

THE CIRCUS COMES TO DAYTON

INTRODUCTION

William Jennings Bryan at the Scopes Trial:

“There is no more reason to believe that man descended from some inferior animal than there is to believe that a stately mansion has descended from a small cottage.”

Clarence Darrow:

“I don’t believe in God because I don’t believe in Mother Goose.”

Marc Peurye
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1925 was for a small town, called Dayton, Tennessee, an uneventful year as most years for small towns are. At the high school, everything was going well for a young teacher named John T. Scopes. He enjoyed his work. The kids liked him both as their coach and also as their science teacher.

On March 25th of that year a new law went into effect. It banned the teaching of evolution in schools subsidized by the state of Tennessee.

It said in effect, “It shall be unlawful for any teacher, in any of the universities, teachers’ colleges, normal and all other public schools of the state which are supported, in whole or in part, by the public school funds of the state, to teach any theory that denies the story of the divine creation of man as taught in the Bible, and to teach instead that man descended from a lower order of animals. Any teacher violating this section shall be guilty of a misdemeanor and fined not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) for each offense.”¹

What Scopes had to do with the new law he didn’t know yet, but it would all start with a man named George Rappelyea.

George Rappelyea had become outraged at a funeral oration delivered by a Fundamentalist preacher. (An 8-year-old boy had been killed by a mine car; the preacher told the mourners: “This here boy, ‘cause his pappy and his mammy didn’t git him baptized, is now a-writhin’ in the flames of hell.”)²

Rappelyea was so bitter that he decided to attack all Fundamentalism.

One day in April, Rappelyea was talking to a friend, Frank Robinson. Robinson was not only the owner of Dayton's leading pharmacy, but, was also the chairman of the Rhea County Board of Education, the town's leading textbook merchant, and a leader of the Dayton Progressive Club.³

That same day at Robinson's drug store, Rappelyea made the same suggestion to two other people: Walter White, superintendent of the Rhea County schools and Herbert Hicks, the older of a team of lawyers.

"Why not," said Rappelyea, "have a test case right here in Dayton? It would put Dayton on the map!"

Hicks fell in with the idea at once. So did Robinson. White, more cautious, was doubtful.

Facing White, Rappelyea cried: "Well, why don't we make it a sporting proposition! As it is the law is not enforced. If you win, it will be enforced. If I win, the law will be repealed. We're game, aren't we?"⁴

How could White resist? White began to yield though. White asked who would be the scapegoat?

The name of John Thomas Scopes occurred at once to everyone. He was young and unmarried; hence he ran less risk of penury than would a family man. He was popular and so would arouse the least local prejudice. He was modest and self-effacing; therefore he could not be accused of publicity-seeking. And, of course, he had been teaching evolution, "in the line of duty."⁵

Scopes was brought to the gathering of people. To Scopes, this gathering of his friends seemed unusually animated. Robinson offered Scopes a chair while the soda clerk brought him a drink. Rappelyea said:

“John, we’ve been arguing, and I said that nobody could teach Biology without teaching evolution.”

“That’s right,” said Scopes. He went on to explain that evolution formed an integral part of the official biology text, George W. Hunter’s Civic Biology. Somebody got a copy of the book and Scopes read from it.

After he finished his reading, he added that he had used this textbook while substituting for the regular biology teacher—W.F. Ferguson, who was also the principal of the school—during the latter’s illness. He concluded:

“Rappelyea’s right that you can’t teach biology without teaching evolution. This is the text, and it explains evolution.”

Several voices spoke up at once: “Then you have been violating the law!”⁶

It was soon after that that Scopes was told about the ACLU’s offer to back any man financially who will challenge the law. It took a while but Rappelyea and the others convinced Scopes to take the chance and be the one to challenge the law. A couple of days later, Scopes was arrested.

William Jennings Bryan, lay leader of the Fundamentalists and arch foe of the evolutionary hypothesis, was retained by the World’s Christian Fundamental Association to assist in the prosecution. Other members of the prosecution included A.T. Stewart, attorney general of 11th Circuit Court; Ben McKenzie, dean of the local bar and a former assistant general; J. Gordon McKenzie, son of Ben McKenzie, sobersized local lawyer,

and former judge; Walter White, superintendent of schools; Bainbridge Colby, Secretary of State after Bryan in the Wilson administration; William Jennings Bryan Jr., a lawyer and son to William Jennings Bryan; and Charles Francis Potter, the preacher of the West Side Unitarian Church. Potter joined the prosecution as a librarian and Bible expert.

