



Evolution, Creationism, and the First Amendment



Evolution, Creationism, and the First Amendment

- How has creationism “evolved” over the last 150 years?
- What are some of the major rulings from U.S. courts on these issues?
- Why is it important to bring up the defense of science as a First Amendment issue?

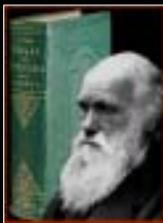
“Evolving” Creationism -- A Timeline

(from People for the American Way - www.pfaw.org)

- **The Creationism Period (1859-1968)**
- **The “Creation Science” (CS) Period (1970-1987)**
- **The “Intelligent Design” (ID) Period (1987-present)**

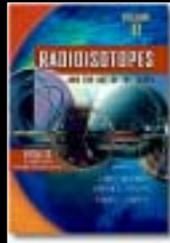
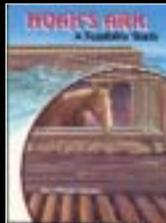
• **The Creationism Period**

- 1859: “The Origin of Species” is published
- 1913: Flood geology first proposed
- 1914: Evolution first appears in textbooks
- 1923: First anti-evolution bills
- 1940s: Teaching of evolution hits a low
- 1947-1948: Supreme Court forbids religious instruction in public schools
- 1950: Pope Pius XII rejects Biblical literalism
- 1957: Sputnik and the beginning of the Space Race
- 1961: “The Genesis Flood” is published
- 1966: Creationists demand equal time
- 1968: *Epperson vs. Arkansas*



• The Creationism “Science” (CS) Period

- 1970: California Science Framework gives birth to creation science
- 1970: Creation-Science Research Center is founded
- 1971: The “**Lemon Test**” establishes guidelines for U.S. legislation concerning government’s interaction with religion*
- 1972: Institute for Creation Research is started
- 1974: “Scientific Creationism” is published
- 1978: Wendell Bird publishes strategy for introducing CS in public schools
- 1981: Equal time bills are pushed in state legislatures & school boards
- 1987: *Edwards vs. Aguillard*



• The “Intelligent Design” (ID) Period

- 1987: Change in creationism public relations & legal strategy
- 1989: “Of Pandas and People” is published
- 1991: “Darwin on Trial” is published
- 1992: Introduction of the Wedge Strategy
- 1996: The Discovery Institute establishes the CRSC (Center for the Renewal of Science and Culture)
- 1997: *Freiler vs. Tangipahoa Parish Board of Education*
- 1999: Kansas State BoEd votes to remove evolution from state standards
- 2000: *LeVake vs. Independent School District*
- 2001: The Santorum Amendment
- 2003: Phillip Johnson comes clean with true motives
- 2004: ID comes to Dover, Pennsylvania
- 2005: President Bush expresses support for teaching ID alongside evolution
- 2005: *Dover vs. Kitzmiller*
- 2006: Tug-of-War again in Kansas
- 2006: Evolutionary Biology disappears from federal grant list

First Amendment

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”



The Lemon Test

“Prongs of the Lemon”

1. Purpose
2. Effect
3. Entanglement



The *Lemon* Test (est. in *Lemon v. Kurtzman*, 1971):

- the government’s action must have a secular *purpose*;
- the primary *effect* of the government’s action must neither promote nor inhibit religion; and
- the government’s action must not excessively *entangle* it with religion

8 Major Court Decisions Against Teaching Creationism as Science

(from the National Center for Science Education - www.ncseweb.org)

- **1968: Epperson vs. Arkansas**
- **1981: Segraves vs. State of California**
- **1982: McLean vs. Arkansas Board of Education**
- **1987: Edwards vs. Aguillard**
- **1990: Webster vs. New Lenox School District**
- **1994: Peloza vs. Capistrano School District**
- **1997: Frieler vs. Tangipahoa Parish Board of Education**
- **2000: LeVake vs. Independent School District 656, et al.**

Epperson v. Arkansas (1968)

- SCOTUS invalidated an Arkansas statute prohibiting the teaching of evolution
- “Arkansas' law cannot be defended as an act of religious neutrality... The law's effort was confined to an attempt to blot out a particular theory because of its supposed conflict with the Biblical account, literally read. Plainly, the law is contrary to the mandate of the First Amendment to the Constitution.”

