was left with no option than to conclude that Arkansas Act 590 “was simply and purely an effort to introduce the Biblical version of creation into the public school curricula.” “The only inference which can be drawn from these circumstances is that the Act was passed with the specific purpose by the General Assembly of advancing religion,” concluded the Justice. “The Act therefore fails the first prong of the three-pronged test, that of secular legislative purpose, as articulated in *Lemon v. Kurtzman*, *supra*, and *Stone v. Graham*.”<sup>161</sup>

Before even considering whether or not creation-science was in fact science it was clear that Act 590 was on unsure constitutional ground. But the scientificity of creation-science also played a part in Overton’s adjudication. The remainder of the judge’s ruling was predicated on addressing the question of whether or teaching creation-science alongside evolution-science had the effect of advancing religion in classroom. In order to do make this judgement Overton had decide if creation-science was in fact science. And in order to do this the Judge had to discern what it was that made science scientific.

Though not a prominent part of the plaintiffs’ pre-trial brief the question of whether or not creation-science qualified as science was addressed in some detail. Again, however, the

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<sup>161</sup> Ibid., 55.

plaintiffs sought to link creation-science with fundamentalist apologetics *vis-a-vis* the concept's provenance not by questioning its inherent scientificity. The equal time between creation-science and evolution-science mandated by Act 590, for example, was impugned for the fact that it was "contrived" and "identical to the two-model approach espoused by the Institute for Creation Research and taken verbatim from ICR writings" not solely because creation-science was not science.<sup>162</sup> But what was science?

In answering this question the court relied heavily on the testimony of Dr. Michael Ruse, a leading scholar in the history and philosophy of science. During his testimony Ruse offered a definition of the science that was articulated in an exchange with attorney for the plaintiffs and member of the American Civil Liberties Union Jack D. Novick:

Mr Novick: Doctor Ruse, will you please describe to the Court your understanding, as a philosopher and historian of science, of what science is today?

Dr. Ruse: Well, Mr. Novick, I think the most important thing about science, if I was going to extract one essential characteristic, is that it be predominantly brought in the law. In other words, what one's trying to do in science is explained by law, whereby "law" one means unguided, natural regularities. Yes. I think what one's got to do now is start teasing out some of the attributes of science, starting with the notion of law. Particularly, science is going to be explanatory. Another thing there, another very important aspect of science is it's going to be testable against the empirical world. Another characteristic, and perhaps we can stop with these, is that it's going to be tentative. It's going to be, in some sense, not necessarily the final word.<sup>163</sup>

Overton distilled Ruse's formulation of science into five essential characteristics. In order to be considered scientific something had to be guided by natural law, explainable by natural law, testable against the empirical world, be tentative and finally, be falsifiable.<sup>164</sup>

But creation-science was rejected not simply because it did not jibe with Ruse's definition of science but because it emerged out of a religious "milieu." While not a footnote, Ruse's testimony was nowhere near as important as the statements of the bill's authors and of the

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<sup>162</sup> Ibid., 58.

<sup>163</sup> *McLean v Arkansas* Documentation Project, 246-7.

<sup>164</sup> La Follette, 60.

bill's sponsor. In the end it was the intent behind Act 590 not its effects or essential non-scientific qualities that proved fatal to the defendant's case regarding its constitutionality. The conceptualization of science put forth by Ruse and elucidated by Overton that was used to appraise Act 590's putative scientificity was employed by the judge in his decision but only to undergird an already overwhelming case against the statute based on its origins and legislative history. During *McLean*, science was indeed defined but this definition was not controlling. Nor was the decision entirely dispiriting to members and supporters of the defense. As Dorothy Nelkin points out Act 590's sponsor, State Senator Holsted, even before Overton's decision was handed down, was quoted as saying "if we lose it won't matter that much. If the law is unconstitutional it'll be because of something in the language that's wrong...So we'll just change the wording and try again with another bill...We got [sic] a lot of time. Eventually we'll get one that's constitutional."<sup>165</sup> Indeed, as Nelkin reveals, creationists hedged against an unfavorable outcome during the trial by rebranding the model act upon which the Arkansas statute was based.<sup>166</sup> The trail billed as "Scopes II" by some contemporaries was in many ways less significant than *Scopes* itself.<sup>167</sup> Cases like *McLean* did, however, affect the way in which creationists approached science—and the courts. Twenty-four years later in Dover, Pennsylvania creationists would again attempt to insert creationism into the curriculum. Only this time their strategy would be radically different.

### **From Creation-Science to Intelligent Design**

If creation-science was born in the 1960s, insofar as its legal utility was concerned it died in the 1990s. After suffering so many defeats in the courts it was clear that creation-science, at least with respect to its inclusion in public school science curricula, would simply not pass

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<sup>165</sup> Dorothy Nelkin, "From Dayton to Little Rock: Creationism Evolves," in La Follette, 82.

<sup>166</sup> Ibid.

<sup>167</sup> See Norman L. Geisler et. al., *Creator in the Courtroom: "Scopes II,"* (Fenton, Michigan: Mott Media, 1982).

constitutional muster.<sup>168</sup> Creationists therefore, beginning in the mid-1990s, increasingly sought to displace evolutionary explanations of origins as the predominant scientific paradigm. In many ways this resembled the dual model approach advocated in *McLean*—with one important difference. Creationists in *McLean* had sought the sanction of science, in *Dover* they rejected it. Borrowing heavily from Thomas Kuhn, creationists cum advocates of I.D. argued that Darwinian Theory was simply one of many paradigms, whose success depended on an exclusive, discriminatory scientific community and whose explanatory power and pedagogical exclusivity were therefore unjustifiably hegemonic.

In their legal campaigns proponents of I.D. concentrated their efforts not on proving the scientificity of their theory but on exposing weaknesses in the neo-Darwinian synthesis, and of science itself. Though the wellspring of I.D. theory was ultimately drawn from many places—from theories of irreducible complexity espoused by Michael J. Behe, to the criticism of evolution thorough natural selection put forth by Michael Denton in *Evolution: A Theory in Crisis*—the philosophical underpinnings of the Dover Area School Board (DASB)’s legal arguments were largely the product of one man’s labor: Philip E. Johnson.

#### **Philip E. Johnson: “The Entire Right Wing of the Critical Legal Studies Movement”**

By 1970 Phillip E. Johnson had become “disillusioned” with the life he was living. Once a successful student and law clerk the newly minted professor of Law at the University of California, Berkeley was disoriented by the dissolution of his marriage and by the unexpected emptiness he felt in his chosen profession. In an interview conducted by James Kushiner while attending a conference about I.D. at Yale in 2000, Johnson detailed the growing dissatisfaction

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<sup>168</sup> The final blow to creation-science and to the dual-model approach came in 1987 in *Edwards v. Aguillard*, 482 U.S. 578 (1987). In *Edwards* the court ruled the Louisiana’s “Balanced Treatment for Creation-Science and Evolution-Science in Public School Instruction Act,” failed all three of the Lemon Test’s disjunctive prongs. After this defeat the dual-model strategy, at least as it implicated creation-science as part of the duality, was largely abandoned.

he was experiencing.<sup>169</sup> “I had been very happily married for some years,” Johnson told Kushiner, “and then my marriage went bad.” “My wife,” explained Johnson “got a heavy dose of the ideas that were rolling around in the ’70s. She lost interest in our home and family and went off into artistic politics... When my marriage ended, I wondered what I was going to do with the rest of my life. That’s when I had my conversion experience.” While he grew up in a religious household Johnson was not devout. A self-proclaimed ‘nominal Christian,’ by the time he had finished law school Johnson had become an agnostic. The events in his life in the 1970s changed that:

“[As was] true of many people; what leads you to a conversion is the loss of your faith in something else. My faith had been, ‘If you’re a bright person with the right credentials, you’ll have a happy and meaningful life.’ I expected that I would go from one distinguished position to the next, advance my career, be happy and satisfied, and that’s what life would be about. It seemed to me that wasn’t happening, and I was just going to be a law teacher for the rest of my life. It wasn’t very meaningful or as good as I thought it would be. So I lost faith during that pragmatic period. Instead, I thought, ‘What makes me think that what I have is better than the Christian life?’”<sup>170</sup>

Confronted with these unexpected feelings Johnson decided the best course of action was to reaffirm his Christian identity. In 1977 he was born again at the age of 38.

Berkeley in the 1970s was not the most hospitable place for a born again Christian. Johnson did, however, find himself in a cultural and intellectual atmosphere ripe for the development of I.D.. As Johnson told Kushiner at Cal he “lived in a society at the university that mostly assumed an easy-going agnosticism.” In this environment he felt “it was necessary to come to a conclusion on whether Christian metaphysics were real or imaginary, or if I would be throwing my brains out the window and adopting a myth because it satisfied my personal needs.” Johnson’s exploration of the personal rationale for his faith coincided with broader trends in legal scholarship. “I took up jurisprudence, the philosophical roots of law,” explained Johnson

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<sup>169</sup> James Kushiner, “Berkeley’s Radical: An Interview with Philip E. Johnson,” *Access Research Network*, [http://www.arn.org/docs/johnson/le\\_berkeleyradical.htm](http://www.arn.org/docs/johnson/le_berkeleyradical.htm).

<sup>170</sup> Kushiner, “Berkeley’s Radical.”

