

*83 FOCUSING TOO MUCH ON THE FOREST MIGHT HIDE THE EVOLVING TREES: A RESPONSE TO PROFESSOR IRONS

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I. Introduction: A Misguided Journey

Scholars who focus on one nuanced area of a subject and the arguments made about that area, from only one perspective, run a risk of failing to recognize when different arguments are made. This seems to have occurred with Professor Peter Irons's reply to my article, *This is the Trap the Courts Built*. [FN1] This failure has caused Professor Irons to lead readers down a path that focuses not on my premise, but instead flows into a debate on linguistics, with occasional detours to works of fiction and false assumptions. [FN2] In taking this path, as I will discuss below, Professor Irons misses the point of my argument and simply uses his reply as his podium to make his previous arguments about intelligent design. [FN3] This, unfortunately, does nothing to further the discussion at hand.

In this response to Professor Irons, I want only to bring us back to the premise of my argument, having been pulled away from the crux of the *84 issue by Professor Irons's interesting, but misguided, journey away from the principle points. [FN4] I will do that by pointing out the core of my argument that Professor Irons ignores (while addressing his linguistic concerns) and clarifying areas in which he makes false assumptions - assumptions that do nothing but set up his position to reiterate his pre-existing argument as related to one take on intelligent design.

In this debate over the teaching about the origin of life in public school biology classes, we need to be careful not to veer off the path and fall into the trap the courts have laid out - the trap I identify in which once something is viewed as religious, it can never be viewed objectively again. [FN5] Professor Irons seems to have become similarly snared in his own arguments. Accordingly, he does not actually address the whole of my argument within this larger debate - an argument that has evolved from that promoted in *Kitzmiller*. [FN6]

II. A Common Thread Ignored

The core problem Professor Irons seems to have with my article is my linking the teaching of evolution to theology. [FN7] However, instead of addressing how I actually do this, he merely debates the words used, ignoring their underlying meaning. [FN8] This is where Professor Irons turns away from my argument and chooses to engage in a debate over linguistics, misdirecting our focus from the argument being made and ignoring the substance of the argument. [FN9]

To misdirect our focus, Professor Irons first lists quotes from my article, even stating he quotes my words “to avoid any possible *85 misinterpretation.” [FN10] Of course, quoting someone directly is one thing; taking an argument out of context is something different. And doing the latter leads, in this case, as with many others, to misinterpretation - what Professor Irons says he attempts to avoid. [FN11] The contextual problem present here is Professor Irons's failure to include all of the argument, especially the key premise. [FN12]

Next, Professor Irons labels these quotes as a “chain of assertions.” [FN13] In doing this, he veers away from the actual argument. A review of my entire argument would, of course, include the common thread that holds all of those assertions - those pieces - together. In other words, Professor Irons views the assertions as separate and distinct links in a chain. However, the assertions are more like pearls strung on a common thread - sharing that common thread that ties everything together, the thread that ties evolution, as an explanation for the origin of life, to a comment on religion. [FN14] By ignoring that thread, Professor Irons indeed is left with nothing but a pile of pearls that, naturally, scatter about. [FN15]

This leads to Professor Irons's next misstep off of the primary path - a linguistic argument. Instead of focusing on this common thread, how evolution is tied to a comment on religion and thus implicates the Establishment Clause when using only evolution to explain the origin of life, [FN16] Professor Irons argues that atheism cannot possibly be a theistic view because the very word means “not theistic.” [FN17] In doing this, Professor Irons takes a simplistic look at the word and breaks it down using its roots to mean “not theistic,” as if doing that ends all debate. But the debate does not end there because this ignores the underlying meaning of atheism - the *86 meaning used by atheists, “that there are no forces, phenomena, or entities which exist outside of or apart from physical nature, or which transcend nature, or are ‘super’ natural, nor can there be.” [FN18] This very definition makes an affirmative statement about the existence of any god, stating that no god exists. [FN19]

Admittedly, in describing the wide range of beliefs that exist regarding the existence of any deity or higher power, the words such as atheism and theism may get confusing. [FN20] Professor Irons asserts that I suggest atheism and theism are identical; [FN21] of course they are not. [FN22] Theistic beliefs are those that involve the belief in a higher power (or powers), while atheistic beliefs affirmatively state no such being or deity exists. [FN23] The two are anything but identical, but both of them are views about the existence of a higher power, and that means that either view, no, that both views inherently speak toward religion.

