If the foundations be destroyed

Rachael J. Denhollander

Consistent failure has been seen in the fight to present intelligent design in the public school systems of America, with courts continually finding any criticism of evolution, or positing of an alternate theory of origins, a violation of the First Amendment's requirement for the separation of church and state. This paper will examine the foundational areas where compromise has allowed and fostered the growing hostility towards any theory besides evolution. By examining case law, history, and Scripture, it will be demonstrated that a renewal of proper constitutional interpretation, and a comprehensive, biblical worldview within the Church, is necessary for successfully engaging both the culture and legal system with alternate theories of origins.

> "The act before us … prohibits the teaching in the public schools of … [materialistic evolution]—inconsistent, not only with the common belief of mankind of every clime and creed and 'religious establishment' … but inconsistent also with our Constitution and the fundamental declarations lying back of it, through all of which runs recognition of and appeal to 'God,' and a life to come … *That the Legislature may prohibit the teaching to the future citizens and office holders of the State of a theory which denies the Divine Creator will hardly be denied* [emphasis added]."[1]

> "The belief that a supernatural creator was responsible for the creation of human kind is a religious viewpoint … the Act at issue 'advances a religious doctrine by requiring either the banishment of the theory of evolution from public school classrooms or the presentation of a religious viewpoint that rejects evolution in its entirety.' Therefore, as noted, *the import of Edwards is that the Supreme Court made national the prohibition against teaching creation science in the public school system* [emphasis added]."[2]

A dramatic shift has taken place in the American legal system—a sweeping change in ideology so complete that in a span of just under 100 years, the country which once declared it was "implausible" that states could be kept from banning evolution in the classroom, now affirms a national prohibition on teaching anything *except* evolutionary theory, and the system which once held that belief in the Divine was a part of science,[3] has become one where the very definition of science excludes anything but the material.[4] Throughout this shift, the judicial system has begun to wield excessive power to shape the philosophies, ideologies, and values of the next generation by controlling what students may, and may not be taught, arguably becoming the driving force behind the massive changes in American society. Perhaps more than any other modern country, the downfall in America's legal and educational system stands as a sound warning to Christians the world-over—the stark reality of falling prey to what may be termed "the false sacred/secular dichotomy".

A dichotomy is what occurs when a whole unit is split into two universal, non-overlapping parts. The two parts are universal, in the sense that both together make up the whole, but are also non-overlapping in the sense that the material in each part is entirely separate from the other, with no intermingling between. This is precisely the system of reality that most Christians have adapted today, with devastating consequences.

Modern Christianity tends to treat the world, all of reality, as being comprised of two entirely different realms: The sacred realm, consisting of the things which are holy and spiritual, and to which a Christian ought to pay most attention, and the secular realm, those areas to which the Bible does not speak, and which are much less important for a Christian to engage. The sacred realm generally includes things such as theological beliefs, personal morality, family dynamics, church government, and perhaps ethical behavior. These are the areas to which pastors and church leaders consistently teach, and which are emphasized as having preeminent importance for the Christian. The other half of reality is entirely different, and does not overlap with holy or sacred things at all, it is considered secular. This generally includes areas such as law, government, science, philosophy, psychology, economics, and sociology. In these areas, Christians are rarely equipped with a biblical view, because in most church's estimations, they are simply unimportant or, worse, a distraction, from the sacred things, such as prayer, or evangelism.

Modern Christians thus are presented with a dichotomous view of reality, where certain portions of life are under the authority of Scripture, and important for a Christian to pursue, and other areas of life are clearly not so. With Christianity no longer being considered a worldview, where spreading Christ's truth in every realm is an overflow of a heart fully dedicated to His word, and a natural consequence of God's sovereignty over all reality, areas such as science, law and education are considered

unimportant for a Christian to study and engage. The result is that Christians in America have little, if any, concept of a biblical view in these arenas, and have withdrawn in large part from any activism within them, allowing the dominance of evolutionary philosophies in the public realm to flourish, creating an educational and legal system outright hostile to any mention of God.

As with most of life, the compromise began in an arena which, to a Christian who fails to see the overarching nature of a worldview, appeared entirely unrelated to the field of science. In this case, a change in legal and governmental philosophy which has ultimately allowed the courts to shape education to the point that the general public has undergone a complete paradigm shift in their view towards God as Creator.

