

**MAKING AMERICAN: CONSTITUTIVE RHETORIC IN THE
COLD WAR**

A Dissertation

by

MARTHA ELIZABETH THORPE

Submitted to the Office of Graduate Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

August 2011

Major Subject: Communication

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Approved by:

Chair of Committee,	James Arnt Aune
Committee Members,	Leroy G. Dorsey
	Kristan Poirot
	Harold C. Livesay
Head of Department,	Richard Street

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ABSTRACT

Making American: Constitutive Rhetoric in the Cold War. (August 2011)

Martha Elizabeth Thorpe, B.A., Baylor University; M.A., Texas A&M University

Chair of Advisory Committee: Dr. James Arnt Aune

Constitutive rhetoric theory posits that community identity is rhetorically created. There are various approaches to constitutive rhetoric, though most rhetoricians have chosen to focus on the works of Maurice Charland and Michael McGee, whose approaches focus on audience so much that often the rhetor has no agency. This project blends their ideas with those of James Boyd White to create works of criticism that highlight an increased amount of agency for the rhetor. As examples, I have chosen four case studies from the year 1954: the *Brown v. Board* decision, the Army-McCarthy hearing (specifically McCarthy's heated exchange with Joe Welch), the addition of "under God" to the Pledge of Allegiance, and the first article in the first dated issue of *Playboy*. Each chapter is designed to provide an example of what a constitutive analysis in the style of White would look like.

The project begins with a description of the theories and analyses, including constitutive rhetoric, postmodernism, and textual analysis. The *Brown v. Board* analysis begins with a brief history of the case, moves to a rhetorical analysis, and then connects the analysis to ideas of constitutive rhetoric. The McCarthy sections examines the "Have you no sense of decency?" exchange between Welch and McCarthy. It begins

with a brief explanation of McCarthy's reputation, and then utilizes an understanding of conspiracy rhetoric in the rhetorical analysis in order to explain McCarthy's constitutive efforts. The Pledge of Allegiance analysis provides a brief a summary of the Congressional arguments made to add the words "under God" to the Pledge of Allegiance, then provides a textual analysis of the Pledge (with the addition), emphasizing the power of those words, especially given the epideictic nature of the Pledge. The *Playboy* research focuses on the first 1954 article, which directly addresses the question of American identity. The article is contextualized with Hugh Hefner's self-proclaimed *Philosophy of Playboy*. Finally, all of these case studies are tied together again with further explanations of constitutive rhetoric, showing that White's understanding of constitutive rhetoric can be used to bolster Charland and McGee's in order to give agency to the rhetor.

DEDICATION

This text is dedicated to Carl and Isaac, for whom all this work was done.

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I would like to thank James Arnt Aune for providing the guidance that led to this project's completion. Your guidance through both my M.A. and my Ph.D. careers has been invaluable. I have learned to trust my own writing under your tutelage. Thank you for that. Someday I will say I owe the course of my career to you.

Leroy Dorsey allowed me to follow my own interests and encouraged me to think beyond the words on the page. In your classroom I saw how a teacher can engage a classroom full of broad interests and backgrounds without harming the integrity and complexity of the content.

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CHAPTER I

INTRODUCTION

Being here in America doesn't make you an American. Being born here in America doesn't make you an American.

-Malcolm X, "The Ballot or the Bullet," April 3, 1964

In fourth grade I had to go to school on two Saturdays. Due to snowy weather, which my area of Texas was woefully unprepared for, we had missed enough days that the state required us to make some days up on the weekend. Out of pity, or an attempt at goodwill, or some combination of both, Saturday school ended up being creative incarnations of field day and on-campus field trips. One Saturday was deemed "Patriotic Day" and we were all encouraged to wear red, white, and blue. In class we talked about July the 4th and the Founding Fathers and colored pictures of the flag and the Liberty Bell. Ultimately, there was little history taught, but a great deal of emphasis on "citizenship."

The culmination of the day was a school wide assembly where we would all go and listen to the principal talk about how great it was to be an American and sing various patriotic songs. We practiced Lee Greenwood's "Proud to be an American" for about 30 minutes before we went to the assembly. As we lined up, my teacher handed out small flags for us to wave throughout the ceremony. Everybody got one and immediately

This dissertation follows the style of *Rhetoric & Public Affairs*.

began to poke and bother the person in line next to them. Once the flags were handed out my teacher asked rather hurriedly “Any questions?”

I raised my hand, and when called on, asked, “If this is ‘Patriotic Day,’ why are we waving flags that were made in China?” My teacher was not amused. She told me not to be smart, and when I protested that I really just wanted to know because I didn’t understand and was not trying to be annoying, she curtly informed me that I would understand when I was older.

My teacher was right, to a degree. What I grew to understand was that the meaning of “patriotic” was not as universal as my elementary school activities would have had me believe. I learned later in life that not everybody who was “Proud to be an American” was actually proud of the same thing. Being American was a complicated affair, and included not only the right stirring songs and symbols, but the liberal market, which meant that for some the most American thing to do was buy product from another country in order to take advantage of balance of costs and resources in order to turn a profit. That lesson had been left out of Patriotic Day. What I failed to learn at my fourth grade assembly is that American identity is manufactured as surely as those American flags that were made in China.

American identity is not just a product of politics and economics, but also popular culture, art, technology, and a host of others. My question is not “What is an American?” The answer to such a question would differ from person to person, place to place, and vary depending on the point in history. Perhaps it is an impossible question to answer. My interest is in how we create American identity. What are the things we do

and say in public discourse to create some idea of “American?” Certainly not everyone agrees what is “American” and what is not. One has only to watch the news one night to hear people disagreeing loudly on what the “American” thing to do is in any given situation, but we pretend that this word has some shared meaning for all of us.

In trying to understand how we use public discourse to create American identity, I found that each situation is unique. I could not make the broad statement “Here is how we do it!” because each time the rhetor uses different means. We constitute our identity in myriad ways. What was missing from the scholarly conversation, however, was a way to analyze specific rhetorical texts as constitutive, while retaining the agency of the rhetor. Certainly plenty of venues existed for rhetorical criticism, but the bridge between the act of criticism and the theory of constitutive rhetoric is missing.

Michael Leff and Andrew Sachs describe criticism as a process in which “the critic must find the discourse within its context,” while focusing the attention on the texts itself “and the rhetorical features embedded within it.”¹ While some critics have applied this process to rhetoric in an attempt to illuminate the constitutive nature of particular texts, situating those texts within the popular theory of constitutive rhetoric as articulated by Maurice Charland and Michael McGee seems to strip rhetors of a certain amount of agency. This project aims to address this criticism controversy by providing a criticism methodology based on James Boyd White’s understanding of constitutive rhetoric, bolstered by Maurice Charland and Michael McGee’s work, thereby connecting the theory and the actual practice of constitutive rhetoric.

Charland's understanding of constitutive rhetoric has been the basis of much of the scholarly conversation concerning constitutive rhetoric. He describes it as rhetoric that does not just invite a member of an audience to be a part of a particular community, but actively creates that community as the rhetor engages with the audience.

Constitutive rhetoric is powerful stuff in that it does not just describe the characteristics of a group, but involve the group in its own creation.² Charland and McGee's work provide the theoretical background, but White is necessary to make this a work of criticism because White offers the opportunity to address how a rhetor is seeking to constitute group identity, while Charland and McGee tend to focus on the audience.

White's approach provides a critic with the opportunity to focus on a specific text, and in the process implies quite a bit of agency to the rhetor. In White's understanding of constitutive rhetoric the audience does not organically produce itself, but using a specific text the rhetor seeks to create identity. White's approach focuses more narrowly on texts in the classic sense. For him, it is the actual words of the law. For students of Charland and McGee, the text is not always as narrowly construed. The "text" may be a movement or a group that is actively constituting, and herein lies some of the disagreement between the theory that Charland and McGee have established as opposed to the criticism-based approach of White. White, by narrowly construing text as the specific words of a specific rhetorical act, is much more applicable to criticism, whereas often McGee and Charland's work stay within the realm of theory and avoid specific textual analysis.

Developing a Research Question

During the Bush/Kerry campaigns and election of 2003/2004 I became fascinated with the vitriolic rhetoric that bubbled and broiled around both candidates. Commentators from all ends of the spectrum felt compelled to disparage politicians, activists, and the media for taking part in a heated campaign season that left no participant unscathed. To be honest, the tone of the entire election was just *mean-spirited*. The attacks that stood out to me the most were the ones that implied there was something less than “American” about a public figure. John Kerry desperately tried to position himself as an “American hero” while groups like the Swiftboat Veterans for Truth raked his reputation and his patriotism across the coals. Groups like MoveOn.org called Bush and his administration every anti-American epithet they could think of, claiming that his behavior was directly opposed to everything America stood for.

At the heart of so much of the rhetorical bullying was this idea of “American.” Nobody could decide what it meant or who had the most of it. Was it more American to support the troops and the administration proudly, or was questioning authority part of our national character? Pundits and politicians across the board all agreed that it was important to be as “American” as possible, but it seemed that nobody had any clue what that really meant.

My fascination with the word “American” began to crystallize during that period, and has evolved since. When I first began to consider my research questions, my initial reaction was to ask, “What is American?” But that did not last long. I knew before cracking a book that there was no way to answer that question. I thought perhaps it

would be easier to pinpoint “American” ex post facto than construct it now, and so I considered a historical approach thinking that a rhetorical history might satiate me. But I quickly discovered that history was no simpler than the present. At any given point in time there was disagreement on what the term “American” meant. The current argument was not new or groundbreaking in any way; it was simply a continuation of a long tradition of debate over the definition of “American.”

What began to interest me more than the meaning of the word “American” was how we make that up as we go along? If “American” is constitutive in that it is something continually reified in public discourse, how do we go about doing such a thing? The answer was both simple and frustrating: in different cases groups or rhetors use different methods to constitute American identity. If we agree that there is such a thing as constitutive rhetoric, then one might argue that there are very specific moments when a rhetor is trying to constitute. That is, a rhetor may make specific choices in what she or he says in order to engage in the constitutive process. If that is so, the text that the rhetor produces is a constitutive text.

This is how I hope to join the scholarly conversation on constitutive rhetoric. Using White’s understanding of constitutive rhetoric to bolster an understanding of Maurice Charland and Michael McGee I am illustrating how rhetorical criticism can be a part of this ongoing conversation. I have chosen to focus on the year 1954 because it sets up easy parameters, and provides a number of different examples of constitutive rhetoric that have the same political and historical context. I argue that rhetorical

criticism can be used to approach constitutive rhetoric in order to specify particular moments and tactics that rhetors use to create American identity.

Other works may be classified as criticism within constitutive rhetoric, but for the most part, these differ because they are generally over collections of works instead of a singular text. In order to get to Charland's "narratives" most scholars have chosen to analyze groups of texts as opposed to argue that one text can stand alone as constitutive. For example, Tasha Dubriwny's "Constructing Breast Cancer in the News Betty Ford and the Evolution of the Breast Cancer Patient" analyzes the way that women with breast cancer have been constituted by the media, but her primary sources are a collection of texts from 1974 to 1976.³ Similarly, Michael J. Lee's "The Populist Chameleon: The People's Party, Huey Long, George Wallace, and the Populist Argumentative Frame" offers the argument that populism has been sustained by a focus on content, not the structure. He traces this "structure," what he calls its argumentative frame, through the work of the People's Party, Long, and Wallace. By focusing on the themes throughout this collection he follows the narratives that populism has woven in an attempt to create and "us and them." A more current example, also dealing with a group of speeches instead of a singular text, is Kenneth Zagacki's "Constitutive Rhetoric Reconsidered: Constitutive Paradoxes in G.W. Bush's Iraq War Speeches." Zagacki focuses on the idea of "prophetic dualism" that he claims guided Bush's rhetoric to the American people in an attempt to create identification between Americans and Iraqis. While each of these begins to make the foray from theory into criticism, they focus on collections as opposed to a stand-alone text.

American Identity

In 1950 David Riesman published a best-selling book that captured the attention of Americans from all walks of life. The book, *The Lonely Crowd: A Study of the Changing American Character*, is still required reading for many sociology students. Riesman believed, and even stated in his title, that there was a quality of “American,” and more importantly, the quality was in flux. He wrote about character and the role of parents and “normal vs. abnormal” in ways that made it very clear that what it means to be American was flexible and continually re-defined.⁴ In 1951 another sociologist, C. Wright Mills, wrote about the unique problems of the American middle class and how the treatment of the middle class was shaping American character. Mills also argued that the notion of “American” was changing in the post-World War II era, and that the Cold War was producing new and sometimes challenging definitions for the term.⁵ All of this is not to say I will introduce a new sociology for Americans to consider, but to point to the confusion that surrounds what that one term, American, means. Riesman and Wright were both writing during the 1950s – the beginning of the Cold War. Apparently they both felt that at that point in American history the idea of “American” was particularly important.

Popular representations of the 1950s often portray a happy time when there was a healthy sense of normality and patriotism that made life easier. Shows like *Leave it to Beaver* and *The Donna Reed Show* present us with images of a society based on the nuclear family, free from the temptations of sex and rebellion outside of deciding which girl to invite to the school dance. The fifties are the proverbial “good ol’ days.” But the

1950s were not as homogeneous as nostalgic television would have us believe. This was also the decade of Marilyn Monroe and the Beats, who were also adopted as specifically American icons. Those competing representations of American life indicate that something was amiss – the nation was not exactly unified in who we thought we were. The very fact that there are competing narratives of that one decade, sex and rebellion vs. the black and white world of *Father Knows Best*, indicates that American identity was so plastic and malleable that we have not established what it was at that point. It is easy to forget that Roy Rogers was competing with Elvis Presley for the nation's attention in the very same year. America definitely had a split personality.

However, this project is not an effort to define what it meant to be an American during the Cold War, but to analyze specific incidents that highlighted the tension surrounding the nebulous nature of "American." This study is an exercise in methodology based in an understanding of theory, not an argument for a particular rhetorical construction of American identity. I argue that constitutive rhetoric and rhetorical criticism can work hand in hand to discover specific means by which rhetors actively attempt to create national identity. Previously, many constitutive theorists have shied away from focusing on singular texts, choosing instead to look at collections of texts, movements, or time frames. Those who have focused on singular texts have put most of the power in the hands of the audience as opposed to the rhetor, creating a small controversy. White's theory of constitutive rhetoric is the closest to a methodology that gives agency back to the rhetor that we have, but White wrote specifically in regards to legal rhetoric. My interest is in constitutive rhetoric of a broader scope.

First and foremost, this study is based on the assumption that national identity is constructed. The major text for starting such a discussion is Benedict Anderson's *Imagined Communities*.⁶ Anderson laid the groundwork for scholars to think and discuss nations (and other groups) as socially and rhetorically constructed. Scholars such as Vanessa Beasley have spent years writing about the intersection of political rhetoric and national identity.⁷ For scholars of many fields this is relatively well-trodden ground. The goal of this project is not to re-trace their work but to explore new possibilities in method by providing case studies that highlight differing ways that identity is rhetorically constructed.⁸

This study focuses on the year 1954. This work investigates American identity in the sense that it is a changing, not static idea. I am not pinpointing "identity in 1954," but using 1954 as my example of its constant state of flux and illustrative of the way in which combining theory and practice can help us understand the ways in which rhetors actively seek to manage identity. The case studies I have chosen all demonstrate the increasing tension between fractured identities and homogeneity.

The connection between theory and practice is an important one for scholars to consider because, while theory may contextualize, it is in criticism that we apply theory and make it practical. Rhetorical criticism is at the heart of rhetorical studies, but is often relegated to smaller works. I feel combining criticism in the tradition of White with theory allows me to expand criticism to a point that I can use it as a tool to add to the ongoing scholarly conversation about constitutive rhetoric. I will introduce the case studies that I have chosen and explain the contribution to scholarship that this project

makes. Using the backdrop of the tension between modernity and postmodernity that permeated the Cold War, I will apply criticism to the theory behind constitutive rhetoric. While certainly each case is unique they are all contextualized similarly by the Cold War. However, because they are each representative of a particular theoretical tension, the conflict between modernity and postmodernity, they come together to form a coherent picture of a nation in conflict with itself. In rhetorical terms, each of these events is on some level reacting to a changing understanding of audience, which is important to note because it connects constitutive theory and postmodernity in this instance.

Because constitutive theory deals so much with the way an audience rhetorically constructs itself, a change in audience has a profound impact on identity at large. If, as constitutive theorists have described, a rhetor is trying to call an audience into being, then the tension between modernity and postmodernity creates an extra level of difficulty. Marginalized groups that had once been relegated to the proverbial sidelines, or worse, silenced, were clamoring to include themselves in the mainstream, national “audience” while rhetors were actively trying to reconstruct it, making the constitutive process a road fraught with obstacles. Rhetors engaged in constitutive rhetoric were trying to construct unified audiences, but the audience was becoming more and more decentered and fractured. Rhetors not only had to contend with the challenges and vagaries of nationalism, but the changing global philosophies that organized the narratives we had previously used to understand the world around us. During the Cold War, groups that were once marginalized were demanding to be recognized as

“American.” The notion of a universal audience was weakening as African-Americans and women tried to include themselves under the umbrella category of American. New and powerful enemies with opposing philosophies were gaining headway and threatening our perceived ideological superiority. Things at home were not as quiet and stable as some would have liked.

Postmodernity

Max Weber’s 1918 lecture “Science as a Vocation” applauded the connection between progress and scientific advancement. Weber believed there was an inherent link to the scientific process and human advancement.⁹ Such a faith in science and progress was a hallmark of modernity. Robert Latham, a political science scholar, claims that there were many strains of modernity and to try to define it is nigh impossible because of its innumerable dimensions. One problem, he argues, is the “sheer heterogeneity of modernity.”¹⁰ He claims that “one common element is the recognition that an important dimension in the making and sustaining of modern reorganization of forms of large-scale human agency associated with such phenomena as rational administration, mass movements, and scientific endeavor.”¹¹ That is, modernity came in many forms all over the world – socialist, fascist, the liberal market of the US – but each had the commonalities of thinking in large-scale, progressive, and international terms. Also, each version of modernity presented itself as rational and enlightened. The global manifestations of modernity paved the way for international turmoil because different nations were vying to show their version of modernity as superior.

Jean-François Lyotard, who coined the word postmodern, described something that was not just after modernity, but a break from modern thinking. He believed this incredulity is a product of scientific and technological advancement.¹² Lyotard called things like capitalism, communism, and even religion, Grand (or Meta) Narratives. He described these narratives as the ones that had marked modernity and most dealt with a rational means of perfection or emancipation from doubt. These narratives helped us make sense of the world around us.¹³ They also legitimized social and institutional norms, so any failure of these narratives could lead to a profound change in the status quo.¹⁴ Postmodernity, he claimed, is a crisis of faith, or incredulity, in the Grand Narratives. And the Grand Narratives were looking less and less assured, giving way to a number of smaller narratives.

He felt that this fracturing had a profound impact on our understanding of identity. He asked, “What constitutes this we?...The question asks whether this we is or is not independent of the Idea of a history of humanity.” Lyotard felt this question must be asked in relation to human history and the grand narratives. If, he argued, it was decided that “human history is no longer credible as a universal history of emancipation,” then our understanding of “we,” those who ask the question, must also be revised. Frederic Jameson and Jean Baudrillard also pointed out the importance of technology in these instances. The glut of information and media that increased with each new technological leap brought new questions for the Metanarratives. As technology increased, there was simply more information for people to sift through, leading to a lack of clarity and unity in sociocultural norms.¹⁵ Lyotard felt, like many

other theorists, that language was at the heart of the crisis of modernity and the transition to postmodernity. It is through language that we work out way through these questions.

Part of this game is defining identity.¹⁶

No one, not even the least privileged among us, is ever entirely powerless over the messages that traverse and position him at the post of the sender, addressee, or referent. One's mobility in relation to these language game effects (language games, of course, are what this is all about) is tolerable, at least within certain limits (and the limits are vague): it is even solicited by regulatory mechanisms, and in particular by the self-adjustments the system undertakes in order to improve its performance. It may even be said that the system can and must encourage such movement to the extent that it combats its own entropy: the novelty of an unexpected "move," with its correlative displacement of a partner or group of partners, can supply the system with that increased performativity it forever demands and consumes.

In short, in order for a group of people to function they use language to forever move and re-define their understandings of themselves and their relationships to others.¹⁷ It is the power of words and language, the symbols we use to manipulate our realities, which define our identities and our relationships. Language is constitutive, according to Lyotard, lending a certain amount of support to White's understanding of constitutive rhetoric.

Finally, Lyotard explained that these games and the results came from "the people." He called "the people" the hero of the game and claimed that the sign of legitimacy is the people's consensus. We deliberate and we decide and we establish norms through narrative, law, politics, or art. Because this process does not take place in a cultural vacuum we should not be at all surprised that "the people should be at the same time actively involved in destroying the traditional knowledge of peoples, perceived from that point forward as minorities or potential separatist movements

destined only to spread obscurantism.”¹⁸ On the one hand, it is the people who are deciding who they are and structuring their own relationships. The people try to unify narratives as they progress by creating a unified identity. On the other hand, as the world globalizes and science and knowledge advance, that unity becomes scarce and those groups that were once cast aside are given a chance to try and re-ingratiate themselves to the group at large.

Lyotard’s description of postmodernism brings together the identity issues of the Cold War, the importance of language in the construction of identity, and the context of my case studies. Using postmodernity as a background to explain the shift in thinking about identity, I hope to analyze how people attempted to make the shift through public discourse. As I noted before, American identity is constantly in flux. The case studies I have chosen are all, on some level, symptoms of this larger issue. As America had to join the rest of the Western world in re-thinking norms and values, the way we thought about ourselves had to be fleshed out a bit as well. These cases simply represent various rhetorics that tried to address the changing understanding of American identity in the face of new, postmodern understandings.

1954

In the period between the World Wars, America was largely an isolationist country. We had discovered in the trenches and mustard gas of World War I that war is, indeed, hell, leaving the United States wary of involving itself with other countries in any way. After the attack on Pearl Harbor there was a dawning realization that America could not isolate itself. The world was getting smaller. And the profound hope in

human progress that began in the Enlightenment turned into a profound horror at what humanity was capable of. The more we learned about gas chambers in Europe and the horrors we inflicted on Hiroshima and Nagasaki in the following years, the more some began to question whether real progress had been made, or if as a people we had become something monstrous. However, this entrance into the war and global politics did not engage America the way it engaged Europe. Other than Pearl Harbor the violence of WWII did not touch American soil. Our cities were not ravaged the way that much of Europe was. We entered the war late and we sent our soldiers away instead of fighting at home, so we missed much of the horror of WWII.¹⁹

When the war ended for Europe and Asia they had to turn their efforts to repairing cities and economies and burying the millions of dead. America mourned our soldiers, but returned to a thriving economy and cities that were intact and growing. Those soldiers that survived the war came home and reaped the benefits of the GI Bill, the emerging suburbs, and gave us the Baby Boom. So America remained optimistic about the future, while Europe began a dark re-assessment of the state of humanity.

However, America was not without its own crises to deal with. As international relationships clarified themselves, Americans found a new enemy to contend with: Communism. Americans feared this foreign influence as much as any enemy from wars past, and spent decades keeping the perceived Communist threat at bay. The arms race went into full swing, reminding the world that there were to be another war, the levels of destruction would reach heights unimagined by previous generations.

Cold War rhetoric was set up around one god term and one devil term, as Richard Weaver describes them: American and Communist.²⁰ A singular narrative and solid definitions are much more efficient and rational than fragmented ideas – and efficiency and rationality are the ultimate goals of modernity. Many Americans feared any fracturing of America’s public face because it might weaken them in their fight against Communism. America, many believed, needed a united front not only politically, but ideologically and culturally. But by 1954 the country was showing signs that the singular narrative, a single and unified definition of American, was beginning to fracture. Minorities who had fought in the war expected the full benefits of citizenship. Many of the women who answered the call of Rosie the Riveter discovered they enjoyed being outside of the home and partaking in both production and consumption. Such challenges led others to push back and try to maintain balance and order by maintaining the status quo as they understood it.

Many of the news-worthy events of 1954 perfectly illustrate the tension surrounding public understanding of the word American. This is not to say that 1954 was somehow more important than 1953 or 1957 or any other year. It is, however, representative of an era in which ideas concerning national identity were converging and conflicting.

Focusing on one year sets up clean and neat parameters for my study. It so happened that in 1954 there was a good deal going on that directly addressed my research question, and did so from a variety of different perspectives. Also, these

incidents address the idea of “American” directly. There is not a great deal of interpretive work necessary to connect the incidents in question to my research interests.

Some years are simply noteworthy for the quantity of news they produce. For example, I once knew an editor who claimed that 1969 would have been the best year ever to be a journalist simply because of the size of the stories that year produced. In 1969 there was the moon landing, Woodstock, and the Manson Murders, all within a few months of each other. When it comes to addressing American identity, 1954 is a great year to study for its illustrative properties. The challenge was choosing which incidents from 1954 to address. I could easily have written on the response to Elvis, who began his career in 1954, or the introduction of the term “domino effect” by Dwight D. Eisenhower. In this project I chose to write about the first dated issue of *Playboy*, but I easily could have chosen to write about *Sports Illustrated*, which made its debut in 1954. The year simply lends itself to a discussion of American identity.

Of course this raises the question of why I chose the incidents that I did. *Brown v. Board* struck me as a useful beginning because it dealt with one of the most historically divisive parts of American identity: race. In the first half of American history, race could define whether you were seen as a whole person, let alone an American. In fact, the infamous “Three-Fifth’s Compromise” of 1787 was struck specifically to deal with that problem. For the purposes of census and representation slaves would count for 3/5 of a person when tallying an area’s population. African-Americans did not even count as entire human beings, let alone take part in being “American.” Then before the radical changes of the Civil Rights movement many

blacks were still barred from taking part in those basic rights guaranteed to all Americans thanks to Jim Crow legislation throughout the South. The *Brown v. Board* case of 1954 was a public effort to address the difference between being a black American and an American in the year 1954. Of all of the cases I study this one might be the most historically significant. As America pushed farther and farther into the 20th century race would be an increasingly prominent issue. *Brown v. Board* is one of the major battles in the struggle for racial equality that defined so much of the last half of the 20th century.

The decision to include a chapter on the Welch-McCarthy incident that took place during the Army-McCarthy hearings took a bit more consideration. It seemed clear that I needed some chapter that directly addressed the Cold War, since all of my chapters are products of the Cold War. I would be remiss to discuss the year 1954 and not deal with the fact that America was terrified of Communism. Ultimately, this is the reason for both the Pledge chapter and the McCarthy chapter. But I felt compelled to include McCarthy simply because he has become a rather ubiquitous character. We accuse a person whose tactics we question of “McCarthyism” and his name is synonymous with the Red Scare that defined the first part of the Cold War. Plenty of American politicians began their careers as Communist fighters. But Joe McCarthy’s career was such that when most people think of the Cold War and the Red Scare, they think Joe McCarthy. I could just as easily point to Ronald Reagan or Richard Nixon, but Joe McCarthy’s public antics made him a permanent fixture in an American understanding of the Cold War. To date, most work in communication studies dealing

with McCarthy has dealt with the Edward R. Murrow's televised attacks on McCarthy and his reaction. I chose to look at an equally important, but less studied moment in order to add to the scholarly conversation. I chose the Welch-McCarthy exchange in the Army-McCarthy hearings because it signaled the fall of one of America's most recognizable demagogues.

The second instance that deals with the anti-Communist furor in the US that I chose to address was the decision to add "under God" to the Pledge of Allegiance. Whereas the McCarthy incident was particular to him and the men involved in the hearing, the Pledge of Allegiance affected a much broader swath of Americans on a day to day basis. The Pledge was a much subtler weapon in the "hearts and minds" campaign against Communism. The Pledge is a powerful rhetorical tool not just then, but today as well. It is a mainstay in public schools and one of the most explicit definitions of American that is acceptable across the board. Any change in the recitation of the Pledge indicates an environment that was dealing with an identity crisis.

Finally, I wanted to include a chapter that dealt with popular culture more than politics or law. Popular culture is at least as important, if not more so, than politics and the news in understanding American identity. Popular culture is more pervasive and many more Americans are literate in pop culture trivia than political news. I chose *Playboy* not only because 1954 was its inaugural year, but few pop culture symbols are as recognizable (both at home and abroad) as the *Playboy* bunny. Few American establishments have become as synonymous with American culture as *Playboy*. The magazine has been one of the most popular American publications here and

internationally for decades. The “bunny” is almost as recognizable as Disney’s “Mickey Mouse Ears” or McDonald’s “Golden Arches.” Since *Playboy* has become a symbol of American life, I felt it sensible to include it in an analysis of the ways in which we construct American identity.

Much has been said about sexism and gender construction in *Playboy*, and recent studies have provided new and provocative treatments of *Playboy*’s philosophy as one of consumption. However, there has not been a good deal of attention given to the connection between *Playboy* and national identity. Ultimately, all of these things work together to create the final product that the world knows as *Playboy*. To try and completely understand the magazine outside of gender or consumption or nationalism would strip it of its pop culture power. However, I do not wish to re-hash well-trodden ground. My work focuses on the connection between *Playboy* and national identity in an effort to create a more nuanced understanding of the work as a whole.

I chose to focus on the first article from the first issue of 1954. The issue was not chosen arbitrarily, though the content of the article is convenient enough to make it seem as though it might have been chosen simply for its fit with my interest. The article strikes me as significant because the January 1954 issue of *Playboy* is a particular triumph for Hefner. The issue before, December 1953, was a gamble, and Hefner had gone all in. He had put his entire life into that magazine, and the January 1954 issue was proof that there was a possibility for a pay-off. The December 1953 issue sold well enough that Hefner knew he could extend the project beyond that first magazine, hence putting a date on the second issue. It was a small mark of success. If that issue of the

magazine symbolized his success, then it stands to reason that his editorial choice of what to put as the first article is interesting, if not significant. Hefner, unlike other nudie magazines, intended his consumers to actually read the articles. So I chose to analyze the first thing Hefner wanted his readers to read once he believed his magazine had some staying power.

Rhetorical Artifacts and Literature

Brown v. Board of Education of Topeka, Kansas

For decades Blacks had been official citizens of the United States but did not have the rights that accompanied legal citizenship. They were, for all intents and purposes, not really Americans. While *Brown v. Board* certainly did not reverse this practice, it was a very public comment on the appropriateness and legality of it. The highest court in the land pronounced that one of the major tools used to keep blacks from enjoying the benefits of being American, a second-rate education, was un-constitutional. This was a radical step towards incorporating African Americans completely into the American experience.

Danielle S. Allen specifically addresses how this case affected ideas of American citizenship in *Talking to Strangers: Anxieties of Citizenship Since Brown v. Board of Education*.²¹ For a more legally focused treatment of *Brown v. Board*, Jack Balkin's *What Brown v. Board of Education Should Have Said* presents a collection of essays in which legal experts address the decision and how it might have been communicated or decided differently. The idea in most of the essays is that the social science evidence should not have been a part of the case at all and it should have been decided strictly

based on Constitutional law. The essays present arguments that arrive at the same conclusion but from different topoi.²² Paul Wilson, in *A Time to Lose* attempts to contextualize the argument and explain it from a legal standpoint. Wilson's version of the story is interesting in that he was a lawyer for Kansas. Wilson's argument is simple and based solely on legal precedent. Much of his narrative is apologetic that his case was not more impressive, but to him the case seemed cut and dry. Separation was legal based on precedent, so there was nothing amiss.²³

Oliver Brown, in *Argument: the Oral Argument Before the Supreme Court in Brown v. Board of Education of Topeka, 1952-1955* dissects the decision in a methodical and legal fashion. He gives a history of the case then takes the reader through the reasoning of both sides of the argument and the opinion of the court.²⁴ Clarke Rountree provides a specifically rhetorically oriented collection in *Brown v. Board of Education at Fifty: A Rhetorical Perspective*. While his work is useful as an example of how to approach legal rhetoric as rhetoric, it does not approach legal rhetoric as constitutive.²⁵ Though these works provide an excellent background and explanation of the legality of the decision, none of them view it as constitutive rhetoric.

This study will analyze the decision itself, and not the public response surrounding the decision. I will depend largely on the works of White who argues that the law is a specific form of constitutive rhetoric, and his student Lewis H. LaRue who extends the discussion to include Supreme Court opinions.²⁶ The goal is to understand the way the court understood what it meant to be an American and how they made a constitutive argument for Blacks to be included under the umbrella category of

“American.” White explains that the law is a branch of rhetoric – it is persuasion; specifically, it is constitutive rhetoric, “for through its forms of language and of life the law constitutes a world of meaning and action: it creates a set of actors and speakers and offers them possibilities for meaningful speech and action that would not otherwise exist; in so doing it establishes and maintains a community, defined by its practices of language.”²⁷ The language of the law helps construct our notions of citizenship. If the overall question of this study is how we create identity, such a landmark case is useful because it directly addresses the way in which we viewed ourselves in the year 1954. The *Brown v. Board* case lead to an official (if perhaps not perfectly applied) rejection of the notion of “separate but equal.” The court’s decision, if viewed constitutively, was a radical and divergent interpretation of what an American is. Using the court’s decision I intend to examine the way in which the notion of “American” began to change from the prevailing norm.

The *Brown v. Board* case directly gets to the heart of my research interests in that the Court was faced with a situation in which they had to make two separate arguments: 1) education was a right guaranteed to all Americans and 2) segregated education was unconstitutional because it was an infringement on the right to an education. It was a bold position to take, and certainly the political and legal aftermath were history making. There have been countless studies of the case and the politics and legal issues that followed, and there have even been studies that took a rhetorical perspective when analyzing the case. However, my study is the first that uses *Brown v. Board* as a piece

of constitutive rhetoric. Using a close reading I am able to analyze the Court's opinion as a rhetorical artifact that aims to intentionally constitute American identity.

McCarthy

One of the most prominent public figures of the early Cold War was Senator Joe McCarthy. McCarthy's entire career was based on defining American – specifically who got to be called American and who did not. McCarthy spent years trying to parse out for Americans who was and was not “one of us.” How he managed (or did not manage) to do so is critical to any understanding of the Cold War.

Much work has been done on McCarthy's exchange with Edward Murrow, but much less attention has been paid to the Army-McCarthy hearings.²⁸ This is a valuable source for constitutive rhetoric, because McCarthy's entire career was based on rooting out those among his fellow citizens who were “un-American.” He utilized xenophobia, fear of Communism, racism, and any number of other public tensions in his crusade to root out Communist influences in the government.

“Flickering Images: Live Television Coverage and Viewership of the Army-McCarthy Hearings” by Michael Gauger in *Historian*, 2005 and “Are you Now or Have You Ever Been? Opening the Record of the McCarthy Investigations” by Donald Ritchie in the *Journal of Government Information*, 2004, are both useful studies on the Army-McCarthy hearings.²⁹ These works deal with media and political issues, and do not address the event from a rhetorical perspective, but they are helpful as background sources and are quite useful in understanding how far-reaching the hearings were at the time. Studies more pertinent to this project include “TV, Technology, and

McCarthyism: Crafting the Democratic Renaissance in an Age of Fear,” by Paul Achter and 1955’s “Views on the Army-McCarthy Hearings,” by Frederick Haberman.³⁰

Achter’s study gives a brief history of McCarthy’s career then analyzes the effect of television; however, Achter focuses on the Murrow exchange. Understanding the atmosphere at the time and McCarthy’s tenuous position helps contextualize the power of Welch’s words. Haberman’s paper is an analysis of the Army-McCarthy hearings through a contemporary lens. Haberman writes as a viewer at the time.

Michael Straight also explores the effect that television had on the Army-McCarthy hearings in *Trial by Television*, focusing on the same idea that some of the Murrow studies have.³¹ Straight believes that had the Army-McCarthy hearings not been televised McCarthy’s career would have been much longer. William Bragg Edwald, Jr. gives an interpretation of the trials and McCarthy’s downfall based on accounts recorded during the Army-McCarthy hearings in *Who Killed Joe McCarthy?*³² Edwald takes more than just the media into account and ascribes some of the responsibility to McCarthy, Welch, and Murrow themselves.

