

0001

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

PRESENTATION HELD BEFORE THE SCIENCE COMMITTEE
OF THE
KANSAS STATE BOARD OF EDUCATION

TRANSCRIPT
OF
PROCEEDINGS

Held on the 12th day of May, 2005,
beginning at 8:30 a.m., at Memorial Hall, 120
West 10th Street, in the City of Topeka, County
of Shawnee, State of Kansas, before Dr. Steve
Abrams, Chairman of the Kansas State Board of
Education; Ms. Connie Morris, member; and Ms.
Kathy Martin, member.

18
19

APPEARANCES

20
21
22
23

The Minority appeared by and through its
counsel, Lathrop & Gage, 2345 Grand Boulevard,
Suite 2800, Kansas City, Missouri 64108, by Mr.
John H. Calvert and by Arnold & Porter, 555
Twelfth Street, NW, Washington, DC 20004, by
Mr. Edward Sisson.

24
25

The Majority appeared by and through its
counsel, Irigonegaray & Associates, 1535
Southwest 29th Street, Topeka, Kansas 66611,
by Mr. Pedro L. Irigonegaray.

0002

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. ABRAMS: On behalf of the State
Board of Education I welcome you to these
hearings. My name is Steve Abrams. I'm Chair
of the State Board of Education and I'm also
chair of the Science Subcommittee. My fellow
board members on the subcommittee with me are
Mrs. Connie Morris and Ms. Kathy Martin.

The purpose of the hearing that will be
held today is to assist us as the State Board
members in understanding the complex and
oftentimes confusing issues regarding science
education.

A brief history of how we arrived at
these hearings may have been of value. In June
of last year, a statewide committee appointed
by the Commission of Education and comprised of
26 public and private educators spanning
elementary, primary, secondary, post-secondary
levels, retired educators, curriculum
coordinators and a private practice physician
began the process of reviewing and revising the
state science standards.

The writing committee met several times
between June and November and presented a draft
of the standards to the State Board in December

0003

1
2
3
4
5

of December of '04. At the same time, eight
members of the writing committee submitted what
is now referred to as the Minority Report
asking the State Board to consider some changes
to the draft.

6 Through much discussion at the State
7 Board a subcommittee, the three of us, was
8 formed to further examine the issues contained
9 in the Minority Report.

10 Also after much discussion it was decided
11 the best form to address the issue was via
12 hearings such as these we'll have today.

13 In order to conduct the hearings in a
14 reasonable time frame and in a civil matter
15 there are few house rules and procedures that
16 you, the audience, need to be aware of.

17 I request that no comments come from the
18 audience. These are hearings for us, the
19 State-- State Board Subcommittee, and the
20 testimony you hear today deserves our courtesy.

21 Mr. Irigonegaray has requested a set
22 amount of time for his presentation. Following
23 his presentation the legal counsel for the
24 opposing viewpoint will be given half that
25 amount of time to ask questions. Following

0004

1 that we, the subcommittee members, will be
2 given half that amount of time to ask
3 questions.

4 For example, if Mr. Irigonegaray takes
5 two hours for his presentation, the opposing
6 counsel will be given one hour for questions and
7 the subcommittee will be given 30 minutes for
8 questioning.

9 We will take one 15 minute break this
10 afternoon (sic), break for lunch, return one
11 hour later with another 15 minute break this
12 afternoon.

13 Please note that Memorial Hall does not
14 allow food or drink in the auditorium. We
15 would greatly appreciate it if you abide by
16 this policy. In addition, please, turn off
17 your cell phones.

18 Before we begin, I'd like to introduce
19 the others on the stage. Mr. John Calvert
20 and-- on the other side is Mr. Pedro
21 Irigonegaray. Additionally --

22 MR. CALVERT: I'd also like to
23 introduce my colleague Mr. Ed Sisson is a
24 lawyer with Arnold and Porter, and an author of
25 the Minority Report, Dr. Greg Lafferty.

0005

1 CHAIRMAN ABRAMS: Also sitting at the
2 other table is Mr. Jack Kreps (sp).
3 Additionally, a court reporter is recording all
4 of the proceedings and a transcript will be
5 made available to the public at a later date.
6 Therefore, to the speakers, please speak
7 clearly and do not talk over the top of each
8 other. Again, I thank you for your interest in
9 Kansas education. Mr. Irigonegaray.

10 MR. IRIGONEGARAY: Mr. Abrams, Ms.
11 Morris, Ms. Martin, Mr. Calvert, Mr. Sisson,
12 Mr. Lacy (sp). Ladies and gentleman, my name
13 is Pedro Irigonegaray. I represent mainstream
14 science. As reflected in draft two as
15 submitted by the Kansas Science writing
16 committee of March the 12, 2005. Draft 2 is my

client.

I'd like to show a brief introduction and outline of what I intend to do today. As I said at first, I represent Draft 2 of the science standard. I want to make it clear from the outset that I support mainstream science, the position of the coalition for science and the boycott of these hearings by scientists.

Draft 2 accurately represents science as

0006

neutral in respect to the nature of spiritual reality. The Minority Report, however, advances a narrow, theological view of science that conflicts with mainstream Christianity and many other faiths.

These hearings have been an unjustified waste of taxpayer money intended first to justify the Board's support for inserting creationist claims into the science standards and to provide a showcase for the National Intelligent Design Movement.

The Minority Report and witnesses have misrepresented many educational issues, including the role of standards and the Draft 2 position on teaching students the skills of scientific inquiry.

Number five: The Minority Report's position on allowing supernatural causes in science and their denial of a common descent are not, I repeat, are not genuine scientific controversies. The Intelligent Design Movement's anti-evolutionary claims have had virtually no impact on mainstream science.

Six: The State of Kansas is being used, used by the National Intelligent Design

0007

Movement and their wedge strategy.

Seven: Consequences of adopting the Minority proposal include harming the scientific education of children, harming the representation of Kansas. Harming our ability to attract bioscience and related industries to Kansas, and risking spending thousands of dollars on potential court cases.

Eight: There are serious legal issues associated with the Minority Report. Number one: Establishing clause issues. The Minority position advances a particular theological view and does not advance a secular purpose. Two: Issues concerning the abuse of discretionary power by the Board, and three, issues concerning the requirement of the state to provide an adequate education for our children.

Our position. As I stated earlier my client is Draft 2 of the standards. Draft 2 represents the legitimate work of the writing committee empowered and chosen by the State Board of Education.

I have made an exhibit book and in that exhibit book is Draft 2. I urge the members of the subcommittee to take the time to read it.

0008

I have joined the coalition for science in

calling for the Board to adopt Draft 2. Exhibit, please. This is an excerpt from the Draft 2-- excuse me, from the Coalition For Science position paper. The science standards writing committee appointed last year by the Kansas State Board of Education has developed a superb set of standards for teaching science at all levels in public schools, but instead of accepting the standards, the Board of Education has subverted the process. They're now planning on spending tens of thousands of dollars, taxpayers dollars, to stage a series of hearings intended to showcase a theology known as intelligent design creationism as a substitute for science. We support the adoption of the standards written by the science standards writing committee. We reject the show trial hearings whose purpose is to make it appear that intelligent design creationism and the well established science of evolution are on equal footing.

We urge all Kansans to join us in adopting the following positions. First: We request that the State Board of Education adopt

0009

the final draft of the standard offered later this spring by the writing committee without reservation-- without revisions. And I would like to show you on the exhibit some of the organizations that have joined the coalition. The Kansas Academy of Science. Kansas Citizens for Science. Kansas Family United for Public Education. The Mainstream Coalition. The Kansas Association of Biology Teachers. The Kansas Association of Teachers of Science, and hundreds of individual signers. Mike Everhart President; Harry McDonald, President; John Martellaro, President; and Caroline McKnight, Director.

Second Exhibit, please. This is an open letter to the Kansas Board of Education from 45 Kansas University professors which I would like to put an expert-- an excerpt into the record. "The theory of evolution is the foundation upon which modern biological research has been built." An effort focused on casting doubt primarily on the theory of evolution will only serve to obscure high school student's understanding of biology. We also believe that holding hearings on the relative merits of

0010

intelligent design versus evolution will be similarly detrimental to the goals of the taxpayer-financed Kansas Life Science Initiative. Intelligent design has not been tested scientifically and cannot even be called a hypotheses, much less a theory, since it has no predictions that have been scientifically tested.

In short, in our estimation, many of the current efforts to influence the writing committee's efforts will insert material that is not generally accepted by the scientific

community and will cast doubt upon one of the most successful and useful theories in science. We believe these efforts will be detrimental to the understanding of science by Kansas high school students, with repercussions for all our citizens. We urge you to accept without alteration the science standards as committed by the writing committee, for the good of our students and our state. Signed 45 faculty members of the Department of Molecular Biosciences; Ecology and Evolution Biology at the University of Kansas. The Department of Biochemistry and Molecular Biology at the

0011

University of Kansas Medical Center and the Department of Biological Science At Emporia State University.

Please, let's return to the earlier proposition. Next I would like to read into the record an open letter to the Board from 19 Kansas State University professors. We view the proposed changes in Kansas Science Standards, parenthesis, the Minority Report which is likely to be adopted by the State Board of Education, close parenthesis, with dismay and disbelief. The proposed changes attempt to define science as religion and to open the door to include Intelligent Design as a part of the curriculum. Science is not a religion and religion is not science. Science and religion are simply different, but not exclusive, approaches to viewing and interpreting different aspects of the world. A person can be religious and be a scientist, but they cannot use religion to do science.

An overwhelming amount of biologists agree that evolution is the best explanation for the diversity of life on earth. The flawed view of science that is being promoted will

0012

haunt our children as they prepare to attend college, seek jobs in medicine, agriculture and bioscience and make decisions about their own children's health. Our state is prepared to invest millions of dollars to promote Kansas as a new epicenter of bioscience and biomedical research. How can we invite and attract bioscience corporations to our state and top scientists to our universities when we advocate an uneducated and unscientific approach to teaching the foundations of science and biotechnology? The proposed standards that are sympathetic to intelligent design are misguided, unscientific, will harm our children and our economy and should not be adopted. Signed by 19 members of the Division of Biology, Kansas State University.

I also support the boycott of these hearings by scientists worldwide. Would you please go to the exhibit? This is from the Kansas Citizens for Science Resolution regarding the State Board Science Hearings. "Whereas, scientific merit is not established

24 through public discourse and debate, but
25 rather, internally through a consensus of those

0013

1 with the specialized background necessary to
2 make judgment, and; Whereas, it would not be
3 fair to science to be found wanting by a
4 self-admitted scientifically challenged jury
5 with an anti-evolution bias, Now Therefore, be
6 it resolved, that KCFS calls upon the Board of
7 Education to dissolve the unneeded and
8 ill-conceived Science Hearing Committee, or, if
9 that fails to occur, be it resolved, that KCFS
10 calls on the entire science and science
11 education community of Kansas to refuse to
12 participate in the hearing proceedings.
13 Science has its own validity and has made its
14 position on these matters perfectly clear and
15 unambiguous. ID and other forms of creationism
16 are not science. The specific proposals in the
17 Minority Report have been rejected by the
18 writing committee and, moreover, by the science
19 community at large. The science community
20 should not put itself in the position of
21 participating in a rigged hearing where
22 non-scientists will appear to sit in judgment
23 and find science lacking. Science should not
24 give the anti-evolution members of the Board
25 the veneer of respectability when they take

0014

1 their predictable action. Let the Board take
2 responsibility for its actions without
3 dignifying those actions with the appearance of
4 academic rigor.

5 I would like to show the exhibit from the
6 American Association for the Advancement of
7 Science, please. And this is from Alan
8 Leshner, Chief Executive Officer. After much
9 consideration, AAAS respectfully declines to
10 participate in this hearing out of concern that
11 rather than contribute to science education, it
12 will most likely serve to confuse the public
13 about the nature of the scientific enterprise.

14 The consensus view of the scientific
15 community on evolution is well-established and
16 presented clearly in the AAAS's Benchmarks for
17 Scientific Literacy and in the National
18 Academy's National Science Education Standards.
19 Although scientists may debate details of the
20 mechanisms of evolution, there is no argument
21 among scientists about whether evolution is
22 taking place. We do not believe that any
23 useful purpose would be served by our
24 presentation in this event.