The shift in legal philosophy

The "beginning of the end" for teaching creation science or Intelligent Design (ID) in the public school classroom came in 1947, in *Everson vs Board of Education*[5], a case which, interestingly enough, addressed no issue of science at all, and was actually decided in favor of the more "conservative" client. What *Everson* did do, however, is completely reshape the understanding of the First Amendment to the United States Constitution, ultimately providing the framework for banning creation science and ID in the classroom.

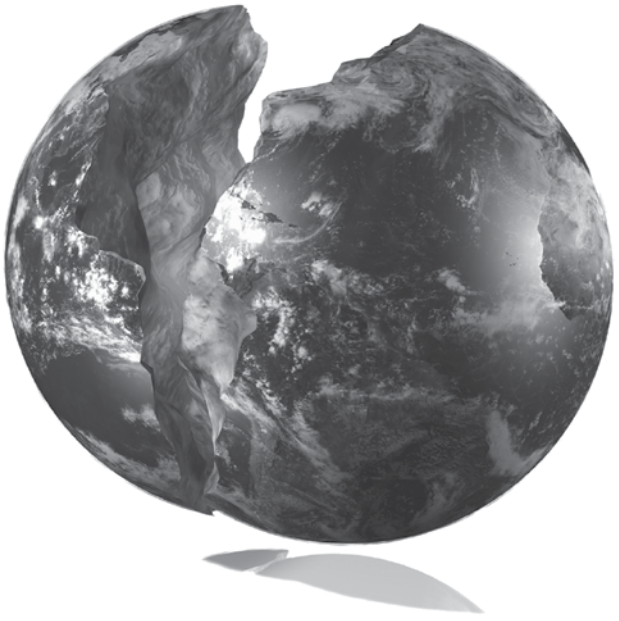
The Establishment Clause in the U.S. Constitution simply states that "Congress shall make no law respecting an establishment of religion." Thus, in every Establishment Clause challenge, the Plaintiff must prove two essential elements: 1) That the government is involved in religion, and 2) that such involvement has the effect of establishing a religion. Currently, there are a myriad of tests the court may apply in determining whether an establishment of religion has taken place, the most popular of which is known as the *Lemon Test*. The *Lemon Test* arose from the case *Lemon vs Kurtzman*,[6] and requires a three-prong analysis which holds that the Establishment Clause has been violated if any of the following is true:

a) There is no valid secular purpose for the government's action.
b) The primary effect of the action is not secular.
c) The government action fosters excessive entanglement with religion.

While other tests have occasionally been used or suggested, these have generally all been merely "revisions"[7] of *Lemon*, rather than entirely new tests themselves. It is the *Lemon* test which has generally been used to rule ID and creation science as unconstitutional, and it is *Lemon* which also finds its roots in the Court's reshaping of history in *Everson vs Board of Education*.[8]

Everson signaled the beginning of this paradigm shift by reinterpreting two key words in the Establishment Clause: "establish" and "religion". Until *Everson,* the term "establish" was generally interpreted to have the same meaning ascribed to the Amendment by its author, James Madison, which was simply that Congress could not "*enforce* the *legal observation* of [religion] *by law*, nor *compel* men to worship God in any manner contrary to their conscience."[9] Both history and early case law support an interpretation of the Establishment Clause that defines "establish" as actual, legal compulsion to engage in an act of worship.[10] Indeed, "establishment" was defined in the first American dictionary as "the act of establishing, founding, ratifying or ordaining," such as in "[the] Episcopal form of religion, so called, in England."[11] It was this history that led Justice Scalia to conclude that, "The coercion that was a hallmark of historical establishments of religion was coercion of religious orthodoxy and of financial support *by force of law and threat of penalty*."[12]

Everson, however, while acknowledging the element of compulsion, extended this definition of "establish" to require that the government be "neutral" in its relations to religious organizations and faith,[5] thus broadening the First Amendment beyond simply prohibiting the ordination of official government religion, to the requirement that the government maintain complete neutrality towards religion. This neutrality principle was explained as meaning that the government was prohibited from showing any preference whatsoever to either a specific religion, or even religion in general, over non-religion. Thus, the state was no longer simply prohibited from legally coercing observation of a religion, they were likewise barred from any activity,



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Modern Christianity tends to treat the world as being divided into two entirely different realms: A sacred/secular divide where the "things of God" are entirely separate from the things of every day life.

however slight, that could be viewed as showing favor towards any religious idea. Since *Everson*, this has been held to include school-sponsored, or even school-allowed prayer, Bible readings, governmental displays of the Ten Commandments, Nativity Crechés, and the teaching of ID, or creation, in the public school, under the theory that, when the government takes any official action towards religion, even if only to acknowledge the existence of a deity, they have shown a preference for religion and are no longer neutral.

