They Ban Textbooks, Don’t They?

Texas school officials rejected a widely used environmental textbook, claiming it was filled with errors. The author says they’re censoring him because they didn’t like his green views -- and he’s suing.

By Frederick Clarkson

A federal lawsuit filed last week in Texas may very well turn into the Lone Star State’s own version of the Scopes “Monkey Trial” -- the famous 1925 court battle in which two of America’s most famous attorneys debated whether evolution should be taught in the public schools. Then, the underlying issue was whether Christianity should trump science; today, it is the scientific status of mainstream environmentalism. In the current case, the author of a widely used environmental textbook is suing five present and former members of the Texas State Board of Education, who two years ago rejected his book because of alleged factual errors and pervasive bias. Claiming that the author’s free speech and equal protection rights were violated by an act of censorship, the lawsuit asserts that the real reason the book was rejected was the author’s environmentalist views, which clash with those of right-wing school-board members.

The lawsuit, filed Oct. 30 in U.S. District Court for the Northern District of Texas by the Washington-based Trial Lawyers for Public Justice, was also filed on behalf of several Texas high school students, who the suit alleges have been denied access to this book. The plaintiffs want the book included on the state list of approved texts, a court order declaring that the board members’ rejection of the book was unconstitutional, and unspecified damages stemming from the lost sales.

The stakes of the suit could hardly be higher. The battle is a veritable microcosm of the culture wars, pitting the Christian right, energy industry supporters, and defenders of Texas’ right to control the textbooks its students read against environmentalists, the publishing industry, First Amendment advocates, and professional educators.

The textbook at the center of the suit is Environmental Science: Creating a Sustainable Future, by Daniel D. Chiras. The book, which is in its sixth edition and has been taught in many colleges and high schools in Texas and across the country for 20 years, passed the usual rigorous peer review process and had been recommended by the commissioner of education, along with two others. However, in a last-minute hearing before the board in November 2001, the book was rejected by conservative board members, who said it was factually inaccurate and espoused a “radical” environmental agenda. The board called it “anti-Christian” and
“anti-American” because, among other things, it claimed there is a scientific consensus regarding global warming.

The unusual feature of the rejection was that the board and its individual members ignored the formal review, apparently relying on a 24-page critique prepared by a conservative think tank, the Texas Public Policy Foundation (TPPF), an organization closely tied to the state Republican Party and one of whose board members is married to the chairperson of the board of education. The board was also apparently influenced by testimony from members of a right-wing activist group, Citizens for a Sound Economy, at the hearing. After a stormy hearing, the board, which is made up of 10 Republicans and five Democrats, voted to reject the book along straight party lines.

At the hearing the TPPF charged that the book was not acceptable for use in Texas classrooms. Asserting that the “vitriol against Western civilization and its primary belief systems is shocking,” the TPPF’s critique, written by Duggan Flanakin, alleged that the book is full of “errors of fact and significant omissions, in addition to the heavy bias toward radical politics.” At times, the TPPF’s critique veered into shrill rhetoric more reminiscent of Rush Limbaugh than a sober academic review, as when it charged that by championing solar energy and turning “producers and marketers of traditional energy sources into bogeymen … this text provides yet another form of flag burning.” The TPPF also engaged in some crude smearing, saying that Chiras’ claim that air travel has an “increasingly high environmental cost … makes Osama Bin Laden into a hero of sorts for discouraging air travel in the United States and elsewhere.”

The director of Citizens for a Sound Economy claimed, among other things, that the book “blames Christianity, Democracy and Industrialization … as causing the so-called [environmental] ‘crisis’” and that this is “highly offensive to patriotic Americans and Christians.”

Most of the alleged factual errors cited in the TPPF’s critique appear to be matters of ideological controversy or irresolvable philosophical disputes, not matters of provable fact. For example, Flanakin attacked as an “inaccuracy” Chiras’ statement that indigenous peoples practiced sustainable development, which required an integrated set of goals. “One can hardly reason that these primitive societies set clearly definable goals, or even that they practiced sustainability,” Flanakin wrote. “It is more likely that most of these largely nomadic peoples espoused a ‘frontier ethic’ that was made possible by the fact of very small populations and large territories.” As Flanakin’s use of the words “more likely” indicate, this would not appear to be a point that can be definitively proved one way or the other.

According to Texas law, the board has the right to reject a textbook if it contains factual errors, but not because it disagrees with the author’s viewpoint. Burt Neuborne, a professor of First Amendment law at New York University, says, “You can’t choose a book based on the viewpoint of the author. A government official has the power to make determinations based on quality and accuracy, but he does not have the power to censor what school children hear, and turn the school system into a propaganda mill.” At the same time, he cautions,
“If there really are questions of fact, and quality, the courts can’t second-guess.”

