

# The Scopes Monkey Trial: A look back 85 years later

85 years ago, the ACLU made national headlines with its first high-profile case: the infamous Scopes “monkey” trial. In order to commemorate this occasion, the ACLU compiled information about the trial, and what happened to its central figures. The Scopes trial offers a stirring reminder of the ACLU’s mission – and the challenges we continue to face as defenders of freedom.



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## REMEMBERING THE SCOPES TRIAL



The year was 1925, and the ACLU was still a fledgling organization that had failed to make much of a splash on the national stage. Its members, a handful of passionate labor unionists, free-speech crusaders, and pacifists, had little to show for their efforts. The public seemed indifferent toward civil liberties issues, and the courts were downright hostile. All of that was about to change, thanks to the **Butler Act**, a Tennessee law that made it a crime to teach Darwin's theory of evolution in public schools. Sensing an opportunity to galvanize the public around a pivotal courtroom battle, ACLU founder **Roger Baldwin** sprang into action.

In order to challenge the Tennessee law, Baldwin first needed to find someone willing to break it. He placed an ad in the state's largest newspapers, offering to defend any teacher accused of teaching evolution in a public school. He soon heard back from **George Rappleyea**, a Dayton, Tennessee, businessman who knew just the teacher for the ACLU: a shy, young 24-year-old named **John Scopes**. Scopes had used a state-approved science textbook, which included a chapter on evolution, for his high-school biology class, and he was willing to offer himself up as the test case in the ACLU's court challenge. Meanwhile, Rappleyea had his own reasons for promoting a blow-out court battle in Dayton: the ensuing publicity would bring news reporters, tourists, and all sorts of business to his economically distressed hometown.

The ACLU knew it was in for a rough battle in rural Dayton, Tennessee, where traditional values and religious fundamentalism held sway. Their hope was to take the case all the way to the U.S. Supreme Court and force a national debate on academic freedom and the separation between church



and state.

The Scopes “monkey” trial quickly evolved into much more than a First Amendment battle. Although the ACLU had hoped to oppose the Butler Act on the grounds that it violated Scopes’ constitutionally protected right to academic freedom, the lead defense attorney, the flamboyant **Clarence Darrow**, had other ideas. Pitted against an equally colorful prosecutor, the religious fundamentalist **William**

**Jennings Bryan**, Darrow put

forth a spirited defense of evolution as science. He argued that the theory of evolution was consistent with some interpretations of scripture, and thus should not be viewed as antithetical to Christianity. Together with ACLU attorney **Arthur Garfield Hayes**, Darrow lined up experts to give scientific testimony on the validity and logic of evolution.

Meanwhile, Bryan, a former secretary of state and three-time presidential candidate, preferred to argue the case from a “majoritarian” perspective. He believed that communities had a right to make their own decisions on curriculum standards, and that on this issue the courts should butt out. In the end, however, the Scopes trial became a battle between two opposing American cultures: those who viewed Darwinism as a threat to God and traditional values, and those who regarded the anti-evolutionists as enemies of science and progress.

The news media gleefully lapped up the more incendiary confrontations, with big city reporters like **H.L. Mencken** portraying the townspeople as country bumpkins and

religious zealots. The trial reached its climax during an impassioned speech by ACLU attorney **Dudley Malone**, who lambasted the prosecution for pandering to the public's anxieties about progress. "What is this psychology of fear?" he demanded, later pleading, "For God's sake let the children have their minds kept open!" After the judge refused to allow any of the defense's expert witnesses to testify before the jury, Darrow

was permitted to call his nemesis, William Jennings Bryan, to the stand in an effort to show some of the contradictions inherent in a literal

interpretation of the Bible. The two-hour confrontation proved devastating

to Bryan, who came across as befuddled and inconsistent. At one point, Darrow explained his line of questioning, "We have the purpose to preventing bigots and ignoramuses from controlling the education of the United States."

In the end, the judge declared that the entire debate was moot. It was up to the jury to decide one simple matter: Had John Scopes broken the law when he taught evolution at his public school? It took the jury nine minutes to decide his guilt, and the judge ordered Scopes to pay a \$100 fine. The ACLU never realized its wish to see the case argued before the U.S. Supreme Court; the Tennessee Supreme Court overturned Scopes' conviction on a technicality. Nevertheless, after the Scopes trial, no one in



Tennessee had the stomach to enforce the Butler Act again, and 42 years later, the law was finally struck from the books. Subsequent laws restricting the teaching of evolution were eventually overturned as well — though the path to such victories has entailed a long slog through the courts.

