

From Dayton to Dover: Phillip E. Johnson's Academic Freedom

Eric C. Miller

Abstract: This essay considers Phillip E. Johnson's "Wedge Strategy" for Intelligent Design (ID) advocacy, assessing his contribution to an eighty-year history of public education controversy. Starting with the 1925 Scopes Trial in Dayton, Tennessee, and culminating in the 2005 case of *Kitzmiller v. Dover* in Dover, Pennsylvania, this ancestry discloses interesting developments in rhetorical strategy. Though past studies have considered the creation–evolution debates as confrontations between religion and science, this piece is primarily interested in how these contests frame the opposition between liberality and illiberality. As Johnson and his allies asserted that ID was *true*, they were just as adamant that it would set people *free*. In making this claim, they drew on rhetorical resources previously employed by advocates of evolution, refashioning theistic appeals to positive liberty in the negative frame of academic freedom, and hoping thereby to affect a reversal of roles with their scientific critics. Important to discussions of public school science curricula, this analysis is also revelatory about liberal discourse writ large.

Keywords: evolution, Intelligent Design, Phillip E. Johnson, liberalism

In an essay for the 1998 special issue of *Rhetoric and Public Affairs*, Intelligent Design (ID) proponent Phillip E. Johnson wrote:

The greatest hurdle faced by the ID movement is to overcome the prejudice that says that to attribute anything in biology to a Designer is to engage in "religion" rather than "science." To put the same prejudice in other words, Darwinists assume that ID amounts to "creationism," and therefore it must rest on a literal interpretation of the Bible rather than upon empirical evidence. It matters not a whit that the advocates of ID talk only of scientific evidence and the Darwinists are the ones who want to bring the Bible into the discussion.¹

Johnson's irritation at what he deemed the exclusion of theistic voices from the scientific community was broadened later in the essay to address the exclusion of theistic voices from what he called "the liberal dialogue." Parsing Stanley Fish, Johnson suggested that Christians are routinely dismissed as "totalitarians" who "want to put an end to the liberal debate rather than to join it." He countered that, while the adoption of a theistic worldview may bring changes to liberal dialogue, such a worldview would not seek to undermine or destroy it. Rather, he wrote, "the human capacity for freedom and moral choice will have a much more secure metaphysical foundation in the divine mind than it has ever found in the Darwinian mechanism."²

Johnson's comments in *Rhetoric and Public Affairs* were typical of his public advocacy for ID. Then a law professor at the University of California, Johnson became the foremost spokesman of ID theory in 1991 with the publication of *Darwin on Trial*,

¹ Phillip E. Johnson, "The Rhetorical Problem of Intelligent Design," *Rhetoric and Public Affairs* 1, no. 4 (1998): 587.

² Johnson, "The Rhetorical Problem," 590.

his point-by-point challenge to evolutionary biology.³ In this book, Johnson sought to cast doubt on “Darwinism” while creating a suasive space for the idea that life’s complexity is indicative of a designer. Throughout the nineties and into the new century, he worked closely with members of a Seattle think tank called the Discovery Institute to publicize, promote, and defend theistic alternatives to naturalistic science. Fond of referring to himself as a “dissident” or a “dissenter,” Johnson embraced an underdog ethos that pitted him against the massive and entrenched scientific establishment. And cognizant of the storied feud between religion and science in American history, he routinely framed the contemporary debate as a reversal of roles, with theists on the cutting edge of innovation and naturalists in calcified opposition to progress. Writing for *Touchstone* magazine in 1999, Johnson declared, “We who are willing to consider evidence for ID think of ourselves as the true empiricists and hence the true practitioners of scientific thinking. From our standpoint it is the materialists who are the ‘fundamentalists,’ in the pejorative sense of the term, because they adhere to a metaphysical dogma in the teeth of contrary scientific evidence.”⁴ This sentiment, like many of Johnson’s declarations, featured in a detailed discussion of his overarching strategy, a plan of attack that he likened to a rhetorical *wedge*, by which the insurgent ID movement could hope to crack and gradually split the naturalist edifice. Johnson’s “Wedge Strategy” constituted the central thrust of the ID movement, and it is accordingly the primary focus of this essay. His claim to represent liberality of thought and freedom of inquiry—set against the “fundamentalism” of evolutionary biology—is of particular interest.⁵

As Johnson’s words make plain, the “rhetorical problem of Intelligent Design” was at least twofold. First, ID must be established as a branch of science rather than religion. Second, it must be recognized as compatibly liberal rather than illiberal. So important was this second concern that it would often supersede the first in Johnson’s rhetoric. Given the historical association between theistic belief and coercion, ID theorists understood that they must continually prove their commitments to free and open inquiry. That they so persistently aligned ID with openness—and just as often aligned evolution with intolerance—emerges in retrospect as a matter of strategic necessity.

In this essay, I argue that the long debate over public school science curricula must be understood—at least in part—as a struggle over liberal values. In contending for the mantle of the scientific, advocates of both theism and naturalism variously positioned themselves also as defenders of *liberty*, and so acknowledged the unmatched rhetorical power of liberal ideographs in the United States.⁶ And yet, as Isaiah Berlin has explained, liberty comes in at least two varieties—one *positive*, the other *negative*—that inflect sharply how the term is understood.⁷ When opposing sides each claim to stand

³ Phillip E. Johnson, *Darwin on Trial* (Wheaton, IL: InterVarsity Press, 1991).

⁴ Phillip E. Johnson, “The Wedge: Breaking the Modernist Monopoly on Science,” *Touchstone Magazine*, July/August 1999, <http://www.touchstonemag.com/archives/article.php?id=12-04-018-f>.

⁵ The religious inflection of much scientific discourse has been examined carefully by Thomas Lessl. See, for instance, Lessl, “Scientific Rhetoric as Religious Advocacy: Origins in the Public Schools,” *Journal of Communication and Religion* 26, no. 1 (2003): 1–27.

⁶ This terminology is indebted, of course, to Michael C. McGee, “The ‘Ideograph’: A Link Between Rhetoric and Ideology,” *Quarterly Journal of Speech* 66, no. 1 (1980): 1–16.

