

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.

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.

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

Through much discussion at the State Board a subcommittee, the three of us, was formed to further examine the issues contained in the Minority Report. Also after much discussion it was decided the best form to address the issue was via hearings such as these well have today. In order to conduct the hearings in a reasonable time frame and in a civil matter there are few house rules and procedures that you, the audience, need to be aware of. I request that no comments come from the audience. These are hearings for us, the State-- State Board Subcommittee, and the testimony you hear today deserves our courtesy. Mr. Irigonegaray has requested a set amount of time for his presentation. Following his presentation the legal counsel for the opposing viewpoint will be given half that amount of time to ask questions. Following that we, the subcommittee members, will be given half that amount of time to ask questions.

For example, if Mr. Irigonegaray takes two hours for his presentation, the opposing counsel will be give one hour for questions and the subcommittee will be given 30 minutes for questioning. We will take one 15 minute break this afternoon (sic), break for lunch, return one hour later with another 15 minute break this afternoon. Please note that Memorial Hall does not allow food or drink in the auditorium. We would greatly appreciate it if you abide by this policy. In addition, please, turn off your cell phones. Before we begin, I'd like to introduce the others on the stage. Mr. John Calvert and-- on the other side is Mr. Pedro Irigonegaray. Additionally -

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

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

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.

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 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.

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 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 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 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 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 through public discourse and debate, but rather, internally through a consensus of those with the specialized background necessary to make judgment, and;
Whereas, it would not be fair to science to be found wanting by a self-admitted scientifically challenged jury with an anti-evolution bias,

Now Therefore, be it resolved, that KCFS calls upon the Board of Education to dissolve the unneeded and ill-conceived Science Hearing Committee, or, if that fails to occur, be it resolved, that KCFS calls on the entire science and science education community of Kansas to refuse to participate in the hearing proceedings.

Science has its own validity and has made its position on these matters perfectly clear and unambiguous. ID and other forms of creationism are not science. The specific proposals in the Minority Report have been rejected by the writing committee and, moreover, by the science community at large. The science community should not put itself in the position of participating in a rigged hearing where non-scientists will appear to sit in judgment and find science lacking. Science should not give the anti-evolution members of the Board the veneer of respectability when they take their predictable action. Let the Board take responsibility for its actions without dignifying those actions with the appearance of academic rigor. I would like to show the exhibit from the American Association for the Advancement of Science, please. And this is from Alan Leshner, Chief Executive Officer. After much consideration, AAAS respectfully declines to participate in this hearing out of concern that rather than contribute to science education, it will most likely serve to confuse the public about the nature of the scientific enterprise. The consensus view of the scientific community on evolution is well-established and presented clearly in the AAAS's Benchmarks for Scientific Literacy and in the National

Academy's National Science Education Standards.

Although scientists may debate details of the mechanisms of evolution, there is no argument among scientists about whether evolution is taking place. We do not believe that any useful purpose would be served by our presentation in this event.

I would like to talk for a bit about the nature of science and intelligent design theology.

Draft 2 is neutral in respect to the nature of spiritual reality.

Number two: Members of many faiths, including mainstream Christians find no conflict between their theological beliefs and the fact that science seeks natural explanations of what we observe in the world around us as stated in Draft 2.

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

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

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

Number six: The actions of the State Board of Education in advancing the Minority Report by holding these issues-- these hearings, excuse me, raises serious legal questions about violations of the establishment clause of the United States Constitution and the Kansas Constitution.

We will now review these issues one at a time.

First, Draft 2 is neutral in respect to spiritual reality.

Draft 2 accurately states that science is a human activity of systematically seeking natural explanations for what we observe in the world around us. Draft 2 does not explicitly or implicitly-- let me start over, I miss-spoke. Draft 2 does not state explicitly or implicitly that science is the only way of explaining the world nor that the physical world which science investigates is all there is to reality.

