

EXCERPTS FROM:

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

(The complete transcript is available,
see www.tccsa.tc/archives/kansas/)

(Edited to remove obvious typographical errors, misspellings, extra spaces and all page numberings. Note that line numbering inconsistencies and misplacements of quotation marks are in the original. Breaks indicating jumps ahead in the transcript are marked in this edited version by the broken line as shown below.)

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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.

APPEARANCES

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.

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

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.

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MR. IRIGONEGARAY:

Mr. Abrams, Ms. Morris, Ms. Martin, Mr. Calvert, Mr. Sisson, Mr. Lacy (sp). Ladies and gentleman, my name is Pedro Irigonegaray. I represent mainstream science. As reflected in

draft two as submitted by the Kansas Science writing 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 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.

.....

MR. IRIGONEGARAY:

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 creationist ideas into the standards. For instance, Ms. Connie Morris was quoted as saying, "I absolutely am getting more than enough information to arm me to respond to the question, are you getting evidence that refutes Darwin's evolution." Ms. Kathy Martin quoted in the Seattle Times said, "Evolution is a great theory, but it's flawed. There are alternatives. Children need to hear them. We can't ignore that our nation is based on Christianity, not science." Board subcommittee members were clearly unqualified and unprepared to judge the so-called expert testimony provided at the hearings. Some Board subcommittee members, as well as many witnesses, had not even read Draft 2. Some Board committee-- subcommittee members in asking questions of the witnesses clearly demonstrated a number of times that they did not understand the science being mentioned by the witnesses.

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MR. IRIGONEGARAY:

Our society needs to be discussing these issues, but we should not be making the children of Kansas, and by that matter, children anywhere, or the public education system the arena for what should be an adult conversation going on in public forums.

.....

MR. IRIGONEGARAY:

This is a great state. We have terrific education. And the stigma which is being placed on it is not fair and should not be taken seriously. You should help us celebrate our wonderful public education and our terrific colleges and universities across this state. Don't be unfair to those kids that have worked hard to get into those universities and who will make significant contributions in the future to our health, to science discovery, to the understanding of the world around us. This harm to our reputation is clear and it will harm our ability to attract bioscience industries to our state. Through the Bioscience Initiative Act the State of Kansas intends to spend \$500 million to attract such businesses. A goal made more difficult by the actions of the Board. And to those individuals who may be

considering Kansas as a place to come and establish bioscience technology, we welcome you. Kansas children are well educated in science. Our universities are great places for science education, and we produce children whose education is solid, solidly based on science and the scientific process.

.....

MR. IRIGONEGARAY:

As Thomas Cooper said, only false-- only fraud and falsehood dread examination. Truth invites it. Well, I think it's important that we reply to that. And the best reply comes from a man that I admire immensely, Dr. Steve Case. You're a tremendous asset to our state, sir. You are a tremendous asset to our children. You are a tremendous asset to education worldwide. And here is Dr. Case's response. "I feel that I have to respond to Dr. Abrams' letter in the Wichita Eagle. Dr. Abrams ends his letter with a quote from Thomas Cooper, 'only fraud and falsehood dread examination, truth invites it. I would suggest that he be careful what he wishes for.'" "Throughout the standard process the expert panel appointed by this State Board has worked very hard to follow the process by which curriculum standards are developed. It is by this kind of hearings to a well structured process and by following the rules that documents of this nature establish creditability." "This process, a two-thirds majority of the committee has produced an excellent document. At all times we have maintained a high degree of respect for all of the people involved in standards process and at all times made absolutely certain that all voices were heard. Honestly, during this process, it has been difficult to remain respectful when being denigrated as a scientist and portrayed as a poor teacher."

.....

MR. IRIGONEGARAY:

It seems as if Dr. Abrams if -- is promoting state control for what has been a local function, the curriculum and instruction occurring in local classrooms. However, I cannot let the assertion that the outstanding science teachers of Kansas are teaching in a dogmatic fashion stand unchallenged. It is offensive to the teachers of Kansas and absolutely untrue." "I have been in hundreds of classrooms across the state, very active in statewide teacher organizations and very active in the science teacher professional development. If such behavior is occurring in the classroom then the teacher would be found guilty of unprofessional conduct. I have never observed such behavior in any classroom in Kansas." "I have found the teachers of Kansas to be very sensitive and caring about their students' welfare. The statement of politics found in the Science Standards particularly express this and the high standard of practice in this state." "Dr. Abrams' letter is filled with such misleading statements. He continues to insist that dramatically changing the procedures by which science standards are developed is a noble thing and that these hearings and witnesses have creditability. This is also untrue. The witnesses do not have any standing in the field and no creditability. The statements have arrogant opinions about subjects in which they have no knowledge. The subcommittee hearings in Topeka are dishonorable and without integrity."

