

Despite continuing controversy and legislative proposals, scientific creationism has not achieved success in the courts.

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In the early 1960s two Southern California housewives appeared before the Orange County School Board and later the California State Board of Education to express concern over how evolution was being presented in their children's classrooms and science textbooks. Their testimony, along with the influence of Max Rafferty, resulted in a state board policy dictating that evolution be described as a theory or hypothesis by California teachers and in future textbooks. Their success led to highly publicized and hard fought efforts to have the California State Board of Education establish policy that would result in the Genesis account of creation receiving attention commensurate with that given to evolution in science textbooks and classes in the state.

These efforts were unsuccessful but they served as a catalyst and model for other individuals and groups who lobbied state legislatures, state and local boards of education, and state textbook commissions to adopt laws or policies mandating that creationism receive equal time or consideration with evolution. As a result of this lobbying, 22 bills containing similar requirements in support of the creationist viewpoint were introduced in various state legislatures between 1964 and 1978 (Wilhelm, 1978). In 1979 and 1980 these legislative efforts intensified as bills were introduced in at least 11 states that included Florida, South Carolina, Illinois, New York, Iowa, Minnesota, and Georgia. The effort in Georgia nearly succeeded; supporters there had predicted that similar legislation would be introduced in as many as 40 states if the bill passed.

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LEGAL ISSUES INVOLVED IN EVOLUTION VS. CREATIONISM

The language of the proposed legislation has varied but the intent has not. The first bills introduced required the study of evolution to be neutralized by giving equal consideration to the biblical account of the origin of life as recorded in Genesis. This account, when interpreted literally and dated using biblical chronologies, holds that 6,000 years ago all forms of life, including humans, were created in a single burst of creation as discrete and immutable types. Around 2400 B.C., a large number of these organisms became extinct during the Noachian deluge and flood sent by God.

These legislative attempts encountered serious constitutional problems. A 1973 Tennessee law that required alternative theories of creation be included in textbooks discussing the origins or creation of humans and their world was declared unconstitutional by the U.S. Sixth Court of Appeals. The Tennessee law mandated including the Genesis account among the various theories, but it excluded occult or satanical beliefs concerning the origin of humans. The court ruled this legislation gave "a clearly defined preferential position for the biblical version of creation" and thus was unconstitutional as "the First Amendment does not permit the State to require that teaching and learning must be tailored to the principles or prohibition of any religious

sect or dogma" (Daniel v. Waters, 1975, pp. 489-490). The Court's decision was based on and re-emphasized the Supreme Court decision, which held that antievolution legislation in Arkansas was unconstitutional and:

Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion; and it may not aid, foster, or promote one religion or religious theory against the militant opposite (*Epperson v. Arkansas*, 1968, p. 234).

In 1975, the Indiana Commission on Textbook Adoption approved a creationist biology textbook (Moore and Slusher, 1974) for state adoption. A state judge ruled the action violated state and federal constitutions as the approval of the textbook "both advanced particular religious preferences and entangled the state with religion" (Hendren v. Campbell, 1977, p. 39). The judge also asserted that the purpose of the textbook was "the promotion and inclusion of fundamentalistic Christian doctrine in the public schools" (p. 39).

These decisions evidence the unconstitutionality of legislation and local resolutions requiring science textbooks and curriculums to include the Genesis account of creation. W. R. Bird (1978), an attorney who supports the addition of scientific creationism to biology curriculums,

conceded this in stating that the "presentation of biblical creation would contravene the establishment clause and thus could not be employed to neutralize a public school course" (pp. 553-554).

Because of these constitutional entanglements, creationists now advocate the use of scientific creationism, rather than biblical creationism, to neutralize the study of evolutionary theory. Scientific creationism is biblical creationism without theological terminology and is defined in creationist literature and most of the recently introduced legislation as a belief in:

(a) Special creation of the universe and life; (b) The insufficiency of mutation and natural selection in bringing about progressive evolution; (c) Fixity of originally created kinds of plants and animals; (d) Distinct ancestry for man and apes; (e) Explanation of the earth's geology by catastrophism, including the occurrence of a worldwide flood; (f) A relatively recent inception of the earth and living kinds (House Bill H. 3444, South Carolina).

Legislative efforts are buttressed by the argument that scientific creationism should be used to neutralize instruction concerning the origin of life because exclusive instruction in the general theory of evolution abridges the free exercise of religion for many public school students as the premises of evolution are contrary to certain religious convictions and may burden the free exercise of religion by undermining belief in essential religious tenets (Bird, 1978). Bird (1979) also argued that exclusive presentation of evolution is contrary to the establishment clause of the First Amendment because it has an unneutral effect "between theistic religions and other religions and between religious concerns and secular concerns" and because "it has strong implications supportive of some religions and contrary to other religions" (p. 203). Bird stated the required neutrality could be restored by balancing instruction concerned with evolution with scientific creationism.

Does exclusive instruction in evolutionary theory burden the free exercise of religion? Bird (1978) admitted that judges in two cases (Willoughby v. Stevens 1974; Wright v. Houston, 1972) determined "that exclusive instruction in the general theory does not yield coercion against religious exercise" (p. 527). However, Bird argued that the judges failed to rec-

ognize coercion and that the issue had not been resolved completely.

