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WHY SCHOOLING IS SO CONTROVERSIAL IN AMERICA TODAY

JOHN H. ROBINSON*

A. Our Existential Dilemma

To live in the twentieth century for most of us is simultaneously to inhabit two different thought worlds. Two competing ways of making sense of human life vie for hegemony over our hearts and minds; all of us have to find some way or another to reconcile the conflicting claims of the two. There is nothing uniquely modern about this: Philo Judaeus and Paul of Tarsus, each in his own way, mediated the conflict between Hebraic and Hellenic thought in their works; Augustine and Aquinas were themselves both masters of synthesis, as were Descartes and Kant. For us, however, the straddling act required by our dual citizenship is particularly anguishing.

Should we see the universe as the gift of a loving creator or as the chance product of mindless forces? Should we see humankind as the summit of physical creation or as a mere way station in the evolutionary process? Should we conceive of the choices that we make as constitutive of our character and as determinative of our eternal destiny or as illusions to be transcended as we come to understand the psychic, somatic, and social factors that determine human behavior? Is death the point of transition from this life to an afterlife of infinite duration and unutterable bliss (or unimaginable pain), or is it simply the moment of extinction of consciousness and nothing more? Should we perceive our fellow humans as brothers and sisters with whom we are called to form an abiding and effective community, or are they, like us, so many rational hedonists, competing with us for the scarce goods of the earth? Are our values mere rationalizations of idiosyn-

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ocratic preference and social position, or are they manifestations of a divinely ordained human nature, deviation from which will guarantee our personal diminution and perhaps our eternal damnation?

Pascal gave one sort of answer to these questions; Voltaire, another. From Hume to Russell, most British philosophers sided with Voltaire; following Kant, continental philosophers were suspicious of glib dismissal of the Pascalian side. All of them, however, took the questions themselves to be intelligible and important. Early in this century, philosophers were inclined to dismiss the questions as symptomatic of conceptual confusion and therefore as not worth answering. That the philosophers' "demonstrations" succeeded in establishing their claim is very much open to doubt, but it is beyond doubt that they did not succeed in disabusing the rest of us of our belief that these basic questions demand answers of us and that the answers we give define the kind of persons that we are.

As we attempt to formulate answers to these questions, we discover, I believe, a systematic split between the sort of answer that what might loosely be described as the religious thought-world provides, on the one hand, and the one that what may with equal looseness be described as the scientific thought-world provides on the other. The former is the world of a providential creator, an immortal soul, eternal reward or damnation, free will, and meaningful action. The latter is the world of blind forces, determined behavior, relentless materialism, and the quantification of everything. The life-blood of the religious thought-world is faith; that of the scientific one is doubt. Religious claims respond to our demand for meaning, scientific claims respond to our demand for explanation—the former denoting a more affective demand; the latter, a more cerebral one.

We, of course, want both the comfort of meaning and the brilliance of explanation. We value both the will to believe and the acid of skepticism. We are heirs to our religious tradition and, often, participants in scientific pursuits. We vary, therefore, in our ability to reconcile the different kinds of answer provided by the different worlds that we inhabit, just as we differ in the way we deal with whatever residual conflict remains after our effort at reconciliation is complete. For some of us the conflict is starkly unreconcilable; we then either live a kind of cognitive schizophrenia or simply subordinate one thought world to the other. For others of us, the conflict is wholly illusory; we then attempt one of several
"best of both worlds" syntheses, with what success it is difficult to say. For the rest of us, the answers that we give to questions of ultimate meaning reflect neither perfect reconciliation of the claims of the two worlds nor complete subordination of one to the other, leaving us, if not schizophrenic, at least tentative and not a little confused. In any case our efforts in this regard constitute, so to speak, natural sacraments: they effect what they signify in their capacity both to express what we are and to influence what we become.

B. The Constitutionalization of Family and School

As congenital pragmatists, Americans are inclined both to discount and to displace ultimate questions. As a result we do not confront them head on. We encounter them instead slightly disguised in other contexts. One of those contexts is, I believe, the schooling of our children. Questions about schooling bring to the surface both conflicts among ourselves as to what answers should be given to ultimate questions and conflicts within ourselves over the adequacy of the truce we have struck between the warring claims that the two thought-worlds have made for our allegiance. The first sort of conflict is politically divisive; the second is psychologically stressful. In a culture within which one thought-world had established complete dominance over the other, the political conflict would disappear, and for a person in whom a similar dominance was established, the psychological tension would be eliminated. I do not doubt the possibility of either occurrence, but it is my sense that ours is not such a culture and that by and large we are not such persons. Both politically and psychologically we are torn between the conflicting claims that the two worlds make on us. This alone accounts for the duration and the vehemence of the schooling debates that are the focal point of this issue of our Journal.

