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Betty Mensch

Alan Freeman

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Religion as Science/Science as Religion: Constitutional Law and the Fundamentalist Challenge

Alan Freeman and Betty Mensch

It is a sorry tribute to the fragility of our social structure that the frustrations experienced by schoolchildren and their parents so quickly lead to bitter disputes in courts of law. Consider two stories. In the first, a boy in Louisiana received a homework assignment on evolution from his science teacher. When he recited in class that “God created the world and God created man,” the teacher graded his work “unsatisfactory.” The boy’s father turned out to be Louisiana State Senator Bill Keith, who saw in his son’s experience yet another instance of the way in which the public schools were systematically undermining the religious faith that he and many other parents consider the absolute foundation of family and community life.

Senator Keith introduced—and in July 1981 saw enacted—a state law called the “balanced treatment” act, which required that whenever evolution was presented in the public schools, students should also be given materials describing “the scientific evidences for creation and inferences from those scientific evidences.” In response, in December 1981 a group of Louisiana public school teachers and parents started a lawsuit against the governor of Louisiana to prevent enforcement of the new law on the grounds that it amounted to an unconstitutional “establishment” of religion, forbidden by the First Amendment of the United States Constitution.

The second story begins in Mobile County, Alabama, where parents complained that their public schools were teaching the “religion of humanism and leaving God out of the equation.” One parent found it necessary to “re-educate his children on a day-to-day basis” after school. His children, he reported, were ridiculed because of their belief in creation. Another parent stated that he had more than once seen his children in tears over the conflict between the religious values they learned at home and the moral relativism dogmatically taught in the schools. Over six hundred such people brought a lawsuit against the local school board, alleg-

ing that the board, by teaching the “religions of secularism, humanism, evolution, materialism, agnosticism, atheism and others,” was infringing their right to the “free exercise” of religion, thereby violating the First Amendment of the United States Constitution.

Both cases arise under the “religion clauses” of the First Amendment, which provide that no law shall be passed “respecting an establishment of religion, or prohibiting the free exercise thereof.” These clauses represent two related, yet different, constitutional notions—that of “establishment” on the one hand and “free exercise” on the other. The basic idea of the establishment clause is suggested by its name—its paradigmatic violation would be an officially mandated and publicly supported church. As interpreted more broadly, the clause has come to mean that government is not supposed to take any stand for a particular religion as against others, or for religion in general as against its absence. In fact, where a law, like the one in Louisiana, is challenged as violating the establishment clause, the Supreme Court requires that the law, to be valid, must have been adopted for a secular purpose, that its principal or primary effect must be one that neither advances nor inhibits religion, and that it must not result in excessive entanglement of government with religion. Invoking this rule, the Louisiana plaintiffs charged that Senator Keith’s “balanced treatment” law, while ostensibly enacted to expand the curriculum in the name of academic freedom, was really enacted to promote the cause of fundamentalist religion.

The Alabama case, however, arose under the seemingly different notion of the “free exercise” of religion. The core idea of the free exercise clause is personal (or family) autonomy with respect to choice of religious belief or practice. The most extreme example of a law violating the free exercise clause would be one prohibiting the practice of a particular religion. Even seemingly neutral rules or practices, however, may be experienced as burdensome or even devastating by adherents to particular faiths. Thus, a rule conditioning the receipt of unemployment benefits on a willingness to

Alan Freeman and Betty Mensch are both professors of law at the State University of New York at Buffalo.

accept work on Saturday was struck down when challenged by a Seventh Day Adventist whose religion mandated a Saturday Sabbath. So, too, the parents in Mobile are claiming that the secular curriculum mandated by the school board serves to coerce their children into adopting a worldview inconsistent with their religious beliefs, and in so doing to undermine the freedom of families to follow their own religion.

