

PART ONE

Introduction: The Scopes Trial and the Birth of Modern America

The only real victors in the Scopes antievolution trial of 1925 were the monkeys. As the state of Tennessee prepared to indict a schoolteacher, John Scopes, for violating a new law against teaching evolution, it seemed that everyone in the South who owned a monkey converged on the site of the trial in Dayton, Tennessee, to offer the pet as an exhibit for the prosecution or defense, to pose for reporters, or to parade the primate down Main Street. Most conspicuously, promoters brought Joe Mendi, the "\$100,000 chimpanzee with the Intelligence of a Five-Year Old Child," from New York to tour Dayton and appear in his tailored suit at the sold-out Princess Theater in neighboring Nashville. "Take a look at 'Joe,'" advised his managers in advertisements throughout the region. "Every man has a perfect right to decide for himself as to whether his 'family tree' bore cocoanuts or not." Elsewhere in the South, zookeepers contended with record crowds as men, women, and children elbowed in to inspect their purported primate relatives. The Glendale Zoo in Nashville, for example, reported a 50 percent jump in attendance in the weeks leading up to the July trial. And by the time the Scopes trial began, Dayton flappers, young women who flouted convention, had launched a short-lived fashion trend for shoulder wraps made of toy monkeys.¹ If monkeys

¹*Nashville Tennessean*, 14 June 1925, 9; *Nashville Banner*, 13 June 1925, 1; *Nashville Tennessean*, 11 July 1925, 5.

had not evolved by the time of the Scopes trial, they had at least ascended.

The trial went less well for the humans. The celebrity attorney for the prosecution, William Jennings Bryan, a three-time Democratic candidate for president, began the trial with a reputation as one of the nation's great reformers but by the end found himself branded an ignorant bigot. On the defense, Clarence Darrow came down to Dayton fresh from saving two notorious killers from the electric chair, but he was unable to prevent John Scopes's conviction on a mere misdemeanor and later found himself outfoxed on the appeal. And the leading citizens of Dayton, who had launched the trial as a way to gain favorable publicity for their town, instead heard the name "Dayton" transformed into a synonym for backwardness and religious fanaticism. Such ironies seemed to proliferate in the fertile Tennessee soil.

In a decade that gave birth to the phrase "trial of the century" and then immediately overworked the expression into a cliché, the Scopes trial nevertheless stood out. Nearly 200 journalists from throughout the United States and abroad filed on the order of 135,000 words daily during the trial. One sociologist estimated that the reportage would fill 3,000 volumes of 300 pages apiece. Every day, newsreel crews sent out miles of film from Dayton, and a Chicago newspaper created history's first radio network hookup to broadcast the trial to a waiting nation. To be sure, some of this interest was aroused by a lack of competing news—one front-page story about Calvin Coolidge on the eve of the trial bore the headline "President, Weary of Loafing, Looks for Something to Do"—but Americans also recognized that the Scopes trial raised critical questions for society in the 1920s, and it raised them with grand drama.²

The case erupted out of tectonic shifts in American culture. Millions of Americans in the 1920s were in revolt against the dominant Victorian morality and took their moral cues from advertising, Hollywood, scientists, and intellectuals rather than from the nation's Protestant establishment. In the vanguard of the revolt was the so-called New Woman, the model of the educated, independent feminist who repudiated the sexual morality of the past. The antievolution movement derived much of its moral fervor from the conviction that Darwinism was partly responsible for these Jazz Age rebellions. This war between the old culture and the new was also bound up with a grow-

²Howard Odum, "Editorial Notes," *Social Forces*, Sept. 1925, 190; *Baltimore Sun*, 3 July 1925, 1.

ing split between an older rural America and the nation's burgeoning cities, for the new culture was very much a product of city life. The antievolution movement was in many ways an expression of rural resentment toward the rise of the city. Further, in a way that is perhaps difficult to see today, when regional variations in the United States have been mostly ironed flat, the Scopes trial exposed a deep cleavage between the more traditional American South and a North that was rapidly growing more urban and diverse. Finally, even as the nation's religious leaders fretted about their loss of influence in the Jazz Age, their churches were shaking with a clash between theological liberals and a rising movement of fundamentalist Protestants—a war waged in part on the battleground of evolution. Culture, urbanism, regionalism, religion—all of these issues became entangled in the struggle over evolution at Dayton, Tennessee.

EVOLUTION BEFORE THE 1920s

Although the culture clash of the 1920s was the proximate cause of the Scopes trial, the ultimate cause, or primary mover, was Charles Darwin's publication in 1859 of *On the Origin of Species by Means of Natural Selection, or the Preservation of Favored Races in the Struggle for Life*. In this masterpiece of empirical observation and hypothetical deduction, the English naturalist wrought a revolution in science and helped touch off a radical revision in the status and content of Christianity. In a sense, Darwin and all he represented would sit next to Scopes in the courtroom at Dayton.