By the peculiar alchemy of American life, political conflicts over time become constitutional questions, even when there is not a phrase in the Constitution that explicitly addresses the conflict at hand. So it is that when periodically the issue is joined between "scientific" schoolers and "religious" resisters, it is in the language of constitutional law that the issue is framed, addressed, and resolved. The text of the Constitution contributes something to this alchemy, viz., the non-establishment and free exercise language of the first amendment and the liberty interest that the due process clause of the fourteenth amendment is said to protect. While
oceans of ink have been spilled in efforts to interpret the first and fourteenth amendments, those two provisions simply don't address the two institutions that are at the heart of most schooling debates, viz., the family, on the one hand, and the state educational bureaucracy, on the other. On those two institutions the American Constitution is simply silent. As to both, however, a whole corpus of constitutional jurisprudence has emerged in the past century, and it is that body of law that sets the context for the disputes that we will examine in this symposium.

1. Constitutional Family Law

With the possible exception of the churches, whose privileged position is guaranteed by the first amendment, no social institution can compete with the family for respect in American constitutional law. During the generation-long struggle against Mormon polygamy of the last century, the United States Supreme Court celebrated the monogamous family as "the sure foundation of all that is stable and noble in our civilization" and as a bulwark against patriarchal despotism. During the subsequent Substantive Due Process era, the Court again upheld the monogamous family as a guarantor against the kind of meddling despotism that the Court found in Plato's Republic and, we can surmise, that it saw in the process of formation in the Soviet Union. It was the state education bureaucracy, trying in one case to subvert disfavored ethnic loyalty and in another to frustrate unpopular religious indoctrination, that was the loser in the Substantive Due Process cases, and the clear message was that parents have priority over the state when it comes to deciding with what beliefs children are to be inculcated during their formative years.

Because this message was based more on distrust of the meddlesome state than on trust in parental wisdom, it was impossible to predict how the New Deal Court, which thoroughly repudiated the anti-statist views of its predecessor, would resolve conflicts between family values and the agenda of the state educational establishment. Initially the New Deal

4. Id.
Court sided with the state, but in the greatest volte-face of its history, it subsequently sided firmly with the family in such disputes. Even in the rare case where the state was allowed to overrule a parental decision as to the best interest of a child, the Court viewed the so-called parens patriae power of the state with great suspicion.

While the bureaucratic state has made enormous advances in the generation since the New Deal cases were decided, the Court has remained amazingly consistent in its preference for the family over the state when it comes to deciding who shall decide what is in the best interest of the child. Natural parents are preferred to foster parents; the home is preferred to the reform school; the parental decision to institutionalize a child is exempted from judicial review; very strong evidence is required before a state can terminate parental rights; and the Amish, at least, can take their adolescent children out of school when they, the parents, think best, not when the state educational bureaucracy says so. What is so striking about all of these cases is that they are so redolent with suspicion of the allegedly benevolent state. When the state educational establishment seeks "to 'save' a child from himself or his Amish parents," it has an enemy in, of all places, the United States Supreme Court.

2. Constitutional Education Law

To say that the school is subordinate to the family in American constitutional theory is not to say that the school itself, or the bureaucracy that controls it, lacks constitutional

9. Id. at 171. In addition to the constraints on parens patriae power that were stated in Prince, the Court has subsequently taken "great care to confine Prince to a narrow scope . . . ." Wisconsin v. Yoder, 406 U.S. 205, 230 (1972) (referring to the Court's reading of Prince in Sherbert v. Ver- ner, 374 U.S. 398 (1963)).
11. I infer this from a reading of Kent v. United States, 383 U.S. 541 (1966); In re Gault, 387 U.S. 1 (1967); and In re Winship, 397 U.S. 358 (1970). Those three cases, taken together, make it very difficult for even the benevolent state to take children from the custody of their parents for the purpose of subjecting them to the discipline of a reform school.
15. Id. at 232.
status in its own right. Nothing could be further from the truth. Even when the Court was inveighing most heavily against the oppressive bureaucrat, it carefully distinguished between the meddlesomeness that it proscribed and the reasonable regulation of the educational component of child rearing that it left unscathed by its fulminations. In *Meyer v. Nebraska*, for example, Justice McReynolds, the ultimate anti-statist, said, "The power of the State to compel attendance at some school and to make reasonable regulations for all schools . . . is not questioned. Nor has challenge been made of the State's power to prescribe a curriculum for institutions which it supports. Those matters are not within the present controversy."\(^{16}\) He repeated the same caveat in *Pierce v. Society of Sisters*, his other landmark opinion on the limits of the state when it conflicts with parental schooling preferences.\(^{17}\)