Everson also began the reinterpretation of the term "religion" as well, signaling yet another titanic shift from the historical interpretation of the First Amendment. Up until the point of *Everson*, the definition of religion was also found in James Madison's Memorial and Remonstrance Against Religious Assessments (1785), and held to mean "the duty which we owe to our Creator and the Manner of discharging it." Religion, thus, was historically the convictions of a duty owed to God, and the active practice of fulfilling that duty, not merely the acknowledgment of a Deity. Thomas Jefferson shared Madison's view, interpreting the Establishment Clause to prohibit "intermeddling with religious institutions, their doctrines, discipline, or exercises."[13]

Each of the aspects which Jefferson found to be protected by the Constitution involved the active practice of a particular faith, those things which Madison referred to as the methods of discharging one's duty to his God. Early Court opinions adopted this definition as well, with the Court holding in *Davis vs Beason*[14] that the term religion referenced one's *personal views* of his *own* relations to God, the obligations those views imposed, and obedience to the perceived will of God. The Court further explained that the religion protected by the First Amendment was the right to hold to one's own beliefs regarding the duties he owed to God, and act freely to fulfill those duties. It is these original definitions of "establish" and "religion" that allowed the Court in *Scopes* to rule that the mention of God in a science classroom was no different than the mention of God in America's political documents—neither statement could be held unconstitutional, because neither statement had the effect of compelling a person to engage in a specific act of worship.

As *Everson* began reinterpreting the First Amendment to require neutrality towards religion, however, holding that even the acknowledgment of a deity showed religious preference, the Constitutional and historical framework for a proper understanding of the Establishment Clause was all but destroyed, and set the stage for the battle that was to follow.

The shift in governmental philosophy

The second area which has lead to the current downfall in America is the loss of a biblical philosophy of government. As important as the Constitution is to American courts, for a Christian, the first consideration is not merely "what does the Constitution say?" but rather, "what does Scripture say?" Certainly, when operating within the legal realm, the Constitution and statutes are the framework within which legal issues must be approached. However, the reality nonetheless remains, where one or the other of these is not in accordance with Truth, negative consequences are certain to follow.

Sir William Blackstone, the English scholar whose works formed the backbone and foundation of American law, once stated that not only are God's laws the only foundation for a legal system, but further, "no human laws are valid if contrary to this, and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original."[15] This idea of God's sovereignty, and the requirement that all things obey His precepts, is a principle clearly delineated in Scripture,[16] as much as it is indisputable that civil government is a jurisdiction ordained by God.[17] Yet for a Christian considering government's role in education and, by extension, authority to control the science curriculum, the question must be asked, what is the proper role for civil government at all? Specifically, is it biblical to institute a system such as the original American Constitutional order, where government acknowledgment of God is allowed, while legal compulsion of a particular religious belief is forbidden? Ought there to be instead a complete separation, where any mention of God is prohibited, as many have argued or, conversely, should an official state religion be espoused, on the basis it is Truth?

America's Founders answered these questions by invoking a concept largely lost in Christendom today: the jurisdictional approach to government. The jurisdictional approach to government recognizes God's supremacy in establishing four specific realms of authority— self,[18] family,[19] church,[20] and civil government[21]—yet holds that, while they are all under His rule, each has different functions and purposes, and are meant to oversee different areas of life. In this approach, God is seen as the authority to which all realms of government answer, rather than civil, or church government having ultimate power. That is, under this approach, it is God to whom parents answer for the education of their children, and management of their families, not the civil government. It is God to whom pastors answer for what is preached and how the flock is shepherded, not the civil minister, and it is God to whom an individual answers for his obedience to biblical commands. Confusing these jurisdictions leads to an unbiblical political and legal system, either by giving the civil government authority to institute laws and programs which were never intended to be under the purview of civil government, or by failing to institute laws which are necessary to an ordered and moral society.

