

NEWS AND COMMENTS

LOUISIANA CREATIONISTS APPEAL TO THE U.S. SUPREME COURT

Although the Louisiana Act for Balanced Treatment of Creation-Science and Evolution-Science received a setback by an appeals court, its supporters have been granted a full review by the U.S. Supreme Court.

On July 8, 1985, a three-judge panel of the U.S. Fifth Circuit Court of Appeals upheld the earlier summary judgment against the Balanced Treatment Act by Federal Judge Adrian Duplantier (see *Origins* 12:39-40). The appeals court ruled that “irrespective of whether it is fully supported by scientific evidence, the theory of creation is a religious belief” and that “the act’s intended effect is to discredit evolution by counterbalancing its teaching at every turn with the teaching of creationism, a religious belief.” The court concluded that the act thereby violated the constitutional principle of separation of church and state.

State Attorney General William J. Guste, Jr., immediately petitioned for a rehearing by the full Court of Appeals, and Bill Keith, president of the Creation Science Legal Defense Fund, expressed the expectation that “we have succeeded in reversing summary judgment once, and we expect to succeed again.”

On December 12, 1985, by a narrow margin of 8-7, the Court of Appeals denied rehearing *en banc*. Speaking for the seven dissenting judges, Judge Thomas Gibbs Gee issued a strongly worded, 5-page opinion repudiating the majority ruling: “The statute ... has no direct religious reference whatever and ... requires no more than that neither theory about the origins of life and matter be misrepresented as fact.” Presentation of both views would ensure “that within the reasonable limits of the curriculum, the subject of origins will be discussed in a balanced manner if it is discussed at all.” Gee also observed that “I am surprised to learn that a state cannot forbid the teaching of half-truths in its public schools, whatever its motive for doing so.... It comes as news to me ... that the Constitution forbids a state to require the teaching of truth — any truth, for any purpose, and whatever the effect of teaching it may be.”

On December 16, Attorney General Guste announced that he would appeal to the U.S. Supreme Court for an overrule of the summary judgment by Duplantier. In a letter to the New Orleans *Times-Picayune*, he explained:

The dissent by Judge Thomas Gibbs Gee is an intellectual tour de force that is a ringing endorsement of the concept of federalism. That concept holds that federal courts will not declare state law unconstitutional unless they patently violate the United States Constitution.

The dissent made the clear point that the law on its face in no way expressed a religious purpose. On the contrary, it defines a secular purpose, namely to ensure academic freedom.

Martha Kegal, Louisiana ACLU Executive Director, criticized *Guste's* decision:

Given everyone's concern about deficient public education and a tight state budget, Louisiana cannot afford to waste several million dollars in defense of an obviously unconstitutional law that weakens science instruction.

On May 5, the U.S. Supreme Court agreed to give full review to the case. Oral argument is expected late this year. If the U.S. Supreme Court overrules the summary judgment, supporters of the statute will return to the federal court in New Orleans for rehearing.

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