Segraves v. State of California (1981)

- Segraves claimed that classroom discussion of evolution prohibited his and his children's free exercise of religion
- Court found that the state's anti-dogmatism policy emphasized scientific explanations to focus on "how", not "ultimate cause", questions, and so no religious freedoms were violated

McLean v. Arkansas Board of Education (1982)

- Federal court held that a state "balanced treatment" statute violated the Establishment Clause of the First Amendment
- The decision gave a detailed definition of "science" and declared that "creation science" is not science
- Set the precedent for later decisions, specifically the SCOTUS ruling in *Edwards v. Aguillard*

Edwards v. Aguillard (1987)

- SCOTUS held unconstitutional Louisiana's "Creationism Act", which prohibited the teaching of evolution unless accompanied by "creation science" and found that a specific religious belief is advanced under "creation science"
- "... a legislature could... require that scientific critiques of prevailing scientific theories be taught... [T]eaching a variety of scientific theories about the origins of humankind... might be validly done with the *clear secular intent* of enhancing the effectiveness of science instruction.

Webster v. New Lenox School District (1990)

- 7th Circuit Court of Appeals upheld a federal court ruling that the school district hadn't violated Webster's free speech rights in prohibiting him from teaching "creation science"
- Set guidelines for how teachers can and cannot approach these issues in the context of a public school science classroom

Peloza v. Capistrano School District (1994)

- 9th Circuit Court of Appeals upheld a district court finding that a teacher's free exercise of religion isn't violated by a district's requirement to teach evolution
- Found that a school had simply required a teacher to teach accepted science in a biology class, because evolution is a science not a religion

Frieler v. Tangipahoa Parish Board of Education (1997)

- U.S. District Court for the Eastern District of Louisiana rejected a policy requiring teachers to read a disclaimer about evolution
- Decision is noteworthy for recognizing that curriculum proposals for "intelligent design" are equivalent to those proposing "creation science"
- The events leading up to this trial were a harbinger of the conflict to come in Dover, PA

LeVake v. Independent School District 656 et al (2000)

- District Court judge dismissed the case on the grounds that LeVake didn't have a First Amendment right to teach "evidence both for and against the theory of evolution"
- LeVake did not have a free speech right to overturn the school curriculum, nor was the district guilty of religious discrimination

The Latest Major Court Decision -- Kitzmiller v. Dover (2005)

- *Kitzmiller* was the first direct challenge brought in United States federal courts against a public school district that required the presentation of "Intelligent Design" as an alternative to evolution as an "explanation of the origin of life".
- The plaintiffs successfully argued that "intelligent design" is a form of creationism, and that the school board policy thus violated the Establishment Clause of the First Amendment.

Kitzmiller v. Dover Timeline (2004-2005)



- summer of 2004: The Dover Area School Board was given legal advice by the Discovery Institute and the Thomas More Law Center
- Oct. 18, 2004: The school board votes 6-3 to add the following statement to their biology curriculum:
*"Students will be made aware of the **gaps/problems in Darwin's theory** and of other theories of evolution including, but not limited to, intelligent design. Note: Origins of life is not taught."*

Kitzmiller v. Dover Timeline (2004-2005)

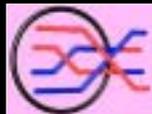
- Nov. 19, 2004: The board issues a press release stating that, commencing Jan. 2005, teachers would be required to read the following statement to students:
*"The Pennsylvania Academic Standards require students to learn about Darwin's theory of evolution and eventually to take a standardized test of which evolution is a part.
Because Darwin's Theory is a theory, it is still being tested as new evidence is discovered. **The Theory is not a fact. Gaps in the Theory exist for which there is no evidence.** A theory is defined as a well-tested explanation that unifies a broad range of observations.
Intelligent design is an explanation of the origin of life that differs from Darwin's view. The reference book, *Of Pandas and People*, is available for students to see if they would like to explore this view in an effort to gain an understanding of what intelligent design actually involves.
As is true with any theory, students are encouraged to keep an open mind. The school leaves the discussion of the origins of life to individual students and their families. As a standards-driven district, class instruction focuses upon preparing students to achieve proficiency on standards-based assessments."*

Kitzmiller v. Dover Timeline (2004-2005)



- Shortly after the board made its fateful decision, three of the members resigned in protest, and science teachers in the district refused to read the statement, citing the Pennsylvania code of education, which states that teachers cannot present information they believe to be false.
- Dec. 14, 2004: The ACLU files suit on behalf of Tammy Kitzmiller and ten other parents from the Dover school district.
- Jan. 2005: The “evolution disclaimer” statement was read in biology classes to students, not by the teachers, but by administrators instead.