⁷ Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford University Press, 1969).

for liberty, odds are good that both conceptions are in play. My analysis draws on this insight to emphasize the role of liberal rhetoric in an ostensibly scientific discourse.⁸

The argument proceeds in three parts. The first situates the ID movement *rhetorically*, briefly explaining the positive-negative distinction and suggesting how it may be applied to this case. The second situates ID *historically*, at the tail end of an eighty-year history, starting with the 1925 Scopes “Monkey” Trial and concluding in the decade preceding the 2005 case of *Kitzmiller v. Dover*. Here I survey important historical touch points to observe how developments in legal precedent and public opinion prompted theistic advocates to adapt their arguments over time. In short, they softened appeals to *positive* liberty—in Berlin’s sense of the term—instead emphasizing appeals to *negative* liberty. In the third part, I examine Johnson’s “Wedge Strategy,” presenting its claims as the logical conclusion of this rhetorical adaptation, and its effect as a predictable problem of *ethos*. Adamantly committed to negative liberty in secular settings, Johnson and his allies continued to assert their positive commitments to religious audiences, raising questions about their character and credibility. I conclude with a meditation on the trial in Dover, where this tension was brought to painful light. Here, I suggest, we can see hallmarks of the broader struggle between conservative Christian movements and liberal society at the turn of the millennium.

Positive Liberty, Negative Liberty, and Biology

Since the creation–evolution debates are most often examined as contests between religion and science, there is some novelty accompanying a liberal analytical frame. And yet, because these debates have taken place within the American public sphere, there is nothing surprising about the centrality of liberal argumentation to the rhetorical strategy of either side. I have argued previously in this journal that most—perhaps *all*—culture war discourse is ultimately reducible to a struggle over the power to define and wield liberal values.⁹ More specifically, in another essay, I applied Isaiah Berlin’s “Two Concepts of Liberty” to the liberal arguments crafted by Phyllis Schlafly and her STOP ERA movement. Noting that Berlin theorized positive liberty as “an *exercise* concept,” defined by “responsibility and agency” or the *freedom to* act, and negative liberty as “an *opportunity* concept,” defined by “non-interference” or the *freedom from* obstruction, I observed that liberty may be fashioned in at least two different ways toward two distinctly different ends, and often has been in social movement discourse. Understood positively, liberty empowers public actors to impose themselves upon the community toward its moral or civic improvement. Understood negatively, it entitles public actors to act without imposition to whatever end they choose. The distinction is not between “polar opposites,” and the inflections are not mutually exclusive. And yet, for social movement leaders across the political spectrum, public controversies are often reducible

⁸ Throughout the essay, the term *liberal* is used broadly to refer to the political philosophy in which liberty is the primary value. I hope this angle will contribute to the already substantial body of work—with which *JCR* readers are already familiar—compiled by Thomas Lessl and John Angus Campbell.

⁹ Eric C. Miller, “Fighting for Freedom: Liberal Argumentation in Culture War Rhetoric,” *Journal of Communication and Religion* 37 (2014): 102–25. The thesis in this piece has since been validated by research in political science. See Andrew R. Lewis, *The Rights Turn in Conservative Christian Politics: How Abortion Transformed the Culture Wars* (New York: Cambridge University Press, 2017).

to an argument over the nature of liberty as a core American value.¹⁰ If this is true of the debate over the Equal Rights Amendment, it is perhaps even more applicable to the eighty-year struggle over public school science curricula. During the past century, disagreements about textbooks and theories have imagined teachers as public actors to be restrained (or not) and governments and courts as democratic institutions empowered to impose restraints (or not) pursuant to important public ends. Liberty has been invoked in Berlin's positive sense to justify a state's right to dictate curricula, while his negative conception has been invoked to free teachers from governmental restraints. Though these applications will be applied more precisely in the section to come, they are briefly previewed here.

Historically, the right of state and local governments to dictate science curricula on behalf of voting majorities has been defended on *positive* grounds. Deriving positive liberty from "the wish on the part of the individual to be his own master," Berlin imagines this first conception in distinctly personal, even spiritual, terms.¹¹ "Have not men had the experience of liberating themselves from spiritual slavery, or slavery to nature," he asks, "and do they not in the course of it become aware, on the one hand, of a self which dominates, and, on the other, of something in them which is brought to heel?"¹² Understanding human beings as intelligent agents within a complex matrix of instincts, influences, and restrictions, the positive conception identifies liberty with careful introspection and rigorous discipline, locating these within the conscientious citizen able to rise above natural impulse and make decisions in accordance with a higher, truer, more refined self. This vision is largely congruent with much religious discourse in that it identifies liberty with both the pursuit of virtue and the defeat of sin. It is congruent with much civic discourse in that it advocates an independent, active citizen capable of making vital contributions to public life. Though essentially personal in nature, the positive conception is easily expansive. Those who achieve success by its lights naturally feel justified in imposing its strictures on others, often through legislation. Defenders of the state's right to dictate science curricula have accordingly cited the community's stake in the education of its children, expressing concerns about how particular lessons might shape the moral or civic character of the rising generation. The positive stance has therefore been most useful to the in-group—to the party whose preferred curricula is currently privileged by the state. In each case, it has been deployed in defense of the legal *status quo*.

By contrast, the right of biology teachers to teach biology in accordance with the best evidence and latest discoveries has been defended on consistently *negative* grounds. Characterizing negative liberty as "an area within which a man can act unobstructed by others," Berlin writes that one lacks political liberty in this sense only if he is "prevented from attaining a goal by human beings."¹³ A natural inability to do something does not constitute an obstruction, in other words; only people can interfere in the political liberty of other people. Though there is certainly a degree to which the human beings in elected office have been empowered to obstruct the acts of citizens—particularly in cases in which citizens seek to harm or otherwise endanger others—these

¹⁰ Eric C. Miller, "Phyllis Schlafly's 'Positive Freedom': Liberty, Liberation, and the Equal Rights Amendment," *Rhetoric & Public Affairs* 18, no. 2 (2015): 277–300.

¹¹ Berlin, *Four Essays on Liberty*, 132.

¹² Berlin, *Four Essays on Liberty*, 133.

¹³ Berlin, *Four Essays on Liberty*, 122.

concessions have typically been granted by the citizens themselves, typically in recognition of some comparable value. In Berlin's words, the "sacrifice" of a given liberty is usually allowed "for the sake of justice or equality or the love of my fellow men."¹⁴ State interference in science curricula could thus be granted in deference to a comparable value asserted in the common interest—that of moral or civic education, for instance. But defenders of free inquiry have consistently held that state governments are unjustified in restricting what teachers are permitted to teach. Given their lack of scientific expertise, the argument goes, any imposition by elected officials or judges on trained science educators is bound to do more harm than good. Unsurprisingly, then, the negative stance has proven most useful to the out-group—to the party whose preferred curricula are currently restrained by state law or judicial fiat. In each case, it has been deployed against a state obstruction already levied.

