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THE EDWARD'S DECISION: THE END OF CREATIONISM IN OUR PUBLIC SCHOOLS?

The country's public school system has long symbolized the spirit of our democracy. As the nation's population grew, so did its ethnic and religious base. American forefathers recognized that with such diverse growth came an increased threat of the co-mingling of church and state, especially in the educational forum.¹ In an effort to forever preserve the freedom of religion, the Framers adopted the first amendment.²

This goal of maintaining religious freedom through the separation of church and state has been at the center of controversy sweeping our public school systems for over twenty-five years.³ Religious and secular organizations alike have attacked public schools in heated constitutional debate on issues ranging from school prayer to textbooks and curriculum.⁴

Although many previous cases addressing this issue have gained national

¹ *Engel v. Vitale*, 370 U.S. 421, 425 (1962), where the trial court found that, "The religious nature of prayer was recognized by Thomas Jefferson and has been concurred in by theological writers, the United States Supreme Court and state courts, including the New York Commissioner of Education."

² Adopted in 1791, the first amendment to the Constitution, also referred to in part as the establishment clause, reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The purpose of the establishment clause is to insure government neutrality in matters of religion. U.S. CONST. amend. I. See *Negre v. Larsen and Gillette v. United States*, 401 U.S. 437 (1971).

³ See generally *Engel v. Vitale*, 370 U.S. 421 (1962) (the Court declared a twenty-two word prayer unconstitutional even though students were not required to take part in its recitation); *Abington School Dist. v. Schempp*, 374 U.S. 203 (1963) (non-compulsory daily Bible readings in public schools declared to violate the Constitution's establishment clause); *Epperson v. Arkansas*, 393 U.S. 97 (1968) (the Court invalidated a statute which prohibited teachers in public schools from teaching and using textbooks mentioning evolution); *Stone v. Graham*, 449 U.S. 39 (1980) (posting copies of the Ten Commandments in public schools in accordance with a Kentucky statute was found to serve no secular purpose and therefore violated the Constitution); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (statute providing a mandatory moment of silence in Alabama's public schools at the beginning of each day found to violate the Constitution because its sole purpose was to endorse religion); *Lemon v. Kurtzman*, 403 U.S. 602 (1971) (the Supreme Court declared that similar statutes providing state aid to parochial schools in Rhode Island and Pennsylvania violated the Constitution because the statutes involved excessive entanglement of government and religion; the Court set out the three prong test for determining the constitutionality of the statute); *Grand Rapids School Dist. v. Ball*, 473 U.S. 373 (1985) (program where public school teachers were sent by school administrators to teach supplementary and community education courses in parochial schools was declared to violate the Constitution because program's purpose was to advance religion); *Meek v. Pittenger*, 421 U.S. 349 (1975) (state funded services such as counseling and remedial education may not be held in parochial schools because of the school's religious nature); *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203 (1948) (when some children were released during the school day to attend religious instruction, and other children were not, the Supreme Court held that such action violated the first amendment); *Lynch v. Donnelly*, 465 U.S. 668 (1984) (local Nativity scene in downtown area does not violate the Constitution because other secular greetings were also displayed).

⁴ See generally *Engel v. Vitale*, 370 U.S. 421 (1962); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Marsh v. Chambers*, 463 U.S. 783 (1983) (the opening of a Nebraska legislative session with a prayer was held constitutional because of historical acceptance; the same did not apply to the public schools); *Epperson v. Arkansas*, 393 U.S. 97 (1968).

attention,⁵ perhaps no other issue since the famous Scope's "monkey trial"⁶ has raised as much controversy as Louisiana's adoption of the "Creationism Act."⁷ Now, one thing is certain; when Susie's dad asks her what she learned in school today, she most certainly won't reply that she learned about creationism in science class. The Supreme Court's recent ruling⁸ has insured that the separation between church and state in our public schools will remain. This casenote attempts to examine that ruling, its relationship to similar cases and its impact in the future of the public school's curriculum.