Reputable scientists and science educators should be applauded for not participating in such an event." In closing, I want to thank the Kansas Department of Education for having contacted me and allowed me the opportunity to defend Draft2.

.....
MR. IRIGONEGARAY:

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

.....
MR. ABRAMS:

11 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.

MR. IRIGONEGARAY:

17 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
members of the Scientific Writing Committee.
My views about science, my views about religion
are just that. They're my personal views and I
believe that they should not be regarded for
the record. Thank you very much.

MR. CALVERT:
Dr. Abrams?

MR. ABRAMS:
Yes.

MR. CALVERT:

Given the breach of the
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.

MR. IRIGONEGARAY:

20 That is not the

21 process. He had three days, three days.

MR. CALVERT:

22 Pedro, you're not

23 the -

MR. IRIGONEGARAY:

24 Don't interrupt

25 me, Mr. Calvert.

MR. ABRAMS:

1 Mr. Calvert.

MR. IRIGONEGARAY:

2 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.

MR. ABRAMS:

12 Thank you for your

13 comments. We're going to take a break now,

14 10:25. We will resume in 15 minutes.

.....

MR. ABRAMS:

1 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.

MR. CALVERT:

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

6 intimidate. And so what-- what is happening
7 here is that you are seeing those in positions
8 of authority seeking to discourage and
9 intimidate scientists from stepping forward and
10 stating what is in their minds, what is in
11 their heart. It is ugly. It is really ugly.
12 This is what the strategy-- quote, "The
13 strategy at this point is the same as it was in
14 1999, notify the national and local media about
15 what's going on," all of you in the audience,
16 "and portray them in the harshest light
17 possible as political opportunists." And you
18 saw that. Where is the data that backs up
19 that? Where are the witnesses that back up
20 that?

21 Even the-- the statements out of the
22 mouth of the individual that voiced that
23 slander would not allow himself to be
24 questioned on that. Portray them in the
25 harshest possible light as political
1 opportunists evangelical activists.

2 Ignoramuses.

3 Dr. Russell Carlson, one of our witnesses
4 provided us with a CV. These are the CD's.
5 That book is about that thick (indicating) for
6 23 witnesses. 23 witnesses. I was going
7 through what-- while we were getting ready for
8 this I was going through the CV for my friend
9 William Harris. He is really an incredible
10 guy. Dr. Harris is the most humble guy I think
11 I've ever known and his brilliance is just mind
12 numbing and he works so incredibly fast. I
13 just don't see how he can keep so many balls in
14 the air at the same time.

15 So I was getting ready for this thing and
16 I was wanting to, you know, summarize the
17 scientific credentials of some of our witnesses
18 that maybe this could be brought forth in the
19 examination, and I started going through
20 Dr. Harris' CV. I had never seen it before.
21 That CV is set in ten point type. It's 26
22 pages long. He has written a book. I didn't
23 even know about. The guy is an international
24 recognized scientist. He is doing work that
25 could affect the lives of everybody in the
1 entire world in a very positive way. And he is
2 being derided as an ignoramus. As an
3 unprincipled bully, as a breaker of rules, as
4 an ass. There may-- there may be no way to
5 head off another science standards debacle, but
6 we can sure make them look like asses as they
7 do what they do.

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.

.....
MR. CALVERT:

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 decision. 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.

.....
MR. CALVERT:

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.

