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The Tale of Two Trials: A Study in Contrasts Presentation by Dr. Norman L. Geisler July 19, 1998, Rhea County Courthouse Scopes Trial Festival

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Contrary to the belief of my children, I was not present at the 1925 Scopes Trial. However, I was an expert witness at the so-called Scopes II Trial in Little Rock, Ark., in 1981. The two trials are a study in contrasts. In this presentation I'll do three things: First of all, I'll make some observations on the issue at Scopes I; second some observations on the issue at Scopes II; and third, some scientific, educational and legal implications of the court decisions on the two trials will be drawn.

First, the issue at Scopes I: The Tennessee law of 1925 that occasioned Scopes I read as follows:

"Be it enacted by the General Assembly of the State of Tennessee, that it shall be unlawful for any teacher in any of the universities, normals and other public schools of the state which are supported in whole or in part by the public school funds of this state to teach any theory that denies the story of divine creation of man as taught in the Bible and to teach instead that man was descended from a lower order of animals."

The Scopes court transcript makes it evident that the issue was whether or not the schools should teach only one theory of origin, namely creation, or whether they should allow the teaching of evolution as well. The defendant, John Scopes, who was initially found guilty for teaching evolution in violation of the law, summed up the issue well:

"Education you know, means broadening, advancing. If you limit a teacher to only side of anything, 1 the whole country will eventually have only one thought, be one individual. I believe in teaching every aspect of every problem or theory."

Clarence Darrow, the ACLU attorney who defended John Scopes, used the word "bigotry" of creationists numerous times at the Scopes trial. In fact he used it six times in only two pages of the trial and four times on one page. One citation will suffice. He said, "We have the purpose of preventing bigots and ignoramuses from controlling the education of the United States, and you know it, and that is all."

In another memorable line, Darrow concluded, "For god's sake, let the children have their minds kept open. Close no door to their knowledge. Shut no door from them. Make the distinction between theology and science. Let them have both. Let them both be taught. Let them both live."

Of course Darrow did not say creation could be taught as an empirical science but then again neither can evolution. Both are more like a forensic science. In brief, the basic issue at Scopes I was whether or not both creation and evolution should be taught in public schools. At the time only creation was permitted and evolutionists sought the protection of the law to teach evolution as well, going so far as to repeatedly call creationists bigots for allowing only creation to be taught. 2

Fifty-six years later, at Scopes II, would be a study in contrasts.

The issue at Scopes II: My interest in responding to the request to testify at Scopes II was based on the fact that it appeared to be a reverse Scopes I. Between 1925 and 1981, the de facto situation was reversed. Now evolution, not creation, dominated the public classrooms.

Act 590, passed by the Arkansas legislature and signed by Gov. Frank White on March 19, 1981, read in part as follows: "An act to require balanced treatment of creation science and evolution in public schools, to protect academic freedom by providing student choice, to ensure freedom of religious exercise, to guard freedom of belief and speech and to prevent establishment of religion, to prohibit religious instruction concerning origins, to bar discrimination on the basis of creationist or evolutionist belief."

It went on to say that creation science meant the scientific evidence for creation and inferences from those scientific evidences. The Louisiana law that moved on to the Supreme Court also defined creation science as "the scientific evidences for creation and inferences from those scientific evidences." This will serve as the working definition for our discussion.

Scopes II 1982 federal court decision. Granting what the ACLU had argued through its legal representatives at Scopes I, I fully expected them to be in Arkansas arguing the same point, that both theories of origins should be taught. I was half right. They were there.

This time, however, they insisted, and Judge William Overton, son of an Arkansas evolutionary biology teacher, ruled that only evolution should be taught in public school science classrooms. For on January 5, 1982, the McClain Court ruled not only that it was not constitutional to mandate balanced treatment but it was a violation of the First Amendment to teach any view that implies a supernatural creator. In the judge's own words, "Indeed, creation of the world out of nothing is the ultimate religious statement because God is the only actor."

He added that the creationst belief about the origin of specific kinds that "such a concept is not science because it depends on a supernatural intervention which is not guided by natural law, not explanatory by reference to natural law, not testable and is not falsifiable."

Although the Supreme Court 1987 decision in Edwards avoided some of the pitfalls of the McClain court, such as attempting to declare creation unscientific, nevertheless, it did succeed in establishing a de facto monopoly of evolution in the public schools. For it declared that "the act impermissibly endorses religion by advancing the religious belief that a supernatural being created humankind." Creation was repeatedly called a "religious" tenet, pages, 4, 5, 6, of the Supreme Court ruling (Sympton 6, 19, 87).