Kitzmiller v. Dover Timeline (2004-2005)



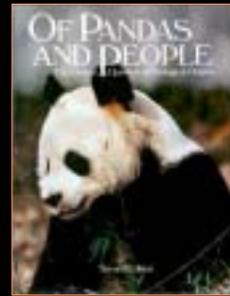
- Sept. 26 to Nov. 4, 2005: The case is tried in the U.S. District Court for the Middle District of Pennsylvania before Judge John E. Jones III.
- Nov. 8, 2005: Eight school board members who voted for the pro-ID policy are all defeated in local elections by challengers who oppose the ID-policy.
- Dec. 20, 2005: Judge Jones issues his ruling that the Dover mandate was unconstitutional and barred intelligent design from being taught in public school science classrooms. His decision is an amazing 139 pages long! (available at www.pamd.uscourts.gov/kitzmiller/kitzmiller_342.pdf)

Kitzmiller v. Dover Trial Highlights

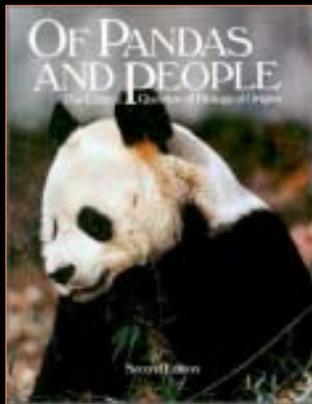


In his opening arguments for the plaintiffs, Eric Rothschild of Pepper-Hamilton LLP stated they'd provide many examples of school board members wishing to balance the teaching of evolution with creationism. He attacked prior defense claims that it was a minor affair by saying that *"there is no such thing as a 'little' constitutional violation."*

Rothschild also compared early and later drafts of *Of Pandas and People* for the court in which the only substantive change was to replace the phrase "creationism" with "intelligent design." He also argued that intelligent design wasn't "science in its infancy" but rather was not science at all.



Kitzmiller v. Dover Trial Highlights



Early Draft:

"Creation is the theory that various forms of life began abruptly, with their distinctive features already intact: Fish with fins and scales, birds with feathers and wings, mammals with fur and mammary glands."

Eventually Published Version:

"Intelligent design means that various forms of life began abruptly through an intelligent agency, with their distinctive features already intact: Fish with fins and scales, birds with feathers, beaks and wings, et cetera."

Kitzmiller v. Dover Trial Highlights



Dr. Kenneth Miller, biology professor at Brown University, testified as an expert witness for the plaintiffs. He testified that ***“Intelligent design is not a testable theory and as such is not generally accepted by the scientific community.”***

Asked what harm there was in reading the statement to students, Miller replied:

1. “It falsely undermines the scientific status of evolutionary theory and gives students a false understanding of what ‘theory’ actually means.”
2. And “as a person of faith who was blessed with two daughters, who raised both of my daughters in the church, and had they been given an education in which they were explicitly or implicitly forced to choose between God and science, I would have been furious, because I want my children to keep their religious faith.”

Kitzmiller v. Dover Trial Highlights



Dr. Barbara Forrest, professor of philosophy at Southeastern Louisiana University, testified as an expert witness on the history of the intelligent design movement (IDM). She cited the writings of many prominent figures in the IDM, including the Discovery Institute’s “Wedge Document”, Philip Johnson’s “How the Evolution Debate can be Won”, and of William Dembski.

She testified that the IDM was merely attempting to present a religious proposition as a scientific viewpoint. She further revealed that Johnson, considered the father of the IDM, ***“regards evolution as a threat to the Bible in its entirety and as a threat to the moral fabric of American culture.”***

She further testified that one of the goals of Johnson’s movement is to unify the religious world.

Key Points of the Dover Ruling



“A significant aspect of the IDM is that... it describes ID as a religious argument... *the writings of leading ID proponents reveal that the designer postulated by their argument is the God of Christianity.*” (page 26)

“The overwhelming evidence at trial established that ID is a religious view, *a mere re-labeling of creationism*, and not a scientific theory.” (page 43)

“Defendants vigorously argue that the reading of the statement is not ‘teaching’ ID but instead is merely ‘making students aware of it.’ In fact, one consistency among the Dover School Board members’ testimony, *which is marked by selective memories and outright lies under oath*... is that they did not think they needed to be knowledgeable about ID because it was not being taught to students. We disagree.” (footnote7, page 46)

Key Points of the Dover Ruling



“*After a searching review of the record and applicable caselaw*, we find that... ID is not science. We find that ID fails on three different levels... They are:

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 that doomed creation science in the 1980s*; and

3) ID’s negative attacks on evolution have been refuted by the scientific community.” (page 64)

Key Points of the Dover Ruling



“ID’s backers have sought to avoid the scientific scrutiny which we have now determined that it cannot withstand by advocating that the *controversy*, but not ID itself, should be taught in science class.