Through this Berlinian lens, then, I suggest that a survey of the creation–evolution debates up to and including the ID controversy discloses a contest of scientific perspectives informed by dueling liberal rhetorics. But as we will see, neither side has retained a monopoly on either conception. From Dayton to Dover, positive and negative liberty have each served both masters, changing hands and adapting to circumstance through a sustained process of rhetorical evolution. In order to understand Johnson's rhetoric in the 1990s and after, we must first survey important developments in the preceding decades.

Civic Virtue, Free Inquiry, and Rhetorical Evolution

When John T. Scopes was tried in Dayton, Tennessee, in the summer of 1925, the legal question at the heart of the case was relatively simple. The prosecution sought to prove that Scopes had violated the controversial Butler Act, while avoiding questions of the law's legality. As lead prosecutor Thomas Stewart argued, the law "was formed and passed by the legislature, because they thought they saw a need for it. And who, forsooth, may interfere?"¹⁵ As a democratically elected body charged with providing for the education of its youth, the Tennessee legislature was within its rights to proscribe Darwin's theory if they found it to be harmful to students. The prosecution did not need to disprove evolution to prove that Scopes had taught it, and the details of the case would ultimately become less important than the precedent. For its part, the defense countered that prohibitions on the teaching of evolution violated academic freedom. If teachers knew evolution to be true, they could not be required to deny it, and principled instructors like Scopes would remain vulnerable to the unjust violation of their rights. So though the trial would be remembered as a showdown between religion and science—indeed, William Jennings Bryan had earlier promised a "battle royal" between the two—it is important to note that, from the beginning, the defense framed the opposition between liberal and illiberal.¹⁶

¹⁴ Berlin, *Four Essays on Liberty*, 125.

¹⁵ Edward J. Larson, *Trial and Error* (New York: Oxford University Press, 1985), 63. This section is heavily indebted to Larson, whose lucid historical work is invaluable to the brief survey.

¹⁶ Richard Weaver has observed, further, that the prosecution's focus on the lawfulness of the Butler Act prompted a dialectical argument, while the defense's focus on the truth of evolution prompted a rhetorical argument, thus positioning the Scopes Trial as a dispute primarily about the "orders of knowledge." See Richard Weaver, *The Ethics of Rhetoric* (New York: Routledge, 2009), 30.

In order to do so properly, attorney Arthur G. Hayes argued, the defense must be allowed to establish the credibility of evolutionary theory. He compared evolution to the scientific reality that the earth revolves around the sun, with the only distinction being that “the Copernican theory has been more fully accepted.”¹⁷ The defense could make the case for acceptance of evolution, he argued, only if the judge would permit expert witnesses to testify. The prosecution countered that such testimony was not necessary to prove or disprove that Scopes had broken the law. After four days of haggling over the relevance of experts, defense counsel Dudley Malone offered an eloquent concluding argument on behalf of free inquiry, declaring, “We feel that we stand with science. We feel that we stand with intelligence. We feel that we stand with fundamental freedom in America.” Malone’s speech was well received in the courtroom, met with applause and even a compliment from Bryan, who told him it was “the best speech he had ever heard.”¹⁸ Ultimately, though, Judge John T. Raulston sided with the prosecution, restricting expert testimony to written statements that the jury would never see. This pivotal decision determined the character of the proceedings. In a matter of weeks, Scopes would be found guilty, the defense would prepare an appeal, and Bryan would die in his sleep.

Though it feels scandalous to relegate the Scopes affair to a pair of cursory paragraphs, this nutshell summary may be enough to indicate the relevant point. From the beginning, the prosecution built its case upon a positive conception of liberty, defending an instance of state interference on grounds of the state’s *freedom to* regulate science curricula as elected leaders saw fit. Since evolution instruction was widely believed to threaten the moral and civic health of students, its prohibition helped to ensure that each generation of Tennessee youth would be molded into the sort of upstanding, God-fearing citizens valued by the majority in the state. In response, the defense argued on behalf of negative liberty, asserting educators’ *freedom from* state interference. Educators were entitled to teach the truth as they saw it, regardless of its feared corollary effects on students’ religious beliefs, morality, or civic conduct. With Raulston’s ruling, the states’ right was upheld. But if the positive conception won the battle, the negative conception very famously won the war, prompting a public conversation through which opposition to evolution would be widely branded as ignorant, fundamentalist, and illiberal.¹⁹

After another pair of scuffles between state legislatures and the American Civil Liberties Union—in Mississippi in 1926 and Arkansas in 1928—opponents and

¹⁷ Larson, *Trial and Error*, 67.

¹⁸ Paul K. Conkin, *When All the Gods Trembled: Darwinism, Scopes, and American Intellectuals* (Lanham, MD: Rowman and Littlefield, 1998), 92.

¹⁹ Kristy Maddux has argued persuasively that Bryan should be viewed through a “populist frame” in keeping with his lifelong advocacy for the common man. Through such a frame, Bryan’s opposition to evolution—with its promotion of “a dangerous moral system that would hurt the nation’s common people”—acquires the trappings of positive liberty. Despite his association with the fundamentalist movement and its intellectual commitments, Bryan’s concern about the broad acceptance of evolution was primarily *social*. He thought it would empower a pervasive social Darwinism, permitting the strong to prey upon the weak while relegating survival to the fittest. Creationism, by contrast, recognized all human beings as created and loved by God, entitling them to equal rights and calling them to moral action in the public square. See Kristy Maddux, “Fundamentalist Fool or Populist Paragon? William Jennings Bryan and the Campaign Against Evolutionary Theory,” *Rhetoric and Public Affairs* 16, no. 3 (2013): 500.

proponents of evolution entered what Edward J. Larson has called “a thirty-year truce.”²⁰ There are a number of explanations for this lull, including the promise of critical media attention and the nation’s preoccupation with a series of larger problems, such as the Great Depression and the Second World War. Larson notes that this truce favored anti-evolution forces because “existing restrictions and fears of further controversy led commercial publishers to de-emphasize evolution in their high school textbooks.”²¹ Whereas many of these books had previously discussed Darwin’s *theory* in the scientific sense of a “testable model,” they increasingly came to frame it in the common-usage sense, as a *hypothesis*—a counterpart to *fact*. References to Darwin and evolution were largely curtailed or deleted. In a reworked version of George W. Hunter’s *A Civic Biology*, perhaps the most popular science textbook of the time, the phrase “[Darwin’s] wonderful discovery of the doctrine of evolution” was replaced by “his interpretation of the way in which all life changes.” Subsequent invocations of evolution were dropped in favor of the term “development.”²² Science education continued in this vein until 1959, two years after Sputnik, and exactly one hundred after *The Origin of Species*.

