

# Law and Society

## The Scopes “Monkey” Trial Contesting Cultural Differences



During the postwar 1920s, a “new” America emerged. Largely urban, secular, and focused on the future, the “modern” culture challenged the traditional values and familiar way of life of many Americans, especially those living in rural areas. Intense cultural conflict characterized the decade. Those who saw in modern culture numerous threats to the moral fabric of the nation increasingly turned to their faith for stability and comfort. The popularity of Protestant fundamentalism, which held to a literal interpretation of the Bible, increased dramatically during this period, particularly in the South. According to fundamentalists, one of the key modernist attacks on traditional religious beliefs came from the realm of science.

Advancements in science in the late nineteenth and early twentieth centuries fueled modernization, and Americans increasingly placed their faith in the authority of science and progress. There was growing acceptance of Charles Darwin’s theory of evolution, which demonstrated that plants and animals—including humans—evolved from lower life forms by a process of natural selection. By the 1920s, discussion of evolution theory had entered public school classrooms. Though many Americans could reconcile a belief in evolution with their religious beliefs, fundamentalists thought the theory of evolution contradicted the Biblical story of creation and was therefore blasphemous—particularly the notion that humans evolved from a lower primate form. Fundamentalists led a charge against evolution, particularly against its teaching in the schools, and several southern states turned to legislation to keep the scientific theory out of the classroom.

Such a law was introduced in Tennessee by John W. Butler, a state representative. The statute passed both houses of the Tennessee legislature by a large majority and was signed into law by the governor in March 1925. The Butler Act, as it became known, made it unlawful for a teacher in state-supported schools “to teach any theory that denies the story of

Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals.” Violating the law was designated a misdemeanor punishable by a fine of \$100 to \$500 for each offense.

In response to the Butler Act, the American Civil Liberties Union (ACLU) advertised for teachers in Tennessee willing to challenge the new law in court. Civic boosters in Dayton, eager to draw attention to their small town in eastern Tennessee, persuaded John Scopes, a science teacher and assistant football coach in Dayton, to accept the ACLU offer. Scopes was a logical choice. He opposed the anti-evolution law on philosophical grounds, and he had little to lose personally, being twenty-four and single and with no particular desire to remain in Dayton. Furthermore, he was a likable young man, popular around town and with otherwise conventional views, and so wouldn’t muddy the legal waters by provoking the judge or jury unnecessarily. Scopes admitted that anyone teaching from the state’s approved biology textbook, Hunter’s *Civic Biology*, which included sections on evolution of animals and humans, would be breaking the new law. Scopes had used the text as a substitute biology teacher. He agreed to be arrested to test the law in court.



From the start, *Tennessee v. John Thomas Scopes* was about far more than Scopes. Supporters and opponents of the anti-evolution law converged on Dayton from around the country. The law’s supporters brought in the renowned orator William Jennings Bryan, a three-time Democratic nominee for president, former secretary of state, and fervent Christian fundamentalist, to assist the prosecution, headed by chief prosecutor A. Thomas Stewart, attorney general of Tennessee. Since the early 1920s Bryan had led the charge against the theories of Charles Darwin and the teaching of evolution in the schools; his syndicated newspaper column, “Weekly Bible Talks,” frequently hammered Darwinism and what Bryan considered excessive faith in science.

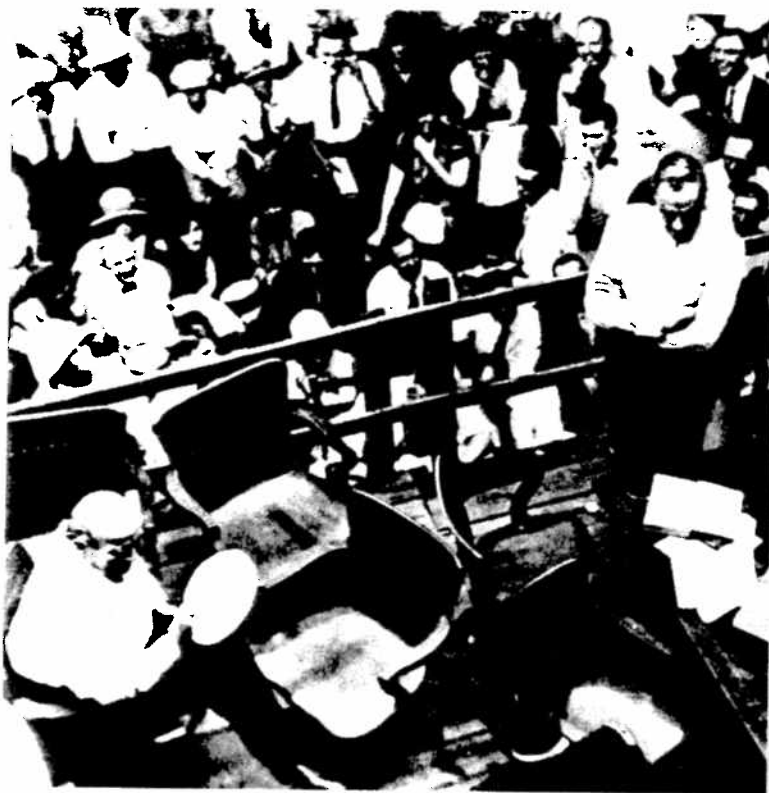
The ACLU summoned counsel for the defense and Clarence Darrow, one of the most celebrated trial lawyers in America in the 1920s, volunteered his services as the chief defense attorney. He delighted in defending unpopular causes, including labor activists (he had defended Socialist leader Eugene V. Debs in the Pullman strike of 1894), political radicals, and murder suspects. He was also an outspoken agnostic, doubting the existence of God, and a vocal critic of Christian fundamentalists, including Bryan.