Scientifically, *Origin of Species* provided a powerful framework for explaining phenomena that had puzzled scientists for generations, particularly the exceptional diversity of living organisms and the history of life in the fossil record. Although some natural scientists during the early nineteenth century accepted that life on earth had existed for perhaps millions of years, they were prevented from developing greater insight into organic development by the general belief that species were fixed for all time, so that any variation within a species constituted merely a deviation from the species' "ideal form." Thus, natural scientists could attribute the appearance of new species in the fossil record only to separate, divine creations. A trilobite, in other words, was always a trilobite, and if a paleontologist discovered a trilobite fossil with twelve segments rather than eleven, that represented either an accidental deviation from the "true" trilobite form or

Malone: No. I would say to base a theory set forth in any version of the Bible to be taught in the public school is an invasion of the rights of the citizen, whether exercised by the police power or by the legislature.

Stewart: Because it imposes a religious opinion?

Malone: Because it imposes a religious opinion, yes. What I mean is this: if there be in the state of Tennessee a single child or young man or young woman in your school who is a Jew, to impose [on] any course of science a particular view of creation from the Bible is interfering, from our point of view, with his civil rights under our theory of the case. That is our contention.

Stewart: Mr. Malone, could not he go to school on Friday and study what is given him by the public school; then on Sunday study his Bible?

Malone: No, he should be given the same right in his views and his rights should not be interfered with by any other doctrine.

Stewart: It is not an invasion of a man's religious rights. He can go to church on Sunday or any other day that there might be a meeting, and worship according to the dictates of his conscience. It is not an invasion of a man's religious liberty or an invasion of a man's religious right. That question cannot determine this act. It is a question of the exercise of the police power. That is what it is, and nothing else, and if they undertake to pass an act to state you shall not teach a certain Bible or theory of anything in your churches, an invasion of a private or civil act, then, according to my conception of this, it might interfere with this provision of the Constitution. But this is the authority, on the part of the legislature of the state of Tennessee, to direct the expenditure of the school funds of the state, and through this act to require that the money shall not be spent in the teaching of the theories that conflict or contravene the Bible story of man's creation. It is an effort on the part of the legislature to control and direct the expenditure of state funds, which they have the right to do. It is an effort on the part of the legislature to control the public school system, which they have the right to do.

...

Stewart (cont.): Now this assignment under freedom of speech.... Under that question, I say, Mr. Scopes might have taken his stand on the street corners and expounded until he became hoarse as a result of his effort and we could not interfere with him; but he can-

not go into the public schools, or a schoolhouse, which is controlled by the legislature and supported by the public funds of the state and teach this theory. Under the exercise of the police power, we should have a right to object to it. The legislature has a right to control that.

...

Now, what is the difference? If the state has a right in the exercise of its police power to say you cannot teach Wentworth's *Arithmetic* or Fry's *Geography*, it has the same right to say you cannot teach any theory that denies the divine creation of man. That is true because the legislature is the judge of what shall be taught in the public schools.... They have a right to say and no one else has a right to say, and I say, your Honor, that in the passage of this act the legislature abused no discretion, but used only the reasonable means at hand.

...

Darrow's Major Speech in Defense of Religious Liberty

(Transcript)

Darrow began by arguing that the guarantees of religious worship in the Tennessee Constitution protected teachers even against the will of the majority acting through the legislature. Although his ostensible purpose was to underline the unconstitutionality of the Butler Act, Darrow also seized the opportunity to lay out a philosophical defense of religious liberty in a diverse society. What were Darrow's legal objections to the Butler law? Were they consistent with his philosophical objections? Why did Darrow consider the Butler law to be so dangerous?

Darrow: I know my friend, McKenzie, whom I have learned not only to admire, but to love in our short acquaintance, didn't mean anything in referring to us lawyers who come from out of town. For myself, I have been treated with the greatest courtesy by the attorneys and the community.

The Court: No talking, please, in the courtroom.

Darrow: And I shall always remember that this court is the first one that ever gave me a great title of "Colonel" and I hope it will stick to me when I get back north.

The Court: I want you to take it back to your home with you, Colonel.

Darrow: That is what I am trying to do.

But, so far as coming from other cities is concerned, why, your Honor, it is easy here. I came from Chicago, and my friend, Malone, and friend Hays came from New York, and on the other side we have a distinguished and very pleasant gentleman who came from California and another who is prosecuting this case, and who is responsible for this foolish, mischievous, and wicked act, who comes from Florida.²

This case we have to argue is a case at law, and hard as it is for me to bring my mind to conceive it, almost impossible as it is to put my mind back into the sixteenth century, I am going to argue as if it was serious, and as if it was a death struggle between two civilizations.

Let us see, now, what there is about it. We have been informed that the legislature has the right to prescribe the course of study in the public schools. Within reason, they no doubt have, no doubt. They could not prescribe it, I am inclined to think, under your Constitution, if it omitted arithmetic and geography and writing, neither under the rest of the Constitution if it shall remain in force in the state, could they prescribe it if the course of study was only to teach religion, because several hundred years ago, when our people believed in freedom, and when no man felt so sure of their own sophistry that they were willing to send a man to jail who did not believe them, the people of Tennessee adopted a constitution, and they made it broad and plain, and said that the people of Tennessee should always enjoy religious freedom in its broadest terms. So I assume that no legislature could fix a course of study which violated that. For instance, suppose the legislature should say, "We think the religious privileges and duties of the citizens of Tennessee are much more important than education; we agree with the distinguished governor of the state, if religion must go, or learning must go, why, let learning go." I do not know how much it would

²A dig at William Jennings Bryan Jr., who had taken leave from his law practice in California to aid the prosecution, and at William Jennings Bryan himself, who had recently relocated from Nebraska to Florida.

have to go, but let it go. "And therefore we will establish a course in the public schools of teaching that the Christian religion as unfolded in the Bible is true, and that every other religion, or mode or system of ethics is false, and to carry that out, no person in the public schools shall be permitted to read or hear anything except Genesis, *Pilgrim's Progress*, Baxter's *Saint Rest*, and *In His Image*." Would that be constitutional? If it is, the Constitution is a lie and a snare and the people have forgot what liberty means.