The strongly pro-science atmosphere that developed during the space race allowed for the National Science Foundation to begin funding the Biological Science Curriculum Study in 1959, which would spend the following years rewriting biology textbooks to re-embrace evolution. Not surprisingly, this effort instigated a new round of test cases, as courtrooms in various states began to evaluate the tenor of constitutional interpretation, this time focusing on the First Amendment. In the early part of the century, judges such as Dayton’s Raulston did not consider Bible-based teaching in relation to the First Amendment, because they interpreted the establishment clause to refer specifically to the declaration of a national religion. That changed in 1947, when the Supreme Court ruling in *Everson v. Board of Education* applied the clause to laws developed at the state level. The climate became even more secular in 1962, when the Court ruled in *Abington School District v. Schempp* that public schools could no longer sanction prayer or Bible reading. Clearly, the times had changed.

In 1965, an Arkansas science teacher named Susan Epperson agreed to become a test case for the Arkansas Education Association, seeking to overturn the anti-evolution statute that had been enacted in 1928. State Attorney General Bruce Bennett, known largely for his opposition to desegregation, decided to defend the law himself. Interestingly, this trial reflected a pair of significant role reversals from the Scopes Trial in Dayton. For one, the science teacher was now a plaintiff, while the state took the defense. Second, Eugene R. Warren, Epperson’s attorney, did not try to argue the finer points of evolutionary theory. Rather, assuming a popular acceptance of evolution that would forgo the need for explanation, Warren argued that Epperson had a constitutional right to free inquiry. The discussion of scientific theory fell to Bennett, who was more skeptical. Epperson, he argued, “wants to teach the Darwin Theory only when in fact there are dozens of other off-beat theories that other teachers might want to explain to their students.” If she were allowed to do so, Bennett continued, “then the public schools of the State of Arkansas must of necessity open its doors to the haranguing of every soap box orator with a crack pot theory on the premise that ‘it is scientific knowledge’ which

²⁰ Larson, *Trial and Error*, 81.

²¹ Larson, *Trial and Error*, 84.

²² Larson, *Trial and Error*, 85.

the students would have explained.” Judge Murray O. Reed, who had scheduled the proceedings for April Fools’ Day, frequently halted Bennett’s questioning, noting that the issue “before this Court is not whether the theory of evolution is true or false” but whether the law prohibiting it was constitutional.²³ The trial was finished in two hours, and the law was overturned within two months, granting Epperson’s *freedom from* obstruction and denying the state’s *freedom to* obstruct. In 1967, shortly after the Tennessee legislature voted to repeal the Butler Act, the Arkansas Supreme Court overruled the *Epperson* decision, justifying the move with a brief, vague, and unsigned reference to “the state’s power” to dictate curricula for its students—a reassertion of positive liberty in the form of state-sponsored creationist pedagogy. Epperson appealed to the US Supreme Court, where the law was again rejected in 1968. Justice Abe Fortas, writing in the majority opinion, noted that “the overriding fact is that Arkansas’ law selects from the body of knowledge a particular segment which it proscribes for the sole reason that it is seemed to conflict with a particular religious doctrine.”²⁴ From this point forward, the prohibition of evolution instruction became illegal in the United States—an institutional confirmation of negative liberty on the issue.

In response to the *Epperson* decision, opponents of evolution quickly stepped into an unfamiliar role, becoming firm advocates of academic freedom. As creationist legal strategist Wendell R. Bird wrote in the *Harvard Law Review*, the Court “overturned a law prohibiting instruction in evolution because its primary effect was unneutral.”²⁵ The appropriate response, he reasoned, was “balance.” During the seventies and eighties, three states—Tennessee, Arkansas, and Louisiana—adopted laws requiring biology classes to consider evolution equally with “creation-science,” which the state of Louisiana defined as “scientific evidence for creation and inferences from those scientific evidences.” When the Louisiana law was challenged by biology teacher Don Aguillard in 1986, a federal appeals court panel declared it unconstitutional by a narrow vote of 8–7. In explaining their positions, both majority and minority claimed to side with liberty, invoking the Scopes Trial for effect. According to the majority, “the Act continues the battle William Jennings Bryan carried to his grave. The Act’s intended effect is to discredit evolution by counterbalancing its teaching at every turn with the teaching of creationism, a religious belief.” In dissenting, the minority reversed roles, stating that “by requiring that the whole truth be taught, Louisiana aligned itself with [Clarence] Darrow; striking down this requirement, the panel holding aligns us with Bryan.”²⁶

This trend continued when *Edwards v. Aguillard* arrived before the Supreme Court, which voted 7–2 to overturn the law in 1987. For the majority, Justice William J. Brennan Jr. wrote that “we need not be blinded in this case to the legislature’s preeminent religious purpose in enacting this statute.” He then compared the case “to the Tennessee statue that was the focus of the celebrated *Scopes* trial in 1925.” Justice Antonin Scalia, writing for the minority, declared, “the people of Louisiana, including those who are Christian fundamentalists, are quite entitled, as a secular matter, to have whatever scientific evidence there may be against evolution presented in their schools, just as Mr. Scopes was entitled to present whatever scientific evidence there was for it.”²⁷

²³ Larson, *Trial and Error*, 100–2.

²⁴ Larson, *Trial and Error*, 115.

²⁵ Edward J. Larson, *Summer for the Gods* (Cambridge: Harvard University Press, 1997), 258.

²⁶ Larson, *Summer for the Gods*, 259.

²⁷ Larson, *Summer for the Gods*, 260.