This study will focus on the Army-McCarthy hearings in 1954. I will analyze the rhetoric of the hearings, focusing on the Welch/McCarthy confrontation. I will include discussions of conspiracy rhetoric and the role that it played in organizing the entire event. More than almost any other public figure, McCarthy is associated with the paranoia of the Cold War in the American imagination. His extreme tactics are their own adjective – when we describe someone as a “new McCarthy” or engaged in “McCarthyism” we know that this individual is so engrossed in their own cause that the

general rules of ethics and good behavior no longer apply. McCarthy is in this study because, for good or for ill, his name will forever be synonymous with the Cold War.

McCarthy spent his career proverbially separating the wheat from the chaff. He based his public service on setting up dividing lines between Communists and the quality Americans that the enemy was here to corrupt. This moment is McCarthy's last, great failure. His methods had already been publically questioned and some were beginning to doubt that he was the strident savior the American people had been looking for. In this moment we see McCarthy's failed constitutive rhetoric. As Michael Lee notes, the "identity of the 'people' is constitutive as much by their rhetorical opposite as by the construction of shared characteristics. In fact, the rhetorical development of the 'people' and their enemy is a symbiotic process," and while McCarthy tried desperately to create an "us" and "them," his ultimate failure was outing himself as a sort of "them."³³ The nation ultimately saw him a nothing but a bully, and his lack of credibility stripped him of his ability to constitute any kind of American identity.

The Pledge of Allegiance

The Pledge of Allegiance is one of the most important pieces of epideictic rhetoric in America. Epideictic rhetoric is, by definition, supposed to affirm the norms and values of a culture. It is ceremonial and involves not just a speaker in front of an audience, but a communal activity.³⁴ A significant change in ceremonial rhetoric reflects some tension or crisis in that culture that required some kind of public and ceremonial comment on identity.³⁵

For many students each day begins with a recitation of the Pledge – and in previous decades this was even more common than it is today. The whole point of the pledge is to emphasize American unity. The Pledge is a description of those qualities that are “American,” like “liberty and justice for all.” The Pledge of Allegiance is especially pertinent to understanding “American” because in 1954 the phrase “under God” was added.

One work of particular interest to this study is John Murphy’s “‘Our Mission and Our Moment’: George W Bush and September 11th.” I point to Murphy’s work as helpful in framing my argument because he makes similar connections between the functions of constitutive rhetoric and epideictic rhetoric in his analysis of Bush’s post 9-11 speeches. Murphy uses Generic criticism to assess the way in which the president attempted to rhetorically bring the nation together through the power of epideictic rhetoric. However, as implied by the fact that he worked with Generic criticism, Murphy worked with a collection of speeches as opposed to one text. My choice to analyze the Pledge of Allegiance as a singular piece of epideictic rhetoric as opposed to part of a group sets this study apart from Murphy’s work.³⁶

Richard J. Ellis’s history of the Pledge of Allegiance is an indispensable aid to one wanting to study the Pledge. It is a lively narrative of the history of the Pledge of Allegiance that is both thorough and enjoyable to read.³⁷ Also, Patrick Allit’s *Religion in American since 1954: A History* helps to understand the context under which the Pledge was changed.³⁸ It describes the religious climate of the Cold War, which is helpful in understanding the rhetorical forces that defined American identity. For a more

contextual story of American religion in the Cold War specifically, Will Herberg's *Protestant Catholic Jew: An Essay in American Religious Sociology* is a provocative study of American spirituality.³⁹ However, none of these works approaches the pledge as a piece of rhetoric, and more specifically, constitutive rhetoric.

While some have tried to argue that the change was in recognition of the “Christian” nature of the nation, the official argument to add the phrase was focused on Communism. The Pledge of Allegiance was an affirmation of what it meant to be an American – and Communism, the opposite of “American” was “godless.” The major argument presented in Congress in favor of changing the Pledge was that the Pledge as it was originally was not specifically American. More than one Congressman claimed that, if the Pledge remained unchanged, it could even be misconstrued as a pledge to a Communist flag.⁴⁰ But, the proposal went, adding the phrase “under God” indicated that this pledge could not be Communist, because the Communist government was atheistic. The Pledge was a daily process for millions of Americans. School children and teachers began every day with a proclamation of their devotion to this symbol of America, complete with an explanation of that meant. The Pledge of Allegiance is probably the most direct and obvious comment on the quality of “American” of all of my examples because of its direct rhetoric and mass reach.

As opposed to *Brown v. Board's* attempt to redefine American, changing the pledge was an attempt to affirm an assumed identity. In the face of the perceived Communist threat the governing bodies felt it was necessary to maintain a clear notion of who Americans were. As much of the Cold War was rhetorical, having a clearly

defined “us and them” was essential. The Pledge of Allegiance was a rhetorical strategy to re-affirm an assumed notion of American. This chapter will analyze the constitutive nature of the pledge, specifically as a piece of epideictic rhetoric.

Playboy Magazine

Playboy Magazine was in its first year of publication in 1954, and sales were sky-rocketing each month. Hugh Hefner began publishing *Playboy* in December 1953, not knowing whether it would succeed, and within a matter of weeks the magazine was a hit. Hefner’s “Playboy” was a man of taste and panache. In Hefner’s eyes a playboy was defined as much by his ability to consume and enjoy the world around him as he was by his sexual conquests.

Lizabeth Cohen describes the relationship between consumption and citizenship that Hefner specifically wanted to address. Being a true American was becoming more and more associated with the ability to consume. She claims that through things like the eight hour work day and minimum wage more people had a fair shot at consumption, which seemed to correlate with full rights as citizens.⁴¹ *Playboy* offered a vision of American masculinity that positioned men as consumers, positioning themselves as more powerful in both the public and domestic spheres. The magazine offered advice on clothes, cars, technology, and women. Hefner’s publication encouraged a certain amount of conspicuous consumption in an effort to cultivate the ideal man. Once again, my intention is not to repeat the work of scholars that have gone before me. Gender and consumption are fine avenues are study for *Playboy*, but I fear I could add nothing new

to that conversation. However, little has been said on *Playboy* and nationalism and constitutive rhetoric.

There are a number of works that give a history of *Playboy*, many of which are entertaining, but hardly scholarly. Frank Brady's *Hefner* and Russel Miller's *Bunny: The Real Story of Playboy* are useful popular works, but if one is going to use non-scholarly sources, the most useful was Steven Watts's *Mr. Playboy: Hugh Hefner and the American Dream*.⁴² I say it was the most useful because of all of the "story of" type books about Hefner, it meshed best with more transitional titles (popular works that relied heavily on a great deal of research) such as Susan Gunelius's *Building Brand Value the Playboy Way* and academic works like Elizabeth Fraterrigo's "*Playboy*" and *the Making of the Good Life in Modern America*. They all focused on Hefner's interest in what he saw as the connection between what it meant to be a true American success and the importance of consumption.⁴³

While articles like Cohen's and Fraterrigo's work "Entertainment for Men" are useful and deal with American identity, the most useful commentary comes from *Playboy* itself. In *The Philosophy of Playboy* Hefner lays out his own understanding of who America is, and who America is supposed to be.⁴⁴ Viewing the magazine as intentionally persuasive will provide a unique view of the tension surrounding what it means to be American.

Of all of my rhetorical artifacts the opening article, a fiction piece, from the January 1954 *Playboy* was the most surprising. The article addresses my research question almost as directly as the Pledge of Allegiance because the entire piece is based

on the question, “What must I do to fulfill my duty as an American?” The main character asks the question in the very beginning, and spends the entirety of the story trying to answer it for himself. The narrative is interesting, however, because the main character is exactly the opposite of what Hugh Hefner thought of as ideal. Hefner employs simple narrative tactics and irony to create a picture of American in his first article of 1954.

I should note that while one might hope a chapter on *Playboy* might be a rollicking read about sex or a controversial foray into gender studies, since I have put so much stock into the ideas of Hefner himself, the chapter may disappoint initial expectations. Hefner’s ideas on American identity deal as much with individualism and consumption, or so he writes in his manifesto *The Philosophy of Playboy*. Sex, Hefner implies, is a part of that philosophy, but not the only goal of a playboy.

A Brief Explanation of Methodology

This project is a textual analysis of four case studies from the year 1954 that were integral in rhetorically constructing the term “American.” Using these cases I illustrate how rhetorical criticism can be useful in assessing constitutive rhetoric. In essence, I am investigating how we construct identity in specific texts, as opposed to what that identity is. Previous studies of constitutive rhetoric have focused on the theoretical framework outlined by Maurice Charland and Michael McGee. However, by bolstering that understanding with James Boyd White’s more criticism-based approach one can find an inlet to constitutive criticism as well as theory. This study aims to illustrate how such a project would look.

Any study dealing with national identity must begin with Benedict Anderson's seminal *Imagined Communities*. Hans Kohn does similar work in his historical study of the development of nationalism. Kohn investigates the ramifications of nationalism in his work, asking what is the importance of a thing like nationalism.⁴⁵ Other scholars, like John Armstrong, have guided the scholarly dialogue in understanding the difference between patriotism, identity, and history, as well.⁴⁶ Homi K. Bhaba's work on "nations" dealt with the importance of narratives in the creation of identity, which is essential in understanding the function of constitutive rhetoric.⁴⁷ Priscilla Wald investigates similar ideas, and her work operates on a level not completely dissimilar from my own in that she consistently tries to connect context, structure, theory, and criticism; though she does so as a historiographer.⁴⁸ Ernest Gellner's work on the relationship between nations, identity, and nationalism is similar but not so specifically focused on narrative.⁴⁹

Michael L. Bruner's *Strategy of Remembrance: The Rhetorical Dimensions of National Identity Construction* is a useful book in understanding the process of the rhetorical construction of identity, though his work does not deal with American identity. He largely echoes the ideas of Anderson, Charland, and McGee in describing how a nation creates itself via politics and rhetoric.⁵⁰ An interesting and somewhat unique perspective on constitutive rhetoric comes from Robert Stephen Reid in his 2004 essay "Being Baptist." While many have focused on national identity, Reid chose to focus on the rhetorical construction of his religious identity, which is useful to compare and contrast to the more politically oriented works cited in this project. He concludes

that any number of identities are shaped by rhetoric, and those constructed identities effect how we speak, think, and even the construction of other identities.⁵¹

Mary Stuckey's work has been indispensable to the constitutive rhetoric conversation. Her article "One Nation (Pretty Darn) Divisible" provides a look at the function of constitutive rhetoric in a current and accessible context. That being said, her work on the rhetorical presidency and her research as an American historical rhetoric scholar has provided invaluable guidance in how to approach the idea of constitutive rhetoric.⁵² Equally useful is Vanessa Beasley's body of work dealing with the construction of the people via presidential rhetoric.⁵³ However Stuckey and Beasley, due to the nature of their topics ideas look at collections of texts, whereas this project positions itself as illustrating how rhetorical criticism can highlight constitutive rhetoric within a single text.

Helen Tate's work "The Ideological Effects of a Failed Constitutive Rhetoric: The Co-Option of the Rhetoric of White Lesbian Feminism" and Christina Morus's "The SANU Memorandum: Intellectual Authority and the Constitution of an Exclusive Serbian 'People'" work within the framework set up by Charland.⁵⁴ These works also deal with creating identity for a social movement.⁵⁵ A social movement is a large, uninstitutionalized but organized collectivity, that "promotes or opposes social change in societal norms and values" and often "encounters opposition in a moral struggle."⁵⁶ My work focuses on the Cold War, but by that definition the Cold War is not a social movement. The Cold War is larger in scope. It is more of a political event and climate. The Cold War is not an organized, uninstitutionalized group, and while there are a

number of “moral struggles,” it is not organized enough to fit the social movement definition. Like these, a number of constitutive works, including Charland’s, deal with social movements. My work deviates from that pattern by not only focusing on a singular text outside of a social movement, as few have, but by doing so in the manner of White.

Charland’s explanation of constitutive rhetoric begins with Michael McGee’s concept that “people,” or the identity of a people, is an imagined, rhetorical construct.⁵⁷ The identity is steeped in the values and beliefs of a culture, which are a part of Benedict Anderson’s *Imagined Communities*. This collective vision that the rhetor helps create is a political myth that requires the audience, a group of individuals, to willingly partake in the collective – they must become the people that the rhetor describes.⁵⁸ Derek Sweet and Margret McCue-Enser follow in McGee’s footsteps in calling this an “artificial identity,” but if one takes Anderson’s work seriously, and then identity itself is imagined, not artificial. It is the clearest example of the reality of a rhetorically constructed identity as Charland has described: we create identity and that identity is true.⁵⁹

Charland claims that an audience in constitutive rhetoric is extrarhetorical. The members of the group do not exist in nature, but within a discursively constituted history. Cynthia Duquette Smith explains that “a constitutive understanding of rhetoric emerges out of a recognition that existing approaches to the ‘audience’ in rhetorical studies are unsatisfying because they tend to take the audience as a given.”⁶⁰ In other words, to simply assume that the nature of the audience is one way and not another is

problematic. Constitutive rhetoric is the tool by which those audiences *become*. “Thus, this rhetoric paradoxically must constitute the identity” while it “simultaneously presumes it to be pregiven and natural, existing outside of rhetoric and forming the basis for a rhetorical address.” The audience and the rhetor must behave as if the identity already existed, so that there is an opportunity to fashion that identity rhetorically. Or, as Sweet and McCue-Enser explained, rhetoric is an inventive act.

Subjects within constitutive narratives are constrained by their position, and the endings are fixed.⁶¹ Constitutive rhetoric leaves the job of narrative closure to the constituted subjects.⁶² But first, in order to position oneself within the narrative, one must already be a subject within the narrative. That is, “one must already be a subject in order to be addressed or to speak.”⁶³ Charland explains:

Constitutive rhetorics of new subject positions can be understood, therefore, as working upon previous discourses, upon previous constitutive rhetorics. They capture alienated subjects by rearticulating existing subject positions so as to contain or resolve experience dialectical contradictions between the world and its discourses.⁶⁴

In these cases the “already” subject position is “American.” Each of these rhetorical instances illustrates an attempt to define American, but not create it from scratch. The Supreme Court, McCarthy, and Hefner are relying on the idea that the identity of “American” already exists. They are each simply trying to tighten that definition. The Pledge of Allegiance is an epideictic tool that aims to do the same thing. The idea is not to create “American” but, by relying on previous rhetorics and experiences, create a very specific understanding of

“American.” This study simply focuses on specific rhetors in specific situations that aimed to constitute “American” identity for their audience.

Jolanta Drzewiecka elaborates on this idea of the constructed audience by arguing that “we” (or community identity) is evolutionary, due to its constructed nature.⁶⁵ Charland shows “the degree to which collective identities forming the basis of rhetoric appeals themselves depend on rhetoric.” Community or group identities “exist only through an ideological discourse that constitutes them.” That is, as a group narrates their story, they come to be.⁶⁶ References to the “American Way” or the American way of life in every day discourse illustrate the continually pre-given nature of identity in constitutive rhetoric. Drzewiecka adds that “although individuals are constituted as subjects in this process, it is important to recognize the agency and creativity of communities which constantly rhetorically recreate and imagine” their identities. “In effect, constitutive discourse creates a particular collective identity to legitimate particular ways of collective life by transcending individual differences.”⁶⁷ Ultimately, audiences are constituted as subject through a process of identification. This identity can evolve. At particular moments, constitutive rhetoric can reposition or rearticulate subjects.⁶⁸ The assumed identity accounts for the group *topos*, but the assumed identity needs to be constructed as an “always already” by the rhetors. If groups, or members of the same group, do not share those assumptions then differing interpretation of identity will often conflict with each other in the public sphere.

Theorists tend to view constitutive rhetoric as a larger narrative and not specific instances. George Vitsaropoulos’s “Constitutive Rhetoric and Subjects of Globality”

describes these instances of constitutive rhetoric as falling within an ongoing story. Vitsarapoulos claims that Charland's famous "White Paper" derives its constitutive power "out of the historical account it offers to its desired audience."⁶⁹ This is where understanding White's theory of constitutive rhetoric helps bridge the theory with the method. White does not take away from Charland and others by claiming that constitutive rhetoric can be a matter of specific instances of communication. Constitutive rhetoric positions the audience as a subject within a particular historical narrative. By accepting Maurice Charland and Michael McGee's (and of course, never forgetting Benedict Anderson) that identity is rhetorically constructed and understanding their theories of constitutive rhetoric, we can use White to lead us to a methodology.

White's protégé LaRue addresses the narrative in his discussion of constitutive rhetoric as well, but LaRue's work on legal rhetoric gives examples of specific narratives that feed into the larger narratives that define identity.⁷⁰ When Charland, McGee, Kenneth Burke, and others talk about these constitutive narratives they speak in an almost mythic sense. If one were going to write about national identity, for example, one would look broadly at that narrative in action.⁷¹ This study focuses on the smaller narratives that make up such a huge story. Katja Thieme's "Constitutive Rhetoric as Aspect of Audience Design: The Public Texts of Canadian Suffragists" is an interesting departure from many of the other works of constitutive rhetoric and worth noting. Thieme focuses on the written word, even on elements of rhetoric as particular as singular noun phrases. Thieme uses a wide sample of letters and essays, but of all of the

constitutive analyses her work seems to move closest toward the kind of rhetorical criticism this project provides.

Through rhetoric, and rhetoric comes in a variety of forms, “individuals and groups constitute their respective identities, illuminate unnoticed social problems, reinforce long held traditions and social contracts and contest generally held notions of right or wrong.”⁷² This was inspiration for bringing together the theory behind constitutive rhetoric and the application of rhetorical criticism in the tradition of White. Assuming an identity while trying to construct it seems a complicated and self-contradictory act. So I chose to do a work of criticism to discover the actual means and methods of said construction.⁷³ If scholars accept the theory of constitutive rhetoric and believe that these arguments are being made in the public that sway an audience to believe themselves to be one thing and not another, it stands to reason scholars should also be comfortable pointing to one specific speech or work and deem it constitutive once. Once it has been labeled thusly, understanding how a rhetor sought to create identity would add to the larger understanding of public discourse. Another way in which my project can add to the conversation is to bring the rhetoric itself fully into the limelight. All of these scholars have provided a good deal of the scholarly conversation about the audience and how they are constructed, but by adding rhetorical criticism to the theory we can look specifically at how that happened.

Charland’s original work, on which the theory of constitutive rhetoric is based, is actually based on a singular text – “The White Paper.” However, Charland’s approach differed from White’s approach, which lacks Althusseur’s ideal of “interpellation.” As

James Aune notes, constitutive rhetoric according to White “preserves human agency” while “effacing agency in the Althusserian tradition of interpellation and the constitution of subject positions.”⁷⁴ Celeste Condit notes the same tension between McGee’s focus on audience as opposed to a criticism-focus on text. She does not care for McGee’s tendency to portray the audience as the primary creator of the text. “Creative decoding,” she posits, “is not the same thing as the construction of a text of one’s own. A text implies intent to communicate – perhaps to persuade others, but at least to contact others in some way.”⁷⁵ Condit, like Aune, is not completely comfortable with the proclivity of constitutive theory to take a good deal of agency from the rhetor and give it to the audience. This is the major difference between the criticism approach I take in this work and the criticism in other works. Without ignoring the importance of Charland (and Burke and McGee), White allows for a certain amount of agency in constitutive rhetoric that makes a singular text more worthy of study.

Condit provides a very clear and very succinct explanation of the tension between the kind of work that McGee and Charland do, and the kind of criticism one reads from Martin Medhurst and Michael Leff. Leff, like Charland, “insists on reading a single text at a time,”⁷⁶ so one might think that she would put the two of them in the same camp. However, she describes an inherent break in their approaches to criticism. Leff approaches the text and tends to focus on a reading in the classic sense. He provides descriptions and analyses of multiple layers of the organization of a text, or what he calls the “rhetorical action” of a text. That is, Leff focuses on the way the text itself moves and functions as an argument. McGee, on the other hand, has exhibited a

tendency to “emphasize the context, in the form of the ‘audience,’ at the expense of the text.”⁷⁷ So for Condit, McGee falls squarely into the same category as Charland, and most constitutive scholars agree. McGee’s work is often quoted side by side with Charland’s as some of the most important texts in constitutive theory. However, if Condit is to be believed, then there is a tension between the kind of text-based criticism that Leff does and constitutive studies such as McGee does.

Using James Boyd White’s understanding of constitutive rhetoric eases that tension. White allows for the kind of text-centered analysis that satisfies rhetorical critics, without alienating constitutive understandings of rhetoric. Condit claims that “it is precisely the exacting reading of texts as they are situated in history that constitutes rhetorical criticism as a distinct discipline in the humanities, and as an academic endeavor with a unique contribution to make human understanding.”⁷⁸ But situating rhetorical criticism within a framework of White’s understanding of constitutive rhetoric, I can build a bridge into the constitutive theory so often associated with Charland and McGee.

Rhetorical criticism differs from the New Criticism of literature studies in that this particular criticism considers the historical context of an artifact. Whereas in New Criticism a critic might be discouraged to look much beyond the text itself, in a study such as this context is all-important. However, such a study considers not just history but elements such as word choice, imagery, and organization, as well as the development of the ideas expressed in the artifact.⁷⁹ One has to understand the text itself, and the ways in which the text is constructed and the methods used to create it, the “linking

images and metaphors,” but also the way in which it is a response to its time, and ultimately how the artifact in turn shapes its context.⁸⁰ Rhetorical criticism must first ask, “What is the argument?” After all, the argument is the very purpose of the text. However, simply assessing or summarizing the argument does not necessarily illuminate anything that shows us how a rhetor may or may not be successful with that argument. Criticism looks at not just what the argument is, but how the argument is made.

White emphasizes the importance of this kind of study in *When Words Lose Their Meaning*. The language we use, he claims, always constitutes. The words and the language which we use to represent our ideas are actions that interact with the audience. He writes that “when we look at particular words, it is not their translation into statements of equivalence that we should seek, but an understanding of the possibilities they represent for making and changing the world.”⁸¹ That is, even the smallest units of communication have the potential to re-shape or even create an identity or community. He writes that constitutive rhetoric lies not just in a meta understanding of audience, but in the minute rhetorical choices a rhetor makes. White, however, relegates his studies to legal rhetoric. Since White provides an opportunity for criticism and theory to interact, I have chosen criticism of a specific text, as opposed to a group of texts or the texts of a movement, to help discover how we construct identity. It is my goal to illustrate a broader application. I will move beyond the law as epideictic rhetoric to more deliberative, epideictic as performative rhetoric, and even rhetorical examples from popular culture.

In White's *Justice as Translation* he describes what he sees as the connection between language and life, and language and identity, as reciprocal. He claims that

each of us is partly made by our language, which gives us the categories in which we perceive the world and which form our motives; but we are not simply that, for we are users and makers of our language, too; and in remaking our language we contribute to the remaking of our characters and lives, for good or for ill.⁸²

He further explains that this process of remaking is a collective process because language itself is socially constructed, creating a cyclical and indivisible relationship. Because of this continual pull and push within the language and identity relationship, both identity and language are always in flux. Pinpointing the exact nature of that relationship, identity, *or* language proves difficult then. It is as if the classic scientific principle that one cannot observe a thing without changing it applies to who we are and how we create our identity, as well.

Looking at a moment in history and asking how a thing happened is more feasible than looking at the present and asking what is happening. White's understanding of constitutive language and rhetoric provides excellent background for a study of this kind. Using his notions of how language creates identity we can narrow our question to exactly how that is done, even if the definition of identity remains nebulous. Stephen Lucas, an expert at close criticism, posits that while criticism is different from a rhetorical history or biography, one cannot separate public address from its historical context.⁸³ "Because," Lucas argues, "rhetorical discourse occurs only within a particular world," the identity of any given text is inextricably interwoven with its context.⁸⁴ In other words, any text must be situated within the context that produces it. White agrees and feels it is a requirement that we as critics must always ask what universe is

constructed in that particular discourse?⁸⁵ He sees the relationship between a rhetorical artifact and its context as reciprocal. For White, the significance of the close relationship between text and context is evident in an artifact's specific terms and the creation of an identity.⁸⁶

Michael Leff explains that the purpose of textual criticism is to move attention away from theory and focus on the rhetorical action within the artifact.⁸⁷ As such, criticism highlights what a rhetor does in a specific text to achieve her or his ends. In this study, I will be assessing how rhetors create a specifically constitutive argument. There are a number of formidable elements to such a study. One must read and re-read to uncover the basic conceptions that organize the text, analyze the historical and biographical circumstances surrounding the text, and illumine the ways in which these relate.⁸⁸ However, I feel that we would be remiss to completely ignore a theoretical framing in the cases of this project. Taking the constitutive theory out of an analysis of any of these cases strips them of some of their historical and rhetorical import. Martin Medhurst points out that one reason we should engage in textual analysis is to remind scholars that rhetoric is a cultural force that “shaped and continues to shape the American experiment.”⁸⁹ Medhurst echoes White's idea that the very words we chose and use are important to understanding the world we live in and create. And, as Lucas argues, a study of rhetoric must move beyond simply explicating what the artifact says or giving its history.⁹⁰ White and Charland remind us that the relationship between artifact and rhetorical situation is reciprocal: the artifact is informed by the context, but because of the constitutive nature of language that artifact will, in turn, shape the

conversation about and around it. This project bridges the criticism by which we understand texts and the theory that frames them and makes them significant.

I have chosen four instances in which specific rhetors told very specific stories – but each of these stories informed the larger understanding of American identity. Therefore, I chose a close reading to analyze the small story to discover the ways in which they were trying to manipulate the larger one. In *Brown v. Board* the Court set out to create an argument for a new identity. The Warren Court inserted itself into the American narrative as a direct rhetor, and addressed the audience of “Americans” via their opinion. Joe McCarthy’s entire career was based on ferreting out the un-American from the American. His exchange with Welch was significant because he completely lost control of his own rhetoric and Welch was able to wield the kind of blow that can ruin a career. McCarthy meant to be the arbiter of what was American, but in his zeal he sowed the seeds of his own downfall and Welch destroyed the narrative that McCarthy was trying to establish. The Pledge of Allegiance provided one of the most direct and clear definitions of “American” in the nation, but in 1954 lawmakers felt it needed even more clarity. Their arguments to add two simple words are indicative not just of popular opinion, but the epic nature of the Cold War. And finally, Hugh Hefner, whose life began as a simple mid-Westerner, would go on to be one of the most iconic Americans of the century. And throughout his career he strove to create in his readers’ minds the image of a particular, ideal American.

A Note on Historical Research

Though historical in nature, this work should not be categorized with projects like those of Vanessa Beasley or Kathleen J. Turner.⁹¹ Rhetorical history aims to re-create or re-imagine in its analysis. This work is specifically a work of criticism and not rhetorical history. The attempt is not to re-construct or interpret a particular view or rhetorical framing of history, but to critique the manner in which we argue our own definitions of who we are. In his work *Justice as Translation* White argues that we are “made” by our language. The difficulty in pinning down a particular meaning is that both identity and language are constantly in flux. While we use language to create identity, we use the same language to massage that identity.⁹² Sam B. Girgus takes these ideas and applies them very specifically to the notion of American identity. However, his work does not position itself as rhetorical scholarship.⁹³

Edwin Black claims that the “determination of social identity is not an everyday affair, but it is recurrent enough in human experience to tempt rhetorical interpretation.”⁹⁴ That is, we discover how we create identity through criticism. Black’s explanation points directly to the goal of this project. Black and White explain that through rhetoric we construct a national identity – so it is through the criticism thereof we discover how that construction takes place.

Ultimately this project serves as an exemplar. I argue that using White’s understanding of constitutive rhetoric in conjunction with other rhetorical scholars; one can analyze specific moments in time and artifacts of rhetoric to see how rhetors attempt to create identity. I have chosen four incidents dealing with national identity all

produced within months of each other so they share a similar political, historical, economical, and cultural background. Yet they have very different comments on American identity, and each responds to the mounting tension between modernity and postmodernity in their own unique way. As White explained, if the smallest words can make a difference then it seems sensible to pay attention to small moments of rhetorical action. Each chapter shows how constitutive theory and rhetorical criticism can work together to discover the various ways in which rhetors create American identity.

Contribution to Scholarship

I do not intend to show what the definition of “American” was in 1954, but to use that year as a case study for a rhetorical criticism of the ways in which we constitute the term American. The goal is to understand some of the ways in which we get to the definition of “American,” which is a broader question than just what that meant in a specific year.

One could write volumes upon volumes on defining American and never reach the end of the topic because the definition is constantly in flux; it is massaged by politicians, pop culture, the media, the courts, and a host of others. However, the means used to make these slight alterations to an intangible is valuable knowledge. By focusing on rhetorical criticism as a means of analyzing constitutive rhetoric, one can analyze how an audience tries to include itself in “America” while another tries to keep that group on the outside. Also, some attention to the rhetor and the rhetoric as opposed to focusing entirely on the audience will help us to understand constitutive rhetoric as an active process, in which the speaker, speakers, or writers have agency which they use to

manage identity. And while the definition of American may change, many of the methods of constructing that identity remain the same. For this reason, such a study is fruitful in providing a foundation for the “what” question by addressing the “how.”

This is why I feel the method of this project is important. Understanding how we create identity is key to understanding politics, religion, and ethics on every level. However, leaving constitutive rhetoric at the level of theory risks making it impractical in the sense that it is difficult to apply in specific circumstances. By meshing White’s understanding of constitutive rhetoric and his method of assessment with Charland’s theory, then we have a means to analyze specific moments – those specific speeches or even just phrases that get to the heart of American identity.

My goal is to provide a method of assessing specific rhetorical events as constitutive. Identity is not something that simply happens or that the audience just accepts; it is created. By taking White’s ideas about the law as constitutive and applying them as rhetorical criticism on a more universal level, we can assess specifically how that happens.

Notes

1. Michael Leff and Andrew Sachs, “Words the Most Like Things: Iconicity and the Rhetorical Text,” *Western Journal of Communication* 54 (Summer 1990): 256.
2. Maurice Charland, “Constitutive Rhetoric: The Case of the People Quebecois,” *Quarterly Journal of Speech* 73.2 (1987): 133-150; Michael McGee, “In Search of the People,” *Quarterly Journal of Speech* 61.3 (1975): 235-249; James Boyd White, *Justice as Translation* (Chicago: University of Chicago Press, 1990); James Boyd White, *When Words Lose Their Meanings* (Chicago: University of Chicago Press, 1984).
3. Tasha Dubriwny, “Constructing Breast Cancer in the News Betty Ford and the Evolution of the Breast Cancer Patient,” *Journal of Communication Inquiry* 33.104 (2009):104-125.

4. David Riesman, *The Lonely Crowd: A Study of the Changing American Character* (New Haven: Yale University Press, 1950).
5. C. Wright Mills, *White Collar: The American Middle Classes* (New York: Oxford University Press, 1951).
6. Benedict Anderson, *Imagined Communities: Reflection on the Origin and Spread of Nationalism* (London: Verso, 2003).
7. Vanessa Beasley, *Who Belongs in America? Presidents, Rhetoric, and Immigration* (College Station, TX: Texas A&M University Press, 2006); Vanessa Beasley, *You the People: American National Identity in the 2004 Conventions* (College Station, TX: Texas A&M University Press, 2004); Vanessa Beasley "The Rhetoric of Ideological Consensus in the United States: American Principles and American Pose in Presidential Inaugurals," *Communication Monographs* 68.2 (June 2001): 169-183.
8. See Homi K. Bhaba, *Nation and Narration* (London: Routledge, 1990); Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983); Sam B. Girgus, *The American Self* (Albuquerque: University of New Mexico Press, 1981); Michael Ignatieff, "Myth of Citizenship," *Theorizing Citizenship*, ed. Ronald Beiner (Albany: State University of New York Press, 1995); Hans Kohn, *Nationalism: Its Meaning and History* (Princeton: D. Van Nostrand Company, Inc., 1965).
9. Max Weber, "From Science as Vocation," *From Modernism to Postmodernism*, ed. Lawrence Cahoone (Cambridge, MA: Blackwell 1996), 128
10. Robert Latham, *The Liberal Moment: Modernity, Security, and the Making of Postwar International Order* (New York: Columbia University Press, 1997), 13.
11. Latham, 14.
12. Jean François Lyotard, *The Postmodern Condition: A Report on Knowledge* (Minneapolis: University of Minnesota Press, 1984), xxiv.
13. Jean François Lyotard, *The Postmodern Explained* (Minneapolis: University of Minnesota Press, 1992), 17.
14. Lyotard, *The Postmodern Explained*, 18.
15. Jean Baudrillard, *Simulacra and Simulation* (Ann Arbor: University of Michigan Press, 2003); Jacques Derrida, *Of Grammatology* (Baltimore: Johns Hopkins University Press, 1997); Frederic Jamieson, *Postmodernism, or Cultural Logic of Late Capitalism* (Durham: Duke University Press, 1991).
16. For more reading on this idea one might consider Wittgenstein's germinal works on "language games." Ludwig Wittgenstein, *Philosophical Investigations* (Malden: Blackwell, 1953); Ludwig Wittgenstein, *Blue and Brown Books* (London: Harper Perennial, 1942). Both of these works influence Lyotard's *The Postmodern Condition: A Report on Knowledge*.
17. Lyotard, *The Postmodern Condition*, 15.

18. Lyotard, *The Postmodern Condition*, 30.
19. Numerous theorists have written on this topic, both generally and specifically. Lyotard, Jamieson, and Baudrillard are all excellent resources on Postmodern thought. One might also look into Jacques Derrida for a foundational understanding: Jacques Derrida, *Of Grammatology*. The theorists who have written on the subject are myriad. Those mentioned here are the ones who provide the most foundational understanding of postmodernity and are most pertinent to this study.
20. Richard M. Weaver, *The Ethics of Rhetoric* (Davis, CA: Hermagoras Press, 1953).
21. Danielle S. Allen, *Talking to Strangers: Anxieties of Citizenship Since Brown v. Board of Education* (Chicago: University of Chicago Press, 2004).
22. Jack M. Balkin ed., *What Brown v. Board of Education Should have Said* (New York: New York University Press, 2001).
23. Paul E. Wilson, *A Time to Lose: Representing Kansas in Brown v. Board of Education* (Lawrence, KA: University Press of Kansas, 1995).
24. Oliver Brown, *Argument: The Oral Argument Before the Supreme Court in Brown v. Board of Education of Topeka, 1952-1955* (New York: Chelsea House Publishers, 1969).
25. Clarke Rountree, *Brown v. Board of Education at Fifty: A Rhetorical Perspective* (New York: Lexington Books, 2004).
26. James Boyd White, *Justice as Translation* (Chicago: University of Chicago Press, 1990); James Boyd White, *When Words Lose Their Meanings* (Chicago: University of Chicago Press, 1984); L.H. LaRue, *Constitutional Law as Fiction: Narrative in the Rhetoric of Authority* (Lanham, MD: Rowman & Littlefield Publishers, 2006).
27. White, *Justice as Translation*, xiv.
28. For more on McCarthy and Murrow, see Paul J. Achter, "TV, Technology, and McCarthyism: Crafting the Democratic Renaissance in an Age of Fear," *Quarterly Journal of Speech* 90.3 (August 2004): 307-326.
29. Michael Gauger, "Flickering Images: Live Television Coverage and Viewership of the Army-McCarthy Hearings," *Historian* 67.4 (2005): 678-693; Donald A. Ritchie, "Are You Now or Have You Ever Been? Opening the Records of the McCarthy Investigations," *Journal of Government Information* 30.4 (2004): 463-469.
30. Paul J. Achter, "TV, Technology, and McCarthyism: Crafting the Democratic Renaissance in an Age of Fear," *Quarterly Journal of Speech*; Frederick W. Haberman, Jonathan W. Curin, Benjamin Wham, Ordean G. Ness, Orville A. Hitchcock, Ben Park, and Jonathan W. Curvin, "Views on the Army-McCarthy Hearings," *Quarterly Journal of Speech* 4.1 (1955): 1-18.
31. Michael Straight, *Trial by Television* (Boston: Beacon Press, 1954).
32. William Bragg Edwald, Jr., *Who Killed Joe McCarthy?* (New York: Simon and Schuster, 1984).