I remember long ago, Mr. Bancroft³ wrote this sentence, which is true: "That it is all right to preserve freedom in constitutions, but when the spirit of freedom has fled from the hearts of the people, then its matter is easily sacrificed under law." And so it is. Unless there is left enough of the spirit of freedom in the state of Tennessee, and in the United States, there is not a single line of any constitution that can withstand bigotry and ignorance when it seeks to destroy the rights of the individual; and bigotry and ignorance are ever active. Here, we find today as brazen and as bold an attempt to destroy learning as was ever made in the middle ages, and the only difference is we have not provided that they shall be burned at the stake, but there is time for that, your Honor. We have to approach these things gradually.

Now, let us see what we claim with reference to this law. If this proceeding both in form and substance can prevail in this court, then your Honor, no law—no matter how foolish, wicked, ambiguous, or ancient—but can come back to Tennessee. All the guarantees go for nothing. All of the past has gone, will be forgotten, if this can succeed.

Darrow (cont.): Now, as to the statute itself. It is full of weird, strange, impossible and imaginary provisions. . . . It says you shan't teach any theory of the origin of man that is contrary to the divine theory contained in the Bible. Now let us pass up the word "divine"! No legislature is strong enough in any state in the Union to characterize and pick any book as being divine. Let us take it as it is. What is the Bible? Your Honor, I have read it myself. I might read it more or less wisely. Others may understand it better. Others may think they understand it better when they do not. But in a general way I know what it is. I know there are millions of people who look

³American historian George Bancroft (1800–1891).

on it as a divine book, and I have not the slightest objection to it. I know there are millions of people in the world who derive consolation in their times of trouble and solace in times of distress from the Bible. I would be pretty near the last one in the world to do anything or take any action to take it away. I feel just exactly the same toward the religious creed of every human being who lives. If anybody finds anything in this life that brings them consolation and health and happiness, I think they ought to have it whatever they get. I haven't any fault to find with them at all. But what is it? The Bible is not one book. The Bible is made up of 66 books written over a period of about 1,000 years, some of them very early and some of them comparatively late. It is a book primarily of religion and morals. It is not a book of science. Never was and was never meant to be. Under it there is nothing prescribed that would tell you how to build a railroad or a steamboat or to make anything that would advance civilization. It is not a textbook or a text on chemistry. It is not big enough to be. It is not a book on geology; they knew nothing about geology. It is not a book on biology; they knew nothing about it. It is not a work on evolution; that is a mystery. . . . There are no doubt certain primitive, elemental instincts in the organs of man that remain the same; he finds out what he can and yearns to know more and he supplements his knowledge with hope and faith. That is the province of religion and I haven't the slightest fault to find with it. Not the slightest in the world. . . .

Let's see now. Can your Honor tell what is given as the origin of man as shown in the Bible? Is there any human being who can tell us? There are two conflicting accounts in the first two chapters. There are scattered all through it various acts and ideas, but to pass that up for the sake of argument, no teacher in any school in the state of Tennessee can know that he is violating a law, but must test every one of its doctrines by the Bible, must he not? . . .

[The law] does not specify what you cannot teach, but says you cannot teach anything that conflicts with the Bible. Then just imagine making a criminal code that is so uncertain and impossible that every man must be sure that he has read everything in the Bible and not only read it but understands it, or he might violate the criminal code. Who is the chief mogul that can tell us what the Bible means? He or they should write a book and make it plain and distinct, so we would know. Let us look at it. There are in America

at least 500 different sects or churches, all of which quarrel with each other over the importance and nonimportance of certain things or the construction of certain passages. All along the line they do not agree among themselves and cannot agree among themselves. They never have and probably never will. There is a great division between the Catholics and the Protestants. There is such a disagreement that my client, who is a schoolteacher, not only must know the subject he is teaching, but he must know everything about the Bible in reference to evolution. And he must be sure that he expresses his right or else some fellow will come along here, more ignorant perhaps than he and say, "You made a bad guess and I think you have committed a crime." No criminal statute can rest that way.

. . .

Darrow (cont.): If this section of the constitution which guarantees religious liberty in Tennessee cannot be sustained in the spirit, it cannot be sustained in the letter. What does it mean? What does it mean? I know two intelligent people can agree only for a little distance, like a company walking along in a road. They may go together a few blocks and then one branches off. The remainder go together a few more blocks and another branches off and still further someone else branches off, and the human minds are just that way, provided they are free, of course. The fundamentalists may be put in a trap so they cannot think differently if at all, probably not at all, but leave two free minds and they may go together a certain distance but not all the way together. There are no two human machines alike and no two human beings have the same experiences and their ideas of life and philosophy grow out of their construction of the experiences that we meet on our journey through life. It is impossible, if you leave freedom in the world, to mold the opinions of one man upon the opinions of another—only tyranny can do it—and your constitutional provision, providing a freedom of religion, was meant to meet that emergency. . . .