A small army of reporters descended upon Dayton, including journalist H. L. Mencken, widely known for his biting wit and disdain for middle America, who was writing for the *Baltimore Sun* and the *American Mercury*. From all over America and from various foreign countries the journalists came, eager to convey to their readers every detail of "the Monkey trial," as the trial was dubbed. The new technology of radio supplemented the newspaper coverage, especially after Judge John Raulston agreed to allow microphones in the courtroom.

The proceedings opened on Friday, July 10. To the prosecution, the case was fairly simple. They held that the state had the constitutional right to set the curriculum in state-funded schools. The question to be decided was whether Scopes had violated the Butler Act by covering the theory of evolution in his classroom. Prosecution witnesses, including a school official and several of Scopes's students, testified that he had.

Darrow and the defense argued principally that the anti-evolution law violated several clauses of the Tennessee constitution as well as the guarantee of freedom of speech and provision for separation of church and state in the First Amendment of the U.S. Constitution. Contending that the law also violated the Fourteenth Amendment's declaration that no state was permitted to pass a law that abridged citizens' privileges, Darrow argued, "If today you can take a thing like evolution and make it a crime to teach it in the public school, tomorrow you can make it a crime to teach it in the private schools, and the next year you can make it a crime to teach it to the hustings or in the church."

Darrow and the defense team wanted to introduce scientific evidence supporting the theory of evolution by summoning a number of scientists from various fields as expert witnesses. The prosecution protested



■ Crowds of spectators and reporters throng the courtroom during the Scopes trial as defense attorney Clarence Darrow stands with his arms folded. William Jennings Bryan, seated, is holding a fan. The soaring temperature and overcrowding eventually drove the proceedings outdoors. ■

opening the case to this wider issue. "I say, bar the door and not allow science to enter," declared Stewart, the chief prosecutor. After hearing arguments from both sides and initial testimony from the defense's first witness, the court sided with Stewart and Tennessee. "The evidence of experts would shed no light on the issues," Judge Raulston ruled.

It was Bryan's speech for the prosecution that brought real excitement to the courtroom and the nationwide attention to Dayton that the city's supporters had hoped for. The Great Commoner, as Bryan was known, commenced softly, conveying an impression of calm reason. But as he warmed to his subject, his voice rose and his words became more intense. He denied that he or most of the citizens of Tennessee advocated teaching the Bible in schools. And even if they did advocate it, the Tennessee constitution prevented them. The question at hand was different, Bryan said.

The question is, can a minority in this state come in and compel a teacher to teach that the Bible is not true, and make the parents of these children pay the

expenses of the teacher to tell their children what these people believe is false and dangerous? Has it come to a time when the minority can take charge of a state like Tennessee and compel the majority to pay their teachers while they take religion out of the heart of the children of the parents who pay the teachers?

Bryan was a master at working an audience, and the jurors and spectators in the courtroom—and a larger group listening in the yard outside the court—hung on his every word. They laughed as he lampooned the Darwinians; they nodded agreement as he affirmed the teachings of the Bible. They thundered their approval of his wry observation: "The Christian believes that man came from above, but the evolutionist believes he must have come from below." Following a loud "Amen!" from the audience, Darrow, who had been sitting silently through Bryan's long speech, interjected: "I hope the reporters got the amens in the record. I want somewhere, at some point, to find some court where a picture of this will be painted." Such information in the official record would ensure higher courts a more complete picture of the atmosphere in the courtroom.