The inherent commonality between theistic and atheistic beliefs is key. Even as confusing as the words themselves can seem, because both theistic and atheistic beliefs are a comment on religion and on theology; neither of these belief systems present neutrality - the very thing the courts have stated we must have when it comes to the Establishment Clause. [FN24] Any *87 confusion caused over my use of the words is, yes, regrettable. [FN25] Still, we should not lose focus of the substance of the underlying

the argument. Because Professor Irons seems to have missed this argument previously, I will briefly restate it here.

Evolution, in explaining the origin of life, promotes the atheistic viewpoint. Evolution itself is not, as Professor Irons would have us understand me saying, a religious belief. [FN26] However, evolution represents a particular belief, that of atheism - that no higher power exists at all:

If man originated from the same ancestor as every other life form, and if plant and animal life all descended from one life form, then evolution guided the development of human life form. And evolution, by definition, is based on “random mutation and natural selection. [FN27]

To believe that life has a specific goal-oriented purpose is to believe design of life exists. And for design to exist, some power, being, deity, or force above nature must exist. But if life is a result of nothing more than random events and occurrences, then no purpose could exist. If no purpose to life exists, then no super-natural being could exist. [FN28]

Nowhere in his reply does Professor Irons dispute this link that I make between evolution and the supposition that no higher power exists. [FN29] In fact, Professor Irons himself points out in an earlier work how “atheist evolutionists” (and I argue that in considering evolution as the explanation of the origin of life, there can be no other type) see things as follows: “I believe in evolution; therefore, I am an atheist.” [FN30] This very statement shows a clear example of how the concept of evolution leads to an understanding that no higher power exists. This is the exact type of problem with teaching only creationism - the concept of creationism promotes the Christian (or Judaic) religion. [FN31] The issue, as Professor Irons *88 attempts to distinguish, is not that Christianity leads to a belief in creationism; [FN32] the issue is that teaching only creationism promotes a particular religion's (or religions') view. Promoting that view by teaching only creationism violates the Establishment Clause. Similarly, promoting the view of atheism by teaching only evolution violates the Establishment Clause.

Further, contrary to misleading assumptions Professor Irons makes, I do not argue that science itself is a religious theory. [FN33] Professor Irons cites and quotes scientific experts in trying to explain how science and religion have nothing to do with one another, [FN34] and I certainly do not, as a whole, disagree. [FN35] But the origin of life, as an educational concept, is different from any other concept in science. The origin of life has been explained only by involvement by a god or gods or as some random occurrence. [FN36] And if life originated in a random manner, then no god must exist. [FN37] That, as stated above, is a theological belief - a comment on religion. An origin of life doctrine that is supported only by an affirmative belief that no god exists is as far from being religiously neutral as a belief that the Christian God created the world in seven days (or in millions or billions of years). [FN38]

I recognize that Professor Irons does not even get to the core argument, having stopped at a debate on words and definitions. This journey away from the actual argument, though, does little for the subject - how evolution *89 represents the atheistic

view, and therefore, under the Establishment Clause, is not neutral when used as the sole explanation for the origin of life. [FN39]

III. Assuming Too Much

In the process of ignoring the premise of my argument, Professor Irons assumes I have some underlying agendas - in my use of “dogma,” to sneak in creationism, and to inaccurately define and push intelligent design. [FN40] Because no such agenda is present in my article, Professor Irons must assume that such an agenda must not be a conscious one; he has to create one on his own. [FN41] But by trying to attach my arguments to those made by creationists or particular groups of intelligent design proponents (the agenda it appears that he assumes I possess), Professor Irons again fails to see the substance of the argument I do make - one that is different, or, shall we say, is evolved. Although this might be easier on Professor Irons - he gets to use his pre-existing rhetoric even though it does not directly address my points - this again wastes time as no such agenda is present; in fact, this is akin to the very trap we keep seeing in this area of debate: assuming some religious motive just because others, in the past, have had religious motives when discussing a concept.