FACTS

In *Edwards*, Louisiana's state legislature adopted the "Balanced Treatment for Creation Science and Evolution Science in Public School Instruction" Act (Creationism Act).⁹ The legislature maintained that the Act's purpose was purely secular because it allowed teachers to present alternative theories of evolution, while fulfilling the legislature's intent of maximizing the effectiveness of science instruction.¹⁰ Louisiana parents, teachers and religious leaders challenged the Act's constitutionality in Federal District Court, praying for an injunction and declaratory relief.¹¹

The district court granted summary judgment, holding that Louisiana's Creationism Act was facially invalid because it prohibited the teaching of evolution, yet it supported the use of creation science to advance a particular religious doctrine.¹² The Act was held to violate the Establishment Clause of the Constitution.¹³ The court of appeals affirmed the lower court's decision, holding that the Creationism Act violated the Constitution because it not only furthered a particular religious belief, but it attempted to discredit the theory of evolution at every turn.¹⁴ Louisiana officials who implemented the Act appealed to the Supreme Court.¹⁵

⁵ See *supra* note 3.

⁶ *Scopes v. State*, 154 Tenn. 105, 289 S.W. 363 (1927). The Tennessee Supreme Court upheld the conviction of Tennessee public school teacher John Scopes, as well as the anti-evolution law which he was convicted of violating. *Id.*

⁷ Balanced Treatment for Creation-Science and Evolution-Science in Public School Instruction Act, LA. REV. STAT. ANN. § 17:286.1-17:286.7 (West 1982). Section 17:286.4 of the Act forbids the teaching of evolution in the public schools unless it is accompanied by instruction in creation science. The theory of creation science is defined as "the scientific evidences for creation and inferences from those scientific evidences." LA. REV. STAT. ANN. § 17:286.3. It has also been defined as "origin through abrupt appearance in complex form" in affidavits of experts. *Edwards v. Aguillard*, 55 U.S.L.W. 4860, 4864 (1987).

⁸ *Edwards*, 55 U.S.L.W. at 4865.

⁹ *Id.* at 4860.

¹⁰ *Id.* at 4862-66.

¹¹ *Id.* at 4860.

¹² *Id.* at 4860-61.

¹³ *Id.* at 4861.

¹⁴ *Id.*

The United States Supreme Court affirmed the lower court's decision.¹⁶ The Court held Louisiana's Creationism Act to be facially invalid because it contained no clear secular purpose.¹⁷ Again, the Act was held to violate the Constitution.¹⁸

COURT'S REASONING

In the case at bar, the Supreme Court had to determine whether Louisiana's Creationism Act violated the Establishment Clause of the Constitution within the context of the public school system.¹⁹ In answer to this proposition, the Court applied the three prong test set out in the *Lemon*²⁰ case, and analyzed several other factors, including legislative intent, statutory construction, and the purpose of the Establishment Clause of the first amendment.²¹

In *Lemon*,²² the Supreme Court examined two separate cases involving the same basic issue of state aid to parochial schools.²³ In Rhode Island, salary supplements were given to lay teachers employed in parochial schools.²⁴ Similarly, in Pennsylvania, a statute provided for reimbursement of teacher's salaries, textbooks and other materials connected with secular subjects taught in non-public elementary and secondary schools.²⁵ The Court stressed that the parochial school system was "an integral part of the religious mission of the Catholic Church."²⁶ The Court held that salary supplements to lay teachers fostered an excessive entanglement of church and state.²⁷ Because priests hire lay teachers, the Court reasoned that the pressure on teachers to indoctrinate students in the religion could be overwhelming.²⁸ In addition, the Court found that the effectiveness of such programs necessitated state monitoring of funds.²⁹ If implemented, this action would pose a genuine threat of excessive government involvement in religious affairs.³⁰ Secondly, the Court observed that funding of this nature might easily result in political turmoil because constituents' loyalties

¹⁶ *Id.* at 4861.

¹⁷ *Id.* at 4860.

¹⁸ *Id.* at 4864.