“that was in the wake of the emergence of what we call the Critical Legal Studies movement, which was the postmodernist, deconstructionist, epistemological relativism and Marxism that were in the English departments and had just come into the law schools, especially at Harvard and Stanford.” Far from repelled Johnson set to studying these thinkers in further detail. He, it turned out, despite any initial misgivings, actually found this philosophy “quite interesting.”<sup>171</sup>

When asked by the *Stanford Law Review* to write a negative piece about the Critical Studies movement, Johnson committed himself fully to the task. “I spent a whole year...reading these dense 120-page law review articles,” Johnson told Kushner “studying continental philosophy, and so on, and developed a love-hate relationship with neo-Marxism.” “I disliked the infantile leftist politics intensely,” but Johnson admitted, “I did agree with their critique of liberal rationalism and legal scholarship.” What Johnson found especially valuable was the Critical Legal Studies movement’s exposure of what he called “sham neutrality of liberal rationalism.” “I picked up the same critique these Marxist law professors were making and turned it against a different set of subjects. So that got me into jurisprudence and prompted a skeptical attitude towards rationalism.” “I became acutely aware that what we think is *reasoning* is very often *rationalization*. When you speak of rationality, there are two very distinct components. One is logical reasoning, which is about going from premises to conclusions, conclusions that should be as good as your premises. Thus, logic will get you into insanity if you’ve got the wrong premises.” So enamored with its critique of liberal rationalism Johnson began “jokingly” referring to himself “as the entire right wing of the Critical Legal Studies movement.”<sup>172</sup>

After much investigation Johnson had come to the conclusion that “the problem with rationalism [was] that [wasn’t] rational.” Because “rationalism failed to give sufficient

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<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

importance to the development of the choice of the right premises” it suffered from a fundamental flaw: reasoning from a given premise in order to justify it, in Johnson’s view, meant rationalism was supported only by a tautological appeal to its own premises. “Once I was alert to that distinction,” Johnson observed “I was able to critique the things that previously I felt I had to take for granted.” One of these things was evolutionary science.

As his attention shifted from the law to the Darwinian model of evolution and natural selection a synthesis of the philosophical objections to liberal rationalism made by the Critical Legal Studies movement with the existing criticism of neo-Darwinian synthesis emerged. The later claim in *Dover* that I.D. represented not the reintroduction of creationism by another name but a perfectly valid, yet unduly disadvantaged, scientific paradigm rested on Johnson’s argument that the scientific community was indulging the same kind of tautology as the liberal rationalists. A belief in naturalism, Johnson maintained, simply begat naturalistic conclusions. In the context of the legal struggle over ID, as a result, it was viewed as imperative that the discussion of the truth of creation-science was replaced by a Johnsonian analysis of the construction of truth within the scientific community. But while this transition had important implications for the proceedings in *Dover*, before such a strategy could prove effective a general critique, not just of evolutionary science, but of science itself, had to be made. Again, Johnson was happy to provide his services in this regard.

To bolster the case against Darwinian evolution Johnson interrogated science’s epistemological claims and sociological status. His first move was to situate science within a larger philosophy he called naturalism, underscoring the way in which this broader naturalistic perspective colored scientific truth claims.<sup>173</sup> As Johnson put it, “natural science was based on

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<sup>173</sup> Phillip E. Johnson, *Reason in the Balance: The Case against Naturalism in Science Law and Education*, (Downers Grove, Illinois: Inter Varsity Press, 1995), 8.



naturalism [and] what a science based on naturalism tells us, not surprisingly, is that naturalism is true.”<sup>174</sup> In this schema, with respect to scientific knowledge, truth was not the product of scientific inquiry but the upshot of an adherence to methodological naturalism. Effectively, what Johnson was contending, was that science in general, not just evolutionary science, was paradigmatic. For the advocates of I.D. in *Dover* the belief that science was essentially paradigmatic and derived its authority from a tautology meant that they needed to identify the most effective means with which to adumbrate the way science operated in Kuhnian fashion. Eventually they did. Or they attempted to do so. But before I.D. could be defended in court using Johnson’s critique of methodological naturalism it first had to be introduced in schools.

### **Implementing I.D.**

The controversial, and potentially unconstitutional, policy under consideration in *Dover*— the idea of issuing a disclaimer concerning the tentative nature of Darwinian Theory— did not originate *in* Dover, PA. Initially attempts at introducing I.D. in science curricula manifested themselves instead in various school boards approving the reading and/or affixing of prefatory statements to science texts and classes that directed students’ attention to the weaknesses or tentativeness of Darwinian Evolution. In 1994, for example, the school board of Tangipahoa, Louisiana mandated that teachers read the following statement before discussing the theory of evolution:

It is hereby recognized by the Tangipahoa Board of Education, that the lesson to be presented, regarding the origin of life and matter, is known as the Scientific Theory of Evolution and should be presented to inform students of the scientific concept and not intended to influence or dissuade the Biblical version of Creation or any other concept. It is further recognized by the Board of Education that it is the basic right and privilege of each student to form his/her own opinion and maintain beliefs taught by parents on this very important matter of the origin of life and matter. Students are urged to exercise

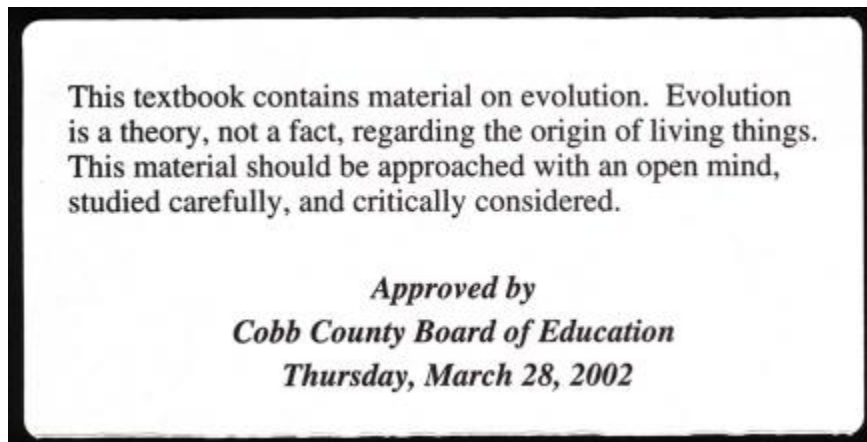
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<sup>174</sup> Ibid.

critical thinking and gather all information possible and closely examine each alternative toward forming an opinion.<sup>175</sup>

Parents within the district filed suit and, though the judge in their district initially ruled in their favor, they effectively ensured the removal of the statement when the Supreme Court decided not to hear the case in 2000.<sup>176</sup> School boards throughout the region nevertheless continued to approve similar policies.

Most interestingly, in 2002 the school board of Cobb County, Georgia voted to require the posting of the following label within all biology and science textbooks:



The statement was remarkably similar to the one at question in *Dover*. And, in fact, because the Cobb County case was not settled until 2006—when the district admitted defeat and agreed to no longer affix the warnings in books, “denigrate evolution” orally or in writing, and pay the plaintiffs’ legal fees—attorneys who had worked to build the case against the DASB, were also retained by the plaintiffs in *Selman*.<sup>178</sup> Despite any apparent similarities, however, *Dover*, in one important respect, *was* different.

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<sup>175</sup> Coverage of Freiler et al. v. Tangipahoa Parish Board of Education et. al., in “Major Cases,” National Center for Science Education. <http://ncse.com/creationism/legal/freiler-et-al-v-tangipahoa-parish-board-education-et-al>.

<sup>176</sup> Ibid.

<sup>177</sup> Image of Prefatory Label in *Selman* in “*Selman v. Cobb County: The Textbook Disclaimer Case*,” National Center For Science Education, <http://ncse.com/creationism/legal/selman-v-cobb-county-textbook-disclaimer-case-0>.

<sup>178</sup> Ibid; Nick Matzke, “History and Cobb County,” *Panda’s Thumb*, December 22, 2006, accessed on March 28, 2014, <http://pandasthumb.org/archives/2006/12/history-and-cob.html>.

In *Dover* the insistence on underscoring the defendant's beliefs that Darwinian evolution was "just a theory" was paired with an alternative: not only were students encouraged to question evolution, they were directed to materials that espoused the virtues of I.D. The presiding judge in the case, as a result, not only had to adjudicate the constitutionality of the prefatory statement drafted by the DASB but also rule as to whether or not I.D. was in fact, as the board claimed, a viable scientific paradigm.

### ***Kitzmiller v. Dover***

*Tammy Kitzmiller et. al. v. Dover Area School District* started with a textbook.<sup>179</sup> In the summer of 2004 the DASB was charged with selecting a biology textbook to be used the forthcoming school year. Teachers within the district recommended *Biology: The Living Science*, by Kenneth Miller and Joseph Levine but some board members were uncomfortable with the choice. Speaking at a June 7 board meeting the chair of the curriculum committee William Buckingham objected to *Biology* on the grounds that it was "laced with Darwinism."<sup>180</sup> Some citizens in attendance disagreed, reiterating the central importance of evolutionary theory in biology pedagogy but these objections were dismissed by Buckingham and other members of the board.<sup>181</sup> "This country was founded on Christianity," Buckingham told those in attendance "and our students should be taught as such."<sup>182</sup> Buckingham had another book in mind: *Of Pandas and People*.

The textbook issue was addressed again on August 2<sup>nd</sup> but the board was still undecided about purchasing *Biology*. According the bylaws of the DASB a split vote constituted a vote of "no" which put the school board further behind the July 2<sup>nd</sup> deadline to select a text for the

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<sup>179</sup> *Tammy Kitzmiller, et. al. v. Dover Area School Board, et. al.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005).

<sup>180</sup> Matthew Chapman, *40 Days and 40 Nights*, (New York: HarperCollins, 2007), 71.

<sup>181</sup> Chapman, 71.

<sup>182</sup> *Ibid.*, 72.

upcoming year.<sup>183</sup> To resolve this impasse Buckingham proposed a compromise: he would vote to select *Biology* if *Pandas* was picked as an adjunct text. Fed up with the controversy and uneasy about the political horse-trading regarding a high school textbook a school board member changed her vote; *Biology* was approved. Mysteriously copies of *Pandas* showed up at Dover High School anyway, donated anonymously.<sup>184</sup>

Absent a mandate to actually assign *Pandas* the DASB at an October 18th meeting voted to alter the science curriculum to include the following pedagogical statement: “Students will be made aware of gaps/problems in Darwin's Theory and of other theories of evolution including, but not limited to, intelligent design. Note: Origins of life will not be taught.”<sup>185</sup> The DASB announced that this policy would be enacted via press release by reading the following statement aloud before discussing evolution in classes the following January:

The Pennsylvania Academic Standards require students to learn about Darwin’s Theory of Evolution and eventually to take a standardized test of which evolution is a part. Because Darwin’s Theory is a theory, it continues to be tested as new evidence is discovered. The Theory is not a fact. Gaps in the Theory exist for which there is no evidence. A theory is defined as a well-tested explanation that unifies a broad range of observations. Intelligent Design is an explanation of the origin of life that differs from Darwin’s view. The reference book, *Of Pandas and People*, is available for students who might be interested in gaining an understanding of what Intelligent Design actually involves. With respect to any theory, students are encouraged to keep an open mind. The school leaves the discussion of the Origins of Life to individual students and their families. As a Standards-driven district, class instruction focuses upon preparing students to achieve proficiency on Standards-based assessments.<sup>186</sup>

The press release prompted litigation and on December 14, 2004 the American Civil Liberties Union (ACLU) filed a lawsuit against the DASB on the behalf of parents within the Dover Area School District. The case would be decided in the court of district judge John E. Jones III.

