

# Atheism: Official Religion of the USA; Ray Webster Case

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New Lenox, Illinois is a quiet sleepy town near Chicago, almost directly south of Wheaton, Illinois. A local twenty year veteran schoolteacher, Ray Webster, was told in a letter written by Superintendent Alex M. Martino, dated October 1987, that he was to teach *only one side* of the creation/evolution controversy, the atheistic evolution side. Ray was acknowledged as an excellent teacher by both sides of this litigation. The letter from Martino openly suppressed Ray's contention that he had an obligation to teach both sides of controversial issues. Realizing the injustice of this directive, which was contrary to the Supreme Court ruling that teachers are not to be forced to teach any one viewpoint on origins, Ray Webster looked to the courts for support.

The court, on May 26, 1989, ruled against Webster. He has since appealed that decision, which ruled that the school's order to Mr. Webster to cease discussion of information which supported a "non-evolutionary origin of life" (from the brief of appellant) did not violate his constitutional right or case law on academic freedom. The district court opinion was rendered by Judge George M. Marovich of the *United States District Court for the Northern District of Illinois, Eastern Division*, dated May 25, 1989. The judge ruled that ". . . plaintiff Webster has no right to teach creation science and plaintiff Dunne has no right to receive information regarding creation science in his public school room . . ." The judge accordingly dismissed the plaintiff's appeal "with prejudice pursuant to federal rules of civil procedure 12(b6)".

The possible position on origins can be dichotomized into two views. These are: the physical universe was created by an outside entity, reality, or intelligence, or the physical universe as we know it created itself. The former view is termed creationism, the latter atheistic evolution. The judge ruled that the former view, creationism, must not be taught and, if anything is taught about origins, only the latter – atheistic evolution – is permissible. Webster, chagrined at this decision, has now taken his case to the Court of Appeals.

Those persons who oppose the creation world view commonly stress that they are not opposed to teaching creation in the public schools, but are opposed only to teaching it *in science classes*. They argue that only non-theistic evolution views can be taught in science classes. Yet, Ray Webster was a *social studies teacher* and endeavored to present alternative viewpoints in his *social studies* classes. Adversaries of creation repeatedly stress that social studies classes are the appropriate forum for discussing this viewpoint. As reported by Mathews (1989:A7), the California Board of Education officially encourages limiting "discussion of creationism to social science and literature classes." 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 curricula or the English and language arts curricula" (Buder, 1989:219).

As one of the leading humanists, Frederick Edwards, points out in his excellent summary of the different viewpoints held by creationists, ". . . scientists and civil libertarians do not wish to ban creationism from the public schools." He notes that "their objection is to misplacing creationism", namely, in the science classroom. He has no objection to public school students studying creationism in, for example, a comparative religion class. In an excellent discussion on the problem of legislating what can be or cannot be taught in public schools, or what he called "legislating truth," he notes that this "has been repeatedly tried and has shown itself to be a risky venture." The liberty of scientists to

do their own research and publish their conclusions and the academic freedom of teachers to apply their professional expertise by teaching students what science discovers are, he adds, “important and practical rights that must always be guaranteed.”

And many others openly encourage such to be taught there and not in science classrooms. Niles Eldredge, curator of the American Museum of Natural History, forcefully argued that creationism should be taught “either in an entirely separate course or as a segment of the social studies curriculum” in a section which is “part of a discussion of different notions of origins.” He even states that “it would always be proper for a science teacher to acknowledge that creationism exists at the onset of the evolution part of a biology course. . .”(1982, p.148). Although Eldredge makes it clear that he firmly holds the evolution view and does not in any way support the creation world view, yet even what he personally advocates was banned by the judge. The National Center for Science Education, which aggressively opposes the teaching of creation science, openly recognizes that *teachers now have the academic freedom* to deal with the subject (Hastings, 1989). The Illinois court, in its decision against Webster, has virtually ignored these guidelines, and has legislated what science is – a law that excluded all of that which falls under the rubric of “creationism,” even banning the viewpoint that a creator created us.