¹⁹ The Court's probe in this area was unusual since states are normally awarded discretion in operating their school systems. *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 507 (1969).

²⁰ *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

²¹ *Id.* at 612-613.

²² *Id.* at 607-611.

²³ *Id.* at 606.

²⁴ *Id.* at 607.

²⁵ *Id.* at 609-10.

²⁶ *Id.* at 609.

²⁷ *Id.* at 614.

²⁸ *Id.* at 618-19.

²⁹ *Id.* at 621.

would be torn between their religious beliefs and civic duties.³¹ The Court held both statutes were unconstitutional and set out the now famous three prong test.³²

The *Lemon* test provides that a statute 1) must be adopted with a secular purpose;³³ 2) that its primary effect must be one which neither advances nor inhibits religion;³⁴ and 3) that a statute's enactment must not result in an excessive entanglement of government with religion.³⁵ If any prong of the test is not satisfied, then the Establishment Clause is violated and the statute is declared unconstitutional.³⁶

In *Edwards*, the Court focused upon the first prong of the test finding that the statute lacked a secular purpose.³⁷ Louisiana's legislature argued that the Act met this prong of the *Lemon* test because its purpose was to protect academic freedom.³⁸ The Court found that outlawing the teaching of evolution, unless accompanied with the teaching of creation science, did not advance the goal of attaining a more comprehensive curriculum.³⁹

In further support of its reasoning, the Court addressed legislative intent.⁴⁰ It stated that promoting a religion in general or advancing a particular religious belief may be indicative of legislative intent.⁴¹ In that respect, the Creationism Act was overwrought with controversy.⁴² The legislature vehemently claimed that the Act's purpose was to enhance teachers' freedom in the classroom.⁴³ But by its very nature, the Court claimed that the Act stifled this freedom because it prohibited the teaching of evolution unless creation science was also taught as an alternative theory.⁴⁴ The Court found that the legislature actually intend-

³¹ *Id.*

³² *Id.* at 612.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 613.

³⁶ *Wallace v. Jaffree*, 472 U.S. at 56.

³⁷ The court stated, "If the law was enacted for the purpose of endorsing religion," no consideration of the second or third criteria [of *Lemon*] is necessary." *Edwards*, 55 U.S.L.W. at 4862 (citing *Wallace*, 472 U.S. at 56).

³⁸ The Court disagreed with the legislature on this point stating, "even if 'academic freedom' is read to mean 'teaching all of the evidence,' with respect to the origin of human beings, the Act does not further this purpose." *Id.*

³⁹ In effect, the Act "outlawed" teaching evolution because unless creation science was also taught, evolution could not be taught alone. *Edwards*, 55 U.S.L.W. at 4860.

⁴⁰ *Id.* at 4862.

⁴¹ *Id.* at 4861.

⁴² After reading the *Edwards* opinion, the reader may infer this fact, particularly when comparing the majority and dissenting opinion. Also, the opinion has numerous footnotes which lead the reader to this conclusion.

⁴³ *Edwards*, 55 U.S.L.W. at 4862-4863.

⁴⁴ *Id.* at 4864.

ed to promote a religious belief under the guise of a scientific theory.⁴⁵ The Act narrowed the science curriculum because it did not provide teachers with any greater flexibility or authority to present subjects.⁴⁶

The Court reasoned that if the Act's true purpose was to maximize science education, it would have encouraged and provided for the teaching of all scientific theories, not just creationism.⁴⁷ The Act did not provide for the teaching of any other theories.⁴⁸ Thus, the Court concluded that there was no secular purpose to the Act and no legitimate state interest in protecting religious groups from scientific views which are distasteful to them.⁴⁹

The Court also examined the Creationism Act's statutory construction, noting that the finding of improper purpose may be determined on the statute's face, through its legislative history or through the interpretation of the statute by an administrative agency.⁵⁰

Finally, the Court noted that the Establishment Clause forbids the enactment of any law respecting an establishment of religion.⁵¹ The first amendment prevents states from requiring that teaching and learning in the public schools be tailored to principles of any religious sect.⁵² The Establishment Clause aims

⁴⁵The Court found that, "The pre-eminent purpose of the Louisiana legislature was clearly to advance the religious viewpoint that a supernatural being created humankind. The term "creation science" was defined as embracing this particular religious doctrine by those responsible for the passage of the Creationism Act." *Id.* at 4863.