On the surface, establishment and free enterprise appear to raise separate constitutional issues. In fact, they are intractably interdependent. The Louisiana case, for example, originated with the experience of Senator Keith's son, who, in effect, had his religious belief ruled "unsatisfactory," surely an experience that implicates free exercise values. Keith's response was to sponsor legislation that would take the burden off of his son by placing his religious beliefs right there in the classroom as a parallel version of science. Yet that move triggered an establishment clause problem, since the state had acted to advance the interests of a particular religious viewpoint. Inevitably, protection of "free exercise" as guaranteed by the First Amendment requires some degree of that "establishment" which the First Amendment simultaneously prohibits. Moreover, what is ultimately at stake in resolving establishment clause issues may be free exercise values—in Louisiana, those of nonfundamentalists who feel, with some justification, threatened and coerced by the political success of a fundamentalist program. Thus, the free exercise rights of Senator Keith and his family stand in contradiction to those of nonfundamentalists, mediated only by the murk of modern establishment clause doctrine.

Similarly contradictory are the issues raised by the Mobile case. Every time someone claims a free exercise exemption from otherwise valid rules or practices, establishment clause issues arise immediately. To exempt anyone on religious grounds automatically prioritizes that claim against others denied the exemption. To use the example mentioned earlier, why should the Seventh Day Adventist be relieved from Saturday work, but not someone who wants to sleep late or to spend more time with children? The answer, which seems to violate the establishment clause, must be that claims rooted in religion are more important than those lacking such a foundation.

It gets even worse. Not every claim, even if rooted in the most deeply held religious belief, will be granted. Every grant increases the level of administrative inconvenience; many claims will inevitably be denied, producing a hierarchy of religious beliefs and practices, with some considered worthy of accommodation and others considered not so worthy. The result is the establishment clause problem of favoring particular

religions and disfavoring others. Jews, for example, have been on the losing side of some notable (and infamous) cases, such as the one decided two years before the Seventh Day Adventist case, which refused to exempt an Orthodox Jew from a Sunday closing law, or the one decided in 1986 (opinion by Justice Rehnquist) refusing to exempt an Orthodox Jewish psychologist from Air Force dress rules to the extent of letting him wear his yarmulke while on duty in a military hospital.

Thus, to validate the claim of the parents in the Mobile case would serve to exalt their religious dissatisfaction with the public school curriculum over other dissenting voices not rooted in similar religious belief. One way to avoid the implicit establishment clause problem is to transform the free exercise claim of exemption into an establishment clause challenge to the very validity of the government practice. That is exactly what happened in Mobile, where the complainants chose to challenge the ostensibly secular school curriculum as in fact dogmatically indoctrinating their children with the "religion" of "secular humanism," in violation of the establishment clause.

Since there is nothing fixed or objective about the categories "secular" and "religious," difficult philosophical issues must be confronted to deal with the Louisiana and the Alabama cases. Both raise the problematic distinction between science and religion. In the Louisiana case, religion seeks to appear as science, so that fundamentalist creationism can elevate itself to a status that exactly parallels scientific evolution. At the level of pure logic, at least, the claim is not so easily dismissed. In the Mobile case, science (at least in the broader form of a secular public school curriculum) can be recharacterized as religion by revealing it to be a dogmatic and ideological worldview. Here, too, the issue cannot easily be dismissed. Theoretically, then, if creation science satisfies a respectable notion of "science," why can't it be made part of the public school curriculum? Similarly, if "secular humanism" looks, acts, and sounds like a religion, how can we tolerate its dogmatic presence in the public schools?

Despite the presumption of reasoned resolution usually associated with legal analysis, it may well be that the issues cannot be decided at the level of logic alone. Instead, it may be necessary to recover their social meaning and, ultimately, to face the contradictions necessarily associated with a secular liberal society in which the price paid for religious freedom has been the privatization and trivialization of the religious experience, as well as its exclusion from the arena of significant public affairs.

The Louisiana case reached the United States Supreme Court under the name of *Edwards v. Aguillard*.

This was not the first time that creationism and evolution had found themselves pitted against one another in court. Nearly everyone has heard of the famous *Scopes* “monkey” trial in Tennessee in 1925, with its dramatic confrontation between the wily rationalist, Clarence Darrow, and the grandiloquent defender of traditional religion, William Jennings Bryan. Few people realize, however, that the *Scopes* case never resolved whether the teaching of evolution could be banned in the schools: the case was ultimately decided on a technicality.