Recognizing the danger presented by any curtailment of free inquiry, the ruling also issued a statement that, in retrospect, may have single-handedly determined the course of the discourse in the 1990s: “We do not imply that a legislature could never require that scientific critiques of prevailing scientific theories be taught. . . . Teaching a variety of scientific theories about the origins of humankind to schoolchildren might be validly done with the clear secular intent of enhancing the effectiveness of science instruction.”²⁸ Thus, by 1990, the antagonism between religion and science had become deeply entangled with two rival conceptions of liberty, the balance of power having shifted decidedly from the *positive* to the *negative*—from the presumption of the state’s right to dictate curricula to the privileging of the teacher’s academic freedom. This shift was driven largely by changes in First Amendment jurisprudence, whereby religious perspectives were deemed permissible in the public school classroom only when presented in neutral language. Forbidden to advocate a religious account of human origins, proponents of creationism and creation science found themselves newly cast in the role of John Scopes, and newly amenable to the eloquent arguments of Dudley Malone. In deference to the relevant legal precedents, proponents of evolution settled into a comfortable embrace of the Supreme Court’s right to restrict the purview of the scientific where the public schools are concerned. In their view, the legal restriction of certain pedagogies was permissible if it assured the integrity of science and the separation of church from state, while instructing young citizens in the importance of both. Arriving atop seven decades of rhetorical evolution, then, Phillip E. Johnson and his allies considered the environment and set to work inaugurating the next stage of adaptation. They built their case on negative liberty.

The Wedge Strategy and the Problem of Audience

While writing *Darwin on Trial*, Johnson was well aware that his arguments would be deployed into a contentious environment with an extensive history. In a 1990 letter to his friend Alvin Plantinga, Johnson wrote, “The great problem is in the sciences. The evolutionary biologists are bitterly hostile, as might be expected, and other scientists are reluctant to go out on a limb on something outside their field.”²⁹ In Johnson’s view, the important elements of the discussion were buried deep beneath an outer layer of animosity and suspicion. Fresh off their recent battles with the creation scientists, evolutionary biologists would equate any challenge to evolution as a revised form of creationism. Johnson understood, therefore, that no oppositional movement could hope to gain traction in the scientific community without a carefully devised and executed rhetorical strategy. As a lawyer, not a scientist, he also understood that he faced a significant problem of *ethos*, and that his venture into evolutionary biology could quickly stall before basic questions of credibility. In *Darwin on Trial*, Johnson proposed to dispense with both of these concerns by subjecting evolutionary theory to a courtroom-style examination intent on creating a reasonable doubt about its reliability. He states as much early in the text, embracing the opportunity to deflect scrutiny from his own motivations while training it on those of his critics:

²⁸ Edwards v. Aguillard, 482 U.S. 578 (1987).

²⁹ Phillip E. Johnson, “Letter to Alvin Plantinga, December 6, 1990,” cited in Thomas Woodward, *Doubts About Darwin: A History of Intelligent Design* (Grand Rapids, MI: Baker Books, 2003), 99.

My purpose is to examine the scientific evidence on its own terms, being careful to distinguish the evidence itself from any religious or philosophical bias that might distort our interpretation of that evidence. I assume that the creation-scientists are biased by their precommitment to Biblical fundamentalism, and I will have very little to say about their position. The question I want to investigate is whether Darwinism is based upon a fair assessment of the scientific evidence, or whether it is another kind of fundamentalism.³⁰

Johnson argued that Darwinism is a form of fundamentalism, echoing conservative jurists in their official effort to reassign William Jennings Bryan.³¹ By drawing this equivalence, he situated ID as the only scientific alternative to dogmatic belief, and so justified its adoption by science educators committed to free and open inquiry. In his sympathetic history of the ID movement, Thomas Woodward describes this “new perspective” in glowing terms. “It pictures Johnson standing between and above the two fundamentalist perspectives,” he writes, “equidistant and critically detached from both religious and Darwinian fundamentalisms.”³² Once “detached” from the traditional parties in this dispute, Johnson hoped to infiltrate scientific discourse as the bearer of a bold new paradigm. The ultimate goal, he suggested, was the disinterested pursuit of truth.

In March 1992, shortly after the publication of his book, Johnson traveled to Southern Methodist University (SMU) to meet with Discovery Institute fellows Michael Behe, Stephen Meyer, William Dembski, and others. The Wedge Strategy emerged from their deliberations.³³ As Johnson explained:

The metaphor of the Wedge portrays the modernist scientific and intellectual world, with its materialist assumptions, as a thick and seemingly impenetrable log. Such a log can be split wide open, however, if you can find a crack and pound the sharp edge of a wedge into it. There are a number of inviting cracks in modernism, but probably the most important one involves its creation story, and the huge gap between the materialist and empiricist definitions of science. My own writing and speaking represents the sharp edge of the Wedge. I make the first penetration, seeking always only to legitimate a line of inquiry rather than to win a debate, measuring success by the number of significant thinkers I draw into the discussion rather than by the conclusions that they draw for the present.³⁴

³⁰ Johnson, *Darwin on Trial*, 14.

³¹ A far more nuanced version of this claim—that “evolutionism” has acquired religious characteristics over time—is argued in Thomas Lessl, *Rhetorical Darwinism: Religion, Evolution, and the Scientific Identity* (Waco, TX: Baylor University Press, 2012).

³² Woodward, *Doubts About Darwin*, 94.

³³ It is tempting to examine Johnson’s “Wedge Strategy” through the lens of Henry Johnstone’s theory of “rhetoric as a wedge.” In an earlier draft of this essay, I tried to do so. Ultimately, though, I concluded that the shared metaphor linking Johnstone to Johnson was not especially useful as an analytical tool. In using the same term, they mean different things. Still, see Henry W. Johnstone Jr., “Rhetoric as a Wedge: A Reformulation,” *Rhetoric Society Quarterly* 20, no. 4 (1990): 333–8; and Henry W. Johnstone Jr. and Mari Lee Mifsud, “Wedge and Bridge: A Note on Rhetoric as Distinction and as Identification,” *Rhetoric Society Quarterly* 29, no. 2 (1999): 75–78.

³⁴ Phillip E. Johnson, “The Wedge: Breaking the Modernist Monopoly on Science.”