Clarence Darrow, the great lawyer from Chicago, lead Scopes' defense. Other members of the Scopes defense included John Randolph Neal, chief council and former dean of Tennessee's State law School; Arthur Garfield Hays, council to the ACLU; and Dudley Field Malone, a lawyer and good friend of Darrow's.

Dayton bore many signs of the coming attraction. J.R. Darwin's dry good store had a banner proclaiming "Darwin's Right-Inside."

Others along the street emphasized the monkey theme: "Don't monkey around when you come to Dayton—come to us" and "We handle every kind of meat except monkey."

There were other signs too: "Come to Jesus", "Prepare to meet thy maker", "Read your Bible Daily", and "Be sure your sins will find you out."

Several days before the trial peddlers moved in with novelties manufactured for the occasion: stuffed cotton monkeys, watch fobs, pennants, and a wide assortment of books and pamphlets.

Strange people, some with live monkeys, roamed the streets. T. T. Martin, white-haired secretary of the Anti-Evolution League, peddled his book, Hell in the High Schools. On the courthouse lawn a tent was set up to serve as a barbeque stand.

Bryan was met by a friendly crowd at the railroad station and escorted to the pleasant home of Richard Rogers. That night he sat beside Scopes at a banquet given by

the Dayton Progressive Club and learned that the two had attended the same school in Illinois a generation apart, and that he had been the speaker when Scopes graduated.

Darrow arrived the night before the trial. Despite stories of Tennessee's hatred for evolution and agnostics, he found townsfolk friendly. A banker opened his home to Mr. and Mrs. Darrow, and a neighbor filled the icebox with milk, cream, butter, and a juicy cantaloupe. He shed the airs of the city and was accepted easily by the Dayton people.⁷

Many reporters came and covered this breaking story. They included Adolph Ochs and the notorious H.L. Menecken. Also the Scopes Trial was to be the first time a trial was to be broadcast by radio. The radio station with this honor was WGN from Chicago.

The trial began on July 12. The jury was chosen. Of the jury, one wasn't a churchgoer. The rest of the jury consisted of six Baptists, four Methodists, and a Disciple of Christ. Three said they had never read any book except the Bible. Another, speaking softly, said he had not ready anything; he could not read. He was immediately accepted by both sides.

The judge for the trial was Judge John Tate Raulston. When not acting as a judge, he was a minister.

After the jury was completed, Judge Raulston adjourned the proceedings until Monday.

The opening days of the trial were glorious days for Bryan. Everywhere he went he was met by throngs of devoted and admiring followers. H.L. Mencken remarked: "There were many...who believed that Bryan was no longer merely human, but he had lifted himself up to some level or other of the celestial angels...It would have surprised

no one if he had suddenly begun to perform miracles...I saw plenty of his customers approach him stealthily to touch his garments...Those with whom he shook hands with were made men.”⁸

The court opened on Monday with a prayer in which a local clergyman urged God to preserve his sacred word against attack. It was a scarcely veiled plea to the jury.

The Defense filed a motion to quash the indictment on the grounds that the act violated the Constitution of the State of Tennessee and Section I of the Fourteenth Amendment of the United States, which extends the Bill of Rights to limit action by the governments of the states. The Defense argued further that the indictment was contrary to a U.S. Supreme Court decision which says: “This law knows no heresy, and is committed to the support of no dogma, nor to the establishment of any sect.” In support of this attack on the indictment, the defense declared that it wished to offer testimony of scientists and biblical scholars. These expert witnesses, the Defense contended, would show that there was no necessary conflict between evolution and Christianity. The Defense also requested that judgment to dismiss should be reserved until its witnesses had been heard. Judge Raulston ordered the argument to proceed. On the motion from the Prosecution, he sent the jury from the courtroom. Apparently the introduction of scientific witnesses had taken Bryan and associates by surprise.

That afternoon Darrow pressed for dismissal with an eloquent attack on ignorance and bigotry. He paced up and down, firing shot after shot at the prosecution. He stressed the danger to freedom of press, church, and school if men like Bryan could impose their opinions and interpretations on the law of the land.

He argued that in the U.S. there are over 500 churches and sects which differ over certain passages of the Bible. If the law were to prevail, Scopes would have to be familiar with the whole Bible and its' interpretations; among all the warring sects, he would have to know which one was right in order not to commit a crime.