Denied the opportunity to call on expert witnesses to provide support for the theory of evolution, Darrow found another opportunity after the defense made an unusual request to place Bryan on the witness stand. There was some question as to whether Bryan could or should testify, as he had no firsthand knowledge of what Scopes had or hadn't done, and was no expert on the constitutions of Tennessee or the United States. But the defense asked permission to question Bryan as an expert witness on the Bible. Bryan indicated willingness and Judge Raulston—who relished the publicity the case was generating—let the two celebrities go at each other. What resulted was one of the most dramatic courtroom scenes in American history.

Darrow asked Bryan whether he had given "considerable study to the Bible." Bryan responded, "I have studied the Bible for about fifty years, or some time more than that. . . ."

Given that opening, Darrow went on to ask questions designed to undermine a strictly literal interpretation of the Bible.

**Darrow:** Do you claim that everything in the Bible should be literally interpreted?

**Bryan:** I believe everything in the Bible should be accepted as it is given there. Some of the Bible is given illustratively. For instance: "Ye are the salt of the earth." I would not insist that man was actually salt, or that he had flesh of salt, but it is used in the sense of salt as saving God's people.

Darrow pressed on. Did Bryan believe that a whale swallowed Jonah?

**Bryan:** When I read that a big fish swallowed Jonah—it does not say whale—

**Darrow:** Doesn't it? Are you sure?

**Bryan:** That is my recollection of it. A big fish, and I believe it, and I believe in a God who can make a whale and can make a man and make both do what He pleases.

Darrow continued his line of questioning, asking Bryan to interpret other passages of the Bible. Had Joshua really made the sun stand still?

**Bryan:** I believe what the Bible says.

Did that mean that the sun actually stood still, or that the earth stopped spinning? For that matter, did Mr. Bryan believe that the earth circled the sun, or vice versa?

Bryan assured Darrow and the court that he knew that the earth orbited the sun. But he allowed that the author of the Joshua passage might not have. "I believe that the Bible is inspired, an inspired author. Whether one who wrote as he was directed to write understood the things he was writing about, I don't know." Darrow interrupted, but Bryan went on: "I believe it was inspired by the Almighty, and He may have used language that could be understood at that time—instead of using language that could not be understood until Darrow was born."

Listeners, siding with Bryan but squirming under Darrow's questioning, broke into loud applause here. When the applause recurred, Darrow said sarcastically, "Great applause from the bleachers."

**Bryan:** From those whom you call "yokels."

**Darrow:** I have never called them yokels.

The exchange grew nastier.

**Bryan:** Those are the people whom you insult.

**Darrow:** You insult every man of science and learning in the world because he does not believe in your fool religion.

**Judge Raulston:** I will not stand for that.

**Darrow:** For what he is doing?

**Judge Raulston:** I am talking to both of you.

Such dignity as the trial initially possessed had disappeared by now. After the exchange continued for

some time, Darrow asked Bryan if he had ever wondered where Cain's wife came from. "No, sir," Bryan replied. "I leave the agnostics to hunt for her." Darrow asked Bryan if the six days of creation were twenty-four-hour days. Bryan allowed that they might have been longer.

Finally Tom Stewart broke into Darrow's questioning. "What is the purpose of this examination?" the chief prosecutor demanded.

"The purpose is to cast ridicule on everybody who believes in the Bible," Bryan asserted.

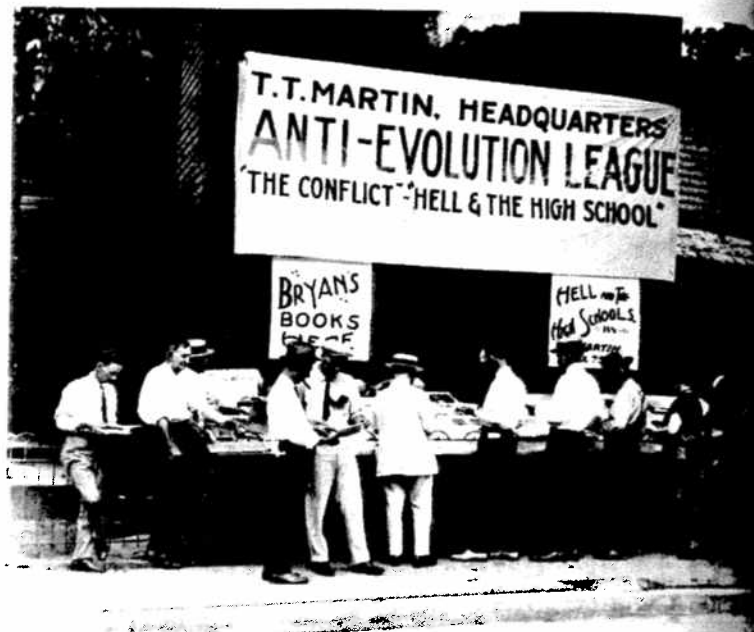
Darrow answered differently. "We have the purpose of preventing bigots and ignoramuses from controlling the education of the United States."

