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The Scopes and Kitzmiller Trials: Legitimacy of Religious Dialogue in Court

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The Scopes and Kitzmiller Trials:
Legitimacy of Religious Dialogue in Court

Beginning with the rise of fundamentalism in the United States, the public began the debate over science and religion, and whether Darwin’s theory of evolution could be taught in harmony with the Bible. In 1925 in Dayton, Tennessee, the country held its first court trial of religion versus science, Tennessee v. Scopes. John Scopes, a teacher and proponent of evolution, was a pawn in a war between fundamentalist Christianity and a changing society. Through this paper I will analyze how William Jennings Bryan, the key witness on the side of creationism, used religious rhetoric to overpower his lack of scientific evidence. After a series of court rulings that prohibit the teaching of religious ideas in the public school classroom, Kitzmiller v. Dover School Area District presented the newest challenge for maintaining secularism in schools: intelligent design. In the absence of religious rhetoric, Michael Behe, the expert witness for intelligent design, fails to earn legitimacy in court. Both trials went beyond simply proving that a law had been broken and fueled a larger debate about whether the Bible and religious beliefs belong in the public school system.

According to Edward Larson, after the publication of The Origin of Species by Charles Darwin, introducing the theory of evolution by natural selection, there was a
natural and subtle introduction of Darwin’s theories into U.S. science textbooks.¹ Larson claims, “Thus, these three biology textbooks dating from the 1910s, far from not stressing evolution and almost in defiance of Christianity, exalted Darwinism as having supreme influence on modern thought, providing the base for future progress, and representing the greatest ever advance in understanding the laws of life.”² Before the 1900s, there was no significant opposition towards the new curriculum. However, the steady infiltration caught the eye of Fundamentalists in need of a rallying point for a political agenda.

Shortly after World War I, there was a rise of fundamentalist Protestantism within the U.S. This movement was based in biblical literalism, which includes the belief in how man was created and spontaneous generation of organisms according to the Book of Genesis. This could possibly be attributed to disillusionment post-World War I combined with the rapid industrialization and urbanization of America. However, Larson also cites information from religious scholars that indicate that this fundamentalism had seeds from before the war in the development of millenarianism, which is the belief of an impending extensive change in culture.³ James Moran argues, “The case erupted out of tectonic shifts in American Culture. Millions of Americans in the 1920s were in revolt against the dominant Victorian morality and took their moral cues from advertising, Hollywood, scientists, and intellectuals rather than from the nation’s Protestant establishment.”⁴

A combination of these theories indicates that Protestants, especially in rural areas, feared

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² Ibid., 22.
³ Ibid., 40.
sweeping changes in the morals of society that they believed were linked with religious beliefs and ethics as taught by the Bible.

After fundamentalist progressives found that they could impose their moral through legislation after the passing of the eighteenth amendment in 1919, which was the beginning of the Prohibition, Evangelicals began looking for more ways to create moral reforms through political action. Much of the support for the anti-evolution movement overlapped with supporters of the Prohibition.⁵

The antievolution debate also stemmed from the increasing state control over school systems and newly compulsory nature of high school education, which resulted in the exposure of students to a biology textbook that incorporated curriculum designed to prepare students for an urban and industrial society.⁶ Adam Shapiro explains, “The religious crusade against evolution by prominent figures such as Bryan gave a moral valence to the less clear-cut arguments over public education in general and science education in particular.”⁷ Religious speech in this case functioned to fill in the gaps of the public’s unsubstantiated discontentment with science education. This enforces the ties between the rise of antievolution sentiments with the changes in society, revealing the underlying non-religious motives of the creationism proponents.

The anti-evolution crusade began at the 1921 Union Theological Seminary in Virginia, where Bryan presented his speech titled The Menace of Darwinism.⁸ As the movement rooted itself into politics and legislation, Tennessee surrendered to the

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⁵ Larson, Trial and Error, 36
⁷ Ibid., 429.
pressure and passed the Butler Act with little dissent from the public, showing that much of Bryan’s authority as a witness in the trial would come from public approval. Bryan earned legitimacy also as a prominent public figure. He was a three-time presidential candidate whose campaign platform following progressive Populist visions, which resonated with citizens living in rural areas. Much of Bryan’s rhetoric during the trial based itself in his Populist ideals.