Darrow said: “Your Honor, my client is here because ignorance and bigotry are rampant, and that is a might strong combination...If today you can make the teaching of evolution in the public schools a crime, tomorrow you can make it a crime to teach it in the private schools. At the next session of the Legislature you can ban books and newspapers. You can set Catholic against Protestant, and Protestant against Protestant, when you try to foist your own religion upon the minds of men. If you can do the one, you can do the other. After a while, Your Honor, we will find ourselves marching backward to the glorious days of the 16th century when bigots lighted the fagots to burn men who dared to bring any intelligence and enlightenment to the human mind.”

The speech made a profound impression. Townspeople agreed that anything could happen with that man Darrow around. Judge Raulston adjourned court until Tuesday in order that he might consider the motion to quash.⁹

When court began on Tuesday, Darrow raised an objection against opening court sessions with prayer. He said a case involving a contest between science and religion should not be subjected to influences that lay outside a court of law. The lawyers wrangled, Bryan listened, and Raulston overruled the objection, then adjourned to prepare his decision on quashing the indictment.

On his way across the courtroom lawn the judge was joined by Bill Hutchinson of INS who asked if he planned to read the decision that afternoon. Raulston replied that he

would. Hutch then asked: “Will you open court tomorrow with a prayer?” And the judge replied: “Yes.”

Obviously if the indictment were to be quashed, there would be no court on the next day. Hutch had his story: the indictment would not be quashed. By the time the judge got back from lunch, Hearst papers and other clients of the INS were on the streets in many cities proclaiming that the judge would not halt the trial.

Besieged by protesting reporters, the judge declared he would not read his decision until Wednesday and appointed a committee of correspondents to investigate “the leak.”

On Wednesday, the committee suggested that the judge forget about the incident. When he pressed for an explanation, Raulston learned that he himself had been the source of the leak. He gave Hutchinson a mild lecture on the evils of tricking judges, then read a ruling denying the move to quash the indictment.¹⁰

The law, said Raulston, did not deprive anyone of speech, though, or opinion, for no one need accept employment in Tennessee. He ruled the law constitutional, saying that the public has the right to say, by legislative act or referendum, whether Latin, chemistry, or astronomy might be taught in its schools.

The Prosecution then called the country superintendent of schools, the heads of the school board, and seven students (who had been hired by the Defense to be witnesses for the Prosecution). All testified to what Scopes had taught. Darrow limited his cross-examination to establishing simply that the State had furnished the textbook. After offering the King James version of the Bible as an exhibit, the Prosecution rested.

The first witness for the defense was Maynard Metcalf. A recognized scientist, he was also an eminent Congregational layman and teacher of one of the largest Bible classes in the country. Darrow established his competence as a witness, then asked a question on evolution. The Prosecution at once challenged the testimony as irrelevant; according to them the only question was: Did Scopes violate the law?

Raulston agreed to hear arguments on this point the next day. Meanwhile he excused the jury, with instructions not to enter the courtroom or to remain within hearing of the loudspeakers. A lot of angry jurors filed out. They had not only lost their reserved seats, but also were barred from the proceedings entirely.

Arguments over whether such testimony should be admitted finally prevented Metcalf from finishing, and at the outset of Thursday's session Stewart moved to exclude scientific testimony. He and Darrow wrangled over the motion until noon.

After lunch, Bryan took the stage for his major speech. His mind was not as sharp as it once had been, but he had not lost his intuitive sense of handling an audience. At times he forgot he was not in a Chautauqua Tent, turning his back upon the judge and facing the applause and "Amens" of his followers. At length he reached the climax of his speech: "These people come in from outside the state and force upon...this state and upon the children of the taxpayers of this state a doctrine that refutes not only their belief in God but their belief in heaven and takes from them every moral standard that the Bible gave us."

Although his memory had slipped more than once and had been discomforted by questions from Darrow, Bryan came back to his in the midst of an ovation.

Then Malone, cool and elegant, rose from among the defense attorneys. The day before, referring to Bryan's earlier "modernist views," Malone had quoted him as once having written that if God would not force man to accept certain religious views, then man should not use such means.

Now, for a second time, Malone took his attack directly to Bryan.

In twenty minutes, voice ringing with passionate appeal, Malone proceeded to take the audience away from Bryan.

"The difference between the theological mind and the scientific mind is that the theological mind is closed because that is what is revealed and settled. But the scientist says, 'No, the Bible is a book of revealed religion with rules of conduct and with aspirations—that is the Bible.' The scientists say, 'Take the Bible as an inspiration, as a setoff philosophies and preachments in the world of theology.'"

Time and again as Malone urged that teachers have the right to teach and children have the right to learn, he was interrupted by an audience whose basic sympathies were with Bryan. But at the end there was a roar of applause that spread to people listening over loudspeakers on the courthouse lawn. Even the Chattanooga policeman assigned to keep order joined in the applause, rapping his nightstick against the judge's bench.

