

TEACHING EVOLUTION IN IDAHO: THE LEGISLATIVE RULE

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Editor's note: Todd served in the Idaho House of Representatives from 1999 through 2002. He was on the Education Committee all four years, as vice-chairman the second term. The committee adopted state educational standards in 2000, including a standard for teaching evolution. Todd spoke with editors Casey Hurley and Vaun Waddell on 15 October 2007.

Vaun: Todd, in the state legislature you were involved in setting state policy for teaching evolution in Idaho schools, right?

Todd: Yes. It was one of the big issues of the 2000 session. It's history now, but the process is interesting both for itself and also because it affects every family in Idaho—mandated knowledge for every student in the state.

Vaun: Will you tell us about the legislative committee and what the issue was?

Todd: In January 2000, the House and Senate education committees combined in the Gold Room of the Idaho Capitol Building for a good old-fashioned showdown on evolution.

The House and Senate education committees combined for the hearings. The combined committee normally does not happen, but since this was so controversial—since there was so much hype leading up to the debate—the committee chairmen thought it best to not go through it twice.

The hearings and subsequent debate involved all the Idaho standards, including science, mathematics, history, and so on. But the electricity in the room was sparked by only three of the proposed mandates:

- Participate in learning the theory that evolution is a process that relates to the gradual changes in the universe and of equilibrium as a physical state.
- Understand the theory of biological evolution.
- Understand scientific theories of origin and subsequent changes in the universe and earth systems.

Standards for Idaho would be promulgated through administrative rule making rather than by legislative act.

The effect of rule making is the same as law, but it doesn't go through all the same legislative process. I believe Idaho is unique in having legislative power to reject executive department rules. In Idaho, we were able to set the standards by an up-or-down vote in committee.

Casey: Can you explain why that wouldn't have happened in other states?

Todd: There are issues of separation of powers between the branches of government. Rules come from the executive branch, and in other states conflict arises when the legislature tries to exercise oversight of them. But in Idaho the right of oversight is established.

The standards were drafted by the Board of Education, but the legislature got the chance to reject or accept them.

Casey: And why the controversy on teaching evolution?

Todd: People came in with great passion because they knew that the whole future of standards could rest on the issue of evolution. Some people didn't want state standards at all because they erode local control of education. They wanted desperately to see the idea of standards defeated, and their method was to use the wedge issue of evolution. Many of them may not have cared about evolution, but they saw it as a way to nip the state usurpation of control, so it became an exciting issue.

Come to think of it, there was one other hot issue: whether in science and health you can teach the parts of the body. There was a huge uproar over whether all parts of the body should be part of the standard. The issue was sex education, but it came down to mandating whether you can label all parts and systems of the anatomy, whether that should be in the standards of the State of Idaho. As I remember it, in this case the committee rejected this mandate for the standardized tests.

Vaun: We're talking about K-12 education, right? What can local school boards do?

Todd: A school board has the right to set their own teaching curriculum, but the state standards set a statewide minimum. And for us in the legislative committee, the great debate was whether we would include the evolution standard in the statewide curriculum.

- Vaun: So the state standard is that anatomy cannot be taught?
- Todd: Not that part of the anatomy—every other part can be taught.
- Vaun: And evolution can be taught?
- Todd: Evolution can be, in fact must be, but it was vigorously tried.
- Casey: Is this what it means to have state standards? If you set a state standard on evolution, what is the result?
- Todd: It starts with a federal mandate. The standards movement came from the Clinton administration, that every school in America would have standards by which to determine whether students are being taught substantive things. We will test them. Every state could develop its own standards and then get federal funding to help with the testing. Idaho was one of the last states to join the standards movement. The Bush administration pushed it even more, right as we were coming into this debate.
- Vaun: Nevertheless, Idaho, you say, is the only state where these decisions leave the superintendent's office and go to the legislature?
- Todd: That's right, and as a rule it applies to the whole state government in Idaho. The state board of electricians has to present its rules to the legislature, the state board of contractors, and insurance, and everybody else.
- Vaun: When the legislative committee made a determination and put out a rule, what did that mean in a school district?
- Casey: And what would be the result if the legislature had not adopted these standards?
- Todd: The status quo—exactly what we have done before, that the local boards would control curriculum.
- Casey: Under federal law the state needs to create some kind of standards locally...
- Todd: ...in order to get federal money.
- Casey: So if the state doesn't set standards, the local school boards will?
- Todd: Yes, they may, and they have done it. Many in the business community wanted the standards because they felt that education was sorely lacking, that they have to train people.