Scopes' team — roundly supported by a sympathetic news media — may have lost the case, but it scored a moral victory. And it certainly fired up a large segment of the population — from parents who demanded that their children be educated in Darwinian science, to the scientific community, to teachers who resented government censorship of biology lessons. The trial also thrust the ACLU into the national spotlight, emboldening it to fight for freedom of expression and the separation between church and state. In the wake of the Scopes trial, the ACLU gained a national reputation as a powerhouse on civil liberties issues — a standing it retains to this day.

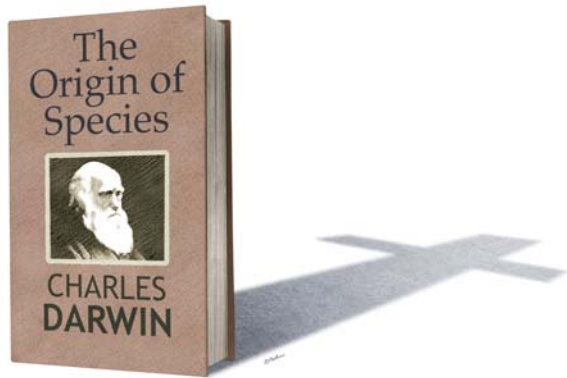
## THE BATTLE CONTINUES



One hundred and fifty years after **Charles Darwin** published his seminal work on natural selection — and nearly 85 years after the Scopes trial — America is still arguing about how, and even whether, evolution should be taught in the public schools. As it turned out, the Scopes trial was just the beginning of the ACLU's decades-long battle on behalf of academic freedom. Along the way, civil libertarians have fought off relentless — and ever-more creative — efforts by religious fundamentalists to eliminate or downplay the teaching of evolution in biology lessons, and to inject religion into science class. Below are a few of the more prominent post-Scopes battles:

- Soon after the Scopes trial ended, a flurry of anti-

evolution  
measures  
materialized  
across the  
South and  
Midwest.  
Mississippi  
and Arkansas  
enacted their  
own bills  
similar to the  
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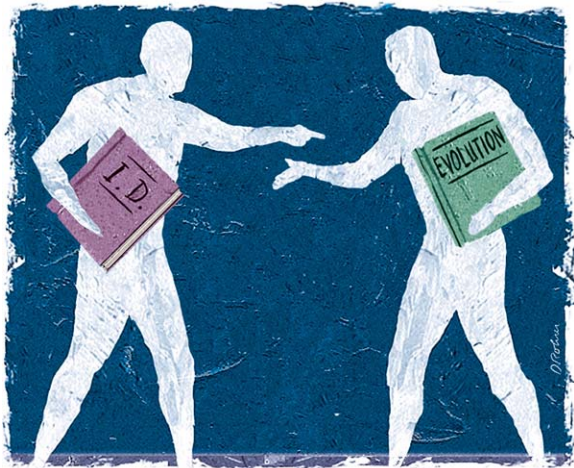


But elsewhere – in Missouri, Georgia, Florida, Texas, and 18 other states – anti-evolution laws were defeated.

- Publishers, intimidated by the fundamentalist outcry, began removing any mention of evolution from their biology textbooks. By 1941, a national survey found that only half of the nation's high school biology teachers had even mentioned evolution in their classes.
- In the 1960s, the **American Institute of Biological Science** launched a campaign to rewrite the nation's textbooks, restoring the role of evolution as a central component to all of biology.
- Finally, in 1968, the U.S. Supreme Court accepted a case challenging a 1928 Arkansas law that banned the teaching of evolution in public schools. In *Epperson v. Arkansas*, the court declared the law to be unconstitutional because it violated the establishment clause of the First Amendment – in other words, it ultimately served a religious purpose. With that pivotal decision, creationists had to give up on trying to ban evolution outright. Their new strategy: to demand equal time in the classroom for both evolution and creationism.

- In the early 1980s, Arkansas and Louisiana passed so-called “balanced treatment” statutes that required creationism to be taught alongside evolution. Both statutes were challenged in the courts, and in 1982, the Arkansas law was struck down on the grounds that it violated the Establishment Clause. Five years later, in *Edwards v. Aguillard*, the U.S. Supreme Court ruled in favor of the ACLU by declaring unconstitutional the Louisiana law – a decision which effectively put an end to teaching creationism in public school science classes.