The district court concluded that the Supreme Court ruled in *Edwards v. Aguillard*, et al., 482 US 578, 1987, that “the theory of creation science includes a belief in the existence of a supernatural creator. . .As such, the requirement that creation science be taught violated the establishment clause and was unconstitutional.” The district court further added that, “if a teacher in a public school uses religion and teaches religious beliefs or 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 court then concluded, “therefore, New Lenox *has the responsibility of monitoring the content of its teachers’ curricula* to insure that the establishment clause is not violated.”

The court noted that Webster denied teaching religion, and endeavored only to teach both sides of a controversial area. The court concluded relative to this issue that “as previously discussed, the term ‘creation science’ presupposes the existence of a creator and [teaching such] is impermissible religious advocacy that would violate the first amendment.” If advocating “The existence of a creator” is impermissible, that leaves only the opposite side, the permissibility of advocating the non-existence of a creator. Plaintiff Dunne, a student in Webster’s class, claimed that he had a right to hear both sides of this controversial issue. As to this claim, the court ruled:

Plaintiff Dunne’s claims, if not moot, are without merit. Dunne has not been denied the right to hear about or discuss any information or theory including information as to creation. He is merely limited to receiving information as to creation science to those locations and settings where dissemination does not violate the first amendment. Dunne’s desire to obtain this information in schools are outweighed by defendant’s compelling interest to avoid the establishment clause violation and in protecting the first amendment rights of other students.

The student, Matthew Dunne, by and through his parents and best friends, Philip and Helen Dunne, “argued that he had a right to hear the social studies curriculum that has been censored and banned, and that Mr. Webster believes he should teach in his professional judgment” (brief of plaintiff, pp.2-3). Thus, the court ruled that students *have no right to hear both sides of this controversial issue in the classroom* because creationism implies the existence of a creator, and it’s “unconstitutional” to imply

the existence of such. Therefore, *only* views which do not require or imply a creator, thus excluding even theistic evolution, can be taught in the classroom. This “proper” state approved view is the non-theistic world view often understood as atheism. The court made no reference to either theistic or atheistic evolution, and did not even define creationism, noting only that creationism implied the existence of a creator, and that teaching a view with such implications was not permissible.

In Wendell Bird’s (1978) widely quoted *Yale Law Review* article of this question, he notes that only three positions can be taught: 1) the argument which presupposes an intelligent entity outside of the creation which created the physical reality; 2) the atheistic evolution viewpoint which teaches that a creator did not create the creation, but the creation created itself, traditionally called the naturalistic explanation; or 3) that both views are taught, with neither being given a preference. The last position, he concluded, is the only one that would meet the constitutional religion neutrality requirement of the state. The court in the Webster case has clearly violated the establishment clause, requiring the teaching of *only one* religious viewpoint, namely atheism and banning that which would result in neutrality. Both theism and atheism are views about God, and therefore religious in nature. The rubric of religion includes both ideas which are in favor of the view that a creator exists, and those arguments which are opposed to such a view.

### **Background on the Webster case**

Webster is a fifty-eight year old social studies teacher who has taught in this particular school for thirteen years. He has “an excellent employment record in the district.” The roots of this controversy began in the spring of 1987. A student alleged that Mr. Webster violated the principles of separation of church and state in his social studies classroom by discussing both sides of creation and evolution. The student involved both the American Civil Liberties Union and Americans United for the Separation of Church and State (Cain, 1988). As a result, the district and the superintendent advised Mr. Webster by letter that he was to cease teaching both sides of this controversial area, although the said letter. .

. . .failed to identify and 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 (plaintiff’s brief, pp.3-4).

Mr. Webster responded to the district’s correspondence dated July 31, 1987 with a letter dated September 4, 1987, explaining that he would note in class only that, for example, although the majority of scientists may accept the evolutionary viewpoint, other scientists did not accept such, adding “from this a science discussion in class would ensue over the various alternative viewpoints. My goal in class is not to necessarily persuade students of a particular viewpoint, but rather to open their minds to the fact that numerous viewpoints exist and advise the students of the merits or demerits of each viewpoint.”