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America's founders could reference a creator in the nation's charter documents because they held to a biblical view of government which recognizes that God's truth is supreme and is the source of rights and governmental authority.

In determining who has jurisdiction over a particular issue, the Founding Fathers turned to the principle in Luke 20:25, analyzing issues by asking *to whom is this duty owed*?[22] The Founders reasoned that, where an action is a duty owed only to God, it is in the jurisdiction of self-government or, potentially, the church. If it is a duty owed to one's family (such as obedience) it is within the family jurisdiction alone. Similarly, if the activity involves civil conduct related to maintaining and preserving civil order, civil government thus has jurisdiction.

When these same biblical principles are applied to determine what role, if any, the government ought to have in relation to religion, there appears to be strong biblical support for the Founders' conclusion that the civil government had no jurisdiction to compel support or profession of a religious belief. The Founding Fathers correctly realized that the authority given by God to civil governments was an authority over the actions of its citizens only, not authority over the beliefs, convictions, or thought processes of any individual.[23] Thus, they reasoned, if the civil government had jurisdiction to punish actions only, they could not have authority to compel a person to think or believe a certain way. This resulted in the doctrine of religious liberty,[24] finding that because religion is "a duty we owe to our Creator" it is "wholly exempt from its [civil government's] cognizance."[25] In the same vein, however, because the jurisdictional approach to government recognizes that God's truth is supreme, and government has authority only as God grants it, these underlying principles of Truth *require* a governmental acknowledgement of religion. This is precisely why America's founders could reference a creator in the nation's charter documents, without violating the biblical, jurisdictional approach to government. References to God in the public sphere were historically considered an acknowledgment of governmental, scientific, or legal philosophy—impossible to eradicate unless a government was set-up on an atheistic worldview.

Because in this worldview, God's truth is seen as primary over ever jurisdiction of government—self, family, church, and civil—the civil government has no authority to prohibit activities or teachings which acknowledge these foundational principles, thus allowing for a science curriculum which presupposed a creator God. As this understanding of government has waned in Christian circles, however, the civil government has begun to be seen as being the primary source of authority, and the power to whom parents answer for the education of their children. With a continuing shift towards an atheistic view of government, and a view of government which holds that civil rulers are responsible for the education of children, civil rulers have been granted ever-increasing authority to dictate what may, and may not be taught in classrooms, without so much as a whisper of protest being heard from Christianity, which once saw God as the supreme authority, and the civil government merely as a minister to do His will.

Effect on the Intelligent Design movement

The impact of this philosophical shift in legal and governmental policy can be easily seen when one compares the first case to consider the constitutionality of a science curriculum, with current cases today. In 1927, in the case of *John Scopes vs State,*[26] the Supreme Court of Tennessee was faced with deciding whether it was constitutional for a state to *prohibit* teaching a theory of science that denied a creator God. Up to that point in American history, belief in a creator was considered a routine underpinning to science itself, despite the growing popularity of evolutionary theory. Interestingly, the Court upheld the Tennessee Statute, with their reasoning, in large part, based on somewhat of an original intent interpretation of both the Tennessee and Federal Establishment Clause. The Court reasoned that neither the creation nor evolution theory could be held a religion, because neither theory was part of a confession of faith or creed, nor did affirming or denying either theory cause a person to enter into any recognized mode of worship. Thus, prohibiting evolution, or teaching a creator God was neither a religious exercise, nor an establishment of a religion.

Following the defeat in the Scopes trial, there was a large period of relative silence on the issue. However, when the Court decided *Everson vs Board of Education*[27] effectively reshaping the First Amendment and redefining the key terms "establishment" and "religion" to require

a wall of separation between Church and State, and encompass any idea or philosophy that referenced a deity, the foundation on which the statute in *Scopes* was upheld was essentially destroyed.