Unlike most creationists who read hope in Edwards for teaching creation on the grounds that it allows, one, evidence can be presented against evolution and, two, alternative theories of origins can be presented, it appears to me after careful reading and re-reading of the Supreme Court decision that this is a misunderstanding of the decision which excludes any and all views that refer to or imply a supernatural creator of the universe and/or living things. 4

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It is unmistakably clear in the Scopes Il(s) decision that only naturalistic theories could be taught and that a reference to a creator of the world is inherently religious. Since the Supreme Court cited this last quotation in its own decision, it seems evident that all the Supreme Court allows is alternative theories of origins that are naturalistic. That is, any view that affirms or implies a supernatural creator is religious and is considered unconstitutional.

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This is confirmed by Judge Scalia's dissenting opinion where he wisely noted, by the same logic, one could not counter any false teaching in a history class that taught that the bones of Jesus had been found. Instead, this is precisely what state attorney Hayes predicted at the Scopes I trial when he said these prophetic words, "and the next thing you know there will be a legal battle staged within the corners of this state that challenges even permitting anyone to believe that Jesus Christ was divinely born, that Jesus Christ was born of a virgin. Challenge that, and the next step will be a battle staged denying the right to teach there was a resurrection, until finally that precious Book and its glorious teachings upon which this civilization has been built will be taken from us."

In summary, the tale of two trials is a study in contrasts. Scopes I was precipitated by the fact that only creation was being taught in the public schools of the State of Tennessee. In response, evolutionists argued that it was bigotry to teach only one theory of origins. They insisted that both should be taught. Scopes II, by contrast, was occasioned by the de facto condition that virtually only evolution was being taught in the public schools of Arkansas. But tragically, the consequences of both which were appealed in the Federal Court decision of 1982 and the Supreme Court decision of 1987 ruled in effect that only naturalistic theories can be taught. Any reference to or implication of a supernatural creator as a possible explanation of origins is unconstitutional.

In short, the highest courts ruled that it is constitutional to teach only one view of origins, a naturalistic one. In the light of Clarence Darrow's plea to avoid bigotry and teach both, one can only ask this question: If it was bigotry to teach only one theory of origins when only creation was being taught, then is it not still bigotry to teach only one theory of origins when only evolution is being taught?

Based on this, one wonders how to avoid the conclusion that bigotry has not changed since 1925, only the bigots have.

The question of bigotry aside, there is one very interesting historic footnote emerging from the trial that relates to racism. Hunter's textbook on essentials of biology, from which John Scopes allegedly taught, affirms social darwinian racism. In a paragraph titled "Man, a Mammal," and speaking of "The Races of Man," it speaks of "the highest type of all, the Caucasian." This in contrast with the creationists belief from the Declaration of Independence which declares that all men are created equal and have equal inalienable rights. This stark contrast bristles with both social and legal implications.

The implications of the court decision.

If creation or creator are disallowed, de jure or de facto, then some shocking scientific, educational or legal consequences follow.



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Scientific implications.

There are several significant scientific implications from these court decisions. 1. The founders of modern science were not scientists. The first implication is that, granted the court's decision the very founders of most areas of modern science were not really scientific. After all, as defined by the Edwards Supreme Court case, these founders of modern science were creationists. This includes Keppler, Pascal, Boyle, Newton, Faraday, Agasus, Maxwell, Pasture and Kelvin. Sir Isaac Newton, for example, said, "It is not to be conceived that mere mechanical causes could give rise to so many regular motions. This most beautiful system of the sun, planets and comets could only proceed from the counsel and dominion of an intelligent and powerful Being."

The truth of the matter is, that if the scientific study of origins is not science, then neither Sir Isaac Newton nor the great founders of modern science could teach in American public schools. I respectfully submit that this is patently absurd.

Second implication. Evolution is not science either.

The second implication is the archeology, anthropology, astrophysics and paleontology are not science, since they too are sciences about past, unobserved events. Belief to the contrary, this is based on the failure to distinguish two kinds of science: empirical science and origins science. Admittedly, creation science is not an empirical science, but then again, neither is macroevolution. For the basic criterion of empirical science is that one's theories can be measured against some regularly recurring pattern of events in the present. But since both creation and macroevolution occurred in the past and are not being repeated in the present, then neither is an empirical science.

However, there are scientific approaches to the past, as exemplified by paleontology, archeology and astrophysics, but these are not empirical sciences since the past events they study were not observed and are not being repeated in the present. Nevertheless, the scientific approach to them is like a forensic science. That is, even though an unobserved homicide was not seen and obviously can't be repeated, nevertheless, the forensic scientist can use the remaining evidence to reconstruct a plausible scenario of what is likely to have occurred. Likewise, origins science operates in the same way.