In response to this letter, the district superintendent, in a letter dated October 13, 1987, stated that Mr. Webster was “forbidden from engaging in the instruction” as outlined in his letter, and was also forbidden to cover the material on origins according to his professional judgment as a trained, certified

teacher. The plaintiff's Brief concludes (see p.5) that it remains Mr. Webster's understanding that he is "forbidden from engaging in any instruction in the classroom relative to the scientific theory of creation. . .from mentioning that many people accept such theories or reject evolution, and from mentioning that evolution is not a fact, but is only theory." The Brief then concludes, "as a result of said acts of the defendant, Mr. Webster fears that he will suffer reprisal and discipline, should he teach in such a fashion consistent with his constitutional rights and those principles outlined in his letter dated September 4, 1987." The plaintiff further noted that "Mr. Webster believes, in the exercise of his professional judgment as professional teacher, that he should teach consistent with his constitutional right and said principles in order to present his social studies curriculum competently and to encourage the students to think analytically."

As to the defendant, Matthew Dunne, the concern was expressed 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." (pp.5-6, plaintiff's brief). They further conclude that this creates. . .

. . .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 priori* restraint in violation of the first amendment of the United States Constitution.

In the school board's letter dated July 31, 1987, even though the issue was the creation/evolution area, the superintendent also pressured Webster to *not* advocate "Christian viewpoints on social issues." Nor was he to use any materials which "advocated Christian interpretation of world events, history, government and science", stressing that such "is not permissible." He further was under order to "refrain from utilizing or displaying any such materials" in his classroom. The superintendent warned him that for violating such, he "may be subject to disciplinary action by the school district, including issuance of a letter of remediation and/or dismissal" if he failed to comply with this directive. He can argue *only* for the non-Christian or atheistic viewpoint in the classroom.

Mr. Webster's response letter of September 4, 1987 argues that "the genesis of this entire matter involves a student who was unable to perform satisfactorily in my class. It is my belief that the allegations by the student and her mother relative to my purported violation of the principles of church and state serve only to detract from the real issue, which involved the student's ability to apply herself and learn the material. . . .in all my years as a teacher, I have never been disciplined as a result of lack of competency in the classroom. Rather, my evaluations reflect a high degree of concern for young people and an above-average ability to communicate with and teach students." He further added that. . .

. . .it is an established view that the first amendment has come to mean that society should value the free flow and exchange of numerous ideas. I find it quite disturbing that those ideas which  
may be religious in nature are somehow treated by different standards and are subjects of much more intense scrutiny as to their acceptability. I am very much aware of the principle of separation of church and state, but I have never recognized the principle to mean that frank

discussion of matters which might involve religious issues as intolerable. He then related an example of how he approached these issues in his social studies class. The example he uses is one that is well documented historically, that Columbus's motivation that led to the discovery of America stemmed primarily from "God, gold and glory." His desire to do the will of God is clear from a reading of his works. God was a key motivation, almost to the point that he was fanatic in his religious view, and this fanaticism translated itself into his monumental discovery (Ferris, 1988). Webster then concludes 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." Lastly, he requested to be advised if any of the three examples in his letter represented improper instruction.

The October 13 response from Alex Martino, the principal, was open and blunt: ". . .the school district neither condones nor will it tolerate 'thought-provoking discussion in the classroom setting' on religious topics", adding that Webster ". . .is not to advocate a particular religious point of view", specifically stressing that he ". . .is not to teach creationist science as the Federal Courts have held that this is a religious advocacy." We know of course the federal courts have done no such thing. The Supreme Court (*Edwards*, 1987, p.8) ruled that teachers have the right to teach non-evolution theories of life:

It is equally clear 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 (765Fm 2dm at 1256). 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 schoolteachers with no new authority."

This misunderstanding has become the axe in the hands of school administrators and others who want to purge their schools of views that compete with evolution.

No charge was made in any of the documents that this writer reviewed that Mr. Webster was abusing his privilege as a teacher by inappropriate pressuring students to make some religious commitment or accept some view. From interviews this writer completed with those involved (Mr. Webster, as well as a review of the court documents), it is clear that he was simply endeavoring to present *both sides* of the question in a way that he felt was both neutral and reasonable (Feldman, 1987:17). There was no allegation that he was stating that evolution was not true, or even presenting a theology view that a God exists, but rather, he was arguing for the middle position, by objectively evaluating both sides, a view known as the agnostic stance. He was advocating *neither* the theistic *nor* the atheistic position, and for this the school evidently found him at fault. Although claiming that they had no objection to his personal religious beliefs, they objected to an agnostic classroom presentation, insisting that *only* the atheistic view be presented. They acknowledged his right to teach the theological viewpoint *only* as part of the *historical* development of our country, much as John Moore advocates in his 1983 book, *How To Teach Creationism without ACLU Interference*. According to Cain (1988:4), ". . .Webster maintains that the bigger battle is freedom of speech. "Even though I disagree with the philosophy (of evolution), I'd fight for your right to teach it", he said.