⁴⁶The Court noted that, "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." *Id.* at 4862.

⁴⁷*Id.*

⁴⁸*Id.*

⁴⁹*Id.* at 4864.

⁵⁰*Id.* In examining legislative history, the Court found several instances of testimony of Louisiana's senators and other experts which led it to believe that the legislature's intent was to further a particular religion through the Act. *Id.* at 4863-64.

⁵¹*Id.* at 4861. However, the Establishment Clause and the Free Exercise Clause of the first amendment have conflicted in cases where one right is pitted against another. In *Braunfeld v. Brown*, 366 U.S. 599 (1961), the Court noted that the freedom to believe is absolute, while the freedom to act upon that belief is not. *Id.* at 603. The tension between these clauses is illustrated in several cases where education is the issue. For example, in *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), a state statute, which made attendance in public schools mandatory, was struck down when a parent was prevented from sending her children to a parochial school. *Id.* at 534-35. The Society argued that the statute violated the Free Exercise Clause of the Constitution, and that the parent's right to religiously educate her children was superior to the state's right of enforcing the statute. *Id.* at 532. Similarly, in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), the Court stated that the right of parents to guide their children's education and religious teaching is a fundamental, enduring American tradition. Perhaps two of the best examples of the tension between the clauses and the conflict between decisions are the cases of *McCullum v. Board of Education*, 333 U.S. 203 (1948) and *Zorach v. Clauson*, 343 U.S. 306 (1952). In both cases, a state statute which allowed children to be released from school to attend religious instruction was at issue. In *McCullum*, the Court condemned the statute as violating the Constitution, while in *Zorach*, the Court believed that the statute was valid because it protected the Free Exercise Clause. According to the Court in *Zorach*, "government does not have to be hostile to religion. *Zorach*, 343 U.S. at 314. *Zorach* follows *McCullum*, but it does not expand *McCullum* to forbid the program at issue in *Zorach*. *Id.* at 315. In *Edwards* the legislature went too far in "establishing" a religion.

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Edwards, 55 U.S.L.W. at 4863.

to protect the liberty of religion by demanding government neutrality in religious affairs.⁵³ This in turn protects against government sponsorship of religion,⁵⁴ virtually eliminating the potential for structuring a state adopted religion.⁵⁵

Typically, in keeping with the first amendment, courts have awarded the states discretion in controlling their school system.⁵⁶ Louisiana's officials abused their discretion in adopting an act which was contrary to the first amendment, for the clause is binding on the states even if it is in conflict with state law.⁵⁷ The Court held that the Creationism Act violates the first amendment because its purpose was not to further education, but to promote a particular religious doctrine.⁵⁸

ANALYSIS

The Supreme Court's decision succeeds a twenty-five year trend of cases addressing the dangers of the comingling of church and state and reflects the Court's steadfastness in protecting the first amendment's rights.⁵⁹ Although a multitude of cases exist which exemplify this trend,⁶⁰ some of these cases are worth closer examination.

In *Abington School District v. Schempp*,⁶¹ reading Bible verses and reciting the Lord's prayer were a daily undertaking at the public schools. The school board claimed that the purpose of these activities was to promote moral values, which the board felt were lacking in its students.⁶² The Supreme Court held these actions to be pre-eminently religious and unconstitutional, stating that the majority cannot use the state to further its beliefs.⁶³

The Court's attitude is clear regarding the comingling of church and state even in seemingly neutral situations.⁶⁴ In *Engel v. Vitale*,⁶⁵ the New York school board wrote what it believed was a nondenominational prayer.⁶⁶ Although

⁵³ See *supra* note 2.