In 1925 the American Civil Liberties Union (ACLU) was searching to create a court case for the evolution versus creationism debate and a group of men from Dayton, Tennessee volunteered their town and John Scopes, a high school teacher, for the case in order to promote publicity for the town. As the impending court case gained hype, both Bryan and Clarence Darrow decided to become participants — Bryan as a witness and Darrow as the lawyer representing Scopes.

Bryan did not initially support the Butler Act because he did not believe that a teacher should be punished for teaching evolution. Troy Murphy explains, “First, Bryan saw the Scopes case as primarily about the right of the common people to decide democratically what ought to be taught in schools.” Bryan used the Scopes trial and the evolution versus creationism debate as the center of a more extensive argument about philosophies of democratic ideals and warfare. With the use of religion he reached a targeted audience for the expression of his views.

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10 Ibid., 24-25.

Before Bryan took the witness stand, one incident in the courtroom established an understanding of the bias in the society to which Bryan would address. Darrow, on the third day of the trial, objected to beginning the trial everyday with prayers, as he argued that it would create a biased jury. The judge responded, “I see nothing that might influence the court or jury as to the issues. I believe in prayer myself; I constantly invoke divine guidance myself, when I am in the bench and off the bench; I see no reason why I should not continue to do this.”¹² This created an environment supporting creationism above evolution because the judge was already biased towards faith in the Bible rather than the defense’s expert witness testimonies that would argue for the science behind evolution. The court unwillingness to compromise on the expression of faith allowed Bryan’s religious assertions on the side of creationism to have more potency.

I will focus on Bryan’s first speech on the witness stand on the fifth day of the trial and analyze his use of religion in proving that the school district should not teach evolution in public schools. He used religion as a representation of the morals that he wants instilled in the country. His argument, although sometimes specifically addressing the judge and the jury, primarily addressed the audience in the courtroom, especially parents in the rural town. Moran claims that Bryan centered his argument on three main points: that evolution “provided rationale for warfare; it undercut the impulse for political reform; and, perhaps most important for his future fundamentalist allies, it contradicted biblical revelation.”¹³

Throughout the trial, Bryan relied on the narrative of biblical literalism in his testimony, making him a representative of the word of God. Walter Fitch asserts in his analysis of the logic that creationists used to construct their argument, “For the literal creationist, on matters of evolution there is no higher authority to which one can appeal than the first two chapters of Genesis, literally interpreted.”\(^{14}\) With the authority of the Bible behind him, Bryan could reach those who believe in the sanctity of the Bible. This interacted with his intended audience of religious parents in the community. However, it was lost on those on the side of evolution who do not believe in the ultimate authority of the Bible.

It is apparent from his testimony that Bryan had a clear understanding how the community in Dayton interacted with religion on a daily basis. He was able to tap into the fears of the community and jury. He used religion in order to create an issue of infringement upon religious freedom rather than making this pertinent to the specific case of the Scopes trial. Bryan said, “The parents have a right to say that no teacher paid by their money shall rob their children of the faith in God and send them back to their homes, skeptical, infidels, or agnostics, or atheists.”\(^{15}\) Through this statement, Bryan reminded the parents of the children in the public school system, that they held the power in society because their taxes pay the teachers; therefore they deserved power in determining the curriculum. He then incorporated the fear-inducing words “infidels” and “atheists,” which would be effective in painting Darwinism as anti-religion and amoral.


\(^{15}\) Moran, *The Scopes Trial*, 122.
Bryan emphasized the argument that those who pay for the school district should not have their basic right of religious freedom infringed upon. Later in his testimony he said,

No, not the Bible, you see in this state they cannot teach the Bible. They can only teach things that declare it to be a lie, according to the learned counsel. These people — Christian people — have tied their hands by their constitution. They say that we all believe in the Bible for it is the overwhelming belief in the state, but we will not teach that Bible, which we believe even to our children through teachers that we pay with our money.\(^\text{16}\)

Through this passage of his speech, Bryan created an enemy from the “learned counsel,” or the educated elite to whom parents in the rural town of Dayton would not be able to relate. He then associated this new enemy with a denial of religious freedom and the moral decline of their children.

His statement in the trial reflected Bryan’s argument during the Union Theological Seminary in which he said, “The special reason for bringing to the attention of Christians at this time the evil that Darwinism is doing is to show that atheists and agnostics are not only claiming but enjoying higher rights and greater privileges in this land than Christians.”\(^\text{17}\) He framed the issue as a problem with elitism in society rather than just about one teacher in Dayton.