In the case of *Moore v. Gaston County Board of Education* (357 F.SUPP.1037,1973), the right of an atheistic teacher who endeavored to teach his atheistic viewpoint was openly upheld by the court. In this case, the court persuasively argued that students had *a right* to be exposed to *all points of view*, and that the academic freedom to do so is an important constitutional right. The court ruled that the discharge of a student teacher on account of his indicating his personal disbelief and questioning the validity of the Bible in class did not violate the establishment clause. The students in the class asked Moore if he believed that mankind descended from monkeys, and he responded that Darwin's theory in *Origin of Species* is valid. He further specifically taught that the story of Adam and Eve was not true, and he did not attend church, did not know what a soul was, did not believe in life after death, nor in heaven or hell. He further undertook to discuss his view of how the ancient belief in numerous tribal gods evolved into a belief in one God. The result was that a number of students evidently found his anti-Christian teaching objectionable, and one or two class members "got up to leave and were instructed to sit down." The students were evidently so upset that the class was dismissed early, and the students went to their homeroom and told their homeroom teacher about the experience. That evening the superintendent of schools, Mr. William H. Brown, received several phone calls from irate parents. A meeting was held the next day asking Moore whether he in fact had made statements "that he did not believe in God or in life after death." At one point he described his belief that death was only "ashes to ashes, dust to dust." He further stated that he could neither prove nor disprove the existence of a supreme being.

The court also ruled in the Moore case that he indeed *had a right* to advocate his particular religious point of view in the classroom, in this case an anti-religious viewpoint. The court also concluded that "teachers are entitled to first amendment freedoms", quoting *Tinker vs. Des Moines Independent Community School District* (393 US 503,89 S.Ct.733,73621 L.Ed.2D.731(1969) because "it can hardly be argued that either student or teacher shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." These constitutional protections are unaffected by the presence or absence of tenure under state law, adding that "although academic freedom is not one of the enumerated rights of the first amendment, 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" (pp.1039-1040). The court further concluded that "this court cannot. . .find any substantial interest of the schools will be served by giving defendants unfettered discretion to decide how the first amendment rights of teachers are to be exercised."

In another case, *Epperson* (106 #89S,CT,at 273), the court stated that a law against evolution "cannot be defended as an act of religious neutrality. Arkansas did not seek to exercise control in the curricula of its schools and universities about discussion of the origin of man. The law's effort was confined to an attempt to blot a particular theory because of its supposed conflict with a Biblical account, literally read.

Clearly, the law is contrary to the mandate of the first and in violation of the fourteenth amendments to the constitution." Likewise, it would seem that any theory which does *not conflict* with the Biblical account could not be excluded solely because of lack of such conflict. The court in the Moore case argued that the importance of open discussion of such issues in the classroom is imperative, noting that the effect that this suppression of scientific thought and discussion had "upon the technological and scientific development of Italy and Spain is well known" (pp.1043), adding that "to discharge a

teacher. . .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.” This, written in support of an agnostic teacher, indeed argues that the rights of a theistic teacher should likewise be supported. Unfortunately, the history of the courts is that, since 1926, they have *without exception* ruled against creationists (Eidsmoe,1984). The *only* exception in all of American history is the *Scopes* trial, which has been touted as the case that evolutionists “lost in courts, but experienced an enormous win in the press and colleges.” This double standard also exists in many other areas throughout the court system. Without a system of accountability for judges, the court system cannot, and will not, rule fairly or consistently (Bergman,1989). Unfortunately, the bias of judges is so common and evident – at times on both sides – that it makes a neutral court unlikely in these kinds of cases. Unless and until a genuine respect for neutrality is required, conflict in this area will continue.