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<sup>183</sup> Gordy Slack, *The Battle Over the Meaning of Everything: Evolution, Intelligent Design, and a School Board in Dover, PA.*, (San Fransisco: Jossy-Bass, 2008), 12.

<sup>184</sup> Chapman, 126.

<sup>185</sup> Full Text of Prefatory Statement in *Dover* in “Design on Trial in Dover, Pennsylvania,” National Center for Science Education, <http://ncse.com/ncse/24/5/design-trial-dover-pennsylvania>.

<sup>186</sup> *Ibid.*

## The Legal Arguments and Judge Jones' Opinion

As in *McLean*, in deciding if the DASB's curriculum change violated the Establishment Clause Judge Jones turned to the Lemon Test. And, as in *McLean*, the foundation of his ruling dealt with the statement's history and to the question whether or not it evinced a secular intent. Jones, however, had an additional test at his disposal that was developed in the interim between *McLean* and *Dover*. This was the Endorsement Test developed by Justice Sandra Day O'Connor and was intended, as Jones explained in his decision to be a "gloss" on the purpose and effects prongs of the Lemon Test.<sup>187</sup> "The [endorsement] test" explained the Judge, "consists of the reviewing court determining what message a challenged governmental policy or enactment conveys to a reasonable, objective observer who knows the policy's language, origins, and legislative history, as well as the history of the community and the broader social and historical context in which the policy arose."<sup>188</sup> This proverbial "observer," in addition to knowing a policy's legislative history, could also cast doubt on its constitutionality by virtue of his or her familiarity with the policy's "context."<sup>189</sup> History, context, origins—before Judge Jones turned to consider the scientificity of I.D. the question of the constitutionality of DASB's curriculum change was all but resolved. But this did not mean that a conversation about science would not have a role to play in the proceedings and in his opinion.

After providing the requisite background on the jurisprudence surrounding the case Judge Jones began the substantive part of his opinion under a telling subheading. "An objective observer" read the heading "would know that ID and teaching about 'gaps' and 'problems' in evolutionary theory are creationist, religious strategies that evolved from earlier forms of

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<sup>187</sup> *Tammy Kitzmiller, et. al. v. Dover Area School Board, et. al.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005), 15.

<sup>188</sup> *Ibid.*, 15-16.

<sup>189</sup> *Ibid.*, 16.

creationism.”<sup>190</sup> “The history of the intelligent design movement (hereinafter “IDM”) and the development of the strategy to weaken education of evolution by focusing students on alleged gaps in the theory of evolution,” argued Jones, constituted “the historical and cultural background against which the Dover School Board acted in adopting the challenged ID Policy.”<sup>191</sup> Because “a reasonable observer, whether adult or child, would be aware of this social context in which the ID Policy arose, and such context will help to reveal the meaning of Defendants’ actions,” concluded the judge “it [was] necessary to trace the history of the IDM.”<sup>192</sup> This history, argued Jones, was inextricably bound up with the history of fundamentalist opposition to teaching evolution. Outlining the historical trajectory of creationist reactions to developments in Establishment Clause jurisprudence Jones maintained that I.D., far from a new and unjustly disfavored scientific paradigm, was simply part of larger strategy to displace Darwinian Evolution in favor of a religious explanation of origins.

The statements of leading proponents of I.D., maintained the judge, bolstered this conclusion. William Dembski, for example, an editor of *Of Pandas* and leading advocate of the theory, was quoted by Jones as describing I.D. as a ““ground clearing operation”” for Christianity.<sup>193</sup> In addition, the conclusion that I.D.’s history revealed it to be “a religious and not a scientific proposition” was also made apparent by the fact that I.D. was part of a larger evangelical movement whose tenets were encapsulated in something called the “wedge” document. Originating in the Discovery Institute’s Center for Renewal of Science and Culture, the wedge document spelled out a strategy geared toward replacing “science as currently understood with ‘theistic and Christian science.’”<sup>194</sup> Finally, and even more damning for the

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<sup>190</sup> Ibid., 18.

<sup>191</sup> Ibid., 18-19.

<sup>192</sup> Ibid., 19.

<sup>193</sup> Ibid., 27.

<sup>194</sup> Ibid., 28.

defendants, *Pandas*, ostensibly the text which had initiated the whole controversy, was shown by Jones to be the upshot of a series of revisions to what was originally a creationist textbook. A reasonable observer, the judge concluded, being aware of all this evidence, would have no choice but to accept the fact that “I.D. [was] creationism re-labeled.”<sup>195</sup>

After tracing the provenance of I.D. and *Pandas* Jones turned to consider the “breathtaking inanity” of the actions of the board itself.<sup>196</sup> Applying the Lemon Test proper Jones concluded that the board’s alleged reasons for changing the science curriculum were “a sham”<sup>197</sup> and that the board had “lied” about their intentions.<sup>198</sup>

Although as noted Defendants have consistently asserted that the ID Policy was enacted for the secular purposes of improving science education and encouraging students to exercise critical thinking skills, the Board took none of the steps that school officials would take if these stated goals had truly been their objective. The Board consulted no scientific materials. The Board contacted no scientists or scientific organizations. The Board failed to consider the views of the District’s science teachers. The Board relied solely on legal advice from two organizations with demonstrably religious, cultural, and legal missions, the Discovery Institute and the TMLC. Moreover, Defendants’ asserted secular purpose of improving science education is belied by the fact that most if not all of the Board members who voted in favor of the biology curriculum change conceded that they still do not know, nor have they ever known, precisely what ID is. To assert a secular purpose against this backdrop is ludicrous.<sup>199</sup>

The DASB, in their curriculum change and in the prefatory statement they drafted, in Jones’ view, had clearly transgressed constitutional boundaries. The judge was emphatic: the DASB’s curriculum change, as well as the substance of this change—the teaching of I.D.—was unconstitutional. It was also, Jones pointed out, unscientific.

Because “science [was] limited to empirical, observable and ultimately testable data” and I.D. was “predicated on supernatural causation” Jones ruled that the instruction of I.D.

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<sup>195</sup> Ibid., 33.

<sup>196</sup> Ibid., 138.

<sup>197</sup> Ibid., 130.

<sup>198</sup> Ibid., 137.

<sup>199</sup> Ibid., 131.

represented an impermissible religious intrusion into the classroom.<sup>200</sup> In spite of the defense's protestations that I.D.'s epistemological difference with methodological naturalism did not make it unscientific, just paradigmatically distinct, Jones argued that in order for I.D. to be considered science "the ground rules of science" would have to be so radically changed that they would do great violence to the concept itself.<sup>201</sup> A philosophical debate on this point, he admitted, could be had—just not in the context of a public school's science curriculum. Because a reasonable observer would be left with no choice to conclude otherwise Jones issued the court's final ruling on I.D.: the theory might well embody "an interesting theological argument" but "it [was] not science."<sup>202</sup> It was also not constitutional to include I.D. in Dover Area High School science curricula. The DASB had lost.

#### **Dr. Steve Fuller and the Postmodern Turn in Creationist Legal Strategy**

Though the DASB lost their case, in the process of doing so they had made remarkable arguments regarding the nature of science. At the forefront stood a Kuhnian claim that the Darwin's explanatory model for life's origins had excluded consideration of I.D., not because I.D. was less true, but because Darwin's model enjoyed greater popular support in the scientific community. Conservatives who had long struggled against any philosophical claim that truth, especially scientific truth, was predicated on cultural consensus, in *Dover*, had come full circle. Nothing evinced this about-face more than the decision to have the world's first social epistemologist testify in their favor.

On the fifteenth day of the trial the defendants called Dr. Steve Fuller to the stand. Fuller was the founder and leading scholar in the field of social epistemology, a mode of inquiry, as he described it in his pretrial "Rebuttal of Dover Expert Reports", "concerned with the social

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<sup>200</sup> Ibid., 66.

<sup>201</sup> Ibid., 68.

<sup>202</sup> Ibid., 89.



foundations of knowledge, especially issues relating to how knowledge is institutionalized and legitimated in the larger society.”<sup>203</sup> Fuller’s role in the defense of the DASB’s policy was not necessarily to help bolster a case for the inclusion of *Pandas* but to rebut the arguments made by Robert Pennock and the plaintiff’s expert witnesses regarding the nature of science and scientific inquiry. His main job was to radically reconceptualize the kind of understanding of science put forth by Ruse, and sanctioned by Overton, in *McLean*.

Presaging his later testimony, Fuller, in his pre-trial statements, sought to problematize any neutral, singular or transcendent conceptualization of science. He also seized upon Johnson’s concerns regarding naturalism. “Most philosophers have resisted the charms of naturalism,” wrote Fuller in his brief “mainly because in practice it would hand over the epistemic authority to a specific community of inquires-scientists and their authorised agents-who are no less prone to errors of judgment than non-scientists.” “This refusal to commit to naturalism” Fuller argued was “less an ostrich-like reaction to the inevitable march of scientific progress than an allergic response to guild-like arrogance of scientists.” A critical stance towards science, Fuller maintained, was not only warranted but necessary to avoid lapsing into compliancy and tautological self-affirmation. I.D., in this respect, in his view, was more than capable of playing the role of the critic:

Philosophers typically approach the problem of knowledge with an open-minded attitude towards the means and ends of its pursuit. In contrast, the naturalistic privileging of certain disciplines, theories and methods implies that most of these fundamental epistemological questions have been already resolved. Like most philosophers, ID proponents believe these matters are still worth keeping open, if only on grounds of human fallibility.