For the next twenty years, inroads were made into the education system using the new precedent set in *Everson*, mainly in the areas of abolishing voluntary school prayer and Bible reading,[28] further strengthening the newly defined view of the Establishment Clause. Finally, in 1968, a second attempt was made at reversing the ruling in the *Scopes* trial, when the Supreme Court heard the case *Epperson vs Arkansas*.[29] *Epperson* differed from *Scopes* factually, in that the statute in question made teaching evolution a misdemeanor only, subjecting teachers to disqualification, but it was the result of the case and the reasoning of the court which signified a titanic shift from previous opinions. Unlike in *Scopes*, the Court in *Epperson* found that a prohibition against teaching evolution was, in fact, religious in nature, simply because it was intended to prohibit a viewpoint opposed to the Judeo-Christian belief regarding origins. Not surprisingly, the Court explicitly tied this paradigm shift to the new understanding of the Establishment Clause set down in *Everson*.[30]

Following *Epperson* was a flurry of cases attempting both to further this ruling and combat it. In 1972, a coalition of public schooled students in Texas brought a challenge in the Southern District of Texas arguing that, by restricting the study of human origins to an uncritical examination of the theory of evolution, public school authorities lent official support to a religion of secularism, thus propagating a fundamentally religious doctrine under the guise of scientific theory and establishing a religion in contravention to the First Amendment. This argument was soundly rejected by the court, who found any connection between evolution and secular humanism to be too tenuous a thread for a First Amendment challenge.[31] A similar attempt was made in 1980, in *Crowley vs Smithsonian Institution,*[32] where an individual and several organizations collectively challenged an exhibit in the *Smithsonian Institute*, arguing that the taxpayer funding of an evolutionary display essentially established the religion of secular humanism, but this attempt, too, was decidedly unsuccessful.

Between 1975 and 1987 an alternative strategy to control the result of *Epperson* was attempted both legislatively and judicially, asking that school boards be required to devote equal time to teach both the evolutionary and creation views of origins.[33] However, both the definition of science and religion had, by that point, undergone such a drastic shift that no such statute was found to be Constitutional under the Court's recently instituted, three-prong test for Establishment Clause challenges, set out in 1971, in the case *Lemon vs Kurtzman*.[34] Finally, in 1987, the shift was completed when the Court entered judgment in *Edwards vs Aguillard*,[35] essentially turning the proscription against teaching creation science in the public school system into a national prohibition by effectively holding that creation science was religious simply by its association with the Judeo-Christian faith and, thus, an unconstitutional establishment of religion.

Today, a mere 80 years after Justice Chambliss declared it undeniable that the state could prohibit teaching evolution, the tables have turned completely so that anything *but* evolution is prohibited, and a growing hostility to any criticism or opposition to Darwin's theory of origins dominates academia. Though *Edwards* left open the door for teaching scientific alternatives and critiques to Darwinism if done with a clear secular intent to promote effective science education, no attempt to do so has, of yet, met that bar. On the contrary, teachers and scientists who have dared to criticize the theory have been denied tenure,[36] shunned from the academic realm[37], or outright fired.[38] Students at the graduate level have encountered significant difficulty being allowed to enter their doctoral thesis, or retain faculty to hear their dissertation.[39] Textbooks containing material questioning Darwin or supporting ID are confiscated from classrooms and school libraries,[40] and professors in science departments publicly question whether anyone who does not subscribe to Darwin's theory of evolution ought to be allowed to graduate or, indeed, even admitted into science programs at all.[39] Any criticism of evolution is taboo, even if it is but a sentence or two notifying students that evolution is a theory only.[41]

In light of the sound defeat creation science had suffered under this new philosophy of law and government, a new movement began at the turn of the 21st century to introduce the theory of ID, instead of creationism, alongside Darwinian evolution. Because ID, unlike creationism, does not address the identity of the Creator or discuss philosophical considerations related to origin, but instead deals simply with scientific propositions, proponents were optimistic that ID would meet the standard set in *Edwards*, but progress in introducing the theory has been slow. As of early 2005, only seven states in America gave teachers even the ability to criticize Darwinism[42] or discuss ID, and when the United States District Court in Pennsylvania handed down the decision *Kitzmiller vs Dover*[43] in December of the same year, the validity of these provisions was put in serious doubt.