In the New Deal Court's withering critique of the "village tyrants"\(^{18}\) whom it assimilated to Nero, Torquemada, Stalin, and Hitler\(^{19}\) in their efforts to achieve "uniformity of sentiment"\(^{20}\) by coercive means, it blithely acknowledged that "the State may 'require teaching by instruction and study of all in our history and in the structure and organization of our government, including the guarantees of civil liberty, which tend to inspire patriotism and love of country.'"\(^{21}\) When, finally, the Burger Court exempted Amish children from some provisions of Wisconsin's compulsory attendance laws, that Court, like its predecessors, expressed "no doubt as to the power of a State, having a high responsibility for the education of its citizens, to impose reasonable regulations for the control and duration of basic education."\(^{22}\)

The preceding parade of quotations proves, I think, that even when the education establishment has been rebuffed in its efforts to overrule parents as to the schooling of a particular child, its legitimacy has received constitutional acknowledgement. But it is not only as an officious intermeddler in family value transmission that the school bureaucracy has come to the Court's attention. At other times it is seen by the

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19. *Id.* at 641.
20. *Id.* at 640.
21. *Id.* at 631. (quoting *Minersville Sch. Dist. v. Gobitis*, 310 U.S. 586, 604 (Stone, J., dissenting) (1940)).
Court as a vital cog in the machinery by which the upward mobility of the underclass is made more probable. In *Brown v. Board of Education*, for example, Chief Justice Warren described education as “a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.” And in *Plyler v. Doe*, Justice Brennan said that “education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all.” Implicit in these observations is the suggestion that, because education is so valuable, the bureaucracy that makes education available to the underclass by way of the public school system deserves a certain amount of deference just so long as it does not discriminate within the population that it is supposed to serve.

Ultimately, however, it is not the socio-economic benefits that flow from universal education that ground the constitutional status of the education bureaucracy and of the system that they run. It is the political contribution of education in general and of schooling in particular that provides that grounding. That contribution can best be understood, I think, as having two basic components. The first is eminently practical and utterly non-controversial; the other one is both more rarefied and more subject to debate. It is, however, that latter component that is absolutely essential to an adequate consideration of the several articles that make up this symposium issue of our Journal; so we still have to consider it with some care.

The non-controversial component of the political contribution of education to American life is simply the basic literacy that it conveys. Literate voters are, *ceteris paribus*, better voters than are illiterate voters, if only because the former are in a better position to survey and assess the information on which elections ought to be decided. Experience teaches that this is not a reason to deny the vote to the illiterate; literacy tests are subject to abuse and the illiterate may display uncommon political wisdom in the electoral choices that they make. The preferability of literacy in an electoral democ-

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24. *Id.* at 493.
26. *Id.* at 221.
27. Literacy tests are not *per se* unconstitutional; see *Lassiter v. Northampton Election Board*, 360 U.S. 45 (1959). They are, however, so susceptible to abuse that they are now widely disfavored. See *Louisiana v.*
racy is, however, a very good reason for making the illiterate literate, and, insofar as this is what schooling does, schooling makes a valuable political contribution to American life. Insofar as schooling goes beyond mere literacy and provides students with the factual information and analytic skills that are useful in making intelligent political decisions, it multiplies the political benefits that flow from mere literacy and further secures for itself a privileged position in the constitutional scheme of things.