“Such an attitude,” Fuller contended, stood in “marked contrast to what Thomas Kuhn famously called the 'normal scientist' who presumes-until overwhelmed by unexplained phenomena-one

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<sup>203</sup> Steve Fuller, “Rebuttal of Expert Witnesses,” Expert Witnesses, *National Center for Science Education*, <http://ncse.com/creationism/legal/expert-witnesses>, 2.

explanatory framework, or 'paradigm', within which she single-mindedly conducts her research. "Much of the fire focused on ID," according to Fuller "proceed[ed] from these Kuhnian premises: that one is not entitled to offer a competing explanation for, say, the biochemical stability of a living cell, if the scientific establishment already provides a reasonably good one."<sup>204</sup> "Science," argued Fuller, was "inhibited by the emergence of an unchecked *scientific* orthodoxy....and, in this respect," he concluded "ID may play an especially salutary role as a counterbalance."<sup>205</sup>

In his testimony before the court Fuller continued to stress a Kuhnian conceptualization of science, a firm belief in the sociological foundations of knowledge and a strong faith in the field he helped found:

Social Epistemology, [is] not a phrase that I coined, but in the sense I'm most closely associated with it. It was the title of my first book. It basically kind of lays out the foundations for the kind of work I currently do, which has to do with looking at the social foundations of knowledge, as the title indicates, both from an empirical and historical standpoint, but also what you might say, enormative[sic] in policy standpoint... The one chapter of my Ph.D. that I ever published is, in fact, a chapter of this book. And it's on consensus formation in science. And one of the things that I address there, which I do think is relevant to the case, is how exactly does consensus form in the scientific community.<sup>206</sup>

Fuller reminded the court that the acceptance of a scientific theory, from the perspective of a social epistemologist, depended less on its inherent truth or falsity than on consensus within the scientific community:

Given that there are many scientists working in many different locations, how does one get a sense that there is a dominant theory or paradigm operating at any given point? And my view on this, which I developed, is, in fact, there is never -- it's very rare to actually find a decision point where you say, well, some crucial test has been done, and this theory has been shown to be true, and this one has been shown to be false.

Instead, Fuller argued:

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<sup>204</sup> Fuller "Rebuttal of Expert Witnesses," 12-13.

<sup>205</sup> Ibid., 19.

<sup>206</sup> Transcript of Dr. Fuller's Testimony in *Dover* from The Talk Origins Archive, <http://www.talkorigins.org/faqs/dover/day15am.html>.

What you have is kind of a statistical drift in allegiances among people working in the scientific community over time, and especially if you add to it generational change. What you end up getting is kind of a, what Thomas Kuhn would call, a paradigm shift... where over a relatively short period of time, simply by virtue of the fact that the new people come in with new assumptions and new ideas, that you actually do get a massive shift, but not necessarily because there's ever been any decisive moment where someone has proven one theory to be true and another theory to be false.

For Fuller this had profound implications:

So if one were to look at the structure of science from a sort of, you might say, political science standpoint, and ask, well, what kind of regime governs science, it wouldn't be a democracy in the sense that everyone has an equal say, or even that there are clear representative bodies in terms of which the bulk of the scientific community, as it were, could turn to and who would then, in turn, be held accountable.

“There is a tendency...” Fuller observed pointedly “for science to be governed by a kind of, to put it bluntly, self-perpetuating elite.”<sup>207</sup>

Fuller argued that the popular historiography of science itself both affirmed and reflected his conclusions. “When most scientists learn science,” he pointed out, “they don't learn very much of their history or the kind of history that they learn is self-serving.” “That is to say,” Fuller underscored, “it is a history that is written from the standpoint of leading up to whatever the current state of research is.” Fuller maintained that, with respect to the history of science itself, a Kuhnian perspective was needed. “Now Thomas Kuhn called [the Whig history of science] Orwellian, right, thinking about the, you know, the ministry of truth in 1984, right, which is constantly rewriting the history to justify whatever happens to be current government policy. Well, this is, in a sense, the kind of history that scientists normally learn about their own fields.” According to Fuller the only way to accurately reflect the history of science was to avoid indulging this kind of teleological narrative. “There needs to be this other field,” Fuller argued,

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<sup>207</sup> Ibid.

“history of science, done by historians, that actually tells you what did happen in the history of science in a not scientifically self-serving way.”<sup>208</sup>

For Fuller the actual history of science, disabused of any Whiggish teleology, pointed in a different, non-linear, direction. “Typically...the history of science, turns out to be quite critical of the taken for granted notions that scientists operate with today.” In this context I.D. appeared less like a creationist canard than a typical Kuhnian outlier. In the history of science—the history of science he supported—Fuller argued that I.D. was just another concept awaiting its revolutionary turn or paradigm shift. This was nothing out of the ordinary and certainly not anything to be concerned about. “I think that sometimes some of the rhetoric of that expression, of the term revolution leaks out, and one thinks, oh, my God, if we have a scientific revolution, there goes civilization or something.” But, Fuller maintained, “a scientific revolution isn't meant to be quite like a political revolution.”<sup>209</sup> According to him the phenomena of scientific revolutions simply underscored the hegemonic hold that powerful paradigms could have.

“You don't have revolutions unless you have a clear sense of what is currently dominant,” Fuller testified, “because what are you revolting against after all?” “In other words, if we lived in a world, a scientific world where there were multiple theories around, all roughly equal, all pursuing their own lines of research, and doing things, you know, wherever the truth may lead these respective research programs, there would never be a clear enough sense of a dominant theory to then have to say, we've got to revolt against it.” “The idea of revolution,” argued Fuller, presupposes a dominant paradigm.” “In the kind of environment in which we live for science, where resources are so highly concentrated, that, in effect, if you want to make a fundamental intellectual or conceptual change...you're going to have to do something like a revolution.”<sup>210</sup>

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<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

Fuller pointed out that Thomas Kuhn believed these kinds of revolutions “were a normal part of how science operates.” “[Kuhn’s] view,” Fuller outlined to the court, “was that, these theories do their research, eventually accumulate anomalies, that is to say unsolved problems, both at an empirical and conceptual level, and then over time eventually, they get so many of these problems, that people begin to start looking for alternatives.” “Kuhn’s point,” underscored Fuller, “is that, it only happens at that point...it doesn’t happen while the theory is still doing well...you actually do need a kind of critical mass of theory and interpretation of data before it happens.” Fuller observed that this had substantial implications for the DASB’s case regarding I.D. “One of the things that’s always worth pointing out in this context is that, all new theories are born refuted...especially if you have this view that there is always a dominant paradigm in science, right, because, in a sense, the deck is stacked against you, because the dominant paradigm sets the terms under which, you know, the domain is conceptualized, the terms under which tests are to take place.”<sup>211</sup>

For Fuller I.D. was in exactly such a prerevolutionary position. “There’s an uphill struggle from the outset,” he argued. “So it then becomes very important for people who want to put forward a new theory” - like I.D.-“to actually engage in what we call would theory construction, namely elaborating the consequences of the theory in many different settings, kind of develop the theoretical imagination, you might say, and also to reinterpret a lot of the data that other people have already been studying.” According to Fuller the DASB’s policy was a perfectly valid way to go about cultivating such a novel “theoretical imagination.”

On cross examination Fuller distanced himself from Johnson while continuing to reaffirm the essence of his Kuhnian critique of the scientific establishment. His sentiments in this respect were captured in an exchange with attorney for the plaintiffs Vic Walczak:

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<sup>211</sup> Ibid.

Mr. Walczak: Now, you've spent a fair bit of your time on this particular point about how difficult it is under the current -- I think you would say overly dogmatic naturalistic paradigm of science for new theories to break in.

Dr. Fuller: May I correct you? I think that's a mischaracterization. I don't think that naturalism is, itself, the kind of -- the sort of stultifying atmosphere. I think it has actually more to do with sort of sociological, political, and economic factors when it gets right down to it.

Mr. Walczak: But as I understood your testimony -- and, please, you know, correct me if I'm mischaracterizing, because I certainly don't intend to do that. I mean, as I understood it, you're saying that scientists are not really open to different ways of thinking such as presented by intelligent design?

Dr. Fuller: In fact, yes. In fact, as -- this is, in a way, engrained in their training, and it's something that is very well remarked upon in our literature. It's called normal science. It's the whole idea of thinking within a paradigm. That's, in fact, how you make advances in very narrow, specialized technical fields. So, in a sense, it has a heuristic value itself, this kind of narrowness, that makes people unopen, but it isn't everything.<sup>212</sup>

As cross-examination continued into the afternoon after the morning recess Fuller was asked by Walczak about his view of I.D. as a possible pre-revolutionary paradigm and about the appropriateness of teaching I.D. in public schools:

Mr. Walczak: What was the point of talking about revolutions?

Dr. Fuller: Well, the thing here is that you need to have revolutions when, in fact, the science is dominated by one paradigm. Right? That's the presupposition of a revolution, that the only way in which you're going to actually get any kind of alternative viewpoint is by displacing the dominant one, because you're not imagining science to be a naturally pluralistic field. You don't need a revolution if you had a kind of pluralistic playing field of science where you have lots of different theories of roughly equal stature. But, rather, in this case, with the neo-Darwinian synthesis, you have one very dominant theory that monopolizes all the resources. In the normal course of things, you would just have to wait for that theory to kill itself before another one is going to come about.

Mr. Walczak: But you've earlier used the term "normal science." And that would refer to the neo-Darwinian synthesis?

Dr. Fuller: That's right. It's the way science is done normally under the dominant paradigm.

Mr. Walczak: And you've said that ID, in fact, is in a fringe area?

