



## THE CHALLENGE OF ACADEMIC FREEDOM

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*Advancement of all forms of knowledge depends on the right to freely search for the truth and the unhindered ability to disseminate the results. For this reason, academic freedom is universally regarded as a central requirement of a free society and a prerequisite for social and scientific advancement. Although college instructors are considered to have more academic freedom than high school teachers, litigation does not support this claim in the area of religious speech. There is little difference in legal rulings at any academic level. In all cases when information interpreted as favorable to a theistic worldview was presented in the classroom, the ruling went against the instructor, while in all cases critical of Intelligent Design and/or theism, U.S. courts ruled in favor of the teacher. In all cases it was the teacher who appealed to the courts claiming that academic freedom was denied, not the institution. Ruling that academic freedom does not reside in the teacher, but rather in the institution, goes against the very definition and purpose of academic freedom.*

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### DEFINING ACADEMIC FREEDOM

**A**cademic freedom is inseparable from a school's educational role and as a critic and conscience of a democratic society. An educational environment that encourages creativity, innovative ideas, and criticism of the status quo requires freedom to research and publish one's research findings. Academic freedom is, thus, central to the role of a modern educational system (Smith 1990). The U.S. Supreme Court ruled in *Keyishian v. Board of Regents* (1967) that academic freedom is a right protected by the First Amendment of the U.S. Constitution: "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom . . . . The Nation's future depends upon

leaders trained through wide exposure to that robust exchange of ideas which discovers truth out of a multitude of [persons and not due to authoritative selection]" (1967: 603). In *Shelton v. Tucker* (1960), the Supreme Court concluded that: "The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools," because the classroom is a critical part of the marketplace of ideas (1960: 487).

For almost a century, the American Association of University Professors (AAUP) has been engaged in developing standards for protecting academic freedom and working for the adoption of these standards by the entire higher education community. The AAUP's core policy statement argues that institutions of higher education are "conducted for the common good," which "depends upon the free search for truth and its free exposition" (2006: 171). The AAUP has since its inception been widely viewed by the courts and universities as the authoritative voice of academic freedom. The first formal statement, *The 1940 Statement of Principles on Academic Freedom and Tenure*, includes policies dealing with academic freedom as well as other issues relating to academia. These documents are published in the AAUP's *Policy Documents and Reports* known as the *Redbook*. Nearly every American university follows the AAUP standards that document why academic freedom is indispensable in all institutions of higher learning.

The importance of academic freedom is to protect "remarks we despise as well as those we endorse" (Nelson 2010: A29). It is not needed to protect accepted ideas, but rather to protect controversial speech and ideas that someday may not be controversial. Many ideas that were once controversial, such as heliocentrism, plate tectonics, the germ theory of disease, the pathogen cause of gastrointestinal ulcers, and even biological evolution, are now mainstream. The intent of the AAUP statement is to allow professors to research "controversial" issues for the reason that suppressing academic freedom may result in impeding research or ideas that could lead to breakthroughs in science, law, medicine or economics that will benefit society as a whole.

Controversy is at the heart of academic freedom that the AAUP statement is designed to allow. As Evelyn Hall famously once said, "I disapprove of what you say, but will defend to the death your right to say it," words that have been copied endlessly ever since. The AAUP *Redbook* details the purpose of supporting academic freedom, since "freedom in research is

fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning" (2006:171-72). The AAUP adds that:

when professors speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers . . . they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution (2006: 171-72).

The University of California Academic Senate Report defines academic freedom as "freedom of inquiry and research; freedom of teaching; and freedom of expression and publication. Academic freedom enables the University to uphold its essential mission to discover and disseminate knowledge to students and the public at large" (2010: 1). Some colleges add that full institutional academic freedom is limited to one's area of academic expertise, and protected only when exercised within the parameters of one's academic employment. First Amendment rights include the freedom of expression within constitutional bounds in any setting where one has a right to express one's opinion.

The definition propounded by Lord Jenkins, Chancellor of Oxford University, and now enshrined in British law, defines academic freedom as "the freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges they may have at their institution" (Bligh 1999: 109). This definition has served as the basis of many British court decisions.

Similarly, Scholars at Risk, a group of international scholars, defines academic freedom as the "right of scholars, individually and collectively, to teach and discuss, to carry out research and to disseminate and publish the results thereof, to express freely their opinion about the institution or system in which they work, to be free from institutional censorship, and to participate in professional or representative academic bodies without fear, persecution, harassment, intimidation and violence, without discrimination and without constriction."

## ACADEMIC FREEDOM OF RELIGION

Many court rulings have upheld the academic freedom and freedom of speech of educators who openly speak out against religious views, or share their personal religious beliefs with students. Most past decisions involve high schools, but court decisions involving religion are often similar for both pre-college and college levels. Typical is a federal District Court case in Gaston County, North Carolina, that upheld the right of a high school science teacher, Mr. George Moore, to teach his atheistic viewpoint (*Moore v. Gaston County Board of Education* 1973).

The Court argued that students have a right to be exposed to all points of view, and that the academic freedom for educators to express various points of view is an important constitutional right. The Court ruled that discharging a teacher for teaching his personal religious views in class, including those questioning the validity of the Bible, did not violate the Establishment clause. When students asked Mr. Moore if he believed that humans descended from monkeys, he responded that Charles Darwin's theory is true, and that the Adam and Eve account of Creation is false. He also told the class that he did not attend church, did not believe in life after death, or in heaven or hell. He also taught that the Christian God evolved from the ancient belief in numerous tribal gods.

Several students found this teaching objectionable, and attempted to leave the classroom. The entire class was so upset that it was dismissed early. The students then told their homeroom teacher about their experience. That evening, the school superintendent, Mr. William H. Brown, received several phone calls from irate parents. A meeting was held the next day, during which Moore was asked if he in fact had stated "that he did not believe in God, nor in life after death." He admitted he believed death was "ashes to ashes, dust to dust," and that he could neither prove nor disprove the existence of a Supreme Being. As a result of this meeting, Moore was terminated from his teaching position and brought suit (Moore 1973).

The District Court ruled that Moore had a right to advocate his particular religious views in the classroom, in this case an anti-Christian view. Quoting *Tinker v. Des Moines* (1969), the Court concluded that "teachers are entitled to first amendment freedoms," because "it can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or

expression at the school house gate" (1969: 506). Furthermore, these constitutional protections are unaffected by the presence or absence of tenure. The Court concluded that:

To discharge a teacher without warning because his answers to scientific and theological questions do not fit the notions of the local parents and teachers is a violation of the Establishment clause of the First Amendment. It is "an establishment of religion" . . . and a violation of the Constitution . . . . To forbid discussions of scientific subjects like Darwin's theory of evolution on "religious" grounds is simply to postpone the education of those children until after they get out of school. If a teacher has to answer searching, honest questions only in terms of the lowest common denominator of the professed beliefs of those parents who complain the loudest, this means that the state through the public schools is impressing the particular religious orthodoxy of those parents upon the religious and scientific education of the children by force of law. The prohibition against the establishment of religion must not be thus distorted and thwarted (Moore 1973: 1043-44).