A. Dogma: Nothing But Ideas

As part of this hidden agenda Professor Irons creates for me, he tries to assume that I use “dogma” in my article in order to be pejorative toward evolution supporters. [FN42] He goes on to assume I used it intentionally that way so as to belittle the evolution supporters to the exclusion of those who support a view of creationism. [FN43] I suppose he is half right: anyone with a belief (here, about faith) held as truth, one not to be disputed, could be, using Professor Irons's definition obtained from Wikipedia, “rigid” in *90 those beliefs. [FN44] And while some such people with a particular belief are not open to rational argument, by no means did I mean to imply that all such persons are not open.

But to argue that I think we should treat the two camps (those who believe in the existence of a higher power and those who do not) differently does not follow. I can only guess that my doing so would be Professor Irons's desire; however, in no way do I think they should be treated differently. In fact, I find these assumptions quite comical, knowing how much I view the fundamentalist camp equally as “dogmatic” - as used by Professor Irons.

Why I employ “dogma” in the discussion, though, is quite simple: my use of “dogma” is simply intended to help show that what we are dealing with are ideas - ideas that people hold as their own truth, whether that truth be that a god or gods exist or that, affirmatively, no god exists at all. [FN45] Not only does this help show that both views are ideas (“established opinion[s]” [FN46]) about the existence (or nonexistence) of a higher power, using the one broad word helps overcome difficulties with the atheism and theism words used in Part I - the very difficulties Professor Irons complains about. [FN47]

As tied to the origin of life, it is also that simple. Again, when trying to understand or when explaining the origin of life, we are dealing only with ideas - ideas that people hold as their own truth.

B. An Agenda? Only if Neutrality is an Agenda

With the identified tie between evolution and the existence of a higher power [FN48] (using that term, over religion or theology, in efforts to help reduce further confusion similar to that shown by Professor Irons), I next address what we should do when faced with addressing the origin of life in public schools. [FN49] Professor Irons this time does not ignore my argument; he *91 simply misconstrues it, furthering his false assumption that I want to “sneak” creationism into public school classrooms. [FN50]

As both Professor Irons and I acknowledge, the aim is neutrality. [FN51] In the article, I explain how evolution, as the explanation of the origin of life, is not religiously neutral; it promotes the concept of the nonexistence of a higher power. [FN52] Accordingly, we can either say nothing about it in a public school system as an explanation of the origin of life, or we can share all theories equally. The first option, to completely ignore the question of the origin of life in public school biology classes, is, as Professor Irons asserts, draconian. [FN53] However it would be a viable option under the Establishment Clause. I argue, though, that because the issue is inherently religious, [FN54] if we do address the question in school, then we must address it under the alternative option, by revealing all theories - not just the one that, at its core, suggests no higher power exists. [FN55] This is the only way, should we choose to address the origin of life, to do so with neutrality.

However, in order to carry forward his false assumption that I have an agenda to sneak creationism into the classroom, Professor Irons addresses only those theories I mention that stem from the creationist views. [FN56] He omits the other theories I explain such as the Hindu polytheistic explanation of the origin of life or the traditional views among Native Americans. [FN57] As one who added emphasis repeatedly to my use of the word “all,” Professor Irons does little to acknowledge all of the theories for which I provide examples. [FN58]

Presenting all, or any, of these theories, contrary to Professor Irons's assumptions, has nothing to do with my personal beliefs or any agenda to “sneak” creationism into the classroom. The last thing I want is to return to a time when public schools pushed any particular religious theory on students - such as urging them to believe in the creation stories. [FN59] But this *92 also means that, when understanding evolution as the theory that promotes no existence of a higher power, and when understanding the origin of life as a concept that inherently invokes religious theories, we likewise cannot present only evolution without pushing a particular religious theory. By selecting only one theory, we promote one over the others, and that is a violation of the Establishment Clause.

Not only would presenting all theories provide neutrality. Doing so would help educate students to the fact that alternative theories exist and not every person they will ever meet will share their views. We would achieve a bonus in such a lesson - not only would we have neutrality, we could help promote, perhaps, the idea of tolerance for different views.

This is not to say that we would be teaching students to believe in any particular theory. The idea is to present all known theories, highlighting none. A teacher might complain, "I do not feel qualified to present the Hindu [or insert any other] theory to students." But this is merely presenting - it is not persuading. What teacher is incapable of reading and learning about a concept then presenting it to students? The teacher need not share which theory is personal to that teacher, and this would not be an in-depth look at each belief system. This would be only a brief glimpse into the concept; after all, time would not permit further discussion of the many theories beyond presenting them as competing explanations regarding how life began. And this would achieve the courts' goals: neutrality.