Dr. Fuller: Yes. It's not normal science. I mean, you can't have normal science until you have a paradigm that's been sufficiently flushed out that you can sort of talk about normal forms of research. At the moment, ID is basically laying out foundations and then trying to come out with some exemplary phenomena.

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<sup>212</sup> Transcript of Dr. Fuller's Testimony in *Dover* from The Talk Origins Archive, <http://www.talkorigins.org/faqs/dover/day15pm.html>.

Mr. Walczak: So intelligent design has not convinced the science community, and you're here saying, well, you know, we've got to sort of fertilize the field and make sure that it can be taught to students so that they're more open-minded to this?

Dr. Fuller: Well, it seems to me that you're not going to -- it's not going to happen otherwise. And --

Mr. Walczak: You know, I'm not aware of transposons or plate tectonics being forced on students before it was accepted by the scientific community.

Dr. Fuller: Yes, but those are much more specialized kinds of entities and theories and so forth that exist, roughly speaking, within established disciplines. Here we're talking about a sort of scientific movement, as it were, that part of what it wants to do is to reconfigure the face of science. Right? And, in a sense, the neo-Darwinian synthesis covers a lot of ground. It's a very sort of big, broad picture. And, in a sense, intelligent design is offering a kind of competitor at that level. So it's a different ball game from what you've been describing.

Mr. Walczak: And what you're saying is that it's got no chance in the scientific community, the only chance it has is for a federal judge to order that it be taught in the schools?<sup>213</sup>

Walczak's final question went unanswered. Before Fuller could respond the defense objected and the line of inquiry ceased-and the conversation moved away from talk of paradigms and the theories of Thomas Kuhn.

### **Conclusion**

Even though it went unaddressed Walczak's inquiry nevertheless managed to capture the essence of Fuller's participation in the case. Though he also testified that I.D. was indeed science and not religion, Fuller's main contribution to the defense's cause was to interrogate the nature of science and scientific inquiry. Relying heavily on Kuhn, Fuller argued that I.D. represented a model paradigm whose success depended less on any intrinsic factual appeal than on its displacement of the dominant scientific paradigm represented by the Neo-Darwinian synthesis. Employing a postmodern Kuhnian vocabulary, the defendants in *Dover*, with the aide of Fuller, argued that the exclusive adherence to an "evolutionist paradigm" was the result of an ideology of methodological naturalism that unjustly precluded the teaching of the equally valid paradigm of I.D.. In little more than two decades a fundamental shift in creationist legal strategy occurred:

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<sup>213</sup> Ibid.

in *Dover* it was the sociology of science that was being appropriated by creationists; in *McLean* it had been science itself.

The decision to place Fuller on the stand in *Dover* constituted a radical shift in creationist legal strategy. In *McLean* creationists had sought to affirm creation-science's bone fides by appealing to its rigorous methodical and evidentiary standards. In *Dover*, advocates of I.D. relied on people like Fuller to chip away at the authority of such standards by situating them within a conversation, not about their inherent value or authority, but about the sociological nature of their elaboration and instrumentalization. From 1981-2005 a debate about the truth of creation-science had become a debate about the sociological construction of scientific truth. Creationist legal strategy, in the process, had taken a postmodern turn.

Like the academics working in the SSK had done after Kuhn, those arguing in favor of teaching I.D. in public schools labored to alter the way in which science was understood. This change reflected a substantial about face with respect to conservative attitudes, not only about science, but about relativistic epistemology and postmodernism. In the context of long conservative struggle against postmodernism and epistemological relativism—especially in the context of public education—the decision to bolster a case against scientific truth using Kuhnian philosophy and a decidedly postmodern vernacular was truly extraordinary. Equally remarkable was the decision to turn to Dr. Fuller, the founder of social epistemology, to support their arguments. As fascinating as these developments are in themselves, they can also tell us a great deal about modern American conservatism.

The conservatives who attempted to alter the science curricula in Arkansas and Pennsylvania, unlike their counterparts in Anaheim, Kanawha County and Dade County, ultimately failed. And while their efforts do not completely undermine narratives of general conservative ascension in post-World War Two America they certainly demand a heightened



sensitivity to instances where the conservative movement during this period was not as successful in influencing culture or shaping public policy. They also point to something else much more important. The events in Pennsylvania reveal that the bedrock upon which conservatism and conservative identity rested, in this case the categorical rejection of relativistic epistemology and postmodernism, was malleable. In an Age of Fracture where fragmentary conceptualizations of science existed to be appropriated by conservative activists, foundational elements of conservative identity became circumstantial. Effectively this meant that, at least in Dover, Pennsylvania, and at least at the turn of the century, the rhetorical absurdity of a postmodern conservative became a reality. Any definition of conservatism incapable of accounting for this reality ignores important, and perhaps foundational, aspects of the conservative experience in modern America.

## CONCLUSION

"The term 'conservative' does not have an essence, only a history, and it is only by looking across time that we can see how the only constant in conservatism is its evolution."<sup>214</sup> --Hyrum Lewis, "The Myth of American Conservatism"

Two weeks after the verdict was handed down in *Dover* Phyllis Schlafly, a staunch social conservative and activist who is often credited with leading the successful fight against the ratification of the Equal Right Amendment, issued a scathing critique of Jones and his decision.<sup>215</sup> The judge, Schlafly argued, was a "judicial activist" who should have "recused himself." According to Schlafly Jones had "lashed out at witnesses who expressed religious views different from his own, displaying a prejudice unworthy of [the] judiciary." He had also abused his office and his mandate as a justice. Accusing Jones of using the case to garner publicity for a possible gubernatorial campaign instead of deferring to the better judgment of the community in Dover, Schlafly charged that the judge had "resorted to judicial activism to make the case a cause *celebre*." Even "in an era of judicial supremacy," Schlafly concluded bitterly "Judge Jones' biased and religiously bigoted decision [was] way over the top." Echoing many of the charges that had been historically leveled against "activist Judges" like Earl Warren, Schlafly captured the sentiment of a large number of conservatives who saw Jones, his office and his decision as the epitome of secular liberal overreach.

One of these conservatives, however, someone Schlafly argued at the time of the trial might well have been the "chairman of the Pennsylvania Liquor Control Board if millions of evangelical Christians had not pulled the lever for George W. Bush in 2000," disagreed.<sup>216</sup> This person, of course, was none other than Judge Jones himself. Appointed by President Bush in

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<sup>214</sup> Lewis, 28.

<sup>215</sup> Phyllis Schlafly, "Judge's Unintelligent Rant Against Design," *Eagle Forum*, <http://www.eagleforum.org/column/2006/jan06/06-01-04.html>.

<sup>216</sup> Ibid.

2002, Jones had an impressive conservative pedigree.<sup>217</sup> Active in Pennsylvania politics Jones had co-chaired the then Governor Elect and current Secretary of Homeland Security Tom Ridges' transition team. He had also shared a similar educational experience with another prominent conservative Pennsylvanian, Rick Santorum. Furthermore, in addition to his conservative bona fides, Jones' history on the bench was relatively unremarkable. His most noteworthy act as a judge before *Dover* had been the banning of "Bad Frog Beer" due to a cartoonish depiction of the beer's mascot making an obscene gesture on the front of the bottle. Schlafly's charge that Jones had "stuck the knife in the backs of those who brought him to the dance" is therefore difficult to square with the reality that Jones himself was actually part of this constituency. One could debate Jones' status as an activist judge; but a liberal he most certainly was not.

The brief public controversy between Schlafly and Jones after *Dover* is illuminative of a central aspect of American conservatism in the latter half of the twentieth century: there simply was no unified conservative identity in modern America. Any number of different and often divergent conservatisms circulated in a dynamic and intellectually balkanized post-World War Two American culture. Schlafly's criticism of Jones is evidence enough that conservatism, in America, in the modern era, was many things, to many different people—often at the same historical moment. But *Dover* is also indicative of something else. The case underscores the fact that conservatives not only occasionally disagreed with one another but that conservatism was often in disagreement with itself.

At a moment where conservatives across the cultural spectrum appeared united against postmodernism and epistemic relativism, especially in the context of public education, a concerted conservative legal effort predicated on postmodern philosophy, aided by social epistemologists and undergirded by the efforts of religious culture warriors existed.

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<sup>217</sup> Compare this to the judge in *McLean*, Judge Overton, who happened to be Carter appointee.

Conservatism and postmodernism, for historical, ideological, cultural and semantic reasons, appear wholly incompatible. Yet in *Dover* they were. As I have tried to show with respect to the history of modern American conservatism, uniform definitions can obscure more than they reveal. Often these definitions have little correspondence with reality.

While the historiographical treatment of the new right has undergone substantial changes as the field has matured, one thing has remained largely the same: the desire to avoid the kind of polemical caricature of conservatism found in consensus scholarship. On the whole, this has led to a number of salutary developments. Beginning in the 1960s intellectual histories of the new right began to appear that challenged the belief that conservatism, in Lionel Trilling's infamous formulation, only manifested itself in "irritable mental gestures."<sup>218</sup> And while the scholarly literature of the subject remained sparse in the 1970s and 1980s, it nevertheless sought to do something Hofstadter and the consensus school had dismissed out of hand: take modern American conservatism seriously.

In the early 1990s, even as historians like Brinkley lamented the paucity of serious work on the new right, these trends accelerated rapidly. As the twentieth century came to a close a budding rapprochement between cultural and political history enabled scholars to locate conservatives, and conservatisms, in many different places and at many different levels of intellectual and political engagement. The outpouring of monographic work in the 1990s and 2000s testified to a level of scholarly interest in American conservatism that had at last become commensurate with the historical relevance of the subject itself. And the field has continued to grow. In fact, it has grown so fast and become so robust that many of its leading practitioners have argued recently that it is time to stem the production of new scholarship and begin the

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<sup>218</sup> Lionel Trilling, *The Liberal Imagination: Essays on Literature and Society*, (New York: Viking Press, 1950), xv.

process of historical synthesis in order to cultivate a less atomistic understanding of the new right. Though both well informed and intentioned, I believe this would be a mistake.