There is nothing else, your Honor, that has caused the difference of opinion, of bitterness, of hatred, of war, of cruelty, that religion has caused. With that, of course, it has given consolation to millions. But it is one of those particular things that should be left solely between the individual and his Maker, or his God, or whatever takes expression with him, and it is no one else's concern. . . .

It was meant by the constitutional convention of Tennessee to leave these questions of religion between man and whatever he worshiped, to leave him free.

...

Your life and my life and the life of every American citizen depends after all upon the tolerance and forbearance of his fellow-man. If men are not tolerant, if men cannot respect each other's opinions, if men cannot live and let live, then no man's life is safe, no man's life is safe.

Here is a country made up of Englishmen, Irishmen, Scotch, German, Europeans, Asiatics, Africans, men of every sort and men of every creed and men of every scientific belief. Who is going to begin this sorting out and say, "I shall measure you; I know you are a fool, or worse; I know and I have read a creed telling what I know and I will make people go to heaven even if they don't want to go with me, I will make them do it." Where is the man wise enough to do it?

To strangle puppies is good when they grow up into mad dogs, maybe. I will tell you what is going to happen, and I do not pretend to be a prophet, but I do not need to be a prophet to know. Your Honor knows the fires that have been lighted in America to kindle religious bigotry and hate. . . . 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 husbands or in the church. At the next session you may ban books and the newspapers. Soon you may set Catholic against Protestant and Protestant against Protestant, and try to foist your own religion upon the minds of men. If you can do one you can do the other. Ignorance and fanaticism is ever busy and needs feeding. Always it is feeding and gloating for more. Today it is the public school teachers, tomorrow the private. The next day the preachers and the lecturers, the magazines, the books, the newspapers. After a while, your Honor, it is the setting of man against man and creed against creed until with flying banners and beating drums we are marching backward to the glorious ages of the sixteenth century, when bigots lighted fagots to burn the men who dared to bring any intelligence and enlightenment and culture to the human mind.

(Court adjourned for the day.)

H. L. MENCKEN

Darrow's Speech Great but Futile

July 14, 1925

Henry Louis Mencken (1880-1956), a reporter and free-ranging intellectual from Baltimore, had been gaining fame before the 1920s as a caustic commentator on American social life, but his national reputation blossomed with his reportage from Dayton.

The net effect of Clarence Darrow's great speech yesterday seems to be precisely the same as if he had bawled it up a rainspout in the interior of Afghanistan. That is, locally, upon the process against the infidel Scopes, upon the so-called minds of these fundamentalists of upland Tennessee. You have but a dim notion of it who have only read it. It was not designed for reading, but for hearing. The clangtint [sound or timbre] of it was as important as the logic. It rose like a wind and ended like a flourish of bugles. The very judge on the bench, toward the end of it, began to look uneasy. But the morons in the audience, when it was over, simply hissed it.

During the whole time of its delivery the old mountebank, Bryan, sat tightlipped and unmoved. There is, of course, no reason why it should have shaken him. He has these hill billies locked up in his pen and he knows it. His brand is on them.

H. L. Mencken, "Darrow's Speech Great but Futile," *Baltimore Evening Sun*, 14 July 1925, 1.

The Court: That God created Adam first as a complete man, did not create a single cell of life.

Gen. McKenzie: That is right.

The Court: The cell of life did not develop in time.

Gen. McKenzie: That is right, and man did not descend from a lower order of animals that originated in the sea and then turned from one animal to another and finally man's head shot up.

...

Now, if your Honor please, as said a minute ago, they don't want to destroy that account.

The Court: They want to reconcile—

Gen. McKenzie: They are seeking to reconcile it, if your Honor please, and come right along and prove by the mouth of their scientist that when he said God created man in his own image, in his own image created he him out of the dust of the ground and blew into him the breath of life, and he became as a living creature, they want to put words into God's mouth, and have him to say that he issued some sort of protoplasm, or soft dish rag, and put it in the ocean and said, "Old boy, if you wait around about 6,000 years, I will make something out of you." (Laughter.) And they tell me there is no ambiguity about that.

...

William Jennings Bryan's First Speech

(Transcript)

After sitting in silence during the first four days of the trial, Bryan spoke at length against admitting expert testimony. He dwelled less on the wording of the law than on the general principle that a small minority of experts—especially experts who lacked Christian faith—did not have the right to tell a large majority of Tennesseans what to believe. Echoing the speeches he had been giving in public in recent years, Bryan mocked the theory of evolution and warned that it threatened belief in the Bible as the revealed word of God. In the end, Bryan argued that one who accepted the word of God was more of an expert on the Bible than any academic investigator who lacked faith. Trace the structure of Bryan's

speech. Which of his arguments seems most convincing? What was the nature of Bryan's appeal to the public? Why did he consider the defense's arguments to be dangerous?