C. Snared by His Own Rhetoric

Finally, Professor Irons gets to what I suspect is the real purpose of his soliciting this publication: an argument against intelligent design's place in the debate. [FN60] As he notes in the section titled, "'Intelligent Design' is Nothing More Than Christian 'God-talk,'" I assert that intelligent design has a place in the above-referenced lesson about the origin of life - that lesson in which all theories are presented. [FN61] But somehow Professor Irons *93 decides that I (1) "clearly prefer" intelligent design as the "best alternative" theory to evolution for biology teachers to explain the origin of life and (2) presume it to be immunized from an Establishment Clause challenge. [FN62] His argument is essentially a repetition of what he has said before, but because he bases this argument on false assumptions, he falls squarely in the trap of not seeing an idea objectively simply because others have promoted the idea based on religious, specifically Christian (more specifically, fundamentalist Christian), dogma. This part of his argument, thus, is false as presented and a misrepresentation of my argument.

To make his argument, Professor Irons makes a link between an assertion I do make to something not at all within the realm of my argument. He asserts that if I believe that intelligent design does not require the higher power believed in to be the Christian God, which I so do, then I must believe that intelligent design, as a concept, is somehow "immunized" from an Establishment Clause challenge. [FN63] This latter claim, however, could not be premised on anything I argue.

Intelligent design speaks to the existence of some higher power. [FN64] And that is a theistic view. Therefore, government cannot prefer intelligent design over any other theistic (or atheistic) view without violating the Establishment Clause. The only point I make is that the higher power does not have to be the Christian (or Jewish - using the word "or" to allow for them being different Gods but making no affirmative statement that they are) God. [FN65] The predominant creationist views are derived directly from

the book of Genesis, and therefore, if the higher power involved in the origin of life is not the same “God,” then the view is different. [FN66] However, there is no sudden immunization from the Establishment Clause. Nowhere, after all, does the Establishment Clause state government must not prefer a *94 creationist view; it states government cannot prefer one religious view over another. [FN67]

Therefore, the bulk of Professor Irons's argument about intelligent design and its relationship to religion is lost on me. [FN68] As I state, “intelligent design can be taught in the classroom, but only with the same limits that should fall upon the teaching of evolution.” [FN69] I further state that “intelligent design could be considered religious” [FN70] although it also “is not the proponent of any particular religious viewpoint.” [FN71] And in reply to this, Professor Irons simply reiterates arguments he has made in the past, not focusing on the premise of my argument or my definition of intelligent design; he instead asserts his argument against those who used intelligent design as a front for Christian creationism views.

I do not disagree that many intelligent design proponents believe the higher power referred to in the intelligent design concept is the Christian God. [FN72] But none of this asserts that to believe in the intelligent design concept - that some higher power exists that guided the origin of life - one must believe in the Christian God. The higher power could be one person's “Mother Nature” and another's multiple gods and still another's one god. Intelligent design has no “authoritative text” telling those to whom the concept makes sense that they must believe in the Christian God. If there were such a thing, those people who believe some force guided the design and purpose of life but who reject the idea of the Christian God would be left with nothing. Intelligent design does not, to many people, try to answer the question of life's origin based on Christian principles; it merely explains the origin of life as something that occurred without randomness and with some purpose - some plan. By whom the plan was designed is an open notion. [FN73]

*95 I also do not disagree with Professor Irons that the evidence as presented in the Kitzmiller [FN74] trial revealed a group of people who were trying to use intelligent design as a way to promote Christian creationism or to advance religion. [FN75] Professor Irons appears to assume that I disagree with the holding in Kitzmiller, but nowhere do I make that claim. [FN76] Presented with the specific evidence, the court reached a logical conclusion.

As Professor Irons points out, I do argue that the decision was one-sided. [FN77] I did not, though, mean the decision was one-sided in the sense that it was biased. [FN78] I said it was one-sided in that the court looked only at the problems with teaching intelligent design; the court did not address the constitutionality of teaching only evolution with the understanding that evolution, like intelligent design, when used as an explanation for the origin of life, promotes a religious view. [FN79] In the case of evolution, that idea is that no higher power exists at all. Of course, I do not argue that the court should have examined that question; it does not appear the question was at all before the court. But Professor Irons takes my statement and insinuates some other meaning - perhaps one that involves one of those hidden agendas that he crafted for me.