33. Michael J. Lee, "The Populist Chameleon: The People's Party, Huey Long, George Wallace, and the Populist Argumentative Frame," *Quarterly Journal of Speech* 92.4 (November 2006): 359.
34. A rhetor utilizing epideictic rhetoric "delineates his task as one of advocating his own position in a manner that is fitting with the 'norms' of the discourse at hand. In this sense, epideictic re-affirms social norms and helps those norms reproduce themselves. This kind of discourse allows for the "disclosure of Being." Epideictic, then, is educative. This kind of rhetoric facilitates "the instilling of philosophically correct values" as they are presented by the rhetor. See Bernard K. Duffy, "The Platonic Functions of Epideictic Rhetoric," *Philosophy and Rhetoric* 16.2 (1983): 79-93.
35. Extended commentary and notes on epideictic rhetoric is provided in the chapter on the Pledge of Allegiance.
36. John Murphy, "'Our Mission and Our Moment': George W. Bush and September 11th," *Rhetoric and Public Affairs* 6.4 (2003): 607-632.
37. Richard J. Ellis, *To the Flag: The Unlikely History of the Pledge of Allegiance* (Lawrence, KA: University Press of Kansas, 2005).
38. Patrick Allit, *Religion in America Since 1954: A History* (New York: Columbia University Press, 2003).
39. Will Herberg, *Protestant Catholic Jew: An Essay in American Religious Sociology* (Chicago: University of Chicago Press, 1983). For more on religion during the Cold War see Dianne Kirby, ed. *Religion and the Cold War* (New York: Palgrave Macmillan, 2003); and Richard V. Pierard and Robert Dean Linder, *Civil Religion and the Presidency* (Grand Rapids, MI: Academie Books, 1988).
40. The number of proceedings concerning "Under God" are impressive. I do not cite all of them in this project, though a fuller list is in the bibliography than in the text of this dissertation. See the following as an example: United States House of Representatives, "Amending the Pledge of Allegiance to the Flag of the United States." *Congressional Record —House* (7 June 1954): 7757-7766.
41. Lizabeth Cohen, "Citizens and Consumers in the United States in the Century of Mass Consumption," *The Politics of Consumption: Material Culture and Citizenship in Europe and America*, eds. Martin Daunton and Matthew Hilton (New York: Oxford, 2001), 205.
42. Frank Brady, *Hefner* (New York: Macmillan, 1974) ; Russell Miller, *Bunny: The Real Story of "Playboy"* (New York: Hold, Rinehart, and Winston, 1985); Steven Watts, *Mr. Playboy: Hugh Hefner and the American Dream* (Hoboken, NJ: John Wiley & Sons, Inc., 2008).
43. Susan Gunelius, *Building Brand Value the "Playboy" Way* (Basingstoke, Hampshire: Palgrave Macmillan, 2009); Elizabeth Fraterrigo, "Entertainment for Men *Playboy*, Masculinity, and Postwar American Culture" (Ph.D., Loyola University of Chicago, 2004); Elizabeth Fraterrigo, *"Playboy" and the Making of the Good Life in Modern America* (Oxford: Oxford University Press, 2009).
44. Hugh Hefner, *The "Playboy" Philosophy* (Chicago: HMH Pub. Co., 1963), 166.
45. Hans Kohn, *Nationalism: Its Meaning and History* (Princeton: D. Van Nostrand Company, Inc., 1965).

46. John A. Armstrong, *Nations Before Nationalism* (Chapel Hill: University of North Carolina Press, 1982).
47. Homi K. Bhaba, *Nation and Narration* (London: Routledge, 1990).
48. Priscilla Wald, *Constituting Americans: Cultural Anxiety and Narrative Form* (Durham: Duke University Press, 1995).
49. Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983).
50. Michael L. Bruner, *Strategies of Remembrance: The Rhetorical Dimensions of National Identity*. (Columbia, SC: South Carolina Press 2002).
51. Robert Stephen Reid, "Being Baptist," *Rhetoric and Public Affairs* 7.4 (2004): 587-602.
52. Mary E. Stuckey, "One Nation (Pretty Darn) Divisible: National Identity in the 2004 Conventions." *Rhetoric and Public Affairs* 8.4 (2005): 639-656; see also, Mary E. Stuckey, *Defining Americans: the Presidency and National Identity* (Lawrence: University Press of Kansas, 2004).
53. Vanessa Beasley, "The Rhetoric of Ideological Consensus in the United States: American Principles and American Pose in Presidential Inaugurals," *Communication Monographs* 68.2 (June 2001): 169-183; Vanessa Beasley, *Who Belongs in America? Presidents, Rhetoric, and Immigration*, (College Station, TX: Texas A&M University Press, 2006); Vanessa Beasley, *You the People: American National Identity in the 2004 Conventions* (College Station: Texas A&M University Press, 2004).
54. Helen Tate, "The Ideological Effects of a Failed Constitutive Rhetoric: The Co-Option of the Rhetoric of White Lesbian Feminism," *Women's Studies in Communication* 28.1 (Spring 2005):1-31; Christina Morus, "The SANU Memorandum: Intellectual Authority and the Constitution of an Exclusive Serbian 'People,'" *Communication and Critical/Cultural Studies* 4.2 (2007): 142-165.
55. Here I follow Tate in using Stewart, Smith, and Denton's description of a social movement. Charles J. Stewart, Craig Allen Smith, and Robert E. Denton, Jr., *Persuasion and Social Movements* (Long Grove, IL: Waveland Press, Inc., 2007).
56. Stewart, Smith, and Denton, 1-17.
57. Michael C. McGee, "In Search of 'The People': A Rhetorical Alternative," *Quarterly Journal of Speech* 61 (October 1975): 239-245. See also: Kenneth Burke, *Rhetoric of Motives* (Berkeley: University of California Press, 1969); Kenneth Burke, *Language as Symbolic Action: Essays on Life, Literature, and Method* (Berkeley: University of California Press, 1966).
58. Derek Sweet and Margret McCue Enser, "Constituting 'the People' as Rhetorical Interruption: Barack Obama and the Unfinished Hopes of an Imperfect People," *Communication Studies* 61.5 (Nov-Dec 2010): 603-604.
59. Benedict Anderson, *Imagined Communities: Reflection on the Origin and Spread of Nationalism*, (London: Verso, 2003). Another particularly useful and interesting work dealing with nationalism and identity is Anthony Marx's *Faith in Nation: Exclusion Origins of Nationalism* (NY: Oxford University Press 2003). Marx's work differs from Anderson's in that it focuses on the rhetorical necessity of "us" and "them." That is, if a nation is going to create an identity for itself one of the integral parts of the process is to make sure that there is a "them" to contrast themselves with.

60. Cynthia Duquette Smith, "Discipline – It's a 'Good Thing': Rhetorical Constitution and Martha Stewart Living Omnimedia," *Women's Studies in Communication* 23.3 (Fall 2000): 340.
61. Charland, 139.
62. Charland, 143.
63. Charland, 141.
64. Charland, 142.
65. Jolanta Drzewiecka, "Reinventing and Contesting Identities in Constitutive Discourses: Between Diaspora and Its Others," *Communication Quarterly* 50.1 (Winter 2002): 2.
66. Charland, 137-138.
67. Drzewiecka, 3.
68. Charland, 147.
69. George Vitsaropoulos, "Constitutive Rhetoric and Subjects of Globality: The World Summit on the Information Society," Paper presented at the annual meeting of the International Communication Association, (Sheraton New York, New York City, NY, May 5, 2005):6
70. L.H. LaRue, *Constitutional Law as Fiction: Narrative in the Rhetoric of Authority* (Lanham, MD: Rowman & Littlefield Publishers, 2006).
71. See K.S. Zagacki, "Constitutive Rhetoric Reconsidered: Constitutive Paradoxes in G.W. Bush's Iraq War Speeches," *Western Journal of Communication* 71.4 (Oct 2007): 272-293.
72. Sweet and McCue-Enser, "Constituting 'the People,'" 605
73. Using Kenneth Burke and McGee, Charland argues that audience, person, and subject cannot be viewed as given, but are textual and constructed. Charland, "Constitutive Rhetoric," 140.
74. James Arnt Aune, "Modernity as a Rhetorical Problem: Phronesis, Forms, and Forums in *Norms of Rhetorical Culture*," *Philosophy and Rhetoric* 41.4 (2008): 413.
75. Celeste Condit, "Rhetorical Criticism and Audiences: The Extremes of McGee and Leff," *Western Journal of Speech Communication* 54 (Summer 1990):340.
76. Condit, 331.
77. Condit, 332
78. Condit, 332.
79. Amy R. Slagell, "Anatomy of a Masterpiece: A Close Textual Analysis of Abraham Lincoln's Second Inaugural Address," *Communication Studies* 42.4 (1991): 155-56.
80. Michael Leff, "Textual Criticism: The Legacy of G.P. Mohrmann" *Quarterly Journal of Speech* 72 (1986): 383. As Leff has described, "Every rhetorical text is a particular construction that unfolds in

time as it is written or spoken and as it is processed by a listener or reader.” The text is constrained by its context, but also constructs a certain order of elements within itself. This internal pattern and timing determines how the discourse may be analyzed as an intervention in its own time: Leff. 384-5

81. White, *When Words Lose Their Meanings*, 11.
82. White, *Justice as Translation*, 23.
83. Stephen E. Lucas, “The Schism in Rhetorical Scholarship,” *Quarterly Journal of Speech* 67 (1981) : 1 .
84. Lucas, “The Schism,” 6.
85. White, *Justice as Translation*, 12.
86. White, *Justice as Translation*, 231-274. See also, Stephen E. Lucas, “The Stylistic Artistry of the Declaration of Independence,” *Rhetoric and Public Affairs* 1.2 (1998): 143-84.
86. Charland, 133-150.
87. Leff, “Textual Criticism,” 378.
88. Leff, “Textual Criticism,” 380.
89. Martin J. Medhurst, *Critical Reflections on the Cold War* (College Station: Texas A&M University Press, 2000): 38. See also: Martin J. Medhurst, Robert Ivie, Philip Wander, and Robert L. Scott, *Cold War Rhetoric: Strategy, Metaphor, and Ideology* (NY: Greenwood Press, 1990); and Martin J. Medhurst, *Eisenhower’s War of Words: Rhetoric and Leadership* (East Lansing: Michigan State University Press, 1994).
90. Lucas, “Schism,” 19-20.
91. Kathleen J. Turner, *Doing Rhetorical History: Case Studies* (Tuscaloosa, AL: University of Alabama Press, 1998).
92. White, *Justice as Translation*, 24-25.
93. Sam B. Girgus, *The American Self* (Albuquerque: University of New Mexico Press, 1981).
94. Edwin Black, *Rhetorical Questions: Studies of Public Discourse* (Chicago: University of Chicago Press 1992): 23.

CHAPTER II

NEW SCHOOL: DESEGREGATION AND THE WARREN COURT'S OPINION AS CONSTITUTIVE RHETORIC

In the 5th grade my closest friend was black. It never occurred to me to think of her as my “black friend” and I certainly did not see this relationship as anything out of the ordinary. At the time, I lived across the alley from my grandparents on my father’s side, and would often drop by their house after school or on weekends. On one of those occasions my friend came with me. The next time I visited my grandparents, this time without friend in tow, my grandmother asked me if anyone gave me a hard time about hanging out with the young lady I had brought by. I did not understand the question.

My grandmother was born in 1921 and learned to understand life in segregated terms. My grandfather on my mother’s side was born in 1916. He was almost 40 before the notion of desegregated schools made it before the Supreme Court, and many more years passed before integration came to the public schools in rural Texas where he lived and worked. Growing up in a world that was so strictly organized by race and then watching me blithely ignore those entrenched rules made for some awkward conversations. But such was the effect of segregation, even decades after its supposed elimination. Times had changed. And with them, our ideas of what kind of relationships were acceptable.

I was in college before I truly began to comprehend the ramifications of segregation. I began to understand the difficulties that curfews and separate eating

spaces and bathrooms imposed on the victims of segregation. I began to understand how difficult it would be to better one's situation without the ability to read so the segregation of schools suddenly struck me especially egregious.

I also realized that I saw education as something different than the generations before. I understood that a certain amount of education was required for all children, so any imbalance in the quality of that education struck me as against the spirit of the law. As my college studies took me further and further into history and politics I began to understand that many of the beliefs I had thought of as hard, fast, and without flaw were *new*. Not only were they new, but these beliefs were a radical departure from former assumptions that shaped law, practice, custom, and societal norms. The reason that my fifth grade friendship was so unsettling to my family was because I was the first of the family to actually be raised in a world where I was told that equality of opportunity and access was normal.

It was my inability to understand the arguments for segregated schools that led me to include this chapter. My understanding that an education was a right for all Americans had not been universal in the years before the Cold War. The lawyers of *Brown v. Board* had to make an argument that education was imperative to being a full "American."¹ Secondly, if one's only concern was for the material part of education itself, then "separate but equal" poses no real problem. The *Brown* lawyers realized that if they put the equality of the schools on trial the simplest solution would be to require they be materially equitable. So instead, they argued that it was the separation itself that created inequality. The *Brown* team, led by Thurgood Marshall, began with the premise

that all segregated schools were equal (which they were not) in physical quality so they could effectively try the “separation” part of “separate but equal” instead of focusing on the material resources. This shift led to a case that was new and surprising to the Court. The plaintiffs brought in social scientists and academic experts to support their claims. Physical evidence and legal precedent became enmeshed in a discussion of psychology and sociology. Marshall et al. continually argued that separation itself created a group of second class citizens who would never be able to realize their complete selves and would never understand equal rights. For the leader of *Brown, et al.*’s case education was a key component to fully reaching the status of “American.”

This study differs from a study on citizenship because whether or not African-Americans were citizens was never in dispute. The case argued that all Americans have a right to education, and that right was being denied. Kansas never claimed that certain groups were somehow less deserving. They simply claimed that the doctrine of “separate but equal” was established and no one had broken it. The idea of *being* an American was not at issue, but what all Americans have access to by right was at the heart of the matter. In short, Kansas argued that separate but equal was legal according to law and precedent. *Brown, et al.* argued that “separate but equal” created a second class version of “American” that could only be remedied by eliminating separation along racial lines. Part of the argument that the plaintiffs relied on was that education was a right of all citizens. This may seem dangerous territory as it opens up the question of citizenship theory. For Marshall et al. citizenship was assumed. Nobody argued that African-Americans were not citizens. It was accepted that they were. They did,

however, argue that certain Americans were being treated differently than other Americans. Really, this addresses the question of “American,” not citizenship. The plaintiffs were arguing that the country had differentiated between citizens, denying some of them particular rights, thereby creating a division in citizenship. So, the opinion had to address the construction of American in the public discourse, since the issue of citizenship was not truly in question. At this juncture a citizenship theorist might claim that this study would be an excellent opportunity for a discussion of republicanism or liberalism, as well. However, such a discussion is beyond the scope of this project. This research focuses on using an understanding of constitutive rhetoric and close textual analysis to discover the means by which a rhetor creates American identity. In future manifestations and expansions the project may well include theories of citizenship, but for my current purposes it seems wise to keep the focus narrow and refined.

For this chapter I will begin with a brief review of other works that have dealt specifically with the *Brown v. Board* case. To be fair, the lit review is in no way comprehensive. A complete review of works that cover *Brown v. Board* would be inordinately lengthy so I will simply mention those books that were particularly useful for this study. Instead of analyzing all of the arguments, I focus on the opinion. Given that it is the opinion that had lasting legal ramifications it seems the most reasonable text for analysis. Finally, I will explain how the court uses this specific decision as a piece of constitutive rhetoric.

Literature Review

Simple Justice, by Richard Kluger, is a detailed account of the history of the case. It contextualizes *Brown v. Board* by exploring Jim Crow as a legal and cultural phenomenon.² Kluger's background information is useful in understanding the controversy surrounding the decision itself, primarily because it denies years of precedent. Also useful in understanding the social context of Jim Crow laws is Robert J. Cottrell's, Raymond T. Diamond's, and Leland B. Ware's *Brown v. Board of Education: Caste, Culture, and the Constitution*.³ Danielle S. Allen specifically addresses how this case affected ideas of American citizenship in *Talking to Strangers: Anxieties of Citizenship since Brown v. Board of Education*.⁴ However, Allen's book focuses largely on the aftermath of the decision, whereas this project is interested in the text of the decision itself. For a general treatment of the case that addresses the decision itself, Jack M. Balkin's *What Brown v. Board of Education Should Have Said* presents a collection of essays in which legal experts address the decision and how it might have been communicated or decided differently.⁵ Another general collection of essays that is useful background and commentary is Mac A. Steward's *The Promise of Justice: Essays of Brown v. Board of Education*.⁶ Charlotte Grimes celebrates the historical nature of the decision by bringing together a group of journalists and collecting their reflections on the incident in her article "Civil Rights and the Press," which makes for interesting reading in terms of historical perspective as well.⁷ Their memories round out the story by providing first person narratives of the controversy.

Paul Wilson, in *A Time to Lose* attempts to contextualize the argument and explain it from a legal standpoint. Wilson was one of the lawyers that represented the Topeka Board of Education in the case before the Supreme Court, so his account takes a particular perspective – and one which is largely missing from other works.⁸ Wilson's understanding of the case at the time was that it was a very simple legal matter – the laws concerning separate but equal had been tested and those he represented were not breaking them. Wilson writes with a great deal of respect toward his opponents, and his account addresses his personal responses to the law and the arguments. Wilson's rather simple prose and straightforward approach to the law highlights part of the focus on this study. Wilson approached this case as a simple matter of legal argumentation and was unprepared for the unprecedented social scientific evidence that seemed to sway the Court. Ultimately he is not displeased that he lost; he found the racism of some of his supporters frankly embarrassing, but felt the case was swayed by extra-legal argumentation, which was echoed in many of the essays in Jack Balkin's collection. Oliver Brown, in *Argument: the Oral Argument before the Supreme Court in Brown v. Board of Education of Topeka, 1952-1955* dissects the decision, as well.⁹ However, Brown's is a more all-around approach. He looks at the arguments for and against, then also at the opinion of the court. Like most of these works, he focuses on the winning argument, not the losing one. A similar work that focuses on the argument that is helpful in understanding the tricky legal rhetoric of the case is Leon Friedman's *Brown v. Board: The Landmark oral Argument Before the Supreme Court*. The book provides a good deal of insight into the context and the nature of the arguments before the court.¹⁰

The field of communication has paid special attention to *Brown v. Board* with scholars from a variety of specializations using the arguments and opinions as a piece for analysis. Nancy Dunbar and Martha Cooper presented a paper at NCA using the case to study theories of argumentation, specifically looking at the situation perspective for the study of legal argument.¹¹ Kurt Nutting also uses *Brown v. Board* as a starting point for a discussion of legal argumentation. He argues in favor of a Kuhnian account of legal reasoning and questions legal reasoning that is not critically examined. His work, a bit like mine, uses *Brown v. Board* as a theoretical and methodical example.¹²

Clarke Rountree provides a specifically rhetorically oriented collection in *Brown v. Board of Education at Fifty: A Rhetorical Perspective*.¹³ Rountree looks at the rhetoric of race during and since the case. Martin A. Bartness also takes a rhetorical approach, but his interest is in the way in which the justices used disparate philosophies to come to a unanimous decision in “Achieving Unanimity in *Brown v. Board*.” He argues that rhetorical collaboration led to the unanimous decision that added to the power and credibility of the Court’s opinion. However, the work does little analysis of the opinion as a piece of rhetoric in and of itself.¹⁴ John Jackson’s work on the case, *Science for Segregation*, is interesting because it uses *Brown v. Board* as a jumping off point to discuss the complicated intersection of race, science, and politics.¹⁵ While these works provide an excellent background and explanation of the legality of the decision, none of them view it as constitutive rhetoric. This project intends to fill that gap.

History

To understand *Brown v. Board* it is helpful to go back one hundred years prior to *Scott v. Sandford*, which is more commonly called the Dredd Scott case.¹⁶ While my claim is that *Brown v. Board* dealt with being “American” and not citizenship, the history of race in Supreme Court rhetoric is more complex. The *Scott* case dealt with citizenship, but it dealt specifically with legal citizenship and not theories of citizenship. The Court concluded in 1856 that “A free negro of the African race, whose ancestors were brought to this country and sold as slaves, is not a ‘citizen’ within the meaning of the Constitution of the United States.” The Court based this conclusion on a very strict “original intent” reading of the Constitution. The Court did not try to burden themselves with rationalizing issues of morality, racism, and historical ideas on race the way an “original intent” reading requires today. To the majority of the Supreme Court it was simple:

When the Constitution was adopted, they were not regarded in any of the States as members of the community which constituted the State, and were not numbered among its “people or citizens.” Consequently, the special rights and immunities guaranteed to citizens do not apply to them.¹⁷

The Court saw the *Scott* issue as a simple matter of whether the progeny of property is a citizen and therefore privileged to the legal right to sue. And the answer was a simple, “no.” The Court made the argument in a number of ways. They claimed that the words “people of the United States” and “citizens” are interchangeable, but since originally Blacks were deemed an inferior class of beings they did not fall into either category, and were not protected by the Constitution in the same fashion.

Perhaps the most telling portion of the opinion was the Court's treatment of the Declaration of Independence. Instead of trying to rationalize how the Founding Fathers could have claimed all men were created equal, but then allow such unequal treatment, the Court used that very phrase as proof that they were simply carrying out the wishes of our forbearers.

The general words above quoted [Declaration of Independence] would seem to embrace the whole human family and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration, for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted.... Yet the men who framed this declaration were great men – high in literary acquirements, high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting.¹⁸

The Court went on to explain how, because of the principles and high moral fiber of the Founding Fathers, the public must assume that they knew the document would be interpreted in such a way as to exclude the “negro race” which had been delegated property, and had in no way been included in the category of “citizen.” The other option, that they were hypocrites, was unthinkable. Therefore, in following the original spirit and meaning of the Constitution, the Court decided that a descendant of slaves in America did not have the privilege of citizenship.

In 1861, just five years later, the Civil War began. Two years later Abraham Lincoln signed the Emancipation Proclamation, and two years after that, in 1865, the 13th Amendment radically changed the landscape of the United States by abolishing

slavery. However, it was not until the 14th Amendment in 1868 that the *Scott* decision was truly nullified. The 14th Amendment proclaimed that

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.¹⁹

The *Scott* decision was neutered in a relatively short, if bloody, amount of time. Legal citizenship was no longer a question for African Americans born in the United States.²⁰ This led to a transitional period in Court opinion, as illustrated by *Plessy v. Ferguson*.²¹ The notorious *Plessy* case established “separate but equal” as a decidedly constitutional doctrine that dominated in America until 1954. The *Plessy* case did not create “separate but equal,” but just affirmed that there was nothing wrong with it. In fact, the opinion spent a good deal of time discussing how segregation was already practiced throughout the United States, specifically in education.

The Court noted that, as was brought to their attention in the *Slaughterhouse Cases*, the purpose of the 14th Amendment was to “establish the citizenship of the negro, to give definitions of citizenship of the United States and of the States, and to protect from the hostile legislation of the States the privileges and immunities of citizens...” So, the question of legal citizenship was no longer in play. What was at stake was whether the rights of citizens could be protected when those citizens were divided along racial lines. The Court decided that they can. Their primary example of how this could be done was in the schoolhouse. The Court pointed to the supposed success of schools

separated by class, sex, and race all over the country and claimed that these had not shown to cause any harm to students or their communities.

The *Plessy* opinion was precisely the opposite of what *Brown* and the *Brown* team would argue decades later. The Court specifically argued that segregation was not a denial of due process or equal protection and was not ready to accept any evidence to the contrary. Most interestingly, the Court of 1896 completely rejected the claims that segregation created a social stigma that *Brown* would try to prove using social science 58 years later.

We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case and is not unlikely to be so again, the colored race should become the dominant power in the state legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race at least, would not acquiesce in this assumption.²²

The racist arrogance of the Court is almost overwhelming. The Court claimed that if blacks felt maligned by segregation it was their own fault. The white race would never stoop to such levels.

The basic story of *Brown v. Board* itself is not that complicated.²³ In 1950 the Topeka, KA branch of the NAACP set out to construct a legal challenge to an 1879 law that segregated elementary schools. NAACP lawyers knew they needed to create a class action suit and not focus on just one family, so they used 13 different families, including 20 children. The NAACP encouraged these families to try to enroll their children in “white” schools, and as they anticipated, all of these attempts were denied. Accordingly,

as the case made it through the legal system and eventually came before the Supreme Court, the Court chose to consolidate a number of other cases dealing with similar issues under the Kansas case. In February, 1951, the Topeka NAACP officially filed their case, naming it after plaintiff Oliver Brown.

On May 17, 1954 the Supreme Court decided unanimously that segregation in schools was unconstitutional, beginning the long and often painful process of federally mandated desegregation.²⁴ The case flew in the face of mounds of precedent, and legal scholars have debated the outcome of the case ever since, many concluding that the case was decided incorrectly.²⁵ The arguments these critics levy are based on the most fundamental understanding of Constitutional law. The decision took a radical departure from decades of legal precedent.

The Supreme Court's decision is based on one simple syllogism:

Major premise: Education is a right guaranteed by the 14th Amendment.

Minor premise: Segregation denies education to black Americans.

Conclusion: "Segregation of white and Negro children in the public schools of a State solely based on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment even though the physical facilities and other 'tangible' factors of white and Negro schools may be equal."²⁶

This is the crux of my study. Since *Plessy v. Ferguson* in 1896 "separate but equal" had been not just acceptable, but deemed perfectly constitutional. The *Plessy* decision had been measured, argued, and weighed by the courts more than once and

never found wanting, so in order to once again ask the Court to re-assess the situation the case had to be framed in a new and provocative way. Marshall and his cohorts did this by a) arguing that education was a right, b) focusing on the “separation” itself as being unequal, and not the physical resources allotted to segregated schools, and c) adding social science to the argument about law in order to address the ramifications of separation, leading to a discussion of equality among all Americans. The most controversial study was the report by Swedish scientist Gunnar Myrdal usually referred to simply as *An American Dilemma*. Myrdal headed up a nine year study on race relations in the United States that was actually released in 1944, but got limited attention because of the World War. Ten years later, however, it became a piece of evidence in *Brown v. Board*.²⁷ In essence, Myrdal saw race relations in the United States as a vicious cycle. Whites had pre-conceived notions about blacks, oppressed blacks because of them, and then pointed to poor performance in the black community as justification for their pre-conceived notions. However, while that analysis sounds dire, Myrdal was ultimately hopeful for the United States. Myrdal believed that eventually we would have to deal with the cognitive dissonance of the situation. If we believed, as he thought we did, in liberalism and equality, then a society stratified along racial lines would eventually fracture. Myrdal believed that eventually Americans would recognize that treating people differently based on race was against the very way in which we defined “America.”

Hence, *Brown v. Board* gets to the heart of my research question. The Court’s decision was a conscientious effort to re-construct our ideas of what being “American”

means. Specifically, how the law can be used to maintain inequality and equality. And, if one accepts Jefferson's proclamation of American beliefs, the court was in essence using their rhetoric and the rhetoric of law to refine the very definition of American.

Analysis

Like most Supreme Court opinions, it begins with the conclusion, and the syllabus that follows is an overview of the opinion at large. While the syllabus is added to the opinion later and not written by the Court, it is useful as an introduction to the entire opinion. The first thing that jumps out at a reader is the complete lack of pathos. A Supreme Court opinion is not a "hearts and minds" campaign. It is simply an explanation of the Court's interpretation of the law. Ethos is assumed as the Court is the highest legal authority of the land, leaving logos as the Court's modus of invention.²⁸ There is no emotive or poetic language, just plain style designed to reason through the decision as clearly as possible.²⁹

The very first sentence is simple and declarative and covers the entire conclusion. It stated that separate public schooling based on race, even though the facilities may be equal, denied Negro children the equal protection guaranteed by the 14th amendment:

Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment -- even though the physical facilities and other "tangible" factors of white and Negro schools may be equal.³⁰

The rest of the syllabus is broken into points a-f, each explaining how the Court arrived at their decision. At the heart of it, an opinion, syllabus included, is the simplest form of

Aristotelian argument. These steps are simply a matter of defining terms and explaining the major and minor premises that lead to the conclusion.

Of course, much attention was paid to the 14th Amendment. This term in the argument was at the heart of the syllogism and required a very specific definition. First, the syllabus admits that the amendment is “inconclusive as to its intended effect on public education.” This seems a mis-step on the Court’s behalf. If they planned on using the Fourteenth Amendment as a crucial part of their argument, they needed it to include education. The syllabus addresses this situation immediately however, by creating a sub-argument to validate their dependence on the 14th Amendment.

Point “b” states that the Court would be assessing Amendment 14, not in an “original intent” context, but “in the light of the full development of public education and its present place in American life throughout the Nation.” This one sentence reveals quite a bit about the Court’s thinking. For one, the Constitution is a living document that requires constant interpretation. For another, there is something inherently American about education. To deny a citizen an education is denying something integral to their national identity. In a few short sentences the Court connected education with American identity. So, the syllabus continues in point “c”, if a state was going to offer education to its citizens, it must be offered on equal terms. Here was where the Kansas case made their argument. Kansas simply argued that segregation was Constitutional because the Court had decreed it so; as long as the tangibles were equal, schools could be separate.³¹

The Court, however, did not accept Kansas’s argument. The Court simply stated that “segregation of children in public schools solely on the basis of race deprives

children of the minority group of equal education opportunities,” regardless of “‘tangible’ factors.” Instead of legal precedent the Court reached outside the law and into science for sources of logos and invention. However, in the context of the syllabus it is taken as an assumption. If simply assumed as true, then the argument has no fallacy. This leads the syllabus to proclaim in point “e” that separate but equal cannot be applied to education. The Court did not make a grand proclamation about life in general, but kept the decision within the confines of the case at hand – specifically education. In doing so the Court has stayed well within the bounds of both the argument and its own limitations. The Court’s opinion was technically not designed to break down Jim Crow entirely, just to apply to education. This limitation also made the case even more pertinent to this study. Since Warren’s Court saw education as an important part of the American experience, the 14th Amendment applied because rights were being denied to those who were, in fact citizens. By focusing so much on the 14th Amendment the Court made it clear that they were arguing for education as a part of the American experience. The Court was explicit in stating that since education was an integral part of fully engaging as an American, that a complete educational experience could be denied to any group based on race.

After the syllabus, once a-f have been taken care of, Warren begins the work of the opinion. He spends some time explaining the case as a cumulative, class-action case. He claims that while the cases that were combined into *Brown* were “premised on different facts and different local conditions,” they shared a “common legal question.” This common legal question justified “their consideration together in this consolidated

opinion.” While this explanation may seem banal on its surface, Warren has established that the *Brown* decision was meant to have a farther reaching scope than just Topeka, KA. The Warren Court was not deciding the fate of the Board of Education in Topeka; the court was deciding a legal question that extends to segregated schools across the board.

The opinion is written in as clear a fashion as possible to avoid loopholes. Warren is aware that there are multiple claims that this case must prove. Warren’s opinion explains that the “segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment.” The Fourteenth Amendment is the lynchpin in the opinion. Here Warren leaves the Fourteenth Amendment as an assumption so he can establish his entire argument.

Warren explains that “the plaintiffs contend that segregated public schools are not ‘equal’ and cannot be made ‘equal,’ and that hence they are deprived of the equal protection of the laws. It was because of this claim, Warren explains, that this question fell under the authority of the Supreme Court. Warren writes that these questions and claims had enough “obvious importance” that the argument came before the highest court in the land.

In just a few sentences Warren has done a number of important things. For one, he has made it clear that this is not a singular instance. Because the argument of the plaintiffs, and ultimately the opinion of the Court, was grounded in a particular understanding of the Fourteenth Amendment. This was also how the Court could manage to deal with the body of precedent that stood before them. “Separate but equal”

was constitutional, but had previously not been challenged under the auspices of the Fourteenth Amendment. Warren has created the rhetorical context for the Court to explain how the Fourteenth Amendment has been violated, and therefore reverse the decades of legal segregation that the *Plessy v. Ferguson* decision protected.

In the same space Warren notes that one of the cases, a case out of Delaware that fell under the *Brown* umbrella was markedly different than the others. In *Gebhart v. Belton* the State Supreme Court followed the “separate but equal” doctrine, “but ordered that the plaintiffs be admitted to the white schools because of their superiority to the Negro schools.” It is important to note that the Delaware case was included because it pointed to another major argument that the Supreme Court is making: tangible equality is not enough. Delaware may have followed the letter of the law, but the Supreme Court rejected their actions because what was really on trial was separation.

In the next paragraph Warren’s opinion returns to the Fourteenth Amendment.³² He states that understanding the history of the Amendment, which made up a large part of the re-argument of *Brown v. Board*, is not enough to satisfy the court:

The Amendment “covered exhaustively consideration of the Amendment in Congress, ratification by the states, then-existing practices in racial segregation, and the views of proponents and opponents of the Amendment. This discussion and our own investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive.”³³

This opens up the opportunity for the Warren to explain his argument for the application of the Fourteenth Amendment. The Amendment does not specifically mention race, but Warren uses the historical contention surrounding the Amendment as a means to insert education into the equation.

Warren turns to the history of public education in the United States to begin his argument. His argument seems to be an explanation of why education was left out of the equal protection clause, not why it should be included. The North cultivated a public school system before the South did. At the time of the ratification of the Fourteenth Amendment a tax-supported school system, free to all citizens, was not in place in general. Education was largely a private endeavor. As a result, Warren explains, white children whose parents had the resources had private tutors or schools, whereas black education was virtually non-existent. In some states it was even illegal to educate black children. The cause of public education had advanced farther in the North, but was still incomparable to a 1954 understanding of education. Warren describes the state of public education at the time of the Fourteenth Amendment as abysmal by present-day standards:

The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states, and compulsory school attendance was virtually unknown. As a consequence, it is not surprising that there should be so little in the history of the Fourteenth Amendment relating to its intended effect on public education.

Warren's Court seems to imply that had education been regarded with the same level of respect and importance then as it was in 1954, the question of whether the Fourteenth Amendment covered education would be clearer. Warren is setting up a situation in which he can interpret the Fourteenth Amendment to cover education. He argues that education simply was not an issue at the time of ratification. Now that it is, it makes sense to include it under the Fourteenth Amendment as opposed to automatically assuming it has no place in the argument. By arguing that education is essential to the

American experience in the 1950s, even though it might not have been at the Amendment's drafting, Warren connects the case not just to the *Plessy* doctrine, but American identity at large. An entire group was not being allowed to take part in this essential part of American life, and as such their identity was incomplete.

Following the description of the state of education, the opinion addresses the body of precedence that affirmed the "separate but equal" doctrine. Warren notes that the 1896 opinion in *Plessy v. Ferguson* applied to transportation, but had been applied to education multiple times over. He acknowledges that "In this Court, there have been six cases involving the 'separate but equal' doctrine in the field of education." He points to the ways in which those cases had differed, but the biggest difference was that "in none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff."

In the instant cases, that question is directly presented. Here, unlike *Sweatt v. Painter*, there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to building, curricula, qualifications and salaries of teachers, and other 'tangible' factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

In other words, Warren is not interested in the tangible factors. The Supreme Court was interested in whether "separation" itself caused inequality. The Court was going to determine not whether the educational resources were equal, and therefore lawfully segregated, but whether "separate but equal" itself was protected under the Fourteenth Amendment. This is why Warren is so careful to mention the Delaware case beforehand – he is making it clear that separation, not quality of resources was on trial.

Warren admits that he cannot turn back the clock to 1868 or 1898. He can only assess the case in front of him. But, he states adamantly, the Court “must consider education in the light of its full development and its present place in American life.” That is, he feels one cannot leave education out of the Fourteenth Amendment simply because it was not as important in 1868 as it is in 1954. The Court, he argues, is free to assess not just the past and precedent, but the present state of education. Only then could the Court determine if separation by race deprived a group of their constitutionally guaranteed equal protection of the laws. Education, the opinion emphasizes again, is not just some perfunctory process, but an important part of American identity. It is where we learn norms and values. Depriving a group of equal education is not just a matter of ignorance of certain facts, but it keeps a group of people in state that is something other than fully American.

The way in which he brings the Fourteenth Amendment and education together gets to the heart of my questions concerning American identity. In two clear concise paragraphs the Court brings all of the components of the case together in a stunning statement on the nature of American identity:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society.

The Court has proclaimed that education is not simply a privilege, but an essential responsibility of the government. Warren feels he can make such a claim because we provide the proof of our value of education with attendance requirements and the amount of money spent on education at the state and local levels. It is not just a

matter of private concern anymore, but as a nation, Warren claims, we have decided that education is essential to our democracy.

It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.