The Court added that "the Supreme Court has on numerous occasions emphasized that the right to teach, to inquire, to evaluate and to study is fundamental to a democratic society," and that "the safeguards of the first amendment will quickly be brought into play to protect the right of academic freedom because any unwarranted invasion of this right will tend to have a chilling effect on the exercise of the right by other teachers" (Moore 1973: 1039-40). The federal District Court argued in the Moore case that the importance of open discussion of religious issues in the classroom is imperative, citing the effect that suppression of scientific thought and discussion had on the "scientific development of Italy and Spain." At first glance, then, the Moore ruling would appear to provide strong support for educators who are improperly dismissed because of accusations of presenting information in class in favor of theism or religion (Bergman 1989: 13).

### THE BISHOP CASE

Dr. Philip Bishop, an honor graduate of the U.S. Military Academy at Annapolis, and the University of Georgia, is a tenured professor of exercise physiology at the University of Alabama, and director of the university's human performance laboratory. His CV lists publications, honors, and awards (45 pages), and includes some 300 peer-reviewed publications. Bishop has

published more extensively than most professors at his university, and was so outstanding that he was recommended for early tenure by his department (Wagner in McConkey & Lawler 2000: 131). It was also "undisputed" that Bishop "covered the course material fully and that he was a well-regarded and successful teacher" (*Bishop v. Delchamps* 1991: 15).

The focus of the Bishop case was the university's claim that it had the absolute right to restrict even "occasional in-class comments" and the "optional out-of-class lecture" that mentioned "the professor's personal views on the subject of his academic expertise." Bishop admitted that his "personal religious bias" colored his perspective on his subject, human physiology, and he began each semester's classes with a two-minute discussion of his conclusions from his study of physiology, namely, that it provided abundant evidence for Intelligent Design, and not evolutionary naturalism (McFarland 1992: 2). He also occasionally mentioned his doubts about Darwinism's ability to create the living world (Wagner in McConkey & Lawler 2000: 132-33). The university totally forbade him from ever mentioning any of these beliefs *in class*.

To defend his academic freedom, Professor Bishop appealed to the courts. The U. S. District Court for the Northern District of Alabama in a summary judgment ruled against the university on almost every count on the basis of academic freedom, noting that faculty members are free to divulge their personal views in the classroom as long as they are not disruptive. The university appealed this decision to the eleventh Circuit Court (*Bishop v. Delchamps* 1991), which agreed with the trial courts statement of facts, but the three-judge panel reversed the decision, "thereby reinstating the censorship of professor Bishop" (Wagner in McConkey & Lawler 2000: 133). The Court added that "restricting Bishop's speech was a part of" the university's right, and that any lecture where he mentioned his doubts about Darwinism must be clearly separated from his classes, and the time and place must be approved by the university prior to the lecture, essentially preventing him from expressing his conclusions on campus. Dr. Bishop also gave an optional lecture titled "Evidence of God in Human Physiology," taught on his own time, which the district Court ordered him to stop (McConkey & Lawler 2000: 131-40).

Although Bishop's "comments were non-disruptive, non-coercive, and clearly identified as 'personal bias,'" the university argued that allowing

professors to present their own views in class implies that the university endorses them. In brief, the university concluded that it endorses "everything it does not censor" (*Bishop v. Delchamps* 1991: 10). Bishop argued that occasional expressions of personal belief at a public university "cannot be construed as bearing the university's imprimatur, and thus are protected under the First Amendment when they are non-disruptive and non-coercive" (*Bishop v. Delchamps* 1991: 9). Nearly everyone who studied sociology has had an instructor who openly argued for Marxism in class, but it is a rare student who infers from this that the university officially endorses Marxism. Wagner concluded the Court ruled that the university in this case had the absolute right to censor Bishop in clear violation of his academic freedom, because the issue involved a professor critiquing Darwinism (in McConkey & Lawler 2000: 135-37).

The university blocked Bishop, and *only* Bishop, from mentioning, even briefly, his personal worldview in the classroom, which he voiced to "help students in understanding and evaluating" his classroom presentations (*Bishop v. Delchamps* 1991: 7). Bishop's attorneys also argued that if only those with an atheistic or agnostic worldview could freely express their views, students might come to the erroneous conclusion that all professors shared the same worldview. McFarland characterized the case as follows:

The university administration ordered Dr. Bishop to discontinue his classroom speech as well as his optional on-campus-talk. No other faculty and no other topic have been similarly curtailed. Dr. Bishop obtained a federal court order protecting his free speech and academic freedom, but it was overruled in a disastrous opinion by the U.S. Court of Appeals . . . . The Court held that public university professors have no constitutional right of academic freedom and that their right of free speech in the lecture hall is subject to absolute control (censorship) by the University administration (1992: 2).

Another concern in this case was the university's use of derogatory labels for Bishop's view of origins, referring to them as "Bible belt" and, therefore, "inappropriate" at a university (McConkey & Lawler 2000: 132). Carl Westerfield, head of Bishop's academic unit, even claimed that Bishop's beliefs "hurt the reputation" of the university (Myers 1992a: 2). The *Amicus Curiae* and the brief prepared by Bishop's attorneys to appeal the case to the U.S. Supreme Court documented the fact that the censorship Bishop suffered is "reoccurring on campuses throughout the nation":

"We are shocked at the breadth of speech rendered vulnerable by the court of appeals' decision . . . [which gives] universities broad power to censor" (Pet. App. A10). This view is completely antithetical to the premise underlying higher education--that students grow intellectually from confronting new or disturbing ideas, not from avoiding them . . . petitioner was reprimanded for his expressions solely because of the religious viewpoint presented in it . . . [the university] routinely permits faculty to present non-religious perspectives in the classroom in their area of expertise. *Amici's* experience shows that such discrimination is, unfortunately, typical. Religiously committed academics in public universities across the country face resistance when they attempt, however briefly, to discuss or even disclose their ideological perspective in the course of their teaching or scholarship (*Bishop v. Delchamps* 1991: 5-6).

It is a valid concern in this case that in limiting the petitioner's classroom speech the Court of Appeals went far beyond both the petitioner and the classroom. The Court's rationale authorizes limitations on other forms of faculty expression. Bishop's Circuit Court appeal argued that the university restricted Dr. Bishop's speech "solely because of its religious content," and argued that "speech presenting a religious perspective is entitled to the same non-discriminatory treatment as other forms of speech" (*Bishop v. Delchamps* 1991: 13). The Court of Appeals' decision authorized "virtually limitless censorship of in-class or classroom-related speech by professors" if it can be construed as favorable to "religious" or "religiously motivated" views, even "if the views expressed are clearly identified as personal" (*Bishop v. Delchamps* 1991: 9).