Not until 1968 did the U. S. Supreme Court decide the issue. In *Epperson v. Arkansas* the Court struck down, on establishment grounds, an Arkansas statute banning the teaching of evolution in public schools. In a snidely dismissive opinion, perhaps reflecting the complacency associated with the high point of liberal hegemony on the Warren Court, Justice Fortas characterized the statute in atavistic terms, a product of ignorant religious bigotry.

Fundamentalists have come to understand what the left has been pointing out with some consistency: Certain liberal presuppositions, especially about the primacy of “self,” the relativity of values, and the authority of positivist science, are themselves a kind of orthodoxy.

Justice Black, himself a product of southern populism, offered a troubled and prophetic concurring opinion in *Epperson*. Black attacked the view that Darwinism’s claim to truth was any more absolute than the creationists’ religious claims. (“Perhaps no scientist would be willing to take an oath and swear that everything announced in the Darwinian theory is unquestionably true”.) He emphasized, moreover, the fact that many people still believed that the theory of evolution subverted their religious faith. That meant that a state which permitted the teaching of evolution was no more obviously “neutral” with respect to religion than a state which prohibited it.

Having lost the power to prohibit the teaching of evolution altogether, fundamentalists opted for a new ploy, the “balanced treatment” approach. The basic tactic, first adopted in Arkansas and later by Senator Keith in Louisiana, was to presuppose two equally defensible *scientific* accounts, and in the interest of “academic freedom” to require that they be given equal

time. Thus, if evolution were part of the curriculum, it would not be treated as simply “true” but, rather, would be balanced by a supposedly secular version of creationism, one carefully cleansed of references to God.

In 1982 a lower court struck down the Arkansas statute, with the A.C.L.U. helping the winning side and the Moral Majority assisting the losers. Scientists celebrated the victory. A day after the case was decided, Senator Keith in Louisiana amended his own bill, which was then pending, to make it appear more secular than the Arkansas act upon which it had been modeled on. He also tried, through legislative hearings, to emphasize the “academic freedom” issue, promoting an ostensibly secular value—pluralism.

These efforts could not, however, erase the well-documented reality that “balanced treatment” legislation in Louisiana and elsewhere was the product of a well-orchestrated, nationwide, fundamentalist political program. This became the determinative fact for the Supreme Court in *Edwards v. Aguillard*. On June 19, 1987, the Court announced that the Louisiana statute violated the establishment clause of the First Amendment because of its essentially religious purpose.

Under the test employed by the Court, ostensibly neutral legislation may nevertheless be invalid if adopted for a “religious” purpose. Thus, the Court must investigate political and social contexts in some detail. For example, a law requiring a moment of silence during the school day does not, on the surface, bear any relationship to religion and might be passed to promote calm, thoughtful reflection in the public schools. Yet the same law, when urged by religious groups which have already been frustrated by the ban on school prayer, could (and has) run afoul of the “purpose” test. Thus, in *Edwards* the Court concluded that the claim of secular purpose for the Louisiana statute was, in fact, “a sham,” its real purpose being to “restructure the science curriculum to conform with a particular religious viewpoint.”

By seizing on this characterization of purpose, the court evaded the two hardest issues in the case—the status of creation science as “science” and the effect of the evolution curriculum on the free exercise rights of students such as young Keith. These points were not lost on the two dissenting justices, the archconservatives Rehnquist and Scalia. In an annoyingly clever and sophisticated opinion they raised some difficult issues. They questioned the Court’s reliance on the purpose test, noting the elusive boundary between the characterizations “secular” and “religious” and stressing as credible Louisiana’s desire that its students be exposed to competing viewpoints. The dissenters

also, not unjustly, characterized most recent establishment clause decision making as incoherent and chaotic, a point which has been made by many legal scholars as well. (For example, according to the Supreme Court, a state may lend school texts to parochial school students, but not tape recorders and maps; it may pay for bus transportation to parochial schools, but not pay for field trip transportation to secular educational sites.)