25 I would like to talk for a bit about the

0015

1 nature of science and intelligent design
2 theology. Draft 2 is neutral in respect to the
3 nature of spiritual reality. Number two:
4 Members of many faiths, including mainstream
5 Christians find no conflict between their
6 theological beliefs and the fact that science
7 seeks natural explanations of what we observe
8 in the world around us as stated in Draft 2.

9 Number three: The Minority Report claims
10 science as an atheistic enterprise that
11 implicitly endorses the philosophy of
12 naturalism. The position that there is no
13 spiritual reality. This is totally incorrect.
14 Nowhere in Draft 2 does it state or imply that
15 evolution is based on naturalism or that
16 evolution is unguided or purposeless.

17 Four: The Minority Report and the
18 Intelligent Design Movement in general denounce
19 and reject the beliefs of those of faith who
20 accept science and evolution.

21 Number five: The Minority Report,
22 however, advances a narrow sectarian
23 theological view of science that conflicts with
24 mainstream Christianity and many other faiths.

25 Number six: The actions of the State

0016

1 Board of Education in advancing the Minority
2 Report by holding these issues-- these
3 hearings, excuse me, raises serious legal
4 questions about violations of the establishment
5 clause of the United States Constitution and
6 the Kansas Constitution.

7 We will now review these issues one at a
8 time. First, Draft 2 is neutral in respect to
9 spiritual reality. Draft 2 accurately states
10 that science is a human activity of
11 systematically seeking natural explanations for
12 what we observe in the world around us.

13 Draft 2 does not explicitly or
14 implicitly-- let me start over, I miss--
15 misspoke. Draft 2 does not state explicitly or
16 implicitly that science is the only way of
17 explaining the world nor that the physical
18 world which science investigates is all there
19 is to reality.

20 Number three: Draft 2 does not, and I
21 want to make sure this is well emphasized to
22 you, the members of the subcommittee, it does
23 not endorse philosophical naturalism or
24 atheism. The words and concepts, naturalism
25 unguided, purposely, et cetera, do not appear

0017

1 in Draft 2.

2 Number four: Standard seven, Benchmark
3 one, indicator five, grades 8 through 12 of
4 Draft 2 says, quote, "The students understand
5 there are many issues which involve morals,
6 ethics, values or spiritual beliefs that goes
7 beyond what science can explain, but for which
8 solid scientific literacy is useful." This
9 sentence written with the input of the
10 Minority, members of the committee, clearly
11 says that science does not claim to offer a
12 complete explanation of the world and that
13 Draft 2 recognizes the importance of morals,
14 ethics, values or spiritual beliefs.

15 Five, however, Minority witness Roger
16 DeHart, when asked to comment on the fact that
17 this statement clearly did not endorse
18 naturalism, replied that the statement was
19 bogus.

Many people of faith, including many Christians, accept science as the limited enterprise of seeking natural explanations.

Two: This does not conflict with their theistic beliefs because they believe that God acts in the physical world through natural

causes.

Three: They understand that science does not claim to answer all questions about the world, nor does it claim to offer a complete human explanation about any part of the world. Such people are often called theistic evolutionists in respect to evolution.

Keith Miller an evangelical Christian and a Kansas University Geology Professor gave a talk last Wednesday on ending the warfare of science and faith. The exhibit, which is included in the group of exhibits that we have prepared for you, Ending the "Warfare" of Science and Faith, and I would like to present a few sample slides.

First, God is a God of process. God acts through processes in nature as well as in human history. Define creation does not necessary-- does not imply any necessary breaks in the continuity of cause-and-effect processes. Evolution is simply a scientific description of God's creative activity.

The nature of science. Science is a search for chains, excuse me, of natural

cause-and-effect processes. Science is not a statement about the nature of ultimate reality. It is not based on a metaphysical naturalism. Back please.

Recently a group of clergy in Wisconsin wrote a letter to school officials about this issue. At this point over 3500 clergy have signed their letter endorsing their position. That, too, is an exhibit. It's called the Wisconsin Clergy Statement which you will find in your exhibit package. Back, please.

And I would like to read to you the Wisconsin clergy letter. This is the concluding paragraph. "We the undersigned Christian clergy from many different traditions believe that the timeless truths of the Bible and the discoveries of modern science may comfortably coexist. We believe that the theory of evolution is a foundational scientific truth, one that has stood up to rigorous scrutiny and upon which much of human knowledge and achievement rests. To reject this truth or to treat it as a theory among others, is to deliberately embrace scientific ignorance and transmits such ignorance to our

children. We believe that among God's gifts are human minds capable of critical thought and that the failure to fully employ this gift is a rejection of the will of our creator. To argue

that God's loving plan of salvation for humanity precludes the full employment of the God given faculty of reason is to attempt to limit God and act of hubris. We urge school board members to preserve, preserve the integrity of the science curriculum by affirming the teaching of the theory of evolution as a core component of human knowledge. We ask that science remain science and that religion remain religion, two very different, but complimentary, forms of truth."

This is one of the most bogglesome aspects of the Minority's contentions. The Minority claims science is atheistic.

Number one: The Minority Report and the Minority witnesses make it clear that the core argument of the Minority is a theological argument that science by seeking natural explanations is atheistic and materialistic, an expression of the philosophy of naturalism.

Number two: The Minority's tragedy is to

claim that science is atheistic. In order to claim that their theistic beliefs design must be inserted into science. They want to change the definition of science to add supernatural causes.

Here are some quotes from the Minority Report, and I quote, "The core of the controversy between proponents and opponents is that the opponents seek to narrow the scope of information to that which will not contradict the naturalistic claim that life is adequately"-- "adequately explained by chance interactions of matter according to the laws of physics and chemistry. It is reasonable to expect that this viewpoint discrimination that will necessarily have the effect of causing students to reach the decision that they and all other human beings are merely natural occurrences, accidents of nature and that they lack intrinsic purpose." An indoctrination of naturalism would seem to offend constitutional principals.

The Minority proposals will put the state in a position of constitutional neutrality rather than that of an advocate for naturalism,

a philosophy key to non-theistic belief systems. The affect of this construct, seeking natural explanations, is to cause students to accept as true its unstated premise of philosophical naturalism. This can be reasonably expected to lead one to believe in the naturalistic philosophy that life and its diversity is the result of the unguided, purposeless natural processes.

Draft 2 of the standards does not state, imply, nor does it accept these conclusions. Science teachers throughout Kansas would be shocked and offended to hear that in their every day teaching of science they were indoctrinating students to believe that they

were accident of nature that lack intrinsic purpose. This is not only false, it is unfair to Kansas teachers, and most importantly, to our Kansas children. Back please.

The Minority Report in claiming that science is atheistic lumps the theistic evolutionists mention earlier-- I beg your pardon. John-- okay. Here we go. I'm at four. I beg your pardon, I jumped ahead.

Number four: Also the Minority proposed

0023

the following in the grades 8 through 12 benchmarks on evolution. Quote, "Biological evolution postulates an unpredictable and unguided natural process that has no discernable direction or goal. It also assume"-- "assumes that life arose from an unguided natural processes."

Notice that it is the Minority that wishes to insert this theological description of evolution. Draft 2 understands that the question of define guidance is beyond the scope of science.

The Minority Report in claiming that science is atheistic, as I said earlier, lumps the theistic evolutionists mentioned earlier in the non-theistic relations and belief systems like secular humanism, atheism, agnosticism and scientism.

The Intelligent Design Movement strongly rejects theistic evolution as a legitimate Christian perspective. Here are some quotes, and these are remarks on theistic evolution from leaders of the Intelligent Design Movement. Phillip Johnson, founder of the Intelligent Design Movement once said, "Liberal

0024

Christians, theistic evolutionists, are worse than atheists because they hide their naturalism behind a veneer of religion. That was said at the University of Kansas on April of 2000. William Dembski, the main theories of intelligent design writes, "Design theorists are no friends of theistic evolution. As far as design theorists are concerned theistic evolution is an American evangelism ill conceived accommodation to Darwinism."

"What theistic evolution does is to take the Darwinian picture of the biological world and baptizing, identifying this picture with the way God created life. When boiled down to its scientific content theistic evolution is no different than atheistic evolution accepting as it does only purposeless, naturalistic, material processes for the origin and development of life." That's from What Every Theologian Should Know About Creation, Evolution and Design, William A. Dembski, Ph.D., 1995.

I would also like to read a quote, and this is a quote from you, Mr. Chairman, given on April the 13th of the year 2000.

0025

1 Evolutionist-- and it's not up on the board. I
2 didn't get a chance to put it there. I was
3 working late last night and found this and I
4 thought it was important that everybody hear
5 it. "Evolution"-- strike that, please, madame
6 court reporter. "Evolutionists start with the
7 bias that everything must have a natural
8 explanation, i.e., God does not, cannot, be
9 part of the answer. The bottom line is that
10 evolutionists believe that different animal and
11 plant types arose from previously nonexistent
12 animal and plant types. Creationists on the
13 other hand start with the bias that God did
14 indeed create all animal and plant life"--
15 "types. They believe it is their
16 responsibility to study and explain how he did
17 it. The two world views are diametrically
18 opposed and mutually exclusive. There's
19 another group that tries to meld the two views
20 together, they are the theistic evolutionists.
21 They usually take the tact that God created
22 something and they left it to evolution to work
23 it out. If these people are talking about the
24 God of the Bible then they do not understand
25 what is written in the Bible or they do not

0026

1 understand the philosophy of evolutionary
2 theory." And I have also attached that in my
3 exhibit's file.
4 We now go to the part right there where
5 it says here are some quotes. Okay. Also,
6 last Saturday when Minority witness Angus, and
7 I'm sorry to say I don't know how to pronounce
8 his last name. M-E-N-U-G-E for the record,
9 madam court reporter. A philosophy professor
10 at Concordia University of Wisconsin was asked
11 about scientists who have theistic beliefs and
12 also accept evolution, this is what he said:
13 "The mere fact that you have somebody who holds
14 two beliefs, A and B, does not show that they
15 are logically consistent." He went on to say,
16 "It might be that some of these people are
17 confused." And you will remember the
18 significant number of people walking around
19 here wearing a tag that said confused after
20 that statement. As reported in numerous
21 newspapers this amused many in the audience.
22 Conclusion about the nature of science
23 and intelligent design theology. The Minority
24 is wrong that science, by seeking natural
25 causes, is atheistic and materialistic. The

0027

1 Minority denounces the position of Christians
2 and others who believe that science and their
3 faith do not conflict. The Minority wants to
4 insert their interpretation that science is
5 atheistic into the standards in order to knock
6 down the Strawman definition that they
7 themselves have created. The Minority is using
8 science and the state science standards as a
9 vehicle to advance their narrow sectarian
10 theology over other theologies including
11 mainstream Christianity.

This is not, I want to repeat, this is not about science. It is about the Minority's fight with naturalism, secular humanism and atheism. They are misrepresenting science and abusing the State's public education system to wage a needless cultural and theological battle.

Legal conclusions. Whereas, the Minority position is a theological view of God that rejects science as atheistic, and, whereas, the Minority position also rejects commonly held theistic views, including those of many Christians-- mainstream Christians, and, therefore, by advancing the Minority position

0028

through these hearings and other actions the State Board is advancing a narrow sectarian theological view of science over many other faiths, and, therefore, the Board, through its actions, raise real and serious legal questions about violations of the Establishment Clause of the United States Constitution and the Kansas Constitution and abuses of Kansas statutory authority and discretionary power.

Counsel for the Minority has a formula. The formula is evolution equals atheism, atheism equals religion which equals State endorsement, therefore, because the State is endorsing religion we must be permitted to bring our theistic view into the school curriculum. That argument is legally wrong, logically inaccurate, misleading and would not stand constitutional challenge, and here's why.

First of all, counsel makes the broad statement that atheism, is under the Constitution, considered a form of religion. You are absolutely correct, but, but, and this is important, it is considered such in a limited scope. For example, if we think of religion as taking a position on divinity then

0029

atheism is indeed a form of religion. In cases, for example, involving the scope of employment discrimination an atheist is entitled to the same protection as a member of any organized religion.