There is no question that Chiras is an active and committed environmentalist. His book sounds loud alarms about the state of the world environment, including global warming, deforestation and other crises. He argues that the current situation is not sustainable and that the developed nations, which consume a disproportionate share of the earth’s resources, urgently need to change their ways. He points out that the rise of industrialized civilization had serious negative consequences for the environment. He critiques current policies and lays out a number of alternatives to them.

None of these viewpoints is particularly controversial within environmental science -- in fact, they could be said to pretty much represent mainstream environmentalist thinking. But mainstream environmentalism hardly seems mainstream to conservative board members, who note that Texas law requires that its textbooks promote democracy, patriotism and free enterprise. Chiras insists that his book is completely consistent with those goals.

Since environmentalism is not a hard science, like mathematics or physics, questions of fact can be hard to establish. The TPPF critique attacks Chiras’ book for being one-sided, but the line between being biased and simply having a point of view -- and in Chiras’ case, a point of view that is far from heterodox in his field -- is almost impossible to define. As a result, the outcome of the lawsuit is hard to call.

Whatever its fate, the Chiras case is a shot across the bow of a powerful, assertive and increasingly successful conservative faction on the board that openly boasts of its ability to affect the national textbook publishing industry. As the nation’s second-largest textbook market (after California, which also has a statewide approval process for public school textbooks), Texas is likely to purchase some $700 million worth of school textbooks over the next two years. Because of the scale of the Texas market, publishers often cater to what they think will sell to the board.

“Publishers fear offending the Texas board, which often sets the agenda for textbooks nationwide,” says Adele Kimmel, an attorney with Trial Lawyers for Public Justice.

The bottom line, in Neuborne’s words: “The market is such that if publishers can’t print separate editions, Texas censors not only its own books, but the entire nation’s.”

Most states select textbooks on a school-by-school or district-by-district basis. Texas subjects proposed textbooks to a rigorous review process according to what subjects are scheduled for review that year. Then the state’s schools are given a list of approved books. The state will only pay for books on the list.

For decades, Christian right activists have made the Texas board a principal battleground in the culture wars. The book-selection process eventually became so politicized that in 1995, the state Legislature stepped in and largely cut the board out of the process. Book approval is now supposed to be primarily handled by professionals in the Texas Education Agency, and by outside review panels, with the board’s role limited to approving or rejecting books based on whether the book is well made, factual and conforms to the educational stan-
standards measured by the statewide standardized test. Chiras’ book is the first to be rejected since the law was passed.

Critics say that conservatives on the board have found a way around this by using bogus claims of “factual error” to get rid of books they disagree with. What’s more, they charge that the board is using conservative groups like the TPPF as fronts, allowing them to provide critiques that authors and publishers must respond to -- which means rewriting their books -- in order to gain approval. “They are basically a mouthpiece for the board in these issues,” according to attorney Adele Kimmel. She says the unstat- ed but obvious message is that “if you don’t correct what we think are errors, your book will not be adopted. Anything they disagree with is described as a factual error.”

Suspicions that the board and conservative groups are working together are not allayed by the fact that current board chairwoman Geraldine Miller’s husband, Vance, is a board member of the Texas Public Policy Foundation.

Don McLeroy, a board member from Bryan named as a defendant in the lawsuit, had not heard much about the suit when Salon reached him on his cellphone as he drove across west Texas. Before his cell connection broke up, McLeroy said that he made his decision because of factual errors in the book. “It’s the only book we’ve rejected since I’ve been on the board for five years,” he explained. “We can reject a book for factual errors and inaccuracies. And that’s the basis for why we rejected the book.” He referred Salon to an article he had written at the time in which he explained his action. The piece reads in part: “The entire construct of the book is based on a factual error and false premise ... The Western Christian civilization countries [sic] are the cleanest, and have the most stable population growths in the world ... The claim that the root cause of environmental problems is economic growth is simply wrong.”

Steve Baughman Jensen, one of Chiras’ lawyers, says the board’s actions were “not based on any legitimate concerns for factual accuracy or curriculum fulfillment,” but on disagreement with “Dr. Chiras’ viewpoints on environmental and economic issues, views based on 30 years of scientific study.” He adds, “We really think that this is a case not just of officials going beyond their authority, but officials censoring speech and viewpoints.”

David Bradley, a board member from Beaumont and another defendant, rejects the argument that Chiras’ First Amendment rights were violated. “That position just doesn’t hold water,” he said angrily. “You need to qualify for the right to speak to 4 million Texas public school children. He didn’t meet the qualifications. His case is meritless. It’s just opportunistic grandstanding.”

In comments to the Galveston County Daily News, Bradley took issue with the fact that Chiras’ book used panoramic photos of housing developments as examples of a negative impact on the environment. “I’m in real estate,” he said. “I see that and I see $250,000 homes; I see mortgage bankers; I see carpenters; I see jobs. I see a tax base.”