Kitzmiller is the most recent case in the ID controversy, and was the first case since *Edwards* to address a statute which *required*, as opposed to simply allowed, a teacher to inform his or her students about the theory of ID by making a brief statement at the beginning of the year noting evolution was a theory only, and that additional information on ID was available in the school library. Furthermore, it was the first case that specifically addressed the issue of whether the theory of ID, as opposed to creationism, was science. In what many considered a shocking outcome, the court in *Kitzmiller* entered a pointed opinion holding that ID was not, and could not be, science because it presupposed the

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existence of a supernatural being, an inherently unscientific concept.[44] In so holding, the court effectively declared that materialistic evolution, and materialistic evolution *alone,* can be considered science. With ID thus being declared religious and non-science, the likelihood of being able to demonstrate either a valid secular purpose or effect for any statute allowing it to be taught in the education system is virtually destroyed, with the result being a complete prohibition both on criticizing Darwinian evolution, or suggesting any non-materialistic alternative theory.

With the dawning of new, humanistic legal and governmental philosophy, the hands of teachers, educators, and students seeking to pursue study beyond evolution, have effectively been tied. And as the average Christian in America fails to grapple with a biblical understanding of law and government, and act offensively to spread truth in these realms, the pit that has been dug only widens. While there is a strong remnant of attorneys in America now sounding the alarm, very little is being done to renew the minds of Christians in general in these areas, and the few lawyers standing on the front lines often receive little, if any, support from local churches and pastors, who largely view Christianity as confined to evangelism and personal morality, rather than as providing an overarching approach to life. Francis Schaeffer was utterly justified in asking, "where were the Christian lawyers during the crucial shift? … Now that this has happened we can say, surely the Christian lawyers should have seen the change taking place and stood on the wall and blown the trumpets loud and clear."[45] And surely they should have. Yet just as certainly, Christian attorneys in America are equally justified in asking why there is little support as they stand for truth, and the next generation may rightfully demand to know why they have not been trained to understand "all that God has commanded", and instead been handed a platonic version of Christianity that applies to little outside the four walls of a church building. The state in which America finds herself can be laid squarely upon the failure of the Church to see Christianity as an overarching worldview, and equip Christians to stand for truth in every arena of life.

Conclusion—the restoration of biblical foundations

A battle is raging over evolution today, but it is not confined to the scientific arena. Like ripples on a pond, the effect of an ideology in one area of life spreads to each area, and the consequences are never neatly contained. And because this battle is not confined to the scientific arena, the solution likewise is not confined to the scientific arena. Christendom, by and large, began losing this war with tiny compromises decades ago, failing to recognize the attack on foundational biblical principles in legal and governmental philosophy. Only now, with each recent court and legislative defeat have Christians begun to recognize the truth of the Psalmist's cry, "If the foundations be destroyed, what can the righteous do?"[46] Having left unguarded these foundations, and allowing them, at times even inviting, in the name of scientific progress or tolerance, their decay, the battle to restore is now significantly more difficult. Yet that is precisely the battle that must be fought, not only in the arena of science, but in law and government as well. Indeed, perhaps the greatest mistake in Christianity in the last 100 years was exactly this failure to recognize how compromise in one area sets the stage for destruction in another.

Francis Schaeffer was correct when he wrote:

> "The basic problem of the Christians in this country in the last eighty years or so, in regard to society and in regard to government, is that they have seen things in bits and pieces, instead of totals. [Christians have very gradually] become disturbed over permissiveness, pornography, the public schools, the breakdown of the family, and finally abortion. *But they have not seen this as a totality—each thing being a part, a symptom of a much larger problem. They have failed to see that all of this has come about due to a shift in the world view*—that is, through a fundamental change in the overall way people think and view the world and life as a whole [emphasis added].[47]"

And this is still where many are today, fighting a battle in one area while accepting compromise in another; treating symptoms, but ignoring the disease. The time has come where Christians must either acknowledge God's lordship in *every* area, recognizing that "Spirituality, after you are a Christian and have accepted Christ as your Savior, means that Christ is the Lord of ALL your life—not just your religious life, and if you make a dichotomy in these things, you are denying your Lord His proper place",[48] or very possibly suffer permanent defeat.

Christians must be willing to stand by and defend truth in law, government, science, and every area of life, lest these foundations crumble altogether, and one awakens the next day to find evolutionist Richard Bozarth's prediction has come true: in the rubble of a decayed biblical worldview, there is little left but the "sorry remains of the Son of God".[49]

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Rachael Denhollander is an attorney with the California Bar Association, receiving her Juris Doctorate from Oak Brook College of Law in 2008. She has been active in worldview and legal arenas teaching biblical worldview, Christian legal philosophy, and appellate advocacy to attorneys and students.