Education, he continues, is not just valued in an abstract sense but it is absolutely necessary for the American experience. Education creates a bond among us of normative, cultural values, and prepares a child to grow up and take part of the American experience. Education helps us to adapt to our particular American environment, and helps us maintain it as well. So, a child who does not have access to education is denied the opportunity to succeed in general. It is a right, then, “which must be made available to all on equal terms.” Warren has equated education to cultural norms, success, and the American experience at large. This leads the Court to the question before them:

We come then to the question presented: does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

The Court’s opinion is as straightforward as rhetorically possible. Warren asks a question, and then answers. The Court’s opinion could not be clearer: “separate but equal” denies black children the rights that should be afforded to all Americans. The Court continues to explain that the tangible factors were not the heart of the issue. To separate children based on race created an inherent feeling of inferiority, and therefore education that was separate was innately unequal. The Court is out to make sure that as

their decision addresses what they see as an egregious rift. America was claiming that African-Americans were citizens, but denied them their rights as Americans.

The Court points out that they are not the only ones who felt this way. Citing the Kansas case before *Brown* in which the state Court concluded that segregation had a detrimental effect on African-American children. This effect, the court found, was compounded when it had the “sanction of the law.” Segregation had “a tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive” in an integrated school. And yet, in that very case, the Court found against the black plaintiffs. The state Court admitted the segregation psychologically harmed black children and that it harmed the educational process at large, but, they ruled, it did not violate “separate but equal.” For, as long as the tangibles were equal, as had been the emphasis in all the cases prior to *Brown v. Board*, the doctrine from the *Plessy* case was intact.

The United States Supreme Court, however, put the “separate” part of the doctrine on trial and assumed that the Fourteenth Amendment covered education since it was now a required, integral part of the American experience:

We conclude that, in the field of public education, the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

It is important to note that Warren’s opinion stays within the bounds of the case and focuses on segregation in the educational system. Warren’s opinion only makes the argument that the Fourteenth Amendment covers education. He is careful not to try and

apply his ruling to all walks of life, but maintain the strength of his argument by keeping it within the realm of the case. Warren knew that this landmark decision would have repercussions across many more areas of public life than just education, but he stays true to his original syllogism. The result is that the Court's opinion makes a case for education as a vital part of American identity, and to keep education segregated along racial lines created a second class of American, which, the Court believed, was expressly forbidden by the Fourteenth Amendment.

The Connection to Constitutive Rhetoric

When the Court issued their opinion in *Brown v. Board of Education* they were making a rather grand proclamation about American identity. First, the Court claimed, education was a large part of being an American. It was the key to normalized culture and material success. Education was a key element to the American experience, and so it was protected under the equal protection clause. The Court's opinion indicated that the Court would no longer tolerate citizens of the United States not being able to fully partake in those things that were guaranteed to Americans. The Court was building a constitutive case.

A student of James Boyd White's, L.H. LaRue, continues White's ideas and expands them beyond White's study of constitutional law to the process of judicial review. LaRue's basic thesis is that the Supreme Court weaves narratives. The law, as we understand it, is based on fact to a certain extent, but even more so on the stories that the Court tells. He takes White's notion of constitutive law and very specifically applies it to Court opinions. He is very adamant that when he writes *Constitutional Law as*

Fiction, he does not mean “fiction” in a derogatory or false sense. He echoes Tim O’Brien’s description of truth from his Vietnam novel *The Things They Carried*: that which is true may or may not be extrapolated from that which is factual. A fictive narrative can be just as true as any list of factual observations. As LaRue puts it, the ratio of fact to fiction is not necessarily the same as the ratio of truth to falsehood.³⁴ Therefore, when we read an opinion as controversial as *Brown v. Board* we must take into account that the Court is fashioning a particular version of what they see as the truth. What is significant about White’s and LaRue’s approach that differs from Charland’s and McGee’s is that White and LaRue assume that the Court acts with full knowledge and intent. That is, White and LaRue ascribe agency to the Court instead of putting the full responsibility of creating identity with the audience. The process is active on behalf of the Warren court in this instance.

LaRue challenges his readers to ask themselves, “What story is told in an opinion?” Opinions like that from the *Dredd Scott* case tell a specific narrative about ownership of property and person and the rights of particular groups of people. It is necessarily interpretive, since slavery is not actually mentioned anywhere in the Constitution before the 13th Amendment. Yet the Court confidently decided that the law was clear on the issue of slavery and slave states. This narrative that the Court wove stayed a part of the law and its understanding for decades afterward.³⁵ And, as LaRue rightly points out, when that narrative became a part of the law it became a part of who we are as Americans.

LaRue points out that the Court seems to be self-aware of this story of identity they are weaving in their opinions. He points to a 1920 case, *Missouri v. Holland*, in which Justice Holmes clearly lays out the connection between the Court, identity, and law:

When we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they [the words] have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough from them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago.³⁶

In other words, the Court recognized that as they interpreted the law, they were both responding to and creating the way in which America was defined. The language of the Court and its decisions are an important part of America's developing identity. A nation, like any living thing, changes and grows, and the opinion of the court is both a record and a catalyst in our evolution.

As mentioned previously, the 1950s represent a tumultuous time in American understanding of ourselves. We had just come from a war that left much of the world in shambles, whereas our economy was booming. We were vying with the Soviet Union for the pole position as ultimate superpower, and in such a political climate it seems dangerous to be playing fast and loose with the definition of "American" on the home front. And yet, that is precisely what the Court was up to.

African Americans fought bravely alongside white soldiers, and many other ethnic groups during World War II, and yet America continued to treat them as if they were somehow "less than." The *Brown* case is illustrative of the identity tension that is

at the theoretical heart of this whole study. The story America told about herself was a white story – a unified story about a white, nuclear family that lived in the suburbs and happily went about living out the particular roles that the American Dream had etched out for them. The *Brown* case was a bit of a jolt to the system in that regard. The case announced, loudly and unapologetically, that a whole group of Americans did not fit into that narrative, largely because they had been kept out of it. The *Brown* case demanded that this larger American narrative be looked at under a harsher light than it had been in the past, and the result was a fracturing in American identity. “American” suddenly meant more than just the white, middle-class faces of suburbia. It now had to contend with black school children from all over the South, as well.

Conclusion

The same year that I upset members of my family with my choice of friends I was going to an elementary school in a very old building. There were three bathrooms that the majority of the student body used – a girls bathroom, and boys bathroom, and a bathroom specifically for kindergarten and pre-k students. There was also a separate water fountain for each group. Nothing about this struck me as odd until years later during a high school history lesson on segregation. In our textbooks was a rather iconic picture of a black man drinking from a water fountain with a sign above it that said read “Colored.” Next to him was a larger, cleaner water fountain labeled “Whites.” I realized that I could have been looking at a picture of my elementary school. I reached the very unsettling conclusion that what had been the “kinder/pre-k” water fountain was not built with children in mind, but segregation.

Today such a practice would never be acceptable to the public. But the signs that America had very different notions of “who counted” are everywhere. Once upon a time, not that far back in American history, it took the Supreme Court to face our fractured identity and bring it too light. Using the constitutive nature of their legal rhetoric as described by White and LaRue, the Court tried to address the silent nature of America’s fractured identity. While the opinion is definitively constitutive in that the purpose is to create identity, or “the people” as McGee termed it, it is White’s approach that helps understand how that identity was fashioned. Using criticism as Leff describes and framing constitutive rhetoric with White and LaRue, the Court regains its agency in creating American identity.

In an opinion such as this there is no doubt that the Supreme Court knew their decision would have far reaching effects. Just on the surface their opinion touched on education, equal rights, and the legality of segregation. The Court constructed an argument that purported a new understanding of “American” which included education as an inherent part of the American experience, and the claim that African-Americans should have full access to that experience. Their argument constituted a version of American identity based on the notion that the educated populous should include all parties, regardless of race.

The Warren Court did not just issue an opinion, but provided a text that is a specific example of constitutive rhetoric. By applying rhetorical to this one text we can see how a rhetor can contribute to the constitution of national identity in a particular instance. While the audience and the narrative and the subject position certainly remain

important as Charland has described, here we see how one specific instance adds to the narrative that the audience uses to create their identity as they go. White, with the help of LaRue, has given us an opportunity to address this opinion as constitutive and bridge criticism and theory.

Notes

1. I recognize that such an argument extends well beyond race issues. Unequal emphasis on education was a part of socio-economic status, location, and even parental occupation. However, since the primary text of this analysis is the opinion from *Brown v. Board*, which deals specifically with schools that are racially divided, this study will focus on the issue of race. Future studies may well branch into the problems that farming communities in rural areas or immigrant communities concentrated in large cities posed to educational mandates and regulations on education.
2. Paul Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Knopf, 1976).
3. Robert J. Cottroll, Raymond T. Diamond, and Leland B. Ware, *Brown v. Board of Education: Caste, Culture, and the Constitution* (Lawrence, KA: University Press of Kansas, 2003).
4. Danielle S. Allen, *Talking to Strangers: Anxieties of Citizenship Since Brown v. Board of Education* (Chicago: Chicago University Press, 2004).
5. Jack M. Balkin, ed., *What Brown v. Board of Education Should Have Said*, (New York: New York University Press, 2001).
6. Mac A. Steward, ed., *The Promise of Justice: Essays of Brown v. Board of Education* (Columbus, OH: The Ohio State University Press, 2008).
7. Charlotte Grimes, "Civil Rights and the Press," *Journalism Studies* 6.1 (Feb 2005): 117-134.
8. Paul Wilson, *A Time to Lose: Representing Kansas in Brown v. Board of Education* (Lawrence, KA: University Press of Kansas, 1995).
9. Oliver Brown and Leon Friedman, *Argument: The Oral Argument before the Supreme Court in Brown v. Board of Education of Topeka, 1952-55* (New York: Chelsea House Publishers, 1969).
10. Leon Friedman, ed., *Brown v. Board: The Landmark Oral Argument Before the Supreme Court* (New York: The New Press, 1969).
11. Nancy Dunbar and Martha Cooper, "A Situational Perspective for the Study of Legal Argument: A Case Study of *Brown v. Board of Education*," *Conference Proceedings – NCA/AFA (Alta Conference on Argumentation)*, (1981): 241-256.
12. Kurt Nutting, "Legal Practices and the Reasoning of the Law," *Argumentation* 16.1 (2002): 111-134.

13. Clarke Rountree, ed., *Brown v. Board of Education at Fifty: A Rhetorical Perspective* (Lanham, MD: Lexington Books, 2004).
14. Martin A. Bartness, "Achieving Unanimity in *Brown v. Board of Education*," *Journal of the Northwest Communication Association* 24 (Spring 96): 49-61.
15. John P. Jackson, Jr., *Science for Segregation: Race, Law, and the Case Against Brown v. Board of Education* (New York: New York University Press, 2005).
16. *Dred Scott v. Sandford*, 60 U.S. 393 (1857).
17. *Dred Scott v. Sandford*.
18. *Dred Scott v. Sandford*.
19. *Dred Scott v. Sandford*.
20. The less cited *Slaughterhouse Cases* re-iterated this. The Court decided that the state of Louisiana did not have the right to create a monopoly that required butchers to work for a particular corporation, as that amounted to involuntary servitude, which was unconstitutional. *The Slaughterhouse Cases*, 83 U.S. 36 (1873).
21. *Plessy v. Ferguson*, 163 U.S. 537 (1896)
22. *Plessy v. Ferguson*.
23. The case was actually a combination a few different cases: *Briggs v. Elliott* 342 U.S. 350 (1952); *Davis v. County School Board of Prince Edward County* Civ A No. 1333 103 F Supp 337 (1952); *Gebhard v. Belton* ee Del Ch 144, 87 A.2d 862 (Del Ch 1952), add'd, 91 A.2d 137 (Del 1952); *Bolling v. Sharpe* 347 U.S. 497 (1954.)
24. Leon Friedman. ed., *Brown v. Board: The Landmark Oral Argument Before the Supreme Court*; There are also a number of very useful websites. These are especially clear and concise: Brown Foundation, "*Brown v. Board of Education: About the Case*," <http://brownvboard.org>, accessed April 2010; "History of *Brown v. Board of Education*," <http://www.uscourts.gov>, accessed April 2010.
25. *What Brown v. Board Should Have Said* is an excellent resource on the complex nature of the laws involved in this case. Many legal scholars believe the Supreme Court was mistaken in its decision, and in this book much of the essays are about how the case could have been argued or how the Court could have presented their decision in a way more consistent with law and precedent.
26. *Brown v. Board of Education of Topeka*, 3-47 U. S. 483 (1954).
27. The study itself is well over 1,000 pages long. E. Culpepper Clark and Raymie E. McKerrow did an interesting study on the piece as a work of deterministic communication. "The Historiographical Dilemma In Myrdal's American Creed: Rhetoric's Role in Rescuing a Historical Moment," *Quarterly Journal of Speech* 73 (1987): 303.
28. There has been some writing on the use of pathos (humor, appeal to sadness, etc.) in the arguments before the Court, but here I speak strictly of the Court's official opinion. For an example of a study in humor see Ryan Malphurs, "Making Sense of Judicial Sensemaking: A Study of Rhetorical

Discursive Interaction at the Supreme Court of the United States,” PhD Dissertation, Department of Communication, Texas A&M University, College Station, TX, 2010.

29. When there is a good deal of pathos in a decision it is generally indicative of a very controversial case. Also, dissenting opinions take more emotional liberties, as well. The dissenting opinion of *Texas v. Johnson* includes line upon line of song and poetry, for example. More recently, the Court decided *Snyder v. Phelps*, in which both the majority and dissenting opinion were strangely emotional. The majority seemed truly anguished over their decision, as they more than once noted how horrible the act they were protecting was, and the dissenting opinion was clearly enraged. However, these are counter-examples that prove the rule. Their pathetic rhetoric makes them remarkable.
30. *Brown v. Board*. Unless otherwise noted, all subsequent quotes are from *Brown v. Board*.
31. *Plessy v. Ferguson*, 163 U.S. 537 (1896)
32. Warren explains that the Court heard arguments on *Brown v. Board* twice. The second time the arguments focused primarily on the adoption of the Fourteenth Amendment in 1868.
33. *Brown v. Board*.
34. L.H. LaRue, *Constitutional Law as Fiction: Narrative in the Rhetoric of Authority*, (Lanham, MD: Rowman & Littlefield Publishing 2006), 56.
35. The Court held that Dredd Scott, a free black man who had previously lived in a free state, could not sue or be counted as a citizen in the slave state that he moved to by virtue of the fact that he was black.
36. *Missouri v. Holland*, 252 U.S. 416 (1920).

CHAPTER III

JOE MCCARTHY'S LOSS OF CREDIBILITY: NO DECENCY

The winter Olympics of 2010 happened to coincide with a visit from my mother. During one of the skiing events the Russian team, who was heavily favored, was not doing as well as expected. The skier was struggling, and to be honest, so were we. We had no idea what was going on, and since the American team was really kind of a lame duck, I did not really feel like I had particular reason to watch. My mother, however, was more interested, so I left the television on for her. It was not until I heard her grumble something rather unsportsmanlike about hoping he completely missed his mark and maybe took a tumble that I realized she was not watching to cheer for any particular team, so much as to cheer against someone. I asked her to repeat herself, and she blushed a deep scarlet.

My mother told me that she knew very well we were not in a Cold War with the Soviets anymore. She understood that the world had changed and we had new enemies, and that the enemy she was jeering at, the Soviet Union, did not even really exist anymore, but there was a part of her that would always hate Russians. She was born in 1954 and had been raised to see them as the enemy, and she half laughingly told me that even at that moment, in February 2010, when she heard the word "Russian" she still stiffened and felt her stomach turn a bit. She was taught growing up that there were two major forces in the world: Us and Them. The "Us" was America and those who

supported us. It was her patriotic duty to hate the Russians because they were, and apparently always would be, “Them.”

The rest of the night we made a running joke of it. At regular intervals I would ask my mom if the Ruskies had made up any threatening amount of time or if we should consider going to the bomb shelter if they lost, but on some level it was a very serious reminder of how powerful Cold War rhetoric had been. The Cold War had been over for more than 20 years, but for my mother it was a way of understanding herself and the world around her. Part of being an American was hating Russia. As I listened to my mother disparage these athletes she did not know, I was struck by how important it was to her understanding of herself and her place in the world to dislike the old Soviet Union. But, she had been born in the age of Joe McCarthy, so perhaps it makes more sense for her to feel that way than it would for her not to.

The term “McCarthyism” first appeared in 1950 in a Washington Post cartoon. It did not take long for it to make its way into the vernacular. “McCarthyism” initially referred to relentless pursuit of Communists a la Senator Joe McCarthy (R-WI), but eventually came to mean any form of persecutory investigation (OED). McCarthy waged his battles publically, making himself a household name.¹ His crusade against Communism is synonymous with the Red Scare in general.²

McCarthy, like Nixon, Reagan, and other politicians of his era, found fame and power by utilizing the anti-Communist furor that gripped the United States. In 1950, during what should have been a relatively unremarkable speech in Wheeling, West Virginia, McCarthy announced he had a list of 205 confirmed Communists working for

the U.S. government, putting him at the forefront of the battle against Communism and catapulting him into the national spotlight. Ultimately he was never able to conclusively prove that anyone he accused of “un-American” behavior or party affiliation was a member of the Communist Party, but his claim that he *could* transformed him from a relatively non-descript Senator to one of the most famous politicians of the Cold War. Over the next four years McCarthy became the national symbol for the fight against Communism at home.³

These hearings are more than just historically interesting. As discussed earlier, the terms “American” and “Communist” were used as the god and devil terms that framed public discourse in the United States. McCarthy was not only making his political name, he was using these hearings as a sort of American purity test. He operated under the idea that one could not be Communist and be “American” at the same time. Certainly he was not alone in this assumption, but he was one of the most public and forceful in his efforts to cleanse the un-American from the public eye and from their supposedly secretive and nefarious machinations. McCarthy’s weapon of choice was conspiracy rhetoric; by using the form and function of conspiracy he tried to constitute an “us” and “them.” This lasted until he took on the Army. The Army’s representative, Joseph Welch, threw a monkey wrench into McCarthy’s agenda by rhetorically disallowing McCarthy’s chokehold on the hearings. Welch, using wit, style, and narrative, illuminated the weakness of McCarthy’s conspiracy rhetoric until it lost all of its potency.

McCarthy's work was broadly supported for quite some time, until Edward Murrow and the Army-McCarthy hearings. In 1954 Edward R. Murrow made his infamous attack on McCarthy in the well-known television news show *See It Now*. Murrow took it upon himself to highlight what he saw as McCarthy's underhanded and unethical attacks on largely innocent parties, so he ran a series of exposés on McCarthy's activities. McCarthy had been losing popularity amongst his fellow politicians for some time, and the Murrow incident was the start of a quick decline in McCarthy's public popularity.⁴ After what Robert L. Ivie calls his "miserable" appearance in the Army-McCarthy hearings, the Senate voted to censure him for "contemptuous, contumacious, denunciatory, unworthy, inexcusable and reprehensible' conduct" leaving his career and his reputation in shambles.⁵ Scholars have given a great deal of attention to the exchange between Murrow and McCarthy, but the conflict between Welch and McCarthy has escaped much scholarly scrutiny.⁶

Literature Review

For works on the Murrow incident, which certainly provide useful background in understanding McCarthy's status as a soldier in the Cold War, John O' Connor's "Edward R. Murrow Report on Senator McCarthy: Image as Artifact" describes the McCarthy-Murrow interviews as the beginning of McCarthy's demise and the incident that left Murrow's indelible mark on journalistic history.⁷ Michael Murray directly approaches the *See it Now* broadcast, but like many others, ignores the Army-McCarthy hearings. He focuses on how Murrow (and his colleague Fred Friendly) assailed McCarthy's questionable interrogation tactics.⁸ Brian Thornton takes a slightly broader

view and analyzes public response to Murrow including those who took offense to Murrow's selective approach to highlighting the worst of McCarthy's career.⁹ All together, Greg Vitiello hails the entire event as a testament to the power of television, calling the exchange "Television's Finest Moment."¹⁰

For studies of the Army-McCarthy hearings see "Flickering Images: Live Television Coverage and Viewership of the Army-McCarthy Hearings" by Michael Gauger in *Historian*, 2005 or "Are you Now or Have You Ever Been? Opening the Record of the McCarthy Investigations" by Donald Ritchie in the *Journal of Government Information*, 2004.¹¹ These studies deal with media and political issues, but do not address the event from a rhetorical perspective.

There are works, however, that focus on McCarthy's powerful use of oratory and his status as a demagogue. Fred Casmir, in "The Power of Oral Communication," uses Joe McCarthy as an example of how a powerful orator can become a powerful person through public discourse in American life.¹² Barnet Baskerville, a contemporary of McCarthy, went so far as to call McCarthy the greatest of demagogues of the 1950s in an issue of *Today's Speech*.¹³

A good deal of the studies dealing with McCarthy in communication studies deal more with media theory than rhetorical theory because of the importance of television to the hearings. For example, Pamela Brown's article in *History of the Mass Media of the United States* deals specifically with media coverage that the Army-McCarthy hearings received.¹⁴ Studies more pertinent to this paper include Paul Achter's "TV, Technology, and McCarthyism: Crafting the Democratic Renaissance in an Age of Fear," *QJS*, 2004,

and 1955's "Views on the Army-McCarthy Hearings," by Frederick Haberman.¹⁵ Achter's study gives a brief history of McCarthy's career then analyzes the effect of television; however, Achter focuses on the Murrow exchange. Haberman's paper is a contemporary analysis of the Army-McCarthy hearings. However, neither focus on the moment as a rhetorically important moment or considers the importance of identity or conspiracy in the proceedings. James Darsey's work, "Joe McCarthy's Fantastic Moment," is interesting in that he focuses on fantasy as opposed to conspiracy, but it seems we have both hit on thematic elements in McCarthy's rhetoric that made it particularly powerful.

McCarthy's illustrious career inspired countless history books, both popular and academic, most of which are a truly fascinating read. Richard M. Fried's *Nightmare in Red: The McCarthy Era in Perspective* is an overview of those few years in which McCarthy really did dominate the political scene, but more broadly focused on the history and politics as opposed to just the one man. He gives accounts of many of the memorable characters that worked together to make the years between 1947-1954 so notable, making sure to contextualize them as responsive to WWII and the Depression before that.¹⁶ David Halberstam's *The Fifties* has a few chapters dedicated to McCarthy, as does Richard Curry's and Thomas Brown's *Conspiracy: The Fear of Subversion in American History*.¹⁷ William L. O'Neill wrote a book called *American High: The Years of Confidence, 1945-1960* that has been a popular book among amateur historians and academics alike in helping to frame the Cold War at large. It is helpful in understanding how McCarthy became such a powerful figure, but once again it is not a rhetorical study

and does not focus singularly on the McCarthy-Welch exchange. Robert Shogan's *No Sense of Decency: The Army McCarthy Hearings: A Demagogue Falls and Television Takes Charge of American Politics* follows McCarthy's career in great detail, leading up to the very moment I choose to focus on in my own study.¹⁸ Shogan pays a great deal of attention to the McCarthy-Welch incident, but focuses on the role that television played in the demise of McCarthy's career, and not the rhetoric itself. Perhaps the most surprising popular study I stumbled across was M. Stanton Evans's *Blacklisted by History: the Untold Story of Senator Joe McCarthy* which was an unapologetic defense of the Senator and his tactics that painted him as an American hero instead of the usual picture of him as an unscrupulous witch hunter.¹⁹ Of all the tales I read about McCarthy Evans's was the one that was most memorable for no other reason than it was the most different. Evans's story takes the same information as all of the other stories and studies but the narrative is from a considerably more conservative view. Reading Evan's book provides an interesting balance to McCarthy's story, even if it seems out of place in comparison to the myriad other books that paint McCarthy as the villain of the story.

I mention these not to frame a chapter that is based on popular history books, but to make the point that Senator Joseph McCarthy, and even this particular moment from his infamous career as a Communist hunter, has captured the attention of the mainstream public as well as historians for over fifty years. His meteoric rise to fame and his public downfall is the stuff of American legend.

If anything, these popular histories indicate that Joe McCarthy, and what happened to him on that fateful day in 1954, is worth the attention of academics in many

fields because people recognize the instance as important. The entire hearing took weeks and would not lend itself to a close reading; however this analysis focuses on one exchange in particular.

In popular vernacular the Welch-McCarthy exchange I refer to is often labeled the “Have You No Sense of Decency” incident. That, in and of itself, is nestled within Welch’s examination of G. David Schine, who had been working with McCarthy in his investigations into Communist infiltration in the government. Welch and McCarthy begin to argue about Roy Cohn’s testimony; Cohn was an assistant of McCarthy and worked closely with Schine and McCarthy. Welch demands that if Cohn knows for certain that there are a specific number of Communists working in the government and he knows where, why doesn’t he do something about it. McCarthy mocks Welch and defends Cohn by claiming that the FBI is in charge of such things and McCarthy and his crew only aim to make things public. The meat of their exchange begins when McCarthy turns on Welch by bringing up the young lawyer Fred Fisher. McCarthy begins “Not exactly, Mr. Chairman, but in view of Mr. Welch’s request that the information be given once we know of anyone who might be performing any work for the Communist party, I think we should tell him that he has in his law firm a young man...” ending with Welch’s infamous “have you no decency?” The exchange is lengthy, but important in understanding McCarthy’s career and his notion of “American.” I will include a summary of the full transcript, but focus my analysis on the McCarthy-Welch exchange.²⁰

History

McCarthy decided it was his personal mission to root out Communists and save the federal government from itself.²¹ He spent the next few years of his career finding ways to do just that. It is easy to excuse McCarthy's outlandish public actions as the rantings of a madman, but we forget that the Cold War was a dramatic time. Fear was pervasive, and Communism truly seemed a threat to the very existence of the American way of life. In such dramatic times, men of melodrama thrive. Men like Louis Francis Budenz came forward with information that seemed to justify the antics of McCarthy and men like him. Budenz claimed to be a reformed Communist himself, and not only announced that they were other Communists operating in America, but that there was, in fact, a plot to take over the United States, fueling the fear-driven anti-Communist furor.²² Americans were genuinely afraid of a vast conspiracy aimed at nothing less than global domination. McCarthy's announcement that he knew where Communists were and he could name names was frightening on the one hand, because he announced there were so many and they were in high places, but comforting on the other. The Communists were not a secret to McCarthy. He could point them out, thereby neutralizing the threat. America feared an unknown enemy at home, and McCarthy claimed he could remove the cloud of doubt by unmasking the enemy and making them known. Many Americans flocked to him.

Senator Joseph McCarthy became chair of the Permanent Subcommittee in Jan. of 1953.²³ The committee had looked into tax issues and government contracts in the past, but it did have rather flexible parameters. It was Eisenhower's first term, and the

Senator and the President would prove to be contentious bedfellows, regardless of the fact that they were both Republicans. The job of the permanent Subcommittee was not specifically to root out Communism, but once McCarthy had the reigns, that changed. He began a series of investigations into various branches of the government in his never ceasing quest to purge American of Red influences. Eventually his gaze fell on the Armed Forces.

The impetus for the Army-McCarthy hearings, which were more like a trial than anything else, seemed to be the treatment of an Army private, G. David Schine. Schine was McCarthy's unpaid assistant until he was drafted into the Army in the midst of McCarthy's probes into supposed Communist infiltration of army ranks. The Army accused McCarthy and his aid, Roy Cohn, who had a reputation for being arrogant and rather strident, of demanding special treatment for Schine, while McCarthy and Cohn accused the Army of mistreating Schine in an effort to get back at McCarthy for having the audacity to look into their affairs.²⁴

While McCarthy had been looking into the Army for reasons other than just the Schine scandal, by the time the hearing rolled around each side had a score to settle. The Army needed a representative to pull their case together and stand up to McCarthy, which was no small task. Joseph Welch, a lawyer from Boston, agreed to represent them. He asked two junior associates to be his aides, but decided that one should sit this one out because of past associations that could be construed as questionable.²⁵ This seemingly innocuous decision made in a cocktail lounge in a hotel would later lead to one of the most infamous moments of the Cold War. Welch tried to nip the situation in

the bud by telling the *New York Times* that he and the young lawyer, Fred Fischer, had mutually decided he would not be involved in the case. The *Times* thought the story relatively uninteresting, as did McCarthy, so while it was briefly mentioned in a story ultimately no one really paid any attention.²⁶

In the first few days of the trial McCarthy dominated, but as the trial went on Welch began to make calculated strikes. He was a particularly witty man and using a sly remark here and there could highlight the bluster and blowhardiness that McCarthy depended on. He began to chip away at the “evidence” McCarthy presented and point to some of the more curious and fantastic instances of logic that McCarthy tried to use to make his case. Slowly but surely he chipped away not only at McCarthy’s case, but at McCarthy’s credibility.

McCarthy’s reputation had already suffered some public damage because of Edward Murrow’s attention. His poor performance at the Army hearings did not do him any favors. Welch was doing a particularly good job of making Cohn look bad, when McCarthy tried to divert attention away by attacking the young lawyer that Welch had excused. Fred Fisher, who was not a part of the event at all, had been a part of a professional organization that McCarthy found particularly odious, and McCarthy tried to discredit Welch by association. When a furious Welch asked McCarthy if he had any decency left it appeared to many as if the answer was an all too clear and resounding “no.” The Republican Party felt that, perhaps, McCarthy had become a liability and began to distance themselves from the Senator. On July 30, 1954 Republican Senator Ralph E. Flanders asked the Senate to censure his colleague from Wisconsin.²⁷

Analysis

There are two rhetors, each making separate arguments, and an analysis of their arguments does a good deal to highlight the confusion and their cross-purposes.

McCarthy's argument was multi-pronged. In fact, part of McCarthy's rhetorical troubles stemmed from his inability to find a clear cut claim and stay with it. In this particular instance he was claiming that there was a dangerous Communist influence in the Army, but he was also using his pulpit to argue that Schine had been mistreated. His major claim dealt with Communism – that was initially why the hearing was organized. But McCarthy let himself get sidetracked with other arguments, and it muddied the waters. Given the already complex nature of conspiracy rhetoric, he hurt himself by trying to do too much at once.

In the Welch-McCarthy exchange we see McCarthy switching back and forth between a number of arguments: at first he is arguing that there are Communists in the Army. But, he maintains, Schine and Cohn are honorable men and are doing an excellent job in the fight against Communism regardless of the fact that Communists have infiltrated their territory. Already a persnickety listener might begin to question McCarthy's notions of what constitutes an excellent job. He seemed to want his audience to believe that there was a vast Communist conspiracy at work, and be upset with the Army for letting it happen, but not be upset with his men. They may have been the ones charged with addressing the problem, but they were doing an excellent job, unlike the Army, he claimed. Then, he entered a new argument. He claimed that Welch was a questionable figure because he had associations with men of questionable

character. With varying claims, the burden of evidence is greater, and one can see from the proof McCarthy provided that the organization of his argument was tenuous at best. His support came from “confidential” documents, anecdotes from witnesses, his own grand proclamations concerning the facts of the case, and those he called as “experts.” It was difficult to verify, and much of it seemed to rest on McCarthy’s credibility. Furthermore, all of this proof was used interchangeably for each different argument. He did not separate out his arguments, but connected them in a vast web. His argument was that they were all connected through the workings of the Communist conspiracy. Communists were everywhere and they were evil. He used conspiracy to connect dots all over the place. What we knew, did not know, and how it all fit together were covered by a very vague net. The conspiracy ended up being the crux of McCarthy’s argument, and we were supposed to accept the conspiracy because of McCarthy’s credibility as a public figure and Communist fighter. Welch was eventually able to take McCarthy down by attacking McCarthy’s ethos, and once McCarthy’s credibility was shot, his web of evidence does not hang together.

A Few Notes on Conspiracy Rhetoric

McCarthy’s career as we remember it was largely based on his fixation with Communist conspiracy. When McCarty and Welch faced off McCarthy was, according to him, trying to uncover the scheme of the Communists within the Army to take down the US government. In order to understand how McCarthy fit in rhetorically with his surroundings, it helps to have an overview of conspiracy.

Conspiracy, at its most basic, is the theory that a group is acting covertly to achieve malevolent ends.²⁸ First there is an event that is considered strange – perhaps an accident, something illegal or a mistake with significant consequences; perhaps the event is some combination of any of those. Regardless, there is some event that creates a stir.²⁹ Secondly, this event is shrouded in a certain amount of secrecy. This secrecy leads people to create a narrative that makes sense of the incident.³⁰ Leroy Dorsey reminds us that the classic conspiracy theory, before it becomes complicated by postmodern tendencies to blur the line between good and evil, “emphasize[s] an overarching force, benign in appearance but malevolent in actuality.” While the evil nature of this force is frightening, it also supplies a certain amount of relief to the masses because it explains the world around them and why “bad things” happen.³¹

In most conspiracy theories one may assume that nothing can be taken at face value, nothing happens by accident, and everything is connected.³² So while there may be an official explanation, it may not satisfy certain members of the public.³³ The theory begins to loop around itself; the more evidence that is produced, the more there is to question.³⁴ Earl Crepps III argues in his dissertation that conspiracies are a particular genre, and that their substance consists of four basic parts:

- 1) The conspiracy argument claims that the community is being threatened by an evil force personified as a secret plot.
- 2) The conspiracy argument makes a deductive, causal claim.
- 3) The conspiracy argument evinces a strictly dichotomous view of morality.

- 4) The conspiracy argument is capable of co-opting or refuting virtually any criticism.³⁵

McCarthy claimed that Communism, a great evil, was threatening the very fabric of American life, and that he could claim so because of logic based on documented evidence. There was no middle ground in this fight – there were only “us” and “them” and to stand up to “us” meant you supported “them.” Criticism of McCarthy or his methods simply put you at risk of being labeled a “fellow traveler.”³⁶

Senator Joe McCarthy was also the example par excellence of what Richard Hofstadter called the paranoid style of the conspiracy theorist. The “paranoiac,” as Hofstadter termed those who buy whole heartedly into conspiracy, who convinces himself of political conspiracy is not just a crazy person who believes the whole world is out to get him *personally*. He believes that the conspiracy is “directed against a nation, a culture, a way of life whose fate affects not himself alone but millions of others. Insofar as he does not usually see himself singled out as the individual victim of a personal conspiracy, he is somewhat more rational” than what we might think of when we accuse someone of paranoia. McCarthy, like Hofstadter explains, felt his mission was patriotic and righteous.³⁷ What McCarthy feared, Hofstadter posits, was dispossession. Somehow America, her lifestyle or her values or something that made her American, was being threatened and McCarthy wanted to protect it.³⁸

This is the major connection to constitutive rhetoric and my research question. McCarthy’s concern, as elucidated by Hofstadter, was not just political corruption but the loss of something inherently American. He argued that as Communist influence

spread, the nation would lose its very identity. Communist corruption was not simply a breach of security, but a threat to our very notion of self.

Conspiracy theories generally do not need to be proven, for their adherents it is enough that they cannot be unproven. A conspiracy theorist might reason that

because the conspiracy is so powerful, it controls virtually all of the channels through which information is disseminated – universities, media, and so forth. Further, the conspiracy desires at all costs to conceal its activities, so it will use its control over knowledge production and dissemination to mislead those who seek to expose it. Hence information that appears to put a conspiracy theory in doubt must have been planted by the conspirators themselves in order to mislead.³⁹

In other words, the system is closed. McCarthy's spin on this was to present accusations and hint at proof, but then when it failed to pass muster, simply move on to the next charge, leaving the foul hint of evil in the air without any recourse to clear it. He used the conspiracy theory's intrinsic tendencies toward doubt and secrecy to create an atmosphere in which his role was not to prove but to create an ambience of fear.⁴⁰

Peter Knight argues that conspiracy rhetoric is important because we use it as a way to build identity for ourselves, much the way Lyotard describes smaller narratives as constitutive. Specifically, the more clearly we can create a notion of "them," the more comfortable we feel being "us." And as we more clearly define ourselves it becomes easier to distinguish the "good guys" from the "bad guys" (with "us" being the "good guys," of course!).⁴¹ We need to make this kind of distinction. The enemy must be twisted and strange, evil and smart, powerful and without pity. Otherwise, Goodnight and Poulakis eloquently explain, we are at the mercy of a "world gone mad."⁴² A tendency to use a conspiracy as a small narrative to help us construct meaning and

identity is why conspiracy rhetoric, which has long been with us, has been earmarked as particularly postmodern. Conspiracy rhetoric is not new, but using it as a replacement for a grand narrative sets the paranoid style of today apart from that of the conspirators of ancient Rome or the Civil War. The madness that Goodnight and Poulakis warn us about, in which the “good guys” and the “bad guys” are impossible to differentiate, is a symptom of postmodernity creeping its way across the American landscape, dismantling our major narratives as it engulfs us. James Darsey describes the situation precisely and articulately:

The horror of the Second World War, the second in as many generations, was certainly unsettling to American. Everything was on a scale that made a profanity of human being – Hitler, the scope of the war, the new technologies of war, and the bomb” Weaver (1976), in his noteworthy post-war polemic, called it ‘a marvelous confusion of values’ (p. 179). If the war itself was unsettling, the aftermath was even more so. There was no return to normalcy as there had been after the First World War. For all our victory parades and celebrations of the end of the war to end war, there was inconclusiveness about World War II; we could not simply disarm and return to a peace-time economy when it was over. America had new responsibilities in a world that had gotten smaller since the First World War.⁴³

To those who supported McCarthy he did not just fight Communism; he was symbolic of the fight for right in a world gone terribly wrong. His distrust of foreigners, intellectuals, the wealthy, and radicals struck a chord with small town, traditional conservatives who viewed the changing world with fear and trepidation.⁴⁴ McCarthy valued a particular version of American identity, and his fight against Communist corruption was a fight against the encroaching changes America was facing in the post war world.