Strictly applied, it would be inappropriate for a professor to state that he is Jewish or Muslim, goes to church, or believes in God (Robinson 1991). Yet the same professor is allowed to state that he does *not* believe in God or in a religious worldview. In brief, he can lecture *against* whatever the state defines as "religious" values or beliefs, but not *for* them (Crocker 2010). As Phillip Johnson points out, the decision in this case reflects an obvious contempt for those who have serious questions about Darwinism: "A subtext of contempt appeared when [Judge] Gibson explained why a professor of physiology was not allowed to tell his class about his doubts concerning the orthodox theory of human evolution . . . the university would certainly regard



such a professor as an embarrassment and would try to keep the damage to a minimum" (1995: 181). The Appeals Court held that the university could suppress "religiously friendly" speech merely to avoid a "potential establishment conflict," and even argued that the "expression of a religious position in a secular subject, no matter how carefully presented, creates the appearance of endorsement of that position by the university and engenders anxiety in students who may feel compelled to feign a similar belief and, worse still, deny their own beliefs" (Bishop Pet. App. 1991: A21-22). The U.S. Supreme Court rejected the petition for *Writ of certiorari*, and thus the case ended (the Court refused to hear the case).

### THE BISHOP CASE AND ACADEMIC FREEDOM

Bishop's attorney argued that "discomfort, anger, anxiety on the part of a student or two cannot authorize suppression of a viewpoint," because the whole point of academic freedom is to protect speech *specifically* in cases where it might engender disputes, disagreements, discomfort, anger or anxiety (1991: 15). Speech that does not generate these emotions is rarely suppressed, and thus its protection is of little concern (Hudson 1992). Anti-Christian speech in universities clearly "engenders anxiety" in Christian students and others, but efforts to suppress *that* type of speech have consistently failed (Crocker 2010; Bergman 2008). Furthermore, if strictly applied, this would require courses in the history of Western civilization (and all other civilizations) to expunge all discussion of the significant contributions that religion and religious beliefs have made to civilization, and that no college or university could offer *any* general course on philosophy, the history of philosophy, or even the history of science.

Yet, the Court of Appeals ruled that the university *can* "restrict speech"--even that which "falls short of an establishment violation" (Bishop Pet. App. 1991: A22). In brief, the Court ruled in this case that it can convict one of a First Amendment Establishment clause violation even if it rules that the person's actions fell short of committing the violation! The courts traditionally have required *overwhelming evidence* that major negative effects have occurred, and not merely indications that such *might* have occurred, as the ruling in this case concluded (*Tinker v. Des Moines* 1969: 526). This decision signifies a new trend: for statements that can be interpreted as endorsing theism, all other considerations (including the First Amendment) can be ignored--any speech that may endorse theism can be suppressed (Myers 1994).

The Bishop case is critically important because, as Johnson explains, the judge's opinion is a prime example of what he calls the "sham neutrality" of liberal Rationalism, where "toleration (which may include the right to censor the 'insensitive' speech of others) is extended to the morally worthy and denied to the unworthy without any explanation of the difference" (1995: 181-82). The bias in this case was so extreme that Robert Boston, spokesman for Americans United for Separation of Church and State, noted that "a Federal Court had applied the secondary-school ruling to a public university," and that courts tend to view college students as "more mature and better able to judge" if a professor's statements amount to institutional endorsement of religion (Jaschik 1991: A23).

Robert M. O'Neil, AAUP general counsel, stated that the judges had given university administrators far too much discretion, and the decision's wording was "dangerous and very sweeping," and "could represent an invitation for intrusion into the core of academic freedom--what goes on in the classroom" (Jaschik 1991: A23). J. Scott Houser, executive director of the Southern Center for Law and Ethics, concluded that this Appellate Court decision should concern all faculty: "In effect, it reduces the professor to a puppet of the university. The court held that the institution retains academic freedom, but professors do not" (Jaschik 1991: A23). Yet, the courts have consistently ruled in favor of faculty who endeavor to inject anti-religious, atheistic, or agnostic material into their classes. Johnson suggests that:

The opinion by Judge Floyd Gibson for the federal court of appeals said that the relevant principle . . . the right of educational administrators to control what is said in the classroom. The judiciary should not interfere with such internal university matters, said Gibson, because "federal judges should not be *ersatz* deans or educators." If Bishop and other professors were dissatisfied with the restrictions placed on them by their academic superiors, their remedy was not to go to federal court but to seek employment at a different university that was more tolerant (1995: 176).

Wagner concludes that "viewed in the light of our tradition of academic freedom the *University of Alabama* failed in its responsibility to defend Professor Bishop," and hence "all of us who teach in public colleges and universities . . . are left to contend with one of the worst judicial opinions on higher education in recent memory" (in McConkey & Lawler 2000: 139). One of the most extensive studies on academic freedom was completed by a study

committee at Columbia University. On the important question, "Does academic freedom mean the freedom of the academy or the freedom of the scholar in the academy?" the committee concluded that "intellectual life consists in the activities of a faculty, including in the first place their relation to the students. It is educational freedom that is at issue. *The academy is free when the scholars who make it are free, as scholars.* And the academy is free when its governing board is free to protect and to advance this freedom" (MacIver 1955: 3-4). The Court in the Bishop case clearly violated this widely accepted standard. The academy is not free when the educators who comprise it are not free.

### DARWIN CRITICISM BANNED IN SOCIAL STUDIES

A common academic standard is that creationism should not be taught in science classes, but could be taught as a segment of the social studies curriculum. Don Chernow, chair of California's Curriculum Commission, said that "creation theory should be discussed along with other religious issues, either in the history and social science curriculum or the English and language arts curriculum" (cited in Buderl 1989: 219). Ray Webster, an award-winning teacher, was ordered not to present alternative viewpoints on evolution in his *social studies classes*, and appealed. The U.S. District Court for the Northern District of Illinois Judge George M. Marovich ruled against Webster. In Spring 1987, a student in Webster's Oster-Oakview Junior High School social studies class alleged that Webster violated the "separation of church and state" by discussing creationism in class (Bergman 1990). The student contacted both the American Civil Liberties Union and Americans United for Separation of Church and State (Cain 1988: 4).

As a result, Alex M. Martino, the school superintendent, advised Webster by letter to refrain from critiquing Darwinism in classroom and was required to teach *only information in favor of evolution*. Furthermore, Webster was forbidden from mentioning that many people "reject evolution," and from bringing up "Christian viewpoints" on *any* social issues. Nor was he to use any materials that "advocated Christian interpretation of world events, history, government and science." Only non-Christian views and positions were allowed. The superintendent warned that, for violating this directive, Webster would be "subject to disciplinary action by the school district, including issuance of a letter of remediation and/or dismissal." Yet Martino's letter

failed to identify any specific incidence in Mr. Webster's classroom instruction which would even remotely indicate that he had violated the constitution or laws. Furthermore, said letter was vague and conclusionary, and did not provide for any specific detail or guidance as to how Mr. Webster might discuss topics relevant to his social studies classes and issues of common interest to all students without violating the principle of separation of church and state (*Webster v. New Lenox School District* 1989: 3-4).

