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Student Club to Supreme Court: The Federalist Society's Origins on Law School Campuses

Following the election of President George W. Bush in January 2000, a 35-year-old Brett M. Kavanaugh joined the new White House legal team, taking a position as an associate counsel to the president.¹ A couple of months into the job, Kavanaugh came across a news article about his past that frustrated him. The article described him as still being an active member of the Federalist Society for Law and Public Policy Studies, a national organization of lawyers, judges, law school students, and professors who advocate for conservative legal doctrine and originalist interpretations of the United States Constitution. Worrying over this misreported detail, Kavanaugh wrote an email to his White House colleagues in which he assured them of the article's inaccuracy: "this may seem technical, but most of us resigned from the Federalist Society before starting work here and are not now members of the Federalist Society." Kavanaugh continued, "the reason I (and others) resigned from Fed society was precisely because I did not want anyone to be able to say that I had an ongoing relationship with any group that has a strong interest in the work of this office."²

Nineteen years later, in November 2019, the Federalist Society hosted its sold-out annual National Lawyers Convention at the Mayflower Hotel in Washington, D.C. Kavanaugh, no

¹ Scott Shane et al., "Influential Judge, Loyal Friend, Conservative Warrior — and D.C. Insider," *The New York Times*, July 14, 2018, <https://www.nytimes.com/2018/07/14/us/politics/judge-brett-kavanaugh.html>.

² Annie Grayer, "Brett Kavanaugh Was Concerned with His Federalist Society Membership in 2001, Emails Show," *CNN*, August 19, 2018, <https://www.cnn.com/2018/08/19/politics/brett-kavanaugh-federalist-society-emails/index.html>.

longer an associate counsel but now an associate justice on the Supreme Court, was their keynote speaker.³ He was nominated to the bench by President Donald Trump on July 9, 2019.⁴

Kavanaugh's name was provided to Trump as part of a list of potential Supreme Court nominees compiled by Leonard Leo, the executive vice president of the Federalist Society.⁵ Of the nine justices currently serving on the Supreme Court, Kavanaugh brings the number of justices affiliated with the Federalist Society up to five. Kavanaugh's scheduled appearance at the 2019 Federalist Society event was his second highly-public speaking engagement with the organization following his appointment to the Supreme Court. At the 2018 convention, a month following his successful appointment vote, Kavanaugh entered the dinner to a minute-long standing ovation.⁶

Kavanaugh's changing attitude toward the perception of his relationship with the Federalist Society—first a worried shun, then a public embrace—exemplifies the precarious and occasionally conflicted balancing act of the Federalist Society's presence in American politics. Depending on whom is asked, the Federalist Society is often distilled into one of two descriptions. To some, it is a community of professional lawyers, law students, and professors whose membership stems from their desire for lively intellectual debate. In this description,

³ “2019 National Lawyers Convention,” The Federalist Society, accessed October 23, 2019, <https://fedsoc.org/conferences/2019national-lawyers-convention>.

⁴ “Trump Announces Brett Kavanaugh as Supreme Court Nominee: Full Video and Transcript,” *The New York Times*, July 9, 2018, <https://www.nytimes.com/2018/07/09/us/politics/trump-supreme-court-announcement-transcript.html>.

⁵ Robert O’Harrow, Jr. and Shawn Boburg, “A Conservative Activist’s behind-the-Scenes Campaign to Remake the Nation’s Courts,” *The Washington Post*, May 21, 2019, <https://www.washingtonpost.com/graphics/2019/investigations/leonard-leo-federalists-society-courts/>.

⁶ Zoe Tillman, “Justice Brett Kavanaugh Is at Tonight’s Federalist Society Convention Dinner, He Just Received a Lengthy, Enthusiastic Standing Ovation When He Was Introduced,” November 15, 2018, <https://twitter.com/ZoeTillman/status/1063227563387088897>.

Federalist Society members are not overtly concerned with partisan party politics or influencing government policy so much as they are with fostering open debates where two sides of a legal issue, conservative and liberal, are presented for equal consideration and scrutinized for their merit.⁷ Yet, to others, the Federalist Society occupies a different role in American politics. In this second description, the Federalist Society is a complex, ever-growing network of backdoor judicial dealings with a highly partisan goal: to fill open positions in the judiciary with as many conservative Federalist Society members as possible.

Originally founded in 1981 as a campus student club at Yale Law School and the University of Chicago Law School before expanding to allow for professional lawyer membership in 1986, the timeline of the Federalist Society's genesis coincided with the rapid emergence of a new national political movement: the New Christian Right. A broad and occasionally divided conservative coalition grounded in the evangelical Protestant tradition, supporters of the New Christian Right were united by a social and political agenda of integrating religious values into the American government.⁸ Having just celebrated an unprecedented victory in the electoral political arena with the 1980 nomination of President Ronald Reagan, New Christian Right organizers now turned their attention to the judiciary.⁹ The courts, especially the Supreme Court, were a longtime liberal stronghold and a constant source of political frustration for conservative Christians. Throughout the twentieth century, evangelical activists repeatedly mobilized to protest progressive Supreme Court rulings that benefited their liberal opponents

⁷ "About Us," The Federalist Society, accessed October 22, 2019, <https://fedsoc.org/about-us>.

⁸ Steven P. Brown, *Trumping Religion: The New Christian Right, the Free Speech Clause, and the Courts* (Tuscaloosa, AL: University of Alabama Press, 2002); Erling Jorstad, "The Church in the World: The New Christian Right," *Theology Today* 38, no. 2 (1981): 193–200.

⁹ Brown, *Trumping Religion*, 23.

and, in their mind, restricted the presence of God in the public sphere. Cases such as *Abington School District v. Schempp*, *Engel v. Vitale*, and *Roe v. Wade* served as historical reminders that American politics was growing increasingly secular, and Christian conservative activism had yet to infuse the courts in the same way it had the electorate.¹⁰ With a new wave of American conservatism strengthening in the late 1970s and early 1980s, an opportunity arose for New Christian Right groups to transfer their newfound political security in the electorate to the legal landscape.

It is within this broader political mission that the story of the Federalist Society's rapid growth comes to light. While many fixate on the Federalist Society's present-day impact, the forces driving its success can be traced to its founding years, 1981–1986, and the resources and legitimacy granted to it by the New Christian Right movement. The Federalist Society has always operated as a secular organization; while many of its programming topics overlap with the political interests of the conservative Christian community, the Federalist Society is not an overtly Christian legal advocacy organization akin to the likes of the American Center for Law & Justice or Liberty Counsel. Nevertheless, inspecting the Federalist Society's founding reveals that its rapid growth from a small campus debate club to a nationwide professional conservative legal network was not an organic, insular coincidence. Rather, the Federalist Society's success was by design. The unusual volume of support provided to the student-run Federalist Society by members of the conservative establishment during the club's early years was intentional, essential to the club's growth, and in service of a larger national goal: to build long-term capacity

¹⁰ Adam Laats, "Our Schools, Our Country: American Evangelicals, Public Schools, and the Supreme Court Decisions of 1962 and 1963," *Journal of Religious History* 36, no. 3 (September 2012): 319–334; Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge: Harvard University Press, 2015).

for a sustainable conservative legal presence and, subsequently, strengthen the New Christian Right's potential for legal advocacy in the decades to come.