William Jennings Bryan (p): If the court please we are now approaching the end of the first week of this trial and I haven't thought it proper until this time to take part in the discussions that have been dealing with phases of this question, or case, where the state laws and the state rules of practice were under discussion and I feel that those who are versed in the law of the state and who are used to the customs of the court might better take the burden of the case, but today we come to the discussion of a very important part of this case, a question so important that upon its decision will determine the length of this trial. If the court holds, as we believe the court should hold, that the testimony that the defense is now offering is not competent and not proper testimony, then I assume we are near the end of this trial and because the question involved is not confined to local questions, but is the broadest that will possibly arise, I have felt justified in submitting my views on the case for the consideration of the court. I have been tempted to speak at former times, but I have been able to withstand the temptation. I have been drawn into the case by, I think, nearly all the lawyers on the other side. The principal attorney has often suggested that I am the archconspirator and that I am responsible for the presence of this case and I have almost been credited with leadership of the ignorance and bigotry which he thinks could alone inspire a law like this. . . .

Mr. Hays says that before he got here he read that I said this was to be a duel to the death, between science—was it?—and revealed religion. I don't know who the other duelist was, but I was representing one of them and because of that they went to the trouble and the expense of several thousand dollars to bring down their witnesses. Well, my friend, if you said that this was important enough to be regarded as a duel between two great ideas or groups I certainly will be given credit for foreseeing what I could not then know, and that is that this question is so important between religion and irreligion that even the invoking of the divine blessing upon it might seem partisan and partial.

...

We do not need any expert to tell us what that law means. An expert cannot be permitted to come in here and try to defeat the enforcement of a law by testifying that it isn't a bad law and it isn't—I mean a bad doctrine—no matter how these people phrase the doctrine—no matter how they eulogize it. This is not the place to try to prove that the law ought never to have been passed. The place to prove that, or teach that, was to the legislature. If these people were so anxious to keep the state of Tennessee from disgracing itself, if they were so afraid that by this action taken by the legislature, the state would put itself before the people of the nation as ignorant people and bigoted people—if they had half the affection for Tennessee that you would think they had as they come here to testify, they would have come at a time when their testimony would have been valuable and not at this time to ask you to refuse to enforce a law because they did not think the law ought to have been passed.

And, my friends, if the people of Tennessee were to go into a state like New York—the one from which this impulse comes to resist this law, or go into any state—if they went into any state and tried to convince the people that a law they had passed ought not to be enforced just because the people who went there didn't think it ought to have been passed, don't you think it would be resented as an impertinence? They passed a law up in New York repealing the enforcement of prohibition. Suppose the people of Tennessee had sent attorneys up there to fight that law, or to oppose it after it was passed, and experts to testify how good a thing prohibition is to New York and to the nation, I wonder if there would have been any lack of determination in the papers in speaking out against the offensiveness of such testimony. The people of this state passed this law, the people of this state knew what they were doing when they passed the law, and they knew the dangers of the doctrine—that they did not want it taught to their children, and my friends, it isn't—your Honor, it isn't proper to bring experts in here to try to defeat the purpose of the people of this state by trying to show that this thing that they denounce and outlaw is a beautiful thing that everybody ought to believe in. . . . These people want to come here with experts to make your Honor believe that the law should never have been passed and because in their opinion it ought not to have been passed, it ought not to be enforced. It isn't a place for expert testimony. We have sufficient proof in the book—doesn't the book

state the very thing that is objected to, and outlawed in this state?

Who has a copy of that book?

The Court: Do you mean the Bible?

Bryan: No, sir; the biology.

(Laughter in the courtroom.)

A Voice: Here it is; Hunter's *Biology*.

Bryan: No, not the Bible, you see in this state they cannot teach the Bible.² They can only teach things that declare it to be a lie, according to the learned counsel. These people in the state—Christian people—have tied their hands by their Constitution. They say we all believe in the Bible for it is the overwhelming belief in the state, but we will not teach that Bible which we believe even to our children through teachers that we pay with our money. No, no, it isn't the teaching of the Bible, and we are not asking it. 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?

...

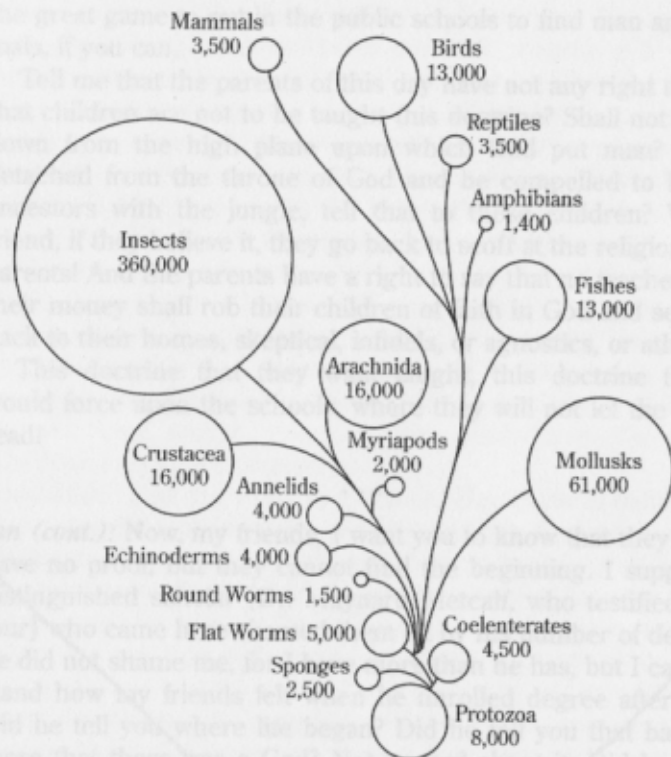
So, my friends, if that were true, if man and monkey were in the same class, called primates, it would mean they did not come up from the same order. It might mean that instead of one being the ancestor of the other they were all cousins. But it does not mean that they did not come from the lower animals, if this is the only place they could come from, and the Christian believes man came from above, but the evolutionist believes he must have come from below.