One of Bryan’s recurring strategies was creating a fear that children of good Christians will become amoral, and he exaggerated the consequences of the decline of the Protestant society. As he continues his uninterrupted speech he claimed that Darwinism was “a doctrine that refutes not only their belief in God, but their belief in a Savior and belief in Heaven, and takes from them every moral standard that the Bible gives us. It is

\(^\text{16}\) Scopes, \textit{Tennessee Evolution Case}, 172.
\(^\text{17}\) Bryan, \textit{The Menace of Darwinism}, 5.
this doctrine that gives us Nietzsche…Nietzsche’s philosophy of the superman, that he is not responsible for the taking of human life.”

Brandon Konoval writes about the presence of Friedrich Nietzsche in the Scopes trial, saying, “Nietzsche’s own role in the Scopes trial was that of an instrument of courtroom struggle itself, presented as an emblem of the dangers of un-Christian values and of the association of evolution with eugenics.” When Bryan mentioned Nietzsche he hinted at the underlying arguments that he had against evolution including the justification for warfare and eugenics that he overpowered with his religious rhetoric.

Bryan also used religion as a uniting factor for the town and appeals to their ego because creationism states that people are special in God’s eyes, not just a product of a sequence of mutations. Part of what legitimized creationism is that it makes humans feel special and important in the scope of the universe and makes Darwinism less appealing.

There is that book! There is the book they were teaching your children that man was a mammal and so indistinguishable among the mammals that they leave him there with thirty-four hundred and ninety-nine other mammals…Tell me that the parents of this day have not any right to declare that children are not taught this doctrine? Shall not be taken down from the high plane upon which God put man.

Bryan inspired emotion rather than used facts throughout his testimony because he did not have the scientific evidence to support creationism. He was successful in doing so in this passage because he appealed to the parents of the community by spinning imagery of

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20 Scopes, *Tennessee Evolution Case*, 175.
lost children and proposing that those who believed in Darwinism believed that God does not love their children.

Towards the end of his speech Bryan reinforced the division of the common people from the elite to create an enemy out of those who were attempting to impose Darwinism on the Dayton schools. He said:

Now, your honor, when it comes to Bible experts, do they think that they can bring them in here to instruct the members of the jury, eleven of whom are members of the church? I submit that of the eleven members of the jury, more of the jurors are experts on what the Bible is than any Bible expert who does not subscribe to the true spiritual influences or spiritual discernment of what our Bible says.\(^{21}\)

According to the transcript of the trial, someone from the audiences exclaimed, “Amen!”\(^{22}\) Although Bryan addressed the judge, this passage was targeted towards the jury and the common religious people in rural towns. Bryan told the jury as well as the people in the courtroom that science was more exclusive or restricted to the elite class than religion. Religion was accessible to everyone. In doing so he used religion to unify people and appeal to their ego.

Creationism evolved with the changing environment of the U.S. courts, taking on the names of creation science and then the seemingly secular name of intelligent design due to new legislation banning the teaching of creation science in schools.\(^{23}\) Intelligent design rose up as a beacon for antievolutionists because of laws that prohibited the teaching of religious beliefs in biology classrooms. The school board in Dover, Pennsylvania decided that intelligent design was the best option for countering the


\(^{22}\) Ibid., 181.

teaching of evolution especially due to the cases *McLean v. Arkansas* and *Edwards v. Aguillard*, in which the teaching of creation science was prohibited.\textsuperscript{24}

Now, rather than boosting the antievolutionist argument with powerful rhetoric from publicly religious figures such as Bryan, intelligent design’s legitimacy came from the absence of religious discourse in court. Intelligent design still had the same argument as creationism, the idea that life comes from some supernatural intervention; however, secular statements in court masked the connection to creationism. Barbara Forrest, an expert witness for the prosecutor in the Kitzmiller trial, found that in a previous draft for the textbook the school district was planning to use to teach intelligent design as an alternative for evolution, *Of Pandas and People*, intelligent design was actually substituted for the word creationism.\textsuperscript{25}