Even if coercion exists when evolution is taught, the neutralization of the curriculum with scientific creationism may not be a remedy. In the early 1970s, extreme pressure was exerted on the California State Board of Education to adopt only science textbooks that provided coverage of both evolution and scientific creationism. On the basis of the educational materials he examined, California Attorney General Evelle Younger (1975) expressed in a legal opinion the view that scientific creationism had an inherent religious basis and "its status as religious belief impedes its introduction into the textbooks adopted for use in the public schools because of the breadth of the First Amendment" (p. 16). Furthermore, Younger stated that the inclusion of a scientific theory of evolution in a textbook did not violate the First Amendment and, even if it did, "it would not follow that the duty of the Board of Education to remedy such an alleged coercive effect would be to include in public school textbooks a 'balancing' religious treatment of creation" (p. 15).

Another argument aimed at eliminating or diminishing the study of

money presenting biblical creation as it does on displays depicting evolutionary theory. The suit also asked that an exhibit on evolution not be prepared because it was incompatible with the plaintiff's religious beliefs. In dismissing the suit, the federal district judge in Washington, D.C., ruled that the museum "in no way treats evolution as part of a religion, secular humanism, or otherwise" ("Museum Free . . .," 1978). The judge also iterated that the Supreme Court had made it clear that "the state has no legitimate interest in protecting any or all religions from views distasteful to them" and that the presentation had "the solid secular purpose of increasing and diffusing knowledge among men as to scientific learning on creation and environmental adaptation" ("Evolution Exhibit Opens . . .," 1979).

In an earlier opinion Younger (1975) answered the creationist argument that evolution was dogma and advanced agnostic or atheistic beliefs by stating it was "unlikely to the point of improbability that a court would find that a scientific treatment of evolution in science textbooks is, directly or indirectly, the advancement of an agnostic or atheistic belief" (p. 14). Younger's opinion and

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evolution in public schools claims evolutionary theory is religious theory and, in particular, an important tenet of secular humanism. Whitehead and Conlan (1978) claimed secular humanism was "the religion of the modern age" (p. 54) and "its unconstitutional establishment within our governmental organs" must be prohibited (p. 65). Bird (1979) also argued that exclusive instruction in evolution established a liberal, humanist, or nontheistic or secularistic religion" (p. 204). Using these arguments, the National Foundation for Fairness in Education and other plaintiffs recently sued the Smithsonian Institution to spend as much

the federal judge's ruling appear to make efforts to brand and ban evolution as a religion seem futile. Bird (1979), in developing his legal argument against exclusive instruction of evolution, conceded this in stating that the theory of evolution was not religious in nature.

This nation has over 14 million individuals who "are adherents of religions that explicitly teach special creation" (Bird, 1978, p. 550). According to a Gallup Poll, 58 percent of the Protestants and 47 percent of the Catholics polled believed that human life began when Adam and Eve were created by God (Noll, 1980). Undoubtedly many of these

individuals prefer that the study of evolution be banned or neutralized with creationism. Other representatives of the many religions present in this pluralistic nation probably would like their views on the origin of life included in the curriculum, also. However, in *Wright v. Houston* (1972) the judge ruled that a requirement to teach every theory of human origin "would be an unwarranted intrusion into the authority of public school systems to control the academic curriculum" (p. 138). Furthermore, there are cases where the preferences of an individual or a majority cannot prevail. Supreme Court Justice Douglas stated that "Our individual preferences, however, are not the constitutional standard. The constitutional standard is the separation of Church and State" (*Zorach v. Clausen*, 1951, p. 314).

Overall, attempts to mandate the teaching of creationism have been ruled in conflict with the First Amendment. Exclusive instruction in evolutionary theory has not been viewed as an infringement of the free exercise of religion. Legal and judicial opinions have not considered biblical creation or scientific creationism scientific nor evolution as religious dogma. Furthermore, the scientific community has viewed the creationist tenets as fringe ideas that are antiquated scientifically and are of no use in explaining biological and physical aspects of the universe. As a result, the ideas of creationists have not served as focal points for research and the expenditure of time, effort, and research funds. Creationism has not been suppressed, but it has not been able to compete in the market place of ideas; it has been rejected and ignored, and textbooks reflect this rejection. A review of 93 secondary school biology texts published in the period 1900-1977 found only six textbooks that mentioned special or scientific creationism (Skoog, 1979). The scientific and legal arguments of creationists provide few reasons to change this historical pattern.

Creationist goals extend beyond the alteration of the science curriculum; they include conversion and faith maintenance (Bates, 1976). Reflecting these goals, a recent creationist convention was organized around the theme "Repossess the Land." Discussions included how the cur-

riculum of schools could be altered and how the country could be turned back to the Bible (Parker, 1980). Nell Seagraves, director of the Creation Science Research Center in San Diego, indicated it was established so that "every man who comes in contact with the truth of creation must in reality come in contact with the truth of the One Who is the Creator, Jesus Christ" (Bates, 1976, p. 104). The perspective of the Institute for Creation Research (which is church-run and whose sample resolution provided a model for the creationist legislation recently introduced in South Carolina, New York, Illinois, and Florida) was reflected by a statement in their newsletter that "a revival of solid belief in special creation, especially among young people, could easily spark the greatest movement of true evangelism and Christian consecration of modern times" (Morris, 1973).

Because of their commitment to these goals and the growing concern of many fundamentalists over the erosion in the belief of the Bible's inerrancy, the evolution-creation controversy is far from finished. If local boards of education and state legislatures succumb to the pressure and mandate the creationist proposals, secular and sectarian damages will result. Current events and recent history provide many negative examples of what happens when dogma is imposed on students and citizens. Religious groups also suffer when their goals and dogma rely on public support. Tocqueville's observations, made in 1835, seem relevant to this controversy. He said that religion prospered in America because "it restricts itself to its own resources" (1966, p. 275) and that when religions seek to "extend their power beyond spiritual matters they run the risk of not being believed at all" (p. 410). ■

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