The dissent also pointed out, though not so forcefully as had Justice Black in *Epperson*, the underlying free exercise issue ignored by the Court's mode of disposition. That issue was destined to reappear. In fact, even before the Supreme Court decided *Edwards*, Judge Brevard Hand had decided the *Mobile* case on March 4, 1987, under the name of *Smith v. Board of Commissioners of Mobile County*. In a lengthy opinion Hand announced that the teaching of secular humanism constitutes an establishment of religion violating the First Amendment rights of complaining parents. Although Hand's decision was recently (August 27, 1987) overturned by an intermediate appellate court, the case will almost surely be appealed to the Supreme Court.

In his decision, Hand actually banned from the Alabama public schools forty-four textbooks which, he said, promoted the godless "religion" of secular humanism. The case thus represents a nightmare for the liberal sensibility, a rising up of outrage and frustration which, directed principally against textbooks, comes uncomfortably close to book burning in spirit. The liberal temptation, of course, is to quash that spirit, given all of its intolerance and closed-mindedness.

Nevertheless, the *Mobile* case raises issues which liberals cannot ignore. Most significantly, fundamentalists have come to understand what the left has been pointing out with some consistency: Certain liberal presuppositions, especially about the primacy of "self," the relativity of values, and the authority of positivist science, are themselves a kind of orthodoxy, not unlike religion, an orthodoxy that is found suffocating by those who do not share its assumptions.

Moreover, the public schools, as the training ground for future citizens of the United States, have long been considered the primary transmitters of liberal values. None other than Earl Warren himself, in his famous opinion in *Brown vs. Board of Education*, characterized public education as the "very foundation of good citizenship," a "principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment."

Recent revisionist-left histories of the public school system have emphasized the degree to which schools have played the role of assimilators, quashers of difference, and trainers of "decent," like-minded citizens,

while also reproducing and stabilizing existing social hierarchy. Fundamentalists can hardly be faulted for having now reached a similar conclusion. Thus, schools are a sensible target of attack by those who do not want to be taken over by liberal ideology, which fundamentalists see as simply an alien faith.

Taking advantage of this perspective, Judge Hand carefully exposed in his opinion the anti-religious ideological core of public education. He emphasized the influence of John Dewey, long considered the father of modern education. Dewey had dismissed religions existing during the 1920s and 1930s as "outmoded" and believed society should not guide itself by those "old beliefs" but, rather, by "new ethics derived from modern scientific doctrine in both the biological and physical sciences." Old religion must be cast off, he said, and "we must be militant in our new religion," with the school system being the key "instrument" for social improvement. In fact, in an essay entitled "Religion in Our Schools," Dewey outlined four basic elements of this new "religion": Right and wrong reside only in consequences; there is no cosmic guarantee of meaning; children should be liberated from their past and their parents; and "value processing" is the most wholesome way to proceed through life.

Hand focused particularly on the ideological presuppositions of "selfish" psychology, such as Maslow's emphasis on a hierarchy of "needs," with "self-actualization" at the top. Carl Rogers, the psychologist with perhaps the most influence on modern education, was described as emphasizing "value clarification," premised on the view that "only you can judge your own values, you are the designer of your life, you are the most important person in your life." Thus modern psychology teaches us that values are "matters of preference and taste in personal opinion and they cannot be known to be right or wrong or true or false. They have to do with one's own desires and fulfillments and self-satisfaction." Is this science? If not, what is it? Even Robert Coles of Harvard, a psychiatrist generally considered to be on the political left, testified he felt for the parents in their complaints and struggles because the textbooks under scrutiny contained a quantity of "social and cultural rot."

As a convincing example of this "rot," Hand described modern history texts as almost entirely omitting all mention of religion, even in accounts of the abolitionist, women's suffrage, temperance, civil rights, and peace movements. "The role of religion in the lives of immigrants, and minorities, especially southern Blacks, is rarely mentioned," and religion, "where treated at all, is generally represented as a private

matter, only influencing American life at some extraordinary moments.” Those who know that religion has played a vital role in American history and also in the daily lives of many Americans find such textbooks shallow and inaccurate, while those for whom religion continues to be of prime importance find them offensively antireligious.