.....
MR. ABRAMS:

I was going to say that I have a few questions for Mr.
Irigonegaray, obviously, that isn't going to happen. But,
Mr. Irigonegaray, the inferences of his testimony is that we have
severe problems with
12 all of Draft 2. In fact, such is not the case.
13 I have stated many times to Dr. Case, who
14 was brought up, that, indeed, I like most of
15 Draft 2. There's a hundred plus pages of Draft
16 2. I have problems with three or four pages.
17 That's what these hearings are about, three or
18 four pages, not the hundred plus of the rest of
19 it.
20 In addition, I have some other problems
21 with Draft 2, also, because it drops botany and
22 anatomy and physiology. I do not believe that
23 anatomy and physiology and botany ought to be
24 dropped, the indicators for them, and having
25 read through them, and, yes, I have read the
1 Standards, I don't believe that we ought to
2 drop those.
3 Mr. Irigonegaray put up a power point

4 that said that scientists will not participate
5 because it gives the veneer of respectability.
6 This would seem to indicate that science is
7 more about obtaining respectability and not
8 about seeking the truth.
9 Obviously if all the science was on the
10 side of the evolutionists they would come and
11 embarrass the scientists that made
12 presentations last week, and those of us on the
13 Board, by completely destroying the scientific
14 evidence presented last week.
15 Much of which has been written up in peer
16 review journals and articles, books, would you
17 agree that if a person has a Ph.D. in
18 microbiology, chemistry or genetics or some
19 other scientific discipline and if that same
20 person has written and published peer reviewed
21 articles and books, and if that same person is
22 involved in some type of science research that
23 person would be considered a scientist?
24 Apparently Mr. Irigonegaray does not. Would
25 you agree that if a person has a BS or Master's
1 in science education, if that same person had
2 been teaching biology, chemistry or some other
3 high school science, would that person be
4 qualified to speak about matters pertaining to
5 science? Apparently not.
6 I was going to ask him if he would agree
7 that it is not in the best interest of science,
8 or for that matter even for good civil
9 discourse to belittle and insult people that
10 are involved in science. I would have asked
11 him would you agree that if someone declared
12 there was no science-- scientists testifying
13 here last week they were completely uninformed
14 or at best or at worst they are showing
15 ignorance and arrogance.
16 Obviously he put up some bullet points
17 from the American Association for the
18 Advancement of Science, also known as AAAS.
19 Alan Leshner is the CEO of that organization.
20 Alan Leshner was quoted as saying, "Scientists
21 love to fight. They love to argue in public
22 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
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
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.

.....
MR. ABRAMS:

2 Mr. Harry McDonald is president of KCFS,
3 yesterday I got a letter from him. I'm going
4 to quote a few lines of the letter. Regarding
5 last week's hearings he said, "The three days
6 of hearings was a sham. The BOE has once again
7 succeeded in embarrassing Kansas in the eyes of
8 the world." Regarding the witnesses he said
9 that the witnesses were brought to Kansas
10 quote, "not to evaluate the standards or inform
11 the Board, but simply to provide a taxpayer
12 supported public forum for their personal
13 views," end quote. Further Mr. McDonald says,
14 "The hearings thus far are an affront to
15 science, to mainstream religions and to Kansans
16 truly concerned about quality education."
17 Now, Mr. McDonald, in the one and a third
18 page letter he didn't refute any of the
19 research that was presented by any of the
20 scientists, nor did he address the science
21 teachers that testified that they had been
22 reprimanded, fired or otherwise put on a short
23 leash, because they presented scientific
24 evidence that seemed in opposition to Neo

25 Darwinian evolution. However, consistent with
1 the internal memo from KCFS he did cast
2 aspersions on the conservative Board members
3 and the witnesses that testified.
4 This does seem to be inconsistent with
5 the quote from Mr. Leshner from the AAAS that
6 scientists love to fight and they love to argue
7 in public and they love to refute each others
8 point of view.
9 It would have been nice to hear testimony
10 from scientists supporting evolution and to be
11 able to ask questions of them. I would have
12 dearly loved to do that, but it seems they have
13 nothing to say about science to us except in
14 press releases and the 30 second sound bite
15 that will undoubtedly be following these
16 hearings.

.....

MS. MARTIN:

20 Thank you. Dr. Abrams
21 and I have been continuously misrepresented by
22 press reports, quotes that the counsel used
23 from the L.A. Times and, in fact, quote printed
24 and repeated by media all over the country have
25 constantly misrepresented what is happening
1 here. He stated that we're trying to say
2 science is atheistic. Science is definitely
3 not atheistic. Science is neutral, but one has
4 to wonder about what the agenda the people who
5 deny that there is a controversy over the
6 teaching of macroevolution as fact to support
7 origin science may be.

.....

MS. MORRIS:

25 Mr. Irigonegaray, I
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.

.....

MR. ABRAMS:

That concludes these hearings. I thank you for attending.