Postmodernism does not corner the conspiracy theory market, but the two do go well together. Peter Knight sees the overload of partial information available to us in the postmodern world as leading to an opportunity for conspiracy to rear its head. By partial information I mean that while in the postmodern era there is an infinite amount of information, it is still difficult to ever get a full story on any one topic. There is always a part of a story that is left out or remains unseen. Conspiracy offers a way for paranoiacs to tie together the vast amount of information that is available to them in a cohesive narrative. Within that narrative there is inevitably a corrupt group or person who is infiltrating other parts of the world/society/social group, which is necessary to fill in those gaps caused by missing information.⁴⁵ This also points to a key element of any good conspiracy theory: secrecy. The missing information can't just be missing, as there is no such thing as accident, the information must be hidden somewhere; somebody is keeping a secret.⁴⁶ If one returns to Dorsey's comments about classic conspiracy theory, it appears as if McCarthy is trying to straddle modern and postmodern ideas about "good guys" and "bad guys." Dorsey notes that in the classic conspiracy the villains of the conspiracy theory are direct enemies of the state, but as time progresses this changes. He notes that beginning in the 1960s the state itself is suspect.⁴⁷ McCarthy however, was ahead of the curve. On the one hand, his goal was rooting out Communists for the good of America. On the other hand, he claimed that the conspiracy was rooted within the government itself. He was determined to find those enemies planted within the state, hence his attack on the army. His enemies of the state are within the state.

One would think that since in a conspiracy theory facts are supposed to be slippery, things like McCarthy's inaccessible proof would help him. But, since he is making multiple arguments and the information was not actually inaccessible, McCarthy had gotten himself into quite a pickle. What was evidence for one argument was background information for another. For example, a story of Schine's suffering was meant to support the claim that Schine was being singled out by the Army, but also pointed to a larger problem in the way the organization was run. As noted before, the arguments all meshed together. A witness who claimed there were "x" number of Communists at certain Army bases supported the conspiracy theory, but any conspiracy would lead to Schine being mistreated since his boss was one of the leading Communist hunters. The conflation did little to help clarify McCarthy's position.

However, McCarthy was quick to defend himself and his disciples from charges of any kind of wrong doing. After every accusation he might as well have added "except for me and mine." Every bit of evidence, story, sketchy proof or invalid claim was not his problem. He excused himself from all of the claims he made, from the conspiracy in the government, to the infiltration of the Army, and he was exempt from being kept in the dark when it came to "classified" information for the sake of national safety.⁴⁸ Since McCarthy had made such a convoluted argument he left himself open to Welch for attack, and Welch made much cleaner work of the whole affair.

Welch's job was to represent the Army, and his arguments were relatively straightforward. Schine was not mistreated. In fact, the Army posited, McCarthy and Cohn requested special treatment for their compatriot. Also, Schine was not a

particularly good soldier. The Army's proof was reports from Schine's superior officers. Note that the Army's proof was simple and straightforward. It was not classified in any way and did not require a huge leap of faith outside of trusting an officer to fairly assess a soldier. The Army claimed that they simply treated Schine as they would have treated any soldier with his record. Unfortunately, since he was not a particularly good soldier, he did not get treated particularly well, but that was not *mistreatment*. It is a much cleaner syllogistic argument than McCarthy had provided. Welch and the Army did qualify this – they claim that Schine actually got off a little easier because of his connection to McCarthy. If anything, his treatment was preferential. While the appeal to ethos was implied in such a situation, Welch and the Army were asking their audience to believe they are trustworthy enough to accept that their syllogistic argument held together, they were not using their credibility as a premise. McCarthy's arguments beg the question: he claimed to know a thing to be true, he provided the evidence, therefore, it must be true. Welch avoided that particular fallacy, depending on the evidence itself to bear out their arguments instead of relying on conspiracy. McCarthy was depending on his conspiracy rhetoric to throw the validity of the Army's assessment of Schine into question. McCarthy's aimed requires a larger leap of faith and reasoning than simply following the chain of evidence provided by Welch and the Army.

Welch behaved as a defense lawyer in any trial. He was not trying to prove that his client was innocent, he was pointing out that the opposition's argument was flawed. His overall claim was not that "there are no Communists" or "Fisher is innocent" but that "the argument before us is unconvincing." He had leave to defend himself and

Fisher when the time came because he was not encumbered with trying to prove too many things at once. Welch's job throughout was to use McCarthy's own arguments, and, in some instances, even McCarthy's own words, and point out where they were lacking. As noted before, much of McCarthy's case rested on his credibility. When he attacked Fisher, Welch took the opportunity to dismantle McCarthy's ethos. When Welch was able to effectively tear down McCarthy's shaky foundation of credibility, the rest of his case faltered as well.

When confronted, Welch claimed that McCarthy had no business bringing up Fisher. Welch claimed that Fisher was not relevant as he was not there to effect the proceedings in any way, and proceeded to provide the entire narrative of Fisher's removal from the case. It was his attack on McCarthy's credibility that was most damaging. He decried an outright lack of decency from McCarthy. Decent people did not behave this way. Decent people did not partake in un-necessary character assassination. And it seemed to Welch that McCarthy had no decency. With McCarthy's decency went his credibility, and with his credibility went his case.

The moment in question began rather innocuously with Secretary of the Army, Robert T. Stevens, giving a brief account of the events leading up to the hearing. He claimed that Roy Cohn, one of McCarthy's assistants, insisted that David Schine receive a commission. Schine, Stevens explained, was unqualified. But before he could get to any kind of substance, McCarthy interrupted. He claimed "Point of order," which, at this point in the hearings, had become a bit of a gag with those watching the proceedings. McCarthy continually clamored for this "Point of order," though nobody

really knew what that meant. However, Senator Mundt, the head of the proceedings, was still willing to indulge McCarthy.

Stevens claimed at this hearing it was his responsibility to speak for the Army, which, he reminded the listeners, was a vast number. Senator McCarthy interrupted immediately – he argued that Stevens did *not* speak for the army, but for Stevens, John G. Adams, a Counselor for the Army, and H. Struve Hensel, General Counsel of the United States Department of Defense. His claim was that since they were investigating Communists, which were a very small percentage, that most of the good honorable folks in the Army, the majority, were not represented by Stevens. McCarthy's implication was pretty clear – Stevens, Adams, and Hensel represented the Communists in the Army. McCarthy spent a good deal of energy on this not so subtle attack on Stevens. He claimed that the entire proceeding was meant to investigate “some Communists in the Army, a very small percentage, I would say much less than 1 percent” so when Stevens claimed to speak for the Army “he is putting the 99.9 percent of good, honorable, loyal men in the Army into the position of trying to oppose the exposure of Communists in the Army.” The intention was relatively clear: McCarthy wanted to attack Stevens's ethos by associating him with Communism, and McCarthy wanted to build up his own ethos by honoring the Armed services. He finished with a flourish and an attempt to bolster his own image by coming to the ready for the Army. He postured that he resented “very, very much this attempt to connect the great American Army with this attempt to sabotage the efforts of this committee's investigation into Communism.” McCarthy's personal and argumentative style was very clear in this short exchange.

McCarthy's main mode of attack was to go after the credibility of the person in question, regardless of proof or circumstance. And, by use of comparison, he tried to bolster his own credibility.

The next section of the hearing was actually a conversation between Adams and Ray H. Jenkins, Special Counsel to the Senate Permanent Subcommittee on Investigations. Adams describes a conversation with Cohn, concerning Schine's treatment, which did not paint Cohn or any of his peers in a good light. Adams described Cohn as angry and abusive. Cohn's vitriol even extended to McCarthy himself. Cohn was livid that Schine was not getting the special assignment he had requested, and enraged that "Senator McCarthy was not supporting his staff in its efforts to get Schine assigned to New York." While it might seem as if this would be good for McCarthy because Cohn did not feel McCarthy was doing enough to get special treatment for a member of his team, McCarthy was still guilty by association. Cohn was McCarthy's proverbial right hand man. McCarthy himself was present for this exchange, and vacillated between silence and trying to calm Cohn down.

The real blow from Adams testimony put McCarthy's conspiracy rhetoric in question, however. Adams claimed to try and gently bring up the possibility that Schine would serve overseas instead of NY, because most men in his position did. Cohn's response was a blatant threat. He claimed they would remove the current Secretary of the Army and told Adams, forcefully, "We will wreck the Army." Cohn claimed that they would not even bother with attacking the Army themselves but set another committee of Congress on the Army.

While McCarthy was not the man accused of such machinations, he certainly appeared guilty by association. In all of this McCarthy made no attempt to distance himself from Cohn. He remained protective of and loyal to his partner.

In the following exchange, where Jenkins questioned Cohn, Cohn categorically denied these accusations. Cohn even called on another man, also supposedly present for the exchange, to deny that he ever made such threats against the Army or the Secretary of the Army. He turned the accusations around. He claimed that he did not believe Adams could believe he said such things; as such an idea was “ridiculous.” Cohn was rather haughty in his responses. He did not claim that Adams was mistaken or that there was a miscommunication, he just flatly denied everything he was accused of.

Cohn added to the conspiracy theory that McCarthy had already been arguing for months. Instead of trying to make sense of the situation as a misunderstanding or explain away his behavior, Cohn simply denied any of it ever happened. It all came down to he-said/he-said. Who one believed at this juncture was a matter of credibility and little else.

Mr. Welch recognized the situation for what it was. He began to question Cohn on a different subject, bringing the dialogue away from Schine and back to Communists in the Army. This was more stable ground to navigate, as Welch could more easily demand actual proof instead of just listen to accusations fly back and forth. Welch displayed his rhetorical sophistication by moving the conversation back to a topic he could control more so than just attacks on character.

Welch demanded to know how many Communists were working in defense plants, and he wanted an exact number because he didn't "want the sun to go down while they are still in there, if we can get them out." Welch demanded the information in detail. He would not allow the conspiracy rhetoric to carry the day with vague aspersions. He demanded verifiable and observable information.

Cohn estimated there were about 130 Communists in 16 plants and Welch began demanding that somebody do something right then since we apparently had the information. If we had the information, Welch reasoned, why hadn't we done something about it? McCarthy, in an attempt to protect his protégée, joined the conversation. But McCarthy chose to address the Chairman, Senator Karl Mundt (R-SD), instead of Welch, demanding that they not be ridiculous. He claimed the Welch knew, because McCarthy had explained it to him, that the FBI had all of this information, and that all he could do at this point was to try and publically expose them. McCarthy used a particular figure here – apostrophe. Instead of addressing an audience that is absent, however, McCarthy used a third party to address his primary audience. Apostrophe is common enough in hearings and is used to create some kind of neutral ground – the third party is the mediator. This was meant to be a caustic reminder to Welch, but McCarthy chose not to even speak to Welch but to speak to the Chairman instead. This provided a sense of formality, and it served to distance himself from his undesirable sparring partner. Ultimately, he implied that Welch was simply being obtuse. Welch, however, did not take the bait. He simply returned to demanding more and more exact information and

asking for Cohn's accountability in the fight against these supposed Communist infiltrators.

Cohn and Welch went back and forth for a bit, with neither one really making great strides, until McCarthy stepped in again. Once again, McCarthy employed the apostrophe. He informed the Chairman, and all who were listening that he thought they should inform Welch that Welch was a part of the conspiracy. Welch employed Communists. McCarthy used Welch's own words against him, trying to get Welch to incriminate himself again and again, but Welch would not let McCarthy wrestle those words away and use them as a tool against him. Just as Welch had asked Cohn to quickly and efficiently address the known Communist problem, McCarthy turned on Welch demanding the same thing. McCarthy also tried to take over the encounter by sheer time of possession – McCarthy, as was his practice, tried to turn the hearing into a bully pulpit for himself and not let others get a word in edgewise. His first argument was that Welch employed a man, Fred Fisher, who was a member of the “legal bulwark,” a phrase he used repeatedly, of the Communist Party. McCarthy equivocated on Welch's specific role in the conspiracy. On the one hand he assumed that “Mr. Welch did not know of this young man at the time he recommended him as the assistant counsel for this committee,” but within a matter of sentences called Welch a phony because of his demand to “get every Communist out of government out before sundown.” McCarthy seemed to have forgotten his surroundings – in this hearing he was not giving a monologue, and his target was not a frightened victim. Welch was a clever and quick-witted lawyer who was well researched and well-prepared and made

sure that each of McCarthy's mistakes were used against him in the narrative he gave in response.

McCarthy made a number of errors in this rant, but one of the most damaging was to rely on his tendency to hyperbolize. In this case a number of people had access to the same information that he did, so his conspiratorial interpretations were open to closer scrutiny. So when he claimed that Welch tried to "foist" Fisher on this committee he got himself into trouble. In trying to implicate Welch in this far-reaching Communist conspiracy, he opened himself up to criticism from a number of parties, and to do so in a way that was personally insulting to Welch certainly did not endear him to those who recognize that he was trying to pull a fast one, so to speak. McCarthy forgot that the secrecy element of his conspiracy theory is not as secret as it had been in the past. As the architect of this particular manifestation of the "us/them" Communist narrative, McCarthy's hold on the conspiracy loosened ever so slightly. If a successful conspiracy theory depends on limited proof then McCarthy's gamble of bringing in outsiders with access to the same information as he had seemed ill-advised. And if McCarthy's goal was to help America create a specific "us" identity in relationship to "them," by using a conspiracy theory, jeopardizing that narrative was problematic at best.

I am not asking you at this time to explain why you tried to foist him on this committee. Whether you knew he was a member of the Communist organization or not, I don't know. I assume you did not, Mr. Welch, because I get the impression that, while you are quite an actor, you play for a laugh, I don't think you have any conception of the danger of the Communist Party. I don't think you yourself would ever knowingly aid the Communist cause. I think you are unknowingly aiding it when you try to burlesque this hearing in which we are attempting to bring out the facts, however.⁴⁹

McCarthy's accusations got both more insulting and convoluted as he moved forward. He claimed on the one hand that he was certain that Welch would not help the Communist cause, but he was clearly not on the up and up – he was an actor who was making a mockery of these hearings. But his most serious accusation was that Welch was ignorant of the extent of the conspiracy. Welch simply did not understand precisely how dangerous the enemy was, and he was therefore aiding the enemy by taking Communism too lightly. The conspiracy, he argued, was so vast that Welch could not grapple with its seriousness. Welch could not be trusted to competently deal with the conspiracy. McCarthy not only brought the hearing back to the Communist conspiracy as opposed to Schine's situation, but also tried to cripple Welch's ethos. Here the exchange became more heated.

At this point both Chairman Mundt and Welch had enough of McCarthy's ranting. Mundt bypassed McCarthy altogether and assured Welch that he knew Welch never recommended Fisher for this committee, and Welch tried respond to these accusations, but McCarthy tried to butt in. Welch, clearly annoyed, began to borrow McCarthy's own tactics against him. He used McCarthy's words, and the exchange took on an edgier tone:

Mr. Welch: Senator McCarthy, I did not know – Senator, sometimes you say “May I have your attention?”

Senator McCarthy: I am listening to you. I can listen with one ear.

Mr. Welch: This time I want you to listen with both.⁵⁰

Welch tried to address McCarthy directly, but McCarthy ran pell-mell over him demanding that his aids provide proof that Fisher, whom Welch recommended, did belong to a branch of the Communist Party. This was the last straw for Welch.

Welch provided all the “evidence” McCarthy could possibly need. He effectively took every bit of ethos McCarthy might have garnered from his claims of evidence and conspiratorial secrecy and obliterated it by making McCarthy’s evidence of Welch’s supposedly nefarious behavior public and moot. Welch himself admitted that he initially asked Fisher if he might consider working on the case, but Fisher admitted to associations with the Lawyer’s Guild, and though he was also secretary of the Young Republicans League, they recognized this could cause problems. Together, Fisher and Welch decided he should not work on the case.

Welch’s narrative was interesting in that he seemed to switch in and out of styles in the beginning middle and end. Welch was known for a rather old fashioned way of speaking and being eloquent and articulate in ways one might consider stylistically antiquated. The beginning of his narrative was eloquent and his word choice was notable in that was it precise, accusatory, and created a very particular mood. He sounded like a beleaguered headmaster:

Mr. Welch: Until this moment, Senator, I think I never really gauged your cruelty or your recklessness. Fred Fisher is a young man who went to the Harvard Law School and came into my firm and is starting what looks to be a brilliant career with us.⁵¹

His word order sounds eloquent and prepared, even old fashioned, but not to the point of anastrophe. His word choice indicated a particular mental acuity that McCarthy’s blustering had failed to communicate. Welch’s ethos was bolstered with every sentence, while McCarthy’s dwindled at an equally alarming rate.

The middle of the narrative was less notable for its style, and focused on content. It was as if Welch had it planned out like a speech from an introductory speech course –

there was a catchy intro, an informative body, and a memorable conclusion. The body was a basic chronological order in plain style, not simple but straightforward. His conclusion, however, had Dickensian flourish.

Mr. Welch: Little did I dream you could be so reckless and cruel as to do an injury to that lad. It is true he is still with Hale & Dorr. It is true that he will continue to be with Hale & Dorr. It is, I regret to say, equally true that I fear he shall always bear a scar needlessly inflicted by you. If it were in my power to forgive you for your reckless cruelty, I will do so. I like to think I am a gentleman, but your forgiveness will have to come from someone other than me.⁵²

His use of anaphora and emphasis on recklessness and cruelty created a memorable end to a powerful monologue, and his ideas seemed to drip with a certain amount of reserved poetry that reminds listeners of the polarity of these two interlocutors: “lad,” “bear a scar,” “gentleman,” “fear,” and “forgiveness.”

McCarthy’s response was less than convincing. He tried to co-opt Welch’s words and began to repeat his charge against Fisher. McCarthy would not let the issue go.

Mr. Welch: Senator, may we not drop this? We know he belonged to the Lawyers Guild, and Mr. Cohn nods his head at me. I did you, I think, no personal injury, Mr. Cohn.

Mr. Cohn: No, sir.

Mr. Welch: I meant to do you no personal injury, and if I did, beg your pardon. Let us not assassinate this lad further, Senator. You have done enough. Have you no sense of decency sir, at long last? Have you left no sense of decency?⁵³

While the exchange went on for quite some time, this was Welch’s crowning blow. It was a rhetorical question, but as in most rhetorical questions the answer was clear. McCarthy’s claims to inside knowledge of some vast conspiracy were laid to waste. Even if he knew of some elements of a conspiracy, his overblown charges

against Welch and his lack of eloquence and skill, especially in comparison to Welch, had destroyed his credibility. Television had just broadcast his bumbling performance, his inability to handle a reasoned response, his hyperbolic claims, and his “cruelty” to a disappointed audience. There was no conspiracy here. McCarthy’s attempt to shape some kind of identity in response to “they” has failed because “them” failed to materialize in any meaningfully threatening way.

McCarthy tried to regain his ground with another lengthy monologue, but it was repetitive and added little to what had already been said. He rehashed that Welch had demanded Cohn get the Communists “out before sundown,” and then proceeded to explain that the Lawyers Guild is the “legal bulwark” of the Communist Party once again. He claimed again that Welch tried to “foist” Fisher on the committee, with no objection from Welch or Mundt this time. He claimed that he believed that Welch did not know about Fisher’s Communist ties when he tried to force him on the committee, repeating himself from his earlier monologue, at which point Mundt broke in again to say that Welch never recommended Fisher for the committee to begin with. McCarthy tried to question Welch on it – to demand that Welch brought him down for that specific purpose, at which point Welch made his final blow. Welch summoned all he had to put a definite and melodramatic stop to this line of questioning:

Mr. Welch: Mr. McCarthy, I will not discuss this with you further. You have sat within six feet of me and could have asked me about Fred Fisher. You have brought it out. If there is a God in heaven, it will do neither you nor your cause any good. I will not discuss it further. I will not ask Mr. Cohn any more questions. You, Mr. Chairman, may, if you will, call the next witness.⁵⁴

In a dramatic move, Welch took control of the committee. He put a stop to the conversation, and even deigned to give the Chairman permission to do his job. It became very clear that McCarthy was no longer the man in rhetorical charge. Rhetorically, he lost the battle. McCarthy failed to constitute a “them” in this scenario, making it difficult for “us” to materialize.

McCarthy had depended on a conspiracy narrative to help him fashion his version of American identity. Conspiracy narratives often work as constitutive because they create an “us” and “them” by which a group can identify themselves. McCarthy’s conspiracy unraveled with his ethos. A successful conspiracy narrative requires a certain amount of credibility from those who provide the information, since so much of the information is “secret” or “corrupt.” Kathleen Hall Jamieson describes the end of McCarthy’s career as being due not to his inability to produce communists, “but rather by destructive moments of self-revelation in the thirty-six days of nationally broadcast Army-McCarthy hearing...he was arrogant, obstructive, and opportunistic. His odd, loud, self-conscious laugh compounded the audience’s discomfort with him as a person.”⁵⁵ Without McCarthy’s credibility, his conspiracy, and therefore his attempt to fashion American identity, completely fell apart.

Conclusion

In a sense, I feel a certain amount of pity for McCarthy. He saw his world changing drastically and it terrified him. The American story of a unified people was showing cracks in the foundation, and to a nation already terrified of an encroaching enemy, it was simply too much to bear. Conspiracy narratives were a haven. They

allowed for a definite “us” and “them” and created a safe national identity. Conspiracy narratives provided some kind of sense in a global environment that was losing confidence in long-established meta-narratives. Americans were the good guys, and those who disagreed were the bad guys. It was simple and comforting.

Unfortunately, the simplicity of such a story could not hold. As the conspiracy grew in scope and severity the “them” became larger and more sinister, until “they” began to include some of “us.” And so identity began to fracture. As McCarthy and his followers began to suspect their own of dispossessing American identity, the once clear lines of “us” and “them” began to blur irreconcilably. By trying to depend on conspiracy to define identity, McCarthy lost his own game. Welch did not single handedly bring down McCarthy – that process was longer than just this one exchange – but this incident was illustrative and in many ways the final straw. McCarthy’s conspiracy was unraveling, and as it did his credibility. As went his credibility so did his control of the conspiracy narrative. Ultimately, the question was could we still trust ourselves? And if not, how could we even define “us?” McCarthy told us that we could not trust “us.” Even the Army was suspect. But then McCarthy himself turned out to be untrustworthy, leaving any sense of unified identity in shambles.

Welch was able to utilize a powerful narrative form to combat McCarthy’s conspiracy. Whereas McCarthy wanted to shroud his work in secrecy, Welch used a detailed and forthcoming, structured story to combat McCarthy’s paranoid rhetoric. Welch spoke like a seasoned story-teller, making McCarthy’s bluster and gale seem impotent in comparison.

The real strength of Welch's argument is highlighted by using White's understanding of constitutive rhetoric and analyzing, specifically, his response to McCarthy's attack on Fisher. By taking note of how Welch used elements of style and narrative to combat McCarthy's conspiracy rhetoric we can see how he set himself up as a total foil to McCarthy. McCarthy may have been trying to monopolize the conversation to define American, Welch's decorum and style broke McCarthy's stranglehold. McCarthy made no bones about his obsession with what was "American" and what was not, and he was certainly not alone in his crusade to cleanse the "un-American" from his midst. The "us" and "them" dichotomy was pervasive, and using White's understanding of constitutive rhetoric to nuance an analysis helps illuminate how McCarthy, or men like him, were actively trying to create a particular identity. In the end, criticism shows us that McCarthy's attempt to define American fell flat not just because of his ill-defined sense of decency, but because of his inability to control his own argument. McCarthy may have had agency as he tried to craft American identity, but so did the other players in this drama. And Welch proved to be the ultimate hero of the story.

Notes

1. McCarthy's name is synonymous with the Red Scare of the 1950s and remembered, usually negatively, for his role in the "witch hunts" that defined half the decade. His career and his legacy were largely determined by the colossal rise to fame and then public humiliation he suffered in 1954. His investigations into the army, government personnel, and the entertainment industry have a reputation for being over-zealous at best, and at worst, unethical and unconstitutional. However, McCarthy was not the only party involved in investigations into Communist activity within the States. Often people think of the investigations into Hollywood and literary personalities as part of his work. Certainly they were similar, but McCarthy was not actually a part of the blacklists in Hollywood, television, and within the publishing industry. While the House of Un-American

Activities Committee delved into the entertainment industry, McCarthy was the driving force behind many of the investigations into government and army activities and left the entertainment industry to other congressmen, choosing to focus on what he considered more serious transgressors. For a short bibliography on works that deal with McCarthy and his legacy, see the Biographical Directory of the United States Congress, "McCarthy, Joseph Raymond," <http://bioguide.congress.gov>.

2. The first Red Scare, which is not discussed as frequently, took place in the early 1900s and focused largely on immigrants from Eastern Europe.
3. Phillip A. Grant, Jr., "Midwestern Senators and the 1954 Censure of Joseph R. McCarthy," *The Midwest Review* 14 (1992): 63.
4. Robert Ivie, "Metaphor and the Rhetorical Invention of Cold War 'Idealists,'" *Communication Monographs* 54.2 (June 1987): 83.
5. Robert Ivie, "Metaphor and the Rhetorical Invention," 81.
6. James Darsey, "Joe McCarthy's Fantastic Moment," *Communication Monographs* 62.1 (March 1995): 66. Darsey also notes that there has been surprising little work on this subject. However, his observation is broader: he claims that rhetoricians have done little work on McCarthy in general and that this is a gap that should be filled.
7. John O'Connor, "Edward R. Murrow's Report on Senator McCarthy: Image as Artifact," *Film & History* 16.3 (Sep 1986): 55-72.
8. Michael D. Murray, "Persuasive Dimensions of *See it Now's* 'Report on Senator Joseph R. McCarthy,'" *Today's Speech* 23.4 (Fall 1975): 13-20.
9. Brian Thornton, "Published Reaction When Murrow Battled McCarthy," *Journalism History* 23.3 (Fall 2003): 133-146.
10. Greg Vitiello, "Television's Finest Moment," *Television Quarterly* 34.1 (Fall 2003): 18-22.
11. Michael Gauger, "Flickering Images: Live Television Coverage and Viewership of the Army-McCarthy Hearings," *Historian* 6.7 (2005): 678-693; Donald A. Ritchie, "Are You Now or Have You Ever Been? Opening the Records of the McCarthy Investigations," *Journal of Government Information* 30.4 (2004): 463-469.
12. Fred Casmir, "The Power of Oral Communication," *Today's Speech* 10.4 (November 1962): 20-22.
13. Barnet Baskerville, "Joe McCarthy, Brief-Case Demagogue," *Today's Speech* 2.3 (Sep 1954): 8-15.
14. Pamela Brown, "Army-McCarthy Hearings," *History of the Mass Media in the United States: An Encyclopedia* ed. Margaret Blanchard, Chicago: Fitzroy Dearborn (1988): 44-47.
15. Paul Achter, "TV, Technology, and McCarthyism: Crafting the Democratic Renaissance in an Age of Fear," *Quarterly Journal of Speech* 90.3 (August 2004): 307-326; Frederick W. Haberman et al, "Views on the Army-McCarthy Hearings," *Quarterly Journal of Speech* 4.1 (1955): 1-18.
16. Richard M. Fried, *Nightmare in Red: The McCarthy Era in Perspective* (New York: Oxford University Press, 1990).

17. David Halberstam, *The Fifties* (New York: Villard Books, 1993); Richard Orr Curry and Thomas Brown, comps., *Conspiracy: The Fear of Subversion in American History* (New York: Holt, Rinehart, and Winston, INC. 1972).
18. William L. O'Neill, *American High: The Years of Confidence, 1945-1960* (New York: The Free Press, 1986); Robert Shogan, *No Sense of Decency: The Army-McCarthy Hearings: A Demagogue Falls and Television Takes Charge of American Politics* (Chicago: Ivan R. Dee, 2009).
19. M. Stanton Evans, *Blacklisted by History: The Untold Story of Joe McCarthy and his Fight Against America's Enemies* (New York: Crown Forum, 2007).
20. History Matters, "'Have You No Sense of Decency': The Army McCarthy Hearings," <http://historymatters.gmu.edu> accessed November 2010.
21. Shogan, 69-73; Halberstam, 50-51; O'Neill, 155.
22. Louis Francis Budenz, *Men Without Faces: The Communist Conspiracy in the U.S.A.* (New York: Harper & Brothers, 1950).
23. Ritchie, 464.
24. Added to this fiasco were whispered rumors of sexual relationships between Cohn and Schine which was exactly the kind of thing that McCarthy would consider un-American and would use as a weapon against a government official. Shogan, *No Sense of Decency*, 12.
25. Shogan, 135.
26. Shogan, 138.
27. Phillip A. Grant, Jr., "Midwestern Senators and the 1954 Censure of Joseph R. McCarthy," *The Midwest Review* 14 (1992): 63. This entire article is an excellent and concise record of the debate in the Senate over whether to censure McCarthy or not. Interestingly, Homer Angell is mentioned by name. He is central to this project in a larger sense because of his involvement in the addition of the words "under God" to the Pledge of Allegiance.
28. Stephanie Kelley-Romano wrote about television conspiracy as a genre in and of itself. She claims conspiracy is a fictive narrative that critiques contemporary ideas about identity and reality by questioning the role of the individual in society and what it really means to "be." The same narrative questions what it means to be good, evil, or true and in the process, makes us consider our assumptions about knowledge. See Stephanie Kelley-Romano, "Trust No One: The Conspiracy Genre on American Television," *Southern Communication Journal* 73.2 (April-June 2008):105-121.
29. Thomas G. Goodnight and John Poulakos, "Conspiracy Rhetoric: From Pragmatism to Fantasy in Public Discourse," *The Western Journal of Speech Communication* 45 (Fall 1981): 302.
30. This phenomenon will be further explored later in the paper as I delve further into the connection between McCarthy and postmodernism.
31. Leroy Dorsey, "Re-reading *The X-Files*: The Trickster in Contemporary Conspiracy Myth," *Western Journal of Communication* 66.4 (Fall 2002): 463.

32. Michael Barkun, *A Culture of Conspiracy: Apocalyptic Visions in Contemporary America* (Berkeley: University of California Press, 2003), 3-4.
33. Goodnight, "Conspiracy Rhetoric," 311-316. Goodnight and Poulakos describe five perceived elements of a conspiracy theory that make it palatable to the public: the motives of the secret group are not knowable, motives that are uncovered are perversions of human emotions, the language of the group is secret, group loyalty is complete and averse to the general interests of the public, and the corruption due to the conspiracy is widespread.
34. Goodnight, "Contemporary Rhetoric," 303-306.
35. Earl George Crepps III, "The Conspiracy Argument as Rhetorical Genre" (PhD diss., Northwestern University, 1980), 96.
36. A fellow traveler is a communist sympathizer, or a person who has views that might lead them to support communist ideas, even if they do not support the cause.
37. Richard Hofstadter, *The Paranoid Style in American Politics and Other Essays*, (New York: Alfred A. Knopf, 1966), 4.
38. Hofstadter, *The Paranoid Style*, 23.
39. Peter Knight, ed., *Conspiracy Nation: The Politics of Paranoia in Postwar America*, (New York: New York University Press, 2002), 7.
40. Darsey, "Joe McCarthy's Fantastic Moment," 66.
41. Knight, *Conspiracy Nation*, 4; Kelley-Romano, "Trust No One," 111.
42. Goodnight, "Conspiracy Rhetoric," 310; Robert Alan Goldberg, *Enemies Within: The Culture of Conspiracy in Modern America* (New Haven: Yale University Press, 2001). Goldberg's book, besides being a truly entertaining and interesting read, provides copious examples of conspiracy theories. Many seem strange, but many have become so mainstream that they are either a pop culture reference, a notable moment of history, or simply accepted as part of the cultural fabric.
43. Darsey, "Joe McCarthy's Fantastic Moment," 68. Quot, Richard Weaver, *Ideas Have Consequences* (Chicago: University of Chicago Press, 1976).
44. Micheal P. Rogin, *McCarthyism and Mass Politics*, eds. Richard O. Curry and Thomas M. Brown (New York: Hold, Rinehart and Winston, INC. 1972), 226.
45. Knight, *Conspiracy Nation*, 9-12.
46. Barkun, *A Culture of Conspiracy*, 4. See also George E. Marcus, ed., *Paranoia Within Reason: A Casebook on Conspiracy as Explanation* (Chicago: The University of Chicago Press, 1999), 14.
47. Dorsey, "Re-reading *The X-Files*," 463-464.
48. The most interesting example of all of this is the exchange between Welch, Cohn, and McCarthy about Communists in the Army. Adams and Stevens basically accuse Cohn and McCarthy of threatening to sabotage the Armed Forces on behalf of Schine, which Cohn vehemently denies to Welch. Then Welch asks Cohn if he give can specific numbers of Communists at various Army

bases. Cohn does, and Welch immediately demands why, if we know this, nothing has been done. At this point, Cohn and McCarthy look particularly bad. McCarthy informs Welch that the FBI will do their jobs when it is appropriate and then turns and starts to accuse Welch of being part of the conspiracy.

49. History Matters.

50. History Matters.

51. History Matters.

52. History Matters.

53. History Matters.

54. History Matters.

55. Kathleen Hall Jamieson, *Eloquence in an Electronic Age The Transformation of Political Speechmaking* (NY: Oxford University Press, 1988).

CHAPTER IV

UNDER GOD: CONSTITUTING THROUGH EPIDEICTIC RHETORIC

Like many schools across the nation, the middle school that my husband taught at began the day with the Pledge of Allegiance. The school aided low income populations and had a diverse population of students of all cultures. Because the student body was made up of such a patchwork group, there was not always social cohesion. Not all of the students felt compelled to pledge their allegiance, and of course it was difficult to separate those who were conscientious objectors, so to speak, from those who just chose not to out of some sort of rebellion. Each year there was an unofficial debate amongst the teachers about whether it was appropriate to make students say the Pledge or if it was enough for them to stand with the others. One year my husband had a relatively large group of students that would stand, but would not put their hands on their chest or join in the recitation. As the year progressed he was able to put two and two together: either the students or their parents were not actually citizens of the US. They never made trouble during the pledge or protested, but they did not feel comfortable pledging to the flag and so they simply stayed silent. Even at that young age they realized that the Pledge was not just recitation, but some significant statement of identity or belonging.

If the Pledge of Allegiance has that powerful of an effect on 7th graders then it strikes me as being a piece of rhetoric worth some study. The recitation and repetition of

the Pledge is one of the most blatant ways in which we express our understanding of who we are. It literally provides a list of adjectives meant to describe our nation. It is a potent piece of rhetoric and an important one in discussing national identity. I am especially interested in the context in which something as powerful as the Pledge no longer seems to pass muster – what could possibly require a change to the Pledge of Allegiance? But something did. It is easy to forget that the Pledge of Allegiance has been through manifestations. It was not born into stasis, but has changed with the times. The fact that something that seems so simple and is such a direct means to constructing identity has changed points to the malleable nature of American identity. In this case, the means by which we affect change in that identity is epideictic rhetoric.