The move away from Hofstadter, while necessary for the field's development, has resulted in a tendency to avoid charting the many instances where the new right has been both less than successful and ideologically stable. No serious scholar wishes to repeat the consensus school's mistakes by dismissing or reducing modern American conservatism to some kind of civic pathology. Yet this otherwise honorable impulse has resulted in a kind of myopia wherein conservatism is almost always conceptualized as coherent and programmatic and rational. I reject these premises. One does not have to resort to the kind of consensus pathologizing of the new right to explore its vicissitudes, failures and internal inconsistencies. To the contrary, one pays homage to the many scholars responsible for the tremendous growth of the sub-discipline by taking these things seriously. At times conservatism has been at odds with itself. And conservatives have often failed to effect change in public policy and in the culture at large. But more importantly conservatism itself has changed. As Lewis argues "evolution not essence, is the story of American conservatism"<sup>219</sup> Nowhere is this more apparent than in the context of conservative struggles over the instruction of evolution in public schools at the turn of the twenty-first century.

The conservatives who fought for the inclusion of creation-science and I.D. in public school science curricula from 1981-2005 did so in a turbulent, balkanized, intellectual/cultural environment. The wide-spread concern with postmodernism and with the destabilization of truth shared by so many on right, by itself, is evidence enough of the intellectual dynamism of the era. But an even better indicator of the times was the shifting, and extremely contentious, status of science within the academy.

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<sup>219</sup> Ibid., 45.

The publication of Kuhn's *Structure of Scientific Revolutions* in 1962 initiated a wide-spread yet diffuse fragmentation of the understanding of science at various sites of scholarly engagement. And the development of the SSK in the 1970s and 1980s as a robust sub-field of scientific studies only furthered the articulation of numerous, and often divergent, conceptualizations of what science was and of what it meant to be scientific. As academics in the humanities picked up on these ideas a general critique of science emerged. Those approaching science from a feminist, post-colonial or deconstructivist perspective, like many the scholars in the SSK, sought to underscore the social nature of scientific knowledge and science's status as a cultural artifact. But to a much greater degree than many in the SSK, these academics also stressed the political nature of the production of scientific knowledge. Viewing science less as process of objective, empirical fact finding than an instrument of Western oppression, scholars in various fields in the humanities worked diligently to undermine its epistemological claims and privileged status. Their efforts did not go unnoticed. By the 1990s a war had broken out over the essential nature of science. The ultimate ramifications of this fight, however, were not readily apparent.

At the same historical moment as conservatives like Bloom and Cheney were inveighing against the diminished status of truth in the academy, and in the culture at large, liberals like Sokal were using everything at their disposal—including outright academic dishonesty—to reaffirm the importance of science and the truth of science's epistemological claims. For a time it appeared that the inertia of conservative opposition to postmodernism might actually merge with liberal concerns over the status of science and scientific truth. But the same cultural forces that make for strange political bedfellows can also work to pull apparent allies in opposing directions.

Though creation-scientists in the early 1980s had initially been concerned with garnering a scientific imprimatur, constitutional jurisprudence had confounded their efforts in this respect.

In order to advance their critique of Darwinian evolution in public schools, these creationists turned from attempting to appropriate the conceptualization of science put forward by Bloom, Cheney and Sokal to the kind of problematization of science that radical liberals in the humanities and those working in the SSK had affected. While this transition in creationist legal strategy that occurred from 1981-2005 was informed by many things—the elaboration of Establishment Clause jurisprudence as well as the availability of constructivist and postmodern critiques of objective science, to name but two—it was ultimately underwritten by a dramatic departure from the wide-ranging conservative opposition to postmodernism and to relativistic epistemology, especially with respect to public education. This had a profound effect on conservative identity. The upshot of all the intellectual turmoil regarding science, as well as the shifting demands of constitutional law, was the reification of an oxymoron: the existence of conservative postmodernism and postmodern conservatives.

As conservatives took their respective cases to the courts regarding the inclusion of creation-science and I.D. in public school science curricula they brought with them a legacy of intense intellectual struggle over the meaning of truth and the meaning of science. In an era where so many battles were fought, at so many levels of intellectual abstraction, and at so many different sites it only makes sense that the conservatives waging these legal struggles against Darwinian materialism had the access, ability and inclination to entertain ideologies and ideas that appeared incompatible, or perhaps even antithetical, to foundational elements of their own conservative ethos. It also makes sense that the decentralization of the understanding of concepts like science and truth resulted in a conservative movement at ease with abandoning and/or

appropriating them to suit local circumstances.<sup>220</sup> And yet, for some reason, this still seems problematic.

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<sup>220</sup> A more complete history of the conservative relationship with science in the closing decades of the twentieth century in the context of constitutional law would need to be even more complicated than I have attempted to articulate thus far. At the same time conservatives were making the transition from embracing science to problematizing it in the context of the movement away from advocacy of creation-science to I.D., other conservatives, many of them similarly situated in the culture, were advancing scientific arguments concerning the nature of homosexuality and homosexuals. From 1986-2003 the conservative struggle against gay rights was undergirded by a large body of science—both natural and social. Without exception this science was presented as objective fact not as knowledge that had been culturally constructed. Again, here too constitutional jurisprudence exerted a tremendous amount of pressure on conservative activists. Only this time in the context of the legal struggle against gay rights this pressure led conservatives to embrace, rather than interrogate, the conceptualization of science as an objective, empirical enterprise.

The way in which the Supreme Court had articulated the constitutional guarantee of due process required conservatives who opposed gay rights to satisfy a minimal level of judicial review known as the rational basis test. According to this test conservatives who wished to retain laws proscribing sodomy and, in the case of Colorado in 1992-3, amendments nullifying municipal ordinances that extended civil rights to homosexuals, needed to prove that their efforts were “rationally related” to a “legitimate state interest.” Because moral or religious objections were incapable of satisfying these standards conservatives turned to science—though not exclusively—to argue that states had a reasonable interest in public health and safety that was furthered by the rational restriction of sodomy and the extension of certain civil rights to homosexuals. In the briefs filed by the state of Georgia in *Bowers v. Hardwick* in 1986, Colorado in *Romer v. Evans* in 1993 and Texas in *Lawrence v. Texas* in 2003, as well as in many of the accompanying *amicus curiae* and extent popular conservative political literature the work of Evangelical conservatives like Paul Cameron, who made use of extensive scientific footnotes, statistics and medical observations to bolster a case against repealing sodomy statutes and the extension of civil rights to homosexuals, featured prominently. For examples of this kind of argumentation, especially as it was manifested in popular literature surrounding *Bowers* see Paul Cameron, “Medical Consequences of what Homosexuals Do,” biblebelievers.com, <http://www.biblebelievers.com/Cameron2.html>, (accessed October 30, 2014); Tim LaHaye, *What Everyone Should Know About Homosexuality*, (Wheaton, Illinois: Living Books, 1981) and William Dannemeyer, *Shadow in the Land: Homosexuality in America*, (San Francisco: Ignatius Books, 1989). For the arguments made in the *amicus curiae* filed in *Bowers* regarding the purported medical risks of homosexuality and other scientific arguments against repealing anti-sodomy statutes see the Rutherford Institute Brief in support of Respondents *Bowers v. Hardwick*, 478 U.S. 186 (1986), 20 and David G. Robinson brief in support of Respondents *Bowers v. Hardwick*, 478 U.S. 186 (1986), 6. Similar arguments regarding the putative health hazards posed by homosexuals can be found in the literature and briefs created by a group called Colorado for Family Values that were filed in *Romer*. See, for example, Colorado for Family Values brief in support of Respondents *Romer v. Evans* 517 U.S. 620 (1996) and, for an example of Colorado for Family Values’ use of Cameron’s work, in the form of a political pamphlet circulated during the campaign for Amendment 2, see Martha C. Nussbaum, *From Disgust to Humanity: Sexual Orientation and Constitutional Law*, (New York: Oxford University Press, 2010), 94.

By the time the court took up the question of the constitutionality of anti-sodomy statutes again in 2003 in *Lawrence* arguments against repealing sodomy statutes and the extension of civil rights to homosexuals predicated on public health concerns had been largely abandoned. Nevertheless, an *amicus* participant in the case called Liberty Council filed a brief on behalf of the state of Texas that devoted over a third of the space allotted to it by the court to citing research done by Paul Van de Ven and John R. Diggs Jr.—both prominent Evangelical critics of homosexuality—which purported to show that homosexuals were disproportionately prone to contracting and transmitting sexually transmitted diseases. The use of this and other research in this brief can be found at Liberty Council brief in support of Respondents *Lawrence v. Texas* 539 U.S. 558 (2003), 10-16.

The conservative relationship with science that existed from 1981-2005 in the context of legal battles over science education was markedly different from the relationship that undergirded the conservative case against gay rights from 1986-2003. For the former science eventually became something to be problematized; for the latter it remained something to be uncritically called upon to supply objective, empirical, factual information about homosexuals and homosexuality. Though these approaches could not have been more different the conservatives who adopted them, in each instance came, in large part, from a similar conservative evangelical milieu. The fact that



By definition—at least so far as conservatism and its relationship with postmodernism and relativistic epistemology is concerned—these things should not have happened. By definition these things cannot have happened. But they did happen. As I have argued, the modern American conservative experience defies definition. Definition, but not description.

A postmodern conservative epistemological relativist is a conceptual confusion, a contradiction in terms. By definition such a thing cannot exist. Yet in the context of conservative struggle over science education from 1981-2005, it did. Future success in the historiography of modern American conservatism is predicated on rediscovery of this kind of conservative experience through the deployment of methodologies and interpretative strategies capable of accounting for both the diversity, as well as the ideological and ideational dynamism, of the new right. It will not do to define important elements of modern American conservatism out of existence simply because they defy neat categorization. The real work is not even in making these things make sense but in allowing them to exist as they did, in their historical context, in themselves. The reality of conservative political activism and identity in the latter-half of the twentieth century is occasionally messy, indeterminate and ideologically unstable, sometimes to the point of incoherence. The historical work in field must reflect this.