To answer the question of how a student club was able to professionalize so rapidly, this thesis offers a history of the first five years of the Federalist Society. It focuses on the two founding clubs created on the Yale and University of Chicago law school campuses and examines the various conservative sponsors of the Federalist Society during this timeframe, such as prominent political and legal professionals, Reagan administration employees, and assorted donors, and traces the connection between these backers and the New Christian Right movement. In doing so, this thesis seeks to contextualize the role of the Federalist Society as an on-the-ground manifestation of the New Christian Right's long-term legal strategy of investing in the next generation of conservative judicial actors.

Across the fields of political science, communications, and legal studies, fascination with the professional branches of the Federalist Society runs rampant. However, historians have yet to take a close look at the Federalist Society's earliest days of development. In their research, scholars often fixate on the pervasiveness of the Federalist Society: though the organization's founding in 1981 was fairly recent, its impact on legal scholarship, professional lawyering, and the U.S. government has been expansive. Today, the Federalist Society's Lawyers Division currently claims over 65,000 members, and its Student Division is composed of 10,000 law students enrolled across all 204 accredited law schools in the United States.¹¹ Political scientists are especially intrigued by the Federalist Society's representation in the upper echelons of the American judiciary. For example, Supreme Court Justices Antonin Scalia, Clarence Thomas,

¹¹ "Our Background," The Federalist Society, accessed September 24, 2019, <https://fedsoc.org/our-background>.

Samuel Alito, John Roberts, Neil Gorsuch, and Brett Kavanaugh are all affiliated with the Federalist Society. Enough Federalist Society members occupy U.S. Court of Appeals benches that political scientists have been able to study the variations in voting behavior between Federalist Society members and non-members.¹² Thanks to the breadth of materials the Federalist Society publishes on a regular basis via conferences and law reviews, scholars of communications studies have been able to examine the rhetorical strategies employed by the Federalist Society in their interactions with conservative and liberal factions.¹³ And within the field of legal studies, scholars have traced the intersection of Society members' lobbying and major Supreme Court cases throughout the last 37 years.¹⁴

Given the impact of the Federalist Society on the professional legal landscape, it is no surprise that research on the Federalist Society, across multiple disciplines, centers primarily on its Lawyers Division. In contrast, in-depth histories that explore the Federalist Society's origins as a student-run club on the Yale and University of Chicago law school campuses are sparse. The most detailed history to date of the Federalist Society's founding is a *Harvard Journal of Law & Public Policy* article authored by law clerk George W. Hicks, Jr., which examines the club's influence on the Harvard Law School campus climate from the early 1980s onward. This article stands alone as the most detailed history of the Federalist Society's student origins.¹⁵ In the three

¹² Amanda Hollis-Brusky, "The Federalist Society and the 'Structural Constitution: An Epistemic Community At Work'" (University of California, Berkeley, 2010), <https://escholarship.org/uc/item/54z517w5>.

¹³ Jonathan Riehl, "The Federalist Society and Movement Conservatism: How a Fractious Coalition on the Right Is Changing Constitutional Law And the Way We Talk and Think About It" (University of North Carolina at Chapel Hill, 2007).

¹⁴ Michael Avery and Danielle McLaughlin, *The Federalist Society: How Conservatives Took the Law Back from Liberals* (Nashville, TN: Vanderbilt University Press, 2013).

¹⁵ George W. Hicks, Jr., "The Conservative Influence of the Federalist Society on the Harvard Law School Student Body," *Harvard Journal of Law & Public Policy* 29, no. 2 (2006): 623–718.

full-length books that have analyzed the Federalist Society—one written by political scientist Amanda Hollis-Brusky, another by political scientist Steven M. Teles, and the third by law school professor Michael Avery and lawyer Danielle McLaughlin—its campus club days receive only passing attention in introductory chapters.¹⁶ All three books dedicate most of their chapters to examinations of the Federalist Society's professional branches post-1986.

In regard to the second body of literature that this thesis engages—the New Christian Right—there is widespread academic interest in the movement's rise within electoral politics and a smaller, newly-emerging body of research that specifically focuses on the movement's judicial strategizing. Books such as political scientist Steven P. Brown's *Trumping Religion: The New Christian Right, the Free Speech Clause, and the Courts* and law professor Ann Southworth's *Lawyers of the Right: Professionalizing the Conservative Coalition* offer the most comprehensive examinations of this recent movement, and a number of other scholars have conducted their own smaller-scale analyses in the form of journal articles.¹⁷ Broadly, all agree that the New Christian Right's interest in influencing the judiciary is a political tactic that has only recently been identified as a formidable movement. This is likely due, in part, to the less public nature of judicial advocacy. Unlike elections, most judicial appointments and rulings receive significantly less publicity, and the more technical processes of the judiciary necessitate longer periods of time before political payoff becomes apparent.

¹⁶ Amanda Hollis-Brusky, *Ideas with Consequences: The Federalist Society and the Conservative Counterrevolution* (New York: Oxford University Press, 2015); Steven M. Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* (Princeton University Press, 2010); Avery & McLaughlin, *The Federalist Society*.

¹⁷ Brown, *Trumping Religion*; Ann Southworth, *Lawyers of the Right: Professionalizing the Conservative Coalition* (Chicago, IL: The University of Chicago Press, 2008); Joshua C. Wilson, "The Depth of [White] Christian Conservative Legal Activism & Learning," *Politics and Religion* 11 (2018): 192–200; Daniel Bennett, *Defending Faith: The Politics of the Christian Conservative Legal Movement* (Lawrence, KS: University Press of Kansas, 2017).

Much of the primary source material from the Federalist Society's first five years of student programming—chapter pamphlets, event brochures, speech transcriptions—exists only in a private archive maintained by the Federalist Society itself. Because the organization has had a highly visible public presence since the mid-1980s, its staff has been selective in granting access to these materials, with Hicks being the only scholar to have cited excerpts from documents in this archive and one of two academic authors who have interviewed the founding members. While access to the full content of these particular materials would have offered insight into the specific legal arguments presented at Federalist Society events, such information is not necessarily essential to this thesis' focus. Instead, materials such as newspaper articles, memos drafted by third parties, and campus event advertisements are more valuable for their documentation of the names of high-profile lecturers and cosponsoring organizations involved in the Federalist Society's founding. For the purposes of tracing the conservative networks that bolstered the Federalist Society's success, the nuances of the legal debates at the club's early events are less pertinent than the identities of those who ensured that the debates took place.