(Laughter in the courtroom.)

And that is from a lower order of animals.

Your Honor, I want to show you that we have evidence enough here, we do not need any experts to come in here and tell us about this thing. Here we have Mr. Hunter. Mr. Hunter is the author of this biology and this is the man who wrote the book Mr. Scopes

²Bryan exaggerated slightly. Tennessee law had for the previous decade provided for daily Bible readings in the public schools.



Evolutionary tree from Hunter, *A Civic Biology*. William Jennings Bryan complained that such illustrations did not differentiate sufficiently between humans and other creatures.

was teaching. And here we have the diagram. Has the court seen this diagram?

The Court: No, sir, I have not.

Bryan: Well, you must see it (handing book to the court).

(Laughter in the courtroom.)

On page 194—I take it for granted that counsel for the defense have examined it carefully?

Darrow: We have examined it.

Bryan: On page 194, we have a diagram [shown above], and this diagram purports to give someone's family tree. Not only his ancestors but his collateral relatives. We are told just how many animal species there are, 518,900. And in this diagram, beginning with pro-

tozoa we have the animals classified. We have circles differing in size according to the number of species in them and we have the guess that they give.

Of course, it is only a guess, and I don't suppose it is carried to a one or even to ten. I see they are round numbers, and I don't think all of these animals breed in round numbers, and so I think it must be a generalization of them.

(Laughter in the courtroom.)

The Court: Let us have order.

Bryan: 8,000 protozoa, 3,500 sponges. I am satisfied from some I have seen there must be more than 35,000 sponges.

(Laughter in the courtroom.)

And then we run down to the insects, 360,000 insects. Two-thirds of all the species of all the animal world are insects. And sometimes, in the summer time we feel that we become intimately acquainted with them. A large percentage of the species are mollusks and fishes. Now, we are getting up near our kinfolks, 13,000 fishes. Then there are the amphibia. I don't know whether they have not yet decided to come out, or have almost decided to go back.

(Laughter in the courtroom.)

But they seem to be somewhat at home in both elements. And then we have the reptiles, 3,500; and then we have 13,000 birds. Strange that this should be exactly the same as the number of fishes, round numbers. And then we have mammals, 3,500, and there is a little circle and man is in the circle, find him, find man.

There is that book! There is the book they were teaching your children that man was a mammal and so indistinguishable among the mammals that they leave him there with thirty-four hundred and ninety-nine other mammals.

(Laughter and applause.)

Including elephants?

Talk about putting Daniel in the lion's den! How dare those scientists put man in a little ring like that with lions and tigers and everything that is bad! Not only the evolution is possible, but the scientists possibly think of shutting man up in a little circle like that with all these animals, that have an odor, that extends beyond the circumference of this circle, my friends.

(Extended laughter.)

He tells the children to copy this, copy this diagram. In the notebook, children are to copy this diagram and take it home in their notebooks. To show their parents that you cannot find man. That is

the great game to put in the public schools to find man among animals, if you can.

Tell me that the parents of this day have not any right to declare that children are not to be taught this doctrine? Shall not be taken down from the high plane upon which God put man? Shall be detached from the throne of God and be compelled to link their ancestors with the jungle, tell that to these children? Why, my friend, if they believe it, they go back to scoff at the religion of their parents! And the parents have a right to say that no teacher paid by their money shall rob their children of faith in God and send them back to their homes, skeptical, infidels, or agnostics, or atheists.

This doctrine that they want taught, this doctrine that they would force upon the schools, where they will not let the Bible be read!

...

Bryan (cont.): Now, my friends, I want you to know that they not only have no proof, but they cannot find the beginning. I suppose this distinguished scholar [Dr. Maynard Metcalf, who testified on day four] who came here shamed them all by his number of degrees—he did not shame me, for I have more than he has, but I can understand how my friends felt when he unrolled degree after degree. Did he tell you where life began? Did he tell you that back of all these that there was a God? Not a word about it. Did he tell you how life began? Not a word; and not one of them can tell you how life began. The atheists say it came some way without a God; the agnostics say it came in some way they know not whether with a God or not. And the Christian evolutionists say we come away back there somewhere, but they do not know how far back—they do not give you the beginning—not that gentleman that tried to qualify as an expert; he did not tell you how life began. He did not tell you whether it began with God or how. No, they take all life as a mystery that nobody can explain, and they want you to let them commence there and ask no questions. They want to come in with their little padded up evolution that commences with nothing and ends nowhere. They do not dare to tell you that it ended with God. They come here with this bunch of stuff that they call evolution, that they tell you that everybody believes in, but do not know that everybody knows as a fact, and nobody can tell how it came, and they do not explain the great riddle of the universe—they do not deal with the problems of life—they do not teach the great science of how to

live—and yet they would undermine the faith of these little children in that God who stands back of everything and whose promise we have that we shall live with him forever by and by. They shut God out of the world. They do not talk about God. Darwin says the beginning of all things is a mystery unsolvable by us. He does not pretend to say how these things started.