⁵⁴ The Establishment Clause was also intended to protect against sponsorship and financial support from the government in religious affairs. See generally *Lemon*, 403 U.S. at 613.

⁵⁵ *Id.*

⁵⁶ See generally *Epperson*, 393 U.S. 97.

⁵⁷ The guarantees of free speech, press and religion are within the liberties protected by the Fourteenth Amendment. *Busey v. District of Columbia*, 138 F.2d 592, 595 (D.C. Cir. 1943).

⁵⁸ *Edwards*, 55 U.S.L.W. at 4864.

⁵⁹ See *supra* note 3.

⁶⁰ See *supra* note 3.

⁶¹ 374 U.S. 203 (1963).

⁶² *Id.* at 223.

⁶³ *Id.* at 225.

⁶⁴ See *Engel v. Vitale*, 370 U.S. 421.

⁶⁵ *Id.*

⁶⁶ The prayer written by New York's school board officials read, "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country." *Engel v. Vitale*, 370 U.S. 421, 422.

students were not required to take part in reciting the prayer before classes, the Supreme Court held that the prayer was a religious activity which violated the Establishment Clause of the Constitution.⁶⁷ The Court explained that even a simple prayer may present an increased danger of religious indoctrination.⁶⁸ Similarly, in *Stone v. Graham*,⁶⁹ the Court held that posting a copy of the Ten Commandments in a public school had no secular legislative purpose and was unconstitutional.⁷⁰ The fact that the posters were purchased with private donations had no bearing on the Court's decision.⁷¹ The pre-eminent religious purpose of such actions was evident.⁷²

The Supreme Court has also made similar decisions regarding curriculum.⁷³ In *Epperson v. Arkansas*,⁷⁴ a teacher sought a declaratory judgment that a 1928 statute prohibiting the teaching of evolution was void.⁷⁵ The Supreme Court held that the statute was unconstitutional because it violated the Establishment Clause's requirement of religious neutrality.⁷⁶ The Court held that the law was clearly enacted for sectarian reasons.⁷⁷

Each of these cases plainly illustrates the Court's dedication in preserving the purpose of the Establishment Clause, regardless of the nature or degree of an activity affecting the public school.⁷⁸ Likewise, recent newspaper articles have reported controversies in other states similar to the instant case.⁷⁹

⁶⁷ *Id.* at 430.

⁶⁸ *Id.* at 436.

⁶⁹ 449 U.S. 39 (1980).

⁷⁰ *Id.* at 41.

⁷¹ *Id.* at 42.

⁷² *Id.* at 41.

⁷³ See *Epperson*, 393 U.S. 97.

⁷⁴ *Id.*

⁷⁵ *Id.* at 100.

⁷⁶ *Id.* at 109.

⁷⁷ *Id.* at 107-08.

⁷⁸ For an exception to this line of cases, see *Lynch v. Donnelly*, 465 U.S. 668 (1984), where the subject of concern was a Nativity scene, which was erected each year in a park located in the center of the city's shopping district. *Id.* at 671. The Court stated that because the city had also erected secular decorations, the creche was not the exclusive focus of the display. *Id.* at 680. Therefore, the scene did not impermissibly entangle religion and government. The Court held that the Establishment Clause was not violated. *Id.* at 687.

⁷⁹ See Los Angeles Daily Journal, May 18, 1981, at 4, col. 1, (update on *Seagraves v. California* which is pending in a California Superior Court where the validity of science textbook guidelines, which required teaching the theory of divine creation, were in dispute); Los Angeles Daily Journal, March 20, 1981, at 3, col. 1, (proposed bill passed by Arkansas legislature which requires creation science be taught in any general course dealing with man's history); Los Angeles Daily Journal, March 3, 1981, at 3, col. 2, (California case where teacher in public school told three students during a science class that their religious beliefs were wrong); Los Angeles Daily Journal, June 22, 1987, at 1, col. 6, (report on the *Edwards* decision); Los Angeles Daily Journal, June 24, 1987, at 4, col. 1, (commentary on *Edwards* decision); Los Angeles Daily Journal, June 23, 1987, at 4, col. 3, (speaks about creationism and other forms of censorship in the public schools and reviews other pending cases involving public schools and their choice of reading materials); Cleveland Plain Dealer, Sept. 3, 1987, at 1, col. 3, (report of survey showing over one-fifth of Ohio high school biology teachers already bring creationism into the classroom).

