

Constitutional Rights Foundation

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The Scopes Trial: Who Decides What Gets Taught in the Classroom?

One of the most famous trials in American history took place in a small town in Tennessee in 1925. On trial was a high-school teacher, John Scopes. The charge against him: teaching evolution.

On July 10, 1925, hundreds of reporters gathered in Dayton, Tennessee. They were covering the trial of John Scopes, a 24-year-old science teacher and part-time football coach. Scopes had been arrested for violating a Tennessee law that made it unlawful “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 animal.” The Scopes trial riveted national attention and is one of the most famous trials of the century.

Evolution Versus Religion.

In 1859 in Great Britain, Charles Darwin published [*On the Origin of Species*](#). In his book, Darwin laid out evidence that living things had evolved from common ancestors through a mechanism he called “natural selection.” While most scientists responded positively to Darwin’s theory of evolution, it provoked anger among those who saw it as an attack on their religious beliefs. In 1874, a Princeton theologian named Charles Hodge wrote a book titled *What Is Darwinism?* It answered that question simply: “It is atheism [and] utterly inconsistent with the Scriptures.”

In the United States, an anti-evolution movement began in the early 1920s. Many leaders of the new campaign had been involved in the Prohibition movement. Prohibitionists had succeeded in banning the sale of alcohol by getting the 18th Amendment ratified in 1919.

Other leaders in the anti-evolution movement were members of the “fundamentalist” Christian movement, which had begun to gather steam after World War I. The outcome of the war caused widespread disillusionment, and many were concerned about a perceived collapse in public morals. Fundamentalists shared a belief in biblical literalism. They opposed teaching evolution because of the harm they believed it would do to the spiritual and moral development of students. “Ramming poison down the throats of our children is nothing compared with damning their souls with the teaching of evolution,” claimed one activist.

Believing the teaching of evolution posed a danger, the fundamentalists sought a legal remedy. The first anti-evolution law passed with little notice in Oklahoma in March 1923. Two months later, Florida adopted a resolution on evolution. It stated that it was

improper for any public school teacher “to teach as true Darwinism or any other hypothesis that links man in blood relation to any form of lower life.”

The Florida resolution had been proposed by [William Jennings Bryan](#). He had served as secretary of state and had run three times for president as the nominee of the Democratic Party. In his later years, he emerged as a major opponent of evolution. In 1924, Bryan went to Tennessee and gave a speech in the state capital against teaching evolution. Most people, he had concluded, “do not believe in the ape theory.” He favored laws against teaching evolution because “those who pay the taxes have a right to determine what is taught; the hand that writes the paycheck rules the school.” Thousands of copies of his speeches were distributed to legislators and state residents. One year later, on March 23, 1925, Tennessee became the third state to pass an anti-evolution law. It was the first state in which the law was tested in court.

The Monkey Trial Unfolds

On May 4, 1925, the *Chattanooga Daily Times* printed a statement by the American Civil Liberties Union:

We are looking for a Tennessee teacher who is willing to accept our services in testing this law in the courts Distinguished counsel have volunteered their services. All we need now is a willing client.

Forty miles north of Chattanooga, in the small rural town of Dayton, George Rappelyea, a local businessman, read the ACLU announcement. He believed that staging the test case in Dayton might boost the local economy. Rappelyea convinced other businessmen that the case would bring Dayton much-needed publicity. At the soda fountain in Fred Robinson’s drugstore, he talked to John Scopes, who taught science in the Dayton high school. Scopes was popular in the town and did not intend to live there permanently.

Scopes told Rappelyea that he had assigned students to read about evolution in the state-approved biology text. Rappelyea asked him to be the defendant in the case. After Scopes agreed, Rappelyea called a justice of the peace and swore out a warrant for Scopes’ arrest.

The charge in the case was that John Scopes had violated the Tennessee anti-evolution law by using a textbook that included material about human evolution. The penalty for breaking the law was \$100. As one local lawyer said to a reporter, this was a simple misdemeanor case that any judge should be able to dispose of in a few hours. But that was not to be. The ACLU wanted to make the Scopes case the centerpiece of its campaign for freedom of speech. Roger Baldwin, the founder of the ACLU, said: “We shall take the Scopes case to the United States Supreme Court if necessary to establish that a teacher may tell the truth without being thrown in jail.”

[Clarence Darrow](#), one of the most famous trial lawyers in the country, volunteered his services to the ACLU. He agreed to serve without pay—the only time in his career that he did so.

There was similar passion among the fundamentalists who believed that Darwinism undermined belief in the Bible. Raising money to prosecute Scopes, Methodist ministers in Dayton preached: “We do not believe that the right of freedom or religious liberty warrants any man . . . to teach our children any theory which has as its purpose or tendency the discrediting of our religion.”

William Jennings Bryan agreed to join the prosecution team. Bryan was a hugely popular orator. During the winter, from December to May, he drew an average of 4,000 people to his Sunday Bible classes at Royal Palm Park, Florida. Bryan went to Dayton not so much as a lawyer going to court, but as a preacher going to a revival meeting. He saw the Scopes trial as a “battle royal” in defense of the faith.

In fact, the trial was more of a carnival than a war. Journalists came to town in huge numbers. They had already been writing about the upcoming “monkey trial” for weeks. The townspeople organized a “Scopes Trial Entertainment Committee” to help arrange accommodations. Shop windows were hung with pictures of monkeys and apes, and a policeman cruised town with a sign “Monkeyville Police” on his motorcycle. When the court adjourned at noon on the first day of trial, four steers were roasting in a barbecue pit behind the courthouse and hot-dog and soft-drink stands lined the main street.