Clearly certain protections are provided to individuals who assert that they're atheists, because freedom of religion is also the freedom from religion.

Courts have stated that a general -- a general working definition of religion for free exercise purposes is any set of beliefs addressing matters of ultimate concerns occupying place parallel to that filled by God in traditional persons. Religion, therefore, does not have to be theistic in nature to benefit from constitutional protection, but what does that really mean as it relates to the issues here?

It is important that we keep in mind that the right to a religious belief or opinion is very different from the way courts look at

23 science and science education.
 24 The Constitution mandates that the
 25 government remain secular rather than to

0030

1 affiliate itself with religious beliefs or
 2 institutions precisely in order to avoid
 3 discriminated-- discriminating among citizens
 4 on the basis of their religious faith. A
 5 secular state, you must remember, is not the
 6 same as an atheistic or anti-religion state. A
 7 secular state establishes neither atheism nor
 8 religion as its official creed.

9 In County of Allogamy versus American
 10 Civil Liberties Union, Greater Pittsburg
 11 Chapter, 492 U.S. 573, 610, 109 Supreme Court
 12 386. The Court stated that a secular state
 13 established neither atheism nor religion as its
 14 official creed to mean atheism meets religion.
 15 Allogamy does not state religion includes and
 16 typically to religion. The 7th Circuit
 17 literally interpreted the U.S. Supreme Court in
 18 Wallace versus Jaffree, 472 U.S. 38, the Court
 19 places atheism in the correct context, adjacent
 20 to religion. The Court states, just as the
 21 right to speak and the right to refrain from
 22 speaking are complimentary components of a
 23 broader concept of individual freedom of mind,
 24 so also the individual's freedom to choose his
 25 creed is the counterpart of his right to

0031

1 refrain from accepting the creed established by
 2 the majority. At one time it was thought that
 3 this right merely prescribed the preference of
 4 one Christian sect over another, but would not
 5 require equal respect for the conscience of the
 6 infidel, the atheist or inherent of a
 7 non-Christian faith such as Islam or Judaism,
 8 but when the underlying principle has been
 9 examined in the crucible of litigation the
 10 court has unambiguously concluded that the
 11 individual freedom of conscience protected by
 12 First Amendment embraces the right to select
 13 any religious faith or none at all.

14 The First Amendment is broad enough to
 15 encompass both believers and non-believers as
 16 far as the prohibition of discrimination on the
 17 basis of religion.

18 The instruction of evolution, does it
 19 advance or inhibit any religion? It is one
 20 thing for the courts to recognize that an
 21 individual may not be discriminated because she
 22 or he does not carry any particular religious
 23 ideology, it is quite another for a jump to be
 24 made from preventing discrimination-- from
 25 preventing discrimination to a finding that

0032

1 evolution equates to atheism, and it is
 2 therefore the advancement of religion in
 3 violation of the Lemon test.

4 In MacLean versus Arkansas Board of
 5 Education in which the defense argued that
 6 evolution was in effect a religion and that by
 7 teaching it school created an establishment

problem that could be redressed only by giving balance treatment to creation science. The Court responded that if creation science was in fact science and not religion, it was difficult to see how teaching it could neutralize the religious nature of evolution. Assuming that evolution was a religion or religious tenant, as the Minority would suggest, the remedy would be to stop teaching it, not to establish another religion in opposition to it, which is precisely the recommended that the Minority is suggesting the Board should apply.

However, the MacLean court went on to say that it is established in the case law and perhaps also in common sense that evolution is not a religion and that teaching it does not violate the statement clause. So the argument of the Minority is not only legally incorrect,

0033

it is illogical, for they suggest to you that mainstream science teaches through the process of methodological naturalism, atheistic view, i.e., atheism, and that the way to cure it is to bring their religious belief into the classroom. That is simply wrong. It is not supported by law. And at the appropriate time I will provide both counsel for the Minority, as well as the Board, our formal brief with the citations. But it should be made very clear evolution-- the teaching of evolution as it is taught in science curriculums all across this country has never been determined by the court to be theistic.

The science, the teaching of evolution is not an atheistic process. It is merely a process of explanation of the natural world around us. The jump that the Minority makes is to try to make that theistic, to argue that therefore in order to balance, their theistic view must be taught. Clearly the court has stated the remedy, if, in fact, a theistic view is being taught, is not to bring additional religion, but to stop completely the teaching of theistic views in the science curriculum.

0034

That is a very important distinction. Next, please.

The abuse of the political process. The Board has not followed established procedures for developing standards. They have given the Minority special privileges, such as allowing them to work outside the committee process. They have allowed John Calvert unprecedented and unjustified access to, and influence over, the Board activities. The Board subcommittee collaborated with Mr. Calvert outside of the public process in proposing and organizing these hearings.

The abuse of the political process. Number two: The Board subcommittee members clearly stated that their goals were to rebut evolution, put evolution on trial and to carry through on their campaign promises to put

19 creationist ideas into the standards.

20 For instance, Ms. Connie Morris was
21 quoted as saying, "I absolutely am getting more
22 than enough information to arm me to respond to
23 the question, are you getting evidence that
24 refutes Darwin's evolution." Ms. Kathy Martin
25 quoted in the Seattle Times said, "Evolution is

0035

1 a great theory, but it's flawed. There are
2 alternatives. Children need to hear them. We
3 can't ignore that our nation is based on
4 Christianity, not science."

5 Board subcommittee members were clearly
6 unqualified and unprepared to judge the
7 so-called expert testimony provided at the
8 hearings. Some Board subcommittee members, as
9 well as many witnesses, had not even read Draft
10 2. Some Board committee-- subcommittee members
11 in asking questions of the witnesses clearly
12 demonstrated a number of times that they did
13 not understand the science being mentioned by
14 the witnesses. Some Board committee-- strike
15 that, please, madam court reporter.

16 Some Board committee's-- strike that
17 again. I think I need a new water. Some Board
18 subcommittee members acted at times like
19 cheerleaders for the witnesses giving them
20 thumbs up or solitary high fives.

21 The abuse of political process. The
22 Board spent many thousands of dollars on these
23 hearings. \$5,000 on expenses for witnesses.
24 When I first became involved in this process
25 the budget was \$20,000 per side. I objected.

0036

1 I objected because my client, Draft 2, is the
2 legitimate position for this Board to adopt.
3 And at this time I would like to thank my law
4 partners, Bob Eye and Elizabeth Herbert who
5 have allowed me to represent Draft 2 at no
6 charge to the State of Kansas.

7 Our office has refused to accept a single
8 penny of compensation, because in our opinion,
9 each penny taken by you, Mr. Calvert, for your
10 witnesses is a penny taken from Kansas
11 children's education, an educational fund that
12 does not have, right now, the necessary funds
13 with which to adequately educate our children.
14 And although the court reporter does a great
15 job for us, we have been told that there's an
16 estimate of over a thousand dollars a day for
17 that transcript. In addition enumerate hours
18 of Kansas State Department of Education staff
19 time, as well as Kansas State Department of
20 Education resources, the costs for publishing
21 the transcripts of the hearings, security
22 expenses. And I-- I am really aghast at some
23 of the witnesses that were called before the
24 subcommittee.

25 The gentleman from Turkey, Mustafa Akoyl,

0037

1 A-K-O-Y-L, who claimed that he was sidearm
2 sharearm scientist without any scientific
3 training, to come in to tell us that the way to

4 resolve American relations with the Muslim
5 world is abandon materialism. What knowledge,
6 what experience, what expertise does he have to
7 come in and tell people like Dr. Steve Case and
8 the tremendously dedicated members of the
9 scientific writing committee that what they're
10 doing is wrong? And by what moral authority
11 does the Kansas State Board of Education
12 authorize the payment for that individual to
13 travel from Washington D.C. to Topeka, Kansas,
14 for us to have to listen to that nonsense? How
15 does that advance the childrens' of Kansas
16 education and science? What is the benefit of
17 that type of testimony? I'll tell you what it
18 is, it is simply a blind effort to support
19 intelligent design when they could not find
20 legitimate science for their position or good
21 teachers to come in and tell us what is in the
22 best interest of Kansas children. Next slide,
23 please.

24 Educational issues. The role of
25 standards is to outline core fundamental

0038

1 consents in a subject. Number two: Standards
2 do not prohibit anything from being taught.
3 School districts and individual teachers use
4 the standards as framework in which to add more
5 content and pedagogical material.

6 Number three: Draft 2 clearly encourages
7 critical thinking and the evaluation of
8 alternative hypotheses. And I want everyone to
9 be clear on this, Draft 2 encourages critical
10 thinking and the evaluation of alternative
11 hypotheses. It is at the heart of a good
12 education. It encourages discussion in the
13 classroom. It is for the benefit of our
14 children.

15 Draft 2, standard one, Benchmark one,
16 indicator four, grades 8 through 12 of inquiry
17 states as follow: The student actively engages
18 in conducting an inquiry, formulating and
19 readvising his or her scientific explanations
20 and models, physical, conceptual or
21 mathematical, using logic and evidence and
22 recognizing that potential alternative
23 explanations and models should be considered.
24 And the introduction of Draft 2 states the
25 standards called for students to engage in

0039

1 inquiry in science in the context of science
2 content. An inquiry of science. Students
3 describe objects and events, ask questions,
4 construct hypotheses, test these hypotheses
5 against current scientific knowledge and
6 standards of evidence and have the opportunity
7 to devise experiments or other tests of their
8 explanations.

9 Finally, students will communicate their
10 findings to others. There are-- they identify
11 their assumptions, use critical and logical
12 thinking and consider alternative explanations.
13 In this case students actively develop their
14 understanding of science by combining

15 scientific knowledge with reasoning and
16 thinking skills.
17 Educational issues. The Minority and the
18 Minority witnesses consistently misrepresented
19 the role of the standards. I want to emphasize
20 that. They consistently misrepresented the
21 role of the standards. And the position of
22 Draft 2 on the students' ability to address and
23 consider critiques of science, including
24 evolution.

25 The Minority repeatedly claimed

0040

1 explicitly or implicitly that unless their
2 anti-evolutionary critiques of evolution were
3 put in the standards, students would be
4 prohibited from even asking questions about
5 evolution. This is completely false. This is
6 completely false. It's completely false.

7 The Minority seem to have real little
8 familiarity I should say little familiarity
9 with the reality of public school education.
10 The attitudes of real science teachers or the
11 work teachers do to develop a curriculum that
12 teaches both the content and the process of
13 science.

14 Minority witnesses claimed that unless
15 the Minority's proposals were adopted we would
16 be teaching students nothing but rote
17 memorization and treating students like robots.
18 They're talking about our Kansas children.

19 In fact, critical thinking is the number
20 one goal of most teachers, irrespective of
21 subject area. The insistence that without the
22 Minority proposals students would be merely
23 taught to uncritically accept dogma like
24 robots, is insulting, Mr. Calvert, to Kansas
25 science teachers and our Kansas children.

0041

1 That's an insult this Board cannot allow to
2 occur.

3 Science and the development of scientific
4 knowledge. The world's scientific community
5 has a well established process for developing
6 scientific knowledge. This process includes
7 developing testable hypotheses, developing
8 methodologies for gathering data. Publishing
9 the results and analysis of the data.

10 Responding to feedback from others and so on.
11 In this way, solid consensus arises about what
12 is well-known.

13 As Draft 2 says, and part of which the
14 Minority wants to omit, a theory is the broad
15 explanation that integrates a wide range of
16 observations and tested hypotheses, inferences
17 and laws, when applicable, into a meaningful
18 and coherent whole. The core theories of
19 science have a high degree of reliability
20 within the limits to which they have been
21 tested and their scope of applicability.

22 Well established and widely accepted
23 explanations have explanatory and predictive
24 power and are fruitful as guides for further
25 research. The theory of evolution is such a

0042

1 theory, well established, well tested and
2 accepted worldwide.

3 And I at this time would like to read
4 something to you from National Geographic, and
5 perhaps a member of the subcommittee would read
6 National Geographic from time to time, because
7 I found this to be a very powerful statement.
8 And the question posed was, "Was Darwin Wrong?"
9 And when you open the page that deals with the
10 article it says "no." And I would like to read
11 to you the first paragraph.