Most of the universities wanted it because they wanted to raise the bar for education, and they thought this would help. Universities, business, and government all wanted standards. But many local districts resisted it. Most teachers I talked to resisted it tooth and nail. They didn't want to be told what they had to teach. And some parents were opposed to standards.

This is why it got so exciting, that there were so many different coalitions and people on every side, people you would never expect to find together, scientists with businessmen, you know, then teachers with school boards, who are usually adversarial but hooked together. Then you had coalitions of evangelicals, who were geared up to assault evolution or defend it.

Vaun: Were these groups against evolution for substantive reasons or because they saw it as a wedge issue?

Todd: Both. Most of them just didn't like the evolution standard. Everyone knew the intensity of the debate that was going to happen, so those who drafted the standard diluted the language. The scientific community were the writers of it. They were well aware there would be attacks upon it, so they clearly stated that it was a theory of evolution. In many states it's not phrased that way; it's phrased that evolution is the way that life has come about and how organisms have come to be. It's written plainly that way rather than with the word "theory."

Casey: You mentioned that people thought they could use evolution as a wedge issue. What makes evolution the wedge?

Todd: It is the wedge because if you can cast enough doubt upon one standard then maybe the whole standards movement is not worth enacting.

Vaun: So you are talking about a political tactic.

Todd: A religious issue made into a political issue that could be the burr under the saddle that could make the whole horse bolt. And it's a big movement. If you have kids in high school you know how big it is. Every student has to pass this test. It is a high stakes game, though they have lowered the stakes a lot. But at that time, it was proposed as a high stakes exam: if your kid doesn't pass the test, he doesn't graduate from high school.

- Vaun: What arguments, then, were presented against mandated standards?
- Todd: Well, that it took away from local control.
- Vaun: But that's not an argument; that's about turf.
- Todd: It is. But local control is sacred in these parts. And then evangelicals objected to their children being taught that God didn't create the world. That's where the two arguments came together, that with local standards we know where the science teacher's house is and we can go talk to him and say, Hey, you need to back off on indoctrinating our kids! But once it comes down from the state, then it becomes a whole different issue because you have a whole new level of bureaucratic pressure that will not allow locals to determine these sorts of issues for themselves. It comes right down to a religious issue.
- Vaun: The federal mandate didn't address the...
- Todd: ...there was no federal mandate other than the fact that you have to have standards. There is a national scientific board that writes up standards and disseminates them through all the states and tries to get them adopted, but nobody has to do it.
- Vaun: Who prepares the tests for the students?
- Todd: The State of Idaho, the state department of education...
- Vaun: ...for the federal money...
- Todd: ...for the money, for educational purposes, and for other reasons.
- Casey: Why is evolution, rather than some other standard, perceived as the standard that might be used to overturn the other standards?
- Todd: Well, evolution is the scientific standard, and it's seen as being in conflict with religion.
- Vaun: Not mathematics or history, nobody wanted to argue about them?
- Todd: No, just that maybe we weren't stressing character education enough. A few wanted to emphasize character. Rather than just know that George Washington was the first president,

maybe that we should teach that he was an honest first president. But most of the others weren't interested.

Casey: As a religious person, does it surprise you at all that the focus of the religious debate was over evolution versus things like character? Should there be concern about teaching character?

Todd: Yes. I had some issues with that. I got involved in the issue of character education, and some things were adopted later, but there wasn't a lot of interest.

Casey: Do you know why? Any sense of what gets everybody really heated up over evolution and bored about character?

Todd: I think a lot of people, when we start talking about character, get nervous about religion again. Most of the ones interested in character were LDS legislators and a few other Christians, but that was it.

Vaun: What is the percentage of Mormons in the Idaho legislature?

Todd: When I was there it was more than 40 percent of the house and senate combined, with many in leadership posts.

Vaun: What do you think is the impact of that in the legislature? I'm thinking for example about scientists who say we want to promote the teaching of evolution in the schools. How does the presence of Latter-day Saints in the state government shape that kind of thing?

Todd: The Mormon question in Idaho has always been the underlying current. This state was created because of the Mormon question. We all know of the law to disenfranchise Idahoans on religious grounds.

