

# California's Debate on Carcinogens

A new "citizens' enforcement" law on carcinogens went into effect on 1 March in California, and Governor George Deukmejian is already in trouble because of his minimalist approach to it. The dispute may have national repercussions, because the Sierra Club claims that six other states (Arkansas, Colorado, Louisiana, Missouri, New York, and Wisconsin) have shown an interest in adopting similar laws.

The law, known as Proposition 65, was approved in a two-to-one popular vote last November. In several phases over the next 2 years, it will impose a stringent new regime on chemical users. The big economic powers in the state, including the farmers, the electronics companies, and the petroleum industry, lined up against it.

Proposition 65 requires the governor to publish a list of known carcinogens and reproductive toxins by 1 March. Within a year, the law says, no one in the state may be exposed to any detectable amount of chemicals on the list without warning. Within 20 months, it will be illegal to contaminate drinking water with the chemicals. Any citizen may bring suit to enforce the law. Companies found guilty of violating it will be charged \$25,000 a day and legal costs.

At the moment, Deukmejian faces an onslaught of environmental litigation for his handling of the matter, and he must do so without the help of his own attorney general. According to a spokesman, the attorney general has a "fundamental disagreement" with Deukmejian on interpreting the law, and thus has declined to represent him. The governor will have to go to court with private counsel.

Deukmejian is being sued because he put out a short list of compounds to be controlled, covering 23 rather than the 225 or so chemicals proposed by environmentalists. As a result, he is being taken to court by the labor unions of the AFL-CIO, the Environmental Defense Fund, the Natural Resources Defense Council (NRDC), the Sierra Club, and others. The attorney general is sitting out the battle of the lists.

Al Meyerhoff, spokesman for NRDC, says he was disappointed but not surprised by the governor's decision. He views it as part of a "backroom deal" designed to aid business interests by delaying the impact of Proposition 65. The governor's list of chemicals includes those cited by the International Agency for Research on Cancer (IARC) as "class I" carcinogens, proved to cause cancer in humans. Most public health and environmental agencies rely on data from laboratory animals in setting exposure lim-

its. Even though it is not proved that animal carcinogens also cause cancer in humans, most regulators assume that this is so in order to take the most cautious approach to protecting the public. The reason for controlling animal carcinogens, Meyerhoff says, is that "you've failed as a public health agency if you have to count bodies" before you take action.

The purpose of the lawsuit is to force the governor to use the conventional method, in which roughly 225 chemicals in IARC categories I, IIa, and IIb (animal and human carcinogens) are regulated as potential human carcinogens.

While Deukmejian's refusal to do this may seem unorthodox, his approach has supporters in the scientific community. The best known is Bruce Ames, biochemist at the University of California at Berkeley. Ames campaigned against Proposition 65 on the grounds that animal data often overstate the carcinogenic risk of chemicals. Ames has been appointed by Deukmejian to serve on a 12-member scientific advisory board that will help implement the law. Its main task will be to decide what chemicals should be

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added to the governor's list. The chairman, Wendell Kilgore of the University of California at Davis, also chairs the scientific advisory panel on pesticides for the Environmental Protection Agency.

"I've never seen a clearer fox-in-the-chicken-coop situation," says Carl Pope of the Sierra Club, speaking of Ames' role as an opponent and now as an implementer of Proposition 65.

In a telephone interview, Ames said he sees no conflict. His opposition to the law represented a personal opinion, and his service on the advisory board calls upon his professional expertise. "Besides," he says, "I don't know any toxicologist in California who wasn't against that law," which takes the unreasonable approach of assuming that chemicals are "guilty until proved innocent." Because he is the nation's leading expert on carcinogens, it would have been an oversight to leave him off the committee, Ames thinks. He also says he never accepts industry consulting jobs and cannot be accused of having a vested interest.

Thus, the stage is set for another grand debate on how suspected carcinogens should be regulated. With Ames' participation, it is bound to be lively. ■

ELIOT MARSHALL

## Textbook Ruling Sparks Concern

Alabama Judge W. Brevard Hand has created quite a stir with his expected ruling, made on 4 March, that 44 public school textbooks unconstitutionally promote the religion of "secular humanism" (*Science*, 2 January, p. 19). The state board of education has voted to appeal the decision and has asked for a stay to permit use of the books for the remainder of the school year. Hand had not responded as of 13 March, and it was not known how school superintendents would handle the matter for the state's schoolchildren who returned from spring break on 16 March.

Civil libertarians have been in an uproar over the ruling and legal scholars have labeled it "unprecedented" and "breathhtaking." At a press conference in Washington, the American Civil Liberties Union and People for the American Way (a lobby group concerned with constitutional matters) called the ruling "an unprecedented act of judicial book-burning." "We are engaged in a war . . ." said former Alabama congressman John Buchanan, the Washington, D.C., president of People for the American Way and a Southern Baptist minister. ACLU counsel Barry Lynn, who is also a United Church of Christ minister, warned that the

decision could "unleash a tidal wave of censorship efforts by a variety of ideological groups" and that "new waves of religious lobbyists" will inundate Congress. People For (as it calls itself) reported that charges of secular humanism in public schools have now been raised in 42 states, up from 30 last summer.

The texts at issue in Alabama cover history, social studies, and home economics—in the last category, texts have titles like "Contemporary Living," and "Caring, Deciding, and Growing." Isolated phrases such as "you can make your dreams come true" were attacked in court as evidence of humanism.

Hand's decision is considerably more far-reaching than an earlier one in Tennessee, where the judge ruled that students had a right to opt out of classes in which offending material was being taught. That case is also being appealed.

Speakers said that the side that loses the appeal in Alabama can be expected to try to take the case to the Supreme Court. Meanwhile, People For fears that "the ruling will make schools and teachers feel even greater pressure to censor materials and classroom topics to avoid becoming the object of a lawsuit." ■ CONSTANCE HOLDEN