Additionally, although only small excerpts of first-person narratives shared by the Federalist Society founders from 1981–1986 are publicly available, the material is still worth close examination. Any amount of content authored by its first members are essential to understanding the organization's big-picture ideological arguments, strategic on-the-ground organizing, and the plans for its expansion. Because the Federalist Society's most active members were law school students who had yet to enter the professional world, there is an element of ambitiousness and honesty within these excerpts that later materials lack, as student members were not yet embroiled in the partisan scrutiny that national-level conservative legal

professionals faced. Though nonpartisan or liberal perspectives on the Federalist Society are more difficult to acquire, the aforementioned conservative network of students and lawyers that Federalist Society materials were produced and consumed within are far more important to unpacking one of the larger questions of this thesis—namely, the manner and motivation by which networks of legal professionals interacted with the Federalist Society's student members. Lastly, by distinguishing student-authored materials from those authored by professional affiliates who were already active members of the conservative lawyering community, one can identify divergences and intersections between the intentions behind the student club founding and the larger goals idealized by conservative political players; this distinction lends insight into turning-point moments in which the Federalist Society's mission was reinterpreted, altered, or adapted by legal professionals to fit a broader national political mission.

"To have some good debates": The Founders' Intent

Compared to the expansive network it currently boasts, the Federalist Society's origins are modest. Its three student founders neither envisioned nor planned for an organization of today's scale. Steven Calabresi, Lee Liberman, and David McIntosh were three friends who met one another during their undergraduate years attending Yale University, and all were active in debate extracurriculars.¹⁸ Both Calabresi and McIntosh had been president of the Yale Political Union, a debate organization that hosted student competitions as well as guest speakers.¹⁹ Liberman also held a leadership position in the Political Union as its speaker.²⁰ In addition to

¹⁸ Hicks, "The Conservative Influence," 646.

¹⁹ "Nixon May Visit Yale in Spring," *Yale Daily News*, December 14, 1978, Yale Daily News Historical Archive; Nina Easton, *Gang of Five: Leaders at the Center of the Conservative Crusade* (New York: Simon & Schuster, 2000).

²⁰ Paul J. Bass, "PU Plans," *Yale Daily News*, January 26, 1979, Yale Daily News Historical Archive.

their shared interest in debate, the three students was outspoken in their political conservatism.²¹ Prior to starting their first semesters of law school, both Calabresi and Liberman volunteered for the Reagan presidential campaign.²² Liberman was a member of the campus Party of the Right club, an organization with an eccentric reputation where students socialized, staged public protests on behalf of conservative causes, and debated one another. In a *Yale Daily News* profile of the club, then-junior Liberman acknowledged the Party of the Right's reputation in the eyes of the left-leaning Yale University student body. "There aren't very many people here who will admit to being conservative," she said. "Part of being a minority is being a gadfly, being provocative."²³ During his Yale Political Union presidency, Calabresi was similarly a conservative outlier among the undergraduate student body, having faced criticism from classmates due to the speaking invitations he extended to controversial conservative political figures, such as an unpopular South African ambassador.²⁴

Upon graduating from Yale University and enrolling at their respective law schools—Calabresi at Yale Law School, Liberman and McIntosh at the University of Chicago Law School—the three discovered that their law school campuses were even more liberal than their undergraduate classrooms. While attending their separate institutions, the three friends stayed in touch, confiding in one another about their feelings of frustration and limitation with their predominately liberal institutions.²⁵ They saw the atmospheres as being cultivated and largely

²¹ Hicks, 646.

²² Hollis-Brusky, *Ideas with Consequences*, 2.

²³ Mary Anne Case, "Disneyland in a Three-Piece Suit," *Yale Daily News*, April 25, 1978, Yale Daily News Historical Archive.

²⁴ Hicks, "The Conservative Influence," 647.

²⁵ Hicks, 647.

unchallenged by left-leaning peers and "much more liberal" faculty members than the ones they interacted with as Yale undergraduates.

True to their undergraduate experience leading debates at the Yale Political Union, Calabresi, Liberman, and McIntosh decided to act on their feelings of marginalization by creating a campus debate club at their respective law schools.²⁶ Calabresi's Yale chapter was the first to officially form in the fall of 1981, co-founded with two other conservative Yale Law School students, Gary Lawson and Tom Bell. They chose the name "The Federalist Society" for its evocation of the United States founders' *Federalist Papers*, the pro-Constitution Federalist faction of 1787, and federalism, a system in which state power holds firm against federal control.²⁷ Calabresi described the original aim of the Federalist Society as not being the creation of a conservative legal network or a multi-chaptered organization, but the creation of a club that would focus on intellectual sparring through classroom debates between Yale professors and visiting speakers. "My original objective . . . was to have some good debates, to bring some conservative speakers to Yale, where I don't think any conservative voices were being heard, [and] force faculty members there to confront the ideas by debating who we were bringing in," Calabresi explained.²⁸ At the University of Chicago campus, Liberman and McIntosh followed suit and created their own Federalist Society chapter. The two felt similarly to Calabresi, recalling in interviews that the Federalist Society's primary purpose was originally grounded in intellectual activities such as campus events and publications. Liberman describes her and her co-founders as having no ambitions of establishing a national-level organization, and within

²⁶ Teles, *The Rise of the Conservative Legal Movement*, 138.

²⁷ Hicks, "The Conservative Influence," 648.

²⁸ Teles, 139.

documents regarding these earliest Federalist Society days, such as club advertisements, there are no allusions to the creation any form of legal network—one of the key characteristics of the Federalist Society that defines it today.²⁹ For their faculty advisor, Liberman and McIntosh requested the help of Antonin Scalia, then a University of Chicago professor who was away visiting Stanford but still offering guidance to the students remotely.³⁰

The Federalist Society's founders soon discovered that despite their Yale University experience, the process of hosting successful debate events at their law schools would prove difficult. According to a phone interview with Calabresi conducted over 20 years after the club's founding, he recollects the students' first faculty advisor at Yale, soon-to-be Second Circuit judge Ralph Winter, initially calling their endeavor "hopeless." Not only that, but Calabresi remembers the students' first event, a *Roe v. Wade* debate between a University of Texas law professor and a Yale faculty member, as being a "complete flop," resulting in Winter criticizing the students with tears in his eyes and the assertion that their efforts would go nowhere.³¹ In the same interview, Calabresi recalls a second debate, this one centered on the *Lochner v. New York* case, that proved to be slightly more successful, with engaged students and Yale faculty members in attendance and asking questions.³²

On March 29, 1982, the Yale Federalist Society hosted Lev Navrozov, a controversial Russian dissident and author for right-wing American publications such as *Commentary* and *National Review*, for a lecture titled "What *The New York Times* Knows About the World." In his

²⁹ Hicks, "The Conservative Influence," 651; Teles, *The Rise of the Conservative Legal Movement*, 138.

³⁰ Hicks, 649.

³¹ Hicks, 649; Riehl, "The Federalist Society," 70.