Fundamental to this approach are the reasonable scientific premises that every event has an adequate cause and that past events are similar to present ones. For example, if it takes an intelligent being to produce an arrowhead from flint in the present, then archeologists do not hesitate to postulate an intelligent cause for a similar arrowhead in the past. Likewise, when scientists look at the evidence that a single-cell organism has enough specified complexity in the genetic code that would fill the Encyclopedia Britainica, then he can reasonably postulate that an intelligent cause produced the first living cell. And the refusal to allow creation science is like insisting that Britanica must have happened by something like an explosion in a printing shop. Again I suggest, this is evidently absurd.

Regarding and retarding the progress of science.

Another scientific implication of the court's decision to disallow the teaching of creation is that it will retard the progress of science. To refuse alternative explanations based on scientific evidence, no matter whether they are a minority view, is to stultify the growth of scientific understanding. Indeed, all great scientific discoveries were minority opinions when they first appeared, including Copernicus' view that the earth moves around the sun, and Einstein's theory of relativity. So to reject the possibility of creationist explanations of origins is contrary to the very openness to which the scientific method is committed. Since either something caused the origin of the universe or nothing did, then rejecting creation is like insisting we should teach young minds that noting caused something. Here the courts have adopted a credo ad absurdum in the face of which all rational minds recoil.

Further, there are some serious objections to disallowing minority views. Remember Gallileo? Admittedly, origins science is a minority view, but without minority views, there would be no possibility of scientific progress, since all new ideas were minority views when they first appeared. By disallowing that creationist theories can be presented, scientists in the name of science may be unwittingly hindering the progress of science. Of course, we agree that creationist views should be permitted only as origins science, not as operation science.

Metaphysical dogmatism.

In order to avoid this conclusion, most evolutionists have insisted that science is limited to a method that seeks for only non-intelligent natural causes. But this is not only false, but it confuses different kinds of causes, it is prejudicial and it leads to faulty conclusions.

First of all, neither archeology nor the SETI program, neither of these two, could be considered science by scientists on that same ground, because they both look for intelligent causes. In fact, archeologists posit an intelligent cause for their artifacts and the SETI scientists are listening for a message from an extraterrestrial intelligence. Neither of these are natural, non-intelligent causes.

Second, rejecting creationist science confuses empirical and forensics types of science. The former has only natural causes but the later may not. Empirical sciences deal with regularities in the present, but by their very nature, all regular events are natural events. However, origins science deals with past singularities which may or may not have a natural explanation. For example, a dead body found in a forest may have been hit by lightning, a natural cause, or may have been killed by a murderer, an intelligent cause. Likewise, when the scientific evidence for a past event points to a supernatural cause, then there is no reason not to posit such a cause.

Even agnostic astrophysicist Robert Jastrow acknowledged, "Astronomers now find they have painted themselves in a corner because they have proven by their own method that the world began abruptly in an act of creation to which you could trace the seeds of every star, every planet, every living thing in this cosmos and on earth, and they have found that all this happened as a product of forces they cannot hope to discover," which he calls elsewhere "supernatural forces," the very thing the Supreme Court disallowed.

Third, it is prejudicial to limit all scientific causes to natural ones. It is a bias in favor of naturalism, either of metaphysical naturalism or of methodological naturalism. Not all effects in the world need

to be caused by natural causes. Indeed, the very first event, which scientist call the "Big Bang," could not have been caused by the natural world, since there is evidence that it involved bringing the whole natural world into existence. As British physicist Edmund Whittaker concluded, "It is simpler to postulate creation ex nihilo, divine will constituting nature from nothingness."

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It also leads to faulty conclusions.

Assuming that all events in the physical world must have natural causes clearly prejudges the conclusion before looking at the evidence and then drawing the appropriate conclusion based on the facts. For example, if science by definition must always posit a natural cause for all events in the physical world, then they must seek some unknown law of erosion to explain the presidential faces on Mt. Rushmore. Or, they must assume a message in the clouds that reads "Drink Coke," resulted from an unusual wind current.

Educational implications.

In addition to the scientific implications of the court decisions on the Scopes Trials, there are some significant educational consequences.

Academic uniformity.

Evolution is definitely the dominant view in the academic community. However, academia, of all domains, should be open to divergent opinions. John Scopes was right when he said, and I repeat, "Education, you know, means broadening, advancing. And if you limit a teacher to only one side of anything the whole country will eventually have only one thought, be one individual. I believe in teaching every aspect of every problem or theory." This applies whether the minority view is evolution or creation.

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Disinterest in truth.

Since from the earliest known times, thinking people have been interested in truth, science even in its primitive forms, sought to know the truth about the natural world. But logically there are only two possible views of origins; either they have a natural cause or a supernatural cause. Either they occurred by intelligent intervention into nature by supernatural cause or by purely natural laws apart from any intelligent intervention.