Darrow was allowed to continue his questioning about creation. Might it have lasted more than a modern week? Bryan granted that it could have. How much more? "It might have continued for millions of years."

Darrow's examination of Bryan lasted two hours. Before the end it was obvious that it had little to do with the case at hand—but everything to do with the larger issue joined by Darrow and Bryan. As a reporter for the *Nashville Banner* explained, "In reality, it was a debate between Darrow and Bryan on Biblical history, on agnosticism and belief in revealed religion."

Not surprisingly, judgments regarding the outcome of the debate depended on the source of those judgments. The *New York Times* thought Darrow scored a clear victory. "Mr. Bryan's complete lack of interest in many of the things closely connected with such religious questions as he had been supporting for many years was strikingly shown again and again by Mr. Darrow," the *Times* explained. The *Memphis Commercial Appeal* thought Bryan had held his own: "Darrow succeeded in showing that Bryan knows little about the science of the world. Bryan succeeded in bearing witness bravely to the faith which he believes transcends all the learning of men."

The reaction to the trial's verdict was similar. Scopes, to no one's surprise, was convicted of violating the law and Judge Raulston fined him \$100. Even Darrow, intending to appeal the verdict to a higher court, recommended that the jury find Scopes guilty. Anti-evolutionists in Tennessee and elsewhere took the conviction as vindication of their beliefs. But to many Americans with more secular views, the conviction was simply further evidence of the wrongheadedness of Bryan and the Tennessee legislature. When Bryan died suddenly just five days after the trial ended, a southern journalist approached Darrow for comment. "People down here believe that Bryan died of a broken heart because of your questioning," the journalist said.



■ People examine the Anti-Evolution League's book stall during the Scopes trial. As noted in one of the banners, the display included books by Bryan. ■

Darrow, referring to Bryan's notoriously large appetite, reportedly responded, "Broken heart nothing. He died of a busted belly." H. L. Mencken remarked, "God aimed at Darrow, missed, and hit Bryan instead."

The Scopes trial settled nothing. The defense appealed the conviction to the Tennessee Supreme Court, where it was set aside on a technicality. But the anti-evolution law was left intact, and stood for another forty years, until the Tennessee legislature repealed it in 1967. In the immediate aftermath of the Scopes trial, both sides claimed moral victory, and the rift that gave rise to the case simply grew wider. Fundamentalism was discredited in large parts of urban America, but it sank roots in the rural regions of the country, becoming stronger than ever, if sometimes less visible. Several state legislatures considered anti-evolution bills in the latter half of the 1920s, but only Georgia and Mississippi actually passed laws restricting teaching of Darwin's theory. Concern over diminishing sales in the South and West, however, drove textbook publishers to revise coverage of evolution in many textbooks—de-emphasizing the topic or eliminating it entirely. With or without legislation opposing its teaching, evolution did disappear from many classrooms.



In 1960, the liberal *New Republic* declared, "The Monkey Trial is now a historical curiosity"—a judgment that proved premature when evolution

reemerged as a controversial issue. The constitutional question of whether the First Amendment permitted states to ban teaching of a theory that contradicted religious beliefs had not been resolved by the Scopes case. In the 1968 case *Epperson v. Arkansas*, however, the U.S. Supreme Court ruled that such bans were unconstitutional. During the 1970s and 1980s various Sunbelt school districts mandated that “creationism”—essentially the Biblical version of life’s origins, though typically without the explicit references to Genesis—be given equal time in the classroom with evolution. Arkansas and Louisiana passed such laws, but in 1987 the U.S. Supreme Court ruled in *Edwards v. Aguillard* that these laws were also unconstitutional. Still the issue refused to die. In 1999, the Kansas school board ordered that the theory of evolution should be

de-emphasized in the state’s classrooms. The Kansas board eventually changed its mind, but in 2005 it reversed course again, directing teachers to point out the deficiencies in the theory of evolution, in the name of “intelligent design,” the latest variant of creationism. Other states considered similar measures, demonstrating, if nothing else, that the Scopes trial was far more than a curiosity from the past.

### Questions for Discussion

Why did different observers interpret the outcome of the Scopes trial so differently?

Why does the issue of evolution in the public schools continue to resurface decades after laws banning its teaching were found unconstitutional?