Perhaps Judge Hand is straining the legal doctrine in declaring secular humanism a religion for establishment clause purposes, but his basic point—that the schools do convey a pervasive message of extraordinary spiritual shallowness—cannot be ignored, nor can the fact that the message is not simply “neutral” and “objective” but, rather, deeply ideological and alienating to those whose perspective is more spiritually based. Others similarly alienated by school requirements in the past have, in fact, won court cases under the free exercise clause. In 1943 Jehovah’s Witnesses were exempted by the Supreme Court from the public school’s compulsory flag salute. For them, the salute amounted to bowing down before a “graven image” in violation of the Ten Commandments. In 1972 the Court exempted Old Order Amish communities from otherwise applicable compulsory education laws. Those intensely religious communities found incompatible with their way of life the requirement of public education beyond the eighth grade. Yet to follow through on the logic of Hand’s opinion and tailor the curriculum to the needs of fundamentalist families would surely run afoul of the establishment clause, as the Louisiana case illustrates. Once again, paradoxically, the First Amendment’s guarantee of free exercise seems to require an “establishment” prohibited by the same First Amendment.

The recent fundamentalist challenge to public school education, therefore, raises some valuable points, not just about the difficulty of formulating a coherent legal doctrine, but also about the nature of modern liberal society. As leftists have been pointing out for years, our worldview consistently elevates the “self” above community and reduces morality to a question of personal subjective preference, while finding objectivity only in a despiritualized version of nature as a collection of positivist “facts.” Many fundamentalists (few of whom fit the caricature of the ignorant, redneck buffoon, out of touch with the modern world) are educated and financially successful people who find themselves dissatisfied with the emptiness of a wholly secular society, one which defines success only in terms of self-advancement. The conversion experience, the experience of being “born again,” brings a new sense of fellowship with others in the religious community, along with a new sense of moral rootedness and certainty. A love of sharing usually replaces selfishness, and the world, both

social and natural, takes on a spiritual significance which cannot be captured by positivist, scientific description. Thus, the new life, after conversion, seems vastly more rewarding than the sterility associated with the dominant culture.

As Brevard Hand suggested in *Mobile*, deep religious experience cannot be contained within the closed paddock of pure “privacy.” Marx pointed out long ago that liberal legal ideology insists upon defining religion, like property, as a “private” right, divorced from one’s experience as “public” citizen. The establishment and free exercise clauses are premised on the possibility of maintaining that public/private boundary: one is “free” to be religious, but only as part of one’s private life. High school history texts tell us that this ideology of privacy was the historical fact about American religion, but they do so only at the expense of accuracy.

It is hardly an accident, then, that the single historical example of religion that fits the privacy model, the one all too often hauled out to represent the possibility of religious “freedom,” is the idiosyncratic antinomianism of the great Rhode Island dissident, Roger Williams. His separatist version of sectarian Protestantism maintained its purity only by being rooted in unsullied private experience, insulated from an impure world. In its extreme version, only Williams and his wife, *by themselves*, could commune with God (and it has been said, perhaps jokingly, that he wasn’t all too sure about her). It is somewhat ironic that, in the name of “neutrality,” legal doctrine has in effect established Williams’s version of Christianity as the constitutionally mandated model of religion itself.

This narrow model ignores the fact that for most people religious conversion means a singular *loss* of private self, and a transformation in one’s relationship to others that simply cannot manifest itself in a secluded self-centered realm. Thus, to take one especially troubling and politically charged example, a person who deeply feels the moral and spiritual significance of fetal life finds it difficult to hold that view as a purely “private” religious concern, somehow separate from and irrelevant to a “public” secular world where fetuses are murdered daily. Yet, of course, to one who does not share the pro-life religious conviction, the antiabortionist movement represents only the attempted illegitimate imposition of a dogmatic moral/religious view on what should be a matter for free, private, subjective choice. In fact, no less than evolution, the abortion issue raises intractable establishment clause problems which the courts have generally chosen to ignore.