The Court's ruling is consistent with the decisions of prior cases,⁸⁰ demonstrating that the Court is unwilling to change the foundation of the first amendment.⁸¹ The continued separation of church and state reinforces the intent of the framers⁸² by preserving the liberties which are keys to the survival of our democracy.⁸³

Although legislative intent is an important factor in determining the constitutionality of a statute, it may no longer be the sole controlling factor.⁸⁴ Rather, the three prong *Lemon* test has been established as the standard of review for statutory issues concerning the Constitution.⁸⁵ This test allows interpretation to take into account the totality of the circumstances, while keeping the preservation of constitutional liberty first in mind.⁸⁶ The scope of this test is most important, for interpreting statutes and how they relate to the Constitution cannot be achieved in a vacuum.⁸⁷ Moreover, the decision has established a standard of review not only for the case at bar, but for religious issues affecting public schools across the country.⁸⁸

However, the decision is not without negative effects. It has extended the Supreme Court's power to decide issues commonly under the state's discretion.⁸⁹ This suggests that state control of public schools is not a right, but a privilege.⁹⁰

The greatest impact of the Court's decision is likely to be felt in the public school systems of other states.⁹¹ School administrators concerned about the public's perception of their school system's curriculum may force teachers to present material in a certain fashion, while restricting the admission of other questionable or quasi-religious material from the classroom.⁹² This fear or con-

⁸⁰ See *supra* note 3.

⁸¹ After reading the cases *infra* note 3, the reader may form the opinion that the Court does not intend to change its position with respect to enforcing the Establishment Clause, especially since these cases cover almost forty years of decisions.

⁸² See *Engel*, 370 U.S. at 432.

⁸³ See generally *Abington*, 374 U.S. at 225.

⁸⁴ The reader may make this inference after reading *Edwards*, 55 U.S.L.W. at 4861, where the Court applies the three prong test for interpreting statutes, taken from *Lemon*.

⁸⁵ See *supra* note 84.

⁸⁶ See *supra* note 84.

⁸⁷ After reading the opinions in *Edwards*, 55 U.S.L.W. 4860 and *Engel*, 370 U.S. 421 the author believes that the three prong test provides a more expansive form of statutory analysis because it allows the Court to consider several factors in analyzing a statute, rather than a sole, controlling factor. See generally *Lynch*, 465 U.S. at 673.

⁸⁸ Because the Court in *Edwards* adopted the test which was set out in the *Lemon* decision, the author believes that this reaffirms the Court's position on this issue, making it more difficult for state jurisdictions to ignore the decision.

⁸⁹ *Edwards*, 55 U.S.L.W. at 4861.

⁹⁰ See generally *Board of Education v. Pico*, 457 U.S. 853 (1982).

⁹¹ See *supra* note 88.

⁹² See generally *Engel*, 370 U.S. at 439-441.

cern on the part of administrators may constrain the natural learning process of question and answer, as well as the teacher's freedom to present answers and lessons in an uninhibited manner.⁹³ Some teachers may feel personally obligated to conform to these new standards to an extreme, fearing that even the slightest mention of a religious belief will be construed as an attempt to indoctrinate students.⁹⁴ Furthermore, introducing creation science to students at any level in any context may be avoided, even though the Court's main objection was not to the teaching of creation science *per se*, but to the requirement of teaching it or nothing at all.⁹⁵