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

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

Five, however, Minority witness Roger DeHart, when asked to comment on the fact that this statement clearly did not endorse naturalism, replied that the statement was 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, not does it claim-- 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 the following in the grades 8 through 12 b 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 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. Evolutionist-- and it's not up on the board. I didn't get a chance to put it there. I was working late last night and found this and I thought it was important that everybody hear it. "Evolution"-- strike that, please, madame court reporter. "Evolutionists start with the bias that everything must have a natural explanation, i.e., God does not, cannot, be part of the answer. The bottom line is that evolutionists believe that different animal and plant types arose from previously nonexistent animal and plant types. Creationists on the other hand start with the bias that God did indeed create all animal and plant life"--"types. They believe it is their responsibility to study and explain how he did it. The two world views are diametrically opposed and mutually exclusive. There's another group that tries to meld the two views together, they are the theistic evolutionists. They usually take the tact that God created something and they left it to evolution to work it out. If these

people are talking about the God of the Bible then they do not understand what is written in the Bible or they do not understand the philosophy of evolutionary theory." And I have also attached that in my exhibit's file.

We now go to the part right there where it says here are some quotes. Okay. Also, last Saturday when Minority witness Angus, and I'm sorry to say I don't know how to pronounce his last name. M-E-N-U-G-E for the record, madam court reporter. A philosophy professor at Concordia University of Wisconsin was asked about scientists who have theistic beliefs and also accept evolution, this is what he said: "The mere fact that you have somebody who holds two beliefs, A and B, does not show that they are logically consistent." He went on to say, "It might be that some of these people are confused." And you will remember the significant number of people walking around here wearing a tag that said confused after that statement. As reported in numerous newspapers this amused many in the audience. Conclusion about the nature of science and intelligent design theology. The Minority is wrong that science, by seeking natural causes, is atheistic and materialistic. The Minority denounces the position of Christians and others who believe that science and their faith do not conflict. The Minority wants to insert their interpretation that science is atheistic into the standards in order to knock down the Strawman definition that they themselves have created. The Minority is using science and the state science standards as a vehicle to advance their narrow sectarian theology over other theologies including 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 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 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 science and science education. The Constitution mandates that the government remain secular rather than to affiliate itself with religious beliefs or institutions precisely in order to avoid discriminated-- discriminating among citizen on the basis of their religious faith. A secular state, you must remember, is not the same as an atheistic or anti-religion state. A secular state establishes neither atheism nor religion as its official creed. In *County of Allegheny versus American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 610, 109 Supreme Court 386. The Court stated that a secular state established neither atheism nor religion as its official creed to mean atheism meets religion. Allogamy does not state religion includes and typically to religion. The 7th Circuit literally interpreted the U.S. Supreme Court in *Wallace versus Jaffree*, 472 U.S. 38, the Court places atheism in the correct context, adjacent to religion. The Court states, just as the right to speak and the right to refrain from speaking are complimentary components of a broader concept of individual freedom of mind, so also the individual's freedom to choose his creed is the counterpart of his right to refrain from accepting the creed established by the majority. At one time it was thought that this right merely prescribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist or inherent of a non-Christian faith such as Islam or Judaism, but when the underlying principle has been examined in the crucible of litigation the court has unambiguously concluded that the individual freedom of conscience protected by First Amendment embraces the right to select any religious faith or none at all. The First Amendment is broad enough to encompass both believers and non-believers as far as the prohibition of discrimination on the basis of religion. The instruction of evolution, does it advance or inhibit any religion? It is one thing for the courts to recognize that an individual may not be discriminated because she or he does not carry any particular religious ideology, it is quite another for a jump to be made from preventing discrimination-- from preventing discrimination to a finding that evolution equates to atheism, and it is therefore the advancement of religion in violation of the Lemon test.

In *MacLean versus Arkansas Board of Education* in which the defense argued that evolution was in effect a religion and that by 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, 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 curriculum 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. 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 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. Some Board committee-- strike that, please, madam court reporter. Some Board committee's-- strike that again. I think I need a new water. Some Board subcommittee members acted at times like cheerleaders for the witnesses giving them thumbs up or solitary high fives. The abuse of political process. The Board spent many thousands of dollars on these hearings. \$5,000 on expenses for witnesses. When I first became involved in this process the budget was \$20,000 per side. I objected. I objected because my client, Draft 2, is the legitimate position for this Board to adopt. And at this time I would like to thank my law partners, Bob Eye and Elizabeth Herbert who have allowed me to represent Draft 2 at no charge to the State of Kansas. Our office has refused to accept a single penny of compensation, because in our opinion, each penny taken by you, Mr. Calvert, for your witnesses is a penny taken from Kansas children's education, an educational fund that does not have, right now, the necessary funds with which to adequately educate our children. And although the court reporter does a great job for us, we have been told that there's an estimate of over a thousand dollars a day for that transcript. In addition enumerate hours of Kansas State Department of Education staff time, as well as Kansas State Department of Education resources, the costs for publishing the transcripts of the hearings, security expenses. And I-- I am really aghast at some of the witnesses that were called before the subcommittee. The gentleman from Turkey, Mustafa Akoyl, A-K-O-Y-L, who claimed that he was sidearm sharearm scientist without any scientific training, to come in to tell us that the way to resolve American relations with the Muslim world is abandon materialism. What knowledge, what experience, what expertise does he have to come in and tell people like Dr. Steve Case and the tremendously dedicated members of the scientific writing committee that what they're doing is wrong? And by what moral authority does the Kansas State Board of Education authorize the payment for that individual to travel from Washington D.C. to Topeka, Kansas, for us to have to listen to that nonsense? How does that advance the childrens' of Kansas education and science?