12 Evolution by natural selection, the
13 central concept of the life work of Charles
14 Darwin is a theory. It's a theory about the
15 origin of adaptation, complexity and diversity
16 among earth's living creatures. If you're
17 skeptical by nature, unfamiliar with the
18 terminology of science and unaware of the
19 overwhelming evidence you might be tempted to
20 say, it's just a theory. In the same sense
21 relativity as described by Albert Einstein is
22 just a theory.

23 The notion that earth orbits around the
24 sun, rather than vice versa offered by
25 Copernicus in 1543 is just a theory.

0043

1 Continental drift-- or drift, it's just a
2 theory. The existence of structure and dynamic
3 of atoms, it's just a theory. Atomic theory.
4 Even electricity is a theoretical construct
5 involving electrons which are tiny units of
6 charged mass that no one has ever seen.

7 Each of these theories is an explanation
8 that has been confirmed to such a degree by
9 observation and experiment that knowledgeable
10 experts accept it as fact. That's what
11 scientists mean when they talk about a theory.
12 Not a dreamy and unreliable speculation, but an
13 explanatory statement that fits the evidence.
14 They embrace such an explanation confidently
15 but provisionally taking it as their best
16 available view of reality, at least until some
17 severely conflicted data or some better
18 explanation might come along. Next please.

19 Science and the development of scientific
20 knowledge. The Intelligent Design Movement
21 does not, let me emphasize, does not
22 participate in the scientific process. They do
23 not have testable hypotheses, no research and
24 only a few marginal published papers. There is
25 no theory of intelligent design. Quote,

0044

1 "intelligent design theory," closed quote, is
2 primarily a set of anti-evolutionary and
3 creationists arguments. Keith Miller in a set
4 of essays written for these hearings says this,
5 and I quote, please go to the exhibit. Yes.
6 "The Minority claim"-- found it. Yeah, here we
7 go.

8 "There is no scientific theory of
9 intelligent design." Intelligent design
10 proponents offer nothing to the scientific

community upon which a scientific program can be developed. They don't even have clearly defined definitions of critical terms that can be understood and applied by elders.

For example, they have provided no objective basis upon which others can apply concepts such as irreducible complexity or specific complexity. They focus on critiques of evolutionary theory that either attack Strawman views of evolution, misrepresent current science, or are simply based on flawed reasoning. They also point to areas of frontier science to which the scientific community is yet to reach a consensus. None of this constitute any challenge to the predictive

and explanatory power of evolutionary theory."

"In short, with regard to intelligent design there is no there there. There simply is no theory of intelligent design or anything approaching it. Intelligent design is not used in scientific research, even by its proponents. All intelligent design is a series of failed and rejected criticisms of evolutionary theory."

The Minority claim that they're not trying to insert intelligent design into the standards, but as Dr. Miller points out, the anti-evolutionary arguments presented in the Minority Report are all that intelligent design has to offer. If evolution is false, intelligent design must be true. That is the intelligent design movements basic strategy. Are we stopping here?

MR. ABRAMS: We had-- we had suggested 10:15. You had given us until 10:15, but if you want to break right now.

MR. IRIGONEGARAY: We're fine. We're fine. We'll continue to go. The National Intelligent Design Movement. The Discovery Institute in Seattle and the Kansas City based

Intelligent Design Network, Incorporated, with managing directors John Calvert and Bill Harris, are leaders in the National Intelligent Design Movement.

Kansas is just the latest in a long line of states in which the National Intelligent Design Movement has tried to legislate their ideas into science at the legislative, state board or local board of education level.

Kansas is being used, and I emphasize once again, used by the National Design Movement. Only two Kansans, not counting Mr. Calvert and Mr. Harris, testified as witnesses for the Minority.

Consequences. Number one: The quote, "Warfare, between science and faith, does lasting damage to both."

Science teachers are inhibited from teaching evolutionary theory fully because of the types of mischaracterizations about both science and faith that permeate our cultural

22 and which are reflected in the Minority Report.
23 Our society needs to be discussing these
24 issues, but we should not be making the
25 children of Kansas, and by that matter,

0047

1 children anywhere, or the public education
2 system the arena for what should be an adult
3 conversation going on in public forums.

4 Number two: Kansas' national and
5 international reputation is damaged once again
6 becoming notorious for these efforts to weaken
7 the teaching of modern science and to insert
8 invalid anti-evolutionary and creationist ideas
9 into our science standards.

10 This is a wonderful state. We have
11 amazing universities in this state. University
12 of Kansas, Kansas State, Emporia, Washburn.
13 The list goes on and on. I urge you members of
14 the media that are visiting us to take a look
15 at these wonderful institutions of higher
16 learning populated by kids who have studied in
17 Kansas under our terrific public education
18 system, and do not allow the efforts of a tiny
19 minority from believing any different. This is
20 a great state. We have terrific education.
21 And the stigma which is being placed on it is
22 not fair and should not be taken seriously.

23 You should help us celebrate our
24 wonderful public education and our terrific
25 colleges and universities across this state.

0048

1 Don't be unfair to those kids that have worked
2 hard to get into those universities and who
3 will make significant contributions in the
4 future to our health, to science discovery, to
5 the understanding of the world around us.

6 This harm to our reputation is clear and
7 it will harm our ability to attract bioscience
8 industries to our state. Through the
9 Bioscience Initiative Act the State of Kansas
10 intends to spend \$500 million to attract such
11 businesses. A goal made more difficult by the
12 actions of the Board.

13 And to those individuals who may be
14 considering Kansas as a place to come and
15 establish bioscience technology, we welcome
16 you. Kansas children are well educated in
17 science. Our universities are great places for
18 science education, and we produce children
19 whose education is solid, solidly based on
20 science and the scientific process. Please,
21 join us in making Kansas a better place.

22 Legal issues. I have broadly covered
23 these, but I think it's important to come back
24 to them. There are a number of associated
25 legal issues that should concern the Board and

0049

1 the Citizens of Kansas. Issues involving the
2 establishment clause and separation of church
3 and state as explained earlier. Issues
4 involving the abuse of discretionary power.
5 The Kansas Constitution sets requirements for
6 academic and financial responsibility for the

7 State Board.

8 The case can certainly be made that the
9 Board has failed to meet some of these
10 responsibilities by rejecting mainstream
11 science and by supporting the Minority and the
12 Intelligent Design Movement.

13 Number three: Issues involving the
14 requirement that the Board provide an adequate
15 able and suitable education for all children in
16 Kansas. The case can also be made that the
17 Board will fail this requirement if they adopt
18 the Minority proposals. The Board will be
19 providing an inadequate education if they fail
20 to support the teaching of mainstream science,
21 confused issues of faith and science and teach
22 failed anti-evolutionary critiques of science
23 as if they were valid.

24 Mr. Chairman, if possible, I would like
25 to be able to conclude my remarks. It may take

0050

1 more than just ten minutes, but if you would
2 allow me that way we don't have to break.

3 MR. ABRAMS: Certainly, at your
4 discretion.

5 MR. IRIGONEGARAY: Thank you very
6 much. Some final remarks. First of all, I'd
7 like to read into the record a letter that was
8 prepared by Chairman Abrams about the hearings.
9 This is a letter that was published in the
10 Wichita Eagle. And I think it's important that
11 this letter be placed on the record for a
12 variety of reasons.

13 It is a sad commentary on the state of
14 public affairs that persons ask learned
15 reporters and editorial Board members of the
16 Eagle still have no clue as to what is
17 happening with the Kansas Science Curriculum
18 Standards. The Eagle editorial French
19 evolution hearings push religious agenda, many
20 an opinion claim that these hearings have
21 everything to do with sneaking religious views
22 into science classroom. That is absolutely
23 incorrect. At no time have I stated or implied
24 that I wanted to insert creation science or
25 intelligent design into the Science Curriculum

0051

1 Standards.

2 On the contrary, I have stated that I
3 would vote against inserting either one into
4 the Science Curriculum Standards. Further, I
5 have repeatedly stated that my objective is to
6 get as much empirical science, defined as
7 observable, measurable, testable, repeatable
8 and falsifiable into the Science Curriculum
9 Standards as possible.

10 In addition, I have stated that I want to
11 remove the dogmatic fashion with which Neil
12 Darwinian evolution is taught. When a subject
13 is discussed using words such as always and
14 fact and no controversy when in actuality it's
15 not always, nor factual and great controversy
16 is involved, then by definition it's being
17 taught as dogma.

18 The dogmatic approach is what is being
19 advocated by the Majority Draft of the Kansas
20 Science Standards. The point of the science
21 hearings is to show that indeed among
22 scientists with many degrees having received
23 many research grants have published many peer
24 review papers and books and having
25 accomplishments great and small, there is a

0052

1 great controversy about biological evolution
2 being taught as dogma. They presented
3 testimony that there is controversy about the
4 factual nature of biological evolution.
5 They also presented testimony that
6 there's controversy about the definition of
7 science as used in the majority standard.
8 These hearings were not about my religious
9 views. They were about what is good science.
10 There was a huge amount of science testimony
11 over these three last days last week, but to
12 read the editorial and the article
13 anti-evolution hearings end May 8th, local and
14 state, a person would be hard pressed to know
15 that science was the main topic of discussion.
16 One had to read the editorial and article
17 closely to find that 23 people testified, but
18 one might get the opinion that indeed there
19 weren't many scientists that testified. A
20 point of fact, of the 20 plus witnesses only
21 two were not actively involved in science
22 research or teaching science. Of course, the
23 article quoted both of those who were not
24 active in science research or science teaching.
25 We invited evolutionary scientists from all

0053

1 across Kansas and the United States to testify,
2 but they all decided to boycott.
3 Now, a thinking person would ask-- is--
4 is it because the hearings are rigged? Is it
5 because of arrogance of the majority
6 scientists, or is it because what the Majority
7 proposes is actually full of holes? The
8 editorial stated the case against the
9 conservatives of the State Board should be for
10 educational malpractice.

11 I find it amazing that you would say this
12 in the face of the testimony of science
13 teachers who testified that they were
14 reprimanded, fired and generally put on a short
15 leash when they discussed, not brainwashed, but
16 discussed scientific tests that seemed to
17 contradict the fact of Neo Darwinian evolution.

18 Further, the article referred to Jack
19 Krebs, vice-president of Kansas Citizens for
20 Science as a mainstream scientist. In fact,
21 Mr. Krebs does not have a Ph.D. in science, but
22 is instead a high school math teacher. This is
23 not meant to demean math teachers, but
24 generally most high school math teachers do not
25 consider themselves mainstream scientists.

0054

1 I have made no secret of my faith or the
2 principles upon which I stand, not what I would

3 I like to see in the Kansas Science Standards,
4 yet the Eagle persists in stating that I intend
5 to do something that is categorically opposite
6 of what I state.

7 I would urge Eagles writers to become
8 well educated about the issues. Investigate
9 the claim of those witnesses with lots of
10 pedigrees who claim there are scientific
11 problems and mainstream science does not stand
12 up to investigation. Investigate the claims of
13 Kansas Citizens for Science which has sought to
14 target uneducated moderates with propaganda and
15 proclaim the conservative State Board members
16 as political opportunists on principle bullies,
17 et cetera.

18 Investigate my claims when I state I do
19 not want to insert creationism or intelligent
20 design, but instead want to rely on empirical
21 science. I have tried to speak forthrightly
22 with every reporter that comes along, but it
23 seems that most of them, or at least their
24 attitudes, are either want to be mind readers
25 or have an agenda of their own.

0055

1 As Thomas Cooper said, only false-- only
2 fraud and falsehood dread examination. Truth
3 invites it.

4 Well, I think it's important that we
5 reply to that. And the best reply comes from a
6 man that I admire immensely, Dr. Steve Case.
7 You're a tremendous asset to our state, sir.
8 You are a tremendous asset to our children.
9 You are a tremendous asset to education
10 worldwide.

11 And here is Dr. Case's response. "I feel
12 that I have to respond to Dr. Abrams' letter in
13 the Wichita Eagle. Dr. Abrams ends his letter
14 with a quote from Thomas Cooper, 'only fraud
15 and falsehood dread examination, truth invites
16 it. I would suggest that he be careful what he
17 wishes for."