The dissent in *Edwards* raises some interesting observations regarding the decision. For example, Justice Scalia notes Senator Keith's comment that many consider secular humanism a religion, which purports to have evolution at its foundation of belief.⁹⁶ However, Justice Scalia seems to imply that in allowing the teaching of evolution, our public school administrators are currently advocating the furtherance of a particular religion and are indoctrinating students in that religion.⁹⁷ Although it raises an interesting concept, this particular paragraph of Justice Scalia's opinion invites needless argument in an area where the Supreme Court has firmly established its pattern of ruling on analogous issues.⁹⁸ However, the Justice does raise a valid concern when he states that applying the *Lemon* or purpose test has made a maze of the Establishment Clause.⁹⁹ He comments that "even the most conscientious government officials can only guess what motives will be held unconstitutional" when they express their legislative intent.¹⁰⁰

This train of thought raises the more perplexing and troubling question of whether constitutional and statutory interpretation have become too complex for even the most learned minds to address.¹⁰¹ Justice Scalia seemingly suggests that a narrow, almost sterile, interpretation is necessary because of the difficulty in ascertaining legislative intent.¹⁰² This suggests that no other outside factors should be considered; the legislator's word should be blindly accepted. While it is possible that the methods employed to interpret the Con-

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Edwards*, 55 U.S.L.W. at 4862, n.6.

⁹⁶ *Id.* at 4872.

⁹⁷ *Id.*

⁹⁸ See *supra* note 3. In these cases where the Establishment Clause is challenged, the Court has ruled in favor of upholding the clause.

⁹⁹ See *Edwards*, 55 U.S.L.W. at 4875 (Scalia, J., dissenting).

¹⁰⁰ *Id.*

¹⁰¹ *Id.* For example, the reader may infer that if the legislature can disagree on the purpose of an act, it will become even more difficult for scholars and judges to ascertain the act's true purpose when analyzing it because they will have to weigh the act's stated purpose against the actual intent of the legislature.

¹⁰² See *Edwards*, 55 U.S.L.W. at 4876 (Scalia, J., dissenting).

stitution have changed over the years,¹⁰³ the Supreme Court is still obligated to continue its efforts in this task regardless of the difficulty.¹⁰⁴

CONCLUSION

In spite of the years of case law which support it, the importance of the Supreme Court's decision cannot be overstated.¹⁰⁵ For generations, families have entrusted the public school system with the safety and education of their children.¹⁰⁶ Perhaps no other forum in America best represents our commonality and democracy than does the public school.¹⁰⁷ It has been a gathering place for town meetings, for voting, for parents to discuss their children's welfare. Should it become a forum for religion?¹⁰⁸ The answer is no.

The public school system is just that — public. It was designed to educate the people of a nation, not to indoctrinate a particular religious belief upon its students.¹⁰⁹ Furthermore, because the first amendment offers freedom of religion, the function of religious education should be left to those best equipped to teach it — the church and parents.¹¹⁰ All too often society looks upon the public school as a catch-all for correcting its young people's social and moral problems.¹¹¹ While schooling should develop a child's abilities and thought processes, the responsibility for molding a child's religious beliefs and moral character should remain with parents.¹¹²

Supporters may argue that teaching creation science is worthy of consideration for it suggests an alternative theory of creation which may have positive effects upon the moral character of our children, which in turn strengthens the moral fabric of the country.¹¹³ For such supporters, that objective could not be inequitable or detrimental.¹¹⁴ However, the dangers of such a seemingly innocent mission cannot be overlooked.¹¹⁵ Teaching one religion over another

¹⁰³ See generally *Lemon*, 403 U.S. at 612; *Abington*, 374 U.S. at 216-17.

¹⁰⁴ See U.S. CONST. art. III, § 2, which provides for the Supreme Court's appellate jurisdiction in cases involving federal questions.

¹⁰⁵ See generally *Engel*, 370 U.S. 427-435.

¹⁰⁶ *Edwards*, 55 U.S.L.W. at 4861.

¹⁰⁷ *Id.* at 4861. See also *McCullum*, 333 U.S. at 231.