What is the benefit of that type of testimony? I'll tell you what it is, it is simply a blind effort to support intelligent design when they could not find legitimate science for their position or good teachers to come in and tell us what is in the best interest of Kansas children.

Next slide, please. Educational issues. The role of standards is to outline core fundamental concepts in a subject. Number two: Standards do not prohibit anything from being taught. School districts and individual teachers use the standards as framework in which to add more content and pedagogical material. Number three: Draft 2 clearly encourages critical thinking and the evaluation of alternative hypotheses. And I want everyone to be clear on this, Draft 2 encourages critical thinking and the evaluation of alternative hypotheses. It is at the heart of a good education. It encourages discussion in the classroom. It is for the benefit of our children.

Draft 2, standard one, Benchmark one, indicator four, grades 8 through 12 of inquiry states as follow: The student actively engages in conducting an inquiry, formulating and revising his or her scientific explanations and models, physical, conceptual or mathematical, using logic and evidence and recognizing that potential alternative explanations and models should be considered. And the introduction of Draft 2 states the standards called for students to engage in inquiry in science in the context of science content. An inquiry of science. Students describe objects and events, ask questions, construct hypotheses, test these hypotheses against current scientific knowledge and standards of evidence and have the opportunity to devise experiments or other tests of their explanations.

Finally, students will communicate their findings to others. There are-- they identify their assumptions, use critical and logical thinking and consider alternative explanations. In this case students actively develop their understanding of science by combining scientific knowledge with reasoning and thinking skills.

Educational issues. The Minority and the Minority witnesses consistently misrepresented the role of the standards. I want to emphasize that. They consistently misrepresented the role of the standards. And the position of Draft 2 on the students' ability to address and consider critiques of science, including evolution. The Minority repeatedly claimed explicitly or implicitly that unless their anti-evolutionary critiques of evolution were put in the standards, students would be prohibited from even asking questions about evolution. This is completely false. This is completely false. It's completely false. The Minority seem to have real little familiarity I should say little familiarity with the reality of public school education. The attitudes of real science teachers or the work teachers do to develop a curriculum that teaches both the content and the process of science. Minority witnesses claimed that unless the Minority's proposals were adopted we would be teaching students nothing but rote memorization and treating students like robots. They're talking about our Kansas children. In fact, critical thinking is the number one goal of most teachers, irrespective of subject area. The insistence that without the Minority proposals students would be merely taught to uncritically accept dogma like robots, is insulting, Mr. Calvert, to Kansas science teachers and our Kansas children. That's an insult this Board cannot allow to occur. Science and the development of scientific knowledge. The world's scientific community has a well established process for developing scientific knowledge. This process includes developing testable hypotheses, developing methodologies for gathering data. Publishing the results and analysis of the data. Responding to feedback from others and so on. In this way, solid consensus arises about what is well-known.

As Draft 2 says, and part of which the Minority wants to omit, a theory is the broad explanation that integrates a wide range of observations and tested