Webster stated his goal was to open his students' minds to the fact that numerous viewpoints exist, and to advise them of the merits or demerits of each viewpoint (1989: 3-4). Webster's evaluations as an instructor document that he had "a high degree of concern for young people and an above-average ability to communicate with and teach students." His brief added that: "Webster believes, in the exercise of his professional judgment as a professional teacher, that he should teach consistent with his constitutional rights and said principles in order to present his social studies curriculum competently and to encourage the students to think analytically." A student in his class was part of his law suit, claiming that "he will not hear alternate non-religious points of view that Mr. Webster seeks to teach, and that he will be indoctrinated in state-approved orthodoxy while censorship occurs of alternate views." Webster argued that the school's censorship created a

chilling effect on the social studies classroom in that the defendants have not provided plaintiff with adequate guidelines or procedures for determining the appropriateness of discussing religious or religiously consistent issues of national importance in the social studies classroom. Rather, the defendants have chosen to implement an absolute prohibition and ban against Mr. Webster from even mentioning certain topics in the classroom, contrary to his professional judgment and academic freedom. Said restriction constitutes a prior restraint in violation of the first amendment of the United States Constitution (1989: 5-6).

Interviews completed with those involved, as well as a review of court documents, reveal that Webster was simply endeavoring to teach controversial issues in a way that he felt was both neutral and reasonable (Feldman 1988: 17). No allegation existed that he was presenting a theological view for a Creator; rather, he was advocating neither the theistic nor atheistic position. Although claiming that they had no objection to his personal beliefs, school officials in fact objected to a neutral classroom presentation, in effect insisting that *only* the naturalistic worldview could be presented. They also ordered

him not to mention theological views that were part of the *historical* development of the United States. Webster maintains that his main battle is over "freedom of speech, stating: 'Even though I disagree with the philosophy [of evolution], I'd fight for your right to teach it'" (Cain 1988: 4).

Webster concluded that "the district's efforts to restrain me from frank and open discussion in the classroom on religious issues is exactly the type of close-minded thinking that I would hope my students disdain." He also requested to be advised if any of the examples he gave were improper. Martino ignored his questions and stated that: "The school district neither condones nor will it tolerate 'thought-provoking discussions in the classroom setting' on religious topics." Yet, the Supreme Court ruled in *Edwards v. Aguillard* that a "decision respecting the subject matter to be taught in public schools does not violate the Establishment Clause simply because the material to be taught 'happens to coincide or harmonize with the tenets of some or all religions'" (1987: 9).

Martino rejected Webster's contention that he had an obligation to teach both sides of controversial issues. Realizing this directive was contrary to the Supreme Court ruling that teachers have the freedom to teach all the scientific evidence on the question of origins, Webster and one of his students, Matthew Dunne, looked to the courts for support. They were sorely disappointed when the District Court ruled against them on 25 May 1989. The Court concluded that the school's order that Webster cease presenting any and all information that supports a "non-evolutionary origin of life" did not violate his constitutional rights or academic freedom. Webster then sought relief from the Court of Appeals, which also ruled against him. When his case went to court, Webster was a sixty-year-old social studies teacher who had taught in this particular school for fifteen years. He had "an excellent employment record in the district," and was acknowledged as an excellent teacher by both sides.

The District Court concluded that if a teacher in a public school "espouses theories clearly based on religious underpinnings, the principles of the separation of church and state are violated as clearly as if a statute ordered the teacher to teach religious theories such as the statutes in *Edwards* did." The claim that the freedom to critique Darwinism does not exist contradicts the Supreme Court's *Edwards v. Aguillard*. Furthermore, nowhere did either the Supreme Court or the District Court attempt to define religion. So, one cannot know specifically what was banned. The District Court added that "the

term 'creation science' presupposes the existence of a Creator and is impermissible religious advocacy that would violate the first amendment." Ruling that advocating "the existence of a Creator" is impermissible implies that advocating the non-existence of a Creator is also impermissible. If one cannot argue for a Creator but can argue against a Creator, the result is hostility against religion, something not permitted by the U.S. Constitution.

The Court also ruled that Plaintiff Dunne's claims are "without merit," and that "Dunne's desires to obtain this information in schools are outweighed by defendant's compelling interest to avoid the establishment clause violations and in protecting the first amendment rights of other students." Further, the Court ruled that students *have no right to hear both sides of this controversial issue in the classroom*, because information against evolution implies the existence of a Creator, which is "unconstitutional" (*Webster v. New Lenox* 1990: 5). The District Court concluded that the New Lenox schools have "the responsibility of monitoring the content of its teachers' curricula to ensure that the establishment clause is not violated" (*Webster v. New Lenox* 1990: 4).

One might wonder how the school system plans to monitor its teachers. One way would be to tape-record all their lectures to insure that values and beliefs not clearly secular (or that may support a religious interpretation) are not presented in any class. Most teachers would be strenuously opposed to this approach, and it would seem unjust to apply it only to Webster or to target teachers on the suspicion that they may cross some vague line between religion and non-religion. Furthermore, according to the school board's letter, a teacher is prohibited from presenting a Christian view *in any subject taught* in the public school. Obviously, this is difficult, since American society is based on Christian ethics and worldview which are so much a part of it that many persons often view other societies without this ethic as barbarous, or even cruel (Bergman 1979).

Contradicting this, the Supreme Court ruled in the Louisiana Creation Law (*Edwards v. Aguillard*) that requiring schools to teach creation science with evolution does not advance academic freedom:

The Act does not grant teachers a flexibility that they did not already possess to supplant the present science curriculum with the presentation of theories, besides evolution, about the origin of life. Indeed, the court of Appeals found that no law prohibited Louisiana public schoolteachers

from teaching any scientific theory. 765F. 2d, at 1257. As the president of the Louisiana Science Teachers Association testified, "any scientific concept that's based on established fact can be included in our curriculum already, and no legislation allowing this is necessary." 2 App. E616. The Act provides Louisiana school teachers with no new authority (1987: 587).

Academic freedom in public schools does not presume the right to indoctrinate, but rather to educate, which requires a fair presentation of both sides of controversial issues. The courts in the Webster case not only failed to make the vital distinction between education and indoctrination, but the ruling actually *required* indoctrination of an anti-Christian viewpoint as the official state-approved view, and ruled that deviations from this approach are illegal. Such court rulings reinforce the pervasive movement toward forced secularization of American society. The erosion from support, then accommodation, and now hostility toward the theistic worldview, has been slow but steady.

In another case, the Court concluded that it cannot "find any substantial interest of the schools will be served by giving [schools] . . . unfettered discretion to decide how the first amendment rights of teachers are to be exercised" (*Parducci v. Rutland* 1970: 357). Furthermore, it is "well settled that even non-tenured public school teachers do not shed first amendment protection in speaking on matters of public concern" (*Kirkland v. Northside* 1989: 798). In the Webster case, the Court ruled exactly the opposite of these precedents, demonstrating that the courts are inconsistent.