¹⁰⁸ The author believes that it is generally known that public schools throughout the country are used as facilities for voting, and that many schools hold an "open house" to allow parents to meet with teachers and discuss their child's progress.

¹⁰⁹ See generally *Engel*, 370 U.S. at 428-429, 434; *McCullum*, 333 U.S. at 215, 217, 231.

¹¹⁰ *Engel*, 370 U.S. at 436.

¹¹¹ *Id.* at 423 (the Legislature believed that more moral and spiritual training was needed in the schools).

¹¹² See *Wisconsin v. Yoder*, 406 U.S. 205 (1972) (free exercise clause gives parents the right to guide the religious teaching of their children).

¹¹³ *Edwards*, 55 U.S.L.W. at 4866 (Powell, J., concurring).

¹¹⁴ *Id.* at 4862-4863.

¹¹⁵ See generally *Epperson v. Arkansas*, 393 U.S. 97 (1968).

under the guise of a scientific theory could be devastating to a nation.¹¹⁶ Throughout history, countries which have adopted a particular religious belief have been engulfed with religious persecutions against those who did not believe the "right" way.¹¹⁷ Moreover, children are impressionable.¹¹⁸ While one teacher may rigidly adhere to the curriculum, another teacher with strong religious convictions may teach his own theory. It is not too remote a possibility to suggest that a Nazi-like form of indoctrination could result if this task fell into the wrong hands.¹¹⁹

In a country where more than 1,347 religious sects exist,¹²⁰ it would be impossible to accommodate every theory of creation in the public school curriculum. While religious lobbyists will no doubt continue their crusade to bring religion into the public school, their efforts will be made exceedingly difficult in the face of the Court's decision. The Court's function is to interpret the Constitution. If it were to bend to the whims of every religious lobby which had a valid concern,¹²¹ there would be no freedom of religion. Devisive forces must be kept from our schools.¹²²

Perhaps the children are the ultimate winners in this decision, for it is their generation which will benefit.¹²³ Hopefully, the decisions will terminate this endless variety of religious problems in the public schools.¹²⁴ Children, who always feel the grip of peer pressure in school, will no longer have to confront their classmates' scorn because they do not share the same religious beliefs.¹²⁵ The energies of administrators and parents will be freed from the conflicts regarding religious teaching in the public school and channeled into more productive labors to improve their children's education.

While the layman may interpret the decision as sanctioning immorality in the United States and may lose his respect for the Supreme Court in a society where many have already lost faith in their government, neutrality must remain if the Constitution is to remain intact.¹²⁶

The Supreme Court's decision in *Edwards* has confronted the potential prob-

¹¹⁶In *Engel* the Court stated that the "union of government and religion tends to destroy government and to degrade religion." *Engel*, 370 U.S. at 431.

¹¹⁷*Id.* at 425-32.

¹¹⁸*Edwards*, 55 U.S.L.W. at 4861.

¹¹⁹*See Engel*, 370 U.S. at 429.

¹²⁰*Abington School Dist. v. Schempp*, 374 U.S. 203, 214 (1983). *See also Edwards*, 55 U.S.L.W. at 4867, n.6.

¹²¹*Id.*

¹²²*McCullum*, 333 U.S. at 231.

¹²³The author believes that this decision will affect how other courts rule on issues similar to those in the instant case. The end result may be one where legislatures forego attempts to bring religion into the public school because they know such attempts will be fruitless. The children benefit because the time and energy spent on this issue may be directed to improving the educational system.

¹²⁴*See supra* note 3.

¹²⁵*Abington v. Schempp*, 374 U.S. at 208.

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¹²⁶*See generally* *Negro v. Larsen*, 401 U.S. 437 (1971).

lems of allowing religious teachings under the guise of creation science both fairly and accurately. The Court has kept the best interests of the nation first at hand, looking to history, cases and legislative intent in its analysis. In its wisdom, the Court has preserved the purpose of the Establishment Clause as well as the framer's intent, and, in essence, has saved the religious freedom of our nation.

JULIANA S. MOORE