# Stewart: Concurrence

MR JUSTICE STEWART, concurring in the result.

The States are most assuredly free "to choose their own curriculums for their own schools." A State is entirely **[p. 116]** free, for example, to decide that the only foreign language to be taught in its public school system shall be Spanish. But would a State be constitutionally free to punish a teacher for letting his students know that other languages are also spoken in the world? I think not.

It is one thing for a State to determine that "the subject of higher mathematics, or astronomy, or biology" shall or shall not be included in its public school curriculum. It is quite another thing for a State to make it a criminal offense for a public school teacher so much as to mention the very existence of an entire system of respected human thought. That kind of criminal law, I think, would clearly impinge upon the guarantees of free communication contained in the First Amendment and made applicable to the States by the Fourteenth.

The Arkansas Supreme Court has said that the statute before us may or may not be just such a law. The result, as MR. JUSTICE BLACK points out, is that "a teacher cannot know whether he is forbidden to mention Darwin's theory at all." Since I believe that no State could constitutionally forbid a teacher "to mention Darwin's theory at all," and since Arkansas may, or may not, have done just that, I conclude that the statute before us is so vague as to be invalid under the Fourteenth Amendment. *See Cramp v. Board of Pub. Instruction,* 368 U. S. 278.