

## Creationism and Public Education

### I

When the creationism vs. evolutionism issue is discussed in relation to public education, it is treated exclusively as a question of the establishment of religion. Yet, there is another side to the case, namely, the question of the right of a religious belief not to be discredited by the government.

This one-sided emphasis is understandable, since the issue before the courts in the South, namely, whether creation-science is really a scientific doctrine or is in fact a religious one, is a question of establishment. Concerning the Arkansas creation-science law, federal judge William Overton ruled that it was really a religious belief masquerading as a science. We concur with the court's opinion. What we would like to point out, however, is that banning creationism from the schools does not necessarily solve the creationism case, for there is also the constitutional problem of the religious freedom of creationism being infringed upon by the schools.

The solution of banning creationism from the classroom while allowing the teaching of evolutionism may satisfy the requirements of the no-establishment clause of the First Amendment, but not the requirement of the second clause that the school not interfere with creationism's right to the free exercise of religion. We might add that the First Amendment also prohibits the school from interfering with the right of creationism to free speech.

Creationism's right to free exercise is violated by the fact that the school allows evolutionism to contradict the truth claims of creationism. The free exercise of religion clause requires the school to be neutral to any and all religions. Accordingly, the school cannot pass judgment on the truthfulness of religion. But by permitting the teaching of evolutionism, the school is implicitly and indirectly passing a judgment that creationism is false, thereby placing this particular religious belief at a special disadvantage.

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\* Dr. Baltazar teaches at the University of the District of Columbia and has contributed other articles to JITC.

Thus, the issue of creationism vis-a-vis public education is wider than the question of establishment. It is also a question of the right of a religious belief, no matter how unpopular it is, to free exercise.

Our purpose here is not to defend creationism as a science, for we hold the opinion that it is a religious belief. Nor is it our purpose to defend the truth claims of creationism as a religious belief, for, as a matter of fact, we doubt these claims. Our interest here is in defending the rights of a religious belief, no matter how unpopular, to free exercise and to free speech.

## II

As we noted earlier, the banning of creationism from the classroom satisfies the no-establishment clause provision, but it does not satisfy the requirement of the free exercise clause that the school be neutral to creationism. It is not the banning of creationism as such which endangers the school's neutrality but the combined action of banning creationism while including evolutionism in the curriculum. If creationism and evolutionism were given equal and balanced treatment in the classroom, then the neutrality of the school to creationism would be secured. But in trying to comply with the requirements of the free exercise clause, the school runs afoul of the no-establishment clause which requires that the school not aid or promote religion. Thus, the school is caught in a dilemma arising from the conflicting requirements of the two religion clauses of the First Amendment. How does one resolve the dilemma?

To find the answer to our problem, let us look at a parallel case, namely, the case of theism vis-a-vis public education. Banning the teaching of belief in God does not jeopardize the school's neutrality to theism, as long as atheism is also banned. But can we apply this arrangement to the present case? Should the school ban evolutionism also? If evolutionism were a religious belief like atheism, then, it, too, would have to be banned. But is evolutionism really a religious belief? We will prescind from this question and assume instead that evolutionism is going to be taught. Starting from this assumption, how does one resolve the dilemma? Since evolutionism is going to be taught and since the banning of creationism violates the requirements of the free exercise clause, there is only one alternative left and that is to allow the teaching of creationism in the classroom. But in so doing, do we not instead impale the school in the horn of the establishment clause? For is not the teaching of creationism an establishment of religion? To escape impalement, one has to grasp the dilemma by the horns. This means rejecting the premise that the teaching of creationism is an establishment of religion. It must be made clear, however, that the premise we are defending is not "The teaching of creationism in the classroom is not an establishment of reli-

gion" but "The teaching of creationism along with evolutionism in the classroom is not an establishment of religion". To defend this latter premise, we need to review recent court decisions as to how the establishment clause is to be interpreted. For this review, we depend heavily on Paul G. Kauper's analysis. [See his book, *Religion and the Constitution* (Louisiana State University Press, 1964)].

### III

According to Kauper, recent court interpretation of the establishment clause may be conveniently grouped into three theories: 1) Strict separation theory, 2) Neutrality theory, and 3) Accommodation theory.

According to the strict separation theory as explained by Mr. Justice Black in the *Everson* case, the "establishment of religion" clause of the First Amendment means at least this:

Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and state'. (Kauper, *op. cit.*, p. 60).

As Kauper summarizes the strict separation theory, the key idea that arises from *Everson* is that of "no-aid," that is, that the government cannot aid or support religion or religious activities. (*Ibid.*, p. 61).

Looking at our case, it would seem that the strict separation theory forbids the teaching of creationism in the classroom as being an aid to religion. But, as Kauper observes, the "no-aid" principle allows indirect aid to religion, that is, as long as the aid is "incidental to a general governmental program designed to serve an appropriate secular interest." (*Ibid.*, p. 62). An example of incidental aid to religion would be the transportation of parochial school students at public expense. Another is the Sunday closing law cases in which it was argued by the courts that the fact that Sunday benefited Christians is incidental to the proper secular goal of a day of rest during the week. (*Loc. cit.*).

Can we similarly argue that the teaching of creationism is an incidental aid to religion because there are appropriate secular objectives that it is designed to serve? Yes, there are at least four secular goals that the teaching of creationism is designed to serve.

