



The Teaching of Creationism, Intelligent Design, and Divine Design in Public Schools

There have been three distinct movements to establish the teaching of the Biblical interpretation of creation in American public schools. The first was made popular by the Scopes “Monkey Trial” after the State of Tennessee prohibited the teaching of evolution in public schools. The second movement attempted to mandate that public schools give equal time to the theory of evolution and Creation Science. And today, the third movement seeks to introduce creationism into the public school science curriculum through either the mandatory teaching of Intelligent Design or Divine Design, or mandatory disclaimers as to the factual nature of the theory of evolution.

All three movements share the idea that all living species in their present form can be attributed to a creator or designer that is supernatural or not knowable by scientific means. All three also share a common goal of undermining or opposing the scientific theory of evolution—that all living species are the result of physical changes over vast periods of time through natural processes knowable through scientific means.

The first movement sought to prohibit the teaching of evolution in public schools altogether, and often mandated the teaching of creationism. This movement is best exemplified by the 1925 Scopes “Monkey Trial” in *Scopes v. State*, 289 S.W. 363 (Tenn. 1927). The ACLU assisted in the defense of public school teacher John Scopes, charged under a Tennessee state statute prohibiting the teaching of evolution.

Mr. Scopes lost his case and the issue wasn’t resolved until the 1968 U.S. Supreme Court case, *Epperson v. State of Arkansas*, 393 U.S. 97 (1968), which struck down a similar Arkansas prohibition of the teaching of evolution. In *Epperson*, the Court held the Arkansas law unconstitutional under the Establishment Clause of the First Amendment of the U.S. Constitution because its purpose was the advancement of a religious belief in the creation account found in the Book of Genesis, and the protection of such religious belief against a contrary scientific theory.

As the *Epperson* Court stated, the Establishment Clause of the Constitution draws an “absolute” prohibition against government aiding religion, preferring a religious doctrine, or protecting religious doctrine from an antagonistic theory. Government must remain neutral towards religion and non-religion alike. So while teaching religion in public schools as part of a “literary or historic viewpoint, presented objectively as part of a secular program of education” is acceptable, teaching for the purposes of furthering a religious doctrine or protecting such a doctrine from another theory is constitutionally forbidden.

The second movement attempted to avoid violating the Establishment Clause by mandating the teaching of Creation Science as an alternative theory to evolution. Creation scientists sought to sidestep creationism being classified as a promotion of religion by avoiding

reference to a literal interpretation of Genesis and by providing scientific explanations of divine creation. The creation scientists retained the premise that the universe was created by God and creationism's opposition to the theory of evolution in public school science class. Rather than trying to ban the teaching of evolution in favor of creationism, creationists attempted to formulate an alternative scientific theory.

In 1987, the U.S. Supreme Court held that a Louisiana law mandating the equal-time teaching of creationism was unconstitutional (*Edwards v. Aguillard*, 482 U.S. 578 (1987)). The Court noted that parents entrust their children to the schools "on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family." Further, the court noted that because children are impressionable and public school attendance is mandatory, the courts are especially vigilant of Establishment Clause violations.

The Louisiana law purported to protect academic freedom by requiring the teaching of creation science in addition to evolution, but the Court found this to be a "sham" secular purpose. Teachers already had the flexibility and freedom to teach any scientific theory. The Court decided that the purpose of the law was the invalid furtherance of a religious doctrine that a supernatural being created humankind, and the prohibition of a theory perceived to be antagonistic to that religious doctrine. The religious nature of Creation Science was unavoidable because of the ties between creationists and creation scientists, the inescapably religious nature of a supernatural creator, and the inherent conflict between creationism and mainstream science. Of particular importance is the Court's statement in *Edwards* that the Establishment Clause bars any theory predicated on supernatural or divine creation because such theories are inherently and inescapably religious, regardless of whether "they are presented as a philosophy or as a science."

Today, proponents of creationism are attempting to introduce creationism into the public school curriculum in two ways: 1) disclaimers from either teachers or stickers on books telling students that advocates of creationism dispute the scientific theory of evolution; and 2) advocating equal time for the teaching of Intelligent Design or Divine Design. The disclaimer approach has been struck down as unconstitutional in *Freiler v. Tangipahoa Parish Bd. of Education*, 185 F.3d 337 (5th Cir. 1999) and *Selman v. Cobb County School District*, 2005 WL 83829. Most recently, parents represented by the ACLU successfully challenged a Dover Pennsylvania School District policy that required high school science teachers to read a statement questioning the theory of evolution and presenting Intelligent Design as an alternative (see [Kitzmiller et al v. Dover Area School District](#)).

Divine Design disassociates itself from traditional creationism by theorizing that a non-sectarian supernatural creator designed the universe. Intelligent Design proponents go further and seek to avoid the unconstitutionality of the Creation Science equal-time approaches by not mentioning the nature of the intelligent designer or the Bible altogether. But these approaches are semantic glosses on the underlying creationist concept of a supernatural designer unknowable by science, the creation of all living species by non-natural processes, and opposition to the scientific theory of evolution.

The mandatory inclusion of Intelligent or Divine Design theory in public school science curriculum is thus likely to be held unconstitutional for reasons similar to those articulated in

the *Edwards v. Aguillard* equal-time decision. Just as in *Edwards*, Intelligent or Divine Design advances an inherently religious belief in an unknowable creator and it opposes the scientific theory of evolution. The conflict between Intelligent or Divine Design and mainstream science, the inherently religious nature of a universal designer, and the historical link between proponents of Intelligent Design and creationism is likely just as fatal today as it was when *Edwards* was decided in 1987. The religious nature of Intelligent or Divine Design proposals cannot be avoided, as the U.S. Supreme Court noted in *Edwards*, “merely because they are presented as a philosophy or as a science.”

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