hypotheses, inferences and laws, when applicable, into a meaningful and coherent whole. The core theories of science have a high degree of reliability within the limits to which they have been tested and their scope of applicability. Well established and widely accepted explanations have explanatory and predictive power and are fruitful as guides for further research. The theory of evolution is such a theory, well established, well tested and accepted worldwide. And I at this time would like to read something to you from National Geographic, and perhaps a member of the subcommittee would read National Geographic from time to time, because I found this to be a very powerful statement. And the question posed was, "Was Darwin Wrong?" And when you open the page that deals with the article it says "no." And I would like to read to you the first paragraph. Evolution by natural selection, the central concept of the life work of Charles Darwin is a theory. It's a theory about the origin of adaptation, complexity and diversity among earth's living creatures. If you're skeptical by nature, unfamiliar with the terminology of science and unaware of the overwhelming evidence you might be tempted to say, it's just a theory. In the same sense relativity as described by Albert Einstein is just a theory. The notion that earth orbits around the sun, rather than vice versa offered by Copernicus in 1543 is just a theory. Continental drift-- or drift, it's just a theory. The existence of structure and dynamic of atoms, it's just a theory. Atomic theory. Even electricity is a theoretical construct involving electrons which are tiny units of charged mass that no one has ever seen. Each of these theories is an explanation that has been confirmed to such a degree by observation and experiment that knowledgeable experts accept it as fact. That's what scientists mean when they talk about a theory. Not a dreamy and unreliable speculation, but an explanatory statement that fits the evidence. They embrace such an explanation confidently but provisionally taking it as their best available view of reality, at least until some severely conflicted data or some better explanation might come along. Next please. Science and the development of scientific knowledge. The Intelligent Design Movement does not, let me emphasize, does not participate in the scientific process. They do not have testable hypotheses, no research and only a few marginal published papers. There is no theory of intelligent design. Quote, "intelligent design theory," closed quote, is primarily a set of anti-evolutionary and creationists arguments. Keith Miller in a set of essays written for these hearings says this, and I quote, please go to the exhibit. Yes. "The Minority claim"-- found it. Yeah, here we go.

"There is no scientific theory of intelligent design." Intelligent design 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.

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 and which are reflected in the Minority Report. 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. Number two: Kansas' national and international reputation is damaged once again becoming notorious for these efforts to weaken the teaching of modern science and to insert invalid anti-evolutionary and creationist ideas into our science standards. This is a wonderful state. We have amazing universities in this state. University of Kansas, Kansas State, Emporia, Washburn. The list goes on and on. I urge you members of the media that are visiting us to take a look at these wonderful institutions of higher learning populated by kids who have studied in Kansas under our terrific public education system, and do not allow the efforts of a tiny minority from believing any different. 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. Please, join us in making Kansas a better place. Legal issues. I have broadly covered these, but I think it's important to come back to them. There are a number of associated legal issues that should concern the Board and the Citizens of Kansas. Issues involving the establishment clause and separation of church and state as explained earlier. Issues involving the abuse of discretionary power. The Kansas Constitution sets requirements for academic and financial responsibility for the State Board. The case can certainly be made that the Board has failed to meet some of these responsibilities by rejecting mainstream science and by supporting the Minority and the Intelligent Design Movement. Number three: Issues involving the requirement that the Board provide an adequate able and suitable education for all children in Kansas. The case can also be made that the Board will fail this requirement if they adopt the Minority proposals. The Board will be providing an inadequate education if they fail to support the teaching of mainstream science, confused issues of faith and science and teach failed anti-evolutionary critiques of science as if they were valid.

First of all, I'd like to read into the record a letter that was prepared by Chairman Abrams about the hearings. This is a letter that was published in the