[FN80] Then again, by reading the sentence that follows that statement (“And much of what [the court] said can actually work similarly against the teaching of evolution”), [FN81] we can see how my first statement, read in context with the second, sets up the premise of my argument in the section that follows immediately after the two statements explaining how teaching only evolution can result in the same problems as those identified in Kitzmiller (as applied to teaching intelligent design).

As for the Kitzmiller decision itself, I am quite comfortable with Judge Jones's holding under these facts. We need not choose between accepting that holding and the argument I make.

However, to decide that all people who accept the basic concept of intelligent design must be trying to sneak in creationism and the views of the Christian God causes us to fall into the same sort of trap the courts are in: once one group approaches something with a particular religious stance, anyone viewing that in the future is blinded from viewing it later in an objective manner. In making all of his assumptions, Professor Irons has *96 placed himself squarely in that trap.

IV. Conclusion

This brings us back, though, to that argument I make that Professor Irons ignores. Professor Irons focuses on the vast forest - the broad issue of the argument that has existed for years. In doing so, he seems unable to recognize that my article brings a different argument into the picture. A different tree is emerging in this forest he has grown so accustomed to.

Professor Irons has successfully argued his take on intelligent design - again - offering nothing new beyond what we have heard before, that many who subscribe to intelligent design do so under the umbrella of Christianity. [FN82] But Professor Irons has not addressed the core of my argument: evolution, as an explanation for the origin of life that focuses on random development, is tied to the concept that no higher power exists. That concept, that no higher power exists, reeks with religious ideas - with dogma. Therefore, if that is the only theory we present in public school classrooms as the answer to how life began, it is anything but neutral and thus violates the Establishment Clause. Accordingly, in order to obtain neutrality, we should present all theories. And by “all,” I actually mean “all” - not just those involving creation by a single deity.

[FN81]. Visiting Assistant Professor of Law, University of Memphis Cecil C. Humphreys School of Law. B.S., Texas A&M University; J.D., Texas Wesleyan University School of Law; LL.M. Southern Methodist University Dedman School of Law. I would like to thank the editors of the Southwestern University Law Review for including this Response to Professor Irons's reply.

[FN1]. Jana R. McCreary, This is the Trap the Courts Built: Dealing With the Entanglement of Religion and the Origin of Life in American Public Schools, 37 Sw. U. L. Rev. 1 (2008).

[FN2]. Peter Irons, Darwin, Dogma, and Definitions: A Reply to Professor McCreary, 37 Sw. U.L. Rev. 69 (2008). I am confident, however, that the readers of our series of articles will not be misled by the juxtapositional use of these references to works of fiction or any attempt to, even subtly, try to place my argument in the same category as those works - those fictional pieces. See *id.* at 71, 72, 80.

[FN3]. See Peter Irons, Disaster in Dover: The Trials (and Tribulations) of Intelligent Design, 68 Mont. L. Rev. 59 (2007) [hereinafter “Irons, Disaster in Dover”].

[FN4]. When first contacted by Professor Irons about my article, I welcomed having a discussion about his concerns and views. I encouraged and invited him to call me in order to have that chat; he never called. E-mail from author to Professor Irons (Oct. 9, 2007) (on file with Southwestern University Law Review). Instead, he sought out the editors of this journal and requested to include his piece in the publication. E-mail from Professor Irons to Southwestern University Law Review (Oct. 15, 2007) (on file with Southwestern University Law Review). Certainly, the editors' agreeing to publish his reply furthers our discussion, but perhaps had he called me, we could have contributed more to the debate truly at issue instead of missing the point, as his response has done.

[FN5]. McCreary, *supra* note 1, at 28.

[FN6]. See Irons, *supra* note 2, at 75, 77-82.

[FN7]. *Id.* at 77-82.

[FN8]. *Id.* at 71.

[FN9]. *Id.* at 71-73. For me, this brings to mind a crafty magician. He tries to place the focus on one hand with its flashy moves, all the while trying to get the audience to ignore the hand doing the actual work. If you focused on that second hand, of course, you would see the actual truth.