Through the rest of the day the lawyers wrangled over precedents and abstractions, but the high spot had been passed and the trial was moving rapidly toward its tragic climax.

On Friday, Judge Raulston ruled that it was not up to the court to decide which was true, the story of creation as related in Genesis or that depicted in the theory of evolution. He declined to admit the scientific testimony, provoking an angry dispute

among attorneys during which Darrow criticized the court so caustically that the judge said:

“I hope you do not mean to reflect on the integrity of this court.”

Darrow thrust thumbs into his suspenders, glared belligerently at the judge and replied:

“Well, Your Honor has the right to hope.”

Raultson flushed and observed:

“I have the right to do something else, perhaps.”

“All right, all right,” said Darrow, turning his back defiantly on the judge and walking back to the defense table.

Every reporter with courtroom experience waited in hushed expectancy, certain that Raultson would send Darrow to jail for contempt. Instead, having ruled that the defense might introduce affidavits of what the experts would have testified if permitted, the judge adjourned court over the weekend so that these affidavits might be prepared.

During the weekend many newsmen, including Mencken, left Dayton believing that the trial was finished except for a wrap-up of details on Monday. They knew the gist of the scientific affidavits would be handled by press associations.

All through Dayton typewriters clattered as reporters tried to wrench meaning from the complex grammar in which the scientists had clothed their beliefs about evolution and religions.

All through the stay in Dayton, nothing ever seemed to dry. Fresh shirts were stuck to the body before noon. Pajamas were as moist at night as they were in the

morning. Antiperspirants were not on the market, and talcum quickly became a gooey mess.

When the trial opened again on Monday, the reporters went to the courthouse expecting a dreary day of routine proceedings. None dreamed that the day would produce high drama.

Over the weekend, Raulston had thought about Darrow's behavior of Friday, and as the first order of business he cited Darrow for contempt and fixed bail at five thousand dollars. Then he agreed that the affidavits of experts might be read into the record for the use of a higher court, and the defense spent the morning reading them.

During the noon recess defense attorneys talked Darrow into apologizing to the court, and he did this—grudgingly. The judge accepted the gesture, and the two shook hands.

At this point word came to the judge that the weight of the crowd in the courthouse was causing the plaster to fall from the ceiling below. It was feared that the building might collapse. Raulston ordered a recess and said the court would reassemble below on a platform that had been used by an evangelist.

Reporters crowded below along the edge of the platform.

In the middle of the platform a chair had been placed for the judge. At the far end was another for witnesses, and at the other end was a confused mixture of defense and prosecution attorneys.

As court resumed the crowd pressed forward. Some, standing in the sun, fanned themselves with straw hats. There was a little shade on the platform, just enough to cover the judge's chair. For lesser folk there was only the broiling sun.

It was at this point that Bryan demanded the right to testify. Here was his chance to defend his position against those he regarded as baiters of Christianity. Somewhat ponderously he crossed the platform and sat down, turning to face the spectators rather than the judge. There were cheers from the crowd, and all stretched forward expectantly.

Darrow began his questioning gently and drew from Bryan the information that he had studied the Bible for fifty years and believed events in it should be taken literally except for clearly illustrative parables. As the questions continued he related his belief that a big fish swallowed Jonah; all things were possible with God. He said that although he believed the earth goes around the sun, he accepted the statement that Joshua made the sun stand still.

The crowd responded to Bryan with cheers and loud affirmations, and the old Chautauquan turned in his chair to direct his replies to the people instead of the judge or Darrow.

Darrow came to the story of the Flood. Did Bryan believe it to be interpreted literally? When did it happen? Bryan replied that he had never made a calculation. There was quibbling, language grew stronger and more bitter, and Stewart tried to stop the hassle. The judge said it would not be fair to Bryan to stop at this point.

When Darrow returned to the question of the Flood. Bryan accepted the estimate of Bishop James Ussher, which fixed the date at 2348 B.C., and said all animals and civilizations had developed since then. He said ancient civilizations could not be older than six thousand years because that would antedate the Bible version.

But a few minutes later Bryan shocked his supporters by saying that although God had created the earth in six days, these were not necessarily twenty-four-hour days.

Exchanges grew sharper. Darrow pursued Bryan relentlessly, cruelly, shucking all shreds of pride from the man, pushing, pressing, approaching first from one side, then the other, now in a quiet voice, again in a sharper tone with a barbed question. And still the darting queries came.

Was Eve the first woman? Was she literally made of Adam's rib? That was what the Bible said, and Bryan accepted it, word for word. How did Cain get his wife? Bryan did not know.