Following the meeting at SMU, Johnson resumed an ambitious speaking schedule, hoping to supplement his book's influence with a flurry of public addresses and scientific debates. Woodward notes that in the fall of 1991 alone, "Johnson spoke on a dozen campuses, including eight major university campuses: Harvard, Yale, Princeton, Cornell, and the Universities of Pennsylvania, Delaware, Florida, and South Florida."³⁵ Consistent with the Wedge Strategy, other Discovery Institute members joined Johnson in both speaking and writing. Behe, Meyer, and Dembski were particularly prolific in their public appearances, and Behe's 1996 book *Darwin's Black Box* launched ID into newspaper columns and dinner table conversations nationwide.³⁶ By mid-decade, the Wedge Strategy seemed to be progressing as planned—establishing ID as an alternative scientific theory, asserting its claim to academic legitimacy, and pressing its rights in the name of free inquiry.

Its advance was not uncontested, however, and it received the harshest treatment from its target audience—the scientific community. In the years following its publication, *Darwin on Trial* was subject to scathing reviews from scholars including Robert Pennock, Kenneth Miller, Thomas Jukes, David Hull, and Stephen Jay Gould. Common among their responses was the complaint enunciated above, that Johnson's work represented yet another revised form of creationism. Hull made this point with exasperation. "If Johnson had written a religiously motivated criticism of thermodynamics, quantum theory or plate tectonics, it might have been worth reading," he wrote, "but I cannot imagine why anyone would want to read yet another rehash of creationist objections to evolutionary theory."³⁷ Gould compared *Darwin on Trial* to an earlier text, also by a lawyer, Norman Macbeth's 1971 *Darwin Retried*. Titles are "not subject to copyright," Gould quipped, noting that, despite the similarities between the texts, they were different in that Macbeth's creationist work was "much better."³⁸ When *Darwin's Black Box* was reviewed, similar lines of criticism emerged. Kenneth Miller noted the striking similarity between Behe's argument and that advanced by William Paley in his 1802 book, *Natural Theology*. "Behe has gone two centuries into the past to find the argument from design, dusted it off, and invigorated it with the modern language of biochemistry," Miller wrote. After this old material is exposed and dispensed with once again, nothing is left but "an argument against evolution that concedes nearly all the contested ground to Darwin's edifice, and then ends up teetering on little more than rhetoric and personal skepticism."³⁹ These criticisms are broadly representative of an important Wedge Strategy failing. Namely, ID proponents were unable to persuade the scientific community that their theory was innovative or even that it was advanced in good faith. In 2001, the Discovery Institute released a statement called "Scientific Dissent from Darwinism," which declared, "We are skeptical of claims for the ability of random mutation and natural selection to account for the complexity of life." By 2005, the document had been signed by 350 scientists. In response, the National Center for Science Education released a counterstatement defending evolution. As a tribute to Gould, they asked that it be signed only by scientists named Steve—and quickly garnered

³⁵ Woodward, *Doubts About Darwin*, 270.

³⁶ Michael Behe, *Darwin's Black Box: The Biochemical Challenge to Evolution* (New York: Free Press, 1996).

³⁷ David Hull, "The God of Galapagos," *Nature* 352 (1991): 485–6.

³⁸ Stephen Jay Gould, "Impeaching a Self-Appointed Judge," *Scientific American* 267 (1992): 118–21.

³⁹ Kenneth Miller, "Review of *Darwin's Black Box*," *Creation / Evolution* 16 (1996): 36–40.

over 500 signatories.⁴⁰ Clearly, Johnson and his colleagues had been unable to shake the “creationist” stigma. His complaint that “the Darwinists are the ones who want to bring the Bible into the discussion” should be read in light of this frustration.⁴¹

But if Johnson’s strategy struggled to make significant inroads with the scientific establishment, it did resonate strongly with members of various religious audiences, a reality that had the potential to invigorate and problematize Johnson’s work. ID proponents, remember, based their requests for inclusion on the premise that their theory had nothing whatsoever to do with religion; that theirs was a scientific project warranting the protections of academic freedom. The Designer, they argued, was an ambiguous intelligent force, not the specific god of the Bible, Torah, or Koran. But many in the Christian community flocked to ID’s banner nonetheless, granting that the Designer was unnamed and amorphous, but understanding it as a space for their particular deity to fill. Not wanting to lose the enthusiasm of the religious public, Johnson was forced to maintain a tenuous balance. While declaring that ID was *not* religion, he also needed to establish and demonstrate his own religious commitments. Writing in *The Wedge of Truth*, published in 2000 by the Christian firm InterVarsity Press, Johnson began his concluding chapter with the claim that Christ deserves a seat at the epistemological table. “Traditional Christian theology has some very good and very important knowledge to contribute,” he wrote, “namely, the gospel.”⁴² Rejecting any scientific “materialism” that dismisses theological truths as merely religious, Johnson phrased his appeal in missionary terms. “My concern is with public intellectual matters, the stuff that is discussed in the best journals and the best universities,” he wrote. “Concerning those subjects, as discussed in that kind of forum—do those of us who know God have something of substantial merit and importance to say to those who do *not* know him?”⁴³ Johnson’s colleagues at the Discovery Institute demonstrated the same tendency. In his 1998 book *The Design Inference*, published by Cambridge University Press, William Dembski postulated the Designer as a generic god or an “alien life force.”⁴⁴ But in *Intelligent Design: A Bridge Between Science and Theology*, published in 1999 by InterVarsity, Dembski wrote that ID “opens the path for people to come to Christ.”⁴⁵ In his 2003 *Touchstone* interview, Johnson again phrased the goals of the Wedge with reference to specifically Christian ends. “I would now say that the project of developing a central position, which could unify the Christian world on this issue, has been accomplished.”⁴⁶ In his closing remarks, Johnson said that the third millennium of the Christian faith “has to be the millennium of reconstitution—from the bottom up. It’s about recapturing the sense of the mystical union of the Body of Christ at the grassroots level.”⁴⁷

The unification of the “Christian world” was important to Johnson because it constituted the human force of his socially and religiously oriented goals. All stripes of

⁴⁰ Jerry Adler, “Doubting Darwin,” *Newsweek*, February 7, 2005, 44–46, 48, 50.

⁴¹ Johnson, “The Rhetorical Problem of Intelligent Design,” 587.

⁴² Phillip E. Johnson, *The Wedge of Truth* (Downers Grove, IL: InterVarsity Press, 2000), 165.

⁴³ Johnson, *The Wedge of Truth*, 166–7.