However, with the exception of a few vocal zealots for evolution, as the late Isaac Asimov, most serious-minded scientists recognize that it's at least possible that evolution may be false and creation may be true. If this is so, then a court decision which forbids teaching creation will have the consequence of legislating the impossibility of teaching what admittedly may be true. It is difficult to believe that fair-minded scientists are willing to say in effect that creation may be true, but we will not allow it to be taught anyway. Certainly we do not want to legislate the possibility of truth out of the scientific classroom.

This being the case, then, legislating against the teaching of creation is legislating against our young people being exposed to what could possibly be true. This entrenched metaphysical and

methodological naturalism in our public institutions has ruled out in advance the very possibility of finding the truth, should it be found in an intelligent cause of the world and life. Have we come to the place in American education where we are no longer interested in truth? Must we insist on a method of research that eliminates knowing what possibly may be true? Are we no longer interested in truth wherever it may be found?

Legal implications.

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Finally, some interesting legal implications emerged in the wake of the court ruling on the Scopes Trial. First, there is the matter of the First Amendment, freedom of speech. For all practical purposes, there is no freedom of speech for creationists in public schools. The court decisions and the chill effect from them has hampered efforts to get a fair hearing for creation. Evolutionists have freedom of speech both de facto and de jure; for all practical purposes, creationists have neither.

The Declaration of Independence is unconstitutional. Hard to believe that just a few weeks ago as we celebrated our national birthday based on the truths in the Declaration of Independence that the Supreme Court of the United States has declared, in effect, that the Declaration of Independence is unconstitutional. If the courts are correct, that it's unconstitutional to demand freedom to teach creation alongside of evolution, then the basic teachings of the Declaration of Independence are unconstitutional for it teaches that "all men are created equal" by a creator. But this is precisely what both McClain and Edwards decisions declared to be inherently religious. Thus, by logical implication, the courts have ruled that the founding legal document of our country, our national birth certificate, is unconstitutional. I have no doubt what Thomas Jefferson would do were he to return to America to discover that he was being forced to pay taxes to support public schools to teach his children that the Declaration of Independence was unconstitutional.

Since at the basis of the first revolution was the belief that "taxation without representation is tyranny," he would start a second American revolution.

Now my proposal is modest by comparison. Let us open our institutions to what Charles Darwin himself said in the introduction to his famous work *On the Origin of Species*, where he wrote, "For I am well aware that scarcely a single point is discussed in this volume on which facts cannot be adduced often apparently leading to conclusions directly opposite to those at which I have arrived." He adds, "A fair result can be obtained only by fully stating and balancing the facts and arguments on both sides of each question," and this is here impossible.

Thank you very much.

Norman L. Geisler, "The Tale of Two Trials: A Study in Contrasts"

NOTES

- 1. John Scopes; quoted in P. William Davis and Eldra Pearl Solomon, *The World of Biology* (New York: McGraw-Hill Book Company, 1974), 414.
- 2. Clarence Darrow; quoted in Theodore C. Mercer, ed., *The World's Most Famous Court Trial: Tennesee Evolution Case* (Cincinnati: National Book Company, 1925; reprint, Dayton, Tennessee, 1978), 299 (page citation is to the reprint edition).
- 3. Clarence Darrow; quoted in Theodore C. Mercer, ed., The World's Most Famous Court Trial, 187.
- 4. Arkansas, Act 590, (March 19, 1981); quoted in Norman Geisler, The Creator in the Courtroom (Milford, MI: Mott Media, 1982), 4.
- 5. Louisiana Statute 517.286.3(3).
- 6. Judge William Overton, quoted in Geisler, The Creator in the Courtroom, 174.
- 7. Judge William Overton, ibid., 176.
- 8. Edwards Supreme Court Decision, 19 June 1987.
- 9. A. T. Stewart, quoted in Mercer, The World's Most Famous Court Trial, 198.
- J 10. George William Hunter, A Civic Biology: Presented in Problems (New York: American Book Company, 1914), 196.
 - 11. Sir Isaac Newton, "General Scholium," in Great Books of the Western World, ed. Robert Maynard Hutchins, Vol. 34, The Mathematical Principles of Natural Philosophy (Chicago, IL: University of Chicago, 1952), 369-70.
 - 12. Robert Jastrow, "A Scientist Caught Between Two Faiths: Interview with Robert Jastrow," Christianity Today, August 1982, 6.
 - 13. Edmund Whittaker, quoted in Robert Jastrow, God and the Astronomers (New York: W. W. Norton, 1978), 111-112.
 - 14. John Scopes; quoted in Davis and Solomon, The World of Biology, 610.
 - 15. Charles Darwin, *The Origin of the Species*, ed. J. W. Burrow (1859; reprint, London: Penguin Books, 1985), 66.