BETWEEN CHURCH AND STATE

Religion and Public Education in a Multicultural America

James W. Fraser

St. Martin's Press
New York

Contents

Acknowledgments ix

Introduction 1

1. From Holy Commonwealth to the Strange Compromise of 1789 9

2. Creating an American Common School and a Common Faith: Horace Mann and the Protestant Public Schools, 1789–1860 23

3. Who Defines What Is Common? Roman Catholics and the Common School Movement, 1801–1892 49

4. Literacy in the African American Community: Church and School in Slave and Free Communities, 1802–1902 67

5. Native American Religion, Christian Missionaries, and Government Schools, 1819–1926 83

6. Protestant, Catholic, Jew: Immigration and Nativism from the Blaine Amendment to the Scopes Trial, 1875–1925 105

7. Prayer, Bible Reading, and Federal Money: The Expanding Role of Congress and the Supreme Court, 1925–1968 127

8. Culture Wars, Creationism, and the Reagan Revolution, 1968–1990 155

9. Changing School Boards, Curriculum, and the Constitution, 1990– . . . 183

10. What's Next? Prayers, Vouchers, and Creationism: The Battle for the Schools of the Twenty-First Century . . . 217

Notes . . . 241

For Further Reading . . . 259

Index . . . 269

INTRODUCTION

IN THE LAST HALF DECADE OF THE TWENTIETH CENTURY, students in DeKalb County, Alabama, with the support of the state's governor, boycotted classes while demanding the right to have prayers in their schools. A school board in Fort Myers, Florida, fired the superintendent and the board's own lawyer because both seemed to be dragging their feet in implementing a program to study the Bible in the schools. The Wisconsin state Supreme Court approved a program in which families in Milwaukee could use state-funded vouchers to attend private religious schools. The National Academy of Sciences bemoaned the fact that, because of political pressure, many high school science classes skip over the study of evolution. And, tragically, in the fall of 1997, a high school student in Kentucky killed three of his classmates while shooting into a crowd of praying students. At about the same time, the U.S. Supreme Court overturned a congressional action called the Religious Freedom Restoration Act as well as one of its own decisions so that teachers supported by federal funds could again offer their services inside parochial and other private religious schools. A majority of members of the U.S. House of Representatives voted in favor of the Religious Freedom Amendment to the Constitution. Clearly the proper relationship between religion and the public schools of the nation is a pressing issue to many of the nation's citizens.

Those who thought that the issues of religion in the schools had been solved some time after the battles over evolution in the 1920s, or after the Supreme Court's decisions in the 1960s banning formalized prayer and Bible reading, have clearly turned out to be mistaken. The United States enters a new century with its citizens deeply divided, sometimes confused, and often angry about their differing opinions about the proper place of religion in the public schools of

the nation and the current legal mandates regarding the relationship of religion and public education. Different citizens often are unhappy in different ways. But one thing is very clear: a consensus does not exist. And a thoughtful observer can be relatively certain that battles about church and state, and more specifically about religion in the schools, are going to be characteristic of the first decades of the new millennium as they have been for the last two centuries.

Americans have always disagreed about the proper relationship of religion and the public schools, but they have disagreed differently at different points in the nation's history. The European colonial settlers generally believed that the schools should teach the faith of the established church, but they argued passionately and violently over which religion should be established. After the American Revolution, with the question of a formal religious establishment for the United States generally resolved in the negative, a new split emerged between those who saw the need for a civic religion that could hold a diverse citizenry together, and who argued that the school was the perfect means to secure this civic religion, and those many others who feared that the new establishment would trample on their unique faith as much as a formal state church might have in the past. By the end of the nineteenth century, these splits had shifted so that much of the nation's elite was in agreement regarding the broad terms of a "civic religion"—although they might not use that term—and growing minorities, including most Roman Catholics, many Jews, and an emerging group of Protestant fundamentalists, who felt themselves to be clearly excluded from the consensus. The end of the twentieth century has seen yet another new development as the consensus that served for so long has itself become unglued in the tensions of a diverse nation attempting to come to terms with its new diversity—diversity of race, faith, and worldview. This volume seeks to place the contemporary crisis in the nation's approach to church-state or religion and public education debates in a historical and cultural context in order to shed more light and less heat on the debates that are sure to follow.

It has become popular in some communities in the United States to say that, somewhere between the Supreme Court decisions banning prayer and Bible reading in 1962 and 1963 and the political and cultural turmoil of the latter part of that decade, "God was kicked out of the public schools in the 1960s." In response, in other

communities, there is an equally popular charge that the Christian right is engaged in a campaign to impose God on public schools whose purposes have always been secular. Both charges show an amazing lack of historical understanding. And both charges are unhelpful if the United States is to function as a tolerant, intellectually informed, and dynamic democracy in the twenty-first century. The purpose of this volume is to make a small contribution toward the kind of understanding that will make the latter a reality.

God's place within the public schools of the United States has been debatable, and subject to controversy, for as long as there have been public schools. In colonial America, religion played a central role in the schools of every colony, but the understanding of religion differed substantially from colony to colony. With the coming of nationhood and the separation of church and state on the federal level, the public school was pressed into service as a new kind of national church, commissioned to create and carry the common culture and morality of the nation. Since citizens differed dramatically in their definitions of this culture and morality, and especially since newly arrived Catholics, newly freed African Americans, and newly conquered Native Americans all had still other ideas, the content of the nation's common creed—and especially the appropriateness of its more overtly religious dimensions—was a subject of fierce debate and continuing change throughout the nineteenth century.

By the end of that century, due as much to exhaustion as any thoughtful will, schools had dropped the more obviously religious—and generally Protestant Christian—trappings of the school faith, replacing them with a generic commitment to democracy reinforced by a set of patriotic symbols, including flags and flag salutes and the omnipresent pictures of George Washington and Abraham Lincoln. Some religious symbols—Bible reading and prayer in a minority of states, Christmas carols and pious references in most communities—continued well into the twentieth century. Moments of crisis developed from time to time over the teaching of evolution—most dramatically in the 1920s but continuing in future decades, over federal aid to religious schools in the 1940s, 1950s, and 1960s, and over the deeply symbolic issues of prayer and Bible reading in much of the latter half of the century. By century's end, most public schools are pretty secular places, but the debates about what is appropriate in these most public of institutions are as heated as ever.

At the end of the twentieth century, the United States is a much more diverse place, ethically and culturally as well as ethnically and religiously, than at any previous time. The mid-twentieth-century description of the nation's people as Protestant, Catholic, Jew has been expanded to include practitioners of ancient Native American traditions, immigrant and native Hindus, Muslims, Taoists, and Buddhists, and a new generation, many of whom include a rich amalgam of many creeds in their personal worldview. And of course, many Americans in every generation carry on their social and personal lives with no association with any religion of any kind and are quite content to remain that way. To say that the nation is more secular or more religious misses the point. At the dawn of the new millennium the peoples of the United States are more secular, especially in their public culture, more religious, in many different private forms, and more diverse than ever before in the nation's history.

All of this leads, of course, to the central question of this book: How should a diverse and democratic society deal with issues of religion in the public schools? This volume begins to answer that incredibly complex question with two strong assertions. First, the discussion of the ways to deal with religion in the schools is not served by nostalgia for a simpler past that never was or by a historical amnesia that often assumes that the solutions "when we were in school" worked then or can work now. Only a careful and thoughtful historical analysis of the many different ways that different generations and different citizens have approached these questions in the past can inform a current debate that must be rich, nuanced, and filled with intellectual curiosity and compassion.