But the problem is that people don't understand many of our doctrines. We're not naturalists or materialists like many in the science community, but we generally do not hold the literalist view of the Bible that the world was created in seven days. Mormons became a moderating influence in this whole debate, or at least that's my opinion.

Vaun: Did you draw this conclusion because you saw Mormons refuse to align themselves on the sides of the debate? Is that what you saw?

Todd: On several issues, abortion and others, but on a lot of these other issues you would have many evangelicals, who are very vocal, and then you have...

Casey: How large a group is that?

Todd: I don't think it's a majority, but they are vocal. They are very involved, and they are very strong in their opinions and passion, and they come to the capitol, and they get involved. But then you have the LDS contingent, which is a large contingent. It offers, I think, a balancing, moderating effect on many issues.

Vaun: Is there a strong secularist coalition of some sort in Idaho?

Todd: No. Once again, it's certainly not strong but it's loud. They always have a paid staffer on every issue in the state of Idaho. You would always hear their side of the argument.

Casey: Are they represented at all in the legislature?

Todd: No. They can't get enough votes. Ardent secularists just don't get many votes in their communities.

Vaun: Scientists are primarily united under an academic banner as opposed to an ideological banner?

Todd: Yes, and also under the board of education, I believe. The board of education picked scientists, many of them teachers, and a few parents, to say what every student should know about biology. What they said is that every student should know the theory of evolution and that organisms change, that they adapt. Those were some of the words of the standard. This means that every science teacher in Idaho would know his students would be tested on the theory of evolution.

But here's where a lot of the debate came in, and it was not so much that we shouldn't teach evolution. Most of the testimony was not that we should do away with teaching evolution but that we ought to teach alternatives, that students ought to know that there are alternatives, not even to teach them what the alternatives are, just a statement saying there are alternatives to the theory of evolution on how life began.

Vaun: Did that become part of the state standard?

Todd: No. But here's what happened in our debate. The year was 2000, January 2000, and it was one of the most hyped events of the whole legislature. The reason why there was a lot of hype was that, six months earlier in Kansas, the state board of education for that state, which has a large group of people who believe in creationism, just stated that evolution was

not going to be a standard in Kansas. It may seem old hat now, but at that time there was a lot of feeling that if it can happen in Kansas it can happen here. And they had gotten their ammunition together to bring here.

Vaun: But the Kansas creationists were overturned.

Todd: They were eventually, in 2005. But for five years creationism was the state standard. Now their state standard is teaching evolution. But there are movements to get creationism back in Kansas. I don't think Idaho has such a movement.

Vaun: It's really interesting that it has to be perceived as a fight where one theory must win. Why couldn't the state or a school board say: Let's teach three theories: let's teach evolution, intelligent design, and creationism? In your experience people never want to compromise here? There has to be one winner?

Todd: That is clearly the argument of the scientists. The idea was recently tried whether you could teach creationism in classrooms, but the Supreme Court, in 1987 in *Edwards v. Aguillard*,¹ rejected that argument.

Vaun: You cannot teach creationism in the public classroom?

Todd: The Supreme Court did make a little caveat in their ruling saying that if you teach any alternative theories, it has to be for a secular purpose. So intelligent design has stepped forward. Intelligent design does not teach creationism, but tries to find flaws in evolutionism, to teach flaws in evolutionism. The argument is that the 1987 decision protects a right to attack evolutionism in classrooms.

Casey: For the scientific community, is the attempt to have intelligent design taught perceived as just a backdoor attempt to teach creationism?

Todd: Totally. They mock it incessantly.

Vaun: And the intelligent design people look for scientific—secular—grounds to question creationism, right?

Todd: That's right. But here's the debate: How can you argue scientifically when Christianity doesn't use standards of science? Religion doesn't use the scientific processes of questioning, of falsifying, and this was brought up many times in our committee hearing.

This is why Christians feel they are being shut out of the process, because their views, which they hold dearly, they feel they can't express in the public school setting, and they feel like evolution itself is a religion. This is argued, that science has its own religion—being evolution—so now we have state-sponsored religion, and it is the religion of the evolutionists.

Vaun: So the argument falls out this way: We have on the one side Christians who say: Wait a minute, our logic is as good as anyone else's logic—we are thinking too, but the government has favored science over us. On the other side we have scientists who say: Wait a minute yourselves—this is science. Am I getting it right?