⁴⁴ William Dembski, *The Design Inference* (Cambridge: Cambridge University Press, 1998).

⁴⁵ William Dembski, *Intelligent Design: A Bridge Between Science and Theology* (Downers Grove, IL: InterVarsity Press, 1999), 210.

⁴⁶ “Berkeley’s Radical: An Interview with Phillip E. Johnson,” Fellowship of St. James, accessed August 1, 2019, http://www.arn.org/docs/johnson/le_berkeleysradical.htm.

⁴⁷ “Berkeley’s Radical.”

Protestants, Catholics, Jews, and other monotheists would become, in other words, the gradually widening body of his Wedge. In a presentation at the 1999 Reclaiming America for Christ conference, Johnson characterized ID as an effort at religious unification:

So did God create us? Or did we create God? That's an issue that unites people across the theistic world. Even religious, God-believing Jewish people will say, "That's an issue we really have a stake in, so let's debate that question first. Let us settle that question first. There are plenty of other important questions on which we may not agree, and we'll have a wonderful time discussing those questions after we've settled the first one. We will approach those questions in a better spirit because we have worked together for this important common end."⁴⁸

Other members of the movement bought into the strategy as well, even across forms of dissent. In a 2002 article for the *Christian Research Journal*, young earth creationist Paul Nelson defended the inclusive aspect of the ID movement against criticism from fellow young earthers, labeling it a "big tent" model. "Under the canopy of design as an empirical possibility," he wrote, "any number of particular theories may also be possible, including traditional creationism, progressive (or "old earth") creationism, and theistic evolution."⁴⁹ As the movement's leadership clearly understood, ID's prospects were only as wide as the coalition it was able to form. Unfortunately for them, this aspect of the strategy served to validate the criticisms of their foes.

The twin goals of scientific infiltration and religious unification were further contextualized in 1999, when a leaked fundraising document disclosed a social agenda far broader and more ambitious than the introduction of a new theory. The document, titled simply "The Wedge," was produced by the Discovery Institute's Center for the Renewal of Science and Culture (CRSC) and distributed to potential donors. In it, the unnamed writers link their intellectual and social action to the broader aim of "cultural renewal."⁵⁰ Identifying belief in divine creation as "one of the bedrock principles on which Western civilization was built," the introductory section explains why "materialism" is consistently identified in ID literature as the primary enemy of true science and true religion. The materialists have "denied the existence of objective moral standards, claiming that environment dictates our behavior and beliefs," it states. "Such moral relativism was uncritically adopted by much of the social sciences, and it still undergirds much of modern economics, political science, psychology and sociology." Further, the materialist mindset had "undermined personal responsibility by asserting that human thoughts and behaviors are dictated by our biology and environment," resulting in "modern approaches to criminal justice, product liability, and welfare," and a world in which "everyone is a victim and no one can be held accountable for his or her actions." Finally, "materialism spawned a virulent strain of utopianism" by which

⁴⁸ Phillip E. Johnson, "How the Evolution Debate Can Be Won" (speech, Reclaiming America for Christ Conference, 1999).

⁴⁹ Paul A. Nelson, "Life in the Big Tent: Traditional Creationism and the Intelligent Design Community," *Christian Research Journal* 24 (2002): 1–7.

⁵⁰ Though none of the core Discovery Institute figures are directly credited with authoring the Wedge document, its core image is indicative of its intellectual ownership. Started in 1996, the Center for the Renewal of Science and Culture is directed by Stephen Meyer and was cofounded by Phillip Johnson.

materialists tried to “engineer the perfect society through the application of scientific knowledge,” but instead produced “coercive government programs that falsely promised to create heaven on earth.”⁵¹

Adding that the CRSC “seeks nothing less than the overthrow of materialism and its cultural legacies,” the document provided a holistic understanding of ID’s overarching purpose. It was composed of three “phases” that gradually expanded in both time and scope. The first phase, “Scientific Research, Writing and Publication,” worked primarily on the intellectual front and sought realization within approximately five years—by 2004. “In Phase 1,” the document stated, “we are supporting vital writing and research at the sites most likely to crack the materialist edifice.”⁵² The second phase, also scheduled for five years, was called “Publicity and Opinion-Making.” Acknowledging that ideas need proper publicity in order to gain a public following, this phase sought “to cultivate and convince influential individuals in print and broadcast media, as well as think tank leaders, scientists and academics, congressional staff, talk show hosts, college and seminary presidents and faculty, future talent and potential academic allies.” In addition to winning converts within the scientific establishment, then, the CRSC hoped to popularize ID in the public eye, toward the end of making the non-material intellectually acceptable on a broad scale. Significantly, this effort included an explicit nod to “our natural constituency, namely, Christians.” Through the use of apologetics seminars, the CRSC hoped “to encourage and equip believers with new scientific evidences that support the faith, as well as to ‘popularize’ our ideas in the broader culture.”⁵³ Lastly, the third phase was entitled “Cultural Confrontation and Renewal,” and was slated for achievement within twenty years—by 2019. This phase called for “the direct confrontation with advocates of materialist science through challenge conferences in significant academic settings.” Understanding that current laws would likely prevent the implementation of non-materialist scientific teaching in the public school system, this phase also predicted the possible pursuit of “legal assistance in response to resistance to the integration of design theory in public school science curricula.”⁵⁴ Having pierced the collective consciousness through intellectual argumentation, solidified itself through religious appeal, and been validated by the legal system, the ID movement would then find its culmination in the total “renewal” of American culture within just twenty years—the product of a realistic, incremental, ever-expanding Wedge.

Viewed holistically, then, the Wedge Strategy reveals a set of ambitions that soar far beyond the stated goals of Johnson’s liberal dissent. Indeed, by secreting a comprehensive religious vision within the guise of a disinterested scientific theory, Johnson, Behe, Dembski, and the rest claimed the broad opportunity of academic freedom to exercise a narrow plan for social change, strategically employing the rhetoric of *negative* liberty in the service of an extraordinarily *positive* agenda. Though ideologically analogous to the prosecution in Dayton, they made their pitch in the language of the defense. And though Johnson bristled at the charge that advocates like himself were little more than “totalitarians” who “want to put an end to the liberal debate rather than to join it,” the sweeping nature of his subversive social campaign cast reasonable doubt on

⁵¹ Center for the Renewal of Science and Culture, “The Wedge,” 2.