18 "Throughout the standard process the
19 expert panel appointed by this State Board has
20 worked very hard to follow the process by which
21 curriculum standards are developed. It is by
22 this kind of hearings to a well structured
23 process and by following the rules that
24 documents of this nature establish
25 credibility."

0056

1 "This process, a two-thirds majority of
2 the committee has produced an excellent
3 document. At all times we have maintained a
4 high degree of respect for all of the people
5 involved in standards process and at all times
6 made absolutely certain that all voices were
7 heard. Honestly, during this process, it has
8 been difficult to remain respectful when being
9 denigrated as a scientist and portrayed as a
10 poor teacher."

11 "I have been looked in the eye and lied
12 to on several occasions during this process. A
13 good example comes from the second paragraph of

14 Dr. Abrams' letter in which he says, quote, 'At
15 no time have I stated or implied that I wanted
16 to insert creation of science or intelligent
17 design into the Science Curriculum Standards.'
18 Dr. Abrams must think we have forgotten trial
19 Draft 4A of the Science Standards that he
20 introduced in 1999. At the time he told us
21 that he was the author of this trial draft of
22 the Standards. It was only through a bit of
23 detective work that we found this was not true.
24 The draft had been written by a young earth
25 creationist group from Cleveland, Missouri.

0057

1 These were the creationist standards that were
2 adopted by the Board in 1999. Dr. Abrams was,
3 at the very least, a driving force in the
4 insertion of creation science into our State
5 Standards at that time."
6 "It is difficult to remain respectful
7 when I read Dr. Abrams' statement in which he
8 says, 'In addition, I have stated that I want
9 to remove the dogmatic fashion with which Neil
10 Darwinian evolution is taught.' Dr. Abrams
11 knows that there is a great deal of difference
12 between science, content standards and
13 curriculum instruction. Standards create a
14 broad vision of what is meant to be
15 scientifically literate. They serve only as a
16 foundation for local school districts to create
17 their curriculum and instruction.
18 It seems as if Dr. Abrams if-- is
19 promoting state control for what has been a
20 local function, the curriculum and instruction
21 occurring in local classrooms. However, I
22 cannot let the assertion that the outstanding
23 science teachers of Kansas are teaching in a
24 dogmatic fashion stand unchallenged. It is
25 offensive to the teachers of Kansas and

0058

1 absolutely untrue."
2 "I have been in hundreds of classrooms
3 across the state, very active in statewide
4 teacher organizations and very active in the
5 science teacher professional development. If
6 such behavior is occurring in the classroom
7 then the teacher would be found guilty of
8 unprofessional conduct. I have never observed
9 such behavior in any classroom in Kansas."

10 "I have found the teachers of Kansas to
11 be very sensitive and caring about their
12 students' welfare. The statement of politics
13 found in the Science Standards particularly
14 express this and the high standard of practice
15 in this state."

16 "Dr. Abrams' letter is filled with such
17 misleading statements. He continues to insist
18 that dramatically changing the procedures by
19 which science standards are developed is a
20 noble thing and that these hearings and
21 witnesses have credibility. This is also
22 untrue. The witnesses do not have any standing
23 in the field and no credibility. The
24 statements have arrogant opinions about

25 subjects in which they have no knowledge. The

0059

1 subcommittee hearings in Topeka are
2 dishonorable and without integrity. Reputable
3 scientists and science educators should be
4 applauded for not participating in such an
5 event."

6 In closing, I want to thank the Kansas
7 Department of Education for having contacted me
8 and allowed me the opportunity to defend Draft
9 2. It is a magnificent, magnificent example of
10 Kansas at its best. The writing committee did
11 an excellent job for our children, and these
12 hearings do nothing to change that, for our
13 children.

14 For our future I urge you to discard
15 entirely the non-scientific biased testimony
16 that has been presented in this classroom, to
17 keep out of our classroom the narrow theistic
18 view that implies that evolution is being
19 erroneously taught as faith because that is
20 false.

21 Your duty is to carefully look after the
22 dollars that Kansas taxpayers work so hard in
23 order to pay the state. You have a
24 responsibility that is much greater than each
25 of you individually. You have a responsibility

0060

1 to the children and the future of this state.
2 A responsibility that you have sadly, sadly
3 failed. This was a gigantic waste of money and
4 an insult to Kansas teachers with great
5 potential harm to teachers and students.

6 I stand here as counsel for Draft 2. I
7 am not a witness, and, therefore, I will not
8 stand for questioning. If you want answers I
9 urge you to do what you have not yet done, read
10 Draft 2. Thank you very much. I am done.

11 MR. ABRAMS: Thank you-- thank you
12 for your presentation, Mr. Irigonegaray. I
13 find it disheartening that you will not stand
14 for questions. That was the agreement at the
15 beginning. I'm sorry that you're unwilling to
16 do that.

17 MR. IRIGONEGARAY: No, sir. The
18 agreement was if I was a witness, just like
19 Mr. Calvert chose to be a witness. I am not a
20 witness. I am here as counsel. As counsel for
21 Draft 2 my personal opinions as far as science
22 is concerned, as far as religion, are
23 irrelevant, irrelevant to this hearing. The
24 relevant evidence that you should consider is
25 the work of Dr. Steve Case and the other

0061

1 members of the Scientific Writing Committee.
2 My views about science, my views about religion
3 are just that. They're my personal views and I
4 believe that they should not be regarded for
5 the record. Thank you very much.

6 MR. CALVERT: Dr. Abrams?

7 MR. ABRAMS: Yes.

8 MR. CALVERT: Given the breach of the
9 rules by the opposing counsel, the rules being

10 that we would have an opportunity to
11 cross-examine for an amount of time equal to
12 half of their presentation time, which would be
13 approximately an hour, I don't have any problem
14 if he doesn't want to answer my questions, but
15 I do think given the fact that I should have an
16 hour I should have the opportunity to respond
17 to what he has just said. And particularly in
18 light of the various aspirations he's tapped on
19 a number of people in this room.

20 MR. IRIGONEGARAY: That is not the
21 process. He had three days, three days.

22 MR. CALVERT: Pedro, you're not
23 the --

24 MR. IRIGONEGARAY: Don't interrupt
25 me, Mr. Calvert.

0062

1 MR. ABRAMS: Mr. Calvert.

2 MR. IRIGONEGARAY: Don't interrupt
3 me, Mr. Calvert. You had three days. Those
4 three days are over. I had three days. I have
5 chosen to take less than two hours. And as
6 counsel I'm not standing for questions. That
7 doesn't open the door for more from them. You
8 do what you wish. The judge will be the people
9 of the state and this media. And I urge you
10 not to further make the mistakes that have been
11 made before.

12 MR. ABRAMS: Thank you for your
13 comments. We're going to take a break now,
14 10:25. We will resume in 15 minutes. I might
15 mention to you that I've been given a note
16 there are several people left their car keys
17 outside of the scanner, so if you're missing
18 car keys, you may want to check there.

19 (THEREUPON, a short recess was
20 had).

21 MR. ABRAMS: I'd like to reconvene
22 these hearings, please. Mr. Irigonegaray, is
23 your answer still the same as what you were 15
24 minutes ago?

25 MR. IRIGONEGARAY: It is.

0063

1 MR. ABRAMS: These hearings are being
2 held for the State Board Science Subcommittee.
3 They are not a legal forum. They're not court
4 proceedings, that's very obvious. Thus the
5 agreed upon process and procedures that was
6 agreed to by both counsels, by this
7 Subcommittee, as recorded by Department of
8 Education staff, was that any speaker,
9 presenter would be followed by half of that
10 speaker's amount of time to ask questions and
11 half of that time given to the Science
12 Subcommittee for questions.

13 This process has been followed rigorously
14 throughout the hearings. And we the
15 Subcommittee have not deviated from it.
16 However, counsel for the Majority has now
17 deviated has now preached that agreement. As
18 such, counsel for the Minority will be given an
19 opportunity to speak as if he were asking
20 questions for a period of 54 minutes. That

21 would be half of the time that was given to
22 Mr. Irigonegaray and then the State Board will
23 have 27 minutes. Mr. Calvert.

24 MR. CALVERT: Thank you, Chairman
25 Abrams, members of the Committee.

0064

1 Mr. Irigonegaray, ladies and gentleman, I did
2 not plan to speak this morning. In fact, Ed
3 Sisson is the lawyer from Washington D.C., our
4 own reporter. He became interested in this
5 issue awhile back and we've been working
6 together. And so Ed was going to do the
7 cross-examination. He also was prepared to
8 cross-examine the many scientific witnesses
9 that we expected to be called to rebut the case
10 that we put on during the first three days,
11 but, of course, there were none.

12 What you saw today was oratory from one
13 who is not a scientist, one who is not a
14 philosopher, one who is not an educator, one
15 who is a lawyer, and we all know all the
16 different lawyer jokes.

17 What you heard today was simply oratory
18 from a lawyer. What is significantly absent
19 from the Majority case is the data. Where is
20 the data to support the claim of evidence so
21 overwhelming that there can be no dissent? So
22 the case for the Majority simply is completely
23 and totally empty. There is no evidence.
24 There is no data, only oratory.

25 And that's consistent with the very first

0065

1 exhibit that we presented, which is a strategy
2 memo that was offered by an officer of one of
3 Mr. Irigonegaray's clients, Kansas Citizens for
4 Science, and that memoranda explained not only
5 the strategy that's being used now and that was
6 used during the last two hours, but the
7 strategy that was used in 1999.

8 And what is really disturbing to me is
9 that this is a strategy that the science
10 community seems to be embracing. Thomas Huxley
11 once said science commits suicide when it
12 adopts a creed. Science commits suicide when
13 it adopts a creed. There is a creed involved
14 in this debate. Evolution cannot be
15 criticized. And you heard Mr. Irigonegaray say
16 that, because, of course, if we allow evolution
17 to be criticized then guess what happens,
18 people begin to-- can then look at the evidence
19 of design which we have otherwise expressed.
20 So in order to maintain the suppression of the
21 evidence of design we also have to effectively
22 insulate Darwinian evolution from any
23 scientific criticism. So when does that happen
24 to evolution? Where is the test? Where is the
25 scientific test for evolution if it can't be

0066

1 criticized?

2 Look in your dictionary for the
3 definition of the word boycott. Boycott is a
4 mechanism designed to coerce silence. It's--
5 it's a-- it's a mechanism intended to

intimidate. And so what-- what is happening here is that you are seeing those in positions of authority seeking to discourage and intimidate scientists from stepping forward and stating what is in their minds, what is in their heart. It is ugly. It is really ugly.

This is what the strategy-- quote, "The strategy at this point is the same as it was in 1999, notify the national and local media about what's going on," all of you in the audience, "and portray them in the harshest light possible as political opportunists." And you saw that. Where is the data that backs up that? Where are the witnesses that back up that?

Even the-- the statements out of the mouth of the individual that voiced that slander would not allow himself to be questioned on that. Portray them in the harshest possible light as political

0067

opportunists evangelical activists. Ignoramuses.

Dr. Russell Carlson, one of our witnesses provided us with a CV. These are the CD's. That book is about that thick (indicating) for 23 witnesses. 23 witnesses. I was going through what-- while we were getting ready for this I was going through the CV for my friend William Harris. He is really an incredible guy. Dr. Harris is the most humble guy I think I've ever known and his brilliance is just mind numbing and he works so incredibly fast. I just don't see how he can keep so many balls in the air at the same time.

So I was getting ready for this thing and I was wanting to, you know, summarize the scientific credentials of some of our witnesses that maybe this could be brought forth in the examination, and I started going through Dr. Harris' CV. I had never seen it before. That CV is set in ten point type. It's 26 pages long. He has written a book. I didn't even know about. The guy is an international recognized scientist. He is doing work that could affect the lives of everybody in the

0068

entire world in a very positive way. And he is being derided as an ignoramus. As an unprincipled bully, as a breaker of rules, as an ass. There may-- there may be no way to head off another science standards debacle, but we can sure make them look like asses as they do what they do.

Dr. Russell Carlson, one of our witnesses, shows that he has a Ph.D. in biochemistry as a professor of microbiology at the University of Georgia, directs the complex hydro carbohydrate research center at the University, has authored or coauthored more than 125 articles in various peer review journals. 125. Has three taps. Has given numerous lectures at various meetings and

17 universities throughout the U.S., Europe and
18 South America. He gave testimony with respect
19 to specific changes-- specific proposed changes
20 offered by the Minority Report.