The Court: Well, if the theory is, Col. Bryan, that God did not create the cell, then it could not be reconcilable with the Bible?

Bryan: Of course, it could not be reconcilable with the Bible.

The Court: Before it could be reconcilable with the Bible it would have to be admitted that God created the cell?

Bryan: There would be no contention about that, but our contention is, even if they put God back there, it does not make it harmonious with the Bible. The court is right that unless they put God back there, it must dispute the Bible. . . . They did not tell us where in this long period of time, between the cell at the bottom of the sea and man, where man became endowed with the hope of immortality. They did not, if you please, and most of them do not go to the place to hunt for it, because more than half of the scientists of this country—Prof. James H. [Leuba], one of them, and he bases it on thousands of letters they sent to him—says more than half do not believe there is a God or personal immortality, and they want to teach that to these children, and take that from them, to take from them their belief in a God who stands ready to welcome his children.³

And your Honor asked me whether it has anything to do with the principle of the virgin birth. Yes, because this principle of evolution disputes the miracle; there is no place for the miracle in this train of evolution, and the Old Testament and the New are filled with miracles, and if this doctrine is true, this logic eliminates every mystery in the Old Testament and the New, and eliminates everything supernatural, and that means they eliminate the virgin birth—that means that they eliminate the resurrection of the body—that means that they eliminate the doctrine of atonement and they believe man has been rising all the time, that man never fell, that when the Savior came there was not any reason for His coming, there was no reason why He should not go as soon as He

³James H. Leuba, *The Belief in God and Immortality: A Psychological, Anthropological and Statistical Study* (Boston: Sherman, French & Co., 1916), found that only a minority of elite scientists subscribed to an orthodox religious faith.

notorious example. The first mother is known as "Margaret, the mother of criminals." In seventy-five years the progeny of the original generation has cost the state of New York over a million and a quarter of dollars, besides giving over to the care of prisons and asylums considerably over a hundred feeble-minded, alcoholic, immoral, or criminal persons. Another case recently studied is the "Kallikak" family. This family has been traced to the union of Martin Kallikak, a young soldier of the War of the Revolution, with a feeble-minded girl. She had a feeble-minded son from whom there have been to the present time 480 descendants. Of these 33 were sexually immoral, 24 confirmed drunkards, 3 epileptics, and 143 *feeble-minded*. The man who started this terrible line of immorality and feeble-mindedness later married a normal Quaker girl. From this couple a line of 496 descendants have come, with *no* cases of feeble-mindedness. The evidence and the moral speak for themselves!

Parasitism and Its Cost to Society.—Hundreds of families such as those described above exist to-day, spreading disease, immorality, and crime to all parts of this country. The cost to society of such families is very severe. Just as certain animals or plants become parasitic on other plants or animals, these families have become parasitic on society. They not only do harm to others by corrupting, stealing, or spreading disease, but they are actually protected and cared for by the state out of public money. Largely for them the poorhouse and the asylum exist. They take from society, but they give nothing in return. They are true parasites.

The Remedy.—If such people were lower animals, we would probably kill them off to prevent them from spreading. Humanity will not allow this, but we do have the remedy of separating the sexes in asylums or other places and in various ways preventing intermarriage and the possibilities of perpetuating such a low and degenerate race. Remedies of this sort have been tried successfully in Europe and are now meeting with success in this country.

3

Educational Freedom and the Scopes Trial

At the heart of the struggle over evolutionary teaching was the question of who should determine what would be taught in the schools. William Jennings Bryan and his allies argued that local majorities—especially overwhelming majorities such as those that supported antievolutionism in Tennessee—should have the right to determine what was taught in the schools, while the American Civil Liberties Union (ACLU) and its allies appealed to the dawning concept of academic freedom to justify the continued teaching of evolution in Tennessee. What were their competing visions of education in American society? Do you agree that an inevitable tension exists between academic freedom and majority rule?

WILLIAM JENNINGS BRYAN

Who Shall Control Our Schools?

June 1925

William Jennings Bryan was, of course, the most important figure in the antievolution crusade, but he also had earned a reputation as the political leader of the "plain people" in the United States—the farmers and the poor, who made up a majority of the Populist party in the 1890s and who bulked large in the Democratic party thereafter. Note the ways in which Bryan's argument over the schools fits with his broader commitment to democratic rule.

William Jennings Bryan, "Who Shall Control?" (June 1925) in William Jennings Bryan and Mary Baird Bryan, *The Memoirs of William Jennings Bryan* (Philadelphia: United Publishers of America, 1925), 526–28.