For his part, Chiras said, “I was stunned by the board’s decision to reject my textbook. Texas public high schools used an earlier edition of my book, and colleges
across the country, including a state university in Texas, have used the current edition. It is incredibly offensive and unfair that my book was falsely portrayed as ‘anti-Christian’ when this same book is used at Baylor University -- a top-tier Christian school and Texas’ oldest university.”

The spectre of right-wing ideologues using financial pressure to force textbooks to be rewritten hangs over other Texas textbooks as well. This month, the Texas board will consider the adoption of statewide biology textbooks. The process has been shaping up for months, involving many of the same dynamics as with the environmental books. A conservative research group, the Discovery Institute of Seattle, has argued that the biology textbooks contain factual errors; the books' defenders say the criticisms, as with Chiras’ book, are nothing more than viewpoint censorship. The Discovery Institute has presented the publishers with its criticisms, and is already crowing about “corrections” they have gained from publishers in advance of the final review by the state board.

Board member Bradley thinks the filing of the Chiras suit is intended to influence that debate. “The board is considering the adoption of biology textbooks this year, which has also been somewhat controversial and a hot issue.” McLeroy agrees, adding, “You’ve got all this heavy lobbying, the National Center for Science Education on one side and the Discovery Institute on the good science side, or the anti-evolution side, whatever you want to call it.”

The Discovery Institute is best known for promoting the “intelligent design” theory of the origin of the universe as a counter to conventional evolution theory. Intelligent design theory holds that the origin and development of the universe and living things are best explained by an “intelligent cause” rather than by such processes as natural selection and random mutation, cornerstones of the theory of evolution.

Charlotte Coffelt, a leader in the Houston chapter of Americans United for Separation of Church and State, asserts that the Christian right members of the board are on a “mission to stop certain textbooks for children over the issue of evolution.” She claims that the board’s real agenda is to promote creationism -- the view held by fundamentalist Christians that God created the world, for which no scientific evidence exists -- by “masking it as intelligent design.” The Discovery Institute denies that it is seeking to include intelligent design in the textbooks.

The lawsuit also discusses how the other two books that had been approved by the professional review process and recommended by the commissioner of education were handled, as further examples of the board’s intentions and methodology. Their fate may be even more chilling than the banning of Chiras’ book.

The second book, “Environmental Science: How the World Works and Your Place in It,” was initially rejected by the board. It was finally published -- but only after its publisher, who desperately wanted the sale, agreed to allow it to be censored. According to the suit, unnamed state education officials and the publisher, J.M. LeBel Enterprises, had a late-
night editing session during which the publisher agreed to change crucial passages about, among other things, global warming. (Cynthia Thornton, a member of the state Board of Education, called the text’s pre-edited section on global warming “alarmist poppycock.”)

A New York Times story on textbook censorship revealed some of the alterations. The Times reported, for example, that the sentence “Destruction of the tropical rain forest could affect weather over the entire planet” was changed to “Tropical rain forest ecosystems impact weather over the entire planet.” The following remarkable sentence was added: “In the past, the earth has been much warmer than it is now, and fossils of sea creatures show us that the sea level was much higher than it is today. So does it really matter if the world gets warmer?” And this sentence was deleted: “Most experts on global warming feel that immediate action should be taken to curb global warming.”

The publisher later told the New York Times that the process was akin to “book burning” and “100 percent political.”

The third book reviewed and approved for use was “Global Science: Energy, Resources, Environment,” 5th edition, by John W. Christensen, published by Kendall/Hunt Publishing Company. Flanakin of the TPPF approvingly noted that the book was prepared with the help of the industry organization American Institute of Mining, Metallurgical, and Petroleum Engineers. Also, according to the New York Times, the book was partly funded by the Mineral Information Institute, a non-profit group whose board is almost entirely composed of top mining industry officials. In his statement to the board, Duggan said he felt it was the “finest and most readable textbook” he had ever reviewed.

Board chairwoman Grace Shore, co-owner of an oil and gas company, TEC Well Service, of Longview, Texas, told the Austin American Statesman, “[t]he oil and gas industry should be consulted” regarding environmental science textbooks because “[w]e always get a raw deal.” Adele Kimmel of TLPJ said that it “was not an accident” that the board “ultimately chose to adopt a book financed by the mining industry over one that emphasizes the importance of critical thinking.”

Chiras vs. Miller may very well turn out to be a landmark case, even if the plaintiffs do not prevail. Neuborne told Salon, “It’s a hard case to win. The board is going to say that they are acting within their authority and made their decision based on quality issues. They [the plaintiffs] are going to have to prove that the members of the board were not acting in good faith and that they are not telling the truth. And that’s very hard to do.” If the suit prevails, he thinks the board will probably be required to send the book out for an independent professional review. But he notes that there may be nothing to prevent them from rejecting the book over and over again. “The only real defense against this [textbook censorship],” he said, “is better public school officials.”

About the writer --
Frederick Clarkson is the author of “Eternal Hostility: The Struggle Between Theocracy and Democracy” (Common Courage Press, 1997).