Philip Johnson, founder of the theory of intelligent design and a professor at the University of California Berkley, used a different form of religious speech, not using God to assert his statements, but attacking the state legislature for persecuting religious ideology. Forrest explains, “Johnson and his associates use ostensibly scientific arguments as a façade behind which to mount their revolution. The plan is to establish their religious worldview as the foundation for all cultural life.”\textsuperscript{26} Johnson’s associates happened to be prominent members of religious fundamentalist groups. While this provided legitimacy to the religious people who are advocates of teaching intelligent

\textsuperscript{24} Barbara Forrest, *Creationism’s Trojan Horse: The Wedge of Intelligent Design* (Cary, Oxford University Press, 2004), 221.
\textsuperscript{25} Edward Caudill, *Intelligently Designed: How Creationists Built the Campaign Against Evolution* (Springfield, University of Illinois Press, 2013), 125.
\textsuperscript{26} Forrest, *Creationism’s Trojan Horse*, 258.
design in schools, Johnson had to use the disguise of science in order to have social power in the form of legislature.

Forrest cites Phillip Johnson’s talk at the Mere Creation conference at Biola University in which Johnson stated that in arguing for intelligent design in the classroom, advocates should avoid mention of the Bible because it connects the movement to fundamentalism and the Scopes trial. This clear statement of intent to avoid reference to the Bible manifested itself in the Kitzmiller trial, especially during testimonies from the expert witnesses on the side of the school board. However, William Dembski, another proponent of intelligent design, stated in Christian magazines that intelligent design is based in John’s Gospel.

The Discovery Institute’s Center for Science and Culture, based in Seattle, Washington, was responsible for promoting and consolidating information and research in favor of intelligent design. Created in 1996 under the direction of Johnson, the institution promoted and funded programs such as conferences and publications in order to market the ideas and legitimize intelligent design. The Discover Institute played a role in the Kitzmiller trial by supporting the school board’s argument that intelligent design is a scientific theory. Michael Behe, who was on the board of the Center for Science and Culture at the time, was a key witness in the trial.

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27 Forrest, Creationism’s Trojan Horse, 37-38.
In 2004, a student in the town of Dover, Pennsylvania created an image of man evolving from ape-like animals and someone from the town removed and burned the mural, showing that there was hostility towards Darwinism in Dover. Bill Buckingham, a member of the Dover, Pennsylvania school board suggested that the school teach creationism as an alternative to evolution, and the debate that ensued in the town drew some media attention. Buckingham researched to find an alternative to creationism and learned of the textbook *Of Pandas and People* and of the Discovery Institute. The school board decided that science teachers would make a one-minute speech about intelligent design as an alternate theory to evolution and provide the textbook as a resource. A parent from Dover, Tammy Kitzmiller, brought the issue to court. Kitzmiller contacted the American Civil Liberties Union, the same organization that supported Scopes in 1925, creating a direct connection with the first court trial of creationism.

The key individuals in *Kitzmiller v. Dover Area School District* were Eric Rothschild, the prosecutor, and Michael Behe, the expert witness for the Dover school area district. However, one controversy setting the environment for the trial was the political inclination of the judge. At first glance, the court appeared to be biased towards the side of intelligent design. John E. Jones III, the federal judge presiding over the court case, was appointed by President George W. Bush, who had expressed support for intelligent design. This, in theory, would give authority to the school board’s decision.

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31 Ibid.
Caudill also compares the Kitzmiller trial directly to the Scopes trial although they are 80 years apart. Caudill explains, “The recasting is a bit muddled, but the story line was true to form…Behe assumed the mantle of Bryan, of a bit clumsily because he lacked the national recognition and the oratorical skills.”  

Behe was a tenured biochemistry professor for Lehigh University in Pennsylvania Behe was a senior fellow in the Center for Science and Culture for the Discovery Institute. He especially gained influence from writing the book *Darwin’s Black Box.*

Sparr suggests that Behe’s presence was crucial in understanding the argument for intelligent design (ID) during the trial. Referring to Behe, Sparr says, “By analyzing the arguments of one of the most prominent and respected ID supporters in the country, the Kitzmiller court's opinion went to the heart of the ID movement and created an analytical roadmap for other courts to follow.”

Behe had the respect of the side of intelligent design because of his work for the Discovery Institute.

During the morning session on the eleventh day of the trial, Behe explained his views on the difference between creationism and intelligent design.

BEHE. Creationism is a religious, theological idea. And that intelligent design is — relies rather on empirical and physical and observable evidence plus logical inferences for its entire argument.