Second, if the United States is to survive and thrive in the twenty-first century, the nation's schools must be places for embracing and building tolerance and a love of diversity. Tolerance alone is not enough if it means a single dominant culture that allows certain forms of dissent as long as they stay within bounds. The American revolutionary hero Thomas Paine was right when he said: "Toleration is not the opposite of intolerance, but it is the counterfeit of it. Both are despotism, the one assumes to itself the right of withholding liberty of conscience, the other of granting it."[1] That was the tolerance of most eighteenth-century schooling, and it was not sufficient then or now for a democratic society. But there is another kind of tolerance, one that enthusiastically embraces diversity, is

truly based on the beliefs that all of us are smarter than any of us and that all citizens have much to teach each other and much to learn from each other. This is the tolerance that is celebrated in multicultural education at its best.

Multiculturalism too can degenerate into a kind of exotic study of many different cultures. But a commitment to multicultural education, and a multicultural nation is a commitment to a society in which many different cultures survive and thrive and are encouraged, and in which representatives of these different groups each make their own contribution to a larger common culture that is more vibrant for what all of them bring. Such an approach has allowed schools to attend well to issues of race, culture, class, and gender. It is by far the best way for schools to attend to issues of religion also. If religion can be added to the multicultural agenda, along with race, class, gender, then there is hope of transcending some of the nation's longest-running and most bitter school wars. And there is hope that schools can truly be what John Dewey envisioned, a microcosm and an incubator of a larger democratic society which is "worthy, lovely, and harmonious."[2]

Framing the discussion of religion in the schools in the context of multiculturalism enriches our understanding of multiculturalism and provides a framework for discussing religion—and religious differences—that is both informed and respectful. Religion is a fundamental part of most cultures. Efforts to understand different cultural traditions without attention to their religious roots invites a shallowness unhelpful to true cultural understanding. At the same time, far more than with race or gender, individual people make individual decisions about their own faith and their ways of understanding the sacred. This dimension of choice adds important complexity to the larger discussion of multiculturalism. Using the lens of multiculturalism to approach the teaching of religion in the schools provides an extraordinarily helpful means of approaching religion. During the last two decades, advocates of multicultural education have found ways to approach some of our society's most divisive issues with new levels of respect and tolerance while also insisting that the sometimes hidden dimensions of power and control are understood and dealt with properly. This same approach is exactly what is needed in our approach to religion. Religious symbols—whether prayers, Christmas carols, or readings from sacred texts—can

be a means of asserting the power of a dominant culture over others when used inappropriately in school. On the other hand, the very same symbols, when approached by students seeking to understand difference with respect and insight, can be a means of vastly enriching the school's curriculum.

Too often school people, especially liberals and progressives, have responded to the issue of religion in schools by hoping for absolute silence. Acting more like Victorian prudes in the face of a reference to sex than true progressives, they have not embraced the potential of religious difference and discourse. Prior to the 1960s, many school leaders took this same approach to issues of race and sex. They seemed to say, "Maybe if we never mention the subject we will be okay." This continues to be the approach to religion in far too many schools at the end of the twentieth century. Yet this approach is not helpful. The child who is militantly secular or an atheist, or who is a Protestant fundamentalist, or who is Unitarian, a conservative Catholic, Muslim, Janist, Buddhist, Adventist, Presbyterian, or Jew, or any one of so very many other traditions; each must be welcomed not only as a person with an equal right to respect and a public education but as a citizen who has his or her own unique contribution to make to the school and to the society, a contribution which every other child will be poorer if they fail to understand.

This multicultural approach to religion is very different from the lowest-common-denominator Christianity sought by school leaders of the nineteenth century. It is also very different from the deafening silence on issues of religion that many school officials of the late twentieth century have sought, avoiding religious references one by one when there was any chance of offending anyone, creating a situation that the Catholic school historian Neil McCluskey has rightly described as a religious vacuum in which, "only the child from a secularist family can feel perfectly at home in the common public school."[3] While religion should never again be introduced into the common public school in a way that will make a secular child one bit less welcome, it should be vigorously welcomed in ways in which children of all faith traditions will be equally at home and in which all will be wiser for what they have learned.

Taking a multicultural approach to the issue of religion in the schools will not be easy. It will certainly not always be comfortable for students or especially for teachers and parents. Differences can be

disquieting and frightening. This approach also makes certain theological assumptions. For practitioners of a creed that demands absolute and unquestioning obedience to authority, the notion that there is something to learn from others—even while holding fast to one's own faith—is anathema. If people believe they are right and everyone else is wrong, what do they have to learn from others? But such absolutism is the basis of all inquisitions—whether of the Spanish Catholic type, Stalinist atheist type, or Iranian Islamicist type. No religious tradition has been without its militant fanatics. But a democratic society must reject militant fanaticism. At the same time, it must not reject strongly held beliefs. The point of a school approach to religion in which everyone learns from everyone else is not a dilution of belief or a slow movement toward a common faith. The goal is rather a common democratic culture in which a diversity of citizens, each holding their own creed with passion and wisdom, respects other citizens who hold other creeds, or no creed, with equal passion and—it is hoped—equal wisdom. The goal is an American democracy that is both religiously tolerant and religiously informed. What higher goal could the public schools of a society that aspires to democracy have regarding the topic of religion?

E I G H T

Culture Wars, Creationism, and the Reagan Revolution, 1968–1990

THE YEAR 1968 WAS PIVOTAL in the history of the United States. Depending on one's perspective, the nation was either falling apart or uniting around a powerful new vision of social change and justice for all. Long the nation's best-known prophetic voice calling for an end to the savage divides of racism, Martin Luther King, Jr., in the last year of his life, linked the issues of racism, poverty, and war. In April 1967, in a speech at Riverside Church in New York City, King called on his followers to expand the civil rights agenda and "find new ways to speak for peace in Vietnam and justice throughout the developing world." In December he called for a Poor People's March on Washington in 1968 to demand "jobs, income, the demolition of the slums, and the rebuilding by the people who live there of new communities in their place; in fact, a new economic deal for the poor." In these two moves King, as the great symbolic voice of the Movement, had dramatically expanded the meaning of civil rights to include the world—especially Vietnam—and all poor people in the country. And then, in April 1968, King was struck down by an assassin's bullet. Although there were exceptions, many Americans seemed to be lined up on one side of the great divide or the other. People were for civil rights, for expanding the War on Poverty, and against the war in Vietnam, or they were on the other side on all three issues.[1]

While King was a major symbolic leader, thousands of Americans were involved in civil rights activities, the antiwar movement, and the continued efforts to organize the poor of the nation, efforts that

had been so much a part of the national agenda since the early 1960s. And for people in all of these arenas, 1968 was both a heady and a frightening year. It is hard to remember how deeply shaken the nation was by the divides of civil rights, the war, and poverty. The nightly news carried scenes from the war as no previous war had been shown. And King's assassination in April was followed in June by that of Robert Kennedy, campaigning for the presidency on a King-like platform. In August the Democratic National Convention in Chicago became a literal riot, as opponents of the war and the political establishment clashed with Chicago police. And in November 1968 Richard M. Nixon was elected to the presidency he had so long sought on a platform as deeply opposed to the King-Kennedy agenda as imaginable. In fact, however, Nixon, unlike Ronald Reagan, did not roll back much of the Great Society legislation. And, in fact, Robert Kennedy had been much more deeply conservative than King or than his own campaign led people to believe. But in the symbolism of the era, the lines were being drawn with exceeding clarity. From this milieu emerged a new set of culture wars that have dominated the national discourse for the three decades since.[2]

Increased educational opportunity and school desegregation had been among the major tenents of the civil rights era. Some of Lyndon Johnson's greatest successes in the Great Society had to do with his ability to provide federal aid and federal support for education. The issues that had so divided the country during the early years of the decade of the sixties—whether a Catholic president would use the office to aid parochial schools, questions of prayer and Bible reading in the schools, quarrels about the rights of students to be excused from class time for religious instruction or excused from a flag salute in which they could not participate—all of these seemed like relics of a much simpler and long-forgotten era. In a nation so deeply divided as the United States was in 1968, few forecasters would have predicted how deeply the issue of religion and the schools would continue to perplex and divide the American people in the remaining decades of the twentieth century.