Wichita Eagle. And I think it's important that this letter be placed on the record for a variety of reasons. It is a sad commentary on the state of public affairs that persons ask learned reporters and editorial Board members of the Eagle still have no clue as to what is happening with the Kansas Science Curriculum Standards. The Eagle editorial French evolution hearings push religious agenda, many an opinion claim that these hearings have everything to do with sneaking religious views into science classroom. That is absolutely incorrect. At no time have I stated or implied that I wanted to insert creation science or intelligent design into the Science Curriculum Standards. On the contrary, I have stated that I would vote against inserting either one into the Science Curriculum Standards. Further, I have repeatedly stated that my objective is to get as much empirical science, defined as observable, measurable, testable, repeatable and falsifiable into the Science Curriculum Standards as possible. In addition, I have stated that I want to remove the dogmatic fashion with which Neo Darwinian evolution is taught. When a subject is discussed using words such as always and fact and no controversy when in actuality it's not always, nor factual and great controversy is involved, then by definition it's being taught as dogma. The dogmatic approach is what is being advocated by the Majority Draft of the Kansas Science Standards. The point of the science hearings is to show that indeed among scientists with many degrees having received many research grants have published many peer review papers and books and having accomplishments great and small, there is a great controversy about biological evolution being taught as dogma. They presented testimony that there is controversy about the factual nature of biological evolution. They also presented testimony that there's controversy about the definition of science as used in the majority standard. These hearings were not about my religious views. They were about what is good science. There was a huge amount of science testimony over these three last days last week, but to read the editorial and the article anti-evolution hearings end May 8th, local and state, a person would be hard pressed to know that science was the main topic of discussion. One had to read the editorial and article closely to find that 23 people testified, but one might get the opinion that indeed there weren't many scientists that testified. A point of fact, of the 20 plus witnesses only two were not actively involved in science research or teaching science. Of course, the article quoted both of those who were not active in science research or science teaching. We invited evolutionary scientists from all across Kansas and the United States to testify, but they all decided to boycott. Now, a thinking person would ask-- is it because the hearings are rigged? Is it because of arrogance of the majority scientists, or is it because what the Majority proposes is actually full of holes? The editorial stated the case against the conservatives of the State Board should be for educational malpractice. I find it amazing that you would say this in the face of the testimony of science teachers who testified that they were reprimanded, fired and generally put on a short leash when they discussed, not brainwashed, but discussed scientific tests that seemed to contradict the fact of Neo Darwinian evolution. Further, the article referred to Jack Krebs, vice-president of Kansas Citizens for Science as a mainstream scientist. In fact, Mr. Krebs does not have a Ph.D. in science, but is instead a high school math teacher. This is not meant to demean math teachers, but generally most high school math teachers do not consider themselves mainstream scientists. I have made no secret of my faith or the principles upon which I stand, not what I would like to see in the Kansas Science Standards, yet the Eagle persists in stating that I intend to do something that is categorically opposite of what I state. I would urge Eagles writers to become well educated about the issues. Investigate the claim of those witnesses with lots of pedigrees who claim there are scientific problems and mainstream science does not stand up to investigation. Investigate the claims of Kansas Citizens for Science which has sought to target uneducated moderates with propaganda and

proclaim the conservative State Board members as political opportunists on principle bullies, et cetera. Investigate my claims when I state I do not want to insert creationism or intelligent design, but instead want to rely on empirical science. I have tried to speak forthrightly with every reporter that comes along, but it seems that most of them, or at least their attitudes, are either want to be mind readers or have an agenda of their own. 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." "I have been looked in the eye and lied to on several occasions during this process. A good example comes from the second paragraph of Dr. Abrams' letter in which he says, quote, 'At no time have I stated or implied that I wanted to insert creation of science or intelligent design into the Science Curriculum Standards.' Dr. Abrams must think we have forgotten trial Draft 4A of the Science Standards that he introduced in 1999. At the time he told us that he was the author of this trial draft of the Standards. It was only through a bit of detective work that we found this was not true. The draft had been written by a young earth creationist group from Cleveland, Missouri. These were the creationist standards that were adopted by the Board in 1999. Dr. Abrams was, at the very least, a driving force in the insertion of creation science into our State Standards at that time." "It is difficult to remain respectful when I read Dr. Abrams' statement in which he says, 'In addition, I have stated that I want to remove the dogmatic fashion with which Neil Darwinian evolution is taught.' Dr. Abrams knows that there is a great deal of difference between science, content standards and curriculum instruction. Standards create a broad vision of what is meant to be scientifically literate. They serve only as a foundation for local school districts to create their curriculum and instruction. 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 reeditability. 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. It is a magnificent, magnificent example of Kansas at its best. The writing committee did an excellent job for our children, and these hearings do nothing to change that, for our children. For our future I urge you to discard entirely the non-scientific biased testimony that has been presented in this classroom, to keep out of our classroom the narrow theistic view that implies that evolution is being erroneously taught as faith because that is false. Your duty is to carefully look after the dollars that Kansas taxpayers work so hard in order to pay the state. You have a responsibility that is much greater than each of you individually. You have a responsibility to the children and the future of this state. A responsibility that you have sadly, sadly failed. This was a gigantic waste of money and an insult to Kansas teachers with great potential harm to teachers and students. 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.