[FN10]. *Id.* at 70.

[FN11]. *Id.*

[FN12]. See *infra* notes 15, 29-32 and accompanying text.

[FN13]. Irons, *supra* note 2, at 71.

[FN14].

Evolution, as a concept used to teach the origin of life, represents religious dogma. To believe that life has a specific goal-oriented purpose is to believe design of life exists. And for design to exist, some power, being, deity, or force above nature must exist. But if life is a result of nothing more than random events and occurrences, then no

purpose could exist. If no purpose to life exists, then no super-natural being could exist. And from this syllogism, we can further tie a specific religious dogma to the concept because to believe that no super-natural being exists is to support the basic tenets and dogma of atheism.

McCreary, *supra* note 1, at 62 (footnotes omitted).

[FN15]. Professor Irons even asks why I would argue evolution is a religious theory. Irons, *supra* note 2, at 74. I find this odd, considering I explain this, step by step, on page 62: evolution suggests that life originated in random form. McCreary, *supra* note 1, at 62. If life developed randomly, there is no purpose to that life. *Id.* If there is no purpose, no higher power exists; any higher power would have a purpose for life. *Id.*

[FN16]. McCreary, *supra* note 1, at 40-42.

[FN17]. Irons, *supra* note 2, at 71 (“[T]he negation of X is X.”).

[FN18]. American Atheists, *Atheism*, available at [http:// www.atheists.org/Atheism/](http://www.atheists.org/Atheism/) (last visited Oct. 16, 2007).

[FN19]. An analogy over an issue of belief is often difficult to find or make. But I will try. For example, if I were to say that I do not believe Hell exists, then I have, and am asserting, a belief about Hell. Just because my belief is that there is no such “place” does not mean I have no opinion; to the contrary, I have stated a very strong opinion. Further, if I create a word for that belief, and for lack of imagination - or foresight into the problems it might cause - I name that belief “ahell,” the belief does not suddenly have a different nature. The belief is still as strong, and it still exemplifies an affirmative stance on the subject. Merely naming the belief “ahell” does not make it a neutral belief about Hell just because we could argue that “ahell” means “no Hell.”

[FN20]. And perhaps I have used them in a confusing manner. For that, I apologize. I will try, therefore, in this response to clarify their use and my meaning.

[FN21]. Irons, *supra* note 2, at 71.

[FN22]. In the midst of all of this, Professor Irons also includes a comment that I made a claim and cited no authority. *Id.* In viewing his footnote, the time during which I cited no authority was in an E-mail to Professor Irons. See *id.* at 71 n.16. To use Professor Irons's word: this is absurd. *Id.* at 71. I will candidly admit that I am not in the practice of dropping footnotes in e-mails I send to colleagues in discussing ideas or written scholarship (the authority for which can be found in that writing being discussed). And I would hope that Professor Irons is not insinuating that academics and scholars should move toward such a system of footnoting our emails. How that could stifle open communication of ideas is, in my opinion, chilling. Instead, though, his reference in the body of his reply that I made a claim citing no authority misleads any reader, potentially creating a false impression regarding my work. See *id.* Doing so in this manner is, in my

opinion, irresponsible of a scholar when discussing another's work, cheapening resulting scholarship.

[FN23]. McCreary, *supra* note 1, at 7-9.

[FN24]. See, e.g., *Sch. Dist. of Abington Twp, Pennsylvania v. Schempp*, 374 U.S. 203, 225-26 (1963); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); see also *Edwards v. Aguillard*, 482 U.S. 578, 616 (1987) (Scalia, J., dissenting).

[FN25]. Of course, that is why I use the term “dogma” to characterize all such beliefs in the final part of my article. But Professor Irons does not recognize this broad word as used to describe both belief systems and instead seems to merely defend against classifying atheism as dogmatic. See *infra*, notes 42-47 and accompanying text. Perhaps if I changed the word “atheistic” to the phrase “an affirmative belief that no god exists,” the confusion would be reduced. But when using the word “atheistic” with its actual definition - and not its word roots - the same meaning is conveyed.

[FN26]. Irons, *supra* note 2, at 73.

[FN27]. McCreary, *supra* note 1, at 20 (footnotes omitted).