The Culture Wars of the Nixon Era

Nixon's 1968 presidential campaign, famous for its "southern strategy," which broke the Democratic Party's hold on the white vote of

the South, and for the candidate's courting of some of the most reactionary elements of the American electorate, was also—compared to those which would follow—a very secular affair. In campaigning against Nelson Rockefeller and a late-entering Ronald Reagan for the Republican nomination, and then in the fall campaign against Democrat Hubert Humphrey and Independent George Wallace, Nixon conceded the most hardcore racists and understood that Wallace would carry the deep South. However, he sought to outflank Wallace in the border South and Humphrey in the rest of the country with a strong appeal to "law and order." For many middle-class and working-class white voters, shaken by the racial uprisings and the increasing anger in the antiwar movement, "law and order" became a code word for everything from a return to the 1950s, to an end to the reemerging issue of school desegregation, to the out and out suppression of the civil rights and antiwar movements. As Michael P. Balzano, who had served as an assistant to President Nixon, remembered the appeal to the "silent majority," it was based on a belief that the Democratic Party leadership had abandoned the core of the Roosevelt coalition, "southern Democrats, ethnics, Catholics, and labor unions." In the eyes of these strategists, the post-Johnson Democratic party had become the party of permissiveness and interest groups and was therefore easy to campaign against.

As Balzano, who was also White House liaison to many of these groups, remembered the tenor of the times: "Middle America perceived itself as the target of social policies emanating from government bureaucrats, the target of political reform of the presidential nominating process, and the target of the antiwar protest movement." Thus the culture wars began as a war of middle American values of order, stability, and meritocracy against protest, change, and social justice—especially school desegregation and affirmative action.

Looking back, a chastened Charles Colson, who served time in prison for his role in the Watergate cover-up, did see in the later stages of the Nixon era the beginning of the Reagan revolution of 1980. The Nixon team expanded its specific outreach to Catholic leaders and voters: "We brought in the U.S. Catholic Conference leaders, and we invited Cardinal Krol to sail down the Potomac on the *Sequoia,* the President's yacht. . . . We entered the aid to parochial schools case, which was one of great concern to the Catholic hierarchy

and to the ethnic communities in the Northeast. We were working assiduously to win and cultivate their political support." According to Colson, the 1972 reelection campaign also differed significantly from Nixon's initial 1968 victory. "It was the first time that the principal issues in a campaign turned on social issues, the first time in modern American political history that social issues became dominant. You remember the three A's Nixon campaigned against: amnesty, abortion, and acid. He campaigned actively against busing because it was exceedingly unpopular in some of the white ethnic communities that we were appealing to." Nixon thus became the first Republican president ever to have such close ties to Catholic leaders and Catholic voters, especially those many "white ethnic" voters living in large and increasingly diverse cities. What is most interesting, however, is the degree to which the Nixon campaign—and the Nixon administration, for that matter—did not connect with conservative religious movements, especially among Protestants, and did not raise what would become among the most divisive school issues of the later 1970s, 1980s, and 1990s—school prayer, evolution, or other overt matters of religion.[3]

EVOLUTION, CREATIONISM, AND "SCOPES II"

In the midst of the tense struggles of 1968, the U.S. Supreme Court decided a case that brought only limited notice at the time. In *Epperson V. Arkansas* the Court ruled that the Arkansas law disallowing the teaching of evolution was unconstitutional. Finally, forty years after the Scopes trial, the U.S. Supreme Court had its chance to rule on the issue, and by 1968 the outcome of the Court's review seemed like a foregone conclusion. In fact, however, far from providing the final coda of a long-forgotten debate, as the Court's members and almost all of the public assumed, the ruling opened up a whole new era in battles over the teaching of evolution in the schools.[4]

The Epperson case emerged as a not-too-surprising result of the major changes of the decade before it. As was noted in chapter six, the Scopes trial had a much more powerful impact on the teaching of high school biology than has generally been noted. While many high school texts in use between 1900 and 1925 included detailed attention to the issue of evolution, publishers and textbook buyers backed off from the issue after 1925, and the work of Charles Darwin and the

theory of evolution were relegated to the margins of the texts for more than a quarter of a century after the famous trial. However, in the late 1950s all of that began to change.

The Soviet launch of the Sputnik satellite in 1957, before the United States could enter space, was as powerful a cultural issue as the Scopes trial had been. The National Defense Education Act of 1958 provided federal money to upgrade science education since "The defense of this Nation depends upon the mastery of modern techniques developed from complex scientific principles." As a result, the National Science Foundation, which had been created in 1950, began to put significant federal funds into the production of first-rate high school science and mathematics texts, texts that paid full attention to scientific thought on the evolution of life. Scientists and educators in the Biological Sciences Curriculum Study developed a radically new approach to the teaching of high school biology, and state and district officials adopted the results quickly. As Herbert Kliebard has noted, "Although the major revision projects of the National Science Foundation and related programs did not have the legal power to mandate the changes they were recommending, they did transform the process of curriculum change to one in which the curriculum would be developed first by experts at a center set up for that purpose with the local school systems perceived as consumers of external initiatives." Generally unnoticed, the teaching of science, especially biology, changed significantly in the nation's high schools as the decade of the 1960s wore on as a result of these developments.[5]

One person who did notice was Susan Epperson. A native of Arkansas and holder of a master's degree in zoology from the University of Illinois, she began teaching at Little Rock's infamous Central High School in the fall off 1964. A year later she was given a new biology textbook, which restored evolution as a central part of the biology curriculum. Epperson recognized a legal bind, or at least agreed to be the plaintiff for the state teachers' organization, and so she was given an opportunity to make a stand for her own scientific principles. She was required by her job to use a textbook of which she also approved. But she was prohibited by the Arkansas law of 1928 from teaching the content of the same text. She brought her case initially in the Chancery Court of Arkansas seeking a declaration that the 1928 law was void. It was an odd case. There had been no prosecution. An unenthusiastic Justice Hugo Black, long a champion

of the separation of church and state, wondered why the Supreme Court was addressing a 1928 law that the state of Arkansas seemed uninterested in enforcing. Black wondered that "Now, nearly 40 years after the law has slumbered on the books as though dead, a teacher alleging fear that the State might arouse from its lethargy and try to punish her has asked for a declaratory judgment holding the law unconstitutional."[6]

Of course there were reasons for Epperson to wonder. The new textbooks, and the national moves to change the science curriculum, meant that she would be violating the law in a way that her predecessors had not. But more was at stake in the Court's hearing the case. The new science curricula was having an impact, and the Tennessee legislature became embroiled in a debate over whether they should repeal the original laws that had led to the Scopes Trial. After a forty-year silence, Scopes himself published his own version of the original trial, *The Center of the Storm*, in 1967.[7] The issue was out in the open again, at least in a limited way. And within the Court, Justice Abraham Fortas, who had grown up as young Jewish boy in Memphis, Tennessee, in the 1920s in the midst of the Scopes controversy, seemed eager to finally have the last word. Not all of his colleagues agreed, but they gave him his chance. And Black's anger was not really focused at Epperson but at his colleague Justice Fortas who had been most anxious to review a case on which Black and others did not want to spend time. Given all of the historical baggage, it was probably inevitable that what might have been a simple case did not end up that way.

Black, although he concurred reluctantly in the Epperson decision, also wrote that he saw no reason to make the case a matter of religious freedom. After all, he said, "there is no reason I can imagine why a State is without power to withdraw from its curriculum any subject deemed too emotional and controversial for its public schools." Ironically, that had been just what William Jennings Bryan had argued forty years earlier. Fortas, however, writing the majority opinion, went further. Rejecting the pleas of other justices to overturn the law on its vagueness, Fortas insisted 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 deemed to conflict with a particular religious doctrine; that is, with a particular interpretation of the Book of Genesis by a particular religious group."