By the time Bryan had lost his audience. There was laughter at some of his replies. He turned upon the crowd with the oratory that had served him so well through the years. But the contest went on and on, Bryan seemed to crumple, to sag and age in the heat and torture. So sharp were the daggers Darrow threw that some drew applause. In their hearts the listeners were for Bryan, but the pinpointed arguments emerging from the questions penetrated their minds.

After almost two hours both men had lost their tempers. Bryan aiming at the court and crowd, shouted: "Your Honor, I think I can shorten this testimony. The only purpose Mr. Darrow has is to slur the Bible. But I will answer his question. I will answer it all at once and I have no objection in the world. I want the world to know that this man who does not believe in a God is trying to use a court in Tennessee..."

Darrow interrupted with an objection.

"...to slur at it and while it will take time, I am willing to take it."

Darrow repeated his objection and added: "I am examining you on your fool ideas that no intelligent Christian on earth believes."

By this time Bryan had risen from the witness chair, and the two old men were glaring at each other. Raulston banged the gavel and adjourned court until the next day. The next day, Bryan hoped to get Darrow on the stand to put him through a similar examination about his agnosticism and try to recoup his losses.

Evolutionists went away saying that Darrow had won. Fundamentalists said Bryan had faced the lion and emerged with a whole skin. He still was their hero but with armor awry, helmet battered, and shield bent. Darrow had driven him to the thin edge of nothingness. Those two hours had brought Bryan the greatest humiliation of his life, worse than being beaten three times for the Presidency.

On that Monday night, Tom Stewart decided the circus must end and prepared for bringing down the curtain. He moved quickly the next morning.

Raulston expunged the record of Bryan's testimony and put the case in the hands of the jury with the charge that it not consider whether the theory of evolution ran contrary to Genesis but simply answer one question: had Scopes taught the theory?

Both Stewart and Darrow made it clear to the jury that on that question Scopes was guilty, and proceedings were hurried through so quickly that Bryan had no chance to make a parting speech. The jury voted Scopes guilty, and the judge fined him a hundred dollars.

Bryan sat quietly; he seemed to have aged years overnight.

This was Tuesday. Reporters hurried through their stories, wires were dismantled, tent stakes pulled up, and the circus left Dayton. The drama seemed finished.¹³

After the trial, Bryan stayed on in Dayton, preparing the undelivered speech for publication and keeping some speaking engagements. Sunday morning, June 26, he went

to church, then returned to the Rogers house for an enormous country dinner of the kind he loved. Then he lied down for an afternoon nap and died in his sleep. Many said he died of a broken heart. Darrow said: “Broken heart nothing; he died of a busted belly.” His doctor said he died of diabetes.

Nearly a year later, in June, 1926, Scopes’ appeal came before the State Supreme Court in Nashville. The ruling was handed down Jan. 14, 1927. It reversed Scopes’ conviction—but on the technicality that any fine more than \$50 should have been set by the jury, not the judge. The constitutionality of the Butler Act went untested.

Scopes had left Dayton soon after the trial, with a scholarship from the American Association for the Advancement of Science, to study at the University of Chicago. From there, he went to South America as an oil geologist. He joined the Roman Catholic Church and, in 1930, married a South Carolina girl. Today, with two grown sons, he works for a natural-gas company and lives in a comfortable lakeside home in Shreveport, LA.¹⁴

In 1960, Dayton held a parade in his honor and gave him the keys to the city.¹⁵

Later attempts were made to repeal the law, all failed, and in 1965 it was still on the statute books, and Mississippi and Arkansas retained similar laws.

What it comes down to is that a circus was held in Dayton. Creationists jumped through hoops and the evolutionists clowned around. Everyone applauded as the little dog, Bryan, jumped around and did his act for the pleasure of the people.

It isn’t a wonder that a play was based on the trial, Inherit the Wind, because all this case was was entertainment.

It was a way that a man's life could be fooled around with by a bunch of clowns for the amusement of everyone.

Much like most entertainment, nothing came out of it. Nothing resulted from it.

What Darrow attempted to do was to prove what P.T. Barnum said that, "there was a sucker born every minute."

Sorry, I can't end this paper. Even though Bryan and Darrow are dead, nothing was really settled. So, the case continues on.

I shall leave you with this thought:

"A fire-mist and a planet—

A crystal and a cell

A jellyfish and a saurian,

And caves where the cavemen dwell;

Then a sense of law and beauty,

And a face turned from the clod—

Some call it Evolution,

And others call it God."16

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