

were once free to teach any and all facets of this subject are now unable to do so. Moreover, the act fails even to ensure that creation science will be taught, but instead requires the teaching of this theory only when the theory of evolution is taught. Thus we agree with the Court of Appeals conclusion that the act does not serve to protect academic freedom, but has the distinctly different purpose of discrediting 'evolution by counterbalancing its teaching at every turn with the teaching of creation science.'"

Few issues are more vexing to judges and lawyers than the separation of church and state as formulated in the Constitution. Justice Lewis F. Powell Jr, who frequently takes pivotal positions on social and political questions before the court, issued a singular opinion on the case. "Even though I find Louisiana's Balanced Treatment Act unconstitutional," he wrote, "I adhere to the view [put forward in *Board of Education v. Pico*, a 1982 decision from which Powell dissented] 'that the states and locally elected school boards should have the responsibility for determining the educational policy of the public schools.' . . . In the context of a challenge under the Establishment clause, interference with the decisions of these authorities is warranted only when the purpose for their decisions is clearly religious."

Theistic tradition. Powell, who resigned from the court a week after the Louisiana creationism decision, went on to deliver an *obiter dictum*: "As a matter of history, schoolchildren can and should properly be informed of all aspects of this nation's religious heritage. I would see no constitutional problem if schoolchildren were taught the nature of the Founding Fathers' religious beliefs and how these beliefs affected the attitudes of the times and the structure of our government. Courses in comparative religion of course are customary and constitutionally appropriate. In fact, since religion permeates our history, a familiarity with the nature of religious beliefs is necessary to understand many historical as well as contemporary events." In the Louisiana case, though, Powell concluded, "The language and legislative history of the Balanced Treatment Act unquestionably demonstrate that its purpose is to advance a particular religious belief."

The court's newest member, Antonin Scalia, delivered a withering 31-page dissent, protesting that there is no proof Louisiana's lawmakers had religion in mind when they paired creationism with evolution in the curriculum. "We have no basis on the record

to conclude that creation science need be anything other than a collection of scientific data supporting the theory that life abruptly appeared on Earth," Scalia wrote. The majority opinion, he argued, is an "illiberal judgment," which he found "repressive" of Christian fundamentalism. Scalia's dissent, joined by Chief Justice William H. Rehnquist, rejected the body of the court's recent rulings, which holds that a law may be struck down on the basis of the motivation for its passage. People in Louisiana, Scalia argued, "are quite entitled, as a secular matter, to have whatever scientific evidence there may be against evolution presented in their schools." He called the decision "Scopes in reverse"—an allusion to the famous 1925 "monkey trial" in which a Tennessee schoolteacher, John Scopes, was convicted and fined \$100 for teaching Darwin's theory of evolution in violation of a state law.

The central issue for the Louisiana legislature in enacting the law, claimed Scalia, was academic freedom—"to ensure that students would be free to decide for themselves how life began, based on a fair and balanced presentation of the scientific evidence." Scalia concluded, "on the evidence presented in this case . . . we cannot say . . . that the scientific evidence of 'creation science' is a body of scientific knowl-

edge rather than revealed belief. Infinitely less can we say (or should we say) that the scientific evidence for evolution is so conclusive that no one could be gullible enough to believe that there is any real scientific evidence to the contrary."

Textbook brouhaha. While the Supreme Court's decision is another blow to efforts to introduce religion in classrooms through state laws, it is not expected to quell disputes over the content and choice of textbooks. Despite the uniqueness of the Louisiana law, some civil liberties lawyers claim there are similarities between that state's attempts to promote creationism and efforts by parents in Alabama and Tennessee to change school programs that they insist clash with their religious views.

In a case brought in Mobile, Alabama, a Federal judge ruled last March that 44 textbooks should be removed from schools because they champion "secular humanism," which fundamentalists say violates their religious beliefs. Another case, pending appeal in Tennessee, rests on a decision last October that children of fundamentalists must be excused from reading books that their parents opposed. Among the books: *The Wizard of Oz* and Anne Frank's *Diary of a Young Girl*. —IRWIN GOODWIN

O'Neill leaves SDI after Senate dust-up

In July Brigadier General Malcolm O'Neill left the Strategic Defense Initiative, where he had been deputy director of programs and systems, to become commanding officer of the Army Laboratory Command in Adelphi, Maryland. Possibly by coincidence, the Pentagon's announcement of O'Neill's departure came four days after he testified on 6 May about a proposed SDI think tank before the Senate Subcommittee on Oversight of Government Management. When he was questioned about the propriety of setting up an SDI Institute, as the think tank would be named, with 5 of its 14 members coming from the SDI advisory committee that recommended its establishment, O'Neill claimed he was not familiar with the details of the proposal.

Subcommittee chairman Carl Levin, a Michigan Democrat, argued that the proposal is "a bit incestuous" in leaving that open the possibility that trustees of the SDI Institute—who include avowed "Star Wars" advocates such as retired Air Force General Bernard Schriever, former US Attor-

ney General William French Smith and former National Academy of Sciences President Frederick Seitz—could also be appointed as its officials, at annual salaries ranging up to \$225 000. In reply to some tough questioning by Levin and Senator John W. Warner, Republican from Virginia, O'Neill said he had not read what SDI proposed in the way of filling the institute's top jobs but he denied that the appointees would be ideologically hard put to oppose Star Wars policies or programs.

"The idea that there could be no dissent is—I hate to say it—ludicrous, but I wouldn't worry about that, sir," he told Levin. O'Neill also disavowed responsibility for a statement in an SDI report sent to Congress only a month earlier that indicated the institute's director and senior department heads would have to be acceptable to SDI. As he continued his marathon explanation, however, O'Neill admitted that it was possible that the think tank executives would be subject to veto by SDI officials. Levin scowled.

—IRWIN GOODWIN □