For Fortas, perhaps because of his own background, perhaps because of his adult legal philosophy, it was important to use the Epperson case to close the Scopes debate once and for all. He continued at some length: "While the study of religions and of the Bible from a literary and historic viewpoint, presented objectively as part of a secular program of education, need not collide with the First Amendment's prohibition, the State may not adopt programs or practices in its public schools or colleges which "aid or oppose" any religion. . . . This prohibition is absolute. It forbids alike the preference of a religious doctrine or the prohibition of theory which is deemed antagonistic to a particular dogma." The Arkansas statue and by implication similar laws in Tennessee and Mississippi were reversed.[8]

As Edward Larson has pointed out, however, the Fortas opinion backfired dramatically. While thinking he had closed the case, in fact Fortas had opened a new loophole and had done so with the authority of a Supreme Court ruling. Wendell R. Bird, wrote in the *Harvard Journal of Law and Public Policy:* "In Epperson v. Arkansas the Supreme Court overturned a law prohibiting instruction in evolution because its primary effect was unneutral." For Bird and many others, the problem with the Arkansas and Tennessee laws was a lack of balance. The Court had said that it was not acceptable for the state to create "an unneutral prohibition on only evolution without a similar proscription on Genesis." If that was really what the Court meant, there was also another solution—include both Darwin and Genesis in the curriculum. What could be more neutral? Now fundamentalists had a new strategy. It was clear that they could not keep the teaching of evolution out of the schools. But the Fortas opinion seemed to provide a new opening for demanding equal time. And under the banner of equal time, following Fortas' words that the old antievolution law was "an attempt to blot out a particular theory from public education," the movement was begun for demanding equal time for other theories, specifically for creation science, or the teaching of some version of the creation story as an alternative scientific theory.[9]

In the thirty years following the Epperson case, battles over the teaching of evolution—and creationism—have been much more heated than in the thirty years before the case. It did not take long before creationism began to appear in textbooks and in law. Tennessee reintroduced the issue in a 1974 law requiring "an equal amount

of emphasis" on alternative theories, including the Genesis story, with that of evolution. In 1981 Arkansas and Louisiana passed laws calling for "balanced treatment" for creation science. Not surprisingly, the American Civil Liberties Union challenged the laws. The first round was settled by the Supreme Court in 1987, when the majority ruled that the Louisiana law clearly reflected "the legislature's preeminent religious purpose" since the goal had been "to restructure the science curriculum to conform with a particular religious viewpoint." For Justice William Brennan, writing for the majority, the law clearly violated the First and Fourteenth amendments. Nevertheless, Justice Antonin Scalia issued a strong dissent in which he insisted that "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."[10]

The creationists seem to have the fairness issue squarely on their side. When an Orange County, California, high school biology teacher, John Peloza, began teaching creationism along with the theory of evolution in 1991, he was reprimanded by the school district. In return he brought a lawsuit against the district. A thoughtful professor at nearby California State University at Fullerton remarked, "Scopes was forbidden to teach evolution and he threw down the gauntlet and taught it. Now we have somebody who is forbidden to teach what Scopes was supposed to teach, and he is throwing his own gauntlet."[11]

A number of people, from a wide range of perspectives, agree with the basic fairness premise—if it was appropriate to defend Scopes' right to teach the theory of evolution in which he believed, is it not equally important to defend the right of Orange County biology teacher John Peloaz or any other teacher to teach a belief in divine intervention in the creation process? Writing for the Rutherford Institute, a conservative think tank that "defends religious persons whose constitutional rights have been threatened or violated," John W. Whitehead has posed the dilemma created over "the teaching of human origins, a major area in which public schools have been criticized for not providing 'equal time' for a 'creationist' perspective along with teachings about evolution." He notes: "Some commentators see in modern public schools' dual goals of inculcating

some 'common core' of values and equally protecting all students' viewpoints the following sort of dilemma—the public school either grants equal time to a religious perspective on a 'secular' subject, 'in which case a discrimination between religions is inevitably effected'; or it limits itself to a secular frame of reference, 'thereby belittling religion.'" From Whitehead's perspective, it seems clear that equal time represents a better solution.[12]

In what is perhaps the most exhaustive recent study of the contemporary scene, Warren Nord, a philosopher at the University of North Carolina, has also castigated the majority opinion in the *Edwards v. Aguilard* case and called for equal time for creationism in the schools. For Nord, the issue is not "the truth or falsity of any particular account" but rather the philosophical question, "What should students be taught about evolution and creation when our culture is deeply divided about the truth?" For Nord the answer is clear:

> I reject the idea that biology teachers and texts should be free to ignore religion for three reasons. First, it is one thing to teach neo-Darwinian evolution as (unchallenged) truth and another to teach it as one among several ways of thinking about origins. Scientific claims must be put into perspective if students are not to be indoctrinated. . . . Second, to divide reality into scientific and religious domains and then assume that scientists and theologians can go their separate ways without talking to one another is to convey uncritically a contested view of the relationship of science and religion and permit an intolerable level of specialization. . . . Finally, if students are to be initiated into the conversation that constitutes a liberal education, teachers and textbook authors cannot be free to ignore other voices in the conversation; they must help students make the conversation coherent (which means *they* must understand the conversation).

Nord's prescription is clearly a tall order and would require a significantly more sophisticated preparation for biology teachers than is currently offered in many places, but it seems to represent the soul of fairness.[13]

Not surprisingly, much of the scientific community does not agree with Nord or Whitehead or the more conservative parents and churches that continue to challenge what is taught in biology class-

rooms across the country. As Donald Kennedy, former president of Stanford University and a professor of environmental science, has noted recently, "The noted geneticist Theodosius Dobzhansky once said that 'nothing in biology makes sense except in light of evolution.' Evolution is as basic to the rest of biology as atomic structure is to physics." Given this reality, Kennedy and many others worry about what is happening in practice in the schools. Too often when teachers begin to teach good scientific biology and are challenged, they simply become quiet and move on to another topic. Kennedy worries:

> Thus it is disheartening that in many parts of the United States, high-school science classes do not teach about evolution at all, or discuss it only briefly. In other countries, students in secondary and even elementary schools study evolution. But in the United States, religious opposition to teaching evolution is deeply rooted and growing stronger. . . . Evolution is not an easy topic to teach well, and new information about it is accumulating rapidly. However, we all felt the need to deal with an increasingly intolerable situation, in which access to the most important concept in biology was being compromised by a small but determined group of fundamentalists.

The divisions seemed to be very clear.[14]

In fact, some of the more thoughtful voices are stepping back from an either/or stance. In a sophisticated review of the controversy, Stephen L. Carter has argued that the evolution-creationism debate is, like most fundamental school issues, a matter of power. Quoting one of the leading scientists who has argued that fundamentalists "have no right to control the teaching of science in the public school," Carter continues, "Very well, suppose he is right that parents who believe that God created the universe and the earth in a relatively short period of time have 'no right' to decide what gets taught as science in the public schools. Query, then: Who does have 'the right'?" That is, indeed, a fundamental question. And few progressive educators would be prepared to argue that in all cases it should be resolved in favor of scientific experts without any further discussion in a more messy and democratic dialogue. As Michael Apple has regularly reminded us, there is a clear link between the definition of "official knowledge" and who holds power in society. If experts alone rule, then the very fabric of democracy itself can be in jeopardy.[15]

Polls show the nation's citizens to be roughly evenly divided on the question of their own belief in evolution. The National Academy of Sciences reports that "Fewer than one-half of American adults believe that humans evolved from earlier species. More than one-half of Americans say that they would like to have creationism taught in public school classrooms." While few would want to have majority votes or worse, Gallup Polls determine the content of the school curriculum, especially in the sciences, these are also opinions that do need to be taken seriously.[16]

In any case, the issue of evolution, creation science and the biology curriculum of American schools is not likely to be resolved any time soon. In 1984 the National Academy of Science issued "Science and Creationism." In 1998 the National Academy provided another very thoughtful document, "Teaching About Evolution and the Nature of Science." For the authors of the most recent report, it is obviously essential that schools teach evolution: "[B]iological evolution accounts for three of the most fundamental features of the world around us: the similarities among living things, the diversity of life, and many features of the physical world we inhabit. . . . Thus, evolution is the central organizing principle that biologists use to understand the world. To teach biology without explaining evolution deprives students of a powerful concept that brings great order and coherence to our understanding of life." Thus the compromise of silence on the controversial issue, although proposed by William Jennings Bryan, implied by Justice Black, lobbied for by many parents and churches, and conceded to by more than a few teachers and schools, is unacceptable to the nation's leading scientists if Americans are to be educated citizens.

