

CAPITAL COMMENTARY

December 26, 2005

Intelligent Courts, Schools, and Science

U.S. District Judge John E. Jones III handed down an important decision on December 20 about the teaching of biology in Dover Pennsylvania's high school. The judicial setting as well as several aspects of the judge's ruling are worth noting. Did he, as press reports suggest, establish the truth of evolution and the unscientific character of Intelligent Design?

Keep in mind that Judge Jones handed down a *judicial* not a scientific ruling. In fact, his position is not unlike that of a court authority in the high Middle Ages, positioned outside the work of science. Yet most scientists today would say that meaningful scientific judgments cannot be decreed by someone in a position outside the process of scientific exploration and testing. So what was the judge doing?

The history-of-science lesson that Judge Jones included in his ruling was largely philosophical and theological in character. He stated, for example, that science is limited to "the search for natural causes to explain natural phenomena" and must therefore reject revelation in favor of empirical evidence. None of this amounts to a biological argument.

Why, then, should this judge, making these non-scientific arguments, have authority to decide what may and may not be taught in a high school biology class? Why should Judge Jones have any more authority than a medieval church court to decide what constitutes true science?

The answer, of course, is that the Dover high school, like most of America's schools, is owned and operated by local and state governments. Consequently, educational decisions of the local government and school board must conform to the rulings of judges and Supreme Court Justices.

In the world where real scientists actually compete in testing hypotheses, by contrast, the opinions of a judge or a church authority carry no weight. That is because scientific work has its own responsibility distinct from church and state. That is why the Big Bang theory of the universe's origin recently came to be ac-

cepted by most scientists even though many of them mocked it as hokey theology when the theory was first proposed some decades ago. In other words, scientific decisions are tentative and changing and must be continually evaluated in the light of new findings that expose the inadequacy of earlier findings.

However, just as medieval church courts and the work of science were once in conflict, so today, the civil courts and the education of high school students stand in conflict with one another.

What we need is freedom for educators to make judgments about how to teach science and the theories and controversies of science without judicial or political authorities telling them what to do. But how can we secure this freedom for educators when governments and judges have the final say about what teachers may and may not teach?

Ultimately, the only answer is to liberate schooling from government control in the same way that the work of science has been liberated from ecclesiastical control. Let government fund the schooling of every child, but let students (or the parents of minor children) choose the schools in which they want to be educated. Some schools may teach evolutionary theory along with biological science. Others may teach creation theory along with biological science. Others may weigh and evaluate every available theory in the course of teaching all the sciences. Educators as well as scientists will then be free to do what civil judges are not competent to do. Then we will be free of the constant political and judicial battles over education in which one winner gains power, from an external position of educational and scientific incompetence, to dictate what every school student should learn. The only intelligent way forward is to let courts be courts, schools be schools, and science be science.

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