21 What is so fascinating about this
22 strategy of portraying the competition as
23 ignoramuses you see it is designed to achieve a
24 really interesting purpose. What is the
25 purpose? It's to keep you from looking at the

0069

1 specific provisions in the Minority Report.

2 They don't want you to look at those. Why?

3 You heard the witnesses. These proposals
4 are really pretty-- how would I characterize
5 it, minimal. This is a minimal first step to
6 begin to open a discussion in which teachers
7 are afraid.

8 You heard Roger DeHart, what happened to
9 him. What do we want to do? Do we want to
10 have an educational environment to teach
11 evolution honestly you have to leave the public
12 school system? And so what happens to the
13 public school systems is if-- where is the
14 intellectual diversity? You wind up having
15 teachers that are non Christians. You force
16 everybody that has got a world view that
17 happens to be inconsistent with a naturalistic,
18 materialistic evolutionary world view, you
19 force them out of system.

20 It's fascinating the complaint of the
21 opposition is that the Minority Report inserts
22 the word unguided in the definition of
23 evolution, as if we're trying to put into
24 evolution something that is not there. And
25 that is perhaps the biggest deception that ever

0070

1 came down the pipe. Evolution by its very
2 nature, as the witnesses testified over and
3 over and over again, evolution does not have
4 the mechanism to produce a guided process,
5 period. Law and chance cannot produce any kind
6 of a guided process. So by its very inherent
7 nature it is unguided.

8 And Dr. Case says science is neutral as
9 to whether or not evolution is guided or
10 unguided. That is a huge deception. Because
11 the mechanism itself cannot produce any kind of
12 a guided process.

13 Let me read you from-- let me read you
14 from two renowned evolutionary biologists.
15 Now, I have often heard when these biologists
16 are quoted that, oh, well, these are just the
17 fringe of the evolutionary biological community
18 and what they say really does not represent
19 mainstream science so you can disregard what
20 these scientists have said.

21 In the current Kansas Science Standards I
22 believe there-- probably only references to two
23 or three, maybe a handful of scientists that
24 provide authority for the current Kansas
25 Science Standards. One of those is Ernest

0071

1 Meyer and the other one is Douglas Patoma.

Ernest Meyer has been like-- who is deceased has been likened to be one of the towering figures of evolutionary biology. He is right there at the very top of the heap, or was. Douglas Patoma is about the same. He writes college level text on evolutionary biology.

Is evolution a guided or unguided process? It is clearly unguided, because law and chance cannot guide anything. And here's what Ernest Mayer says. First Darwinism rejects all, all supernatural phenomena and causation. The theory of evolution by natural selection explains the adaptedness and diversity the world solely materialistically, it no longer requires God as creator or designer. Although one is certainly still-- although one is still certainly free to believe in God even if one accepts evolution like he could also believe in Santa Claus or the tooth fairy.

Darwin pointed out that creation is described in the Bible and other versions of the accounts of other cultures was contradicted by almost any aspect of the natural world.

0072

Every aspect of the wonderful design so admired by the natural theologians could be explained by natural selection. And this is Ernest Mayer.

What is it the Minority Report is asking for? Is it asking that we put theism into the standards? No. It's asked that we put objectivity into the standards, that we simply treat evolution honestly and candidly and we subject it to the very same critical analysis that other scientific theories are, but it's not allowed because if we-- as Mr. Irigonegaray says we allow criticisms of that theory, well, all these other things could come in, and we can't possible have them coming in.

What is so fascinating is that the Minority Report is not interested in all of science. It's interested and it's focused only on the issue of origin science. An origin science, I'm sorry, is a very peculiar science. It's peculiar in two respects. It is a science that unavoidably impacts religion, and much of what we heard today was protilization for theistic evolution because that happens to be a religious concept that's consistent with

0073

evolution.

This is not religion. I heard somebody preaching for theistic evolutionary beliefs. There is a case that was just decided in Maryland and the court said you cannot promote one religious sect over another one, and that's precisely what was we heard today.

Citizens for a Responsible Creation versus Montgomery County Public Schools is a example. Just was decided.

Okay. Here's from Douglas Patoma. Darwin's immeasurable important contribution to

science was to show how mechanistic causes could also explain all biological phenomena. Did you hear that? Darwin's immeasurable important contribution to science was to show how mechanistic causes, mechanistic cause did not produce any guide-- guided cause. Could he explain all but not biological phenomena despite their apparent evidence of design and purpose. Despite their apparent evidence of design and purpose.

And so we're-- really what you-- you know, here is the problem with saying you can't criticize evolution. What is the core plane of

0074

evolution? It's right here. It says design is an illusion, that it is-- not-- the diversity does not result from a guided process. So you see, when you cannot criticize evolution, which essentially is an unguided process, then you cannot challenge that tentative evolution that the process is not unguided and that's why that word creates a problem. Because what the problem with mainstream science is that they have a theory which in fact is not guided but that happens to conflict with the views of the public. The public is led to believe that somehow it is guided, but not guided, and so, you know, maybe I can reconcile my religion with that.

But what the Minority Report does is it shows those students what the evolution process really is and this is explained by Douglas Patoma. He said despite-- by coupling undirected purposeless variation to the blind uncaring process of natural selection Darwin made theological or spiritual explanation of the life processes superfluous.

Darwin undid the essentialism that western philosophy had inherited from Plato and

0075

Aristotle and put variation in its place. He helped to replace a static conception of the world with the vision of the world of ceaseless change. Above all, his theory of random-- see, a random process does not produce a guided produce.

When you go to Las Vegas and you throw the dice, you wish you could guide them, but you can't. That's a random process.

Above all his theory of random-- and it is random because variation arises from, quote, "mutations which are described as random." Above all his theory of random purposely variation acted on by the blind, purposeless, natural selection provided a revolutionary new kind of answer to almost all questions that begin with the word why.

It cannot be sufficiently emphasized that before Darwin both philosophers and people in general answered why questions by sight and purpose. Only intelligent minds, one with the capacity for forethought can have purpose, press questions like why do plants have flowers

24 or why are there apple trees or plagues or
25 storms were answered by imagining the possible

0076

1 purpose that God could have had in creating it.
2 And so what he is saying is that
3 evolution is an unguided, purposeless process
4 and that has major implications for religion.
5 Enormous implications for religion. The-- so
6 again we get back to-- the-- why-- why didn't--
7 why is there a boycott? In my mind there's a
8 boycott because the scientific community really
9 can't answer the issues raised by the Minority
10 Report which suggests that we add the word
11 inform to the mission statement.

12 Now, why would anybody object to adding
13 the word informed to the mission statement?
14 That's the function of public education is to
15 inform students so that when they do make
16 reasoned decisions they will make good reasoned
17 decisions. You can make all kind of reasoned
18 decisions. Many people make reasoned decisions
19 when they bought Wal-Mart stock-- I mean World
20 Com stock, and when they bought Enron stock,
21 they made reasoned decisions, but they lost a
22 lot of money because they were not informed of
23 the off balance sheet liability.

24 So this strategy to paint people like
25 Russell Carlson, Bill Harris. Daniel Ely has a

0077

1 Ph.D. in physiology, is a professor of biology
2 at the University of Akron in Ohio, directs a
3 research team that is-- was the first to
4 identify a gene on the Y chromosome that raises
5 blood pressure. The team is currently studying
6 how the gene product influences an enzyme that
7 can raise blood pressure. Has authored or
8 coauthored 101 peer review science journals.

9 These guys are testifying and testified
10 that are working at the bio-- they are working
11 at the molecular level. You know, I've heard
12 one-- one of our witnesses as I was talking to
13 him over the phone he characterized the
14 situation, said, you know, I went through
15 school, I was taught evolutionary biology fine,
16 then I got into my job and it's all operational
17 science we never used. It's never used in
18 operational-- and he is working at the
19 molecular level. He's a geneticist. And he
20 says then one day, you know, I challenged to
21 start looking at the details of it and I really
22 started looking at it and-- and I'm blown away,
23 because when I start looking at the details I
24 find there's huge, huge problems that confront
25 natural selection in trying to explain

0078

1 increased diversity and that's what these
2 witnesses are testifying about.

3 We're doing research at the-- in the
4 genome at the very depth of the genetic
5 mechanism and we're finding huge problems both
6 in molecular phenologies. We're finding
7 problems in the mutation rates that suggest
8 that-- that rather than having mutation produce

9 increase complexity all mutations seems to be
10 doing is increasing degeneration. It doesn't
11 seem to be able to go uphill, but we can see
12 how it's going downhill. And so they're--
13 they're finding evidence at the molecular level
14 that is really challenging evolutionary
15 biology.

16 Here's an example of some of this and
17 these are cited in the Minority Report. This
18 is the book, this is not by ID scientists, this
19 is a compilation of about 17 articles of-- of
20 molecular biologists and biochemists. And at
21 the beginning of the book they raised 26 issues
22 that evolution cannot explain. They're not
23 being able to explain natural selection. And
24 they start off, the very first question is why
25 did metazoan body plans arise in a burst?

0079

1 Why-- how did we get all these body plans very
2 suddenly? And what is the policy at the
3 National Science Teachers Association, do not
4 adopt any policies that will suggest to
5 students that life arises suddenly rather than
6 gradually. You see, we can't show them any
7 evidence that violates Darwin's prediction that
8 diversity arises in a purely gradual way.
9 Well, the problem is the fossil record is
10 really inconsistent with the gradual-- with
11 that prediction. And it's-- it's an
12 irreducible complexity.

13 We heard scientists talk about the
14 challenge to natural selection. How did you
15 build a biomecular-- molecular machine like a
16 bacterial flagellin? Where you don't have any
17 function until the whole thing is put together
18 and it takes thousands and thousands of steps
19 to get that whole thing put together and here
20 we have witnesses testify I'm doing
21 experimental evolutionary studies on bacteria
22 and so far I can only get that sucker to
23 produce one step, I cannot get it to produce
24 two steps. And he's running population of
25 billions of organisms and he can't get it to

0080

1 just do two steps.
2 These are all-- this is-- I mean, what we
3 heard during the first three days was evidence,
4 we heard data, and what are we confronted with?
5 Rhetoric. It's pure and simple rhetoric
6 consistent with the policy of the organization
7 he represents.

8 So there may be no way to head off
9 another science Standards debacle, but we can
10 sure make them look like asses as they do what
11 they do. Is that something a science
12 association should be doing? Should a science
13 association assume the role of an advocate?

14 Now, aren't they sort of getting out of
15 their field? It seems to me scientists should
16 be investigators and they should just come to
17 us and say this is what our investigation
18 shows. This is what the data shows. When did
19 scientists start becoming advocates? I think

20 when they start becoming advocates they start
21 taking positions, and it's really disturbing
22 because we saw this-- we began to see this in
23 the elections. The scientist-- scientific
24 community beginning to take sides in elections.
25 It seems to me they work for us, right?

0081

1 Aren't we the patrons of science education?
2 Shouldn't they be simply like, you know, the
3 investigators in a police department, we want
4 them to-- to investigate the scene of an
5 accident-- of an event objectively. We don't
6 want them to go in with preconception. But
7 see, the Majority Report says we'll do that,
8 when we study origins there is only one kind of
9 explanation that we can-- we can allow
10 ourselves to reach. And so as we did this
11 investigation we have to ignore an enormous
12 amount of evidence of design and at the same
13 time we also have to ignore criticisms of
14 evolution because if we allow criticism of
15 evolution we'll bring in this evidence of
16 design.

17 You see what happens, Dr. Abrams' letter
18 to the Wichita Eagle there's a dogma is
19 precisely correct. There is a huge dogma.
20 What the Minority Report seeks to do is to take
21 the bias out and replace it with objectivity so
22 that the students can simply see the evidence
23 on both sides. That is not putting religion
24 into science it. Is taking a religious problem
25 out that is being left in because of

0082

1 propaganda, propaganda of the strategy. A
2 strategy oratory of legal rhetoric.
3 This is interesting. Our target is the
4 moderates who are not that well educated about
5 the issues. See, you know, with-- and that is
6 what is so troubling about oratory, and
7 particularly here-- here is what is really the
8 problem is that this oratory is coming from
9 offices of where you should not be getting this
10 kind of message.