## Conclusion

Although origins is a very complex issue, it can be dichotomized to either a) an outside intelligent force was the creator, or b) that natural laws, chance and time produced the creation. To achieve the legal mandate of neutrality and avoid indoctrination, both sides of this and other controversial issues should be fairly presented in class. It would be as objectionable if students were indoctrinated in one side as in the other. If Mr. Webster was presenting only material that argued for one side, and censored or ridiculed the other side, this would be a different matter. Academic freedom does not include the right to indoctrinate, but to educate, which requires representation of both sides. The mode in public schools now is to indoctrinate in one side, the atheistic side. The courts in this case have not only condoned indoctrination, which is wrong, but have *required* such in a ruling which has supported the anti-Christian viewpoint as the official state approved position, and deviations from such as being illegal. This is only one of numerous court rulings that have reinforced the pervasive movement toward secularization in American society, and al the slow move from at first support, then accomodation and now to hostility, towards the theistic world view. One might wonder how the New Lenox school system plans to carry out what the judge concluded was their “responsibility of monitoring its teachers’ curricula to insure that the establishment clause is not violated.” One way would be to tape record all of their teachers’ lectures to insure that only the values and beliefs that support atheistic interpretations are presented in class.

When this court decision was shown to several colleagues, several of whom were agnostic, their response was simply disbelief. They were all certain that it was either forged, or was a decision handed down in the pre-glastnost Soviet Union. I assured them that this report was actually written by a judge in an *American* court and that they could obtain a copy if they wrote to the court or looked it up in the local law library. The suspicion that it was rendered by a Soviet Court was partly because of the Russian name of the judge (Marovich). Those with much experience working in the courts do not find this decision too surprising. Judges have an incredible amount of latitude in deciding cases. Further, many of the incredibly ludicrous decisions rendered by courts (one study revealed that a conservative estimate in the USA alone, over 46,000 people were innocently convicted annually) are often not due to maliciousness (although this is also a problem), but is likely due to the judge’s incredibly superficial review of the evidence. Admittedly too many judges are overworked to the point where, given the best judge and the best circumstances, justice if often virtually impossible (Bergman,1989).

A teacher, according to the school board’s letter, is totally prohibited from presenting the Christian view *in any area* in the public school. Obviously, since our society is based heavily upon the Christian

ethic – and it is so much a part of it that we find other societies without this ethic strange, barbarous, and even cruel – this is difficult to understand. A good example would be the issue of pedophilia, sexual relations between adults and children which our society finds intolerable and thus the legal penalties for such behavior are severe. Yet, the origin of this prohibition in our society is based squarely upon a Judeo-Christian value system, specifically the condemnation of such in the Holy Scriptures. Many other societies not only do not condemn such behavior, but openly condone it. Among the most famous is Roman society which actively encouraged sexual relations between older men and younger persons, specifically young boys (Kiefer,1971). In many societies, sexual experience was required before one was allowed to marry, and this experience was usually gained from older adults. In one large society, the father was obligated to pay for the sexual initiation of his sons by local prostitutes (Taylor,1954). In societies that condone and encourage such sexual behavior between underage persons and adults, often older adults, a total lack of evidence exists that such is psychologically harmful (Tannahil,1980). Only in societies where this behavior is condemned does it produce guilt. The anthropological data on this is now extensive and well documented. It is also widely known due to Margaret Mead's pioneering work and Ruth Benedict's research on various people living on South Sea Islands, Asia, the Orient and other non-Western societies. Thus, according to the judge's directive, to teach the basis of our values, that incest and pedophilia prohibition is wrong, is illegal.

The case records from Webster and Moore clearly demonstrate that a non-neutral double standard exists in the court system relative to restrictions and finding acceptable criteria and freedom of expression for educators. In the process, this new standard is emerging, not only as the benchmark for how educators must behave when approaching topics with religious overtones, but also one which carries the full weight of an acceptable legal precedent. Worse yet, the courts have further demonstrated a willingness to restrict classroom instruction of topics which *may result in discussion of religious matters*. Court decisions which embrace argument extolling freedom of expression for atheists, yet which deny the same freedom for theists, are sure to set the stage for further clashes in the future, especially when rulings both for and against theists are based on the same arguments.

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**Webster lost his case at the Appeals Court level. In light of the 1987 Supreme Court decision in the case of *Edwards vs. Aguillard*, this is a travesty of justice and utter disgrace of American jurisprudence.**

**Indeed, the glove has been removed from the clenched fist, clearly revealing that Atheism is the official State religion in the USA**

**1990**