The first secular objective is the need to maintain and preserve the school's neutrality to religion. The second is to fulfill the school's obligation to respect creationism's right to free speech.

According to Justice Holmes, free speech is "the necessary condition for arriving at truth in the market place." (Cited from Kauper, *op. cit.*, p. 21). And Prof. Alexander Meiklejohn adds that free speech is "the indispensable condition of our democratic order, since without freedom

of dissent, democracy loses its central core." [See his book, *Political Freedom: The Constitutional Powers of the People* (New York: Harper Brothers, 1960), pp. 24-28. Quoted from Kauper, *op. cit.*, p. 21)]. The right of creationism to free speech requires that it be allowed freedom of dissent. This it cannot do if it is not given the opportunity to present its case against evolutionism in the classroom.

The third secular objective is to fulfill the school's duty to educate. Education means providing the conditions for true learning. True learning requires that all sides of an issue be given balanced treatment. If the school presented only one side of an issue, then it would not be educating but indoctrinating and propagandizing.

The fourth secular objective is to fulfill the duty of the school to be an upholder of democracy and democratic principles. The foundation of a democracy is informed choice. Informed choice cannot be achieved unless all sides of an issue are presented.

#### IV

Let us next consider the neutrality theory to see whether it, too, can justify the teaching of creationism.

The idea of neutrality as the guiding principle for interpreting the First Amendment clauses on religion was expressed by Mr. Justice Clark in the *Schempp* case. A "wholesome neutrality," he noted, was what the Constitution requires. By neutrality is meant that the government must neither advance nor inhibit religion. In order to abide by the no-establishment clause, any law or government program must be directed toward secular goals. This does not deny aid to religion as long as it is incidental to legitimate secular objectives. (*Ibid.*, p. 65).

As Kauper correctly observes, there is "no apparent difference in the results reached under the two different tests so far as aid to religion is concerned." (*Ibid.*, p. 66). He adds, however, that "the critical difference between the two is that the no-aid test — derived from the establishment clause — is directed only to inquiring whether government is acting in aid of religion, whereas the neutrality test is further concerned with the question of whether government by its laws and programs is subjecting religion to a special disadvantage." (*Ibid.*, pp. 66-67). This latter point applies directly to our case, for the government program of banning creationism while allowing evolutionism in the classroom would subject creationism to a special disadvantage. Thus, the banning of creationism as a form of nonestablishment is not allowed by the neutrality theory.

#### V

Finally, let us consider the accommodation theory in relation to the teaching of creationism.

The accomodation theory goes even farther than the first two in allowing government aid to religion. For under the "no-aid" and neutrality tests, the system of released time for religious instruction would clearly be illegal, since, as Kauper notes, "here the government was party to a program designed to advance religious ends." (*Ibid.*, p. 70). Thus, if aid to a program designed to advance religious ends is justified as a form of accomodation, *a fortiori*, a program, like the teaching of creationism, which is an incidental aid to religion is justified.

The accomodation theory not only gives a justification for the teaching of creationism in a general way, but also specifically addresses the dilemma we are confronted with in the creationism case, namely, the conflict between the two religion clauses.

Besides affirming the interpretation of the neutrality theory that "the no-establishment principle cannot be used to jeopardize the free exercise of religion," (*Ibid.*, p. 71) it specifies how the conflict is to be resolved if such a thing occurs. Thus, it states that "any principle of no-aid or neutrality derived from the establishment limitation must yield in order to assure the full enjoyment of religious liberty or permit the legislature a discretionary authority to implement this liberty." (*Loc. cit.*). From this last directive, legislatures could justify the inclusion of creationism in the school curriculum, since the necessity of not giving aid to creationism must yield to the more pressing need of insuring that creationism have the full enjoyment of religious liberty.

## VI

As a final observation, we might note that the proponents of creationism would have far better success having creationism included in the school curriculum if they simply admitted that creationism is, in fact, a religious belief and then argue for its right to free exercise. We have argued for the teaching of creationism in the school not to support creationism *per se* but to defend religious liberty.

The first step in the development of a new drug is the selection of a chemical structure which is believed to have the desired pharmacological effect. This is usually done by a chemist who has a knowledge of the chemical and physical properties of various compounds. The next step is the synthesis of the compound in a laboratory. This is usually done by a chemist who has a knowledge of the chemical and physical properties of various compounds. The next step is the purification of the compound. This is usually done by a chemist who has a knowledge of the chemical and physical properties of various compounds. The next step is the testing of the compound in animals. This is usually done by a biologist who has a knowledge of the physiological and pathological processes of various animals. The next step is the testing of the compound in humans. This is usually done by a physician who has a knowledge of the clinical and pathological processes of various humans. The next step is the approval of the compound by the Food and Drug Administration. This is usually done by a government official who has a knowledge of the legal and regulatory requirements of various countries. The next step is the marketing of the compound. This is usually done by a pharmaceutical company who has a knowledge of the business and marketing requirements of various countries. The next step is the monitoring of the compound in the market. This is usually done by a government official who has a knowledge of the legal and regulatory requirements of various countries. The next step is the withdrawal of the compound from the market. This is usually done by a government official who has a knowledge of the legal and regulatory requirements of various countries.