On June 14, 1954 President Eisenhower signed a bill that added the phrase “under God” to the middle of the Pledge of Allegiance. The Pledge had been a mainstay of elementary school children’s mornings for years so there was a particular and expected rhythm to its recital; it was familiar and part of the morning routine. And yet the change was almost completely without controversy. In fact, Representative Charles G. Oakman commented that in his “experience as a public servant and as a Member of Congress” he had never seen a bill “which was so noncontroversial in nature or so inspiring in purpose.”¹

Senator Homer Ferguson explained the reason that he felt this change was so necessary and agreeable:

We now live in a world divided by two ideologies, one of which affirms its belief in God, while the other does not. One part of the world believed in the unalienable rights of the people under the Creator. The other part of the world believes in materialism and that the source of all power is the state itself.²

Ferguson, Oakman and other lawmakers seemed to believe that there was some sort of crisis of identity on a worldwide scale. They believed the world as they knew it was aligning itself in one of two ways, and that their opposition, Communism, was not just “the other guys,” but a genuine threat to their way of life.

Representative Jack Brooks of LA believed that free nations were battling “for their very existence,” hence his interest in changing the Pledge of Allegiance. Brooks argued that “In adding this one phrase to our pledge of allegiance to our flag we in effect declare openly that we denounce the pagan doctrine of communism.”³ Brooks and his colleagues were terrified of what they saw as dangerous ideologies encroaching on their lives, so they set out to try and make as distinct a separation between America and its enemies as possible.

For years before the Cold War people had been pledging allegiance to the flag. But the pledge was a specific response to a specific situation. It was as much a by-product of the Civil War as anything else, hence the emphasis on a unified Republic. If one posits that the Pledge of Allegiance was a rhetorical product of a particular context, then we may hypothesize that a change to the recitation itself is a response to a change in context. The rhetorical situation that came after the Civil War required a particular response, so as America changed the pledge followed suit.⁴ Instead of worrying about unifying the nation in the face of itself, a country that was threatened by disbandment, we worried about foreign threats. The daily reminder of who we were and our pledge to be loyal to a particular nation needed refinement as the rhetorical situation changed.

This chapter highlights the remarkable intersection of theory and methodological criticism that the phrase “under God” represents. The epideictic and historical nature of the text suggests that those two words had a constitutive purpose. In this analysis I bridge all of these ideas in order to show that the Pledge was a rhetorical tool that Congress used to respond to a changing historical, political, and rhetorical situation by harnessing the power of epideictic rhetoric as constitutive.

While an expanded study might include such issues as the separation of church and state or a more complete history of the Pledge of Allegiance, the goal of this chapter is to focus on an application of White’s understanding of constitutive rhetoric. So, as I contextualized the words of the Pledge of Allegiance, I looked to the Congressional Record for the reasons for changing the Pledge, and overwhelmingly, those who wanted to change the Pledge argued from a somewhat surprising *topoi*. I expected a discussion about the importance of religion in America, but what I found was a discussion of the dangers of not being anti-Communist enough, and there is a difference.

Religion may be one of the overwhelming rhetorical challenges in American studies. From the Puritans and their search for a closer relationship with God, to the Enlightenment philosophy of the Founding Fathers, and to the present, America has had an undeniable God problem. We never know exactly what role he plays in our politics and philosophy. While this may be one of the most important questions in American studies, I have chosen to focus less on church-state relations and the history of religion in politics for this project than I have on the rhetorical arguments for including “under God” specifically. These arguments tended to shift the discussion away from “we are a

Christian nation,” to “we are not a Communist nation.” While certainly there is overlap, the two are not precisely the same thing. Future manifestations and expansions of this project will most certainly delve deeper into America’s spiritual past, and God’s relationship to our laws and philosophies. However, for this singular chapter a narrow focus on the simple words “under God” requires a focus on the arguments specifically for those words, which limits the rhetorical criticism to the Pledge of Allegiance itself and a history grounded mostly in the arguments that lawmakers presented for adding those specific words.

Literature Review

Most of the available literature on the Pledge of Allegiance comes at the topic from very different perspectives than my own. There are countless articles and books dealing with the “under God” challenge from 2002, for example. This incident seemed to garner much more rhetorical attention than the original addition. However, the writing that deals specifically with “under God” in the year 1954 is limited at best. The other area that has given a good bit of attention to the Pledge of Allegiance is the education field. Books dealing either with how teachers can practically deal with classroom controversies or how they theoretically shape our understanding of education are myriad. For example, Joel Westheimer’s *Pledging Allegiance: the Politics of Patriotism in America’s Schools* covers a number of controversies dealing with the Pledge, but confines the discussion to the fields of education and politics.⁵ More pertinent to this study are the works of Anthony Hatcher and Ronald Bishop. Both approach the issue from a media or media ethics standpoint. They analyze the ways in

which the Knights of Columbus and the Hearst newspapers framed their arguments to add “under God” to the Pledge. Both found that the idea originated with the Knights but was championed by Hearst. Interestingly, Bishop finds that the campaign had much less to do with religion than it did with patriotism in the face of the Communist threat.⁶

Richard J. Ellis’s history of the Pledge of Allegiance is an indispensable aid to a study of the Pledge because of its thorough history.⁷ Also, Patrick Allit’s *Religion in American since 1954: A History* helps to understand the context under which the Pledge was changed.⁸ For a more contextual story of American religion in the Cold War specifically, Will Herberg’s *Protestant Catholic Jew: An Essay in American Religious Sociology* is a provocative study of American spirituality.⁹ However, none of these works approaches the Pledge as a piece of rhetoric. So using these works as a starting point I have focused on the Pledge of Allegiance as a specific, constitutive text. This analysis bridges the two forms of rhetoric that the Pledge represents: epideictic and constitutive via a close textual analysis of the Pledge. By approaching the Pledge in such a way I have a specific text that is analyzed with a particular method, but framed theoretically, providing a richer understanding of import and mechanics. However, since this analysis focuses on the Pledge itself as rhetoric the bulk of the research comes from primary sources. The literature about the Pledge was not as useful as records from Congress detailing the process that actually got “under God” added to the Pledge, so that is the starting point for my analysis.

History

In 1892 Fred Bellamy wrote the Pledge of Allegiance. His original pledge was “I pledge allegiance to my flag and to the Republic for which it stands – One Nation indivisible – with liberty and justice for all.”¹⁰ The phrase “under God” did not appear in the Pledge until 62 years later, in the early years of the Cold War. The only real resistance that “under God” faced was from teachers who felt it was too hard to remember and ruined the rhythm of the Pledge.¹¹ Classrooms had grown accustomed to the original way of reciting the Pledge, and teachers feared changes would be an unwarranted disruption. Given that school children are prone to say the Pledge of Allegiance more frequently than most other Americans it is no surprise that teachers would be the most concerned about the change. That being said, disagreement from a group of teachers paled in comparison to the overwhelming support from other circles throughout the states.

The movement to add “under God” to the Pledge actually began with a resolution by the Knights of Columbus in April of 1951, when they began adding “under God” to the Pledge they recited at the beginning of each meeting. In 1952 they called for Congress to follow suit, but lawmakers did not immediately champion the cause. In 1953, on April 20th, Representative Louis Rabaut introduced the idea to Congress.

Then on Feb. 7, 1954, President Eisenhower heard a sermon by George Macpherson Docherty. Docherty warned that the Pledge of Allegiance was not truly American, and could be mistaken for a pledge to any flag, even a Soviet one. Docherty claimed that adding the phrase “under God” would be an affirmation of the American

way of life. Docherty argued that since atheism was at the heart of Communism, proclaiming that America was united “under God” would make it abundantly clear that the Pledge was an American one, and could not be mistaken for a “Muscovite” oath. Eisenhower felt Docherty had a particularly good point and threw his support behind an already very popular piece of legislation.

On May 10, 1954 the Senate unanimously passed the resolution. On June 7th, the House did the same.¹² Rarely does any bill receive such wide and bi-partisan support. But “under God” united politicians from both sides of the aisle. Arguments in both the House and the Senate never really showed much more creativity than what Eisenhower heard from Docherty. The arguments largely just repeated themselves over and over again. But there was no real reason to strive for a great deal of variety when there was no real opposition to the original arguments. Repetition simply served to strengthen the resolve of lawmakers in both the House and the Senate.

Representative Angell’s arguments to the House provide a succinct and telling explanation of why he, and other lawmakers, felt the pledge needed immediate attention.

The world is sick and in trouble. The nations of the world are beset on every hand with problems which are taxing the brains of the wisest citizens of every nation to find a solution. In our own generation the world has been devastated by two worldwide conflicts of arms which have cost millions in lives and billions of dollars in treasure and left many of the nations bankrupt, not only in material goods but in spiritual values as well....¹³

Angell felt that the conflict between America and her enemies was indicative of a sickness that had beset the world. The Pledge, he argued, could aid in addressing that international threat.

The Arguments for “Under God”

Representative Frank Addonizio described the importance of the pledge as a declaration of a very specific version of American. Addonizio argued that “we who take the pledge of allegiance to the flag....should bear in mind that our citizenship is of no real value to us unless our hearts speak in accord with our lips; and unless we can open our soul before God and before Him conscientiously say, ‘I am an American.’”¹⁴ To Addonizio the Pledge was not just a simple recitation, but an oath to something greater than himself. The Pledge was a public proclamation that the speaker was an American, and a proud bearer of the qualities that “American” entailed.

That being said, Americans and their elected leaders were anxious to solidify their nation “under God,” but leaders were not anxious to specify what kind of belief in God defined America. For example, Senator Ralph Flanders tried to take things to the extreme and proposed an amendment that would proclaim that “This nation devoutly recognizes the authority and law of Jesus Christ, Savior and Ruler of nations, through who are bestowed the blessings of the Almighty God.” The proposal never got out of committee. In fact, when the proposal was presented only one other person showed up to even listen.¹⁵ Flanders’s effort, which took place around the same time as the efforts to include “under God” in the Pledge, indicate something significant about the understanding of “God” and his importance to being American. It was God that was important to lawmakers, not Christianity. A more generic God was easier to use as a kind of rhetorical unifier, whereas a specifically Christian God or a proclamation that Christ was what defined American made our national identity too narrow.

Still, American lawmakers worried that the Rev Docherty's concerns might be well founded, and felt that public discourse was one way in which they could contend with the problem. Representative Rabaut felt that if Congress made

...the addition of the phrase 'under God' to the pledge of allegiance the consciousness of the American people will be more alerted to the true meaning our country and its form of government. In this full awareness we will, I believe, be strengthened for the conflict now facing us and more determined to preserve our precious heritage.¹⁶

He believed that adding the phrase was not just a symbolic measure, but would actively and continually remind people of the "true meaning" or their own nation.

On four different occasions Congressmen referred to the words of George M. Docherty concerning the Pledge. Only two of these cite Dr. Docherty, but they all questioned the "American-ness" of the Pledge.

Has it ever occurred to you that the former wording of the pledge could serve any republic claiming to be indivisible and to insure liberty and justice for all? Remember, when you heard your own children recite the pledge of allegiance, that these same words could have come from little Muscovite children standing before the Red hammer-and-sickle flag of Soviet Russia. You know and I know that the Union of Soviet Socialist Republics would not, and could not, while supporting the philosophy of communism, place in its patriotic ritual an acknowledgement that their nation existed under God. In deed, the one fundamental issue which is the unbridgeable gap between America and Communist Russian is belief in Almighty God.¹⁷

Rabaut et al. clearly stated that the phrase "under God" was necessary to separate Americans from Communists. Congress took steps to publicly identify the characteristics of "American," and the Pledge was a convenient place to make that argument. America had an identifiable enemy, so she set out to separate herself from that enemy.

Senator George Ferguson re-emphasizes this stark contrast when he refers to communist countries as being under “alien control.”

...seeing nations come into being and others fall under alien control. We now live in a world divided by two ideologies, one of which affirms its belief in god, while the other does not. One part of the world believes in the unalienable rights of the people under the Creator. The other part of the world believes in materialism and that the source of all power is the State itself.¹⁸

For Ferguson the idea of communism was strange and foreign; communism was nothing like “American.” Foreign countries that practiced communism were something other than America, and America had to separate herself out as a different thing entirely.

When the United States Flag Committee published their endorsement for adding the phrase “under God” to the Pledge, they were very clear on their reasons why. Hon. Louis C. Rabaut wrote that recognizing the spiritual origins of America was the “real bulwark against atheistic communism.”¹⁹ For Rabaut and his supporters, America’s spirituality was the main difference from and protection against communism. For America to be truly “American” she must recognize her religious past, according to Rabaut, et al. Since Communists had no such past and did not recognize any religion, they were clearly far from “American.”

Hon. Angier L. Goodwin of Massachusetts re-affirmed this statement in his commentary “‘Under God’ Would Help Combat Pagan Influences.”²⁰ Goodwin hailed a local writer, Shirley Munroe Mullen, for her history of the Pledge and her support for this bill. Most importantly to both Mullen and Goodwin, this bill was so important was because “pagan philosophies” had been “introduced by the Soviet Union,” so therefore it was “a necessity for reaffirming belief in God.”²¹ The issue of the addition to the Pledge

could not be separated from communism. The Pledge, with the addition, made an argument for the identity of America. If she was god-fearing then she could not be communist. It was imperative to law makers that the Pledge aid in their efforts to carefully separate Americans from communists.

Hon. John R. Pillion of the House of Representatives argued that the addition to the Pledge “would serve to deny the atheistic and materialistic corruption of Communism. It would condemn the absolute and concentrated power of the communistic slave state with its attendant subservience of the individual.”²² He did not attempt to explain how subservience to God raises the status of the individual. It would seem that he saw this as self-evident. But part of the Cold War narrative was that in America we could be individuals, while in Russia the communists lacked personal identity.²³ For reasons Pillion saw as clear, “under God” effectively separated Americans from communists because being united under God actually affirmed our individuality.

Rep. Brooks, of Louisiana, went so far as to claim this was the primary thing that separated the two dueling philosophies. The phrase “under God” would publicly proclaim America’s separation from the East. The Pledge would be a specifically Western, American pledge with the addition of the phrase “under God.”

Free nations today battle for their very existence in many parts of the world. Communism with its siren voice of false appeal is heard round the world and many peoples and many nations fall prey to these false headlights of the shores of time. One thing separates free peoples of the Western World from the rabid Communist, and this one thing is a belief in God. In adding this one phrase to our pledge of allegiance to our flag, we in effect declare openly that we denounce the pagan doctrine of communism and declare “under God” in favor of free government and a free world.²⁴

But it was Senator William Langer, the Chairman of the Judiciary Committee, who made the argument most explicitly. Langer explained that “there was something missing in the pledge, and that which was missing was the characteristic and definitive factor in the American way of life.”²⁵ The American way of life was at stake, hence the need to unify Americans in their opposition to communism. “Under God” would be the deciding factor in defining that way of life in the face of communism.

House Report 1693 overviewed the process of passing the “under God” bill. In the “Statement” it unequivocally asserted that the political climate was a reason for the Pledge addition. The Report claims that at that point in history the American way of life was under siege, and the addition of the phrase “under God” “would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual.”²⁶ Again there was a connection between God and the individual. Since communism was supposedly opposed to the individual and God affirmed individual liberty, inserting God into the Pledge of Allegiance rhetorically divided America from communism. Supposed American values directly contrasted the perceived values of the U.S.S.R. This addition to the Pledge verified something American, not just holy or religious, but the main separation between the U.S.A. and communist states.

Adding “under God” to the Pledge of Allegiance was a very public and straightforward way to try and refine what it meant to be an American. It is one thing to publically announce it, but adding it to the Pledge of Allegiance was a real stroke of genius on behalf of public figures. The first time someone said that the Pledge was not American enough it became a matter of constitutive rhetoric. The epideictic nature of

the Pledge of Allegiance offered the perfect way to continually re-affirm the separation from the perceived threat of Communism.

Epidictic Rhetoric

One of the functions of epidictic rhetoric is to re-affirm values and standards of the community. In this sense it is constitutive, as constitutive rhetoric seeks to establish community identity. Certainly there is a difference between re-affirming and constituting, but here the Pledge of Allegiance serves as a perfect example of overlap. While constituting as White describes it implies a creative act, that creative act assumes that an identity is already in place. It operates to constitute while it implies re-affirmation. The assumed American identity is illustrated by the arguments that various Congressmen presented in favor of adding “under God.”

The Pledge of Allegiance itself is a ceremonial speech in which we pledge to be faithful to the flag, which represents an America that is described in that very pledge. A change in such an important ceremonial speech indicates that in 1954, Americans felt some tension in regards to their identity. American lawmakers felt the need to emphasize they were “under God” in order to separate themselves from their enemies, the “godless Communists.” The Pledge of Allegiance not only fulfilled this need, but because it was repeated in almost all schools on a daily basis, it continually constituted this version of American identity.

Epidictic rhetoric is performative and ceremonial and is a matter of “display.”²⁷ Aristotle emphasized epidictic’s “focus on values,” which the Pledge elucidates rather clearly. It provides a list of characteristics for us to value and embody: “indivisible,”

“with liberty and justice for all” are a public affirmation of accepted American values. Chaim Perelman notes that epideictic “is uncontroversial because the values it brings to the forefront are not available to dispute.”²⁸ The Pledge highlights those virtues Americans hope to instill in those who recite it. It reminds participants of allegiance, unity, and “liberty and justice for all.” The Pledge unifies Americans in thought and deed; after all, the indivisibility of the Republic was its main focus originally. Its very purpose is spelled out in the speech.

A rhetor utilizing epideictic rhetoric “delineates his task as one of advocating his own position in a manner that is fitting with the ‘norms’ of the discourse at hand.”²⁹ In this sense, epideictic re-affirms social norms and helps those norms reproduce themselves. The Pledge is an explicit list of norms and values: Americans value unity, liberty, and justice. The performance of the Pledge is an act of constitution.

Epideictic rhetoric facilitates “the instilling of philosophically correct values” as they are presented by the rhetor.³⁰ It “must amplify belief in the values which inform decision in every sphere of human activity.” Part of the power of epideictic rhetoric, specifically in the case of the Pledge, is the ceremonial nature of it. Since the Pledge is a ceremony that is repeated frequently, the Pledge continually performs a constitutive function. The repetition of the Pledge creates its own narrative that gets told and re-told with every recitation. Epideictic speech can “cast aside the importance of reality and truth in favor of appearance and persuasion,” as in the case of the Pledge of Allegiance which describes a particular American identity.³¹ The Pledge has particular persuasive power because of its pervasiveness. Children learn the Pledge at an early age and many

repeat it on an almost daily basis, and as noted in the *Brown v. Board* chapter, those things that happen at school serve more than just educational purposes. School activities also teach us about normative ways of thinking and behaving. The job of the Pledge is to publicly normalize attitudes toward America and define what America stands for.

So, constitutive rhetoric as discussed in previous chapters is based on assumptions that an identity already exists, though the process of that rhetoric is to create and re-affirm that identity. At particular moments, constitutive rhetoric can reposition or rearticulate subjects and their identity.³² Since the Pledge is ceremonial and so many people recite it daily it was the perfect way to address the notion of American identity. The Pledge was not only familiar and accepted as part of American tradition, but since it explains specifically what Americans should value, it was the perfect piece of discourse to use as a means to set up the opposition between America and communist Russia. More importantly, the Pledge evolved. The Pledge was used as a response to changing world politics continually constituting. Rep. Homer Angell told the House in his argument for the “under God” addition that “leaders of world thought” were more and more realizing that the conflicts facing the world were ones of values, and that “bombs and guns have been tried and have failed” to quell the storm, so other weapons were needed, weapons like the Pledge of Allegiance.³³ The weapon that Rep. Angell was proposing was the power of epideictic rhetoric.

The debates in Congress made it clear *why* the change was made. The records of Congressional hearings provide a helpful way to contextualize the phrase “under God” as a product of the Cold War and in response to a growing concern over our own

identity. However, an analysis such as this would be incomplete without looking at the text itself. Congressional discussion makes it clear that there was a problem that lawmakers felt could be addressed by changing the Pledge of Allegiance. What remains is understanding the text itself.

Analysis

Growing up I recited the pledge on a daily basis. Every day I would stand, put my hand on my heart, and announce that I pledged “allegiance to the flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with Liberty and Justice for all.” Years before my grandparents had done the same, but with the omission of any nod to a deity (and for some of them they had not put their hands over their heart until after World War II!). Assessing not only what produced the change, but the change itself, leads us to a richer understanding of the identity that the Pledge is supposed to constitute.

When we recite the Pledge we proclaim our devotion to the flag first and foremost. Our initial allegiance is given to that thing which represents America, not America herself. At first glance this seems to confuse the issue – we technically give our allegiance to a piece of red, white, and blue fabric. It is not until the next phrase that we mention the Republic itself, but then only in connection to the flag. The sentence could just have easily read “I pledge allegiance to the flag of the United States of America and to the Republic,” but the sentence continues to include the Republic itself, and ends with a reference to the flag. This leads me to ask why is it so important to

ensconce the Republic in terms of the flag, when the Republic is what needs our allegiance?

The importance of the symbol over the country itself is part of the constitutive nature of the pledge. The flag is a symbol – and a symbol can be more easily defined than “the Republic.” Beginning with the flag gives us the opportunity to describe what that flag represents. So, the Pledge defines the nation by defining those things that represent the nation. By using a mediator such as a symbol the writer of the Pledge had more license to define his terms. It is interesting to note that this is not a matter of synecdoche. The flag is not used as a smaller thing to represent the Republic. The flag is something in and of itself and should not be diminished. The Republic was a related, but not interchangeable, entity. The language is not particularly metaphorical or poetic, but rather straightforward. The Pledge is organized in a list fashion: I pledge to the flag, then to the Republic which is represented by the flag. The flag serves a dual purpose here – on the one hand it is physical and we can easily see and understand it as an object, solidifying in our minds a concrete image, but on the other hand it is symbolic. We spend much of our energy in the Pledge defining what the flag stands for.

Next in that list is “one nation under God.” The phrase “one nation under God” acts as an appositive. The Republic for which the flag stands is renamed in the Pledge as “one nation under God.” The use of the appositive adds to the constitutive nature of the phrase “under God.” “One nation under God” is not just a description; it is a re-naming of the preceding noun phrase. So the Pledge of Allegiance has changed from a pledge to a flag and a Republic that is one, but a pledge to a flag and a Republic that is one under

God. Appositives are usually defined as a single noun which follows immediately after another noun, identifying or supplementing it, not a noun phrase. In the case of the Pledge, it is a complex version of the appositive. It is attached to a statement or clause and functions as an explanatory mark.³⁴ An appositional relationship is more than just the standard “an appositive could replace its antecedent noun.” As Diane Blakemore points out, appositional structures can give the audience the opportunity to consider the differences and similarities between two things. An appositive can also encourage the reader to “explore the total set of contextual assumptions made accessible” by all parts of the sentence.³⁵ Understanding that the appositive is actually the claim highlights the importance of those two words in that exact spot. They were not minor additions; they were adding to the definition identity that millions of people performed regularly.

The phrase “under God” is inserted between two descriptors: “one nation” and “indivisible.” Together these might seem somewhat redundant, but separating them with “under God” changes the meaning. The new sentence reads “one nation Under God.” That is, we are united through a common God. Once again, viewing this as an appositive phrase emphasizes the constitutive nature of the change. Being under God is one of the bonds we all share as Americans, according to the pledge to the flag. Continuing with another descriptive, we are “indivisible,” strengthening some idea of unity. When we say the Pledge out loud we are effectively renaming the nation with each new noun. As if to say that the flag is the nation, which in turn means liberty and justice for all. Adding under God does not change the nature of the appositive, but

strengthens the nature of our indivisibility. We are not just one nation, but we are united through a specific idea. In this case, God.

When Bellamy wrote the Pledge of Allegiance the Civil War was still fresh on America's conscience. The notion of being one nation that is indivisible was more than just romantic notion – it was a reminder that we had, in fact, forced ourselves to be a whole unit. We had fought a war to decide whether or not we could call ourselves a unified Republic, and Bellamy's Pledge affirmed in writing and recitation that the Republic remained united. The 1954 addition did not change that idea, but added to it that part of our whole-ness was a matter of a shared God.

The final part of the pledge assures us that the Republic will guarantee liberty and justice. Liberty and justice rank high in the pantheon of American god terms, and like most god terms they have a completely malleable and vague definition, but regardless all other terms are defined in relation to them. The Pledge reminds us that we stand whole and we stand for noble and glorious concepts, hard as they might be to define.³⁶ Weaver makes a similar comment about Abraham Lincoln in his essay "The Argument from Definition." He describes Lincoln's tendency to argue from principle, but more specifically from definition. This form of argument postulates that "there exist classes which are determinate and therefore predicable." That is, there is an assumption that something is so.³⁷ Much like Charland's description of constitutive rhetoric the idea must be assumed to exist before one specifically defines it. In doing so, the rhetor defines the terms that set the parameters for an argument. The Pledge functions in just

this way – it defines a state which we assume exists so that we may argue from that definition of the Republic.

This is why some authorities saw the Pledge as the answer to a muddled definition of American. The Pledge actively constitutes, and does so with each recital. But the Pledge is simply supposed to be an expression of who we already are as a nation; not a new statement, but a ceremonial affirmation. The Pledge of Allegiance articulates the “always already” identity that constitutive rhetoric strives to create and re-create. At the same time, lawmakers were taking a very active and purposeful role in constructing American identity. There were not leaving it to organically produce itself, but putting the words there, in the Pledge, to constitute identity. Changing the words to include “under God” was an elegant way to make that an “official” part of an identity that supposedly already existed.

Conclusion

The story of Joe McCarthy from an earlier chapter indicated that some Americans were nervous, even fearful, about changes on the American home front. The Communist threat in combination with cultural upheaval made some Americans very uncomfortable. However, in this case the difference is that instead of American identity finding itself splintering, American identity found itself facing a whole new metanarrative from the other side of the world. If Western modernity hinged on ideas like progress, capitalism, and religion, facing a new world power that had progressed just as much, but without the aid of God or capitalism had to be terrifying.

Communism was scary for myriad reasons. First and foremost, they had the bomb. Let us not pretend the Cold War was entirely rhetorical. Certainly there was an actual, physical threat to deal with. But they had achieved that kind of technological greatness by being *nothing like us*. Our claims to superiority were weakening daily, and that was also frightening. We had to find ways to maintain our rhetorically fashioned superiority for the sake of our own national well-being. In future manifestations of this study I will take this theoretical analysis further. There is a great deal of work to be done with war rhetoric, religious rhetoric, and theory, which is pertinent but outside the scope of this particular chapter, much to my dismay.

While certainly this speaks mostly to America's inner turmoil and identity crisis, the Congressional records point to the looming crisis that was settling over most of the world, as well. There was a clash of narratives beginning and it would define the next several decades of politics, economics, pop culture, and art. The Cold War was not just an arms race, but a battle of ideas. Those ideas played out on a rhetorical stage. The Pledge of Allegiance, with its epideictic power, was one of the most powerful weapons in America's rhetorical Cold War arsenal.

Changing the words to the Pledge of Allegiance very directly attempted to constitute American identity. Congress wanted Americans and her enemies alike to know that America was united under God, and because we stood united beneath God, we were separate from our godless enemies. Adding "under God" to the Pledge of Allegiance drew the lines between "us" and "them" clearly and publically, and the epideictic power of its daily recitation made sure that people across the country were

reminded every day. Adding “under God” was an intentional, constitutive response to global politics.

Notes

1. Rep. Charles G. Oakman, “Pledge of Allegiance to the Flag,” *Congressional Record – House* (May 1954): 7989.
2. Sen. Homer Ferguson, “Pledge of Allegiance to the Flag,” *Congressional Record – Senate* (May 11, 1954): 6348.
- 3 Rep. Jack Brooks, *Congressional Record- House* (June 7, 1954): 7758.
4. For a complete explanation of the rhetorical situation see Lloyd F. Bitzer, “The Rhetorical Situation,” *Philosophy & Rhetoric* 25 (1992): 1-14; and Lloyd F. Bitzer, “The Rhetorical Situation,” *Philosophy & Rhetoric* 1.1 (Winter 1968): 1-14.
5. Joel Westheimer, *Pledging Allegiance: The Politics of Patriotism in America’s Schools* (NY: Teacher’s College Press, 2007).
6. Ronald Bishop, “That is Good to Think of These Days: The Campaign by Hearst Newspapers to Promote Addition of ‘Under God’ to the Pledge of Allegiance,” *American Journalism* 24.2 (2007): 61-85; Anthony Hatcher, “Adding God: Religious and Secular Press Framing in Response to the Insertion of ‘Under God’ in the Pledge of Allegiance,” *Journal of Media and Religion* 7.1 (2008): 170-189.
7. Richard Ellis, *To the Flag: The Unlikely History of the Pledge of Allegiance* (Lawrence, KA: University Press of Kansas, 2005); Similarly, see Diane Kirby, ed., *Religion and the Cold War* (New York: Palgrave Macmillan, 2003) and Richard Pierard and Robert Dean Linder, *Civil Religion and the Presidency* (Grand Rapids: MI: Academie Books, 1988).
8. Patrick Allit, *Religion in America since 1945: A History* (New York: Columbia University Press, 2003).
9. Will Herberg, *Protestant Catholic Jew: An Essay in American Religious Sociology* (Chicago: University of Chicago Press, 1983); See also Diane Kirby, ed., *Religion and the Cold War* and Richard Pierard and Robert Dean Linder, *Civil Religion and the Presidency*.
10. Ellis, 1
11. Ellis, 139.
12. Ellis, 130-135. This is a brief summary of a much more detailed history of the addition of the phrase “under God.”
13. Rep. Homer Angell, “One Nation Under God,” *Congressional Record – House* (1954): 6919.
14. Rep. Frank Addonizio, “Amending the Pledge of Allegiance to the Flag of the United States,” *Congressional Record – House* (7 June 1954): 7765.

15. Ellis, 126
16. Rep. Louis Rabaut, "The Pledge of Allegiance to the Flag: 'Under God' This Nation Lives" *Congressional Record – House* (Aug 20, 1954):15828.
17. Rabaut, "The Pledge of Allegiance to the Flag: 'Under God' This Nation Lives," 15829. See also, Rabaut, "Amending the Pledge of Allegiance to the Flag of the United States," *Congressional Record – House*, 7763; Rabaut, "Amend the Pledge of Allegiance to Flag to Include the Phrase 'Under God,'" *Congressional Record – House*, 6077.
18. Sen. Homer Ferguson, "Pledge of Allegiance to the Flag," *Congressional Record – Senate* (1954): 6348.
19. Rep. Louis Rabaut, "Resolution of the United States...of Allegiance to the Flag," *Congressional Record*, (1 April 1954): A2515.
20. United States Congress, "'Under God' Would Help Defer Pagan Influences." *Congressional Record – Appendix*. (1 June 1954): A 4066-4067.
21. "'Under God' Would Help Defer," A 4067
22. Rep. John R. Pillion, "Our Pledge of Allegiance," *Congressional Record – House*. (2 June 1954): 7590-7591.
23. I am reminded of the notorious Cold War film *Invasion of the Body Snatchers* (1956), which has been remade over and over again, usually during war time. In the film alien forces infiltrate an idealized human community and strip their free will from them. These alien forces turned human being into automatons of a sort – they functioned just as humans do, but without choice, emotion, or independence. The movie has long been recognized as a metaphor for Communist influence in the United States.
24. United States House of Representatives, "Amending the Pledge of Allegiance to the Flag of the United States," *Congressional Record – House* (7 June 1954): 7757-7766.
25. United States Senate, "Pledge of Allegiance to the Flag – Report of a Committee," *Congressional Record – Senate* (12 June 1954): 6231.
26. United States House of Representatives, "Flag – Pledge of Allegiance," House Report (11 May 1954): 2340.
27. Scott Consigny, "Gorgias's Use of the Epideictic," *Philosophy and Rhetoric* 25.3 (1992): 281.
28. Bernard K. Duffy, "The Platonic Functions of Epideictic Rhetoric," *Philosophy and Rhetoric* 16.2 (1983): 81.
29. Consigny, "Gorgias's Use of the Epideictic," 285.
30. Duffy, "The Platonic Functions of Epideictic Rhetoric," 85.
31. Duffy, "The Platonic Functions of Epideictic Rhetoric," 81.

32. Maurice Charland, "Constitutive Rhetoric: The Case of the People Quebecois," *Quarterly Journal of Speech* 73 (1987): 147.
33. Rep. Homer D. Angell. *Congressional Record – House* (1954): 6919.
34. J.E. Norwood, "The Loose Appositive in Present-Day English," *American Speech* 29.4 (Dec 1954): 267.
35. Diane Blakemore, "Apposition and Affective Communication," *Language and Literature* 17.1 (Feb 2008): 54.
36. Richard Weaver, *The Ethics of Rhetoric* (Chicago: Henry Regnery Company, 1953), 212-224. Weaver describes god-terms and devil-terms as those things by which we define other terms. He specifically uses the words "American" and "un-American" in his description. If "American" is a god term and "Communism" is a devil-term, than other terms are ranked by their proximity. For example, "capitalism" is better than "socialism" because one is associated with American and the other Communism. While the original definitions of the god and devil terms might be a bit fuzzy, they serve as anchors by which we can organize other ideas.
37. Weaver, *The Ethics of Rhetoric*, 86-87.

CHAPTER V

I ONLY GET IT FOR THE ARTICLES: HUGH HEFNER ENDEAVORS TO SHAPE AMERICAN IDENTITY

I had a friend in college who, like many men his age, had a subscription to *Playboy*. He kept stacks of the magazine in various places around his apartment and made no effort to hide them, probably because he felt no shame. Half disapprovingly and half amused I made some comment about him only getting it for the articles. To his credit, he never missed a beat. Without even looking up from his video game he said, “Nope. Only man in America who gets *Playboy* just to look at the dirty pictures.”

My friend’s candor speaks to a very important fact about *Playboy*: it is different than run-of-the-mill pornography. *Playboy* gives consumers that ubiquitous “article” excuse that has become a cliché. To be fair, *Playboy* has a reputation for providing not just titillating pictures, but surprisingly well-written and literate articles in one place. The writing is what separates *Playboy* from rags like *Hustler*, *Juggs*, or *Penthouse*. *Playboy* markets itself not just as a nudie but as a periodical for up and coming men with discerning tastes. *Playboy* is supposed to be a magazine in which men, and even occasionally women, can find advice not just on sex, but on gourmet meals, sophisticated clothing, the newest technology, examples of quality literature and witty, light-hearted repartee about social issues of the day. The creator of this unique magazine, Hugh Hefner, specifically wanted a magazine that spoke not just to the libido, but to the intellect, the spirit of individualism, and the pocketbook.

This intentional focus on ideas other than just prurient interests is why this chapter focuses on text in the classical sense and not visual rhetoric. Certainly there is much to be said about *Playboy*'s mastery of visual appeal. The "centerfold" is as iconic as the magazine itself. The centerfold was one of Hefner's strokes of genius – a fold out that gives the viewer a larger picture of the girl in question. And while certainly the centerfold sets *Playboy* apart, that is not Hefner's only inspired move. *Playboy* is remarkable not only for the images. Certainly nobody would argue that *Playboy* would exist without the pictures. However, the pictures are not the only story.

In 1957 the Supreme Court heard *Roth v. United States*, which became one of the most important obscenity cases until the *Miller* case of the 1970s.¹ While there are other cases dealing with obscenity or lewdness, these are the cases that the court used to measure obscenity for decades. Notice that Hugh Hefner was not involved. Hefner has been able to keep his nose surprisingly clean for a man whose entire financial empire is based on pornography. Competitors, like Larry Flynt, have not been able to avoid that kind of publicity. Part of the reason may be that Hefner has been so careful to craft a product that is not just a porn. Hefner's empire is built not just on provocative pictures, but on an image of a particular kind of man: the playboy. Hefner's playboy is a suave sophisticate who is both hip to the current social scene and understands the life and times he lives in, but does not fall prey to fads. His style is classic enough that it has staying power and stands the test of changing fashions. This man, this playboy, is just as important as the girls in the magazine. And this man is found in the pages of the magazine throughout the cartoons, the articles, the advertisements, and the editorials.

