

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

REV. BILL MCLEAN, ET AL.

PLAINTIFFS

VS.

NO. LR-C-81-322

STATE OF ARKANSAS, ET AL.

DEFENDANTS

JOINT STIPULATION OF FACT

A. TEXTBOOK SELECTION PROCESS IN ARKANSAS

1. Textbook selection in Arkansas is carried on within the framework of Ark. Stat. Ann. §§80-1704 through 1717. Generally, that law requires that the State Department of Education (herein Department) select a committee of nine persons in each academic area in which textbooks and other instructional materials are being selected. Committee members must have five years teaching or supervisory experience with three years teaching or supervisory experience in the areas in which they are serving. Committee members make recommendations to the Board of the Department which is responsible for adopting, modifying or rejecting the recommendations of the committees.. The adoption process is accomplished in five year cycles, with the adopted lists be effective throughout the five year period. There are statutory provisions for supplementing the lists during the five year cycle.

2. There are separate committees in each subject area for grades K-8 and 9-12. The last-adoptions in science were in 1979 and the next science adoption committee will be selected in 1984. In 1977 the Department devised and published a document entitled "Science Guidelines for Arkansas-Secondary Schools." Among the biology concepts included in that document are:

Evolution, the causes and changes in population gene pools and how a biologist studies relationships among organisms and their ancestors as evidence supporting the theory of evolution. (p7)

How the principle of population genetics can be used to explain the evolution of adaptations and of new groups of organisms. (p7)

The biology concepts contained no reference to creation or creation-science. The earth science concepts include:

The history of the planet earth as shown in evolutionary changes and radioactive dating. (p9)

An awareness of the enormity and complexity of space. (p9)

The theory of plate tectonics and continental drift as they relate to other concepts. (p9)

3. Once the list submitted by the committee is approved it is distributed to each school district in Arkansas, which then undertakes its own selection process. Each school district makes its own decisions with regard to the selection of a text, but it may receive state funds for the purchase of texts or instructional materials, only if that text or material appears on the lists of adopted texts and materials.

4. Each of the twenty biology texts currently on the 1979 state approved list contains references to evolution. A list of those texts and the references in them to evolution are attached to this Stipulation as Exhibit 1. Only five of the approved texts contain references to creation. Copies of each of the references to creation within those texts are attached to this Stipulation as Exhibit 2.

5. The process for adding materials to the approved list requires that five school districts petition the Director of the Department to have materials added to the list. The Director then appoints a committee of three specialists in the area in which the materials are sought to be added, to make recommendations to the Board regarding inclusion of the additional material on the approved list.

6. The Department has not taken any steps to review creation-science materials for possible inclusion on the approved list. There have not been requests from sufficient districts to require the Director to appoint a committee to study the addition of creation-science materials to the approved lists. The Creation Science Research Center has submitted several works to the State Department of Education for review, although the authorities at the Department have undertaken no comprehensive review. No other publisher has contacted the Department with regard to submitting materials on creation-science.

7. The Department has taken the position that Act 590 does not require it to make a selection by March 15, 1981 with regard to teaching materials to implement the requirements of Act 590. The Director has not appointed any committee to review creation-science materials for inclusion on the approved lists.

B. MANDATED SUBJECTS FOR INCLUSION IN CURRICULUM

1. Arkansas law provides that all schools shall teach "such subjects as may be designated by the State Board of Education or required by law." Ark. Stat. Ann. S80-160 (Repl. 1980).

2. The following courses are the only courses required by law to be taught in Arkansas Schools, either for each school district to *maintain* accreditation or by statute:

- a. American History
- b. Arkansas History and Government
- c. Physical Education
- d. 4 units of English
- e. 3 units of Mathematics
- f. 3 units of Social Studies
- g. 2 units of Science
- h. 3 units of Practical Arts

3. The following information is the only information required by statute to be taught in all Arkansas schools:

- a. The effects of alcohol and narcotics on the human body;
- b. Conservation of national resources;
- c. Bird Week;
- d. Fire prevention; and
- e. Flag etiquette.

C. LEGISLATIVE HISTORY

1. Act 590 was introduced in the Arkansas General Assembly by Senator James L. Hoisted on February 24, 1981 when it was read for the-first and second times. The bill was immediately referred to the Senate Judiciary Committee.

2. Senator Hoisted was and is a member of the Senate Judiciary Committee. The Senate Judiciary Committee met on March 3, 1981 to consider Senate Bill 482 and recommended that the bill receive a, "do pass." No witnesses appeared before the Senate Judiciary Committee on March 3rd either for or against the bill.

3. On March 12, 1981, the bill was brought up in the Senate for consideration on its third and final reading. After minimal debate (lasting only a few minutes), there were only two votes against the bill and twenty-two votes in favor of the bill. On the same date Senate Bill 482 was transmitted to the House of Representatives.

4. The bill was read in the House for the first time on March 12th and for the second time on March 13th. The bill was referred to the House Education Committee and on Friday, March 13 the committee met for thirty minutes prior to the beginning of the regular session of the House at 10:00 o'clock. Only two bills were under consideration by the Education Committee that day and Senate Bill 482 was considered second. There was approximately fifteen minutes

left before the House was to go into session when debate began on Senate Bill 482. The first speaker was Larry Fisher, a science and mathematics teacher from Jacksonville High School in Pulaski County, Arkansas who spoke in favor of Senate Bill 482. State Representative Michael Wilson spoke against the bill for the same length of time.

5. The acting Chairman of the Education Committee requested a vote on whether to recommend the bill as, "do pass" and on a voice vote the acting Chairman ruled that the Motion had passed. One of the members of the Committee requested that a role call be taken and that request was refused. There was no discussion of the bill-in committee.

6. On Tuesday, March 17, 1981 the bill was brought up for a third and final reading in the House of Representatives. The bill was passed by a vote of sixty-nine in favor and eighteen opposed and was transmitted to the Governor's Office on March 18, 1981, the same day that the Legislature adjourned sine die. Governor Frank White signed the bill on March 19, 1981.

Respectfully submitted,

Bruce J. Ennis, Jr.
Jack D. Novik
American Civil Liberties Union
132. West 43rd Street
New York, New York 10036

Philip E. Kaplan
Kaplan, Hollingsworth, Brewer
and Bilheimer, P.A.
Suite 955, Tower Building Little Rock, Arkansas
72201

and

Cearley, Gitchel, Mitchell
and Roachell
1014 West Third Street P.O. Box 1510
Little Rock, Arkansas 72203

BY: _____
Robert M. Cearley, Jr.

Attorneys for Plaintiffs Attorney General for
the
State of Arkansas

BY: _____
Attorneys for Defendants