³² Hicks, 649.

talk, he critiqued the newspaper as being a "stumbling block to the survival of Western democracies."³³ The event was well-attended and highly publicized by its student organizers, who ran multiple advertisements for Navrozov's lecture in the *Yale Daily News*.³⁴ One of those advertisements reveals that the lecture was cosponsored by the Intercollegiate Studies Institute (ISI). The ISI, a nonprofit organization that still operates today, is well-known for its mission of funding conservative collegiate programming and right-wing campus newspapers.³⁵ This appears to be the first instance in which the ISI lent support to the Federalist Society, but at later events, the ISI's name would emerge again as a repeatedly invaluable sponsor of the club's programming over multiple years. The ISI's early involvement in the Federalist Society, in what may have been the Federalist Society's third-ever event, is one example of a national conservative sponsor that was quickly alerted to the Federalist Society's fledgeling existence. By acquiring funding from the ISI, the club's student leaders soon discovered that although their cause of bringing conservative debates to law schools was an endeavor physically limited to campus environments, well-established conservative support systems existed outside the Yale and University of Chicago walls and were readily available to finance their activities.

Besides these three events, it is unclear how many other Federalist Society events were hosted by the Yale and University of Chicago chapters in the clubs' first semester of existence. In interviews, Calabresi only recalls the *Roe v. Wade* and *Lochner v. New York* debates while

³³ David Bokman, "Navrozov Blasts New York Times," *Yale Daily News*, March 30, 1982, Yale Daily News Historical Archive.

³⁴ "The Federalist Society Presents Lev Navrozov" (*Yale Daily News*, March 24, 1982), Yale Daily News Historical Archive, <http://digital.library.yale.edu/cdm/ref/collection/yale-ydn/id/198954>; "Lev Navrozov on 'What The New York Times Knows About the World'" (*Yale Daily News*, March 29, 1982), Yale Daily News Historical Archive, <http://digital.library.yale.edu/cdm/compoundobject/collection/yale-ydn/id/198992>.

³⁵ Jonathan Rauch, "Crisis on the Right," *The New York Times*, October 7, 2007, <https://www.nytimes.com/2007/10/07/books/review/Rauch-t.html>.

Liberman and McIntosh reference no other events. Besides the Navrozov lecture, no advertisements for Federalist Society events ran in either campus newspaper for the club's first semester.³⁶ These initial three events reinforce two key insights into the Federalist Society's founding. Based on this early programming, it appears as though the Federalist Society was genuinely intended to be an intellectual forum focused on debates and lecturers, as its founders described. Events were marketed with no reference to conservative legal advocacy causes or networking, and with the example of the Navrozov event, appeared wide-ranging in the topics its founders were willing to engage. With this knowledge, it becomes easier to contextualize just how drastic the club's development within the next five years would prove to be.

A Broader Priority at Play: The New Christian Right's Shift to the Judiciary

As Calabresi, Liberman, and McIntosh were just beginning to facilitate inaugural events for the first two Federalist Society clubs, an already-established national political movement was taking stock of its recent success and turning its attention toward additional opportunities for growth. Throughout the late 1970s and early 1980s, the New Christian Right movement had rapidly ascended to become a powerful voting bloc in the electoral political arena. The New Christian Right, broadly defined, was a "vast mosaic of interests dominated by a handful of influential leaders and a growing number of special interest organizations," all of whom shared core values derived from the evangelical Protestant tradition. They desired to translate their socially conservative, Christian views into political activism.³⁷ Televangelists such as Jerry Falwell and Pat Robertson were some of the most prominent leaders of the New Christian Right,

³⁶ Hicks, "The Conservative Influence," 650.

³⁷ Brown, *Trumping Religion*.

and wealthy organizations such as the Moral Majority, Christian Voice, Religious Roundtable, and National Christian Action Coalition led on-the-ground political mobilization efforts, funded media campaigns, and ultimately registered 2.5 million voters.³⁸ For supporters caught up in the movement's early momentum, the successful election of Ronald Reagan to the presidency marked a milestone in the status of their political power. Prior to Reagan's election, the New Christian Right had not yet affiliated itself with any of the major American political parties, and evangelicals did not wield a strong political influence.³⁹ But in the 1980 election, the New Christian Right's influence soared, with many crediting the coalition for Republican success in local congressional races as well as the national presidential race.⁴⁰ In turn, Republican leaders began to integrate evangelical New Christian Right causes into the mainline conservative party platform of the 1980s, adopting the language used by evangelicals and framing policy issues within the Christian value framework.⁴¹ Whether or not the Reagan presidency meaningfully expended political effort to fulfill promises made to the New Christian Right coalition during its campaign is debatable, but what mattered most at the time was the victorious public profile the coalition crafted, the strengthening of its political clout, and later, the Reagan administration's

³⁸ Steve Bruce, "Modernity and Fundamentalism: The New Christian Right in America," *The British Journal of Sociology* 41, no. 4 (1990): 477–496; Riehl, "The Federalist Society."

³⁹ Corwin E. Smidt and James M. Penning, eds., *Sojourners in the Wilderness: The Christian Right in Comparative Perspective* (Lanham, MD: Rowman & Littlefield, 1997), 27.

⁴⁰ Arthur H. Miller and Martin P. Wattenberg, "Politics from the Pulpit: Religiosity and the 1980 Elections," *Public Opinion Quarterly* 48, no. 1B (Spring 1984): 301–317; Thomas M. Gannon, "The New Christian Right in America: As a Social and Political Force," *Archives de Sciences Sociales Des Religions* 52, no. 1 (1981): 69–83.

⁴¹ Riehl, "The Federalist Society," 53.

efforts to preserve its image of support for New Christian Right issues in order to maintain voter loyalty.⁴²

However, feelings of accomplishment soon faded for New Christian Right members, who began to lose confidence in the constant cycle of political offices. They sought more permanent ways to protect the presence of Christian values within American government.⁴³ Many of the progressive causes that New Christian Right leaders rallied against—especially *Roe v. Wade*—were enshrined in jurisprudence and untouchable by elected presidents or congresspeople. The judiciary, on the other hand, offered a path toward the coalition's desire for a long-standing presence in American law. Leaders began to identify the courts as the new avenue by which they could enact sociopolitical change that would outlast partisan tides.⁴⁴ This shift toward legal activism would allow for New Christian Right litigators to no longer react on the defensive, as it historically had been forced to in a legal landscape dominated by liberal strategizing.⁴⁵ In order to shift success away from electoral politics and toward the judiciary, New Christian Right leadership homed in on the need to begin investing in organizations that fostered the development of young, conservative, soon-to-be legal professionals. Once they were in the professional sphere, this generation—confident in their political alignment thanks to campus programming and networking opportunities—could flip the decades-old liberal lawyering model of enacting social change through litigation and wield it for socially conservative causes that

⁴² David John Marley, “Ronald Reagan and the Splintering of the Christian Right,” *Journal of Church and State* 48, no. 4 (2006): 851–868.

⁴³ Teles, *The Rise of the Conservative Legal Movement*.

⁴⁴ Southworth, *Lawyers of the Right*.