The Court ruled in the Moore and other cases that atheist and agnostic teachers can openly discuss science and theology questions in class, but that Webster could not. The 1973 Moore decision, written in support of a secular teacher, clearly demonstrates that the same rights the Court ruled in support of for Moore were denied to Webster. The double standard vividly demonstrated in the Moore and Webster cases also exists in many other rulings handed down by the courts. Without a standard of accountability for judges, the court system cannot, and will not, rule consistently in matters of academic freedom and freedom of speech cases for educators. The judges' bias is rather evident, making a neutral court unlikely in these types of cases. Until, and unless, a genuine respect for neutrality is required of judges, conflicts and contradictory rulings in the area of academic freedom will continue.

*PELOZA V. CAPISTRANO*

John E. Pelozo, a Mission Valley, California, biology teacher, filed a lawsuit in the U.S. District Court on 30 September 1991 against the San Juan Capistrano Unified School District and its administrators for alleged violations of his academic freedom. Pelozo claimed that the school district was in violation of the Establishment clause by requiring him to teach non-theistic evolution as fact, and thereby unlawfully establishing the "religion of secular humanism and atheistic naturalism." The school district ordered him in writing to refrain from "initiating conversations about your religious beliefs during instructional time, which . . . includes any time students are required to be on campus as well as the time students immediately arrive for the purposes of attending school for instruction, lunch time, and the time immediately prior to students' departure after the instructional day" (*Pelozo v. Capistrano* 1994: 12056).

No evidence exists that Pelozo was trying to convert students to any religion; he was merely helping them to understand both sides of the origins controversy, focusing on science. Pelozo asked the Court to rule that "he had the right to discuss his personal beliefs, including those touching on religious matters, with students during non-instructional time at the high school, such as during lunch, class-breaks, and before and after school hours." Mike McConnell points out that: "This is principally a free speech case. It was litigated as a free speech case; it was decided as a free speech case" (cited in Myers 1992a: 1). On 16 January 1992, in the U.S. District Court, Central District of California, Judge David W. Williams handed down a ruling that forbade Pelozo from discussing his personal beliefs *anytime, anywhere*, on school property, and concluded that the school acted properly in requiring Pelozo to teach only naturalistic evolution and not present arguments for design in nature. Since much of human communication, including that in schools, is colored by "personal beliefs," the only way Pelozo could comply with this order was not to talk to anyone about anything that could reflect his personal beliefs--a difficult task.

The Court record and interviews with those involved in the case confirm that Pelozo was not teaching, or even arguing for the right to teach, creationism, but rather only endeavored to help students think critically about Darwinism in general (Pelozo 1991: 2). His complaint argued only that it is improper for the school district to *require* him to teach evolutionary



naturalism as *fact*, and his request was merely to be allowed to critique evolution as a teacher would any other theory. As a result of this request, Peloza was removed from the biology classroom and forced to teach physical education where the subject of biological origins would be unlikely to surface (Nahigian 1992). Even if Peloza *had* mentioned religious views to his students, a clear difference exists between permissibly discussing a "religious" idea and promoting it. Secondly, none of Peloza's other colleagues were similarly restricted--other teachers were free to indoctrinate students according to their own views on the subject. Stephen Carter, who studied the case in detail, concluded that Peloza "was not telling his students about creationism in the sense that the term is usually meant," but offered "two sides, one that we are here by chance and the other that we are here by design. *Here by design*: in other words, created by a designer--which is probably why an attorney for the school district shot back, 'Creationism is not a scientific theory, it is a religious belief. It is inappropriate to teach religion in a science class'" (1993: 158).

District Judge Williams concluded, *without giving a hearing to both sides*, that to "teach" creationism (a term never defined) is "illegal," relying on the Supreme Court's decision in *Edwards v. Aguillard* on the constitutionality of teaching creationism in public classrooms, which in fact stated *exactly the opposite*--that teachers have the flexibility "*to supplant the present science curriculum* with the presentation of theories, besides evolution, about the origin of life" (1987: 578; emphasis added). Interviews with Peloza's students reveal that, with rare exceptions, they "appreciate the way he teaches," according to Diane Graves, whose son was in Peloza's class. Graves added: "I think that he's teaching the way the majority of the parents believe." A local reporter concluded that "students and parents at Capistrano Valley High School interviewed shortly after Peloza's trouble began appeared to overwhelmingly support his teaching" (Brusic 1991: A28).

Peloza's case raised important questions that need to be consistently resolved apart from what any local school district might want to dictate, since such matters clearly address freedom of speech issues applicable to all educators. To simply inform students about what other people believe without promoting such views has consistently been ruled permissible by the courts. The media also widely repeated the Judge's claim that Peloza was a "loose cannon," for wanting to supplant the science curriculum with theories besides evolution (*Ohio National Education Newsletter*, February 1992). Further-

more, Peloza did not quibble with the requirement that he teach evolution, but rather that he should be required to teach "evolution as fact." Judge Williams ruled as to Peloza's other claims that:

While at the high school, whether he is in the classroom or outside of it during contract time, Peloza . . . is clothed with the mantle of one who imparts knowledge and wisdom. His expressions of opinion are all the more believable because he is a teacher. The likelihood of high school students equating his views with those of the school is substantial. To permit him to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause of the First Amendment. Such speech would not have a secular purpose, but would have the primary effect of advancing religion, and would entangle the school with religion. In sum, it would flunk all three parts of the test articulated in *Lemon v. Kurtzman* (Peloza 1990: 1056-58).

The difficulty with this argument is obvious. If consistently applied, it would rule out the discussion of all ideas that have a religious foundation. Many believe abortion, polygamy, pedophilia, adultery, and incest are all wrong, and the basis for their persuasion is ultimately religious. While such behaviors have occurred in some societies, the original source of their condemnation was Judeo-Christian ethics. To be consistent, arguments against such behaviors would "have the primary effect of advancing religion, and would entangle the school with religion," thus are forbidden. Consequently, only one side of these issues could be presented. The Court did not address the difference between a teacher initiating a religious discussion (in or out of class) and merely *answering questions* raised spontaneously by students about religious beliefs outside of class time. It is also absurd to argue that students equate a teacher's obviously personal views with those of the school--the average student knows that the teacher's views on politics, religion, sports, and most other topics are not the state's views.

Ironically, although Peloza evidently was required to teach evolution as fact, the Science Framework for California Public Schools *prohibits* teaching evolution as a fact: "science is limited by its tools--observable facts and testable hypotheses . . . nothing in science or in any other field of knowledge shall be taught dogmatically. A dogma is a system of beliefs that is not subject to scientific tests and refutation" (CSBE 2004: ix). The policy also proclaims that "science is never dogmatic; it is pragmatic--always subject to adjustment in the light of solid new observations" or "new, strong

explanations of nature like those of Einstein and Darwin.” Thus, Peloza, in expressing doubts about the factuality of Darwinism, was acting out of a secular purpose dictated by the State of California.