11 It is really troubling when the American
12 Association for the Advancement of Science
13 begins to buy into this kind of strategy. That
14 is a real problem. Because it essentially--
15 that organization is embracing a strategy to
16 woo the uneducated so that they will perhaps
17 believe the way Alan Leshner believes. And I
18 will challenge to look into, you know, what he
19 believes. I would challenge you to look to
20 what the National Academy of Science believes.
21 Ed Larson and Larry Wildom did a report, did a
22 study on what the members of the National
23 Academy believe and I would submit that what
24 they believe is like the complete opposite of
25 what mainstream public believes.

0083

1 The study shows that something like 90
2 percent of the Academy do not have a personal
3 belief in God. Whereas if you look at the
4 Republican Journal in general you get the

opposite.

Now, is-- is all this being motivated by
atheistic left wing agenda? No. What we're
saying is that we should be focusing on the
effect of the methods being used in education,
and when you're educating students and you
decide to open a discussion with them about
where we come from, the origin of life and the
origin of diversity of life you have chosen to
engage in a discussion that unavoidably impacts
religion. And when you decide to engage in
that discussion, you darn well better show the
kids both sides or you're going to be promoting
one side of the religious issue over the other.

I had a call from a reporter from
Minneapolis yesterday and she reported that a
couple of school districts were suppressing the
distribution of a book to second graders and
the book was a-- one of a set of about 15 books
published by an author that had come talk to
the second graders. I said, well, what is the

0084

book they're suppressing? She said, well, it
is-- it's sort of a comic book about evolution
and it essentially teaches evolution as fact.
It teaches that we come from a primordial soup
and then we involve into this and this is how
we came to be. And-- and so I said, well, that
sounds like, you know, sort of an origin story.
It's-- it's-- it's-- it's a story about or--
about where we come from. And she said, yeah,
it's essentially-- it's sort of religious.
It's no different than the account you find in
Genesis except it is written in a language that
a second grader can understand.

And she said, well, they're suppressing
that. Is that appropriate for them to suppress
that? And I said, well, it depends upon what
the policy of the board is. If the policy of
the board is to exclude all religious
discussions and origin discussions with second
graders because their minds are too
impressionable at that age to handle that, if
that is their policy, then the suppression is
okay. But if they are not suppressing it, if
they are teaching second graders about God or
about theistic version of origins, yeah, then

0085

they should allow this book.

So they either suppress the discussion in
its entirety or they show both versions. And
the problem we have right now is that we're
engaging in this discussion with students about
a religiously charged subject and we're only
showing them one side. The evidence supports
one particular world view. We are not showing
them the other side. And I'm sorry, but that
is a constitutional problem. And, again, I
submit that the rhetoric, you know, falsely
portrays in major respects the Minority Report.

The other thing that you'll notice about
this rhetoric is that it did not dissect the
substantive provisions in the Minority Report.

16 It didn't say, well, let's look at this
17 language and find fault with it. No, in fact,
18 there was only one provision in the Minority
19 Report that the rhetoric even addressed and it
20 was the provision that describes biological
21 evolution accurately. It accurately describes
22 biological evolution, and it says, well, we're
23 trying to accurately describe biological
24 evolution to make the religious point. No,
25 we're just trying to accurately describe

0086

1 biological evolution. And I'm sorry if it
2 creates a religious problem, but that is
3 exactly what that mechanism is, it is not
4 guided.
5 So in conclusion, I think that science
6 should do science. I don't think they should
7 be advocates. It's unfortunate that we are
8 having to have this hearing. I think that we
9 showed during the first three days there is
10 indeed a genuine scientific controversy about
11 evolution. There are major issues.

12 As you get further and further back in
13 time the controversy increases.
14 Microevolution, no controversy, but that is you
15 go beyond, further back in time. You have less
16 evidence, everything becomes more subjective,
17 it gets much fuzzier and there is huge
18 controversy. And when you get to the origins
19 of life, I mean, you heard these guys testify,
20 you can say there's no scientific controversy
21 over origin of life. That is the most absurd
22 thing I ever heard coming down the pipe. We
23 heard three scientists, so there is a
24 scientific controversy. One side of that
25 controversy is in fact being suppressed. Pedro

0087

1 said it's being suppressed. We can't allow
2 that evidence to be presented to-- the
3 scientific controversy about evolution because
4 if we do then we are going to sneak religion in
5 the back door. Religion, of course is the
6 theistic kind. And there are non-theistic
7 religions, which he acknowledges. So we did
8 make a case. It has not been rebutted by any
9 evidence whatsoever. It's just been rebutted
10 by rhetoric which we have not been allowed to
11 question.

12 So I thank you-- I want to thank the
13 committee for-- for the courage to confront
14 this issue, and I think it's an issue that does
15 need to be confronted. It needs to be
16 confronted not only here, but it needs to be
17 confronted throughout the country. And it's an
18 issue that's incredibly important to my mind to
19 the entire world.

20 You heard this move-- you heard Mustafa
21 being denigrated because this is an issue
22 important to his religion. It is. It's a
23 theistic religion, and Draft 2 is a
24 materialistic naturalistic version of how--
25 and-- but the materialism and naturalism is not

0088

1 important except when you get to the issue of
2 origins.

3 Who cares about seeking natural
4 explanation when we're doing lab experiments,
5 we can test and confirm hypotheses with
6 experiments. It only really comes up in the
7 area of science that touches religion and
8 that's a problem. So anyway, I want to-- I
9 want to thank the Committee.

10 I-- I also find it very strange that only
11 certain members of the Board have attended
12 these hearings, because I think during the
13 first three days we showed real, genuine
14 scientific data that suggests problems with
15 evolutionary theories, and it seems to me that
16 this is an important issue for public education
17 and the members of the State Board of Education
18 have a public trust and the trust is that when
19 they act-- make decisions they will make
20 informed decisions. You see. Their decision
21 need to be informed.

22 When I was practicing law in another area
23 I was advising members of the board of public
24 companies and I had to-- I had to counsel them
25 on how they should equip themselves to make

0089

1 corporate decisions, and the very first rule
2 was make sure you are informed. If you're
3 going to approve a merger make sure you get
4 expert opinions, you get fairness opinions,
5 that you do your due diligence. Well, are all
6 members of the Board doing due diligence or are
7 they-- you know, assuming the role of an
8 ostrich? I mean, is that consistent with
9 public trust?

10 I see one, two, three, four, five, six
11 members of the Board that are informing
12 themselves, they're doing their due diligence.
13 It's unfortunate that we have other members of
14 the Board who are engaged and who took an oath
15 to inform themselves and who are not doing
16 that, who have joined the boycott for the
17 purpose of intimidating and implementing this
18 kind of strategy, which in my mind is whole
19 reprehensible.

20 Why wouldn't I shake the hand of Pedro?
21 I don't think this strategy deserves a
22 handshake. In my mind this is repugnant. I
23 have Greg Lassey, I have Ed Sisson, and these
24 guys are being painted as ignoramuses as
25 unprincipled bullies. Anybody who criticizes

0090

1 evolution. Jill Gonzalez-Bravo was in fear,
2 was literally in fear to come testify here.
3 That is a situation that our society should not
4 tolerate. So thank you for my-- this
5 opportunity to speak and to give me-- give my
6 closing argument.

7 MR. ABRAMS: I was going to say that
8 I have a few questions for Mr. Irigonegaray,
9 obviously, that isn't going to happen. But,
10 Mr. Irigonegaray, the inferences of his
11 testimony is that we have severe problems with

all of Draft 2. In fact, such is not the case.

I have stated many times to Dr. Case, who was brought up, that, indeed, I like most of Draft 2. There's a hundred plus pages of Draft 2. I have problems with three or four pages. That's what these hearings are about, three or four pages, not the hundred plus of the rest of it.

In addition, I have some other problems with Draft 2, also, because it drops botany and anatomy and physiology. I do not believe that anatomy and physiology and botany ought to be dropped, the indicators for them, and having read through them, and, yes, I have read the

Standards, I don't believe that we ought to drop those.

Mr. Irigonegaray put up a power point that said that scientists will not participate because it gives the veneer of respectability. This would seem to indicate that science is more about obtaining respectability and not about seeking the truth.

Obviously if all the science was on the side of the evolutionists they would come and embarrass the scientists that made presentations last week, and those of us on the Board, by completely destroying the scientific evidence presented last week.

Much of which has been written up in peer review journals and articles, books, would you agree that if a person has a Ph.D. in microbiology, chemistry or genetics or some other scientific discipline and if that same person has written and published peer reviewed articles and books, and if that same person is involved in some type of science research that person would be considered a scientist?

Apparently Mr. Irigonegaray does not. Would you agree that if a person has a BS or Master's

in science education, if that same person had been teaching biology, chemistry or some other high school science, would that person be qualified to speak about matters pertaining to science? Apparently not.

I was going to ask him if he would agree that it is not in the best interest of science, or for that matter even for good civil discourse to belittle and insult people that are involved in science. I would have asked him would you agree that if someone declared there was no science-- scientists testifying here last week they were completely uninformed or at best or at worst they are showing ignorance and arrogance.

Obviously he put up some bullet points from the American Association for the Advancement of Science, also known as AAAS. Alan Leshner is the CEO of that organization. Alan Leshner was quoted as saying, "Scientists love to fight. They love to argue in public and they love to refute each others point of

23 view." If you look around the room there's a
24 lot of people here, a lot of cameras here, this
25 seems like a pretty public place, a good place

0093

1 to have a debate about the evidences and
2 science, particularly when that's what we're
3 looking for, but, indeed, no, such is not the
4 case. What does happen instead is boycott.
5 I would have asked him with the Alan
6 Fleischner quote in mind and the fact that
7 Kansas Citizens for Science, KCFS wants to be
8 active in the discussion of science in Kansas
9 would you agree it does seem strange that KCFS,
10 media contact Liz Craig would have a memo
11 stating the following: "My strategy at this
12 point is the same as it was in 1999, notify the
13 national and local media about what's going on
14 and portray the school board members, the
15 school board majority, in the harshest light
16 possible as political opportunists, evangelical
17 activists, ignoramuses, breakers of rules and
18 unprincipled bullies, and et cetera.

19 Further, the KCFS' memo also states that
20 the target is moderates who are not
21 particularly well educated about issues. I
22 would have asked Mr. Irigonegaray if-- if he
23 agreed with the idea that character
24 assassination by KCFS and targeting uneducated
25 moderates is the correct way to discuss and

0094

1 implement science education in the State of
2 Kansas. He is impugning us when he states that
3 I and/or the Board demean science teachers.
4 However, by your statements Mr. Irigonegaray,
5 you have adhered to the KCFS memo about
6 character assassination and targeting
7 uneducated moderates by saying we are coming
8 against science teachers. In fact, you further
9 demean the science teachers that testified last
10 week by not acknowledging their testimony when
11 they came and declared that some of them were
12 fired, some were put on a short leash, some
13 were just scared to death about what to do when
14 the students come in and start presenting
15 scientific evidence that seems to oppose
16 biological evolution.

17 I would have asked Mr. Irigonegaray about
18 evidence. K. S. A. 60-401 talks about evidence,
19 it gives some definition of it. But to put it
20 in terms I think that most of us understand,
21 not legal terms, I would classify evidence as
22 something that would be something that
23 furnishes proof or to ascertain the truth of a
24 matter, and realizing that are different left
25 of accuracy, would you agree that science

0095

1 should be able to provide the degree of
2 accuracy of statements made concerning origins?
3 That seems like a reasonable request.

4 Would you agree when questions are
5 encountered that we don't know we should simply
6 say we don't know? Would you agree that
7 scientific evidence should be censored? Would

8 you agree that Kansas kids be taught all the
9 scientific evidence? The fact is, we don't
10 know what his answers are.

11 I would have asked him if he remembered
12 the questions from last week when he was asking
13 about the science standards and he was asking
14 the witnesses that testified and he would make
15 the claim they do not say natural only, do
16 they, that they don't say biological evolution
17 is an unguided process, that they don't say
18 other origins philosophy can't be presented in
19 the classroom. You saw it this morning on the
20 power point.