What future direction the historiographical treatment of the new right will take is not yet clear. Philips-Fein could very well be correct. It may be a mistake to continue to atomize the new right. Not only might this crowd the already dense field of scholarship but it could result, potentially, in the commission of the sin of essentialism on a smaller scale. Synthesis, however, is not the answer. At least not without a substantial methodological reorientation.

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these two incompatible conceptualizations of science could inform and animate conservative legal strategy should again signal to historians that uniform, ahistorical, definitions of conservatism are often wholly lacking in their ability to capture the realities of conservative activism, ideology and identity. Especially in the context of the law, especially in the closing decades of the twentieth century.

What must be pursued in the place of synthesis is the reanimation of modern conservative political activity, ideology and identity through the heuristic deployment of the term conservative. Ultimately this means looking for conservatives and conservatisms without a definite idea of what one might find—and where one might find it. If scholars are to successfully chronicle modern American conservatism they need to exchange static definitions of what conservatism is for a heuristic conceptualization of what it might have been, and what it might have been becoming. Hyrum Lewis is right. A singular thing called modern American conservatism is a myth; such a thing did not, and does not, exist. The real history of the new right is embodied instead in the many different, dynamic and developing conservatisms that circulated in post-World War Two America. It is their story, not the story of a definition, which historians should strive to tell.

## Appendix

### Depositional Testimony of Dr. Larry Vardiman and Dr. Cecil Gerald Van Dyke

#### Deposition of Dr. Larry Vardiman

Dr. Vardiman on science, scientific research and their relationship to his religious beliefs:

Attorney for the Plaintiffs David Klasfeld: Do you consult the Bible in connection with any of your scientific work?

Dr. Larry Vardiman: I think it's associated with it, yes.

K: Associated in what way?

V: To attempt to make my understanding of the Bible and scientific research or studies consistent.

K: Do you believe that it's necessary to make your scientific work consistent with the Bible?

V: I would like to see that it is. 50

K: Does the Bible give you specific projects to investigate and do research on?

V: Yes, I believe it does

K: "What research?"

V: Well, I think obviously the one I've been most involved in is the Noachian flood as it refers to it as, and that is at variance with generally accepted interpretation of earth history. And so it has given me a challenge to look into that area and study and do research.52

K: What would you expect to testify in a trial about the water vapor canopy?

V: It isn't clear to me what is really needed from me, yet, from counsel. However, my intention at this point, basically, would be to say that I have working on the vapor canopy model, and to the extent I have been able to develop it so far, it appears to be consistent with physical laws that most any atmospheric scientists would be familiar with and comfortable with, which, tells me that I am not out to lunch, that it would be possible and this in fact would be consistent with a creationist's account of a catastrophic flood—worldwide flood. 114

On evidence for a young earth:

V: With the age of the earth and the quantities of uranium that are in the crust of the earth, over that period of time one of the daughter products is the release of helium, and it would have accumulated in the atmosphere. And there's only very small quantities of it, which is much, much less than you would expect with long age. 61

V: There is a constant accumulation from outer space of meteoritic dust, and it can be calculated. And if it had accumulated over millions of years it should be several feet thick, at least on the moon. In fact, that was on one of the comments before the space program. They were afraid that on landing the ship would disappear in the dust on the moon, and that was obviously not there when it should had existed for millions of years. 62

V: Such things as the quantities of various chemicals like nickel and sodium. There should be much more in the ocean if the earth has existed for millions of years. 61

V: In calculating the leaching of chemicals out of the surface of the earth and carrying it by river and stream into the ocean, there should be acclamations many orders of magnitude more than what you find in the oceans, and including the sediments of the ocean bottom.

### **Deposition of Dr. Cecil Gerald Van Dyke**

Dr. Van Dyke on scientific evidence for sudden creation:

Dr. Cecil Gerald Van Dyke: Well, my findings would indicate that organisms are—have a special relationship with another organism in the host/parasite relationship. It's a very specialized interaction between the two, and it's difficult to explain how, by natural process, those interrelationships could have come about. 3

Attorney for the Plaintiffs David Klasfeld: Could you give me some examples of that interrelationship?

VD: Well, in the particular organisms, many of them, there's a haustorial formation-

K: Excuse me?

VD: A haustorial formation—which is a structure that invades the cell of host and is presumed to be a feeding mechanism that the fungus feeds off of the host, and this a very precisely tuned mechanism for interrelationship.4-

K: What particular host-parasites have you studied that have led you to this conclusion?"

VD: "The puccinia sorghi, which is the corn rust, fungus on corn."

K: "What others?"

VD: "I have studied puccinia spargoinides and spartma alter inflora. They are fungi that live only on a specific host. These are the specific hosts that these fungi live on."

K: "What is there about these relationships that lead you to believe that they could not have come about by natural causes?"

VD: As I said, the fungus is dependent as an obligate parasite, no tis host, for survival. And so it somehow has a mechanism of living with the hose and getting nutrients from the hose, without killing the host, and so it is a delicate balance between them."

K: Could you explain for me how that fungus mechanism works?

VD: That is part of what we don't understand...there...seems to be a genetic mechanism within the host—within the fungus, that perhaps dictates to the host what type of metabolites the host should produce for the fungus. Then the fungus uses those metabolites for its own reproduction and survival.17-19

K: I guess I still don't understand why you don't think this could have come about by natural causes.

VD: Well, we find, for instance, even in the fossil record, these same organism associated with the plants. So far, we know this relationship has existed for some period of time, perhaps.

K: How long a period of time?

VD: We don't really know this; but at least as long as those plants have been around, that the fungus parasitizes, the fungus has been there, also. There is no explanation for how the fungus could have existed prior to those plants. So the plant and the fungus apparently coexisted together. 19

Evidence for a young Earth:

K: What specifically as a scientist, do you accept as scientific evidence.

VD: Well, for instance, the decay of the sun.

K: What about the decay of the sun?

VD: Apparently they have been taking recordings of that for several hundred years; or very recently they have come to a conclusion that perhaps the sun is much younger than was predicated and might indicate that the whole universe, including the earth, was younger than was thought. 21

K: Well, I understand that there are many ways that the earth can be dated; for instance, the chemicals that flow into the ocean can be used as means of dating. Those give all sorts of variations on the age of the earth. The radio halos in rocks have been used a predication of possibility that the earth is much younger than billions of years or millions of years, as has been suggested by other evidences.

## BIBLIOGRAPHY

### Court Cases

*Bowers v. Hardwick*, 478 U.S. 186 (1986)

*Epperson v. Arkansas*, 393 U.S. 97 (1968)

*Everson v. Board of Education*, 330 US 1 (1947)

*John Thomas Scopes v. State of Tennessee*, 152 Tenn. 424. (1925)

*Lemon v. Kurtzman*, 403 US 602 (1971)

*Lynch v. Donnelly*, 465 U.S. 668 (1984)

*Lawrence v. Texas* 539 U.S. 558 (2003)

*McLean v. Arkansas Board of Education*, 529 F. Supp. 1255, 1258-1264 (ED Ark. 1982)

*Romer v. Evans* 517 U.S. 620 (1996)

*Tammy Kitzmiller, et. al. v. Dover Area School Board, et. al.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005)

### Expert Testimony and Archival Sources

Bird, Wendell. "Letter to Dr. Gerald Van Dyke." September 9, 1981, Plaintiffs Exhibit No. 5 from ML 701 Box 14 File 1. Special Collections, University of Arkansas Libraries, Fayetteville.

Fuller, Steve. "Rebuttal of Expert Witnesses." Expert Witnesses. *National Center for Science Education*. <http://ncse.com/creationism/legal/expert-witnesses>.

Transcript of Testimony from Robert V. Gentry from AntiEvolution.org, "Deposition of Robert V. Gentry," McLean v. Arkansas Deposition Project.

Transcript of Dr. Fuller's Testimony in *Dover* from The Talk Origins Archive  
<http://www.talkorigins.org/faqs/dover/day15am2.html>.

Transcript of Dr. Ruse's Testimony in *McLean* quoted in *McLean v Arkansas* Documentation Project. <http://www.antievolution.org/projects/mclean/newsite/pftrans/mvattpruse.html>.

Vardiman, Larry. "Deposition of Dr. Larry Vardiman," ML 701 Box 14 File 2. Special Collections, University of Arkansas Libraries, Fayetteville.

Van Dyke, Cecil Gerald. "Deposition of Dr. Cecil Gerald Van Dyke." ML 701 Box 14 File 1. Special Collections, University of Arkansas Libraries, Fayetteville.

### Primary Sources

Bloom, Alan. *The Closing of the American Mind: How Higher Education has Failed Democracy and Impoverished the Souls of Today's Students*. New York: Simon and Shuster, 1987.

Bricmont, Jean and Alan Sokal. *Fashionable Nonsense: Postmodern Intellectuals' Abuse of Science*. New York: Picador Press, 1999.

Cheney, Lynne. *Telling the Truth: Why Our Culture and Our Country have Stopped Making Sense-and What We Can Do about It*. New York: Simon and Shuster, 1995.

Coverage of Freiler et al. v. Tangipahoa Parish Board of Education et. al. In "Major Cases," National Center for Science Education. <http://ncse.com/creationism/legal/freiler-et-al-v-tangipahoa-parish-board-education-et-al>.

Ellison, Michael. "Tinky Winky Falls Foul of the Moral Majority." *The Guardian*. February 11, 1999. <http://www.theguardian.com/world/1999/feb/11/michaelellison>.

Feyerabend, Paul. *Against Method*. New York: Verso, 1988.

Full Text of Prefatory Statement in *Dover* in "Design on Trial in Dover, Pennsylvania." National Center for Science Education. <http://ncse.com/rncse/24/5/design-trial-dover-pennsylvania>.

Groothuis, Douglas R. *Truth Decay: Defending Christianity against the Challenges of Postmodernism*. Downers Grove, Illinois: InterVarsity Press, 2000.

Gross, Paul R., and Norman Levitt. *Higher Superstition: The Academic Left and its Quarrels with Science*. Baltimore: Johns Hopkins University Press, 1998.