Todd: That's the sense I get. As a disclaimer, you know I'm no scientist, and I'm truly not a legal expert or even a religious expert on this issue. But the issue is, I think, an interesting one, and to have the unique opportunity to decide the issue in this state was fascinating. It was a high stakes debate with a lot of implications, and it was great to see the process happen in our legislature.

Casey: You talked about how some people were arguing to add language that says there are other theories, or that you can teach other theories. None of that is in the state standard?

Todd: None of it was approved.

Casey: What does that mean for local school boards? Do they have an option to still say what they teach?

Todd: You cannot teach creationism under the '87 decision of the Supreme Court.

Casey: Can the local school district have the science class in Idaho say: This is the theory of evolution, and there are other theories?

Todd: You can as far as I understand it, as long as you teach them for purely a secular purpose. You cannot indoctrinate students. You cannot say this is the way it happened. You can say: This is a foil to evolution. But I think in our school systems there's a feeling that you can't even bring up anything that has to do with faith. I think there is a feeling that: If I bring up anything I'll get in trouble with the school district's lawyers or with the union's lawyers, so I'm not going to teach anything.

I think that's not legally correct, nor is it helpful to the whole point of what school is about, to open up ideas and so on.

Casey: You think that throughout Idaho people err on the side of secularism because they don't understand what the legal standard is and are afraid?

Todd: I think so.

Vaun: What sanctions are available under the Supreme Court's 1987 decision? Can the federal government withdraw funding or shut down the school or fire a teacher?

Todd: Ultimately, I guess you can be fired, but that's not likely.

Vaun: That would be a local decision.

Casey: So where would the fear come from? If I'm a teacher, I'm so afraid to teach anything that might border on religious, but what am I afraid of? Any idea? Is there a perception that something is going to happen to them?

Todd: That's a great question. Yes, I think so.

Casey: Even though it probably really can't.

Todd: Well, or likely it won't. On an individual level, your principal can make life miserable for you. And parents could sue the school. There's a great passage of scripture in Mosiah that I've often thought of as helpful to this discussion, chapter 24, starting at verse five, where the priests of Amulon, the wicked priests of King Noah, were captured by a Lamanite army, but they didn't kill them because they had married their daughters. And the king of the Lamanites appointed these priests of Amulon to be the teachers of the Lamanites in every land of the Lamanites, and they taught the language of the Nephites among all the people, and the Lamanites began to be friendly:

Nevertheless they knew not God; neither did the brethren of Amulon teach them anything concerning the Lord their God, neither the law of Moses; nor did they teach them the words of Abinadi; But they taught them that they should keep their record, and that they might write to one another. And thus the Lamanites began to increase in riches, and began to trade one with another and wax great, and began to be a cunning and a wise people, as to the wisdom of the world, yea, a very cunning people, delighting

in all manner of wickedness and plunder, except it were among their own brethren.

So at least they had a spark of ethics, among their own brethren.

Vaun: And they became prosperous.

Todd: Well, that is true about education. I also think it's very interesting that there was not a smidgen of the history of the people taught, including the work of the great lawgiver Moses, that was their religious history and the culture of the people.

Casey: Were there any standards or discussion about standards, for example, in history or literature? Or about whether the Old Testament or New Testament ought to be part of the curriculum?

Todd: I don't remember any. That's a good question.

Casey: In principle, teaching secular ideas that contradict religion is not much different from teaching the Bible as literature.

Todd: You see that we have two standards: you can teach anti-Christianity; you just can't teach Christianity.

Vaun: Will you tell us about the committee debate?

Todd: There we were in the Gold Room, which is the largest committee room in the State Capitol, and it was buzzing on the morning of January 25, 2000. The whole room was full, with people standing in the back. There were reporters. Of course there was the umbrella of all of standards, but we knew the elephant in the room was the evolution debate that would occur. Dozens and dozens of people had signed up to testify. The chairmen were strict to make sure it did not become a circus, so they gave everybody two minutes. You had two minutes to make your case.

It was a very quick rundown of people's passions, but for hour after hour we heard from people who would testify both for and against it. But by far and away, most were supporting the standards, supporting the evolution standards. Many scientists, many Christian scientists, actually, came in and testified that these standards ought be kept, that evolution ought to be taught as a standard in our schools and that there's no sense in putting religious alternatives in there because it will just be more controversial than ever, and you will have more problems than those that are forthcoming. So

by far and away the majority of the testimony was in support of standards.