The controversial component of the contribution of education to American political life relates to the habits of mind that education is thought to encourage. It is comforting to think, as Justice Jackson did in *Barnette*, that public schools, “faithful to the ideal of secular instruction and political neutrality,” can be mere conduits of knowledge, but it is also foolish to think this way. Two developments in constitutional theory were required before the folly of Jackson’s conduit account of schooling could be fully appreciated and before the habits of mind component could emerge with perfect clarity. One development pertains to the speech and press provisions of the first amendment; the second concerns the application of first amendment theory to school settings. Together these two developments conspire to create a constitutional doctrine of education that subsists in unstable tension with the constitutional family law described earlier in this foreword.

The first development just mentioned is a product of the thought of Zachariah Chafee and Louis Brandeis. In the politically repressive years that followed World War One, they developed a theory of the first amendment according to which its speech and press provisions were meant both to expose the government to popular scrutiny and to subject it to popular criticism. But, they reasoned, neither the scrutiny nor the criticism were self-executing. Neither would occur unless the people possessed a sense of their own ultimate political power and a further sense of their own political responsibility. Put negatively, a passive, uncritical citizenry, which

31. Alexander Meiklejohn, reacting against certain weaknesses that he perceived in Chafee’s theory, made the clearest case for basing speech
thinks of itself fundamentally as "the governed," is inconsistent with democratic theory. In Brandeis's words, "[T]he greatest menace to freedom is an inert people . . . [P]ublic discussion is a political duty . . . ."\(^8^1\) Or, in the words of Edmond Cahn, "The chief enemies of republican freedom are mental sloth, conformity, bigotry, superstition, credulity, monopoly in the market of ideas, and utter, benighted ignorance."\(^8^2\) In time, the Court came to embrace this position, and it is now firmly in place as the theoretical substructure of first amendment law.

The second development referred to above involved the application of the theory that Chafee and Brandeis had developed to the school setting. This was done primarily by Felix Frankfurter in the politically repressive years that followed World War Two. Concurring in an opinion which struck down one of the many loyalty oath requirements of that era, Justice Frankfurter said:

That our democracy ultimately rests on public opinion is a platitude of speech but not a commonplace in action. Public opinion is the ultimate reliance of our society only if it be disciplined and responsible. It can be disciplined and responsible only if habits of open-mindedness and of critical inquiry are acquired in the formative years of our citizens. The process of education has naturally enough been the basis of hope for the perdurance of our democracy on the part of all our great leaders, from Thomas Jefferson onwards.\(^8^4\)

From these premises he inferred a privileged place for teachers in the constitutional scheme of things, referring to them as "the priests of our democracy."\(^8^5\) The fate of that inference need not trouble us here;\(^8^6\) what is important is that by his efforts during the worst years of the Red Scare Frankfurter insinuated into the care of constitutional education

and press freedom in the ultimacy of the people as governors in a democracy. See A. Meiklejohn, Free Speech and Its Relation to Self-Government (1948).

34. Wieman v. Updegraff, 344 U.S. 183, 196 (1952) (Frankfurter, J., concurring) (emphasis added).
35. Id. (Frankfurter, J., concurring).
36. In Shelton v. Tucker, 364 U.S. 479 (1960), Frankfurter dissented from the Court's application of the theory he had developed in Updegraff. See id. at 490-96.
doctrine the claim that there is a profound nexus between the habits of mind that our schools foster and the success of democratic government. For Frankfurter, it was better to risk having an occasional subversive loose in the classroom, bad as that might be, than to permit a "pall of orthodoxy" to descend over the classroom. Frankfurter's success consisted in educating the Court to see that from the point of view of democratic theory, what is wrong with the pall of orthodoxy is that it encourages that inertness, that mental sloth, that uncritical passivity that are "[t]he chief enemies of republican freedom."  

3. Constitutional Doctrines in Conflict

If the sketches of American constitutional family and education law that I have just drawn are at all correct, courts attempting to use those bodies of law to resolve conflicts between parents and schools over the education of children are bound to run into trouble. The family law cases present the state as meddlesome and inept and its operatives as so many self-deceived childsavers who do more harm than good. The education law cases present teachers as "the priests of our democracy" and the classroom as a kind of holy place where children acquire information, social attitudes, and habits of mind that would in all probability be denied to them if they were excluded from school. Surely both claims cannot be correct. In fact, neither is correct, and the path of wisdom lies in seeing wherein both claims go awry.