This tactic is at best disingenuous, and at worst a canard. *The goal of the IDM is not to encourage critical thought, but to foment a revolution* which would supplant evolutionary theory with ID.”

(page 89)

Key Points of the Dover Ruling



“The proper application of both the endorsement and *Lemon tests* to the facts of this case makes it abundantly clear that the Board’s ID Policy violates the Establishment Clause... We have concluded that [ID is not science], and that moreover *ID cannot uncouple itself from its creationist, and thus religious, antecedents...*”

“The citizens of the Dover area were poorly served by the members of the Board who voted for the ID Policy. *It is ironic that several of these individuals, who so staunchly and proudly tout their religious convictions in public, would time and again lie to cover their tracks and disguise the real purpose behind the ID Policy...* As stated, our conclusion today is that it is unconstitutional to teach ID as an alternative to evolution in a public science classroom.” (pages 136-138)

Key Points of the Dover Ruling



“Those who disagree with our ruling will likely mark it as the product of an activist judge. If so, they will have erred as this is manifestly not an activist Court. Rather, this case came to us as the result of the activism of an ill-informed faction on a school board, aided by a national public interest law firm eager to find a constitutional test case on ID, who... drove the Board to adopt an imprudent and ultimately unconstitutional policy.

The breathtaking inanity of the Board’s decision is evident when considered against the factual backdrop which has now been fully revealed through this trial. The students, parents, and teachers of the Dover Area School District deserved better than to be dragged into this legal maelstrom, with its resulting utter waste of monetary and personal resources.” (pages 136-138)

Creationist Reaction to the Ruling in Kitzmiller v. Dover



“The Dover decision is an attempt by an *activist federal judge* to stop the spread of a scientific idea and even to prevent criticism of Darwinian evolution *through government-imposed censorship* rather than open debate, and it won’t work.”

-- Dr. John West, Associate Director of the Center for Science and Culture at the Discovery Institute

“This galvanizes the *Christian* community. People I’m talking to say we’re going to be raising a whole lot more funds now.” (Seattle Post-Intelligencer, 12-21-05)

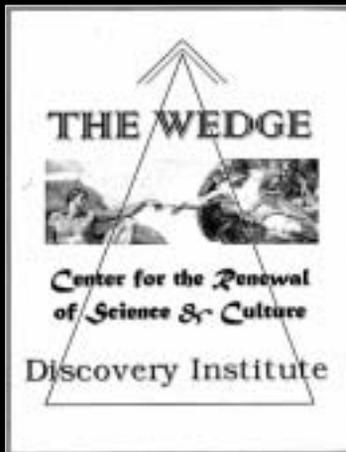
“There are *cultural forces* at play here that can render that verdict obsolete.” (USA Today, 12-22-05)

-- Dr. William Dembski, Senior Fellow at the Center for Science and Culture at the Discovery Institute

Why is science education a First Amendment issue?

- It is dangerous to allow religious groups to drive public school curricula
- “If you can lie about science... you can lie about anything.”
- The battle against evolution is just the thin edge of “The Wedge” as proposed by the IDM
- The ultimate goal of the IDM is to see their particular religious views dominate our culture.

The Wedge Strategy



“[Intelligent] Design theory promises to reverse the stifling dominance of the materialist worldview, and *to replace it with a science consonant with Christian and theistic convictions.*”

“Alongside a focus on influential policy-makers, *we also seek to build up a popular base of support among our natural constituency, namely, Christians.*

We intend these to encourage and equip believers with new scientific evidences that support the faith, as well as to ‘popularize’ our ideas in the broader culture.”

One of the Wedge’s 20 Year Goals:

“To see design theory permeate our religious, cultural, moral and political life.”

More about Darwin's Bulldogs

We work to simultaneously promote the teaching of evolution while battling attempts to have creationist views such as "intelligent design" placed into the science classroom. Darwin's Bulldogs does not adhere to any specific set of religious beliefs - our members vary from atheist to devoutly Christian, but we all share a common goal: to promote good science education in our public schools.

http://groups.yahoo.com/group/darwins_bulldogs