- Instead of trying to fight for creationism in the courts and legislature, religious groups devised a new strategy: to make curriculum changes through local



- school boards and textbook selection committees – and to advocate for the teaching of “intelligent design,” a more scientific-sounding version of creationism. Intelligent design simply states that living systems are too complex to have evolved through natural selection, and instead must have been designed by an outside force, most likely God.
- In 2004, the Dover, Pennsylvania, school board voted to include a description of intelligent design in its high school biology curriculum. Teachers were also required

to read a lengthy disclaimer to their students about Darwinian evolution, pointing out that evolution is a “theory” that suffers from “gaps” in



evidence. Teachers further had to explain that intelligent design offers a competing explanation of the origin of life. The following year, the district court struck down the new requirement, ruling that “intelligent design” is not a science but a “religious argument” related to creationism.

- In 2002, the **Ohio State School Board** approved a plan that opened the door to teaching intelligent design in Ohio's schools, but in February 2006, after the Dover decision, the state school board rescinded the lesson plan, “Critical Analysis of Evolution.” **Governor Ted Strickland**, who took office in 2007, and several state school board members have publicly expressed their disapproval of the concept of intelligent design. Nonetheless, some teachers admit to including intelligent design in their lessons. In 2006, the ACLU sent a letter to the **Toledo Public Schools** superintendent after news reports that teachers were presenting intelligent design as part of their science curriculum.

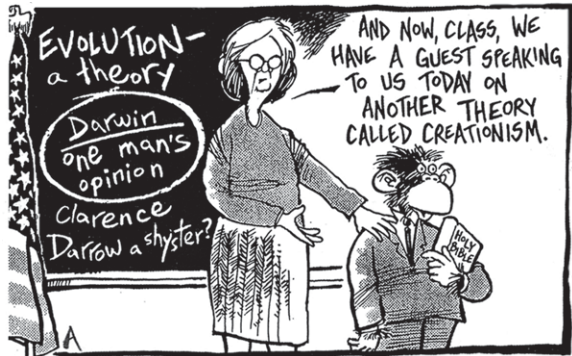
Although science has ultimately prevailed in the above cases, the controversy has taken a damaging toll on our country's science literacy. According to a 2009 Gallup poll, only 39 percent of Americans believe in evolution.



## THE DAWN OF ANTI-DARWINISM



Surprisingly, in Darwin's day the American public had little interest in debating the merits and morality of natural selection. Most Americans, including clergy and scientists, managed



to reconcile natural selection with their own religious faith. When the subject was debated, it was primarily among a rarified group of theologians, rather than within the general population.

All of that began to change, however, with the growth of fundamentalism during the turn of the century. By the time of the Scopes trial, much of Protestant America was divided into two camps: the theologically liberal “modernists,” and the conservative evangelicals. The liberal wing regarded new scientific theories – like those set forth by Freud, Darwin, Einstein and Marx – as compatible with religious doctrine; they embraced scientific advances and tried to assimilate new ideas into their theological world view. Evangelicals, by contrast, tended to view such thinkers as a threat to Christian faith and morality, in part because their ideas appeared to conflict with a literal interpretation of the Bible.

Fundamentalists soon began to organize around their collective mistrust of modern science, and, increasingly, their battleground was the classroom, where evolution was beginning to be taught. Spurred on by anti-evolutionists like William Jennings Bryan and the Chicago missionary Dwight L. Moody, the schism between the two religious camps grew wider, culminating in the passage of controversial legislation like the Butler Act, the law at the center of the Scopes trial.

## INHERIT THE WIND A CAUTIONARY TALE



When the Ohio playwrights **Jerome Lawrence** and **Robert E. Lee** wrote *Inherit the Wind* in 1955, they weren't just thinking about the famous Scopes trial, on which the play is based. Rather, they saw chilling parallels between the anti-evolution campaign of the 1920s and the anti-communist hysteria of their own day. Both movements involved government efforts to stifle intellectual freedom, and both exploited fear and distrust in the public. Like the grandiose fictional prosecutor in the play, **Senator McCarthy** regarded intellectual curiosity and free thinking as threats to social order. And ultimately, both figures were done in by their own hubris.