[FN28]. *Id.* at 62 (footnotes omitted).

[FN29]. Instead, Professor Irons assumes that I argue evolution itself is a religious theory, apparently not having read the above-referenced passages. Irons, *supra* note 2, at 75.

[FN30]. Irons, *Disaster in Dover*, *supra* note 3, at 81.

[FN31]. McCreary, *supra* note 1, at 14.

[FN32]. See Irons, *Disaster in Dover*, *supra* note 3, at 81.

[FN33]. See Irons, *supra* note 2, at 74.

[FN34]. See *id.* at 74-75.

[FN35]. However, in trying to say that some scientists are “theistic evolutionists,” Professor Irons quotes an “old-Earth” creationist group: “Theistic evolution states that God used evolution to develop the species on our planet, including man.” *Id.* at 75, n. 35 (citing and quoting *Answers in Creation, Old Earth Belief*, <http://answersincreation.org/old/htm> (last visited Nov. 11, 2007)). My article, though, and this argument have nothing to do with evolution as the development of any species. The issue is not how species developed; the issue is about how life began. See McCreary, *supra* note 1, at 15-19. Development of species involves microevolution, not macroevolution, clearly distinguished concepts. *Id.* at 17-21.

[FN36]. McCreary, *supra* note 1, at 66-67. I do not doubt many scientists have reconciled their scientific views with their religious views. Many scientists want no mention of religion when discussing science. See *id.* at 5. My point, though, asserts that when dealing with the origin of life, that is not possible. It is not simply a “scientific” concept. It cannot help but bring out issues involving the existence, or nonexistence, of a higher power.

[FN37]. See *supra* note 23 and accompanying text.

[FN38]. As Professor Irons points out, many “old-Earth” creationists hold the view that the Earth is billions of years old but that it was created by God, from nothing, without evolving. Irons, *supra* note 2, at 77. Professor Irons seems to insinuate my not mentioning the old-Earth creationists indicates some underlying motive, stating that I “oddly” left them out. *Id.* But I merely referenced young-Earth and creation science as examples, not as an all-inclusive list of creationist views. McCreary, *supra* note 1, at 12-17. I thank Professor Irons for sharing the information on old-Earth creationists. See Irons, *supra* note 2, at 77.

[FN39]. Of course, the failure of addressing the tie between evolution and religion - the randomness and no purpose thread - causes Professor Irons to have to try to link the two in some other way. Doing so, though, completely ignores how I have tied the two together, and Professor Irons's attempt, of course, does not work. I freely admit his method shows a failure to adequately tie evolution to religion. Of course, it was quite convenient to ignore part of my argument so that he could fail at this link.

[FN40]. *Id.* at 72.

[FN41]. *Id.*

[FN42]. *Id.* at 76-77.

[FN43]. *Id.*

[FN44]. Irons, *supra* note 2, at 77 n.47.

[FN45]. Interestingly, Professor Irons even states, “One might well ask, what qualifies evolution as religious dogma, either atheist or theist in nature?” *Id.* at 76. I answer this directly in the article, see McCreary, *supra* note 1, at 62-63, but Professor Irons makes no mention of my explanation - that thread tying the two together. See *supra* notes 10-36 and accompanying text.

[FN46]. See Irons, *supra* note 2, at 76 (quoting Merriam-Webster's Collegiate Dictionary 369 (11th ed. 2003), available at <http://m-w.com/dictionary/dogma>).

[FN47]. See *id.* at 71-73.

[FN48]. See McCreary, *supra* note 1, at 62-63; see also *supra* notes 26-28 and accompanying text.

[FN49]. McCreary, *supra* note 1, at 64-66.

[FN50]. See Irons, *supra* note 2, at 72.

[FN51]. See *supra* note 24; Irons, *supra* note 2, at 72-73.

[FN52]. See McCreary, *supra* note 1, at 62-63.

[FN53]. Irons, *supra* note 2, at 77.

[FN54]. See *supra* notes 34-38 and accompanying text.