⁴⁵ Judith A. Garber, “The Christian Right, the Federal Courts, and the Constitution in the United States,” *Constitutional Forum* 15, no. 1 (2006): 23–35.

aligned with Christian values.⁴⁶ To accomplish this, conservative leaders and funders began to coordinate ways in which they could support the creation of a formidable conservative presence within the areas of public interest law and law schools.⁴⁷

The Federalist Society was an ideal mechanism for this cause. Independent of any outside encouragement from political players, the Federalist Society had already begun to pursue its mission of fostering campus pockets where conservative legal debate could thrive, and they had also already begun reaching out to conservative funders such as the IES. On a small scale, the Federalist Society was embarking on the first step of the mobilization effort that conservative New Christian Right leaders were still visualizing. The New Christian Right's goal aligned with that of the Federalist Society, but with a twist: foster campus pockets of conservative legal debate, and in doing so, strengthen the likelihood of young law school students' continued alignment with conservative Christian causes and their pursuit of such litigation when they enter the professional legal landscape. Doing so would continue the success of Reagan's conservative wave and create younger legal capacity that would bring forth pro-Christian legal cases and challenge precedent. This aspiration neither stagnated nor remained concealed from the public eye—its success came rapidly. By 1986, outsiders were already able to identify conservative leaders' trajectory toward this vision of shifting the judiciary to the right as they lent their support to the fledgeling Federalist Society.⁴⁸ These younger conservatives began to fill positions in the professional landscape within five years.

⁴⁶ Garber, "The Christian Right," 34.

⁴⁷ Teles, *The Rise of the Conservative Legal Movement*, 4.

⁴⁸ George Nash, "American Conservatives and the Reagan Revolution," *Imprimis* 15, no. 5 (May 1986), <https://imprimis.hillsdale.edu/american-conservatives-and-the-reagan-revolution/>.

Newfound National Fame: The First Federalist Society Symposium

Returning to the Federalist Society's emergence in 1981, the club's student leaders soon discovered that their faculty advisors would provide invaluable guidance in determining the club's next steps. At Yale, Winter encouraged Calabresi and his peers to consider hosting a conference centered on conservative thought, an idea that Calabresi thought "would be fun."⁴⁹ At the University of Chicago, Scalia connected Liberman and McIntosh to two additional conservative law school groups who could cosponsor the national event: the Stanford Foundation for Law and Economic Policy and the *Harvard Journal of Law and Public Policy*.⁵⁰ Despite the Federalist Society being hardly a semester old, with possibly only three events completed, student leaders at both chapters decided to develop a joint conference that would feature professional legal speakers and solicit attendance from law students enrolled at other institutions across the country. Unbeknownst to the students, this event would propel the Federalist Society into the national eye.

Perhaps more importantly than his recommendation of two other student-run cosponsoring organizations, Scalia also connected Liberman and McIntosh to a funding opportunity through the Institute for Educational Affairs, an organization that provided grant money accumulated by its parent funder, the John M. Olin Foundation.⁵¹ This foundation, founded in 1953 and now closed, was a prolific philanthropic body that distributed grants to a multitude of right-leaning initiatives on higher education campuses. Their aim was to increase the conservative presence at colleges and universities, a goal accomplished by funding

⁴⁹ Hicks, "The Conservative Influence," 650.

⁵⁰ Hicks, 650; Avery & McLaughlin, *The Federalist Society*, 2.

⁵¹ Hicks, 651.

conferences, lectures, campus newspapers, and fellowships for conservative faculty.⁵² The Olin Foundation granted \$20,000–\$25,000 to the Federalist Society, a sum that allowed the student coordinators to afford its high-profile speakers and provide travel stipends to students visiting from other institutions.⁵³

The conference, titled "A Symposium on Federalism: Legal and Political Ramifications," was scheduled for April 23–25, 1982. A brief *Yale Daily News* announcement described the event as one that would include "speeches, debates, and discussions" and "provide students and the speakers with a forum for discussing the proper balance of power among the federal, state and local governments."⁵⁴ Still true to Calabresi, Liberman, and McIntosh's intent, the symposium's marketing framed the event not as a networking opportunity, but as an intellectual forum. These professionals included Judge Robert Bork, an anticipated Supreme Court nominee; Morton Blackwell, a special assistant to Reagan; Ted Olson, an assistant attorney general in Reagan's Office of Legal Counsel; Richard Posner, a Seventh Circuit judge; and advisors Winter and Scalia, among others.⁵⁵ To advertise the symposium, Calabresi, Liberman, and McIntosh submitted a short announcement that was published in the April 2, 1982 issue of the *National Review*, a conservative political magazine.

⁵² Jennifer De Forest, "The Rise of Conservatism: On Campus: The Role of the John M. Olin Foundation," *Change: The Magazine of Higher Learning* 38, no. 2 (August 2010): 32–37.

⁵³ Estimates of the amount given to the Federalist Society by the Institute for Educational Affairs vary. See: Hicks, "The Conservative Influence," 651; Avery & McLaughlin, *The Federalist Society*, 16; Jerry M. Landay, "The Conservative Cabal That's Transforming American Law," *The Washington Monthly*, March 2000, http://www.rachel.org/files/document/The_Conservative_Cabal_Thats_Transforming_A_2.doc; Michael Kruse, "The Weekend at Yale That Changed American Politics," *Politico Magazine*, October 2018, <https://www.politico.com/magazine/story/2018/08/27/federalist-society-yale-history-conservative-law-court-219608>.

⁵⁴ "Federalism Symposium Set," *Yale Daily News*, April 23, 1982, sec. News in Brief, Yale Daily News Historical Archive.

⁵⁵ Ashley May, John J. Miller, and Karl Zinsmeister, *Agenda Setting: A Wise Giver's Guide to Influencing Public Policy* (Washington, D.C.: The Philanthropy Roundtable, 2015); Kruse, "The Weekend at Yale."

The Federalist Society, a group of conservatively inclined law students, with chapters at Yale, Columbia, and Chicago, will be sponsoring a symposium on "The New Federalism: Legal and Political Ramifications." (No, Dan, it's not that your show doesn't do the job; it's just that we already know what you think.) Time: April 23-25. Place: Yale Law School. Speaking: Judge Robert Bork, D.C. Circuit; Judge Richard Posner, 7th Circuit; Judge Ralph Winter, 2nd Circuit; Walter Berns; Antonin Scalia, editor of *Regulation* magazine; and many more. Anyone interested (most especially including law students) should write The Federalist Society, 401A Yale Station, New Haven, Connecticut 06520.⁵⁶

Despite its otherwise matter-of-fact tone, the blurb ran in the *National Review's* "The Week" section alongside an eclectic mix of national and international news updates, mini-editorials, and satirical poems, most of which featured heavy-handed commentary from *National Review* editors. The identity of "Dan" is unknown, but may be a reference to Dan Rather, the television news anchor who had succeeded Walter Cronkite on "The CBS Evening News" one month prior and was often criticized by conservatives as having a liberal bias; judging from the similar writing style of the surrounding satirical blurbs, it appears as though the reference was inserted not by Federalist Society students, but by *National Review* editors in an effort to match the ad's tone to its neighboring blurbs.⁵⁷ It is worth noting that the announcement did not run in the *National Review's* classified ads section despite following such a format. Because most of the excerpts that ran in "The Week" alongside the announcement engaged hot-button topics at the national and international level—conflict in El Salvador, presidential speech soundbites, critiques of recent Congressional votes—an advertisement for an inaugural law school conference planned by first-year students appears out of place. Calabresi may have been able to

⁵⁶ "The Federalist Society Symposium Advertisement," *National Review*, April 2, 1982, sec. The Week. According to an interview with Hicks, neither Calabresi nor the other co-founders recall the existence of a Columbia chapter.