One problem in understanding these court decisions is the fact that key terms such as “creation” and “evolution” are rarely defined. Thus, one does not know for certain what the court judgments are permitting or forbidding, and the observer has to attempt to infer this from reviewing the entire case, no easy task. Microevolution (within species), for example, can be defined simply as any biological change, such as the process of breeding over 300 modern dog types. Conversely, macroevolution (species to a different species) is more commonly defined as a process in which life is slowly changed by natural processes from a set of primitive cells into different life forms better adapted to their environments. Likewise, the term “creation” may be defined to mean only that an intelligence is responsible for what we see in the natural world--and does not necessarily carry a Christian or religious connotation.

### THE CORBETT CASE

James Corbett was a college and high school teacher sued by a group concerned about anti-religious indoctrination in his classroom. The basis of the suit was a student’s recording of a lecture quoted in detail in the lawsuit. The judge ruled Corbett violated the First Amendment for referring to creationism as “religious, superstitious nonsense.” In spite of the ruling, Corbett said in an interview that “he won’t change his teaching methods and won’t self-censor any of his classroom comments,” because he believes he did nothing wrong (Martindale 2009: 1). He had castigated biology teacher John Peloza, because, as he explained to his class, he “will not leave Peloza alone to propagandize kids with this religious, superstitious nonsense” of creation (Martindale 2009: 15).

Corbett claimed he was not referring to religious creationism, but rather “the way John Peloza was teaching in his biology classroom . . . . He was leading kids to the understanding that there were major scientific flaws in evolution. As a matter of science there really aren’t . . . . When people say, let’s teach both sides of the evolution debate, well, there is no both sides. There is science and there is religion” (*C. F. v. Capistrano* 2009: 2). Corbett said earlier, as advisor to the student newspaper, that in an article he wrote he inferred that “Peloza was teaching religion rather than science in his

classroom.” Corbett explained to his class that Peloza, a teacher, “was not telling the kids the scientific truth about evolution.” Corbett also told his students that, in response to a request to give Peloza space in the newspaper to present his point of view, he refused because he concluded that creation is religion (C. F. 2009: 15).

Corbett states here unequivocally his belief that creationism is religion or “superstitious nonsense.” The view that Corbett taught, as recorded in a tape of his class lecture, is as follows:

Aristotle was a physicist. He said, “no movement without movers.” And he argued that . . . there has to be a God. Of course that’s nonsense . . . you hear it all the time with people who say, “Well, if all of this stuff that makes up the universe is here, something must have created it . . . . Very faulty logic. The other possibility is it’s always been here. Those are the two possibilities: it was created out of nothing or it’s always been here. Your call as to which one of those notions is scientific and which one is magic . . . the people who want to make the argument that God did it, there is as much evidence that God did it as there is that there is a gigantic spaghetti monster living behind the moon who did it. Therefore, no creation, unless you invoke magic. Science doesn’t invoke magic. If we can’t explain something . . . . It’s not, ooh, then magic. That’s not the way we work. Contrast that with creationists. They never try to disprove creationism. They’re all running around trying to prove it. That’s . . . not science. Scientifically, it’s nonsense (C. F. 2009: 27).

This and all other statements Corbett made in class the Court ruled were protected by academic freedom, including the statement that: “Mark Twain said ‘Religion was invented when the first con man met the first fool’” (Farnan’s Ex. D 2009: 75). In another lecture, Corbett added, “when you put on your Jesus glasses, you can’t see the truth” (Farnan’s Ex. A 2009: 25). He also taught the following: “What do you think of somebody who thinks it’s necessary to lie in order to make a religious point? . . . a Christian fundamentalist kid who wanted to be a minister . . . he wanted to go to Biola . . . the college that has no academic integrity whatsoever. And it is a fundamentalist Christian school . . . a college that has basically one book” (Farnan’s Ex. B 2009: 36-38). Corbett explained that he and another faculty member, Tanduary, “conspired” to try to prevent the student from going to Biola; that if the student went to Harvard, he would be “truly educated.” These and many other statements, made during the one day recorded by Mr. Farnan, the Court

rationalized as appropriate for a public school classroom. Corbett admitted that on other days he made statements such as "all you Christians can go to hell," which the Court ruled were also protected and showed no hostility toward Christianity (2009: 27).

### CHALLENGES TO ACADEMIC FREEDOM

A number of recent court cases severely limit academic freedom. Those who try to abridge academic freedom always believe they have good reasons for doing so. In *Urofsky v. Gilmore* (2000), a prominent Virginia Commonwealth University legal scholar challenged a state policy designed to restrict public employee use of state-owned computers to visit what the state judged as "objectionable" web sites. The faculty member claimed that access to such information for teaching or research is constitutionally protected under the First Amendment, and falls within the scope of the individual faculty's academic freedom. The U.S. Court of Appeals disagreed, ruling that academic freedom is *not* an individual right, but one that belongs to the university only: "to the extent the Constitution recognizes any right of 'academic freedom' above and beyond the First Amendment rights to which every citizen is entitled, the right inheres in the university, not in individual professors" (Urofsky 2000: 410). The U.S. Supreme Court declined to review the decision, allowing it to stand. This decision has served as a powerful influence on other courts throughout the country.

The Court's conclusion shocked administrators and faculty alike because it in fact negates the whole goal of academic freedom. Even more troubling was the Court's claim that the Supreme Court has "never recognized that professors possess a First Amendment right of academic freedom to determine for themselves the content of their courses and scholarship" (Urofsky 2000: 414). It could also cause disharmony if faculty and administrators disagreed about controversial issues. Although academic administrators may feel emboldened by what they perceive as the Court ruling weakening the faculty's freedom, experienced administrators realize that faculty cooperation and support is required for even a well-intentioned policy to succeed. In cases where the administration and the faculty do not approve of a certain line of research, as occurred to Berry Marshal who proved that bacteria cause most ulcers, not stress or acidic foods as once universally believed, for this faculty member academic freedom does not exist.

Most all recent court cases have ruled at both the college and high school levels that academic freedom lies with the school or college, not the teacher or professor. In *Stronach v. Virginia State University* (2008), a federal Court in Virginia ruled that in assigning grades professors have no academic freedom; all academic freedom resides with the university or college. A Sixth Circuit Appellate Court ruled in *Evans-Marshall* that the concept of academic freedom "does not readily apply to in-class curricular speech at the high school level" (2010: 343-44). In brief, "the right to free speech protected by the first Amendment does not extend to the in-class curricular speech of teachers." Likewise, the Third Circuit Court ruled "it is the educational institution that has a right to academic freedom, not the individual teacher" (Borden 2007: 187). The California University of Pennsylvania case, *Brown v. Armenti* (2001), reached the same conclusion. In sum, the courts and school administrators determine what is and is not taught about religion, not the instructor. Thus, ultimately, academic freedom is denied to instructors.