=====
=====

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

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
Page 25

schearing05122005.txt

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

Page 26

schearing05122005.txt

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

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

Page 27

schearing05122005.txt

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
0067

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
0068

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.
8 Dr. Russell Carlson, one of our
9 witnesses, shows that he has a Ph.D. in

10 biochemistry as a professor of microbiology at
11 the University of Georgia, directs the complex
12 hydro carbohydrate research center at the
13 University, has authored or coauthored more
14 than 125 articles in various peer review
15 journals. 125. Has three taps. Has given
16 numerous lectures at various meetings and

schearing05122005.txt

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 ignoramus 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.
Page 29

schearing05122005.txt

2 Ernest Meyer has been like-- who is deceased
3 has been likened to be one of the towering
4 figures of evolutionary biology. He is right
5 there at the very top of the heap, or was.
6 Douglas Patoma is about the same. He writes
7 college level text on evolutionary biology.
8 Is evolution a guided or unguided
9 process? It is clearly unguided, because law

10 and chance cannot guide anything. And here's
11 what Ernest Mayer says. First Darwinism
12 rejects all, all supernatural phenomena and
13 causation. The theory of evolution by natural
14 selection explains the adaptedness and
15 diversity the world solely materialistically,
16 it no longer requires God as creator or
17 designer. Although one is certainly still-
18 although one is still certainly free to believe
19 in God even if one accepts evolution like he
20 could also believe in Santa Claus or the tooth
21 fairy.
22 Darwin pointed out that creation is
23 described in the Bible and other versions of
24 the accounts of other cultures was contradicted
25 by almost any aspect of the natural world.
0072

1 Every aspect of the wonderful design so admired
2 by the natural theologians could be explained
3 by natural selection. And this is Ernest
4 Mayer.
5 What is it the Minority Report is asking
6 for? Is it asking that we put theism into the
7 standards? No. It's asked that we put
8 objectivity into the standards, that we simply
9 treat evolution honestly and candidly and we
10 subject it to the very same critical analysis

11 that other scientific theories are, but it's
12 not allowed because if we-- as Mr. Irigonegaray
13 says we allow criticisms of that theory, well,
14 all these other things could come in, and we
15 can't possible have them coming in.
16 What is so fascinating is that the
17 Minority Report is not interested in all of
18 science. It's interested and it's focused only
19 on the issue of origin science. An origin
20 science, I'm sorry, is a very peculiar science.
21 It's peculiar in two respects. It is a science
22 that unavoidably impacts religion, and much of
23 what we heard today was protilization for
24 theistic evolution because that happens to be a
25 religious concept that's consistent with
0073

1 evolution.
2 This is not religion. I heard somebody
3 preaching for theistic evolutionary beliefs.
4 There is a case that was just decided in
5 Maryland and the court said you cannot promote
6 one religious sect over another one, and that's
7 precisely what was we heard today.
8 Citizens for a Responsible Creation
9 versus Montgomery County Public Schools is a
10 example. Just was decided.
11 Okay. Here's from Douglas Patoma.
12 Darwin's immeasurable important contribution to

Page 30

schearing05122005.txt

13 science was to show how mechanistic causes
14 could also explain all biological phenomena.
15 Did you hear that? Darwin's immeasurable
16 important contribution to science was to show
17 how mechanistic causes, mechanistic cause did
18 not produce any guide-- guided cause. Could he
19 explain all but not biological phenomena
20 despite their apparent evidence of design and
21 purpose. Despite their apparent evidence of
22 design and purpose.
23 And so we're-- really what you-- you
24 know, here is the problem with saying you can't
25 criticize evolution. What is the core plane of
0074

1 evolution? It's right here. It says design is
2 an illusion, that it is-- not-- the diversity
3 does not result from a guided process. So you
4 see, when you cannot criticize evolution, which
5 essentially is an unguided process, then you

6 cannot challenge that tentative evolution that
7 the process is not unguided and that's why that
8 word creates a problem. Because what the
9 problem with mainstream science is that they

10 have a theory which in fact is not guided but
11 that happens to conflict with the views of the
12 public. The public is led to believe that
13 somehow it is guided, but not guided, and so,
14 you know, maybe I can reconcile my religion
15 with that.

16 But what the Minority Report does is it
17 shows those students what the evolution process
18 really is and this is explained by Douglas
19 Patoma. He said despite-- by coupling
20 undirected purposeless variation to the blind
21 uncaring process of natural selection Darwin
22 made theological or spiritual explanation of
23 the life processes superfluous.
24 Darwin undid the essentialism that
25 western philosophy had inherited from Plato and
0075

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

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

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

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

Page 31

schearing05122005.txt

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 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.
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 Acron 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

increased diversity and that's what these

witnesses are testifying about.