Who Won the Trial?

Coming into court, Darrow and Bryan had opposing strategies and goals. As an agnostic who did not believe in traditional religion, Darrow wanted to free people from unthinking belief in biblical truth and encourage skepticism and scientific inquiry. To this end, he put together a group of eight distinguished scientists and theologians who would explain the scientific basis for evolution and show that it did not conflict with the Bible.

Bryan’s strategy was far different. He would have liked to present scientific experts to show the flaws and gaps in evolutionary theory, but he could not find any distinguished scientists who would agree to testify. Instead, he focused on the argument for majority rule. In a letter to one of the prosecutors, he said: “This is the *easiest* case to explain I have ever found. The *right* of the *people* speaking through the legislature to control the schools which they create and support is the real issue as I see it.”

Early in the trial, prosecution lawyers objected to the defense calling any expert witnesses. They argued that expert testimony would be irrelevant because the law banned any teaching about human evolution. It did not matter whether or not it conflicted with the Bible or was scientifically valid. The judge agreed and ruled that the defense would not be allowed to present their expert witnesses to the jury. The judge also denied a motion by the defense challenging the constitutionality of the law. The law, according to the judge, did not violate any teacher’s rights. “The relations between the teacher and his

employer are purely contractual and if his conscience constrains him to teach the evolution theory, he can find opportunities elsewhere.”

The only issue that remained was whether Scopes had violated the law. But Darrow had one last strategy to show that the Bible could not be interpreted literally. On the last day of trial, he called Bryan as an expert on the Bible. Bryan, who had been teaching the Bible for years, could not resist. By then the trial had been moved outside, because the judge was worried that the floor of the courtroom might collapse. So Bryan took the stand on the courthouse lawn, surrounded by 2,000 people sitting on benches under the maple trees and sitting cross-legged on the grass.

What ensued was a debacle for the witness. Darrow posed numerous questions about events recounted in the Book of Genesis: Did Jonah live inside a whale for three days? How could Joshua lengthen the day by making the sun stand still? Bryan had no good answers to the questions, and the interactions grew nasty. When lawyers tried to stop the questioning, Bryan shouted: “I am simply trying to protect the word of God against the greatest atheist or agnostic in the United States.”

“I object to your statement,” Darrow shouted back. “I am examining your fool ideas that no intelligent Christian in the world believes.”

After two hours, the judge adjourned the court. The next day, the defense conceded that it had no defense to the charge that Scopes had taught evolution. The judge sent the case to the jury. It returned nine minutes later with a verdict of guilty.

The ACLU appealed the decision to the Tennessee Supreme Court, arguing that the statute was unconstitutional. The court narrowly upheld the constitutionality of the statute. But it overturned the verdict on a technicality, which ruled out any chance of taking the case to the U.S. Supreme Court.

Neither side had achieved a clear victory in the case. The jury had found Scopes guilty, but his conviction was overturned on appeal. Bryan had taken a beating in court and was widely ridiculed in the national press. Five days after the trial, he died in his sleep. The ACLU had brought the case to get a definitive ruling in favor of free speech and against anti-evolution laws. The Scopes case failed to achieve this goal.

Forty Years Later

Two more states passed anti-evolution bills after the Scopes trial: Mississippi (in 1926) and Arkansas (in 1928). Various state and local school boards also passed measures barring the use of textbooks that included material on evolution. But the laws were never enforced, and the ACLU couldn't find anyone to challenge them.

Forty years later, Susan Epperson, a 10th-grade biology teacher in Little Rock, Arkansas, decided to take up the challenge. Epperson was teaching from a new edition of a textbook titled *Modern Biology*, which discussed the fossil evidence for human evolution. After

several pages, the book concluded that: “It is believed by many anthropologists that, although man evolved along separate lines from primates, the two forms may have had a common generalized ancestor in the remote past.” The text was thus in direct conflict with the Arkansas law that barred teaching “the theory or doctrine that mankind ascended or descended from a lower order of animals.”

Backed by the Arkansas Education Association, Epperson filed a complaint in December 1965. She asserted that the anti-evolution law violated her freedom of speech and other constitutional rights. After a trial that took just over two hours, the judge ruled that the law was unconstitutional. The appellate court disagreed, and the case went to the U.S. Supreme Court in 1968.

The Supreme Court based its decision on the First Amendment, specifically on its ban against the government establishing a religion. Over the years, the Supreme Court had decided a number of cases on the First Amendment’s establishment clause. In 1947, the court ruled that a state may not pass a law that aids or prefers one religion over another. In 1963, in [*Abington v. Schempp*](#), the court held that a state may not adopt programs or practices in public schools that “aid or oppose” any religion.

In the *Abington* case, the court applied a two-pronged test of purpose and effect: “[W]hat are the purpose and primary effect of the enactment? If either is the advancement or inhibition of religion, then the enactment” violates the Constitution. Applying that test in the [*Epperson*](#) case, the court found that the Arkansas law was not one of religious neutrality. It found that the motivation for the law was the same as the motivation for the Tennessee law in the Scopes trial, which was “to suppress the teaching of a theory which, it was thought, ‘denied’ the divine creation of man.” The court struck down the Arkansas law and brought to an end the first chapter of the legal debate over teaching evolution.

For Discussion

1. Why did the Scopes trial take place? What was the controversy in the case? Why was the case so important to both sides?
2. Who were William Jennings Bryan and Clarence Darrow? Why did they participate in the case?
3. Some people argue that neither side won the Scopes case? Do you agree? Explain.
4. What was the *Epperson* case? On what basis was it decided? Do you agree with the decision? Why or why not?