We debated for several days after that as a committee and heard more testimony. Ultimately, there was a motion made to do away with the evolution standards. It was made by a man from Aberdeen who is a member of the Church. And his arguments were that these standards do away with local control and have no mention of the creator in them. This will be interesting to you, but that's what he argued. And he garnered a little support, but in the end the vast majority of both the senate and the house in the committee voted to approve the standards as written, incorporating them into the state rules of the board of education.

Casey: So the days you talked about, was that just on the science standard?

Todd: That was just on the science standard.

Vaun: You say the draft was prepared by scientists, was submitted by them?

Todd: Mostly scientists. Many of them testified at the hearing and said: I worked on this, and this is what we decided to come to. Many of them said that they had compromised, too. They felt they had compromised because the standard stated that evolution is a theory and said nothing of natural selection or Darwinism, just that students ought to know the processes of biological evolution.

Vaun: What the committee passed, what they made a rule, was the draft as originally written?

Todd: As they drafted it.

Casey: You said some of the standards on body parts were struck. Were there others that were struck, or was that the main one?

Todd: That's the only one I remember.

Vaun: Was that part of the science standard that came in about teaching anatomical terms?

Todd: Yes. But it just didn't have the excitement of the evolution debate. We didn't do that hearing in a big room; we did it in our small committee room.

- Vaun: Was your feeling that the scientists didn't get excited about anatomy lessons because they said: Well, let's throw them a bone. Why did they not stand up for anatomy? Or was it just that anatomy was not the hot button issue?
- Todd: I think that; and the anatomy discussion didn't generate as much excitement. It was exciting. You get into a discussion of sex education, and you are going to get some feelings going. They had written the standard that we would teach the parts of the body, but without saying that we have to teach all the parts of the body. I think the word was "all."
- Vaun: They scratched the word "all"?
- Todd: That's right.
- Casey: But it was really a sex education issue, not a teaching-the-tiny-ear-bones issue.
- Todd: That's exactly right.
- Vaun: Parents may have said to themselves or to each other: We win on sex education; as a matter of expediency, let's give something on evolution—let's just get through this.
- Todd: The other side was very happy to get the evolution standard. I think they expected a lot bigger fight than they got. I think they expected a Kansas-style revolt.
- Vaun: It sounds like the Mormons didn't fight them.
- Todd: I think that's exactly what happened.
- Casey: Do you think they expected a fight from the Mormons?
- Todd: I think they expected the Mormons to line up with several others. On this committee were three scientists, four Mormons, two evangelicals, and it didn't matter. The party was not germane to the issue. It did not matter.
- Casey: And the evangelicals took a strictly religious view?
- Todd: Very religious. They were counting on a battle from the evangelicals and the Mormons, and they just didn't get a battle out of the Mormons.
- Truth be told, the evangelicals may have lost all hope for us in that debate. I was reading Elder Packer. He said, "Let there be no 'evolutionists' nor 'creationists' nor any manner of '-ists;' just seekers after truth."² If we were true to that, we

would have a standard that said teachers ought to teach that there are other alternatives to the theories than evolution.

Casey: Shouldn't the standard say that for all the subjects? We talk about it with evolution. I think we should teach the theory of evolution and then say there are other theories. Shouldn't the standard be that every single thing we teach has some level of tentativeness?

Vaun: Here's a practical problem: if we tell teachers to teach the youth that everything is theoretical, how do you go to a professor and say...

Todd: As soon as you have the word "theory" everybody just...

Casey: ...There's a difference when an English teacher talks about a theory and when a science teacher talks about a theory because the scientist's theory is really more than theoretical. Right?

Todd: That's the point. As soon as you start thinking that the subject matter is just a theory, then you've got a problem.

Casey: I think scientists would say that when a theory has been established, the theory of relativity, for example, it is about as close to certainty as we get. But when non-scientists say it's a theory, then we're really not certain anymore.

Todd: Many of them said they didn't want evolution to just be a theory but an established fact.

Vaun: We use scientific theories to launch airliners into the air, and most of them land in one piece. Literary theories don't do that. So we have theories and then we have theories.