The National Academy report also rejects the possibility of equal-time proposals. The authors point out that scientists simply cannot do it:

> Those who oppose the teaching of evolution in public school sometimes ask that teachers present "the evidence against evolution." However, there is no debate within the scientific community over whether evolution occurred, and there is no evidence that evolution has not occurred. Some of the details of how evolution occurs are still being investigated. But scientists continue to debate only the particular mechanisms that result in evolution, not the overall accuracy of evolution as the explanation of life's history.

Few scientists would disagree with such a statement. Of course, some creationists will point out that this is at least partly true because no one advocating another perspective would have the slightest chance of election to the National Academy, which could be as much a political as a scientific issue. But the issue remains; calls for the teaching of "alternatives to evolution" generally are calls on scientists to provide information they simply do not have.[17]

What then is to be done? Certainly some of the wiser words on the subject appeared recently in the *Chronicle of Higher Education* when Donald Kennedy, the primary author of the National Academy report, wrote: "Perhaps the most useful lesson of these and other discussions is how important it is for scientists to treat religious convictions with respect." It seems so basic. We may not agree, but that is no excuse for as sophisticated a scientist as Richard Leakey to call those who ask for equal treatment for creation science "utterly stupid" or in turn for conservative Christians to demonize their opponents.[18]

The National Academy report is more balanced. While calling strongly for the teaching of evolution—and not creation science—the report clearly acknowledges that students will have differences that must be treated with respect. At one point, the report describes a teacher who responded to a conservative religious student: "She raised a fuss about evolution, and I told her that I wasn't going to grade her on her opinion of evolution but on her knowledge of the facts and concepts. She seemed satisfied with that and actually got an A in the class." This may be too easy a distinction, but it represents a step in the right direction. At a very minimum, no student should be put in the position of having a grade, or the respect of teachers or peers, depend on rejecting a matter of deeply held faith. Many of us learn the "facts and concepts" of many things with which we may disagree. But that certainly does not compromise us, as being required to pretend that we do believe them might.

The same teacher cited by the National Academy also noted a problem with calls for equal time. "What do you mean by both?" the teacher asks. "If you mean both evolution and creationism what kind of creationism do you want to teach? Will you teach evolution and the Bible? What about other religions like Buddhism or the views of Native Americans? It's hard to argue for 'both' when there are a whole lot more than two options." Although the report does not note

this, the teacher has made two important points. First, it is true that teaching non-evolutionary science is both difficult and dubious. But it is also important to note that evolution conflicts with the worldview of others besides conservative Christians.[19]

Warren Nord may have gone further than necessary in the direction of equal time for creationism, but he does have a good point when he writes, "At a minimum, every biology text should begin with a chapter in which biology and scientific ways of thinking about nature and origins are put into historical and philosophical context."[20] There is a great deal of space between *equal time* and *some time* for the questions of the strengths and limitations of the scientific method and for a simple acknowledgment that many people of good will and of differing religious perspectives simply cannot accept the current theory of evolution. Conservative Christians may be the most visible of those who reject the theory, but there is also a clash between evolution and many other spiritual traditions, including those of Native Americans and many Eastern philosophies, which should not be forgotten. To fail to acknowledge that there is, for better or for worse, a debate about the issue going on in American society and that people of good will differ on the issue is to fail to offer contemporary students a sophisticated analysis of one of today's major issues. It also fails to allow a conservative religious student, who, due to deeply held convictions, does not accept the theory of evolution, a place at the table.

Nel Noddings provides a thoughtful response to the issues of creationism and evolution, writing "The constitutional issue should be easily settled—which is not to say that it will actually be easily settled." However, the issue for her is pedagogical, not constitutional. So she argues:

> Teaching *about* religion has long been accepted. The central problem in the approach I have outlined is that religious or metaphysical questions may arise anywhere, and I have recommended not only that they be treated wherever they arise—in, say, math or physics classes—but that teachers should assume that students are continually asking such questions implicitly, and, therefore, that they should plan their lessons to include such material. Following such a plan means that students will not be able to escape the discussion of religious questions. They will at least hear (even if they decline to participate in) discussions about God,

> ethics, creation, religious politics, mystical love, atheism, feminism, and a host of other topics. . . . Teachers committed to pedagogical neutrality will not say to students whose parents have taught them that the world is only a few thousand years old, "That's wrong." Rather they will acknowledge the fact that some people believe this, and they will lay out what most scientists believe . . . teachers need not say, "This is true." or "I believe that . . ." They need only refer to beliefs clearly stated by others and let students weigh the evidence or decide consciously to reject it in favor of faith.

What Noddings proposes is respectful of both the scientific curriculum and the students. It also makes for very challenging teaching. But as she also notes, rejecting such challenges has resulted in a public school curriculum that has been "made intolerably boring to all but a handful of students passionately interested in the subject.[21]

One of the greatest tests of any truly liberal society—and liberal education—is its capacity to allow dissent about important issues. That is the challenge before scientists and science teachers today. It is not sufficient, as Americans United for Separation of Church and State and many other liberal groups argue, to hand the debate about evolution over to the humanities or social science classes while teaching evolution as fact in the science classes. That solution divides the world, and human knowledge, in unnatural ways. Acknowledgment of the debate, Noddings and others argue, belongs in the class where the issue is taught: in biology. Anything less is not really good science. The capacity of biology teachers of the twenty-first century, and those who prepare them and their curricular materials, to teach good scientific evolutionary biology and, at the same time, to treat dissenting students and their parents with respect and with a right to their opinions and their voice will be one of the most significant tests of whether the public schools of the new century will be engaging, multicultural educational institutions embracing all of the nation's citizens.[22]

THE TEXTBOOK CONTROVERSIES

Conservative Christians began to be more and more visible in educational issues in the mid-1970s, not only in issues related to the teaching of evolution. In 1974 Kanawha County, West Virginia, which includes

the state's largest city, Charlestown, suddenly received national attention for the textbook wars raging in the community. In the spring of 1974, the board of education of the newly consolidated rural and urban district reviewed a set of textbook proposals from a group of teachers. One member of the board, Alice Moore, the wife of a local fundamentalist minister, asked to review the books before final approval. Her request was granted, and she was not pleased: "The more I read, the more I was shocked. They were full of negative references to Christianity and God. There was lots of profanity and anti-American and racist antiwhite stories. They presented a warped viewpoint of life, as if every black carried a knife, was locked into a slum, and was made to look inferior." Protests escalated quickly. The issue in this case was not evolution but anger over texts that included profanity and that seemed to reflect an elite and sophisticated cosmopolitan worldview out of keeping with the rugged individualism and fundamentalist religion of many of the county's parents.