⁵⁷ Tony Schwartz, "Amid the Fuss, Cronkite Says a Quiet 'Good Night,'" *The New York Times*, March 7, 1981, The New York Times Print Archive, <https://www.nytimes.com/1981/03/07/arts/amid-the-fuss-cronkite-says-a-quiet-good-night.html>; "Dropping the Anchorman," *The Economist*, November 25, 2004, <https://www.economist.com/united-states/2004/11/25/dropping-the-anchorman>.

secure the ad's placement in a more widely-read section due to his friends being staff members at the *National Review* or because of the well-known conservative speakers featured.⁵⁸ As a result of the publicity garnered by the ad, there was an outpouring of students from other law schools who contacted Calabresi, Liberman, and McIntosh expressing interest in starting Federalist Society chapters on their own campuses. To meet demand, the student organizers dedicated hours in the nights leading up to the symposium to compiling how-to booklets for distribution among these future club founders, whom they would meet at the symposium.⁵⁹ Titled "How To Form a Conservative Law Student Group," the handbook offered instructions on how to market a new Federalist Society club. It advised against using the adjective "conservative" in any club descriptions, listing a number of reasons: to avoid factionalism within the group, draw in students who did not identify as conservative, and because the club would "have greater credibility if the name does not make the group appear too unobjective."⁶⁰ These detailed handbooks would serve as guides for law school students for years to come, as new Federalist Society chapters emerged at law schools across the country. It is here where we see the Federalist Society's networking capabilities emerge for the first time.

The symposium was a huge success, drawing around 200 law school students as attendees and a total of 15 high-profile legal professionals as speakers.⁶¹ Despite the seemingly dry, unfocused topics of the symposium's panel names—"Federalism from the Standpoint of the Department of Justice," "Some Thoughts on Applied Federalism," "Federalism—Why Should

⁵⁸ Hicks, "The Conservative Influence," 651.

⁵⁹ Hicks, 652.

⁶⁰ Teles, *The Rise of the Conservative Legal Movement*, 143.

⁶¹ Southworth, *Lawyers of the Right*.

We Care?”—attendees and speakers alike recollect a youthful, bustling energy hyper-focused on the potential for a conservative legal wave that could challenge the liberal norm in a meaningful way.⁶² Visiting students with sleeping bags borrowed floorspace in the rooms of co-attendees, and the presence of potential Supreme Court nominee Bork attracted media coverage from *The New York Times*.⁶³ Even then, media outlets noticed the powerful conservative networks at play supporting the Federalist Society's cause. "The Federalists managed to raise \$24,000 for travel and expenses for 60 students and 20 scholars from several groups that are backing student conservative movements across the country," the *New York Times* reporter observed, identifying the John M. Olin Foundation and Institute for Educational Affairs by name.

Outside Yale's campus, the reverberations of the symposium's energy in the political world were so profound that details of speakers' topics and audience reactions to lectures even made their way into federal government profiles authored by the president's staffers. In a White House document compiling profiles of potential Supreme Court nominees for Reagan's consideration, the profiler provides a summary of the address delivered by Bork at the symposium, describing the speech's content as "castigating the high court for legislating (and nationalizing) morality on the basis of certain Justices' 'middle-class values.'"⁶⁴ The fact that the Federalist Society is mentioned, by name, in a White House document so soon after its founding showcases just how rapidly the Federalist Society acquired legitimacy in the eyes of national conservative leaders. Additionally, the surrounding commentary in Bork's profile reveals that

⁶² Riehl, "The Federalist Society," 73; Kruse, "The Weekend at Yale."

⁶³ Marcia Chambers, "Yale Is a Host To 2 Meetings About Politics," *The New York Times*, May 2, 1982, The New York Times Print Archive.

⁶⁴ "Peter Wallison Files, Chief Justice Candidate Profiles," August 6, 1996, Supreme Court/Rehnquist/Scalia Notebook I - Candidates (1), Ronald Reagan Presidential Library Digital Library Collections, <https://reaganlibrary.gov/sites/default/files/digitallibrary/smf/counsel/wallison/oa14287/40-592-0a14287-011-2017.pdf>.

Reagan's administration was searching for intentionalist jurists who were vocally critical about the liberal-leaning Supreme Court and would be willing to bring a more outspoken sense of conservatism to the bench, speaking to the conservative movement's pressing need for right-wing judges. Bork's appearance at the Federalist Society symposium indicates his willingness to fulfill this role. That, in turn, showcases the Federalist Society's emerging role in conservative political circles: an organization that could convene legal powerhouses who would generate high levels of excitement around a conservative judicial movement.

In a White House memo detailing talking points for Reagan that would enable him to defend his choice of Bork as a nominee, the Federalist Society is again mentioned by name, this time taking on a more politicized meaning. The author notes that in a portion of another speech delivered by Bork at a Federalist Society event, the judge described his own personal aversion to overturning liberal precedent and risking a disruption of the stability offered by Supreme Court jurisprudence. Given the time frame, Bork's comment was most likely a direct reference to the recent 1973 Roe decision, a highly unpopular ruling among conservatives and the New Christian Right. The White House author writes, "He was hissed at a meeting of the conservative Federalist Society recently for making this point."⁶⁵ By contrasting Bork to the hisses of Federalist Society students, Reagan leadership legitimizes the student organization as a representative stronghold of conservative legal ideals. A few years into its existence and still only student-led, the Federalist Society had evolved to become a means of measuring the spectrum of legal conservatism.

⁶⁵ "Duberstein, Kenneth M. Files, Chief Justice Candidate Profiles. White House Staffing Memorandum, Talking Points," July 15, 1987, Box 3. Folder: The Nomination of Judge Robert Bork, Ronald Reagan Presidential Library Digital Library Collections, <https://www.reaganlibrary.gov/sites/default/files/digitallibrary/smf/cos/duberstein/box-003/40-158-7255719-003-011-2017.pdf>.