[FN55]. McCreary, *supra* note 1, at 67. Professor Irons correctly quotes me as saying that we should offer all available theories regarding the origin of life. Oddly, though, he states that I “first argue[] that courts should allow schools ‘to have the origin of life explanations from a variety of views readily available for [their] teachings - monotheistic views, polytheistic views, and atheistic views.’” Irons, *supra* note 2, at 78 (emphasis added) (quoting McCreary, *supra* note 1, at 65). I do argue that, but I cannot tell what it is that Professor Irons asserts that I argue subsequently.

[FN56]. Irons, *supra* note 2, at 77.

[FN57]. See McCreary, *supra* note 1, at 25-26.

[FN58]. See Irons, *supra* note 2, at 71, 72, 77.

[FN59]. After all, this could cause quite a problem if taught from my perspective, accepting the Bible as a book of stories as told by many authors, contrary to the view held by many others, such as the view that Moses wrote the first five books of the Bible. See, e.g., Richard Elliott Friedman, *The Bible with Sources Revealed: A New View Into the Five Books of Moses 1* (2003).

[FN60]. See Irons, *supra* note 2, at 77-82. Professor Irons has, as he notes, written previously about intelligent design, see Peter Irons, *In the Beginning, in God on Trial: Dispatches from America's Religious Battlefields* 281, 281-338 (2007); Irons, *Disaster in Dover*, *supra*, note 3, at 59-87 (written as a reply to Discovery Institute-affiliated authors' article criticizing the Kitzmiller opinion), and extensively on the evolution/creationism controversy. See Irons, *supra* note 2, at 1 n.* (noting his past writings in the area).

[FN61]. Irons, *supra* note 2, at 78; McCreary, *supra* note 1, at 65-66.

[FN62]. Irons, *supra* note 2, at 78. My detailing of the theory of intelligent design is predominantly intended to educate those readers who are less familiar with the theory; it

has not had nearly the amount of “press” as creationism or evolution - the other two theories that have received the most attention in American jurisprudence. As noted in the court cases discussed in my article, only the last one addresses the concept of intelligent design. McCreary, *supra* note 1, at 56-58. A person's decision to believe that the origin of life is explained by the concept of intelligent design, though, is not limited to the intelligent design Professor Irons describes. Compare McCreary, *supra* note 1, at 21-25 with Irons, *supra* note 2, at 80-81. Professor Irons is free to understand intelligent design as he wishes. See Irons, *supra* note 2, at 79 (“[T]he statements... from ID's most prominent advocates, leave no doubt - at least in my mind - that the deity (or creator) to which [they] refer is the Christian God.”). But he should stop at the point he imposes those beliefs on others, incorporating his own narrow definition into others' personal views.

[FN63]. Irons, *supra* note 2, at 78.

[FN64]. See McCreary, *supra* note 1, at 21-23.

[FN65]. *Id.* at 22; Irons, *supra* note 2, at 78.

[FN66]. McCreary, *supra* note 1, at 12 n. 57 and accompanying text.

[FN67]. See U.S. Const. amend. I.

[FN68]. Certainly, his argument works well in his earlier article where he lists the many links between a belief in the Christian God to persons affiliated with the Discovery Institute. Irons, *Disaster in Dover*, *supra*, note 3, at 67-80. But the Discovery Institute does not represent every person who accepts intelligent design as an explanation, albeit a theistic one, of the origin of life. At the risk of making an analogy using Christianity and it being used to say, “Ah ha! See, intelligent design is nothing but Christianity,” I will still attempt to do so. Professor Irons's argument seems no different than someone arguing that all Christians must believe in the tenets and teachings of Catholicism. Surely Professor Irons would not make such a claim as that, but that is essentially what he does when he groups anyone who accepts and believes in the concept of intelligent design as having to believe the higher power involved is the Christian God.

[FN69]. McCreary, *supra* note 1, at 65-66.

[FN70]. *Id.* at 66.

[FN71]. *Id.* at 23.

[FN72]. See *id.* at 22-23.

[FN73]. See *id.*

[FN74]. *Kitzmiller v. Dover Area Sch. Bd.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005).

[FN75]. See Irons, *supra* note 2, at 81.

[FN76]. *Id.* at 81-82.

[FN77]. *Id.* at 113.

[FN78]. *Id.*

[FN79]. McCreary, *supra* note 1, at 58.

[FN80]. See Irons, *supra* note 2, at 81.

[FN81]. McCreary, *supra* note 1, at 58.

[FN82]. See *id.* at 21-23.