The authors were deliberately vague about when the events of their play took place, noting: "It might have been yesterday. It could be tomorrow." Indeed, the themes they explored were timeless. Nearly 55 years after the play's publication, the battle for intellectual freedom continues unabated. And all too often, those who seek to expose truth must do so in a climate of fear and intimidation.

## WHATEVER HAPPENED TO...?



*Inherit the Wind* brought renewed attention to the Scopes "Monkey" Trial. But few Americans kept track of the key players after the case wrapped up. Here's a roundup of the names behind the headlines:

**William Jennings Bryan:** Less than a week after the Scopes trial ended, Bryan died unexpectedly in his sleep. Though he remained a hero to many, his national reputation was severely damaged by his widely reported blunders on the witness stand. What is often forgotten about this gifted

orator with the “common touch” is that he unified the Democratic Party and fought hard for many liberal and populist causes, speaking out on behalf of laborers and farmers. In the end, though, his divisive positions on evolution and academic freedom alienated many former allies and tarnished his legacy.

**Clarence Darrow:** After his fiery performance in the Scopes trial, Darrow teamed up once again with ACLU attorney

**Arthur Garfield Hays** to successfully defend a black Detroit doctor who had been charged with murder when a white mob attacked his home. In 1932, financially ruined by the Great Depression, Darrow came out of retirement for his final, headline-grabbing trial: a racially charged case in which he defended two upper-class white plaintiffs for their role in the “honor killing” of a dark-skinned Hawaiian man.



As with his defense of Scopes and, earlier, the “thrill killers” Leopold and Loeb, Darrow captivated the nation with his controversial legal arguments. He died in Chicago in 1938.

**Dudley Field Malone:** The ACLU civil rights lawyer, whose Scopes speech so electrified the public, returned to his former practice as a divorce attorney. When his business began to fail in the 1930s, he switched careers and became an actor. His most famous role was as Sir Winston Churchill



in the 1943 film *Mission to Moscow*, which was later targeted by the House Committee on Un-American Activities. Malone died in 1950.

**John Scopes:** After the trial, Scopes left teaching and became a geologist, taking a job at an oil company in Louisiana. As it turned out, Scopes may never have actually taught the evolution lesson for which he was prosecuted in Tennessee; he told a reporter that he had skipped the section of his textbook that covered natural selection. Nevertheless, when asked later if he had any regrets about the case, Scopes replied, "...my decision would be the same as it was in 1925. I would go home and think about it. I would sleep on it. And the next day I would do it again." In 1967, three years before his death, Scopes published *Center of the Storm*, a memoir about the epic trial.

**H.L. Mencken:** His cleverly crafted reportage about the Scopes trial (which Mencken famously dubbed "the Monkey Trial") helped to make this Baltimore journalist and social critic a household name. An unrepentant elitist, Mencken had no patience for fundamentalist Christians, sham science, and ignorance. When Bryan died shortly after the trial, Mencken privately commented, "Well, we killed the son of a bitch." A year later, aided by ACLU lawyer and Scopes alum Arthur Garfield Hays, Mencken had himself arrested in Boston for selling a banned copy of his magazine, *American Mercury*. He continued to incite controversy as a writer and satirist until 1948, when he suffered a debilitating stroke. He died in 1956.

**Dayton, Tennessee:** The small town of Dayton was as much a character in the trial's unfolding story as any human being. After suffering the derision of urban news reporters, who dismissed the sleepy hamlet as an ignorant backwater, Dayton endured further disappointment: Town boosters had hoped the trial would invigorate Dayton's sluggish economy,

but business petered out as soon as the throngs of spectators left. Today, however, Dayton again draws crowds with an annual festival celebrating the 1925 Scopes trial. Among the many popular landmarks: the restored Rhea County Courthouse, where Darrow and Bryan traded jibes; the Luke Morgan home, where Darrow and his wife Ruby stayed; Robinson's Drug Store, where Dayton's businessmen first concocted their scheme to bring the trial to their hometown; and Bryan College, founded in 1930 in honor of William Jennings Bryan. And, just outside Dayton, tourists can visit the current home of many Scopes participants – the Buttram Cemetery.

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For more information contact:

ACLU of Ohio

4506 Chester Avenue

Cleveland, OH 44103

216.472.2200

[contact@acluohio.org](mailto:contact@acluohio.org)

[www.acluohio.org](http://www.acluohio.org)