⁵² Center for the Renewal of Science and Culture, “The Wedge,” 6.

⁵³ Center for the Renewal of Science and Culture, “The Wedge,” 6-7.

⁵⁴ Center for the Renewal of Science and Culture, “The Wedge,” 7.

the purity of his motives.⁵⁵ If nothing else, this carefully planned and poorly concealed strategy demonstrates the benefits and liabilities of the liberalizing approach lately employed by many Christian conservative advocates in a rhetorical environment increasingly defined by secularism and pluralism.

Conclusion

In September 2005, ID went on trial in Harrisburg, Pennsylvania, marking the achievement of the Wedge Strategy's twenty-year goal in just six years. At issue was the assignment of a Discovery Institute textbook titled *Of Pandas and People* and the classroom recitation of a brief statement casting doubt on the validity of evolutionary theory. When the science faculty at Dover High School refused to participate in either, a group of fourteen local parents filed suit on their behalf. The case, named after lead plaintiff Tammy Kitzmiller, promised a fitting conclusion to the story launched in Dayton, Tennessee, exactly eight decades previous. Indeed, when it hit the newswire, *Kitzmiller v. Dover* was quickly cast as the Scopes Trial redux. It centered on a small-town high school, the subject of high-profile litigation, covered enthusiastically by media from everywhere. Though here again space restrictions preclude the sort of detailed account that this story so richly deserves, we may perhaps content ourselves with the outcome: advocates of ID built their case on negative liberty, argued in favor of academic freedom, denied any hidden motives or religious ambitions, were found dishonest, and lost.

Five weeks after the trial closed, Judge John E. Jones issued his ruling, finding that the “Defendant’s ID policy violates the Establishment Clause of the First Amendment of the Constitution of the United States.”⁵⁶ Decrying the Dover school board’s “breathtaking inanity,” Jones further concluded that “ID is an interesting theological argument,” but “it is not science.” “The writings of ID proponents,” he wrote, “reveal that the designer postulated by their argument is the God of Christianity.”⁵⁷ With these words, Jones provided an epitaph for the trial and, perhaps, the ID movement as a whole. Though the Discovery Institute quickly dismissed the ruling as an instance of “judicial activism,” Jones’s sentiments could not have been either surprising or unfamiliar to the architects of ID.⁵⁸ They had been fielding these complaints in various forms for more than a decade, and had earned them.

Viewed from above, the history of American anti-evolutionism from Dayton to Dover discloses a liberalizing tendency. From *Epperson* onward, the advocates of theism in the classroom have consistently positioned themselves as defenders of liberty, casting their opponents as fundamentalists who brook no dissent. Each time Darwin goes on trial, the factions contend for the right to play the role of Scopes, while nobody wants to be Bryan. Those who find the persistence of such litigation discouraging may find consolation in this. Clarence Darrow’s frustrated plod through the weeds of fundamentalist discourse has been replaced by a cleaner liberal standard. The framers of ID theory worked hard to win its approval.

At face value, Phillip Johnson’s claim to represent a new and improved liberality has much to commend it. Liberalism, after all, is famously accepting of new perspectives

⁵⁵ Johnson, “The Rhetorical Problem,” 590.

⁵⁶ John E. Jones, “Memorandum Opinion,” *Kitzmiller v. Dover*, 400 F. Supp. 2d 707 (M.D. Pa. 2005), 139.

⁵⁷ Jones, “Memorandum Opinion,” 26.

⁵⁸ Discovery Institute, “Dover Intelligent Design Decision Criticized as a Futile Attempt to Censor Science Education,” press release, December 20, 2005, <https://www.discovery.org/a/3107>.

and participants. But Johnson's strategy proved far more invasive than advertised, seeking scientific infiltration as a means to sweeping cultural change. Whether it was created as such or whether it evolved is uncertain, but by 1999 the Wedge Strategy had come to embody many of its opponents' most paranoid fears. A strange fusion of science and religion, ID appealed mostly to those whom its architects had explicitly disavowed. When they finally got their day in court, Johnson and his allies could no longer control the monster they had created, instead watching it fall into ignominy on the backs of a clumsy and dishonest local school board.

In adopting a rhetoric of negative liberty, ID proponents were typical of the turn-of-the-century Christian Right. During these same years, conservative advocates found utility in a range of appeals to "religious freedom," suggesting that innovations from state-funded contraception to legalized same-sex marriage to the seasonal use of "Happy Holidays" disclosed a broad violation of their liberties.⁵⁹ Having spent several decades asserting their values in the public sphere—*exercising* their civic program from a position of dominance—these advocates had to adapt to the increasingly secular and pluralistic atmosphere of the new century. As white conservative Protestants witnessed the decline of their hegemony, they scrambled to assume defensive positions.⁶⁰ From this posture they shielded their *opportunity* to live without interference from the changing culture and to preserve some measure of their former influence. Sometimes, their argument was compelling; often, it was strained. In every instance, however, the broad campaign of rhetorical adaption and evolution provided observers with a fresh test case to examine the nature of liberal values in the United States, and to reconsider their utility. That project, like the rivalry between religion and science, goes on.⁶¹

⁵⁹ Such claims are chronicled broadly in Eric C. Miller, ed., *The Rhetoric of Religious Freedom in the United States* (Lanham, MD: Lexington, 2018).

⁶⁰ See Robert P. Jones, *The End of White Christian America* (New York: Simon & Schuster, 2016).

⁶¹ In leveling this broad critique of the turn-of-the-millennium Christian Right, I run the risk of violating principles of theory building that Martin Medhurst once enumerated in a "cautionary note." It is therefore worth emphasizing that I am not drawing any general conclusions about conservative political philosophy or its relationship to resistance rhetoric. But I think there are now sufficient case studies to conclude that Christian Right rhetoric has been chafing against the confines of liberal discourse for several decades, while absorbing high-profile failures on issues such as same-sex marriage and Intelligent Design. For this reason, *illiberal* possibilities are starting to gain an audience among Christian conservatives. On the first point, see Martin Medhurst, "Resistance, Conservatism, and Theory Building: A Cautionary Note," *Western Journal of Speech Communication* 49, no. 2 (1985): 103–15. On the second, see Sohrab Ahmari, "Against David French-ism," *First Things*, May 29, 2019, <https://www.firstthings.com/web-exclusives/2019/05/against-david-french-ism>.

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