Unchecked Momentum: The Federalist Society Post-Symposium

The April 1982 symposium marked the explosion of the Federalist Society's outward-facing image and its reputation as a go-to as a network for young conservative lawyers. Less than one year after the gathering, the Federalist Society had expanded to 17 chapters, and its original three student founders decided to open a headquarters in Washington, D.C. to help facilitate emerging chapters.⁶⁶ While the speakers and sponsors involved in the first symposium are notable for their prestigious positions in the national conservative movement and the Federalist Society was already a beneficiary of conservative funders, one can also identify the presence of the New Christian Right within the programming topics, guest speakers, and financial sponsors that collaborated with the Federalist Society's events in the immediate years following the organization's national debut. Whether it was powerful political individuals affiliated with the New Christian Right's causes who lent their time to Federalist Society events, or established conservative organizations whose endorsements of the club offered institutional validity, the Federalist Society's momentum continued as it received support from those whose political priorities aligned with New Christian Right causes.

Almost immediately after the April 23–25 symposium, the Yale Federalist Society hosted a lecture by George Gilder on May 7, 1982.⁶⁷ Gilder, a self-proclaimed evangelical economist who worked as a speechwriter for prominent Republican politicians such as Richard Nixon, Nelson Rockefeller, and George Romney, had just published his international best-seller, *Wealth and Poverty*, the year prior. Gilder's book had been met with abundant praise, especially from

⁶⁶ Landay, "The Conservative Cabal."

⁶⁷ "Lecture by George Gilder, Author of *Wealth and Poverty*" (Yale Daily News, May 7, 1982), Yale Daily News Historical Archive, <http://digital.library.yale.edu/cdm/compoundobject/collection/yale-ydn/id/199051/>.

conservative evangelicals, members of the White House administration, and the president himself, for its argument that capitalism's virtues are fundamentally grounded in Christian values.⁶⁸ The popularity of Gilder's book and its defense of Christianity's essential role within American institutions speaks to the level of influence the New Christian Right exerted within conservative American politics during the early 1980s. Additionally, it shows the mainstream conservative movement's eagerness to embrace the integration of Christianity and government; White House staffers informally referred to *Wealth and Poverty* as a "bible" for the Reagan administration.⁶⁹

Although it is unknown whether Gilder reached out to the Federalist Society or if the Federalist Society reached out to the Gilder, his collaboration with the student club so soon after its first symposium indicates that the Federalist Society's networking with well-known figures of the New Christian Right movement was underway. Similar to one of the Federalist Society's first events with Lev Navrozov, Gilder's lecture was also cosponsored by the Intercollegiate Studies Institute; one of the Institute's six core conservative beliefs that guides its funding decisions is the promotion of "traditional Judeo-Christian values."⁷⁰ The Institute's founder, conservative powerhouse William F. Buckley, was also the founder of the *National Review*, the magazine that

⁶⁸ Richard G. Kyle, *Evangelicalism: An Americanized Christianity* (Piscataway, NJ: Transaction Publishers, 2006).

⁶⁹ Neil J. Young, *We Gather Together: The Religious Right and the Problem of Interfaith Politics* (Oxford: Oxford University Press, 2015); Robert C. Liebman and Robert Wuthnow, eds., *The New Christian Right: Mobilization and Legitimation* (New York: Aldine Publishing Company, 1983).

⁷⁰ While the Intercollegiate Studies Institute has since removed "traditional Judeo-Christian values" from its website's promotional material (<https://isi.org/about-us/>), its original list of six core beliefs has been well-documented in quotes from other publications. See: Christina Jedra, "GOP Chair Takes over Conservative Institute," *The News Journal*, October 6, 2016, <https://www.delawareonline.com/story/news/2016/10/06/gop-chair-takes-over-conservative-institute/91658004/>; "ISI Press Release: Conservative Group Wins against City's Land Grab," *American Family Association Journal*, April 5, 2019, <https://afajournal.org/past-issues/2019/june/conservative-group-wins-against-city-s-land-grab/>.

had run the Federalist Society's symposium advertisement.⁷¹ Funding for the Gilder event is just one example of the importance of foundation funding in the Federalist Society's long-term growth; the Federalist Society would eventually receive a total of \$98,000 from six conservative foundations during its first year of operation.⁷² By 1986, the Federalist Society's total budget across all campuses exceeded \$1 million.

Meanwhile, the University of Chicago Federalist Society chapter continued to host events. On February 11, 1983, students hosted Republican Congressman Henry Hyde. An advertisement in *The Chicago Maroon* student newspaper publicized Hyde with his recent fame as a co-sponsor of the "Human Life Bill," a Senate proposal that sought to overturn *Roe*.⁷³ Hyde's conviction in the pro-life movement, a central issue of the New Christian Right, was grounded in devout Christian justification and admired by New Christian Right leaders such as Christian Coalition director Ralph Reed.⁷⁴ "We are, as our coinage and our Pledge of Allegiance asserts, a Nation 'under God,'" Hyde was quoted as saying. "Throughout our history, religious values have always been a part of the public policy debate. Religious values, particularly the Judeo-Christian tradition's insistence on the inherent dignity and inviolable worth of each individual human life."⁷⁵ Furthermore, the appearances of Gilder and Hyde show a shift in Federalist Society

⁷¹ Douglas Martin, "William F. Buckley Jr. Is Dead at 82," *The New York Times*, February 27, 2008, <https://www.nytimes.com/2008/02/27/business/media/27cnd-buckley.html>.

⁷² Teles, *The Rise of the Conservative Legal Movement*, 148.

⁷³ "The Chicago Federalist Society Presents Congressman Henry Hyde" (The Chicago Maroon, February 8, 1983), The University of Chicago Library, <http://pi.lib.uchicago.edu/1001/dig/campub/mvol-0004-1983-0208/2>.

⁷⁴ "Remembering Henry Hyde," Crisis Magazine, November 29, 2007, <https://www.crisismagazine.com/2007/remembering-henry-hyde-2>.

⁷⁵ "Memorial Addresses and Other Tributes Held in the House of Representatives and Senate of the United States Together With a Memorial Service in Honor of Henry J. Hyde" (U.S. Government Printing Office, 2008), <https://www.govinfo.gov/content/pkg/CPRT-110JPRT39800/html/CPRT-110JPRT39800.htm>.

programming topics toward explicitly religious political issues, as opposed to the more secular issues the club had been engaging with initially.