21 He asked several witnesses specifically
22 about whether naturalism specifically
23 explicitly is included in Draft 2 to which most
24 of the witnesses answered something like this
25 to paraphrase, no, it does not, but it is

0096

1 between the lines.

2 My question, does the Minority Report
3 specifically, explicitly mention intelligent
4 design or creation of science? No, it doesn't.
5 Well, then apparently he makes his claims and
6 indeed sets up this entire oratory this morning
7 of two hours as a Strawman to be able to knock
8 it down.

9 Apparently he makes the claim that ID and
10 creation science is in the Minority Report by
11 reading between the lines. I would have asked
12 him whether he had read Draft 2, and I would
13 have read a few sentences of Draft 2. 8th-12th
14 grades, standard four, benchmark three indicate
15 four, the student understands the sun, earth
16 and other objects in the solar system form from
17 a nebular cloud of dust and gas.

18 8th-12th grade, standard four, benchmark
19 four, indicator four, the student understands
20 the current scientific explanation of the
21 origin and structure of the universe. 8-12th
22 standard three, benchmark three, indicator one.
23 The student understands biological evolution,
24 dissent with modification is a scientific
25 explanation for the history of the

0097

1 diversification of organisms from common
2 ancestors. I would have asked him, in your
3 opinion would these be considered natural only
4 explanations of our origins?

5 On one hand Draft 2 does not explicitly
6 say natural only. Naturalism. It does not say
7 that. Yet I would suggest that virtually
8 everyone in the room understands the indicators
9 that I just read are indeed natural only
10 explanation of our origin. That would seem to
11 be-- create a little bit of controversy.

12 I would have asked him about what age
13 would you expect-- what is the appropriate age
14 to start learning about Neo Darwinism-- Neo
15 Darwinian evolution? Is it elementary, middle
16 school, high school, college? I don't know
17 what his answer is, but the fact is that many
18 times evolutionary statements are made in

19 elementary and middle school, and that it is--
 20 middle school and elementary students have
 21 developed very little in the way of thinking
 22 abstract. For the most part they think in
 23 concrete terms. The abstract thinking is a
 24 skill, a trait that is developed as we grow
 25 older. And it would seem that the natural only

0098

1 explanations of our origins made to a very
 2 young mind, someone who thinks in concrete
 3 terms has-- has yet to develop the ability to
 4 think in the abstract, that would seem to be--
 5 could be viewed as the only way we came to be.
 6 That might be one way you could take it, if
 7 there's nothing else taught to a concrete
 8 thinker, then that would seem to be the way to
 9 think.

10 We heard a lot of testimony last week, I
 11 was going to bring that up, about Dr. Stephen
 12 Meyer, about the single viable standardized
 13 protein from random genetic mutation and that
 14 Dr. -- Dr. Jonathan Wells talking about the
 15 Cambrian period. Dr. Michael Behe talking
 16 about the cellular system saying that cells are
 17 too complex to prevent the accidental
 18 assemblage of a cell one piece at a time.

19 We heard about current genetic research
 20 that the available option for new biologically
 21 viable DNA changes are so rare within the vast
 22 range of animal DNA that random changes will
 23 almost never find anything that works to
 24 advance the organism. Dr. Behe's thesis
 25 remains unrefuted since Neo Darwinists have not

0099

1 provided a biomechanical explanation of how one
 2 species can successfully change into another by
 3 random mutation at the level of the cell where
 4 the change must occur. That was testimony he
 5 gave.

6 We heard that DNA is information in much
 7 the same way that a book, maybe more
 8 appropriately in much the same way that a
 9 library is information. DNA is not ever
 10 compared to a box of random scrabble letters.

11 Dr. Wells told us about the experiments
 12 on four winged fruit flies that are sometimes
 13 used to illustrate the mutation that can occur,
 14 produce the sorts of anatomical change that
 15 Darwins theory needs. The problem is, as he
 16 stated, that the extra wings are not new
 17 structures, they're only duplicating existing
 18 structures, and furthermore, they're virtually
 19 worthless. The extra wings lack muscles are
 20 therefor worse than useless.

21 These and many other scientific evidences
 22 presented last week seem to be credible
 23 evidence opposed to Neo Darwinian evolution,
 24 particularly since the scientists boycotted and
 25 refused to come and tell us why these evidences

0100

1 are incorrect.

2 Mr. Harry McDonald is present of KCFS,
 3 yesterday I got a letter from him. I'm going

to quote a few lines of the letter. Regarding last week's hearings he said, "The three days of hearings was a sham. The BOE has once again succeeded in embarrassing Kansas in the eyes of the world." Regarding the witnesses he said that the witnesses were brought to Kansas quote, "not to evaluate the standards or inform the Board, but simply to provide a taxpayer supported public forum for their personal views," end quote. Further Mr. McDonald says, "The hearings thus far are an affront to science, to mainstream religions and to Kansans truly concerned about quality education."

Now, Mr. McDonald, in the one and a third page letter he didn't refute any of the research that was presented by any of the scientists, nor did he address the science teachers that testified that they had been reprimanded, fired or otherwise put on a short leash, because they presented scientific evidence that seemed in opposition to Neo Darwinian evolution. However, consistent with

the internal memo from KCFS he did cast dispersions on the conservative Board members and the witnesses that testified.

This does seem to be inconsistent with the quote from Mr. Leshner from the AAAS that scientists love to fight and they love to argue in public and they love to refute each others point of view.

It would have been nice to hear testimony from scientists supporting evolution and to be able to ask questions of them. I would have dearly loved to do that, but it seems they have nothing to say about science to us except in press releases and the 30 second sound bite that will undoubtedly be following these hearings.

I would have loved to have asked questions of the scientists and of Mr. Irigonegaray. That is not going to happen.

MS. MARTIN: Thank you. Dr. Abrams and I have been continuously misrepresented by press reports, quotes that the counsel used from the L.A. Times and, in fact, quote printed and repeated by media all over the country have constantly misrepresented what is happening

here. He stated that we're trying to say science is atheistic. Science is definitely not atheistic. Science is neutral, but one has to wonder about what the agenda the people who deny that there is a controversy over the teaching of macroevolution as fact to support origin science may be.

I have listened to Mr. Irigonegaray's presentation and I can say there are certain points that he made that are legitimate and factual, and I think John Calvert has addressed some of the other problems with his presentation. And for the record, I have read Draft 1 of the Standards in total. So since

15 there were only a few changes in Draft 2, I did
16 not read it word for word.

17 Mr. Irigonegaray's bullying tone and lack
18 of respect for the scientists and other
19 presenters was very disturbing to me during the
20 hearings last week. I've been an elementary
21 teacher for over 31 years, an elected official
22 for only a few months, so I guess being only
23 honest and straightforward, but still the way I
24 operate.

25 I have read the Minority Report and no

0103

1 where do I find, as counsel stated, that there
2 is a proposal by the Minority Report to add
3 supernatural causes to the definition of
4 science.

5 As a teacher for over 31 years in Kansas
6 public schools I did applaud and cheer for the
7 outstanding young science teacher from Rosehill
8 as she presented her experience in college
9 classes and her classroom. An educator from
10 Ohio who's been a leader in helping his state
11 to address this issue.

12 The Board has been accused of being close
13 minded and these hearings as being a rip. I
14 guess we'll leave it up to the public who might
15 be the jury in this matter to answer some of
16 the questions that I would have liked to have
17 asked the counsel. Based on what we've heard
18 these four days which side of the issue is
19 being close minded? Why are some scientists
20 tenaciously holding onto the evolutionary
21 tenants that are unproven, as we have heard,
22 and are often disproven?

23 Should students be taught questionable
24 data or be encouraged to research and
25 critically analyze the most current and

0104

1 accurate scientific evidence available? Will
2 adopting the Minority Report, which these
3 hearings were considering, from the standards
4 writing committee help to accomplish this goal
5 for science teaching. And there were questions
6 about me doing my homework. He presented that
7 Dr. Keith Miller was from KU. Now, I can't
8 speak for Dr. Miller, but as for me, I would
9 certainly not want that mistake to be made.

10 I did stay up late last night, as
11 Mr. Irigonegaray said he did, and I have like
12 three pages on both sides of a tablet of
13 questions that I would have liked to have been
14 able to ask, and I'm sorry that I didn't get
15 to. But I do have one question on my list,
16 since I've been asked that question by several
17 people ranging from a newspaper editor when I
18 was campaigning to one of the people that was
19 running the Citizens for Science booth outside
20 the lobby downstairs, and one he asked almost
21 every presenter, and that is, how old is the
22 earth? I was hoping he would be able to
23 explain why he was pursuing this line of
24 questioning. Thank you.

25 MS. MORRIS: Mr. Irigonegaray, I

0105

1 believe your behavior here was abusive. I do
2 understand abuse and I just want you to know
3 that I forgive you, truly.
4 Real quickly, we have just four minutes
5 left, some statements I'll just make. The
6 wall-- the words wall of separation between
7 church and state do not exist in the U. S.
8 Constitution. The State Board of Ed's policy
9 and guidelines permits a committee to be formed
10 at anytime. These committees perform an
11 advisory role only. We do appreciate their
12 efforts and they are very helpful. There have
13 been no rules broken here.
14 Oh, and by the way, when my daughters
15 were in high school we had a subscription to
16 National Geographic.
17 I've taught in public schools for nine
18 years and I am a Kansas licensed teacher. I've
19 set through numerous teacher inservice sessions
20 and prepared thousands of lesson plans. I
21 assure you teachers need clear direction on
22 legal boundaries in the classroom. In fear of
23 retribution teachers err on the side of silence
24 which could mean a weakened education.
25 Teachers need clear authority to present

0106

1 criticisms of evolution. I am deeply proud of
2 the State Board of Education and this committee
3 and particularly the man to my right, Dr. Steve
4 Abrams. Dr. Steve Abrams is a man of great
5 integrity. Dr. Steve Abrams has worked
6 strenuously to make this hearing fair. He and
7 Mrs. Martin and I truly wanted to hear from all
8 those involved. Dr. Steve Abrams is a man of
9 science. He is a gentle science-- gentle giant
10 with superb integrity.
11 One example of the many of the propaganda
12 machine that work vigorously to convolute the
13 efforts of this committee is the following, and
14 my final comment. After being asked if I had
15 read Draft 2 I replied I haven't researched it,
16 but, yes, I have read it. That reporter
17 disappointed me by erroneously and unethically
18 interpreting and quoting me as saying I had
19 only scanned the standards, which, of course,
20 perpetuated numerous erroneous reports. It
21 does-- thank you. It does seem that research
22 is disallowed. It does seem that many don't
23 understand true research. It does seem that
24 many don't believe a policy maker is capable of
25 research. My research included what I had

0107

1 hoped to learn here today from the counsel for
2 Draft 2 or what I had originally hoped to learn
3 from the evolutionists, but unfortunately
4 absolutely zero evidence was provided.
5 My research will not be concluded until
6 the final vote and even then I guarantee you my
7 quest for learning will continue. I believe I
8 am a true and responsible educator.
9 MR. ABRAMS: That concludes these
10 hearings. I thank you for attending. What's

the process is going to happen now is that we will receive a transcript, and when we get the transcripts we will have written closings and summaries from Majority counsel, Minority counsel, and at that point in time the Board will put together a recommendation to the Board. The Subcommittee will put together a recommendation to the Board that will be presented at the June meeting. I thank you for your attending.

MR. IRIGONEGARAY: Mr. Chairman, I'm going to hand the court reporter my exhibits so that they can be made part of the record.

MR. ABRAMS: Thank you.

0108

C E R T I F I C A T E

STATE OF KANSAS)
COUNTY OF SHAWNEE) ss:

I, Robin J. Schuyler, a Certified Shorthand Reporter in and for the State of Kansas, duly commissioned as such by the Supreme Court of the State of Kansas, do hereby certify that I was present at and reported in shorthand the foregoing proceedings had at the aforementioned time and place; further that the foregoing 107 pages is a true and correct transcript of my notes requested transcribed.

IN WITNESS WHEREOF, I have hereunto affixed my Official Seal this _____ day of _____, 2005.

Robin J. Schuyler
CERTIFIED SHORTHAND REPORTER