What may have begun as a local protest quickly expanded. Mel and Norma Gabler, fast becoming national school textbook censors from their base in Texas, supported Moore. When some ministers appeared before the board to support the texts, a larger group appeared to oppose them. In the fall of 1974, with the opening of school, protests exploded into a boycott by 8,000 out of the district's 46,000 students, a counter-walkout by students supporting the texts, and firebombs and gunshots at schools, buses, and protesters. Coal miners struck in opposition to the texts, in an action that coal companies said cost $ 2 million while school facility damage cost hundreds of thousands of dollars. Parents' anger was exacerbated by their sense that they were unfairly portrayed as "poorly educated fundamentalist, rural, coal-mining 'creekers' [people living out of town—literally up the creek—who] were protesting schoolbooks in opposition to better educated professional and business people in Charleston." Liberals in teacher organizations, the media, and the national denominations were shocked by the violence and the rhetoric, such as that of one minister who prayed for the death of three school board members: "I am asking Christian people to pray that God will kill the giants that have mocked and made fun of dumb fundamentalists." It was an ugly divide.[23]

The West Virginia school wars could be a perfect case study for what Michael Apple has described: "Historically, in fact, grass-roots

movements on the right, even in the 1920s, often shared two themes. These involved an opposition between a longing for and protection of self-governing, pious communities and decadent, hypocritical cosmopolitan elites. They also involved a distaste for consumerism and 'unearned benefits' such as welfare and the fostering of a morality of hard work, self-control, and self-reliance." Sensing that textbooks were being imposed on their children that had been developed by "hypocritical cosmopolitan elites," that did not reflect the values of their "pious communities," and that denigrated "self-control, and self-reliance," parents rebelled. The resulting divisions in the community persist to the present day. The failure of the local school authorities to include parents, especially rural and more conservative ones, in textbook selection as well as the larger cultural divides of the nation certainly laid the groundwork for the crisis. Once the firestorm began, it was fueled by other grievances and also by the national attention Kanawha County received. The county became a symbol for both liberal and conservative groups far beyond the realities of the immediate situation.[24]

In the end, the school board set up a complex review process involving parents and teachers. The board also adopted guidelines which included requirements that textbooks "recognize the sanctity of the home and not intrude upon the privacy of the family" and "that textbooks not contain profanity . . . [and] respect the rights of ethnic, religious and racial groups." While the National Education Association criticized the new process as so inclusive and so complex that it could virtually bring text selection to a standstill, the compromise seemed to hold.[25]

Kanawha County may have been the most famous, but it was hardly the only school system torn apart by a clash between different religious and moral values and the textbook selection process. The school board of Warsaw, Indiana banned books and fired teachers because of courses that raised issues of suicide, divorce, adultery, and drug use for class discussion. Other celebrated cases have appeared in the Island Trees district in suburban New York, Hawkins County schools in Ohio, and the city of Yucaipa, California, to name a few. There are important lessons to learn from all of these cases. This is still not a very tolerant nation. People choose up sides quickly, and people and ideas that are seen as foreign or dangerous are easily vilified. In a nation as divided as this, it is also easy for a small local

case to take on symbolic proportions and to engage national figures with agendas far beyond the interests of the local combatants. But finally, school censorship cases come back to fundamental questions. Thus Michael Apple asks: "[W]hose knowledge is of most worth?" Stephen L. Carter questions, "Who does have the right [to decide curriculum]?" We need not concede ground to right-wing censors at a local or national level to agree that these questions need serious attention. Indeed, there are few better ways to fuel the increasing levels of fear and censorship than an imperious insistence on the right of experts to decide without attending to local sensitivities and to the concerns—religious or otherwise—of parents and other citizens. Arrogance on the part of an intellectual elite is one of the surest ways of building anti-intellectual movements.[26]

The Rise of the Religious Right

The emergence of the religious or Christian right in the mid-1970s has been carefully analyzed by many scholars who, not surprisingly, disagree about the origins of a movement that came to national prominence fairly quickly.[27] It is not useful to review all of the debates over the issue here. If we begin with a focus on school issues, however, several developments were afoot in the United States in the late 1970s that make the rapid growth of a conservative religious agenda for schooling at least unsurprising. As has already been noted, debates over evolution and other curricular matters had been simmering for some time. The quarter century of quiet after the Scopes trial had been partly a turning inward by fundamentalists and partly a matter of their generally unnoticed victories on the textbook front. But some fundamentalists were beginning to look at social issues again at just the moment in the 1960s when the impact of the new National Science Foundation curriculum was being felt and Darwin and his theories were reemerging in the high school biology texts. The emergence of both fundamentalism and evolution played a role in the Epperson case coming before the Supreme Court in 1968 and the subsequent Louisiana case of *Edwards v. Aguillard* in which the Court ruled in 1987 that equal time for creationism, if legislated for religious reasons, did not pass constitutional muster. Both cases left many fundamentalists feeling that they had much more to do to oppose the spread of what they saw as atheistic evolutionary teachings.

Evolution was not the only issue that left conservative Christians dissatisfied with the federal government and especially the courts, however. Many evangelicals who believed that the United States should be a Christian nation continued to feel deeply the cultural losses that came in the 1960s with the Supreme Court's decisions ending school prayer and Bible reading. There seemed to be more and more signs that much of what they believed in—that the culture that many had defined as both Christian and American—was being marginalized. In a recent review of conservatism and school policy Catherine A. Lugg has concluded:

> What prompted fundamentalists to shed their self-imposed isolation was the seemingly rapid change in American social roles and mores during the 1960s and 1970s. Fundamentalists (and other social traditionalists) saw such issues as the abolition of organized prayer in public schools, the legalization of abortion, continuing campus unrest, the possible ratification of the Equal Rights Amendment, IRS investigations into the racial policies of fundamentalist schools, mandatory busing, affirmative action, the changing social/economic roles of American women, and the emergence of lesbian and gay rights movements as threatening the moral fiber of a "Christian" nation.

With such a list of seeming threats, political action—though long avoided in conservative churches—seemed to become much more neccesary.[28]

It is important to remember that in the 1970s, 1980s, and 1990s, many conservative Christians continued to avoid political involvement altogether, and others were closer to the politically liberal but evangelical Christian former president Jimmy Carter in the way they interpreted their faith. Still, a growing number of preachers and lay people believed that: "Involvement with political issues and campaigns, and the larger secular world, now became a religious imperative. Fundamentalists saw their (and more importantly, their children's) way of life and religious beliefs as threatened by an increasingly hostile and secular country." Clearly here was a set of issues ready to make a very significant impact in the larger political calculus of the nation.[29]

In 1976 the nation's only truly evangelical president was elected when Jimmy Carter defeated Gerald Ford in the aftermath of Nixon's

Watergate scandal and pardon. Initially Carter's election confused the politics of conservative Christians. Speaking out of his own deeply held Christian faith and Baptist tradition, having come into a close working relationship with the Southern civil rights movement, Carter reflected the language and tone of conservative and fundamentalist America as no other president had or would. Did that mean that Carter's more liberal social agenda and his clear support for public education would create a new consensus? It was not to be.

For all of Carter's genuine evangelical faith, he was too far from the nascent religious right on most policy issues for there to be much chance of an alliance. Also, once in office, Carter was true to his principles on a number of fronts, from support for the creation of a cabinet-level Department of Education—which many on the Christian right saw as a vehicle for federal control to be used against their values—to his opposition to school prayer, his support for civil rights and specifically school integration, and his support for abortion rights, gay rights, and the Equal Rights Amendment. So Richard Viguerie, one of the earliest new-right activists of the 1970s, remembered, "Not only did the Carter administration ignore the born-again Christians, it actively and aggressively sought to hurt the Christian movement in America." What did this mean? It meant several things, but fuel was certainly added to the fire when the Internal Revenue Service changed its policy in 1978 so that it took a much more critical look at racially segregated Christian schools in the South. For Ralph Reed, then only emerging as a major conservative Christian leader, the change in IRS policy, with Carter's permission, was seen by many evangelical Christians as "nothing less than a declaration of war on their schools, their churches, and their children."[30]

Not surprisingly, many have noted the degree to which this new religious right turned its back on the nation's first true evangelical in the White House, Jimmy Carter, and courted—and was courted by—the very secular movie actor Ronald Reagan. The emergence of a new phenomenon at almost the same time as the parallel expansion of the older more secular right of Barry Goldwater into the juggernaut of the Reagan campaign for the White House in 1980 brought a fundamental shift in the nation's political scene.