A couple of months later, from April 8–10, the Chicago Federalist Society chapter hosted the organization's second annual symposium, this one themed around judicial activism. An advertisement in *The Chicago Maroon* boasted Federalist Society representation at over 65 law schools adjacent to its list of high-profile guests.⁷⁶ Symposium speakers included returners Bork and Scalia, as well as new faces: Rex Lee, then Reagan's Solicitor General; Dallin Oaks, a Utah Supreme Court judge who Reagan had considered for the federal Supreme Court nomination; Paul Bator, Deputy Solicitor General; Frank Easterbrook, a Chicago law professor Reagan would nominate to the Seventh Circuit the following year; Charles Rice, a Notre Dame professor and member of the Department of Education's Education Appeal Board; and William "Bill" Kristol, a University of Pennsylvania and Harvard professor who would be selected as the chief of staff to Reagan's then-secretary of education the following year, among others. Not only were most of these speakers all prominent legal professionals at the national level, but some were overtly affiliated with conservative Christian causes. Prior to his appointment, Lee publicly opposed initiatives such as school busing, abortion, and affirmative action and supported school prayer, and as the Solicitor General, Lee argued on behalf of the Reagan administration that to exclude Christianity from public life would be un-American.⁷⁷ Rice, who founded the New York State

⁷⁶ "The Federalist Society for Law and Public Policy Studies Presents A Symposium on Judicial Activism" (The Chicago Maroon, April 5, 1983), The University of Chicago Library, <http://pi.lib.uchicago.edu/1001/dig/campub/mvol-0004-1983-0405/5>; "The Federalist Society for Law and Public Policy Studies Presents A Symposium on Judicial Activism" (The Grey City Journal, April 8, 1983), The University of Chicago Library, <http://pi.lib.uchicago.edu/1001/dig/campub/mvol-0004-1983-0408/19>.

⁷⁷ David Binder, "Rex Lee, Former Solicitor General, Dies at 61," *The New York Times*, March 13, 1996, <https://www.nytimes.com/1996/03/13/us/rex-lee-former-solicitor-general-dies-at-61.html>; Naomi Cohen, *Jews in Christian America* (Oxford: Oxford University Press, 1992).

Conservative Party, authored an extensive number of works advocating for conservative legal stances on the issues of school prayer and abortion.⁷⁸ Oaks, alongside his judicial career, was an active leader of the Church of Jesus Christ of Latter-Day Saints and publicly asserted that moral absolutes derived from religion should guide public policy and law.⁷⁹ In another newspaper piece previewing the second symposium, the event's topics are described as including "the withdrawal of court jurisdiction as proposed in right-to-life and busing bills" and "the Supreme Court's rewriting of the Constitution under the guide of interpretation," with speakers examining "growth in the scope and degree of judicial power initiated by the Warren Court and exemplified by recent decisions such as *Roe vs. Wade*."⁸⁰ The symposium's advertising was clear: the Federalist Society's programming overlapped with the legal priorities of the New Christian Right, which emphasized the importance of pushing back on liberal legal victories such as *Roe* and school busing.

1986 Onward: The Federalist Society's Professional Expansion

On July 23, 1986, *The New York Times* ran an article profiling the Federalist Society in the aftermath of Antonin Scalia's nomination to the Supreme Court. It was five years after the 1981 founding, and the organization had just debuted its Lawyers Division that year. Besides these new professional chapters in three major U.S. cities, the bulk of the Federalist Society's work was still taking place on law school campuses. However, 1986 marked the end of the

⁷⁸ "Charles Edward Rice," *South Bend Tribune*, n.d., sec. Obituaries, <https://www.legacy.com/obituaries/southbendtribune/obituary.aspx?n=charles-edward-rice&pid=174266944&>.

⁷⁹ "General Authorities and General Officers: President Dallin H. Oaks," The Church of Jesus Christ of Latter-Day Saints, n.d., <https://www.churchofjesuschrist.org/church/leader/dallin-h-oaks?lang=eng>; John-Charles Duffy, "Conservative Pluralists: The Cultural Politics of Mormon-Evangelical Dialogue in the United States at the Turn of the Twenty-First Century" (University of North Carolina at Chapel Hill, 2011).

⁸⁰ "Conservative Law Symposium," *The Chicago Maroon*, April 8, 1983, sec. News in brief, The University of Chicago Library.

Federalist Society's time existing solely as a student club and the beginning of its official expansion into the professional legal world. Calabresi, who had graduated from Yale Law School and taken a position as a special assistant to Reagan's attorney general, Edwin Meese III, candidly and enthusiastically described the status of the Federalist Society's presence on the legal landscape to the *New York Times* profiler.

Mr. Calabresi says more than half the 153 Reagan-appointed Justice Department employees and all 12 assistant attorneys general are members or have spoken at Federalist Society events.

"Obviously, we do not run the Justice Department," Mr. Calabresi said. "But we definitely have had an influence in terms of bringing in conservatives who otherwise would not go into Government."⁸¹

All of these appointments emerged not from a movement initiated by veteran players of the conservative establishment, nor from an old-guard professional network of longtime practicing lawyers. They were set into motion by a student club started five years prior. But, it was the assistance of those veteran conservatives and longtime lawyers that ensured the Federalist Society's success. More importantly, the defining factors in elevating the club to a nationally-influential organization—one that could go so far as to place multiple members on the Supreme Court—were the club's fit into a broader political aspiration and the willingness of conservative leaders to fund and support its realization.

The Federalist Society's success is just one example of the rewards that long-term political investments can sow. Within the last year, political scientists have only just begun to trace the steps that have led to the New Christian Right's powerful presence in the judiciary and identify the roles that secular organizations, such as the Federalist Society, played in securing

⁸¹ "Judge Scalia's Cheerleaders," *The New York Times*, July 23, 1986, sec. Washington Talk, The New York Times Print Archive.

that leverage. These authors have found that the process of engaging in secular litigation is a method of network-building that has proven critical to the New Christian Right's expansion in the area of public interest law.⁸² In its current form, as a fully-realized network of both students and professionals, the Federalist Society serves as an institutional and political link between the mainline conservative legal community and Christian conservative legal actors.⁸³ That is not to say that the Federalist Society was, at its core, an arm of the New Christian Right and nothing else. In its early years of event programming, the Federalist Society did host speakers and engaged topics that were entirely secular, with no religious affiliation whatsoever, and in the years since then, its programming has not shifted toward any sort of overtly religious focus.⁸⁴ Rather, it was the mutually-beneficial relationship between a group of young conservative students and a national political coalition that ensured the Federalist Society's ability to create a powerful network of conservative actors capable of occupying positions all across the American judiciary. While the spread of Federalist Society members is evident, many of them are still relatively young and remain active advocates within the legal profession. The tangible impact that Federalist Society members have enacted, or will enact, on legal precedence has yet to be examined in detail. But, there is little doubt that these changes to judicial doctrine—like the presence of Federalist Society members across American government—will be expansive.

⁸² Amanda Hollis-Brusky and Joshua C. Wilson, "Playing for the Rules: How and Why New Christian Right Public Interest Law Firms Invest in Secular Litigation," *Law & Policy* 39, no. 2 (April 2017): 121–141; Joshua C. Wilson and Amanda Hollis-Brusky, "Higher Law: Can Christian Conservatives Transform Law Through Legal Education?," *Law & Society Review* 52, no. 4 (2018): 835–870.

⁸³ Garber, "The Christian Right."

⁸⁴ "Legalizing Insider Trading,' Henry Manne" (Yale Daily News, February 19, 1985), Yale Daily News Historical Archive, <http://digital.library.yale.edu/cdm/compoundobject/collection/yale-ydn/id/158560>.

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