ROTHSCHILD. Is intelligent design based on any religious beliefs or convictions?

BEHE. No, it isn't.

ROTHSCHILD. What is it based on?

BEHE. It is based entirely on observable, empirical, physical evidence from nature plus logical inferences.

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33 Caudill, *Intelligently Designed*, 103.
36 “Kitzmiller Trial Transcripts,” National Center for Science Education.
Behe’s argument focuses on the separation of creationism from intelligent design because creationism was inherently linked with God. Following Johnson’s advice, Behe enforced throughout his testimony that intelligent design is not based on any religious beliefs. However, he used the phrase “logical inferences” because intelligent design used supernatural forces to explain how complex structures form, but this could not be proven through experiments and was therefore not falsifiable. Creationism gained authority within the religious community because it is taken on faith, and the logical inferences in intelligent design, that a supernatural force created complexities within organisms must be taken on faith as well because they cannot be disproven.

As Rothschild continued to question Behe, Behe explained that one of his main points in favor of intelligent design, which he also mentioned in Darwin’s Black Box, was the development of the motor function of the bacterial flagellum. He says:

> I think the best, most visually striking example of design is something called the bacterial flagellum. This is a figure of the bacterial flagellum taken from a textbook by authors named Voet and Voet, which is widely used in colleges and universities around the country. The bacterial flagellum is quite literally an outboard motor that bacteria use to swim. And in order to accomplish that function, it has a number of parts ordered to that effect...But I think this illustration gets across the point of the purposeful arrangement of parts. Most people who see this and have the function explained to them quickly realized that these parts are ordered for a purpose and, therefore, bespeak design.\(^{37}\)

One of Behe’s strategies in distancing himself from relying on religion was to bring up examples of complex systems that he claimed that scientists that support evolution could not explain. He cited academic articles that compare the complex systems to man-made machine, and used that comparison to argue that since they are as complex as man-made machines, they must have been intelligently designed.

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\(^{37}\)“Kitzmiller Trial Transcripts,” National Center for Science Education.
Behe’s rhetorical tactics did not mimic Bryan’s during the Scopes trial, but did reflect other prominent creationist rhetoric, such as William Bell Riley’s, during the early 1900s. Riley was one of the founders of the creationist crusade along with Bryan and published with a different angle of attack on evolution.  

38 Riley writes, “A theory may be scientific; but to make it such one must produce its verification by exact observation or experiment, whereupon it is no longer a theory. Neither Huxley, Darwin nor Spencer ever maintained that they had produced such verification of evolution!”  

39 Both Riley and Behe defended their ideas with attacks on the strength of evidence for evolution. Although the Discovery Institute and Behe wanted to separate intelligent design from creationism in order to avoid religious connotations, Behe used the same strategies as creationists in trial.

During the morning session of the twelfth day Rothschild quoted an article that Behe published in Christianity Today in which Behe stated that scientific evidence of design is not necessary for Christians to believe in design. To clarify his argument from this article Behe, during the trial, explained:

So here, I was explaining, and I was speaking as a Christian in a magazine that is a Christian publication. And assuming the assumptions that Christians have from non-scientific — from non-scientific areas, that is historical, theological, and philosophical principles, why I think, how I think this impacts Christian concerns.

And I emphasize that first paragraph that you read from; What does all this mean for a Christian? On the one hand, not much. The faith of Christians rests on the historical reality of events recorded in the gospels rather than on the next theory coming out of the laboratory.

By definition, Christians already believe in design because they believe in a designer. So by that — I'm sorry. But just let me make one

38 Larson, Trial and Error, 30-31.
more point. So by that paragraph, I was trying to say that, in fact, design, apparent design in the world is not necessary for Christian belief.40

This is an example of where Behe attempted to explain that intelligent design’s consistency with the Bible’s creation story did not delegitimize its scientific nature. Once again, he referred to the Big Bang theory as an example for his statement, although Rothschild had made it clear to the court that Behe did not have authority to discuss the Big Bang Theory or the science behind it. The mention of an article in Christianity Today reminded the court of the audience for intelligent design was the religious community because it validated their beliefs in God as the designer.