Todd: In 2005, the Dover Area School District in Pennsylvania required in every science textbook a statement that evolution is only a theory and other theories for how life began are also possible—a disclaimer in every textbook.

Vaun: Does it have to be in legible print?

Todd: I'm sure the school board was most anxious to make it big print. The ACLU sued the school board, in *Kitzmiller v. Dover Area School District*,³ and in February of this year U.S. District Judge John E Jones III ruled that the disclaimer was a violation of the First Amendment's Establishment Clause. The judge said it was not so much the statement, but the way the intelligent design proponents had gone about trying to get this thing accomplished, and he felt like their motives

were just to circumvent the Establishment Clause and the Supreme Court ruling that you can't teach creationism.

I think the disclaimer is as harmless as can be, simply stating that evolution is only a theory and alternate theories for life beginning are also possible. But the judge didn't see it that way, so that's the latest case on this question. I'm sure there'll be much more wrangling and debate. I'm sure legislators in many of the states will have something to do with these issues, though it seems to be mostly a court issue. It ought to be a legislative issue. The people ought to decide these issues.

The LDS perspective is that Adam was the first man. Here's what Elder Packer says:

Things not only are not known but must not be so convincingly clear as to eliminate the need for faith. That would nullify agency and defeat the purpose of the plan of salvation. Tests of faith are growing experiences. We all have unanswered questions. Seeking and questioning, periods of doubt, in an effort to find answers, are part of the process of discovery. The kind of doubt which is spiritually dangerous does not relate to questions so much as to answers.

For that and other reasons, it is my conviction that a full knowledge of the origin of man must await further discovery, further revelation.⁴

There you have the answer: by study and by faith. I think there are further discoveries to be made, but there's also more revelation to be given. I think that's exciting. To me that's exciting, that there is a lot more to be known, more in the scientific realm and lots to be known from God's own willingness to reveal it as soon as we are ready. And so we keep looking, and we keep asking, and we keep searching.

Casey: I have one last question. You know how we talked before about Mormons coming out in the middle on the evolution question? Do you have a sense that Mormon parents are less worried than other Christians about what their kids are taught in a science class?

Todd: Yes. Mormon parents want their kids to be taught the theory of evolution. I think it is because Mormon parents are going to teach them the religious perspective anyway, and they had better know what the world is teaching.

- Casey: Even if the parents completely disagree with it?
- Todd: Even if the parents completely disagree with it.
- Casey: Maybe Mormons aren't afraid because of their sense of having the truth.
- Vaun: This is a really good point because the evangelicals don't necessarily have the resources with which we have grown comfortable, the standard works and the seminaries, for example.
- Todd: I think the reason is that many of the evangelicals are not sure what they believe. If they could come together as a united body on what they believe, I think you wouldn't even have had this debate because there are more of them than all the scientists and all the others put together. They are divided on whether God created the world in seven days and brought all the species down here, a creationist idea, or whether God worked within an evolutionary plan, which is the theistic approach. You're not going to get any consensus when you have the scientific community out there as well. As they are debating among themselves, you are left with just the scientific theory.
- It's tough to be dogmatic in what you want your standard to be—if you don't know what your standard is. And Latter-day Saints have some really helpful things on this, but we don't know all the answers, as President Packer said.
- Casey: But we are comfortable not knowing.
- Vaun: Doesn't Joseph say in the "First Lecture on Faith" that the first thing we have to know about theology is who God is and what our relationship is with Him?
- Todd: That's a good point. It's doctrinal.
- Vaun: And if you know that, then you don't have to get wrapped around the axle on everything else.
- Casey: Even if you don't have all the truth, you have the security of knowing that truth will hold up against other arguments. You don't have to fear.
- Todd: You know, Casey, your idea about fear is very helpful to me. It would have been helpful in the legislature to understand why people fear. I couldn't quite grasp why they were so passionate about it all. I couldn't see why it was such a big deal. I sat

and listened to it, and was fascinated by it, but was left to wonder why these guys were at each other's throats.∞

NOTES

- 1 482 U.S. 578 (1987).
- 2 Boyd K. Packer, "The Law and the Light." (Address, Book of Mormon Symposium, Brigham Young University, 30 Oct. 1988).
- 3 *Kitzmiller v. Dover Area School District, et al.*, 400 F. Supp. 2d 707 (2005).
- 4 Packer, *ibid.*