If Americans are congenitally pragmatists, we are at the same time hopeless idealists. More than we realize, we deal in icons and evade realities. So the "family" of our constitutional doctrine is a loving triad in which the parents really do know what's best for the child, and the "school" is this marvelous agent of Americanization, churning out informed, open-minded young patriots. The reality is, of course, more complex. Not only are there bad families and rotten schools, fanatical parents and authoritarian teachers, schizophrenic family dynamics and lobotomizing educational programs, but there is between the family and the school a tension that is quite literally as old as Aeschylus but with which

37. See Keyishian v. Board of Regents, 385 U.S. 589 (1967) for the posthumous vindication of Frankfurter's position.
38. Id. at 603.
39. Cahn, supra note 33, at 480.
our law has never come to terms. That tension requires a mo-
ment’s attention.

Left to itself, the family is self-destructive; it cries out for
completion by an extra-familial community. Even in a healthy
family, children benefit from alternative centers of activity
and from alternative sources of care. It would require skills
that surpass my own to explain how this is true, but it is not
unreasonable to suspect that extra-familial experience curbs
the narcissistic ego-centrism of children while it enhances
both their self-concept and their self-esteem. The former
would flow from their exposure to adults for whom this child
is not the center of their life; the latter, from their interac-
tion with a host of others who don’t regard the child as fund-
damentally their offspring or sibling. Simple release from the
oedipal hothouse of the nuclear family might all by itself be
felt as a boon by a child, as might the deliverance from an
otherwise ineluctable role—as, say, the kid brother—that the
extra-familial world offers. Similar considerations could be
developed regarding the benefit that accrues to parents from
involvement in the broader community.

Left to itself, the state is all-consuming; it needs to be
restrained by a set of intermediate institutions that act as
buffers between it and the individual. Even the well-inten-
tioned state tends to homogenize its citizens, delegitimizing
all loyalties except those that bind the individual to the state.
This, I think, is why both Locke and Mill, those twin pillars
of the modern state, expressed such grave misgivings about
state-sponsored education. Locke took great pains in his Sec-
ond Treatise of Civil Government to vest the education of chil-
dren in the hands of their parents, and in Some Thoughts Con-
cerning Education he went so far as to urge the wealthy to
educate their children at home, lest they be corrupted by
their peers even in the most exclusive of schools.40 In his cel-
ebrated vindication of the social and political benefits that
flow from leaving people free to decide for themselves how
they should live, Mill dismissively rejected the common
school as a “mere contrivance for moulding people to be ex-
actly like one another;”41 he feared that it would establish “a
despotism over the mind.”42 The family is a natural antidote
to the state’s totalitarian tendencies. As does a church, it gen-

40. See J. Locke, Second Treatise of Government §§ 55-71 and J.
Locke, Some Thoughts Concerning Education § 70.
42. Id.
erates loyalties that rival in intensity those that the state evokes, and it conveys beliefs that can undermine the ideology that the state is purveying.

In a healthy polity, then, the hypertrophy of both the family and the state will be prevented, heavily by the restraints that each impose upon the other. This process of mutual restraint will surely generate tensions but it is a tension that benefits both the general polity and the family and state that "suffer" from it. Wise constitutional theory would focus on this healthy tension, and, in vindicating the claims of either the family or the school, it would carefully acknowledge both their negative potential and their need for the counterforce provided by the other. Paradoxical as it might seem, the best thing that can happen to a family is the emergence outside of it of vigorous competitors for the attention and trust of its children, and the best thing that can happen to the state is the persistence within it of equally vigorous resistance to its appeals for loyalty and submission. If there is one pervasive flaw in modern American constitutional family and education law, it is the insensitivity of both doctrines to the implications of this apparent paradox. A return to the cognitive conflicts that I sketched at the outset of this foreword will perhaps clarify the point I am trying to make here. It will also set the scene for the several articles that follow in this issue.

C. Humility and Love

Nothing could be more outrageous than to suggest that humility and love might be crucial to the solution of basic public policy problems, but that is the suggestion that I will make here. Humility is, I think, required relative to the resolution of the existential dilemma that I sketched in the opening paragraphs of this foreword, and love is, I believe, equally requisite to the resolution of the doctrinal impasse sketched later on. In making the case for each of these claims, I will be able, I hope, to merge the two issues that I have taken up in these preliminary remarks.