As he was not able to emotionally persuade people in the court using religious rhetoric, unlike Bryan, Behe relied on accusing evolutionists of lacking a comprehensive explanation of how complex structures evolved, exposing his misunderstandings of evolution by random mutation and natural selection. Behe claimed:

Publish or perish is a proverb that academicians take seriously. If you do not publish your work for the rest of the community to evaluate, then you have no business in academia. And if you don’t already have tenure, you will be banished. But the saying can be applied to theories as well. If a theory claims to be able to explain some phenomenon, but does not generate even an attempt at an explanation, then it should be banished. Despite comparing sequences and mathematical modeling, molecular evolution has never addressed the question of how complex structures came to be.41

Forrest writes after the trial, “As the surveys reveal, the Wedge strategy has failed in its most important goal: the production of scientific research that supports intelligent design creationism, and the publication of such data in scientific journals.”42 She argues that legitimacy, as acknowledged by both sides of the argument because the Wedge document

40 “Kitzmiller Trial Transcripts,” National Center for Science Education.
41 “Kitzmiller Trial Transcripts,” National Center for Science Education.
42 Forrest, Creationism’s Trojan Horse, 46.
makes it a priority, comes from approval and peer reviews from the scientific community, which the intelligent design proponents have failed to obtain. Behe’s testimony was filled with hypocritical statements that the prosecutor could easily disprove with the presentation of relevant articles about evolution that had been peer-reviewed whereas Behe had not published articles about intelligent design that were open to peer reviews.

In his discussion with Rothschild about the evolution of the immune system, Behe said, “Well, these books do seem to have the titles that you said, and I’m sure they have the chapters in them that you mentioned as well, but again I am quite skeptical, although I haven't read them, that in fact they present detailed rigorous models for the evolution of the immune system by random mutation and natural selection.”43 Behe argued that there were no plausible explanations for how the immune system evolved through random mutation or natural selection. In this part of his testimony, Behe revealed his lack of research into the arguments he made on the witness stand as Rothschild presented to him a compilation of over 50 articles and books that Behe admitted to having not read. This was especially significant in the case because it proved how much Behe’s theories relied on faith rather than research and scientific evidence.44

Rothschild ended his line of questioning with the final subject of Behe’s use of similes to prove intelligent design. Behe, throughout his testimony, used examples such as watches and bowls to show that just as scientists would assume that an intelligent designer, in this case a human, designed these objects, scientists could assume that the complexities of organisms could not have occurred without a designer.

43 “Kitzmiller Trial Transcripts,” National Center for Science Education.
BEHE. Again if something showed strong marks of design, and even if a human designer could not have made it, then we nonetheless would think that something else had made it. Lots of science fiction movies are based on scenarios like that, and again the, I think the similarities between what we find in designed objects in our everyday world and the complex molecular machinery of the cell have actually a lot more in common than do explosions we see on Earth such as cannon balls and so forth and the explosion of an entire universe, and that induction seems to have been fairly successful in trying to explain some features of the world. So I think it's not at all uncalled for to make a similar induction in this case.

ROTHSCHILD. Science fiction movies are not science, are they, Professor Behe?

BEHE. That's correct, they are not. But they certainly try to base themselves on what their audience would consider plausible within the genre, so they can offer useful illustrations at some points, for some points.  

In the closing of Rothschild’s questioning of the witness, Behe explained that the logic that the Discovery Institute followed in order to infer that a designer had to have made complex systems instead of natural selection and random mutation was similar to science fiction movies. If anything, Behe’s final statement of this passage explained what intelligent design was, which was an idea that is catered towards an audience willing to accept that a supernatural force led to complexities.

Caudill argues that although proponents of evolution won the court trial in Dover, intelligent design proponents won in the sense that their movement continued to gain popularity. Their legitimacy did not stem from the faulty science that Behe presented in court but rather the polarization that gained ground in media coverage of the trial. Caudill writes, “Like Bryan, his intellectual heirs in Dover clearly were out of their element when discussing science, especially on the witness stand. But those heirs also knew how to draw a crowd and win headlines.”  

Media also fed into the controversy because they  

45 “Kitzmiller Trial Transcripts,” National Center for Science Education.  
46 Caudill, Intelligently Designed, 112.
created the sense that intelligent design was actually a peer-reviewed theory instead of how the trial revealed that intelligent design was not a legitimate challenge scientifically to evolution. Although intelligent design advocates were attempting to win the court case for the Dover School Area District, their power outside of the courtroom stems from the public seeing a controversy and choosing a side. This is similar to the Scopes trial because although the trial was about Scopes breaking the law by teaching evolution, Bryan’s speech, which is also why the judge ruled that it should not be taken into consideration, was about creating emotion over the issue rather than just proving that Scopes broke the law.