The fundamentalists’ legal challenge to the public school curriculum not only forces us to confront the troublesome incoherence of the category “religion” but

also compels a similar reexamination of that mainstay of modernism—"science." If creation science can demonstrate that it is, in fact, "science," or if positivist science is itself better characterized as a part of liberal ideology, how can the latter retain its exclusive academic franchise without seriously infringing the religious freedom of those who adhere to the former?

Thus, the fundamentalist challenge has also forced scientists to confront the shallowness of their traditional claims to intellectual authority. The antagonism between American fundamentalism and science, which did not occur before the turn of the century, was not only attributable to the closed-mindedness of fundamentalists in the face of Darwinism. During the early part of the twentieth century, scientists were zealous—even evangelical—in their claim that natural science could uncover all the mysteries of the universe. Social and psychological sciences quickly linked themselves to natural science in the claim that an understanding of natural processes was sufficient for an understanding of human nature and society. Science alone was "neutral," "objective," and "factual," while religion, a relic of the past, could be discarded as biased, subjective, and superstitious.

The eminent evolution scientist Stephen Jay Gould has recently stressed the extent to which science is inevitably immersed in its cultural context, with no claim to ahistorical objectivity.

Increasingly, scientists allowed themselves to be portrayed as a new elite priesthood whose expertise rendered them beyond question or criticism. In the process, scientists of the early twentieth century rejected religion at least as much as vice versa. Now, of course, especially under the threat of nuclear war, scientists themselves are starting to question the sufficiency of a scientific method uninformed by moral judgment (C. P. Snow is a leading example), but that insight and self-criticism is a recent one within the scientific community.

The most sophisticated of the creationists have, in fact, seized upon real points of vulnerability within scientific thought. Positivist science has long been based upon a strict subject/object dichotomy—there is an "out there" world of objective "facts" to be observed, tested, and verified according to a single, neutral scientific methodology. According to the foremost philosophical defender of this version of science, Karl

Popper, the key criterion is "falsifiability"—that is, to be "scientific" a claim or hypothesis must be subject to tests capable of falsifying it. Applying Popper's rule, Freudian psychology, for example, fails to qualify as "science."

Crucial to Popper's scheme is the availability of procedures for testing the hypothesis; there must be a shared understanding about taking measurements and interpreting results. At that point, Popper's scheme breaks down; he fails to rebut the reality that any attempt to objectify falsifiability is no more than a matter of convention. Scientific communities, not unlike their religious counterparts, are hermeneutic endeavors, communities of tradition organized with reference to authoritative texts. Religious creationists have their Bible; scientific evolutionists have for their text the rocks. Each community has its own interpretative criteria, procedures, and conventions, which are ultimately self-referencing.

The dynamic of scientific truth is its shifting of paradigms, as Thomas Kuhn has demonstrated. The continuing worldview of a scientific community means much more than its mundane effort to gather and test "facts." For example, in evolution science itself there is now great tension between the paradigm of "gradualism" and that of "punctuated equilibrium" (the latter being much more consistent with the possibility of some sudden extraterrestrial intervention), or between the paradigm of "functionalism" (everything has its purpose) and that of just plain whimsy.

Science is thus a changing human culture rather than a static objective methodology, and the nature of the "facts" being observed cannot be divorced from the assumptions of the particular paradigm from within which the observation is taking place. The theoretical split between subject and object, so basic to conventional scientific thought, thus disintegrates.

The Kuhnian emphasis on paradigm shift, which sophisticated fundamentalists are starting to cite for its undermining effect on traditional claims to scientific certainty, underscores a point long made by Marxists—that scientific methodology cannot claim any objective, transcendent separation from social and political life. Science is rooted in the culture within which it operates, and its underlying presuppositions are always a part of that social context. One need only point to the insidious history of intelligence testing or eugenics, with its strong racist as well as anti-immigrant thrust, to show the effect of culture on what is, at any given time, considered to be scientific fact.