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

Page 32

schearing05122005.txt

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 plants 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

Page 33

schearing05122005.txt

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

Page 34

schearing05122005.txt

5 opposite.
6 Now, is-- is all this being motivated by
7 atheistic left wing agenda? No. What we're
8 saying is that we should be focusing on the
9 effect of the methods being used in education,

10 and when you're educating students and you
11 decide to open a discussion with them about

12 where we come from, the origin of life and the
13 origin of diversity of life you have chosen to
14 engage in a discussion that unavoidably impacts
15 religion. And when you decide to engage in
16 that discussion, you darn well better show the
17 kids both sides or you're going to be promoting
18 one side of the religious issue over the other.
19 I had a call from a reporter from
20 Minneapolis yesterday and she reported that a
21 couple of school districts were suppressing the
22 distribution of a book to second graders and
23 the book was a-- one of a set of about 15 books
24 published by an author that had come talk to
25 the second graders. I said, well, what is the
0084

1 book they're suppressing? She said, well, it
2 is-- it's sort of a comic book about evolution
3 and it essentially teaches evolution as fact.
4 It teaches that we come from a primordial soup
5 and then we involve into this and this is how
6 we came to be. And-- and so I said, well, that
7 sounds like, you know, sort of an origin story.
8 It's-- it's-- it's-- it's a story about or-
9 about where we come from. And she said, yeah,

10 it's essentially-- it's sort of religious.
11 It's no different than the account you find in
12 Genesis except it is written in a language that
13 a second grader can understand.
14 And she said, well, they're suppressing
15 that. Is that appropriate for them to suppress
16 that? And I said, well, it depends upon what
17 the policy of the board is. If the policy of
18 the board is to exclude all religious
19 discussions and origin discussions with second
20 graders because their minds are too
21 impressionable at that age to handle that, if
22 that is their policy, then the suppression is
23 okay. But if they are not suppressing it, if
24 they are teaching second graders about God or
25 about theistic version of origins, yeah, then
0085

1 they should allow this book.
2 So they either suppress the discussion in
3 its entirety or they show both versions. And
4 the problem we have right now is that we're
5 engaging in this discussion with students about
6 a religiously charged subject and we're only
7 showing them one side. The evidence supports
8 one particular world view. We are not showing
9 them the other side. And I'm sorry, but that

10 is a constitutional problem. And, again, I
11 submit that the rhetoric, you know, falsely
12 portrays in major respects the Minority Report.

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

Page 35

schearing05122005.txt

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

Page 36

schearing05122005.txt

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

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

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

Page 37

schearing05122005.txt

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
0091

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
0092

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

schearing05122005.txt

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

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

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

Page 39

schearing05122005.txt

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

Page 40

schearing05122005.txt

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

Page 41

schearing05122005.txt

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
0101

1 the internal memo from KCFS he did cast
2 dispersions 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.
17 I would have loved to have asked
18 questions of the scientists and of
19 Mr. Irigonegaray. That is not going to happen.
20 MS. MARTIN: 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
0102

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.
8 I have listened to Mr. Irigonegaray's
9 presentation and I can say there are certain

10 points that he made that are legitimate and
11 factual, and I think John Calvert has addressed
12 some of the other problems with his
13 presentation. And for the record, I have read
14 Draft 1 of the Standards in total. So since

Page 42

schearing05122005.txt

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

Page 43

schearing05122005.txt

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

hoped to learn here today from the counsel for
Draft 2 or what I had originally hoped to learn
from the evolutionists, but unfortunately
absolutely zero evidence was provided.

My research will not be concluded until
the final vote and even then I guarantee you my
quest for learning will continue. I believe I
am a true and responsible educator.

MR. ABRAMS: That concludes these
hearings. I thank you for attending. What's
Page 44

schearing05122005.txt
11 the process is going to happen now is that we
12 will receive a transcript, and when we get the
13 transcripts we will have written closings and
14 summaries from Majority counsel, Minority
15 counsel, and at that point in time the Board
16 will put together a recommendation to the
17 Board. The Subcommittee will put together a
18 recommendation to the Board that will be

19 presented at the June meeting. I thank you for
20 your attending.
21 MR. IRIGONEGARAY: Mr. Chairman, I'm
22 going to hand the court reporter my exhibits so
23 that they can be made part of the record.
24 MR. ABRAMS: Thank you.
25

C E R T I F I C A T E

STATE OF KANSAS)
) ss: COUNTY OF SHAWNEE)

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