After Judge Jones’ issued his decision, John West, a spokesman for the Discovery Institute, stated, “Judge Jones got on his soapbox to offer his own views of science, religion, and evolution. He makes it clear that he wants his place in history as the judge who issued a definitive decision about intelligent design. This is an activist judge who has delusions of grandeur.” West’s argument reveals the polarized mentality regarding the issue of intelligent design and rather than being discouraged with the court ruling, he claims that intelligent design is a valid theory, which means that he believed in Behe’s testimony.

One of the main differences in Bryan’s first speech during the Scopes trial and Behe’s testimony in the Kitzmiller trial is that Bryan did not attempt to provide scientific


proof to his defense of creationism. Rather, he relied on his ability to elicit emotion and appear as a protector of morals and the common people.\textsuperscript{49} However, in the absence of religious rhetoric, the campaign for intelligent design revealed in the courtroom the blatant lack of evidentiary support for their case. Both of these movements, similar although the names are different, relied on an audience that was swayed by emotion rather than evidence. Behe reverted back to the old rhetoric from fundamentalists who were proponents of creationism, while Bryan, although he used obviously religious rhetoric, applied progressive concepts to his defense of creationism.

This source highlights Behe’s use of the immune system as an example of irreducible complexity and disproves his claims.

Provides all speeches delivered October 1921 in Virginia for the Union Theological Seminary, marking the beginning of the anti-evolution crusade. I use this to compare Bryan’s rhetoric in the trial to his speeches.

Caudill looks at what the creationist agenda uses to appeal to the public. He puts creationism and intelligent design into the context of marketing strategies and political agendas.

Fitch analyzes the problems with how creationists argue in favor of creationism. This source was useful in understanding the tactics that creationists use in trials.

Forrest was an expert witness against the teaching of intelligent design during the Kitzmiller v. Dover trial. Her book analyses intelligent design as a wedge issue in the context of political and religious groups.

This source was useful in understanding how the argument has changed or not changed from intelligent design to creationism. It outlines the arguments of intelligent design proponents.

Gewin writes about Bush’s support of intelligent design, proving the political legitimacy of the movement, although not the intellectual or scientific legitimacy.

The Kitzmiller trial transcripts include Behe’s witness testimony and Rothschild’s questioning of him.

Konoval analyzes why Bryan uses Nietzsche in his argument against Darwin’s theories. This is useful in understanding how Bryan inspires

Larson provides background on the rise of the fundamentalist and creationism movements.

Lebo was a local journalist who covered the Kitzmiller trial. She writes about the statements from the Discovery Institute after the court decision was released.

Maddux disagrees with the presentation of Bryan after the Scopes trial as a conservative fundamentalist due to his rhetoric in his witness testimony. She looks at how his rhetoric is similar to his progressive arguments during his presidential campaign.

The NOVA documentary on the trial outlines the argument for intelligent design and explores the causes and effects of the trial, especially concerning the parents and teachers in Dover, PA.

Moran’s book contains primary sources from the Scopes Trial as well as analysis of the causes and effects of the trial.

Like Maddux, Murphy analyzes the perception of Bryan after the Scopes trial and how it may misrepresent how Bryan actually uses progressive rhetoric along with his argument in favor of creationism.

This source is a compilation of Bell’s arguments against evolution and for creationism. I use this to show the similarities of Behe’s argument with creationists from the early 1920s.

Rosenhouse and Branch observe how media presentation of the controversy during the Kitzmiller trial interacted with public opinion and perception of the debate.

This book is a full transcript of the Scopes Trial including William Jennings Bryan’s prepared speech he was unable to share during the trial. As a primary source it can show how Bryan approached his argument in opposition of teaching Darwinism in school.

This source provides information on how the increase in high school students affected the fundamentalist movement in the U.S.

Sparr analyzes how the Kitzmiller trial used certain judicial tests to prove that the implementation of intelligent design in the school system had religious motivation. He also talks about how the ruling would impact the intelligent design

Snyder gives information on both the outcome of the Kitzmiller trial and the effects of *McLean v. Arkansas* for an understanding of how monumental court cases concerning evolution affect later court decisions.