Yet, academic freedom is necessary only for controversial issues, such as religion, political and philosophical views, and concepts like Intelligent Design, which challenge the status quo. A basic problem of the origins debate in academia is that most Darwin skeptics are believing Christians and, as Ceil Bohanon relates, evangelical Christians "are not favored by most academics. Indeed, making fun of Evangelical Christians is fair game among much of the intelligentsia" (2006: 9A). Michael Novak calls "anti-evangelical bigotry" the least understood and "most painful" problem in America today (1985: 4). Novak concludes that there now exists "more bigotry against Evangelicals, without anybody leaping to denounce it, than against any other group," and that accusations against them "have been public, without introducing evidence, often by association" (1985: 4). Conversely, the courts have ruled that teachers do not have the academic freedom to "denigrate or disparage the scientific theory of evolution," a term never defined (Kitzmiller 2006: 766). The judge in *Kitzmiller* also noted that:

intelligent Design postulates a "supernatural creator," an unconstitutional "religious viewpoint" according to *Edwards*, and stated that an "objective observer would know that reference to ID and teaching about the 'gaps' and 'problems' in Evolutionary Theory are creationist, religious strategies that evolved from earlier forms of creationism." The court argued that teaching ID necessarily invites religion into the classroom as it sets up what will be perceived by students as a "God-friendly" science (Luskin 2009: 37).

The judge likewise prohibited the reading of a statement that noted other scientific views beside macroevolution exist,

because he found it urged students "to contemplate alternative religious concepts." Judge Jones went further than merely striking down Dover's ID-policy by giving various reasons why he believed ID was not science: (1) ID violates the centuries-old ground rules of science by invoking and permitting supernatural causation; (2) the argument of irreducible complexity, central to ID, employs the same flawed and illogical contrived dualism (Luskin 2009: 37).

This view is summed up accurately by Kenneth Miller who notes that the academic establishment recoils at any "overt expressions of racism or anti-Semitism, and reacts with solemn outrage at anything that can be identified as prejudice or bias. On the surface, this tolerance extends to religion . . . But this happy prospect falls well short of complete embrace, especially when the issue is religion" (1999: 184-85). Miller adds that the problem today is not a result of the old ethnic intolerance, but rather results when an academic tries to "take religion seriously, actually to believe the stuff." The intolerance in academia is partly due to the common assumption that people outgrow religious belief as they "become educated":

The prospect of an educated person who sincerely believes in God, who prays and fasts, or who is naive enough to think that there is actually such a thing as sin, is just not taken seriously. There is, in essence, a fabric of disbelief enclosing the academic establishment. My colleagues . . . practice the wonderful virtues of free inquiry and free expression. But *their core beliefs* do not allow them to accept religion as the intellectual equal of a well-informed atheistic materialism . . . self-assured scientists display no hesitation in *claiming that evolutionary biology is capable of making a powerful and profound statement on the ultimate meaning of things* (Miller 1999: 184-85; emphasis added).

Jordan Hylden and John Jernigan opine in the *Harvard Political Review* that, compared with the population as a whole, "very few professors hold strong religious beliefs," and, as a result, "anti- or non-religious viewpoints will seep into the classroom and curriculum, particularly in the sciences" (2003: 13). Michael Behe said in an interview that "some scientists have an animus against religion, and anything that points towards a religious conclusion is seen as illegitimate and something to be resisted" (Hylden & Jernigan 2003: 13). Yet, this whole issue is "about academic freedom, and

about the right to free inquiry, generally speaking, in our society. I think it's time to recognize that in secular as well as religious institutions, it's time to open up the conversation rather than shut it down" (Behe cited in Hylden & Jernigan 2003: 13). A result of this intolerance is a lack of academic freedom for Darwin doubters of all persuasions in academia (Johnson 1995).

Peter Bowler recalls that while scientists disagreed among themselves about the validity of Darwinism, even about central issues, "they maintained a united front against the common enemy"--Darwin skeptics--and "worked tirelessly to ensure that evolutionary papers would be published" to insure that scientists supportive of Darwinism have preference for "research funding and academic appointments." Bowler concludes that: "Modern scientists may be reluctant to admit that the success of a new theory rests on the public-relations skills of its early supporters, but there can be little doubt that Darwin's initiative succeeded (where it could very easily have failed) because he had already planted the seeds of a political revolution within the scientific community" (1990: 148-49).

Students also lose their academic freedom when faculty do. In a recent poll of over 50 schools, thirty-one percent of the students said that there were courses in which students would need to "agree with a professor's political or social views to get a good grade," according to the American Council of Trustees and Alumni (2010: 1-2).

The end result is that scientists have become the "new source of intellectual authority, taking over from the moralists and theologians who had once dictated how human nature was to be understood" (Bowler 1990: 146). Scientists also were determined to maintain their authority, then and now, by any and all means. This is obvious in the words of a scientist who tried to justify his position by claiming that anti-Darwinists are a "threat" to freedom and "dangerous" to society: "Most scientists are only dimly aware of the various 'anti-science' systems of belief now widespread . . . [including] politically dangerous movements [such] as creationism" (Hull 1994: 491). In another example, an *American Biology Teacher* guest editorial concludes that the Intelligent Design movement goes far beyond countering Darwinism, rather its goal is to bring society back to "the 'idyllic' and 'moral' culture that prevailed in Europe prior to the Enlightenment. Most importantly, the preservation of many freedoms, including the freedom to choose any religion, is not consistent with ID philosophy and goals. The writings of the leading



senior fellows make this nostalgia for the Dark Ages frighteningly clear" (Berman 2003: 647). No references are provided to substantiate these accusations.

During a hearing held on 21 August 1998, the courts did little to remedy this academic freedom dilemma (Campbell & Meyer 2003). Legal research of published cases reveals that, as of yet, not a single court case of academic freedom discrimination has been decided in favor of a creationist or ID advocate (Bergman 2008; Crocker 2010). Courts have done virtually nothing to aid the aggrieved in the academic freedom cases brought before them in which the plaintiff believed clear evidence existed. One may conclude that while "many of the better cases are likely settled out of court, nonetheless the situation is such that employers are generally aware that they can exercise even blatant religious discrimination with little or no fear of reprisal," a conclusion supported by a U.S. Civil Rights Commission report (Bergman 1984: 16).

Lewis Goldberg and Eleanore Levenson cautioned in their now classic study that in America the judiciary in some cases is "curtailing, and at times abrogating, the constitutional rights of individuals" (1935: i-ii). Goldberg and Levenson were careful to note that a high regard for the judiciary as an institution does not preclude criticism of judges who elevate themselves above other government departments, a trend called judicial activism. Things have not changed much since then. All concerned citizens, whether believers or non-believers, should insist that the judiciary re-evaluate its ideological bias in light of its constitutional role in a democratic governmental structure.

In conclusion, the courts have not consistently upheld the academic freedom of those accused of supporting an anti-Darwinian view, but the academic freedom of those who support the opposing worldview was upheld. Furthermore, very rarely are those who challenge Darwin skeptics in the classroom required to account for their actions. In these cases, the court ruled that the instructor has a right to teach against, not only Intelligent Design, but against the religious beliefs of their students as a matter of academic freedom, a freedom denied to theists and educators skeptical of Darwinism.

A major aspect of the problem is vividly revealed in an exchange written in response to a demand that journalist Denyse O'Leary "become an internal critic of ID." O'Leary replied that:

When the ID people cease to be harassed by academic fascists, internal criticism--of which I happen to know there is a lot--will become public. However, so long as, every time an ID-friendly paper is published, essentially fascist groups like NCSE target the author, or even the editor, for career destruction, you can forget about hearing internal criticism. First, the ID people must win the battle for intellectual freedom decisively, and discredit all the anti-freedom groups out there (2010: 1).