Hefner has always had his enemies, and they are not surprisingly from social conservative and religious camps. He has been sued and had the kind of legal issues that often plague celebrities, but Hefner has not really had much in the way of legal difficulty when it comes to charges of obscenity and lewdness. Charges dealing with first amendment issues and public decency have by and large not made it before the high courts of the land. In fact, it was not until 1999 that Hefner's empire faced real opposition from the federal government. Playboy Enterprises appeared before the Supreme Court, not because of the original magazine, but because the Communications Decency Act demanded that the Playboy channel be scrambled, and the Playboy Empire claimed this was a violation of the First Amendment. In a 5-4 decision, the Supreme Court ruled in favor of Playboy Enterprises.²

One way Hefner has managed to stay above the fray is the supposedly literate and socially hip writing found within the pages of *Playboy*. As opposed to *American Aphrodite*, the publication behind the *Roth* case, *Playboy* has long endeavored to be a tastemaker via insightful interviews with respectable public figures, quality fiction, and guidance on fine food and music. No less than literary giants like Kurt Vonnegut and political figures like President Jimmy Carter have graced the pages of *Playboy Magazine*. Hefner has kept his original creation separate from other nudie magazines through tireless attention to the literal text as well as the imagery. There are any number of authors who have commented on the pictures in *Playboy*, but my interest is in that which separates it from other pornographic magazines.

Hefner eventually became known as just Hef, and is one of the most iconic figures in American popular culture. The image of the octogenarian in his pajamas or a smoking jacket surrounded by scantily clad platinum blondes is the stuff of legend. His symbol, the notorious *Playboy* bunny, is as recognizable as Mickey Mouse or the Golden Arches and just as synonymous with American culture.

The first issue to address in a criticism of *Playboy* is what, exactly, should one analyze? *Playboy* itself covers decades, so it is hardly appropriate for a close reading as a whole entity. Even narrowing it down to the year 1954 leaves a critic with twelve different issues, and many articles within those issues. However, I have chosen to focus on one particular article in one particular magazine.

My reasoning is relatively straightforward. The first *Playboy* was published in December of 1953. It was Hefner's big gamble. He cobbled the magazine together in his apartment using money he had begged and borrowed from friends and family. He had no real guarantee that there would be another issue after that one. So the January 1954 issue represents not only a huge accomplishment, but the beginning of his triumph.³ While January 1954 may not be the first issue, it is the first issue of the first year of publication, and the signal that *Playboy* had the potential to be a success.

As for the articles, I have chosen to focus on the first article in that particular issue. The article is a work of humorous fiction, and is the opening piece of this all-important issue. If Hefner, the editor, thought the piece important enough to place it front and center in the first issue of his first full year of publication, then the article

seems worth some examination. And, as it happens, the article addresses much of what all of these other instances I have examined address: what it means to be an American.

Hugh Hefner and His Magazine

Hefner had a relatively non-descript childhood. He described it as conservative and classically Mid-western. In high school he showed an interest in writing and cartoons and began to try his hand at entertaining in various forms, including music and creative writing, but was all-in-all a fairly typical high school boy. After high school he spent a few years in the military where he continued to write. One of the most formative experiences of his life was during his military years (1944-46), though he did not know about it until later. His girlfriend, who he later married, had a brief affair while he was in uniform, and she confessed it before they married. Their relationship never fully recovered. They decided to get married regardless of her indiscretion, and in an effort to salvage their relationship they tried an “open marriage,” which Hefner took full advantage of, but his young wife never really embraced. When the marriage ended Hefner was less broken up and more excited to live the life he had been trying to espouse in the magazine he had been working on during the first years of his marriage.

During these early years he worked for *Esquire* magazine for a time until 1953 when he gambled his entire life – he mortgaged just about everything he had and begged and borrowed from friends and family to scrape together enough for a magazine he called *Stag Party*. However, there was already a magazine called *Stag*, so the name got changed to *Playboy* just before publication. Hefner pounded the entire magazine out on

a type writer in his apartment. The first issue featured nude pictures of Marilyn Monroe from a calendar she had already done.⁴

The first issue appeared in 1953. It did not have a date on it because the creator was not sure there would be any other issues.⁵ But by 1959 millions of copies were mailed out every month, and countless more sold at newsstands across the nation. In 2008 the magazine was still the 12th highest selling U.S consumer publication with an estimated 3.2 million copies sold monthly and another 1.8 million international editions sent out. This is half its domestic peak it reached in the 1970s, but *Playboy* still remains one of the world's bestselling publications.⁶

***Playboy* Ideology**

First and foremost I think it best to address the “gender” issue and clear up any misconceptions. I want to be clear that this is not a paper on masculinity per se. It is specifically a paper on American identity. That being said, when discussing the version of American identity that *Playboy* was trying to constitute, gender is certainly part of the equation. I make the clarification because I will address gender, but not dwell exclusively on it. My primary goal is to understand American constitutive rhetoric via *Playboy* in 1954.⁷

What *Playboy* is all about is subject to interpretation. Certainly there are apologists who see Hefner as the consummate romantic. They describe him as an idealist and a romantic who wanted nothing more than to be in love and to able to exercise his feelings.⁸ In Hefner they saw a man who wanted to put love itself on a pedestal, which required putting Puritanical mores aside and indulging in the excesses

that love requires. As for Hefner himself, he was rather open about the kind of woman he was looking for in his romantic forays. He did not care for femme fatales. Hefner preferred a woman who was simpler and did not look to be in charge. He was not interested in equality between the sexes as much as affection.⁹

Of course, others were not so impressed. Some critics saw him as a destructive force bringing ruin to the time-tested values that acted as the bedrock of American society. And others charged him with sexist perversion – they decried his “art” as a meat market. They feared he was simply another purveyor of the flesh, and as he marketed his product he devalued women until they were nothing more than just another product to consume, like the hi-fi stereos that advertised alongside the pictures.¹⁰

In all the arguing about what Hefner was up to it is easy to forget that Hefner himself had a voice. He wrote about the philosophy behind his brainchild, but like many works of philosophy it left itself open to interpretation.¹¹ Still, trying to analyze his work without looking to his own explanation would be superficial at best. Nine years after he issued his first *Playboy* he decided it was time to address the questions and criticisms that swirled around his publication.

First and foremost, Hefner denied that *Playboy* was behind the decline of Western culture. One of his reasons for publishing his philosophy was to plainly and clearly explain that one of his major goals was to be a tastemaker, not a purveyor of smut. Hefner saw *Playboy* as a guide to the new American male – one that enjoyed the good life. And it just so happened that the good life included sex.¹² A playboy was not

just any man from any walk of life – Hefner’s definition of American masculinity was specifically not all-inclusive. A playboy had to possess a particular point of view:

He must see life not as a vale of tears, but as a happy time; he must take joy in his work, without regarding it as the end an all of living; he must be an alert man, an aware man, a man of taste, a man sensitive to pleasure, a man who – without acquiring the stigma of the voluptuary or dilettante – can live life to the hilt.¹³

Hefner’s playboys were not sexual deviants, according to Hefner; they were men

who wanted to suck out all the marrow out of life, but in a tasteful and sophisticated fashion. Playboys can enjoy spirits, wine, sex, good writing, fine dining, and witty debate without contradiction.

Hefner saw *Playboy* as the result of American history and ideology, not just sexual experimentation. Hefner’s understanding of American history of the first half of the 20th century was a tug-of-war between those he dubbed the “uncommon” and the “common” man. The Uncommon Man was the best of the American dream – he was driven, individualistic, ambitious, and worked to pull himself up by his own bootstraps. This man believed in the promises of God and country – that nothing was impossible and that the technology of the industrial revolution would propel the United States into an age of unparalleled progress and prosperity. And the Uncommon Man fully expected to be at the forefront of the trajectory. This man was an unabashed consumer. He confidently and comfortably took pride in his power to acquire. After all, America is a capitalist nation – why should he be ashamed of his success? This man was interested in the arts and science and unafraid of dissent. He was willing to stand up for those things he believed in, even if it did not conform to the norms of the world around him. This strength of character is part of what made him Uncommon.¹⁴

The stock market crash of 1929, however, changed American life in every conceivable way. As financial ruin spread to all levels of society, those things that defined the Uncommon Man began to seem suspect. When Americans looked over their country and saw hungry men, women, and children on every corner those men who could acquire and had the leisure time and resources to busy themselves with art and science became the enemy. The Great Depression was the age of the Common Man, according to Hefner. The forces of the economy created an environment in which it was unacceptable to succeed. Gains were perceived as ill-gotten, regardless of an individual's hard work, because in comparison to the rest of the country, a successful man was a suspect man.¹⁵

This age of the Common Man might have gone on indefinitely were it not for the Second World War. War requires a certain amount of uniformity. Hefner realized that in order to effectively combat an enemy there must be a stark contrast between "us" and "them." As a result, America embarked on a decade of "rigid conformity." A clearly defined "us" makes for a much more powerful front. Sadly, this meant giving up whatever individualism Americans had left. This was the era of the Invisible Man. Men like Joe McCarthy and J. Edgar Hoover made careers out of stamping out deviancy wherever they thought they saw it. Hefner's concern for the nation and American identity became abundantly clear as he wrote about the Invisible Man. America was swallowing the individual, and the American man "was judged not by what he stood *for*, but what he stood *against*." America was not only a collective, but America was defining herself in the negative. "In 20 years of Depression, War, and Post-War

pressures,” Hefner lamented, “we had very nearly managed to destroy the fundamental spirit and social, economic and political beliefs upon which this nation was founded and through which we had prospered and grown.”¹⁶ But, he posited,

[...] somewhere in the late 1940s a significant counterwave first began to be felt: a new generation was coming of age that seemed unwilling to accept the current shibboleths, chains, traditions, and taboos. It was none too soon, for America was lagging woefully in education the arts, the sciences, and world leadership. There were and are pessimists who believe the nation drifted past the point of no return.¹⁷

The writers and editors of *Playboy* were not said pessimists.

Hefner saw the rebellion of the Beats as a sign that America was not lost. Their colorful defiance signaled that individualism had not been stamped out. However, he saw their philosophy as particularly un-American. Their nihilism and rejection of the markers of American success (taste, sophistication, and consumption) signaled a certain immaturity in Hefner’s opinion. Hefner’s playboy was the re-birth of the Uncommon Man in his mind. Hefner saw his vision of the playboy as a sign at America was healing. The age of the Common Man was over and America was re-claiming her identity as Uncommon. He called this rebirth the Upbeat Generation. He acknowledged the similarities with the Beats in that they were both rebelling against a particular American narrative, but that is where the similarities stopped. Hefner’s vision of America was a happier, light-hearted one where men were encouraged to enjoy life, marked by enthusiasm and optimism.¹⁸

This man, Hefner believed, had a great deal to adjust to, as well. He was living in a peacetime that was tempered by the ominous shadow of the Atomic Age. Mobility

was changing American culture in ways that rocked the imagination, from fast food to cross country travel. “Tradition” was, as Hefner saw it, losing its hold on America.¹⁹

After 20 years of stultifying conformity, a new generation has awakened America’s natural optimism, rebel spirit and belief in the importance of the individual. A certain enthusiasm, a restless dissatisfaction with the *status quo*, a yearning to know more and experience more is typical of youth in any time, but America is unique as a county in having most successfully put this youthful vigor and attitude to work as a national dream.²⁰

Hefner’s vision of America was a rich and sophisticated joyland where liberated men worked hard so they could play as they pleased. Her citizens were witty and happy, perhaps even glib. They lived life at full tilt and publically announced their sophistication with the kind of conspicuous consumption that American capitalism and success allowed.

Hefner’s “Uncommon Man” was at the heart of *Playboy*. The suave, sophisticated rake whose days in the office were just as successful as his exploits at the jazz clubs and in the bedroom leapt off the page from cartoons, articles, and advertisements. So, the first article of the first issue of its first full year of publication is surprising. The first pages are some of *Playboy*’s famous fiction, but the story is hardly what one would expect.

Analysis

The article is a first person narrative. Harry Riddle, our hapless hero, begins with a very straightforward introduction of himself. Because he tells the story, we see everything through his naïve eyes and discover Harry is rather thick. His tendency to narrate in short and grammatically simple sentences underlines his mental simplicity. There is a lack of complexity in his story-telling, both in presentation and style. There is

little to be said about Harry's use of metaphor or particular rhetorical devices, because Harry speaks and writes in as plain a style as possible. For all intents and purposes, Harry's articulation skills are largely un-notable. He does not narrate with any particular flourish, though the dialogue he provides seems to indicate that when he speaks aloud he tries to impress people with his verbosity more than in the unspoken narration he provides the proverbial reader. Harry's dialogue, as evidenced in his passionate if pathetic attempt at a rousing speech in the trial scene, indicates a bifurcation in his character. There is the man Harry believes he should be and that people want him to be, and the man who is telling us the actual story.

His name is also significant. His first name, Harry, is as common and uninteresting a name as possible. His last name seems to indicate multiple meanings. A "riddle" is a puzzling question or person. Harry is a confusing character in that he seems to get just about everything wrong. He has every opportunity to figure the world out – he is good at school, apparently attractive as his teacher feels compelled to take advantage of him early in life, and he has a good heart and ambition, but he is completely unable to capitalize on any of it until the very end of the story when he suddenly snaps and attacks somebody.

Riddle's narrative is not the classic story line in which there is an intro and then the bulk of the story is rising action to a climax. Half of the text is a string of anecdotal stories meant to characterize Riddle. While certainly each of the vignettes he describes is helpful in understanding the trial scene, they indicate that the article is much less about the plotline and much more about Harry Riddle, the man. By the time the reader

gets to the heart of the story, the trial, we have been through a number of other narratives that serve mostly to illustrate his character. They do get us from point a to point b, but we could have gathered much of what we learn from those narratives from the last part of the story, the trial. It is a personality driven narrative, not plot-centered. So, an analysis should focus on what the story tells us about Riddle more than the story itself. And what the narrative tells us about Riddle is that he is not the kind of man Hefner thought America needed.

While there is no explicit reason to think he is sexually impotent, the very first words out of his mouth imply a certain lack of traditionally masculine characteristics. Harry introduces himself by name, and immediately tells his audience that he is both shy and retiring. He describes his childhood as a domestic one. His friends asked him to join them in holding up a filling station, and he chose to stay home and read. On the one hand, Harry can be commended for not engaging in criminal activity. On the other, he does so not out of any expressed sense of morality, but because he prefers the quiet and tranquility of a book.²¹ Here he could have used his simple sentences to his advantage. But, instead of coming across as decisive and confident, he begins to add clauses here and there in an antiquated fashion that implies he is not really in touch with the boys his age. The construction of the sentence is passive in that it utilizes a negative instead of a positive. He is “not unkind” as opposed to kind. Harry has problems describing himself in a straightforward manner. He is roundabout and ineffectual. In the very first paragraph Riddle introduces himself as exactly the kind of man Hugh Hefner does not think the ideal American man should be.

Harry readily admits that the robust socialization of other boys his age did not appeal to him, and his lack of participation left him unready for the “hurly-burly” of life. He realizes he was unready for the challenges of an adult life because of his inability to partake in the *Strang und Durm* of youth. He tried, but was undone by an old, invalid woman. In fact, Riddle was so ineffectual in his attempts to engage in what he referred to as “robust” activities that the old woman was able to hold him by the collar for forty minutes until the police came. His story illustrates once again that Riddle is not just shy and retiring, but exactly the opposite of what Hefner was looking for in an American man. Riddle was looking to steal the woman’s money, so while it was certainly dishonest and nothing like Hefner’s ideal consumer, he at least was trying to engage in some form of American conduct. Riddle at least understood that money was an important part of partaking in life. Unfortunately, he was unable to achieve a basic level of consumption. For his sins he was punished by his mother.

There is little middle ground in Riddle’s narrative. The action of his childhood that he opts out of is not the hooliganism one often thinks of as classic boyhood, such as breaking windows during baseball or harassing older girls, but outright criminal activity. Riddle’s description of childhood is strangely dichotomous. There is a life of dangerous crime, like throwing heavy objects off of buildings in the hopes they break open without regard to pedestrians below, or there is the option of staying home and eschewing all boyish activity. Riddle seems unaware of any active engagement like football or swimming that is often associated with boyish behavior, and knows only extremes.

Even as a child he is woefully unaware of the actual operations of the world and views the life he lives as starkly stratified.

Riddle introduces us to his mother and father early in the narrative. We learn that Harry takes after his father a great deal. Mr. Riddle ran out of work in the 20s (the story takes place in the present day, 1954) and has been waiting ever since. Mr. Riddle was a capmaker, and when caps became unfashionable, he stopped working instead of looking for other employment, and had waited 30 years for work to fall into his lap. The ambition of the Uncommon Man or the Upbeat Generation is completely absent. Mr. Riddle simply will not do things for himself. Mr. Riddle is waiting for the world to change for him. Harry, in turn, says that “Dad and I are, as I said, a great deal alike...”²² If Hefner believes that the ideal Americans are those who engage in the laissez faire market place in order to create their own power to consume, then the Riddle family has not done their job. They have not only failed in to be Uncommon, they have done so of their own accord. They cannot blame circumstances for their failures since Riddle’s description implies there was no effort to overcome their own difficulties. Max Shulman, the author of the article, has created a narrative of the Common Man in a very short amount of space. He has created an enthymeme for Hefner’s national ideal. If one believes in an “American” work ethic, then one cannot believe in Riddle as a model American. But, Riddle spends the majority of the story in chase of the American dream. The enthymeme creates an atmosphere of irony that permeates the entire story.

Harry is very unlike his mother, who he describes as “hale” and “extroverted” with a dangerous temper. His mother has all the qualities of the young men he avoided.

She is brash and quick to act. She also loses patience with her feckless son and husband quickly. She is prone to beat them when they upset her, which Harry finds amusing even though he has required stitches from her ire before. He does not seem to understand that there is something amiss in this family dynamic where the father is ineffectual and underperforming and the mother is angry and abusive.²³ Riddle views this as simply a matter of normal, everyday life. He claims that life is peaceful and non-violent in the evenings when his mother is away at work and he and his father are at home. Here *Playboy* gives us yet another picture of dysfunction in the home. Not only does the father choose not to provide, the mother does it for him. She is still domestic in that she earns money by scrubbing floors, but Harry's father does nothing at all to provide.

It was during these quiet times at home that Harry and his father would discuss their dreams and duties. Harry's description of his conversations with his father while his mother worked is some of the most significant part of the article. Harry describes sitting and pondering the fate of the world. Harry is a dreamer, and has a good heart with good intentions. The thing that weighs most heavily on his mind is discovering "What can I best do to fulfill my destiny as an American and a human being?" His question tells us that he sees himself as an American first. He recognizes that there is something specific about being an American – some identity to embrace or action to take, and he wants to make sure he does his best to do so. His father's answer was clear and to the point – "Get rich."

The Riddles saw American identity as a matter of the power of consumption. Lacking that power himself, Mr. Riddle very pointedly tells his son that his duty in life is to get rich enough so that he can sleep whenever and behave however he chooses. Harry thought on his father's words and realized they were sensible and straightforward. Harry and his father have established a basic organization for the entire text. Harry has posed the question, his father answered, and Harry spends the rest of the piece trying to fulfill what his father believes to be the American Dream. "Boy though I was," he recalls "I understood that." While the article may be a narrative, on another level it is set up the way any intro level speech might be: pose the question, and then answer it. The plot is the means by which the question gets answered. Like Harry's first person narration, nothing is particularly complicated. On both an organizational, syntactical, and stylistic level, Harry's tale is terribly simple.

Harry tells us that he has considered making a volume of his father's maxims such as this one, because he always found them useful and provocative. He is simply waiting for good vellum to become available again. Like his father, Harry is waiting for opportunity to come to him instead of seeking it out. His inability to make any real decisions or take any actions on his own are frustrating, and rightfully so. A story about a character that does nothing is generally one that either inspires angst, or elicits laughter at the main character. In this story, Riddle is sadly humorous. He is a comic character, but the reader does not laugh with him, the reader laughs at him. His naiveté and ignorant innocence make him a somewhat pathetic hero.²⁴ Riddle is definitely "Common."

The introduction of Harry's story ends as Mr. Riddle dozes off in conversation and Harry carries him back to bed. Mr. Riddle does not even take himself to and from his own pallet in this story, but instead relies on his son. Harry shuffles on to his own bed and falls asleep thinking of getting rich.

At first blush this article may seem contrary to constitutive rhetoric in that the description and characterization of Harry Riddle are absolutely nothing like the kind of man *Playboy's* philosophy described as the ideal American. But such a reaction does not give Hefner's publication enough credit. Riddle is an ironic hero.²⁵ At the very beginning of the page, before the article begins, it is labeled as "humor." A reader knows when perusing this article that Harry is not meant to be taken seriously. Riddle's character is ironic in that he is working so very hard to fulfill his duty as an American, but he is precisely not what *Playboy* thinks American identity should entail. He is exactly the opposite of the American man that Hugh Hefner admires and tried to create in himself and in his magazine. Riddle is not being presented as some kind of example, but as a counter example. As for the constitutive nature of it, the article is probably the most straightforward case in this project. Riddle begins the narrative asking what his duty "as an American" is. His story is the ironic answer. The article announces itself as dealing with American identity in the first five paragraphs.

However, the story does not end there. Riddle goes on to describe the moments of his life that he feels merit some mention. Riddle was proud of his school career. In school, he claimed, he was no longer a follower but a leader. Such a proclamation only

adds to the reader's frustration with Riddle because he makes it clear that he knows his inability to take action in life is a foible. He brags about how he

...read better, drew better, sang better. I knew all the answers to all the questions. I got the highest marks. All this was a great satisfaction to me and not one whit lessened by the fact that the other children took off my trousers and threw them on top of a passing bus every day after school.²⁶

His naiveté is almost endearing. He is so proud of his accomplishments that the mistreatment by his peers, that rivals that which he gets from his mother, does not bother him. What is most distressing about his success, however, is that it has the proverbial asterisk by it, for Harry was involved in an inappropriate relationship with his teacher Miss Spinnaker. Riddle describes discussing a litany of academic subjects while engaged in various sexual acts both at her home (until his mother puts a stop to that) and in school. The incident may seem gratuitous, but it sets up a pattern in Riddle's life. Throughout the narrative various schemers take advantage of Riddle's "shy" and oblivious nature. Miss Spinnaker is only the first in a long line of people who use Harry to their advantage. Miss Spinnaker is not just a sexual encounter for the sake of a sexual encounter, but an indication that Harry can truly not take care of himself.

After graduating with some distinction Harry finds himself a job. He is proud of his accomplishments, though his pride is somewhat misplaced and indicates once again that as a hero we should see him as ironic. The only job Riddle can find is a position as a bus boy in a cafeteria, where he describes his salary as "niggardly." His duties are the kinds of low activities reserved for those held in least regard, and he describes doctoring bad meat so it could be sold. From his description his place of employment is not exactly the Ritz. Once again he has failed to become the Uncommon Man. Though,

perhaps he is working his way up. He has a job, after all. As a reader, maybe we can hope for Riddle, yet. Harry claims that while the job itself may not have been perfect, it allowed him to make the kinds of contacts that bring success through networking. In the cafeteria he meets a lawyer and a scholar who change his life.

Riddle describes the scholar as a worried and harried man. He is bothered by the state of the world and learned in a number of subjects. He immerses himself in the studies of “the world, mankind, civilization, social justice, democracy,” and human rights. He worries about the state of the world. Harry, in his naive kindness, offers him the solution to all of these difficult issues: “‘The thing to do,’ I said ‘is to get rich. Then sleep ‘till noon and screw ‘em all.’”

The scholar’s response is less than kind. He sarcastically thanks Harry for solving all of his problems, but Harry does not pick up on the fact that he is being insulted. In fact, Harry is proud that he has been able to help his acquaintance. It is an awkward and embarrassing exchange in which the reader feels sorry for poor Harry. It continues for quite some time, with each bit of banter revealing more and more of Harry’s inability to grasp the world around him. The scholar illuminated Harry’s limited grasp of what wealth truly is, and what one can do with it. Poor Harry knows that he is supposed to get rich, but does not even understand what that might entail. His plans for charities he might establish, such as “relief tubes for indigent aviators,” illustrates his complete and total lack of understanding of the world outside of his own, Common self.

The worst part of this conversation for Harry is the revelation that money can corrupt. Harry, having never heard of such a thing, begins to lose sleep over the idea

that his ultimate goal might tarnish his “sterling honesty.” Riddle is completely unaware that his honesty has already been tarnished by his duties at work, such as selling meat that is bad. Once again, Riddle sees his world as neatly organized into strict categories – in this case, right and wrong. Unfortunately, Riddle is not competent enough to know what actions fit into those categories. He is completely unable to grapple with the complexities of the world, as the simplicity of the narration has indicated.

So caught up in the problem is he, that he catches his hand in the meat grinder at work, which leads him to make the acquaintance of his other great influence, the disbarred lawyer, Obispo. Obispo sues the establishment, and gives Harry \$1000 dollars, “which he said was my share of the five-thousand-dollar settlement he had received for my accident.” Harry’s admiration for his benefactor knew no bounds.

If Miss Spinnaker was the element that took advantage of Harry sexually, Obispo is the next in line and he takes Harry for all the money he is worth. Harry’s idea is to become a lawyer so that he can help people *and* get rich. Obispo convinces Harry that instead of going to law school Harry should give him the money, read the law books in his office, learn the trade from him, and Obispo would see that Harry passed the bar.

Harry cannot even then see that he is being taken advantage of. He knows he needs an education, but cannot differentiate between school and the scheming of a dirty lawyer. As a result, most of Harry’s education consisted of playing pool with Obispo and listening to tales of his sexual exploits. When it came time for him to take the bar he passed with “flying colors – that is to say, Mr. Weatherwax did.” Obispo hired a man to take the bar exam for Riddle.²⁷

The irony is even thicker here than it has been throughout the narrative so far. Riddle feared getting rich for a time because he was afraid it might corrupt him. And yet in order to practice his career he engaged not only in dishonest, but illegal activity. Our hapless hero is corrupted even before he acquired any wealth. He is completely unaware of what is honest and dishonest. His own values are a mystery to him.

He brags to his parents about his new accreditation, but his mother is cruel in response. She threatens and physically abuses him, which Harry takes as a sign of affection, and his father tries to stand up to her. She then insults his father as well, which he claims indicates how much she loves him, though “she concealed it perfectly.” Harry is so completely clueless when it comes to understanding people that he mistakes his mother’s abuse for something akin to love. Even here he is unable to categorize the world effectively or correctly. In his mind, his world is neatly and tidily organized, but his inability to understand his own environment keeps him from categorizing and labeling things for himself. If he cannot even organize his own perceptions of the world, how can a read expect him to succeed in it?

Harry’s next move is to procure an office. He settles on an abandoned street car and handwrites on a shingle “Harry Riddle Attorney at Law Specializing in City Ordinances of Winnipeg” to hang over the door. And even Harry admits that the first five years of practice were less than successful. He had two cases, which he lost so abysmally that the judge claimed only a lunatic would procure his services in the future. And yet, somehow, Harry never lost his hope – even after he had been evicted and his

furniture repossessed. It was then that he received a summons from Judge Ralph Schram.

The judge's request for his presence is really the beginning of the rising action. The stories up to this point have been a means for the reader to get to know and understand Riddle so that his behavior during the trial makes sense. But it is the trial that is the real heart of the story. That being said, the story is five pages long, but the judge's summons does not come until the end of the third page. Harry himself is actually the important part of the story. The trial is simply a display of Harry at his worst.

Schram is blatantly rude to poor Harry. He is a gruff man who enjoys taunting and abusing those beneath him and he tells Harry, "I have to appoint a public defender in a trial that is coming up next Monday. The defendant is so palpably guilty that no lawyer with an ounce of brains will touch the case. So I called you." Harry completely misses the fact that Schram has called him an idiot.

Riddle's preparation for the case consists of asking his clients whether he is innocent or not, and then taking his answer at face value. When Riddle gets to court he does not even know what his client, Sam Hiff, is accused of. Hiff had been defrauding the State in various welfare and assistance scams. Riddle, having confidence in his ability to think quickly, decides that he will simply gather from the opening statement what his client is accused of. The prosecutor wastes little time.

"Ladies and gentlemen of the jury," said Swanson with a nervous glance at Judge Schram, who sat frowning over a stop watch, "I will not waste your time with any long oration. The state intends to bring this trial swiftly to its inevitable conclusion..."

“Come on, come on,” snapped Judge Schram.

“We will prove,” continued Swanson, “that the defendant Hiff has large deposits in several banks, that he has various sources of income, that he lives in a luxurious apartment filled with costly furniture. At the conclusion of the State’s case, you will have to choose except to find the defendant guilty as charged. Thank you.”²⁸

Riddle concludes that his client’s alleged crime is being a rich man, which he believes strikes “at the very foundation of our republic.” Riddle is relying on his father’s definition of American duty. It is the job of an American to get rich, so Riddle sees his client as the epitome of an American. What Riddle does not understand is the difference between wealth that is gained legally and ill-gotten riches. In his outrage, he finds a new purpose in his life. He claims that “This was no longer merely the case of the State vs. Sam Hiff; this was Americanism vs. un-Americanism, totalitarianism vs. democracy...”²⁹ This story gets to the very heart of the issue that all of these other case studies have addressed, though not quite as directly. For Riddle, this is a question of what it means to be an American.

Riddle proceeds to give a passionate opening statement in which he compares his client to George Washington and Thomas Jefferson. Riddle proclaims loudly that yes, indeed, his client is a rich man, and it is this wealth that makes him a great American. When his client expresses his surprise that George Washington was a relief chiseler like himself, Riddle realizes he has made an egregious error. The trial goes downhill from there. The prosecution brings witnesses that testify that Hiff has been receiving thousands of dollars in relief checks and is indeed, as Riddle claimed, very wealthy. It is difficult to reconcile that Hiff is a great American because he has been scamming the government.

Riddle simply sits through the testimony and chooses not to cross examine any witness because he cannot think of any questions. It is not until Miss Esme Geddes enters the courtroom that he shows any signs of life.

Geddes is a voluptuous blonde that works for the county welfare board. Riddle describes her as shapely, but innocently lovely, with a carriage that spoke of “good breeding, of honesty, straightforwardness, principle, and dignity.” She was “an American princess.” Hiff simply describes her as “a real piece.”³⁰ Her clothing is expensive but simple, and while Hiff describes her in the crassest terms, Riddle clearly has her on a pedestal, idealizing her as the perfect American beauty.

The prosecution establishes that she investigates relief clients and is familiar with Hiff. She testifies he lived a luxurious lifestyle, nothing like what one would expect from a welfare recipient. She tried to question him on his occupation and his financial situation, but found herself on the receiving end of what amounts to sexual assault. Upon hearing her story Riddle is finally goaded into his one truly heroic moment of the entire piece. Shrieking, he swung a copy of Corpus Juris at Hiff, literally throwing the book at him.

I threw him to the floor and leaped up and down on his head. He scrambled to his feet and tried to run from the room, but I threw a small juror at him and knocked him down again. I should have certainly killed him had I not been overcome by several bailiffs.³¹

Riddle is restrained and carted away. His parting thoughts return to his life as a busy boy. He ruminates that it was at least an honorable position, and “not entirely void of possibilities for future advancements.”

Riddle spent the vast majority of the narrative being Hefner's quintessential Common Man. His outburst in the conclusion is a bit too little too late. He has established that while he might intellectually understand the American Dream exists and he can associate it with consumption and honesty, he does not have the ability to take part in it. His final act is a desperate, but ultimately fruitless attempt to make up for his years of being Common.

Riddle spends the entire narrative trying to achieve the American Dream of the Uncommon Man. Each attempt proves to be a more abysmal failure than the last. The pinnacle of his career is an inept defense of that Dream. By the time Riddle is inspired to any act of heroism or to rise above his allotted station, his Common Man status is so entrenched in his character that he cannot escape it. His Commonality follows him all the way to the end of the narrative. Riddle may have graced the pages of the magazine, but he is certainly no playboy.

What is most surprising about Hefner's *Playboy*, then, is that Hefner's comments on American identity strike me as the least controversial of all of these chapters. In each study we have seen examples of the tension between an understanding of clear, understandable metanarrative and the fractured nature of an encroaching postmodern world. In *Brown v. Board* the Court sought to include entire new groups in American identity, causing huge rifts in many people's understanding of who we were. Joe McCarthy fought tirelessly against the waves of change that he feared were lapping at America's shores: he strove tirelessly to keep American identity a clear story that excluded changing he saw as threatening. Similarly, lawmakers perceived the threat of

Communism, a competing metanarrative, as so menacing they felt they had to use the Pledge of Allegiance as a weapon in the fight against the spread of Marxism. *Playboy* simply sought to re-affirm a few simple ideas that, in comparison, seem pretty uncontroversial. Hefner wanted America to be a nation of men who were classy, confident, consumers. He was not asking for any great change or fighting off international enemies. Hefner saw his enemy as the lethargy of Americans themselves. But his constitutive ideology was ultimately not that challenging, even though his medium, the pornographic magazine, has been the source of controversy for decades.

Of all of the chapters in the project, this analysis may seem the most simplistic. The material is rife with fascinating tidbits and larger than life characters, and yet the actual analysis seems almost lackluster. I think this is because of all of the rhetorical artifacts I have chosen this one may be the most straightforward. In the very beginning of this narrative the main character poses a very direct question: he asks what is his duty as an American? He receives an equally direct answer, which he takes at face value and the rest of the article is a record of Riddle's antics as he tries to behave as a dutiful American. It is organized in one of the most basic formats – question and answer. And then answer comes in a narrative form, stated largely in simple, declarative sentences from a first person point of view. The narrative follows a basic chronological timeline, and the style is meant to highlight the simplicity of the main character. The structure and the tone of the essay all go to illustrate the Common nature of the ironic hero, Harry Riddle. The analysis does not suffer from dealing with a dull subject; the subject simply lends itself so well to the analysis as to make simple work of it all.

Hefner's America, like the ones highlighted in these other chapters, was a conflicted one. In his mind, America should base her identity on the idea that

...each individual has a *right* to explore his own individuality – to discover himself, as well as the world around him – and to take pride in himself and the individuality that sets him apart from the rest of mankind, as fully as he takes pride in the kinship that links him to every man on earth – past, present, and future. A society should exist not only for the purpose of establishing common areas of agreement among men, but also to aid each person in achieving his own individual identity.³²

Additionally, a successful society should be rational one. Absolute truth, he claimed, came from logic and reason, not mystical, archaic beliefs. He believed society should strive for intellectual improvement always, and feared what he saw as the anti-intellectualism that had a chokehold on the Cold War. Hefner saw resistance to rational thought, logic, and science as another part of the attempt to bring down the Uncommon Man.³³

Logic is what tempers his third belief of what America should be: logic should be used to limit freedom in a just way. Man, he believes, is born free. But society has the right, even the duty, to limit the freedoms of the individual, and it is the rational mind of man that allows us to do so justly and responsibly. Man does this by being rationally self-interested. By doing those things that are best for himself, man does those things that are best for society by extension. Hence, the American liberal market and her tolerance for consumption will always be superior to other societal experiments.³⁴

Hefner wanted to jettison one grand narrative, religion, in favor of another: science. And while this is certainly not a particularly postmodern action, his individuation of society does not fit in with the idea of a grand narrative in general. Hefner believed in the significance of the individual above the group, hence his fixation

on the “Uncommon Man.”³⁵ The purpose of a metanarrative is to unify and keep a people together as a united front – the thing Hefner wants us to unite behind is our own ability to interpret the world around us, setting up the potential for a much-fractured narrative. He believed that a human who uses logic and reason to guide his individual approach to the world will come up with a rational approach to societal living that will fit in with other people doing the same thing. His idealism smacks of a certain Modern naiveté – he claims he believes in individualism, so long as that individualism fits into a particular narrative he is constructing. This is why *Playboy* is so illustrative of the identity crisis that America was suffering from in this transitional period from Modernity to Postmodernity – Hugh Hefner himself was trying to navigate his understanding of an old America with new ideas about the potential for new America – he was trying to contextualize what he called the “Upbeat Generation.”

Conclusion

My college buddy who got *Playboy* for the pictures and did not read the articles apparently missed part of Hefner’s point. My friend was not paying attention to the sophisticated, taste-making, appeal to the consumer writing in the magazine that Hefner took so much pride in. He was simply indulging in consumption of the basest variety. Had he paid more attention to the articles, he might have known that sexual indulgence was not all the Hefner claimed he had in mind, and that the articles were supposed to be a part of the *Playboy* experience.