It is important to note, however, that the political right and the religious right, which were both so essential to Reagan's victory in 1980 and to the dramatic change in the tone of the country for the last

two decades of the twentieth century, are not the same thing, although they have many important links. The United States has always had conservative political movements, and the Republican Party has certainly had more and less conservative wings for most of the twentieth century, especially as it became the anti–New Deal party after the 1930s. Nevertheless, as the discussion of the Nixon presidency noted, and as a review of Barry Goldwater's 1964 campaign for the presidency would also show, conservatism came to mean something different in the later years of the century. Well before Ronald Reagan's inauguration as president, a new mixture of issues—partly anti-communism in foreign policy, partly the domestic policy "family issues" that Kevin Phillips saw as the foundation of the new Republican majority—had emerged.

A month before the 1980 presidential election, the *Conservative Digest* summed up the changes that had taken place in conservative politics in the years leading up to Reagan's victory:

> For the past 50 years, conservatives have stressed almost exclusively economic and foreign policy. The New Right shares the same basic beliefs of other conservatives in economic and foreign policy matters, but we feel that conservatives cannot become the dominant political force in America until we stress the issues of concern to ethnic and blue-collar Americans, born again Christians, pro-life Catholics and Jews. Some of these issues are busing, abortion, pornography, education, traditional Biblical moral values and quotas.

Clearly the *Conservative Digest* saw a new consensus. They also noted that "family issues in the 1980s could be what Vietnam was in the 1960's." And they were quite clear on what they meant by family issues![31]

Thus while the religious and the secular right were and are different entities, they have plenty of overlapping concerns and constituencies. They cannot be treated as one movement, but the overlaps and alliances can—and must—be understood in order to comprehend the school politics, and the fierce battles over religion and the schools, that have dominated the politics of the United States since 1980.

One other very important political change in the 1970s that had major ramifications for religion/school politics has received insuffi-

cient notice: the broadening membership of the conservative religious coalition. Prior to the 1970s, certainly to the 1960s, nearly all politically conservative religious movements sought the maintenance or restoration of a Protestant America. Whether it was the Republican advocates of the Blaine Amendment prohibiting any government aid to parochial schools in the 1870s, the Ku Klux Klan allied with Protestant churches seeking to close parochial schools in the 1920s, the voices against evolution in the Scopes trial in the 1920s, the Protestant opposition to a Catholic president in the elections of 1928 and 1960, or even most people committed to keeping prayer and Bible reading in public schools in the early 1960s, the goal of these activists was maintaining a Protestant hegemony in the nation and in the education of its youth. Suddenly in the 1970s the scope was broadened, almost without notice.

A hint of what was coming appeared in the 1960s prayer and Bible reading debates. While Roman Catholics had long fought to have reading from the Protestant Bible and the reciting of Protestant prayers banned from the schools, Catholic leaders, clergy and lay, did not generally voice enthusiasm for the Supreme Court's 1962 and 1963 decisions. By then they were more worried about how deeply secular the schools were becoming than about keeping a Protestant Bible out of the schools. The nation's most prominent Roman Catholic leader in 1962, New York's archbishop Francis Cardinal Spellman, greeted the *Engel v. Vitale* decision saying "I am shocked and frightened that the Supreme Court has declared unconstitutional a simple and voluntary declaration of belief in God by public school children." His predecessor by a century, New York's archbishop John Hughes, would not have agreed. For Hughes, the Protestant prayers and the readings from the Protestant Bible were among the reasons he wanted parochial schools. If Catholics had to attend public schools, he wanted them to be as secular as possible. The Church would do its own religious instruction on its own time. Ironically, one of the groups opposed to the ACLU in the *Engel* case was organized by Henry Hollenberg, an Orthodox Jew, and represented by Porter Chandler, an attorney with experience representing the Catholic Church. Chandler argued in favor of the Regent's Prayer in *Engel v. Vitale* fearing the result of doing "what these petitioners are now seeking to do, namely to eliminate all reference to God from the whole fabric of our public life and our public educational system."

The earlier lines, which had been so stark and so simple, were clearly getting murky. But more dramatic change was to come.[32]

In 1978 Pat Robertson, certainly one of the most powerful voices of the newly emerging religious right, boasting of the power of the new force on the American stage, said that, counting both Catholics and Protestants, "we have enough votes to run the country. And when the people say, 'We've had enough,' we are going to take over."[33] *No* evangelical of any earlier generation would have said that. The *Conservative Digest's* comment from two years later that "born-again Christians, pro-life Catholics and Jews" would make up the heart of the domestic conservative agenda represented a further step in that direction. These were not the core of the Goldwater or Nixon supporters, they had not been the major activists on evolution or school prayers issues. The conservative religious agenda had become much more ecumenical, moving from hopes for a specifically Protestant restoration, to a more general Christian restoration, to an even broader religious restoration in one generation. The times they certainly were a-changing.

Many thoughtful scholars and commentators have made the important point that many different conservative evangelical groups with different agendas were emerging on the political stage in the 1970s. Many were single-issue groups. Many disagreed with each other. One of the first signs of the new activism appeared in 1974 when John Conlan, an Arizona congressman, and Bill Bright, longtime leader of Campus Crusade for Christ, created Third Century Publishers and also laid plans for activities in every congressional district in the country. However, they were quickly surpassed by others.

In the late 1970s Jerry Falwell, leader of the Moral Majority, seemed poised to be the single most powerful leader of the religious right. Falwell used his base as pastor of the Thomas Road Baptist Church in Virginia, his "Old Time Gospel Hour" broadcasts, his 1976 "I Love America" tour of state capitals, and his strategic alliances with Anita Bryant and Phyllis Schafly to oppose gay rights and the Equal Rights Amendment, abortion rights and the *Roe v. Wade* decision, and to forge closer ties to Howard Phillips, Paul Weyrich, and other more secular right-wing leaders.

Under Falwell's leadership, the Moral Majority also supported the development of a network of Christian schools and critiqued

public schools for teaching evolution as fact, for the absence of prayer, and for sex education. With affiliates in all fifty states, the Moral Majority saw itself—and was seen by others—as a major force in the 1980 election, helping to elect a number of conservatives, the most visible of whom was Ronald Reagan. Perhaps as important for future developments, in the same election that made Reagan president, two Moral Majority candidates were elected to the Lee County School Board in Florida. Here was a grass-roots, conservative religious organization to be reckoned with, in the White House, the halls of Congress, and local school boards.[34]

Ronald Reagan, Religion, and the Schools

Ronald Reagan knew how to pay his political debts, and the debt to the Moral Majority and many other sympathetic individuals and organizations was one that the new president found easily compatible with his own beliefs. Catherine A. Lugg has carefully chronicled the educational agenda of the early years of the Reagan administration, a policy influenced by both the Moral Majority and by Reagan's longer-standing ties to the conservative movement in the United States. The administration came to power with a basic but ill-defined commitment to abolish the Department of Education and drastically reduce federal aid to education. Such steps were in keeping with Reagan's basic anti-Washington stance. "From our schools to our farms, Washington bureaucrats were trying to dictate to Americans what they could or could not do, and were portraying bureaucratic control as the price Americans must pay for federal aid." The president clearly intended to end both the bureaucracy and the aid.[35]