O'Leary added that, as a journalist, she is not in a position to evaluate ID science claims, but that she knows "incipient fascism when I see it. My patronage of the ID guys arises in large part from my loathing of fascist conclaves. As a journalist, I come by that honestly" (2010: 1). Johnny Rex Buckles' solution is that: "Educators who have a thorough understanding of intelligent design theory and who in good faith desire to enrich the public school science curriculum by teaching it should not hesitate to do so. Teaching the theory is sure to prompt litigation, but our country should welcome such litigation. Intelligent design merits a fair day in court. May an informed community of educators hasten that day" (2007: 596).

#### REFERENCES:

- AAUP. 2006. *Policy Documents and Reports*. 10<sup>th</sup> rev. ed. Washington, DC: AAUP [1984].
- Bergman, Jerry. 1979. *Teaching About the Creation - Evolution Controversy*. Bloomington, IN: Phi Delta Kappa Educational Foundation.
- \_\_\_\_\_. 1984. Religious Discrimination in Academia. *Universitas* (April): 2.
- \_\_\_\_\_. 1989. *Why the American Justice System Does Not and Cannot Work: An Evaluation of the Justice Administrative System*. Defiance, OH: Defiance College.
- \_\_\_\_\_. 1990. The Ray Webster Case. *Contrast* 9 (1): 1-4.
- \_\_\_\_\_. 1993. Censorship in Secular Science: The Mims Case. *Journal of the American Scientific Affiliation* 45 (1): 37-43.
- \_\_\_\_\_. 1996. Religious Beliefs of Scientists: A Survey of the Research. *Free Inquiry* 16 (3): 41-46, 54.
- \_\_\_\_\_. 2008. *Slaughter of the Dissidents*. Southworth, WA: Leafcutter Press.
- Berman, Marshall. 2003. Intelligent Design Creationism: A Threat to Society, Not Just Biology. *American Biology Teacher* 65 (9): 646-48.
- Bligh Donald A., Ian McNay & Harold G. Thomas. 1999. *Understanding Higher Education*. Bristol, UK: Intellect Publishers.
- Bohanon, Ceil. 2006. Evangelicals Assert Right to Be Heard. *Journal-Gazette* (2 May): 9A.

- Bowler, Peter. 1990. *Charles Darwin*. Cambridge, MA: Basil Blackwell.
- Brusic, Ken. 1991. Students, Parents Find Theory Lacking. *Orange County Register* (16 February): A28.
- Buckles, Johnny Rex. 2007. The Constitutionality of the Monkey Wrench: Exploring the Case for Intelligent Design. *Oklahoma Law Review* 59: 526-96.
- Buderi, Robert. 1989. Small Changes, Big Fuss. *Nature* (16 November): 219.
- Cain, Cindy W. 1988. Teacher Defends Creation Science; Freedom of Speech is Issue: Webster. *Joliet Herald-News* (27 March): 4.
- California State Board of Education (CSBE). 2004. *Science Framework for California Public Schools*. Sacramento, CA: CSBE.
- Campbell, John & Stephen Meyer, eds. 2003. *Darwinism, Design and Public Education*. E. Lansing, MI: Michigan State University Press.
- Carter, Stephen L. 1993. *The Culture of Disbelief: How American Law and Culture Trivialize Religious Devotion*. New York: Basic Books.
- Crocker, Caroline. 2010. *Free to Think: Why Scientific Integrity Matters*. Southworth, WA: Leafcutter Press.
- Feldman, Amy. 1988. Monkey See, Monkey Do. *Inside Chicago* (July-August): 17.
- Goldberg, Louis P. & Eleanore Levenson. 1935. *Lawless Judges*. New York: Greenwood Press.
- Hudson, Kathi, ed. 1992. Christian Biology Teacher John Peloza Loses First Round. *Education Newsline* (April-May).
- Hull, David L. 1994. Science and the Modern World View. *Quarterly Review of Biology* 69 (4): 491-93.
- Hylden, Jordan L. & John H. Jernigan. 2003. Leaning Ivory Tower: The Most Troubling Bias Among Academics is Not Political But Religious. *Harvard Political Review* 30 (2): 13.
- Jaschik, Scott. 1991. Academic Freedom Could Be Limited by Court Ruling: U.S. Appeals Panel Opposed Action by U. of Alabama Against Professor. *Chronicle of Higher Education* (17 April): A23.
- Johnson, Phillip. 1995. *Reason in the Balance: The Case Against Naturalism in Science, Law and Education*. Downers Grove, IL: InterVarsity Press.
- Luskin, Casey. 2009. Does Challenging Darwin Create Constitutional Jeopardy? A Comprehensive Survey of Case Law Regarding the Teaching of Biological Origins. *Hamline Law Review* 32: 1-64.
- MacIver, Robert M. 1955. *Academic Freedom in Our Time*. New York: Columbia University Press.
- Martindale, Scott. 2009. Capo Teacher: "I'm Never Negative Toward Religion." James Corbett, 62, Defends His Controversial Teaching Methods. *Orange County Register* (9 May): 1, 15.
- McConkey, Dale & Peter A. Lawler, eds. 2000. *Social Structures, Social Capital and Personal Freedom*. Westport, CT: Praeger.
- McFarland, Steven T. 1992. Free Speech and Academic Censorship. *Briefly-Christian Legal Society* (April): 2.

- Miller, Kenneth. 1999. *Finding Darwin's God. A Scientist's Search for Common Ground Between God and Evolution*. New York: Harper Perennial.
- Myers, John. 1992a. U.S. Supreme Court Denies Review of Bishop: Academic Freedom Stumbles in Wake of 11th Circuit Court Ruling. *The Real Issue* 11 (3): 1-2.
- \_\_\_\_\_. 1992b. Experts Respond to the Recent Restrictions on Faculty Freedoms: 11th Circuit Court Ruling Sparks Debate on Freedom of Expression. *The Real Issue* 11 (4): 4.
- \_\_\_\_\_. 1994. An "Agenda of Intolerance": Professor Claims He Was Denied Due Process. *The Real Issue* 13 (2): 1-4.
- Nahigian, Kenneth. 1992. Evolutionists vs. Creationists. *Sacramento Union* (21 March): B6.
- Nelson, Cary. 2010. Does Academic Freedom Protect Holocaust Deniers? *Chronicle of Higher Education* (14 November): A27-29.
- Novak, Michael. 1985. Religion in Politics. *ADL Bulletin* 42 (1): 3-4, 10-12.
- O'Leary, Denyse. 2010. Personal Correspondence to Author (2 October): 1-2.
- Robinson, R. W. 1991. The Preachy Professor. Letter to Editor. *Liberty* (Sept.-Oct.): 28.
- Smith, Page. 1990. *Killing the Spirit: Higher Education in America*. New York: Viking Press.
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