The humility that I just mentioned amounts in practice to an abiding awareness of how puny our minds are with reference to the enormity of the issues posed by questions of ultimate meaning. Both individually and collectively, we are no match for these questions. Our purchase on both our religious traditions and on our scientific culture is so weak and so partial that none of us should presume to be masters of ei-
ther and almost none of us even pretends to be master of both. Communication between the two cultures is so rudimentary and so banal that nothing but a kind of rotarian "good-will" emanates from the rare official encounters between them, and little but confusion emanates from the occasional informal contact between scientists and religionists. As a result in the four and a half centuries since the emergence of the Copernican challenge, the interface between science and religion has more often been a kind of free-fire zone rather than a hallowed ground.

Humility could change all that. It would bring home to us how much more we need to know about both religion and science and how much deeper our appreciation of the role that both faith and doubt play in our lives would have to be before we could begin adequately to answer questions about apparent conflicts between the two. Humility could turn the arrogant disdain that the enlightened scientist feels for religion into reverence for the resources of religious consciousness, and it could relax the grip that a blind fear of science and a consequent rage against its alleged godlessness often imposes on religious believers. In our dealings with our children, humility might make it possible for us to transmit to them the awe that we experience in the presence of a power that eternally eludes comprehension, the comfort that our religious belief brings to us when we confront that power, and the integrity of scientific pursuits. It might help us to warn them against the hubris implicit in dismissing one or the other and against the folly implicit in thinking that they have mastered the *logos* that is in principle beyond being mastered.

And love, what could it do? Where parents and the state vie for the allegiance of children, where each distrusts the ideology in which the other would steep those children, each needs to be reminded of the kenotic selflessness that love demands of us. Parents reluctant to expose their children to the tutelage sponsored by the state may be correct in their suspicions—indeed, according to the articles that follow in this issue, they often are—but they still need to ask themselves if they are not using their children as pawns in a political struggle that could be fought on other ground. They need also to ask if their reluctance to expose their children to external influences is not evidence of a desire to have their children function as extensions and replications of the parents themselves rather than as persons in their own right. They need, in short, to see if their natural affection for their children has matured into genuine love, where the well-being of the be-
loved takes precedence over the interests of the lover.

Since Marsilius of Padua argued that the state should limit itself to being a keeper of the peace, any suggestion that the state should love its citizens has been met with disbelief; as we have seen, the American Supreme Court has been most suspicious of the state when the state was asserting a paternal interest in the well-being of the wayward young within it. It remains true, however, that the state’s educational bureaucracy has a duty to love the children who are under its jurisdiction at least insofar as love requires it to put their well-being ahead of its own insatiable desire to grow and to control. A bureaucracy so motivated would surely not seek to set children against their own parents, and it surely would seek to help them to reconcile conflicts between their received beliefs and what is purveyed in the classroom. Its fundamental interest would not be in sweeping as many children as possible within its schooling network, but in making sure that every child in its jurisdiction reaped the benefits of education, however that might be done. Whether this facsimile of love can motivate a bureaucracy is a hard question to answer, but, if it can, that it should do so is obvious.

If humility and love could be conjoined in both parents and bureaucrats, then I think the problems I sketched earlier could be, if not solved, at least brought under control. That they are not now under control is, I believe, adequately established by the articles that follow. In them Judge Hand and Steven Lee, in separate articles, address what they take to be the religious status of secular humanism; they then pursue the constitutional implications of its status for instruction in the public schools. Professor John Baker argues the case for home-schooling, and Paul Blewett addresses the issues raised by “creation-science” and by cases in which its constitutionality has been debated. Finally, Jennifer Burman explores some questions involving the insulation of religiously-affiliated schools from the requirements of federal anti-discrimination laws.

None of our authors pretends to have the last word on the question that he or she addresses. Even the terms in which they couch these questions are in and of themselves immensely controversial; creation-science is a science only by the most generous understanding of the criteria by which the

44. See supra notes 8-15 and accompanying text.
scientific status of a mode of inquiry is established, and secular humanism can be viewed as a religion only by a similarly generous understanding of what a religion is. But, as I hope this foreword has shown, each of our authors addresses issues of great importance and of comparable difficulty. These issues deserve careful attention from the most creative and sensitive minds in our society. How we resolve them will influence not just the quality of the schooling that the next generation of our children will receive, but also the tone of our entire intellectual culture for decades to come. With this thought in mind, I commend this issue of the *Notre Dame Journal of Law, Ethics & Public Policy* to the reader in the hope that you will find the questions that it asks as thought-provoking as I have.
