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Box 16, Folder 2, Creationism, 1980.

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Dear Joel,

You have asked for background materials on the problems arising from the recent efforts to teach scientific creationism in the public schools. This question has come up on a number of occasions, and we have responded to specific questions raised by different communities.

What follows is a composite of several letters Marc Stern has written on the problem in response to inquiries we have received. I believe these excerpts give you a fair picture of our position on this difficult issue.

Dear _____:

The plaintiffs in this case are public school students and the parents who object to the manner in which evolution is treated in the public schools. Specifically, they claim that the state's science curriculum provides only for the discussion of evolution and contains no discussion of other theories, specifically including scientific creationism.

They request an injunction 1) to enjoin distribution of a science curriculum guide referring only to evolution and 2) to require the inclusion of scientific

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creationism in the curriculum

There is little question that the plaintiffs are not entitled to either form of relief. The state would seem to have a legitimate interest in teaching evolution. Indeed, a prohibition on the teaching of evolution would run squarely afoul of Epperson v. Arkansas, 393 U.S. 97. Similarly, an injunction requiring the teaching of scientific creationism, without more, would violate the Establishment Clause because it would single out one religious theory for teaching in the public schools. That was the holding of Daniel v. Waters, 515 F.2d 485 (6th Cir. 1975).

This, however, does not end the matter as far as American Jewish Congress is concerned. We believe that plaintiffs are entitled to more limited relief. Specifically, we believe that the schools must explain, in the context of teaching evolution in the science curriculum, that there are various religious groups which do not accept the theory of evolution and which provide their own explanation of the origins of the universe and human life.

The following letter was sent in response to the suggestion that the position enunciated above would constitute an establishment of religion:

Dear _____:

As I understand it, your primary concern was that the position I suggested in my earlier letter would constitute an establishment of religion by requiring the teaching of religion in the public schools. In this regard, I believe it is important to keep in mind the distinction that the federal courts have always been very careful to draw in this area. While teaching religion -- that is, advocating or proselytizing -- is strictly forbidden by the Establishment Clause of the First Amendment, teaching about religion is not similarly proscribed. As the Supreme Court said in School District of Abington Township v. Schempp, 374 U.S. 203, 225 (1963):

It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or religion, presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment.

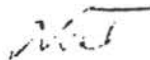
When we are called upon, for example, to advise public schools on how to deal with the Christmas holidays, we repeatedly point out that we are not advocating that Christmas not be mentioned in the schools; rather we insist that Christmas is to be treated neutrally and objectively. A better example is Reformation or the start and spread of Christianity and Islam.

It is true that the proposal I made would, if implemented, increase the risk that some teachers will abuse the permission to teach "about" scientific creationism and actually teach religion. But of course that risk is no less present when schools teach only evolution. It is hardly farfetched to imagine that science teachers are ridiculing religious theories of origins. Yet, in my view at least, such actions by a teacher are as violative of the Establishment Clause as urging scientific creationism.

I do not believe that there is any constitutionally preferred location in the curriculum for the teaching of "origins." Nor do I believe that science courses are an exception, notwithstanding the objections of science teachers. The vigor with which science teachers object to teaching other than the so-called evolutionary theory can only encourage the belief held by many that public school science courses are anti-religious. In fact, of all the teachers who could teach about "origins," I would imagine that science teachers would be least likely to utilize a discussion of origins as an opportunity for religious indoctrination.

I believe that the suggestion contained in my original letter is both workable and fair. It responds to specific complaints of members of a religious community with which we frequently find ourselves at odds. It seems to me politically expedient, as well as plain just; for us to support that much of this group's complaints about the handling of "origins" which merits support.

Sincerely,



Nathan Z. Dershowitz