The main character of the article in question, Harry Riddle, represents everything that America is not supposed to be, according to Hugh Hefner. Riddle is timid,

ineffectual, without potential, and dimwitted. He has ambition, but not the means to do anything about it. It is not entirely his fault, as his parents are Common in Hefner's strictest sense. Riddle is giving us a set of "how not-to" directions, until his finale in which his passion drives him into a chaotic burst of action.

The analysis shows how the fiction article in *Playboy* specifically and purposefully sets out to constitute a particular version of American identity by portraying an ironic picture of a "good American." It weaves a cultural narrative in the most literal sense, in that it directly asks what it means to be American then answers with a narrative. However, that literal response is not precisely what Charland and McGee described in their theories of constitutive rhetoric, so while certainly they are helpful in understanding how a work such as this operates as constitutive, bolstering that understanding with White allows for criticism that reveals the mechanisms of the text which actively construct identity at that moment.

Notes

1. *Roth v. United States*, 354 U.S. 476 (1957) and *Miller v. California*, 413 U.S. 15 (1973).
2. *United States et al. v. Playboy Entertainment Group, Inc.* 529 U.S. 803 (2000)
3. George F. Will, *One Man's America: The Pleasure and Provocations of Our Singular Nation* (New York: Crown Forum, 2008), 61.
4. There are literally hundreds of titles that are either "the story of *Playboy*" or biographies of "Hef" that give very detailed accounts of *Playboy*'s inception. Much of the information is repeated, as it all has a basic timeline. The difficulty is finding any that try to mask their bias. They tend to either paint Hefner as the romantic ideal of the 20th century or as the enemy of all women everywhere. Both make for interesting reading, but must be taken with a grain of salt. However, I found the following both useful and interesting: Frank M. Robinson, *Sex American Style* (Chicago: Playboy Press, 1971); Elizabeth Fraterrigo, *"Playboy" and the Making of the Good Life in Modern America* (Oxford: Oxford University Press, 2009); Frank Brady, *Hefner* (New York: Macmillan, 1974); Russell Miller, *Bunny: The Real Story of "Playboy"* (New York: Hold, Rinehart, and Winston, 1985); Susan Gunelius, *Building Brand Value the "Playboy" Way* (Baskingstoke, Hampshire:

Palgrave Macmillan, 2009); and James Petersen, *The Century of Sex: "Playboy's" History of the Sexual Revolution 1900-1999* (New York: Grove Press, 1999). Articles that provide some interesting food for thought in terms of *Playboy's* role in American history are also numerous, but I think my favorites were Walter M. Gerson and Sander H. Lund, "Playboy Magazine: Sophisticated Smut or Social Revolution?" *Journal of Popular Culture* 1.3 (1967): 218-227; and Carrie Pitzulo, "The Battle in Every Man's Bed: *Playboy* and the Fiery Feminists," *Journal of the History of Sexuality* 17.2 (2008): 259-283.

5. Will, 61.
6. Will, 62.
7. The amount of reading available on gender is amazing. Here are just a few works that might serve as introductions: Kate Bornstein, *Gender Outlaw: On Men, Women, and the Rest of Us* (New York: Routledge, 1994); Harriet Bradley, *Gender* (Cambridge, MA: Polity Press, 1997); Jude Browne, *The Future of Gender* (Cambridge, UK: Cambridge University Press, 2007); Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990); Stevi Jackson, *Gender: A Sociological Reader* (London: Routledge, 2002); and Suzanne Romaine, *Communicating Gender* (Mahwah, NJ: L. Erlbaum Associates, 1999). Hefner's clearest statement on gender identity is on pg. 166 of his *Philosophy*: "*Playboy's* over-all point of view on the male-female relationship in society certainly doesn't limit women to the role of Bunnies in The Playboy Club. Essentially, what we are saying, editorially in the magazine, is that men and women should each have *separate* identities – that they are both happiest when their roles complement rather than compete with each other.
 "Since the turn of the century, there has been considerable breakdown in the cultural patterns that distinguish the sexes – especially here in America – causing us to drift toward an asexual society, in which it becomes increasingly difficult for either sex to find true satisfaction or fulfillment in its interpersonal relationships with the other. This is one of the two primary causes, I believe – the other being the increasing complexity and the automation of our civilization – for the erosion of individual identity that was mentioned earlier.
 "Since *Playboy* is a magazine for men, it is natural for us to place most of our emphasis on the problem of male identity. *Playboy* stresses a strongly heterosexual concept of society – in which the separate roles of men and women are clearly defined and compatible. Though we are sometimes accused of having dehumanized view of women, our concept actually offers the female a far more human identity than she has had historically in the western world."
8. The worst offender is Hefner himself in Hugh Hefner and Bill Zehme's *Hef's Little Black Book* (New York: Harper Entertainment, 2004). The book attempts to convince the reader that Hefner is not only the man to which all other should aspire, but any woman who does not pine for him is clearly lacking any sense of romance. It is an amusing read, but largely just a vanity piece.
9. Fraterrigo, "*Playboy*" and the Making of the Good Life, 44.
10. Fraterrigo, "*Playboy*" and the Making of the Good Life, 33.
11. Hugh M. Hefner, *The "Playboy" Philosophy* (Chicago: HMH Publishing Co., 1963).
12. Hefner, *The "Playboy" Philosophy*, 1-3.
13. Hefner, *The "Playboy" Philosophy*, 3. See also, Fraterrigo, "*Playboy*" and the Making of the Good Life, 23.

14. Hefner, *The "Playboy" Philosophy*, 8.
15. Hefner, *The "Playboy" Philosophy*, 8-9.
16. Hefner, *The "Playboy" Philosophy*, 12.
17. Hefner, *The "Playboy" Philosophy*, 12.
18. Fraterrigo, "*Playboy*" and the Making of the Good Life, 17.
19. Fraterrigo, "*Playboy*" and the Making of the Good Life, 55.
20. Hefner, *The "Playboy" Philosophy*, 13.
21. Max Shulman, "Harry Riddle, Attorney at Law," *Playboy* (January 1954): 7.
22. Shulman, 7.
23. The movie *Rebel Without a Cause* (1955), directed by Nicholas Ray and starring James Dean, dealt with much the same theme, though in a much less comedic fashion. In it the father figure is repeatedly portrayed as effeminate and even neutered. However, the movie was not released until 1955, so it seems very unlikely that Shulman's short story is in any way a send-up of the classic film. These are simply stock characters.
24. "Indecisiveness" is at the heart of any number of famous literary heroes, so Shulman is not breaking new ground. Certainly, Hamlet had problems coming to conclusions for a while, and that work is considered one of the most important in English literature. Arthur Dent, the main character in Douglas Adams's *Hitchhiker's Guide to the Galaxy* series is also known for not being particularly good at coming to conclusions and taking action, and that series is about as far from *Hamlet* in tone and style as a work could be. In short, Riddle is not special because he is ineffectual. There are plenty of ineffectual characters to choose from in English and American literature.
25. There is an immense amount of writing on irony. Kenneth Burke, *A Grammar of Motives* (Berkeley, CA: University of California Press, Ltd., 1945) is an excellent beginning. For a succinct and straightforward summary of irony and its complicated history and treatment, I recommend David Kaufer, "Irony and Rhetorical Strategy," *Philosophy and Rhetoric* 10.2 (1977): 90-110; and Jeffery W. Murray, "Kenneth Burke: A Dialogue of Motives," *Philosophy and Rhetoric* 35.1 (2002): 22-49.
26. Shulman, 9
27. Shulman, 9
28. Shulman, 10
29. Shulman, 10
30. Shulman, 50
31. Shulman, 50
32. Hefner, *The "Playboy" Philosophy*, 99.

33. Hefner, *The "Playboy" Philosophy*, 102.
34. Hefner, *The "Playboy" Philosophy*, 100-101, 189
35. This vested interest in liberalism went so far as to lead him to explore Objectivism. However, the 1964 Ayn Rand, the movement's prophet, interview in *Playboy* soured him a bit on the philosophy. Ayn Rand, *Playboy's Interview with Ayn Rand* (Oceanside, CA: Second Renaissance Books, 1964).

CHAPTER VI

CONCLUSION

Michele Bachmann (R-MN) has been the subject of much speculation over the last few months. The press has played a cat-and-mouse kind of “will she or won’t she” game with Bachmann and her supporters trying to ascertain whether she will make a run for the White House in 2012. Bachmann is no stranger to the national spotlight. She has courted media attention since well before she was a career politician, and simply a pro-life activist. Bachmann is the kind of political figure that brings out the best and the worst in people. Her supporters truly believe she is a blessing from above, and her detractors see her as a buffoon. One reason that Bachmann inspires such varied, and often strong emotional responses from the public is because she has on more than one occasion seemingly claimed to have a monopoly on the meaning for the word “American.”

In 2008 Bachmann told Chris Matthews during a *Hardball* interview that she feared Barack Obama may have had “anti-American views.” Matthews pressed the issue, leading Bachmann to say that she would love for the press to do an exposé on Congress and show the American public which of their representatives was pro-America or anti-America. Predictably, the exchange caused a bit of a stir.

On the one hand, people who disliked Obama and had serious ideological concerns with his policies rejoiced that another brave soul was willing to speak up about what they perceived as a rejection of all things “American.” On the other, those who

liked Obama felt insulted. Bachmann had effectively put Obama and his supporters into the “Them” category. Left leaning politicians and pundits clamored for an apology because they felt they had been slighted by a partisan and myopic understanding of “American.”

Ultimately, neither side had much of an argument one way or the other. The problem was not in parsing out who was pro or anti American; the problem was in defining “American” to begin with. Bachmann made her proclamations with a particular definition in mind, and according to that definition perhaps Obama *was* anti-American. But she was mistaken to assume that the rest of the country shared her definition.

The incident was just one of many from the campaign season that highlighted our complete and total lack of consensus when it comes to “American.” We talk about the American way or the American Dream as if we all understood what that word meant. And, to be fair, we do understand it, just not collectively. Each of us more than likely has our own idiosyncratic way of defining “American.” The fact that such an important word can be so ill-defined speaks to the power of constitutive rhetoric. We fashion “American” as we go, changing the meaning as necessary, so the lack of a fixed understanding of “American” becomes its strength. We can use the idea “American” in any number of situations and arguments because we create what it means as we need it.

Project Development

This project began with an interest in the idea that one could be a “good” or “bad” American. If we posit that one person can be better or worse at being an American than another, as those words of comparison would imply, then we must also

be working from an understanding that “American” is a particular identity outside of just a legal status. It must be a collection of behaviors or attitudes that, for whatever reason, we can associate with the United States of America. The problem lies in identifying specifically what behaviors and attitudes create “American” so that then we can judge who is good at it and who is not.

National identity is nothing if not confusing. It was clear to me at the outset that trying to ascertain what “American” meant, even at a very specific moment in time, was a fool’s game. Even those words that people tend to use to try and define “American,” like “patriotic,” or “just” defy definitions themselves. A definition of the term “American” would be idiosyncratic at best, and at its worst, a caricature of a highly complex idea.

If then, I reasoned, we insist on using the word “American” as a descriptor or identifier, we must at least be pretending that there is some agreed upon definition. If a politician pounds her fist and pronounces her support of “American values” or the “American way of life,” how did we get to the point where we all nod emphatically in concurrence? This was where my project began to take root. I reasoned there must be a process by which we construct “American” as we go along. I began to ask what that process looked like. How do we constitute “American” in public discourse? I endeavored to answer this question by looking at specific rhetorical acts and analyzing them as constitutive rhetoric. My project would be a work of rhetorical criticism with the goal of understanding how American identity is formed through public discourse. However, I ran into difficulty almost immediately.

The theory of constitutive rhetoric as outlined by Maurice Charland was not intended to be used for rhetorical criticism. Charland's work is a matter of constitutive theory and helps a person understand the ideas behind the act of constitution, but is not applicable to a single text. James Boyd White's understanding of constitutive rhetoric lends itself better to rhetorical criticism, but White is a legal scholar, and his explanation of constitutive rhetoric focuses on the law as constitutive. He argues that each word is important, bringing the discussion down to the particular as opposed to the theoretical, but he stays within the realm of legal rhetoric. Charland's work had been applied to groups and historical periods, and White's work had been applied to forensic rhetoric outside of just the text of the law itself, but there was no real framework for criticizing a singular text as a piece of constitutive rhetoric. My work, then, was to create such a framework.

I argue that specific, singular texts can be constitutive, and can be analyzed as such. Using a close textual analysis one can effectively criticize the constitutive nature of a particular piece of rhetoric. I have bridged the theoretical and the critical and shown how a close reading can highlight the constitutive elements of an argument. This dissertation is an illustration of that methodology in practice, as I have taken four distinctly different constitutive artifacts of rhetoric and, using a close reading, illustrated how they aim to shape national identity.

Constitutive rhetoric, as Charland describes it, is the process by which a rhetor creates an audience, or calls an audience into being. It is a complicated process in which the rhetor and the audience assume that the identity is already in existence. It is

important that both audience and rhetor work together in assuming this “always already” state. An audience might react poorly to a public figure who proudly proclaimed that she was going to create an identity for them all. Instead, the rhetor creates a scenario in which much of the argument is persuading that the identity she is creating has, in fact, always been the identity of the audience. A rhetor only has leeway to effectively construct identity once she has the audience believing they “already” are. A rhetor may do this by relying on cultural norms, myths, or any number of collective assumptions, but it is essential to shaping identity. The rhetor can *then* create identity through rhetoric as she goes. The audience is accepting that this is who they are, so as the rhetor argues for a specific identity they are actively constituting themselves.

White’s approach to constitutive rhetoric is a bit more pragmatic. White looks at the law as a literal construction of the society we believe we are supposed to be. When we fashion law we are making some kind of constitutive statement on the identity we believe we have. Then, by making that belief the law, it becomes our identity. It is beautifully cyclical. We believe we should be a society that does not perform action X. So, we create rules and mandates that outlaw action X. We are now a society that does not accept action X – it is a part of our legal identity that those who perform action X can be punished, and possibly removed from the larger group by either imprisonment or in extreme cases, execution. By making law we constitute our identity.

White’s treatment of constitutive rhetoric deals with a specific text. In this case, the text would be the mandate that outlawed action X. Charland’s treatment of constitutive rhetoric deals more with the process by which identity is constituted and not

one text. For my project I wanted to look at texts the way White did, but with a contextual eye that lends itself to Charland's theory. This led me to a close textual analysis ensconced in constitutive rhetoric. A close reading should include the story of the text – its history and what is known about the rhetor and the situation. So the text is not removed from any rhetorical process, but at the same time, I could focus on small texts to show how they are constitutive, the way White sees the law. The Cold War struck me as particularly fruitful ground for testing such a methodology.

First, let me be clear that I am not claiming that the word “American” was any more contentious during the Cold War than it was during other notable periods of our nation's history. Loyalists and Patriots certainly did not see eye to eye on what the word meant, or whether the word should even be used at all when instead of “Britain.” Each war signaled a renewed interest in trying to define the word in such a fashion as to make sure “outsiders” were left on the outside. The Cold War is simply one of many segments of American history in which the word “American” took center stage in a good deal of public discourse. Any number of other conflicts could produce the same kinds of questions and analyses.

Secondly, I am not claiming that the Cold War is the easy thing to analyze. The Cold War was an enormously complex rhetorical, economical, and political battle that spanned decades. The players came from all walks of life and philosophies and many had larger than life personalities to match the outrageous politics of the drama. I am not arguing that the Cold War was a simpler time in which to try and pinpoint the means by which we constitute identity.

The Cold War does, however, represent a combination of desirable attributes. During the Cold War America spent a good deal of energy trying to rhetorically separate “Us” from “Them.” Any conflict requires a solid rhetorical establishment of who the allies and enemies are. So public discourse provides ample anecdotes from which to draw. Also, the Cold War is not so far removed that a complete paradigm shift is necessary to understand the discourse and its context. An analysis of colonial American discourse would require a complete re-definition of any number of basic ideas simply because national and international philosophies and practices have changed so much since the days of the Founding Fathers. Even history as recent as World War II requires a cognitive shift in the way we would discuss politics because prior to the end of WWII the world had no understanding of atomic warfare. One reason the Cold War is so interesting is because part of our anxiety about “us” and “them” may well have been related to shifting understandings of what it meant to be a part of the modern world.

In other words, the Cold War is interesting from a constitutive standpoint because it is a very public display of the tension surrounding the identity shift from a modern world to a postmodern world. After the Allied Forces declared victory on all fronts the world looked very different than it had before the war. The Soviet Union rose from the ashes along with Great Britain and the United States as one of the world’s premier powers. Americans were forced to contend with the fact that one of the other major players in the world of international politics was radically different in a number of ways. It was difficult to make a clear cut argument for the supremacy of capitalism

when the other major power in the world was communist. Large, metanarratives from disparate parts of the world were competing.

At home things were no less complicated. Tensions about race and sex inequality were threatening the classic, white, nuclear family version of normality that so many Americans took comfort in. Television and music was getting racier and voices of dissent against normative confines of culture were popping up in the arts and politics. Pop culture was exploding in new, edgier directions as sex, drugs, and rock and roll moved from the fringe to the main stream. Minority groups were clamoring for recognition, and many of the controversial figures of the day, like Allen Ginsberg and Jack Kerouac, are cultural icons, now. Americans were sorting out who they were in the context of this large scale drama, and the process was sometimes painful. The Cold War was most certainly a political, rhetorical, and economic saga that pitted country against country, but there were also small battles being fought at the ground level.

The chapters in this dissertation are four examples of public discourse from the Cold War that illustrate America's attempt to constitute her identity in the face of a philosophically new and challenging landscape, and all four cases are from 1954. Any other year from the Cold War could have been the sample year. The year 1969 was a rich year for America because there was so much to respond to in the news. That year a man walked on the moon, crowning America the leader of the space race after years of trailing after Sputnik. That was also the year of Woodstock. Counter culture in America was certainly nothing new, but Woodstock was counter culture on a whole new scale, and it gave fringe groups a renewed sense of vitality that carried their message well into

the seventies. On the pop culture level, that was also the year of the Manson murders and the release of *Abby Road*, both of which spurred plenty of public conversation. Or, I could have focused on the period between 1972 and 1974 and analyzed rhetoric about the Watergate scandal. Certainly Watergate and Nixon's fall from grace lead to a great deal of public confusion about the state of the nation. I wrote on 1954 not because it is somehow special, but because it is exemplary. That year is not special because it stands out from all other years of the Cold War, but because those things that happened that year are illustrative of the issues of the Cold War at large.

In 2007 I began doing research for a lesson plan that involved the Pledge of Allegiance. That lesson plan became a note in a binder about a possible paper idea, and that paper idea became a pilot study for a paper. The paper situated the Pledge of Allegiance as a piece of Cold War political rhetoric, and not specifically religious rhetoric because of the arguments I read in Congressional records that testified to its importance as an anti-Communist text. As I researched the Cold War I became more and more interested in that particular period of American history. In my reading about the Cold War I inevitably came across works about Joe McCarthy, as he is so emblematic of the early years of the Cold War. McCarthy's "Decency" incident even became a part of a different lesson plan for a different course. I noted that McCarthy's downfall happened the same year that "under God" was added to the Pledge of Allegiance with some interest, but only as trivia. Soon after I made the discovery that *Brown v. Board* was also that same year. During this time, the campaigns and elections of 2008 had come and gone, leaving me with scholarly questions about the means by

which we construct identity. My research interests had begun to crystallize, and I wondered if it would be possible to use a calendar year to set up parameters for a research project. What I quickly realized was that, yes, it was possible, but that the year itself did not matter.

Because constitutive rhetoric is an ongoing process and we are constantly molding our own national identity, a constitutive study is possible looking at any given period of time. It is easier during a time of conflict because “us” and “them” is more important then than at peacetime. But there is not really a time when we are not talking about who we are. Public discourse is awash with our discussions of our values, our fears, and our desires. I simply chose a year that is notable because in that year there were a few obvious and controversial examples. But 1954 is not more important than another. It is not inherently more constitutive. It is, however, a year in which some awfully interesting constitutive discourse was occurring.

The specific cases I chose for this project present a wide swath of life and discourse for analysis. *Brown v. Board* addresses the burgeoning racial tension in the US that plagued the post WWII years. This tension eventually grew into the Civil Rights movement of the 1960s, paving the way for some of America’s most iconic figures of the 20th century, like Martin Luther King, Jr., and Malcolm X. Senator Joseph McCarthy, himself a kind of American icon, and the changes to the Pledge of Allegiance, represent the political tension of the Cold War. The fear of communism permeated both politics and culture, leading McCarthy to wage his witch hunt and Congress to impose a new national unifier on the nation at large in an attempt to create a

solidified front in the face of the enemy. *Playboy* is a unique example of culture in that while it could certainly be used to represent America's supposed pre-occupation with sex, Hefner seemed to have loftier goals. The perceived misogyny of his life work is, according to Hefner, both a misreading and a by-product of his real goal, which is to be a taste and style maker for the ideal American consumer.

Brown v. Board very specifically deals with how race affects our understanding of American identity. We often think of the Civil Rights movement as being a product of the '60s, enmeshed with anti-Vietnam furor. But roots of the movement go back decades. The *Brown v. Board* case was a very public and very definitive comment from the Supreme Court on the idea of "American."

Brown v. Board was the culmination of a drastic shift in the way the law viewed African Americans. Before, the *Dredd Scott* case had dealt specifically with the idea of citizenship. The Court made it clear in that decision that the law of the land dictated that black men and women could not expect the benefits of citizenship. Most African Americans would not even be called "citizens." The Court pointed to no less than the Founding Fathers for their inspiration. Their argument rested in the framework of "original intent," and since the Founding Fathers did not intend for African Americans to enjoy the benefits of citizenship, then the Court would take no steps to change that. Just a few years later, the Civil War tore the nation apart, during which the Emancipation Proclamation was signed. After the Civil War the 13th and 14th Amendments were passed, largely rendering the *Scott* decision null and void. However, *Plessy v. Ferguson* made it clear that there were still some hurdles for equality. The *Plessy* case established

that “separate but equal” was constitutional and the decision stood for decades. *Brown v. Board* finally struck down separate but equal in 1954.

The *Brown* opinion indicated a transition in thinking over the decades. It assumed that black Americans are citizens and did not spend any time arguing over whether their legal status was at question. The Court was more concerned with whether Blacks were being treated the same as other citizens. A close textual analysis of the opinion reveals that since the Court assumed citizenship, what was at stake was Black status as “American.” L.H. LaRue, a student of James Boyd White, takes White’s work on constitutive rhetoric and extends it to cover Supreme Court decisions, not just the law itself. With LaRue’s work in mind, a close reading is a useful tool in assessing the constitutive nature of the *Brown* decision. Since the Court assumed citizenship they were able to focus on equal protection for all citizens, and they fashioned their opinion around the importance of education in the lives of Americans. The SCOTUS also assumed that all schools were equal, so the trial focused specifically on the “separate” aspect of “separate but equal.” Analysis illuminates that ultimately the Court was making a relatively simple and straightforward argument about American identity. The Court claimed that education was central to taking part in American life, and that separate facilities automatically instilled a sense of inferiority in black school children. Therefore, separate facilities denied black school children inevitably were left out of the American experience.

While some were making such great strides to create a more inclusive version of “American,” others were fighting to keep it as narrowly defined as possible. Senator

Joseph McCarthy had been crusading against Communists, fellow travelers, and those he saw as soft on Communism for years before his public humiliation during the Army-McCarthy hearings of 1954. McCarthy was emblematic of what Richard Hofstadter called a “paranoiac;” he was terrified of losing something. Particularly, he was afraid of losing a set of values or an identity that made him feel safe, and so he lashed out at anyone who he saw as a threat to his understanding of American.

McCarthy’s rhetoric was situated squarely in the trappings of conspiracy. He believed that the Communists were not only an outside threat that were pressing in on us, but a threat from within because of infiltrators. His argument, however, was based largely on his own claims. He may have had evidence or even good reasons, but what he presented to the public was founded largely on his own ethos. His constitutive rhetoric was based on conspiracy rhetoric, but since it was precariously based on his own credibility, when his credibility came into question, his entire argument began to crumble. Joe Welch’s challenge to McCarthy’s credibility brought McCarthy’s conspiracy rhetoric crashing down around him. Granted, there were others in the public eye to carry the torch for him, but McCarthy’s attempts to constitute American identity effectively came to a screeching halt.

A close textual analysis uncovers just how McCarthy was attempting to shape American identity via conspiracy rhetoric, and how Welch was able to combat his attempts. The analysis shows how McCarthy’s dependence on his own credibility and his inability to keep his own claims separate fell to pieces in the face of Welch’s well-constructed narrative. Welch used a classic narrative arc, and his own particular flourish

and style, to exploit the weaknesses of McCarthy's attempt at constitutive rhetoric. Using a close textual analysis highlights the ways "American" truly drove McCarthy's career and his ultimate downfall.

At nearly the same time that McCarthy was tangling with the Army, the House and the Senate were in the process of adding "under God" to the Pledge of Allegiance. The Pledge of Allegiance is a very specific and deliberate attempt address what it means to be an American. Congress was also worried about the threat of Communism, but instead of conspiracy rhetoric, they used the power of epideictic rhetoric. The Pledge of Allegiance provides a description of what American is supposed to be. A close textual analysis reveals the real power of adding those two simple words "under God" to a powerful bit of text.

"Under God" was a tool to separate America from her Communist enemies. American lawmakers associated Communism with "godlessness," so by adding "under God" to the Pledge of Allegiance, they ensured that one could not recite the Pledge and be a Communist at the same time. By adding "under God" to the Pledge lawmakers were able to draw the lines between "us" and "them" even more starkly.

Congressional records reveal much about the reasoning behind adding "under God." The most pervasive argument was a terrible fear that the Pledge was not "American" enough. Lawmakers argued that without those two words the Pledge could be mistaken for a pledge to a "Muscovite" flag. Those words provide enough of a change that the Pledge is identifiable as an American promise. The close textual analysis of the Pledge of Allegiance with the phrase "under God" added reveals the

actual power of those two small words. Viewing the Pledge as a piece of epideictic rhetoric and understanding the power of the appositive highlight just how constitutive the Pledge truly is.

The first issue of *Playboy* was in December of 1953, put together on a shoe string budget, and with no real assurance that there would be another. The January, 1954 issue represented a victory for Hugh Hefner. *Playboy* itself represented Hefner's dream of what the ideal American man should be like. He idealized a suave man of taste, culture, and consumptive power.

The magazine shared many characteristics with other pornographic magazines. If anything it was a bit on the tame side in comparison to some other works available. However, Hefner tried to make his magazine different. Hefner wanted his magazine to be a style guide, so he also put a good deal of effort into quality articles for his consumers to read. His January '54 issue included a work of humorous fiction, a form that would become a staple of *Playboy*, which directly and explicitly addressed what it meant to be an American. The article's ironic hero spent the entire article fumbling through various schemes trying to get rich, because he understood his duty as an American to be to "get rich and screw 'em all." Unfortunately, the main character lacked all of the characteristics that Hefner felt made an American exceptional, so he continually failed in his efforts. Hefner's magazine was very explicit in its attempts to join the conversation dealing with American identity. The close textual analysis highlights how Hefner incorporated his philosophy into the text of the magazine. Analyzing the story illuminates the way in which the philosophy that Hefner claimed to

have founded his magazine on, a philosophy heavily based in what it meant to be an American, really has been a part of the magazine from the very beginning.

Expansion, Future Projects, and the Scholarly Conversation

Since the methodology was so important to this dissertation, I will most certainly engage in critical works that further employ a close textual analysis within a constitutive framework. Rhetorical criticism is vital to the field to keep the study of rhetoric relevant and accessible. And, because this project covered multiple cases, there are also numerous opportunities for further research and expansion on these case studies. In the future I will expand not only on these topics I have begun to address here, but also apply constitutive theory and criticism to other historical periods and moments in order to create a richer, more varied understanding of the ways in which rhetors create identity.. Each case study is the beginning of what could easily be a much larger and more extensive project. These case studies provide a basic criticism, but could easily become a broader picture of constitutive rhetoric.

The *Brown v. Board* of education analysis could easily be expanded into larger, more extensive research works. My first step in such a process will be to look into the rhetorical responses to *Brown v. Board*. Simply because the SCOTUS deemed segregation unconstitutional, the parts did not all immediately fall into place. George Wallace railed against what he saw as the unjust and unconstitutional infringements on Alabama's states' rights, proudly proclaiming that segregation would stand forever, and he was not alone. The decision to de-segregate schools lead to hard-fought battles that were still raging in some places when Martin Luther King, Jr. began his fight against

segregation at large. These rhetors were just as adamant in wanting to help shape American identity as the Warren Court. A future study will only begin with the opinion of the Court, then go on to include rhetorical responses from across the political spectrum. Such a study would be a much richer picture of the struggle to constitute identity. It would include the differing ideas and voices, clamoring to put their particular spin on what it means to be “American.” The *Brown v. Board* chapter will serve as the starting point for a wider picture of race and American identity in the post WWII era.

The politics of the early part of the Cold War provide an inexhaustible source of material useful in analyzing how we create American identity. Joseph McCarthy was simply one character out of a whole host. And his story, though certainly one of the more memorable, is not the only story of an attempt to reign in the cultural explosion of new ideas concerning race, sex, and culture. One such example of attempts by governmental institutions to maintain the status quo is the rarely told story of attempted art censorship throughout the Cold War. While censoring the arts, or trying to, is not particular to the Cold War, the reasoning behind much of the censorship is pertinent to my interests. Many Americans are familiar with the antics of HUAC and their war on Hollywood, and some may even recall the attempts to ban questionable literature that reached a new level (this included an attempt to ban John Steinbeck), but less familiar is the war that some politicians waged not just against visual art, but against certain *styles* of art.

Content aside, there were certain styles of art that some Americans felt were subversive. George Dondero (R-MI) decried expressionism, futurism, Dadaism, and

cubism, just to name a few, as dangerous.¹ Dondero claimed that Modern art was Communist “because it does not glorify our beautiful country, our cheerful and smiling people, and our great material progress. Art which does not portray our beautiful country in plain, simple terms that every can understand breeds dissatisfaction.”²

Dondero’s claims fed right into the anti-intellectualism that Hugh Hefner disdained and men like McCarthy cultivated. The conversation about art was at the very heart of constitutive rhetoric. People wanted visual media that represented what their version of America was. In a future project I think I would like to begin to look into censorship and constitutive rhetoric beginning with this conversation on modern art, and moving into other efforts of censorship during that time period.

The Pledge of Allegiance chapter, the original study behind this entire project, could easily be expanded, as well. My chapter touched on the larger history of the United States, and future works will delve into a broader history. Such work would necessarily begin with a historical analysis of the original Pledge of Allegiance. Contextualizing the original Pledge and providing an analysis of the text like the one here would be the beginning of a much larger project dealing with American identity. Looking at the entire history of the Pledge and criticizing its manifestations, and changes in relation to historical context, would provide a means to analyze American constitutive rhetoric over time and assess the ways that stress about identity has changed.

Playboy magazine is unlike my other case studies in that it is not *one* text, but a series of them, so it provides its own historical narrative. The question I will address in future *Playboy* projects is a matter of comparative critiques: does the philosophy I found

in the first magazine hold throughout the tenure of the magazine? I will stay within the confines of the magazine, however, because I am interested in the magazine's emphasis on writing and text. *Playboy* may have expanded into the television and movie industries, but the magazine has stayed true to its original formula of scintillating pictures *and* well written articles. An analysis of those articles over time, in search of whether the *Playboy* philosophy remained at the heart of the magazine, would highlight any changes in *Playboy*'s constitutive properties. Such a study would bring my research questions out of the realm of historical studies and into the present day, thereby expanding the applicability of my projects.

The theory of constitutive rhetoric has been lacking a practical application. My hope is that with this dissertation I can begin a conversation on the connection between understanding constitutive rhetoric and rhetorical criticism. The theory of constitutive rhetoric is not particularly helpful in understanding particular constitutive, rhetorical acts. Public discourse abounds with examples of people actively engaged in the construction of identity, national and otherwise. A close textual analysis within the framework of constitutive rhetoric gives us, as scholars, the tools to deal with those constitutive moments on a text by text basis and ascertain not just what identity is being formed, but how it is being formed as well.

This project is not an attempt to re-invent the wheel, or take issue with any particular aspect of the work done in constitutive rhetoric. On the contrary, because I see that work as so important, my goal is to expand the conversation so that we can make it applicable to singular circumstances. Mine is a "nuts and bolts" approach to

constitutive rhetoric. My aim is to provide the tools so that others may enter into the conversation on both a critical and theoretical level so that the field can continue to analyze how groups, institutions, and even singular rhetors create identity through public discourse.

Finally, I can foresee using the method I have established here to move my studies out of the Cold War and look at rhetorical artifacts of constitutive rhetoric. Constitutive rhetoric is not only a historical matter, it is present and active. The method I have worked to establish here could easily be applied to post 9/11 rhetoric or studies in campaign speeches. My interest in the idea of American identity began while listening to the rhetoric of current politicians because they are continually engaged in the act of constitution. There is an assumption that we all agree on what an “American” is, so speakers begin with that notion, and then begin to describe the characteristics of being American, be that from a small town, supportive of the armed forces, or having a deep respect for authority. By assuming that identity, and then describing it, rhetors are actively constituting. Rhetorical criticism would be useful in highlighting specifically how politicians today are trying to convince Americans of who we are.

Concluding Remarks

I began this dissertation with a quote from Malcolm X. I could have chosen a quote from Walt Whitman or Langston Hughes, or any number of other American intellectuals because the ideas behind much of their work are similar to each other, and pertinent to my own. I chose Malcolm X because his speech “The Ballot or the Bullet” describes very clearly and explicitly, with no need for interpretation, the problem that is

the genesis of my research question. Malcolm X warned that being born in America does not make a person American. He derides his own nation for denying the privilege of being “American” to any number of her citizens because of ethnicity. Malcolm X was well aware that there is something more to being American than just the place of one’s birth, and he felt he and his Black brothers and sisters were being denied that experience.

However, as Malcolm X points out throughout the speech, because of differing ideas concerning race, sex, gender, class, and other ways we stratify ourselves, trying to consolidate all of our ideas and produce an exact definition of “American” will never be possible. In some sense, the idea of democracy is somewhat antithetical to that kind of succinct unified national identity, because the more groups and individuals that have voice, the more difficult it is to settle on one definition of “American.”

And so I have endeavored not to try and formulate a definition of “American,” but to provide a tool by which we might analyze our attempts in public discourse to manage and construct our own identity. Constitutive theory has given us the framework in which we can discuss the constructions of our national identity, but not the tools to analyze specific pieces of rhetoric that attempt to be constitutive. By bridging the gap between theory and criticism I hope to expand the constitutive conversation to include work that critically tackles the question of “how” we create identity in public discourse.

Malcolm X’s concern with who got to be an “American” was important because the differences between “American” and “citizen of the United States” is the difference in civil rights, equal opportunity, and equal protection under the law. When one group is

differentiated as “other” in some way, as the *Brown v. Board* decision noted, the “other” group is at a disadvantage. The tension over who gets to be an “American” drives protests, social movements, and political campaigns from all across the spectrum. Learning how we have managed to either include or exclude groups is essential in expanding democracy within our own nation. Being aware of the rhetorical tools rhetors use to either establish or rend asunder an “us” and “them” mentality arms us to fight the next McCarthy or George Wallace. This is why it is so essential to maintain the bonds between criticism and theory. Theory helps us understand constitutive rhetoric, but criticism helps us understand its application. And the application of constitutive rhetoric is how we create who we are as a nation. Malcolm X posited that, “if birth made you American, you wouldn’t need any legislation; you wouldn’t need any amendments to the Constitution; you wouldn’t be faced with civil-rights filibustering in Washington, D.C., right now,” and his observation rings true. All of these cases attest to the fact that “American” means something more than just where a person is born. Constitutive rhetoric is the means by which we create our identity, and it is a powerful and important process to understanding our own nation. Rhetorical criticism is the way we can understand how we wield that weapon.

Notes

1. Richard M. Fried, *Nightmare in Red The McCarthy Era in Perspective* (Oxford: Oxford University Press, 1990):34-35.
2. Fried, 35.

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VITA

Name: Martha Elizabeth Thorpe

Address: Department of Communication
The College at Brockport (SUNY)
350 New Campus Drive
Brockport, NY 14420

Email address: ethorpe@brockport.edu

Education: B.A., English, Baylor University, 2001
M.A., English, Texas A&M, University, 2005
Ph.D., Communication, Texas A&M University, 2011