One response of the scientific community to fundamentalist attack has been to redescribe science, not

dogmatically, as a body of objective facts, but rather as a continuing quest, a mode of free and critical inquiry, in a world always of ultimate uncertainty. There is some concern now to stress openness and to maintain tolerance of diverse and outlandish theories. This accords with the relativity and uncertainty stressed by, for example, modern physicists, who understand the artificiality of the subject/object distinction.

While fundamentalists employ not only Popper (how can evolution be “falsified”?) but the most sophisticated insights of critical antipositivism to debunk the status of evolution as science, the “science” they invoke to legitimize the status of creationism is dogmatic, outmoded, and essentially premodern. According to George Marsden of Calvin College, fundamentalist thought is oddly preoccupied with facticity, insistently literal, and still rooted in a Baconian philosophical past.

Their reading of the Bible, for example, is characterized by an insistence of heavy-handed literalism. The words of the Bible are “fact,” just as nature contains facts; theirs is really the old Enlightenment view that the two sets of facts are ultimately consistent, both revealing somewhat mechanically the perfection of God’s design. The intellectual background of modern fundamentalism thus lies in works such as Paley’s *Natural Theology*, the favorite nineteenth-century text demonstrating the great correspondence between religion and an understanding of the natural world. In that sense the modern creationists are not really rejecters of conventional rationalism but, rather, too eager in their embrace of an outmoded, overliteralist form of rationality. Regrettably, modern fundamentalism has been drained of the splendid allegorical thought of the great eighteenth-century American evangelical movement. The literalism of modern fundamentalism seems a poor replacement and often gives it an oppressiveness of spirit.

The defensive posture of fundamentalist creation science vis-à-vis evolution has forced its proponents to make their demands in the name of a supposed “academic freedom” which only barely conceals that oppressiveness. In fact, the fundamentalists’ dogmatism is such that one suspects that, given the opportunity, they would happily do away with evolution science altogether; all too often, in the name of “good marketing strategy” they have successfully pressured textbook editors to omit references to evolution, even in the absence of prohibitory legislation.

Moreover, the creationist ploy rests ultimately upon a fallacious duality, reminiscent of the famous Pascal’s wager (a pragmatic argument for adoption of Christian belief premised on the existence of *only two choices*—Christianity and nonbelief). There are for them only two possibilities: creation science or, grudgingly, evolu-

tion science. Unfortunately for that position, creation myths abound in human culture generally. Strikingly spiritual accounts of humanity’s relationship to nature, ones that transcend the duality of science and religion, appear in many Native American accounts of creation, as, for example, that of the Iroquois. Lest one discard such accounts as “not science,” it is becoming increasingly clear that one can do “science” worthy of the name within a worldview informed by an intense and religious spirituality.

Ironically, the allegorical and spiritual tradition of early creationist scientists today finds itself being celebrated by a leading evolution scientist who steadfastly proclaims his allegiance to science while challenging the rigid orthodoxy of his scientific colleagues. None other than the eminent evolution scientist Stephen Jay Gould has recently stressed the extent to which science is inevitably immersed in its cultural context, with no claim to ahistorical objectivity:

Scientists are not robotic inducing machines that infer structures of explanation only from regularities observed in natural phenomena. . . . Scientists are human beings, immersed in culture, and struggling with all the curious tools of inference that mind permits—from metaphor and analogy to all the flights of fruitful imagination that C. S. Peirce called “abduction” In any case, objective minds do not exist outside culture, so we must make the best of our ineluctable embedding.

Gould’s most recent book, *Time Arrow, Time’s Cycle*, ends with what John Updike has called a “surprising burst” of Christian artwork illustrating the Judeo-Christian notion of an “arrow of time,” which proceeds in a manner simultaneously cyclical and progressive. As he describes this artwork, Gould is speaking in a voice starkly reminiscent of the greatest American evangelical of them all—the eighteenth-century titan, Jonathan Edwards, whose “History of Redemption” reveals a conception of time virtually identical to Gould’s.