In addition to bureaucracy and money, however, the Reagan administration also had a social agenda. In March 1981, two months into his administration, Reagan said: "We have one agenda. Just as surely as we seek to put our financial house in order and rebuild our nation's defenses, so too we seek to protect the unborn, to end the manipulation of school children by utopian planners, and permit the acknowledgment of a Supreme Being in our classrooms just as we allow such acknowledgments in other public institutions." By 1982, some of the meaning of these statements were emerging. In January of that year at the urging of Mississippi Republican congressman Trent Lott, the administration announced that it was backing off of

Carter, Ford, and Nixon era tax policies that since 1970 had led the IRS to rule that segregated private schools were not eligible for federal tax exemptions and that, since 1978, had included segregated but church-related private schools. It should not have been a surprise. The 1980 Republican platform had said: "We will halt the unconstitutional regulatory vendetta launched by Mr. Carter's IRS Commissioner against independent schools."[36]

In April 1982 the president announced a tuition tax credit proposal to the National Catholic Education Association. Asked if such a proposal could be used to support schools for better-off citizens or segregated academies, Reagan, as he often did, made up the facts to suit his argument. He insisted that the bulk of the support would be for poor people and that "we have a proviso in the legislation we're going to send up that it cannot be used in any way to promote segregation." There was little factual basis for either assertion, but such a lack seldom bothered the genial president. More seriously, the tax credit proposal ran into trouble with David Stockman's efforts to balance the budget and increase military spending. While it never went anywhere, the tax credit played very well with some of the core members of the now powerful emerging Republican majority.

Finally, in May of the same year, the president announced the third and most powerful symbolic part of his agenda, a school prayer amendment to the Constitution. Reagan accused the Supreme Court of misunderstanding the First Amendment.

> The first amendment is to protect not government from religion, but religion from government tyranny. It says that the government will neither respect nor obstruct—or will neither institute nor obstruct religious practice. . . . I think what most people in this country—and the polls show that it is overwhelming, the percentage of people who want prayer restored—is the idea that by doing away with it, was almost as if there was an anti religious bias. It was as if saying to the children that this is no longer important.

For all his tangled grammar, the president had struck a nerve. Twenty years after the Supreme Court's actions, this conservative was going to set things right.[37]

In a May 17 message to Congress, Reagan proposed an amendment for congressional action that read:

> Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer.

The amendment never got out of committee, but submitting it did allow the president, for the rest of his career, to insist that he was the proud agent of letting "God back into the classroom and [permitting] voluntary prayer there." Not much came of any of the Reagan administration proposals. They remained locked in congressional debate, and the president gave them lip service while he and his core staff devoted their primary attention to the administration's foreign and economic policy agendas. By 1983 wily Terrell Bell, Reagan's previously unnoticed Secretary of Education, had launched his report, *A Nation at Risk*, and the focus of education policy had shifted once again.[38]

The most significant result of Ronald Reagan's proposed school-prayer amendment seems to have been somewhat accidental. While the Senate was reviewing the amendment, Mark Hatfield, a liberal Republican from Oregon, raised the question of making allowance for students who wanted to pray before or after school. As a result, both houses of Congress held hearings on the question of equal access to school property for religious activities in 1983 and 1984. One witness summarized the opinion of many when he told the Senate committee: "Our problem is this: the Supreme Court's decisions have only invalidated teacher-led, school-initiated, government-sponsored prayer. Now this committee has heard accurate statements from around the country that there are school principals who say, 'We cannot allow the Fellowship of Christian Athletes to have a meeting at our school, even though we permit the key club and the rodeo club to meet.'" The witness went on to blame Reagan and others for the misunderstanding. "Do you know why they think that? They think that, in part, because the President of the United States and many distinguished Members of Congress have for many years been misleading the American people by constantly stating that the U.S. Supreme Court has forbidden all prayer in the public schools. That is just not true." If enough people claimed that "God had been kicked out of the schools," it should not have been surprising that some people, including school administrators, would come to believe that

such was the case. But if it was a misunderstanding, congressional action could easily correct it.[39]

As a result, in 1984 Congress passed the Equal Access Act, which allowed student political and religious groups the same rights as any other groups, as those rights were defined by the local school district. In other words, a district could bar all meetings or allow all meetings, but it could not allow secular meetings and bar religious or political ones. The so-called limited open forum gave districts a level of discretion, but it did require that "It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings." The law further required that the district could not attempt to influence any religious activity and could not require staff to participate when such participation violated their religious scruples.[40]

The Equal Access Act was upheld by the Supreme Court in *Board of Education of the Westside Community Schools v. Mergens* in 1990. In this particular case, a high school student, Bridget Mergens, was denied official school recognition and meeting space for a Christian club that she proposed. Mergens' club was to be open to any student who wished to participate in Bible reading, discussion, and prayer. As the case made its way to the Supreme Court, a number of different groups filed friend of the court briefs on both sides. In an unclear and complex ruling, the Court's majority sided with Mergens and with the Equal Access Law. Justice Sandra Day O'Connor wrote the majority opinion which said that the school's denial of the student's request "constitutes a denial of 'equal access' to the school's limited open forum" and therefore violated the 1984 law. More important, the Court also ruled that the 1984 law was constitutional, although it issued three different and contradictory concurring opinions to arrive at that decision. In spite of the Court's inability to speak with a clear voice, the Equal Access Law did provide significant opportunities for students to meet, pray, and study the Bible—or other sacred literature of various traditions—on school property but on their own time.[41]

The Rutherford Institute, a conservative public policy and religious think tank that had supported Bridget Mergens, emerged from the case as a major resource to religious students around the country who wanted to use school facilities to meet, pray, and study. The institute's lawyers have successfully defended a student in Florida who handed out Bibles to his classmates, students in Colorado who handed out a religious newspaper, and similar groups of students in California, Pennsylvania, and elsewhere. Their *Rights of Religious Persons in Public Education* by their attorney, John W. Whitehead, is a popular publication with students and organizations claiming Equal Access protection.[42]

In spite of the success of the Equal Access movement, which seemed to many a reasonable resolution of the long-standing debates, neither liberals nor conservatives were satisfied with the way the issue had been resolved. Most evangelicals enjoyed Ronald Reagan's rhetoric but never fully trusted the speaker. Ronald Reagan, and especially the succeeding Republican standard bearers, George Bush and Robert Dole, may have enjoyed the support of and been willing to cater to religious conservatives, but when it came time to spend precious political capital, the emphasis went elsewhere. Yet it is important not to underestimate the power of symbolism. By the time Reagan departed for California in 1989, even though few of his educational initiatives—other than massive cuts in funds—had been initiated, the basic nature of the national dialogue about education had shifted quite dramatically. The bully pulpit of the White House has power beyond regulation and legislation. And few presidents in the nation's history had understood that better than Ronald Reagan. His legacy in that arena continues undiluted.[43]

For the Christian right, Ronald Reagan had always been a mixed blessing. He was clearly preferable to Jimmy Carter, although in the nominating process leading up to the 1980 convention many wished for a truer conservative Christian. Californian Richard Zone of the *Christian Voice* said of the former California governor, "Reagan was not the best Christian who ever walked the face of the earth, but we really didn't have a choice." And while Reagan was seen as much better than Carter, he was also seen as better than George Bush or Robert Dole in terms of his conservative credentials. While the religious right could dominate conventions and platforms, as it did

with especially disastrous results for George Bush in 1992, it never really dominated the choice of Republican nominees, much as it tried with Pat Robertson's 1988 campaign. And as Ralph Reed viewed Reagan's departure from the White House in 1989, he reflected, "When Ronald Reagan got on that helicopter, a great deal of the pro-family political capital went with him." Unlike the president, however, the movement did not go into retirement.[44]