

STATE v. SUSAN EPPERSON AND N. H. BLANCHARD

5-4127

416 S. W. 2nd 322

Opinion delivered June 5, 1967

[Rehearing denied July 26, 1967.]

CONSTITUTIONAL LAW—STATE'S POWERS & FUNCTIONS—STATUTE SPECIFYING CURRICULUM IN PUBLIC SCHOOLS AS VALID EXERCISE OF.—Initiated Measure No. 1 of 1928 [Ark. Stat. Ann. § 80-1627 and § 80-1628 (Repl. 1960)] held a valid exercise of the state's power to specify the curriculum in its public schools, although no opinion expressed as to the theory involved, the answer not being necessary to the decision, and the issue not having been raised.

Appeal from Pulaski Chancery Court, *Murray O. Reed*, Chancellor; reversed and dismissed.

Bruce Bennett, Attorney General; *Fletcher Jackson*, Asst. Atty. General, for appellant.

Warren & Bullion, for appellee.

PER CURIAM. Upon the principal issue, that of constitutionality, the court holds that Initiated Measure No. 1 of 1928, Ark. Stat. Ann. § 80-1627 and § 80-1628 (Repl. 1960), is a valid exercise of the state's power to specify the curriculum in its public schools. The court expresses no opinion on the question whether the Act prohibits any explanation of the theory of evolution or merely prohibits teaching that the theory is true; the answer not being necessary to a decision in the case, and the issue not having been raised.

The decree is reversed and the cause dismissed.

WARD, J., concurs. BROWN, J., dissents.

PAUL WARD, Justice, concurring. I agree with the first sentence in the majority opinion.

To my mind, the rest of the opinion beclouds the clear announcement made in the first sentence.