Gould has explicitly invoked other seventeenth and eighteenth-century sources to support his own challenge to the oppressive paradigms of functionalism and gradualism in evolution science. Gould recently celebrated in a magazine article the work of William Whiston, an ardent creationist and Isaac Newton’s successor at Cambridge, who has “descended through history as the worst example of religious superstition viewed as an impediment to science.” Gould argues that Whiston’s work is no less scientific, or Newtonian, for that matter, for its having been informed by an unswerving belief in biblical creation. He sees Whiston’s work, whatever its motivation, as presaging the currently counterhegemonic paradigm of “punctuated equilibrium,”

as opposed to “gradualism.” (Whiston, for instance, attributed environmental change to the periodic appearance of comets; modern scientists think maybe meteorites did it.)

Despite his respect for early Christian creationist scientists, Gould has no sympathy for their modern literalist fundamentalist would-be counterparts. He testified against them in the Arkansas case that preceded *Edwards v. Aguillard*, celebrates their legal defeats, and calls their science a “sham.” Paradoxically, for Gould, whose own critique of scientific presumption is so careful and sophisticated, the bottom line is that “science *has* taught us some things with confidence,” while creation science, on the other hand, is “false.” Thus, Gould retreats behind the convenient wall that separates “science” from “religion.” At this point he is on the shaky epistemological ground we have surveyed before.

The lines that divide the secular from the religious, or science from religion, are, of course, indeterminate, incoherent, and indefensible. Nevertheless, the Supreme Court got it right in *Edwards v. Aguillard*, and for as close to the right reason as that body could articulate. The real issue is not epistemology; it is politics. It is only at the abstract level of logic that creation science and evolution are fungible curricular units, or that secular humanism is as much a religion as Roman Catholicism.

As often as law seeks to resolve issues through appeal to abstraction, its practitioners discover that they must seek guidance in the messy particularity of context. The point, evocative of Oliver Wendell Holmes’s famous quip (“The life of the law has not been logic; it has been experience”), is as applicable to religion cases as it is to any others. The questions to be asked about these struggles between fundamentalists and the public schools are: Who are the proponents and why are they doing what they are doing? What will happen if they succeed? What else is planned? What is the larger political program of which these challenges are just a part? Whose program is it?

The Supreme Court, in *Edwards*, through its quest for the “purpose” behind the “balanced treatment” law, sought political context and found it in the particular Louisiana legislative history and, as stressed by retiring

justice Lewis Powell and Reagan appointee Justice Sandra Day O’Connor, in the nationwide, organized, fundamentalist efforts to legitimize “creation science.”

The real political implications of both “creation science” and the attack on “secular humanism,” however, reach well beyond what any Supreme Court justice was willing to acknowledge. Undeniably, there are particular and sincere fundamentalists who feel themselves suffocated by secular liberal orthodoxy. Equally undeniably, however, they have allowed their demand for “accommodation” to be appropriated and exploited by those associated with the most extreme right wing of the Reagan legal agenda, people like Meese and Reynolds in the “Justice” Department. In the current social climate, “accommodation” has become inseparable from a political agenda that would also include the reintroduction of school prayer, the elimination of affirmative action, the curtailment of free speech, the perpetuation of legal disabilities for gays and lesbians, the illegality of abortions, and the authority of states to disregard the protections of the Bill of Rights altogether—in short, the right-wing “revolution” epitomized by the nomination of Robert Bork to the Supreme Court.

This is not to say that our current postliberal society offers much to satisfy our spiritual needs. As the right knows all too well, we must confront the sterility of our modern culture, its rampant narcissism, its oppressively false dualities (e. g., public and private, science and religion), and its pervasive alienation. Nevertheless, a disturbing parallel comes to mind. It is all too ugly a fact of history that Nazi success in Germany was in part based upon an accurate perception that German bourgeois culture offered little to satisfy the German yearning for community and for moral significance. The anger and frustration of those alienated by German liberalism were not inauthentic, even though they were too easily manipulated into hysterical nationalism. Our task now is to recognize and hold in check the potential for fascism created by a similar alienation in our own culture, as it is experienced by fundamentalists who feel disaffected from America’s orthodoxy of secularism. Yet we must do so with a political agenda that draws on something other than a mindless resort to the same liberal clichés that created the spiritual void in which we live today. □