Image of Prefatory Label in Selman in "Selman v. Cobb County: The Textbook Disclaimer Case." National Center for Science Education. <http://ncse.com/creationism/legal/selman-v-cobb-county-textbook-disclaimer-case-0>.

Institute for Creation Research. "Who We Are." <http://www.icr.org/who-we-are>.

Johnson, Phillip E.. *Reason in the Balance: The Case against Naturalism in Science Law and Education*. Downers Grove, Illinois: Inter Varsity Press, 1995.

Kelley, Ken. "The Playboy Interview: Anita Bryant." *Playboy Magazine*, May 1978.

Kuhn, Thomas S. *The Structure of Scientific Revolutions*. Chicago: The University of Chicago Press, 2012.

- Kushiner, James, "Berkeley's Radical: An Interview with Philip E. Johnson," *Access Research Network*, [http://www.arn.org/docs/johnson/le\\_berkeleyradical.htm](http://www.arn.org/docs/johnson/le_berkeleyradical.htm).
- La Follette, Marcel C., editor, *Creationism Science and the Law: The Arkansas Case*. Massachusetts: MIT Press, 1983.
- Latour, Bruno. *Science in Action: How to Follow Scientists and Engineers through Society*. Cambridge, Massachusetts: Harvard University Press, 1987.
- Lewin, Roger. "Creationism on the Defensive." *Science*, New Series, Vol. 215, No. 4528 (Jan. 1, 1982), pp 33-34.
- . "Where is the Science in Creation-Science," *Science*, New Series, Vol. 215, No. 4529 (Jan. 8, 1982), pp 142-144+146.
- McLean v. Arkansas. "Defendants' Second List of Witnesses." Other Legal Materials. AntiEvolution.org. [http://antievolution.org/projects/mclean/new\\_site/legal/2ndlist.pdf](http://antievolution.org/projects/mclean/new_site/legal/2ndlist.pdf).
- McCallum, Dennis. *The Death of Truth: Responding to Multiculturalism, the Rejection of Reason and the New Postmodern Diversity*. Minneapolis, Minnesota: Bethany House Publishers, 1996.
- Merzer, Martin. "Anita Bryant Fights Gay Rights Law in Fla." *Schenectady Gazette*, February 16, 1977.  
<http://news.google.com/newspapers?nid=1917&dat=19770216&id=5XwhAAAIBAJ&sjid=RYgFAAAAIBAJ&pg=1230,3296931>.
- Moore, John N. and Harold Schultz Slusher, eds.. *Biology: A Search for Order in Complexity*. Grand Rapids, Michigan: Zondervan Publishing House, 1970.
- Reed, Gerard. "Reed's 'Reedings'." <http://reedings.com/archive/60Apr97.htm>.
- Ross, Andrew. "Introduction." SOCIAL TEXT,(Spring/Summer, 1996), 46/47: 1-13.
- Schlafly, Phyllis. "Judge's Unintelligent Rant against Design." *Eagle Forum*.  
<http://www.eagleforum.org/column/2006/jan06/06-01-04.html>.
- Sokal, Alan D. . 1996. "Transgressing the Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity". *Social Text*. 46/47: 217-252.
- . "A Physicist Experiments with Cultural Studies." *Lingua Franca*. May/June 1996. Accessed on March 13, 2014. <http://linguafranca.mirror.theinfo.org/9605/sokal.html>.
- . *Beyond the Hoax*. New York: Oxford University Press, 2008.
- "Social Text Journal Description," Duke University Press, <http://www.dukeupress.edu/Catalog/ViewProduct.php?viewby=journal&productid=45631>.



## Secondary Sources

- Baillieul, Thomas A. "‘Polonium Haloes’ Refuted: A Review of ‘Radioactive Halos in a Radio-Chronological and Cosmological Perspective’ by Robert V. Gentry." <http://www.talkorigins.org/faqs/po-halos/gentry.html>.
- Brennan, Mary C. *Turning Right in the Sixties: The Conservative Capture of the GOP*. North Carolina: The University of North Carolina Press, 1995.
- Brown, James Robert. *Who Rules in Science?: An Opinionated Guide to the Wars*. Cambridge, Massachusetts: Harvard University Press, 2001.
- Chapman, Matthew. *40 Days and 40 Nights*. New York: HarperCollins, 2007.
- Eagleton, Terry. *The Illusions of Postmodernism*. Malden, Massachusetts: Blackwell Publishing, 1996.
- Forrest, Barbara. "The ‘Vise Strategy’ Undone: Kitzmiller et al. v. Dover Area School District." *Skeptical Inquirer*. July 31, 2006. Accessed on March 28, 2014.
- Golinski, Jan. *Making Natural Knowledge: Constructivism and the History of Science*. Chicago: University of Chicago Press, 2005.
- Gottfried, Paul Edward. *Conservatism in America: Making Sense of the Right American Right*. New York: Palgrave Macmillan, 2009.
- Guttmann, Allen. *The Conservative Tradition in America*. New York: Oxford University Press, 1967.
- Hunter, James Davison. *Culture Wars: The Struggle to Define America*. New York: Basic Books, 1991.
- Keck, Thomas M. *The Most Activist Supreme Court in History: The Road to Judicial*
- Kirk, Russell. *The Conservative Mind: From Burke to Elliot*. South Bend, Indiana: Gateway Editions, 1978.
- Klatch, Rebecca E.. *A Generation Divided: The New Left, The New Right and the 1960s*. Berkeley: The University of California Press, 1999.
- Kolko, Gabriel. *The Triumph of Conservatism: A Reinterpretation of American History. 1900-1916*. New York: The Free Press, 1977.
- Lee, Brenda. "Kitzmiller v. Dover Area School District: Teaching Intelligent Design in Public Schools." *Harvard Civil Rights Civil Liberties Law Review*, 41 no. 2 2006: 581-590.
- Martin, William. *With God On Our Side: The Rise of the Religious Right in America*. New York: Broadway Books, 1996.

- Matzke, Nick. "History and Cobb County." Panda's Thumb. December 22, 2006. Accessed on March 28, 2014. <http://pandasthumb.org/archives/2006/12/history-and-cob.html>.
- McGirr, Lisa. *Suburban Warriors: The Origins of the New American Right*. New Jersey: Princeton University Press, 2001.
- Nash, George H. *The Conservative Intellectual Movement in America: Since 1945*. New York: Basic Books, Inc., Publishers, 1976.
- Numbers, Ronald L.. *The Creationists: From Scientific Creationism to Intelligent Design*. Massachusetts: Harvard University Press, 1992.
- Perlstein, Rick. *Before the Storm: Barry Goldwater and the Unmaking of the American Consensus*. New York: Nation Books, 2009.
- . *Nixonland: The Rise of a President and the Fracturing of America*. New York: Scribner, 2008.
- The Invisible Bridge: The Fall of Nixon and the Rise of Reagan*. New York: Simon and Shuster, 2014.
- Rodgers, Daniel T. *Age of Fracture*. Massachusetts: Harvard University Press, 2011.
- Schoenwald, Jonathan M. *A Time for Choosing: The Rise of Modern American Conservatism*. New York: Oxford University Press, 2001.
- Schneider Gregory L. *The Conservative Century: From Reaction to Revolution*. New York: Rowman and Littlefield, 2009.
- Shapin, Steven. *A Social History of Truth: Civility and Science in Seventeenth Century England*. Chicago: University of Chicago Press, 1994
- Slack, Gordy. *The Battle Over the Meaning of Everything: Evolution, Intelligent Design, and a School Board in Dover, PA.*. San Fransisco: Jossy-Bass, 2008.
- Teles, Steven M. *The Rise of the Conservative Legal Movement: The Battle for Control of The Law*. New Jersey: Princeton University Press, 2008.
- Trilling, Lionel. *The Liberal Imagination: Essays on Literature and Society*. New York: Viking Press, 1950.
- Vaisse, Justin. *Neoconservatism: The Biography of A Movement*. Translated by Arthur Goldhammer. Massachusetts: The Belknap Press of Harvard University Press, 2010.
- Worthen, Molly. *Apostles of Reason*. New York: Oxford University Press, 2014.

### Journal Articles and Book Chapters

- Bell, Daniel. "Interpretations of American Politics." In *The Radical Right: The New American Right-Expanded and Updated*, edited by Daniel Bell (New York: Anchor Books, 1964).
- Brinkley, Alan. "The Problem of American Conservatism." *American Historical Review* 99, no. 2 (April 1994): 409-429. Accessed September 21, 2013.
- . "Conservatism as a Growing Field of Scholarship." *Journal of American History* 98, no. 3 (December 2011): 751.
- Geertz, Clifford. "Thick Description: Toward an Interpretive Theory of Culture," *The Interpretation of Cultures*. New York: Basic Books, 1973.
- Hofstadter, Richard. "The Pseudo-Conservative Revolt." In *The Radical Right: The New American Right-Expanded and Updated*, edited by Daniel Bell (New York: Anchor Books, 1964).
- . "*Goldwater and Pseudo-Conservative Politics*." In *The Paranoid Style in American Politics*, 93-145. New York: Vintage, 2008.
- Lewis, Hyrum. "Historians and the Myth of American Conservatism." *Journal of the Historical Society* 12, no. 1 (March 2012): 27-45.
- Phillips-Fein, Kim. "Conservatism: A State of the Field." *Journal of American History*, 98, no. 3 (December 2011): 723-743.
- Ribuffo, Leo P. "Conservatism and American Politics." *Journal of the Historical Society*, vol. 3 no. 2 (March 2003):163-175.
- Schlesinger, Arthur Meier. "Radicalism and Conservatism in American History." In *New Viewpoints in American History*, 103-126. New York: The MacMillan Company, 1948.
- Viereck, Peter. "The Revolt against the Elite." In *The Radical Right: The New American Right-Expanded and Updated*, edited by Daniel Bell (New York: Anchor Books, 1964).
- Zelizer, Julian E. "Reflections: Rethinking the History of American Conservatism." *Reviews in American History*, Vol. 38, no. 2, (June, 2010): 367-392.

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