The first question to be decided is: Who shall control our public schools? We have something like twenty-six millions of children in the public schools and spend over one billion and seven hundred thousand dollars a year upon these schools. As the training of children is the chief work of each generation, the parents are interested in the things to be taught the children.

Four sources of control have been suggested. The first is the people, speaking through their legislatures. That would seem to be the natural source of control. The people are sovereigns and governments derive their just powers from the consent of the governed. . . . Legislatures regulate marriage and divorce, property rights, descent of property, care of children, and all other matters between citizens. Why are our legislatures not competent to decide what kind of schools are needed, the requirements of teachers, and the kind of instruction that shall be given?

If not the legislatures, then who shall control? Boards of Education? It is the legislature that authorizes the election of boards and defines their duties, and boards are elected by the people or appointed by officials elected by the people. All authority goes back at last to the people; they are the final source of authority.

Some have suggested that the scientists should decide what shall be taught. How many scientists are there? . . . The American Society for the Advancement of Science has about eleven thousand members, but that includes Canadians as well as citizens of the United States. If the number is put at eleven thousand, it makes about one scientist for every ten thousand people—a pretty little oligarchy to put in control of the education of all the children, especially when Professor [James H.] Leuba declares that over half of the scientists agree with him in the belief that there is no personal God and no personal immortality.

The fourth source suggested is the teacher. Some say, let the teacher be supreme and teach anything that seems best to him. The proposition needs only be stated to be rejected as absurd. The teacher is an employee and receives a salary; employees take directions from their employers, and the teacher is no exception to the rule. . . . No teacher would be permitted to go from the South and teach in a northern school that the northern statesmen and soldiers of the Civil War were traitors; neither would a northern teacher be permitted to go from the North and teach in a southern school that the southern soldiers and statesmen were traitors. . . . [A] teacher must respect the wishes of his employers on all subjects upon which the employers have a deep-seated conviction. The same logic would suggest that a

teacher receiving pay in dollars on which is stamped, "In God We Trust," should not be permitted to teach the children that there is no God. Neither should he be allowed to accept employment in a Christian community and teach that the Bible is untrue.

That is the Tennessee case. Evolution disputes the Bible record of man's creation, and the logic of the evolution eliminates as false the miracles of the Bible, including the virgin birth and the bodily resurrection of Christ. Christians are compelled to build their own colleges in which to teach Christianity; why not require agnostics and atheists to build their own colleges if they want to teach agnosticism or atheism?

The Tennessee case is represented by some as an attempt to stifle freedom of conscience and freedom of speech, but the charge is seen to be absurd when the case is analyzed. Professor Scopes, the defendant in the Tennessee case, has a right to think as he pleases—the law does not attempt to regulate his thinking. Professor Scopes can also say anything he pleases—the law does not interfere with his freedom of speech. As an individual, Professor Scopes is perfectly free to think and speak as he likes and the Christians of Tennessee will protect him in the enjoyment of these inalienable rights. But that is not the Tennessee case and has nothing to do with it.

Professor Scopes was not arrested for doing anything as an individual. He was arrested for violating a law as a *representative* of the state and as an employee in a school. As a representative, he has no right to misrepresent; as an employee, he is compelled to act under the direction of his employers and has no right to defy instructions and still claim his salary. The right of free speech cannot be stretched as far as Professor Scopes is trying to stretch it. A man cannot demand a salary for saying what his employers do not want said, and he cannot require his employers to furnish him with an audience to talk to, especially an audience of children or young people, when he wants to say what the parents do not want said. The duty of a parent to protect his children is more sacred than the right of teachers to teach what parents do not want taught, especially when the speaker demands pay for his teaching and insists on being furnished with an audience to talk to. Professor Scopes can think whatever he wants about evolution, but he has no right to force his opinion upon students against the wishes of the tax payers and parents.

And, I may add, Professor Scopes is doing more harm to teachers than to anyone else. If he establishes the doctrine that a teacher can say anything he likes to the students, regardless of the wishes of his

employers, who are the parents and tax payers, it will become necessary to enquire what teachers think before they are employed. . . . Professor Scopes has raised a question of the very first magnitude and the ones most likely to suffer by the raising of the issue are those who think they can ignore the right of the people to have what they want in government, including the kind of education they want.

AMERICAN CIVIL LIBERTIES UNION

Postwar Threats to Academic Freedom

1931

The precursor of the ACLU, the National Civil Liberties Union, had been founded during the Great War and became dedicated to protecting the rights of labor, including teachers, and the right to free speech, particularly for radicals who were meeting stern popular repression during the war. Were the ACLU and the defense team serious about full academic freedom, or was this merely a strategy for keeping evolution in the classroom?

The great essential to education is freedom—freedom in presenting and studying all the facts, and freedom of teachers to believe as they see fit and to express their beliefs like other citizens. It holds that, when for any reason this freedom is curtailed,—real education itself is crippled.

The professed objects of our educational system have always been freedom from propaganda for private interests, liberty for teachers outside their classrooms, and the training of children without reference to any economic dogma. . . . The restrictions on teaching in our public schools relate to our basic institutions and beliefs—religion, patriotism and the economic order.

During the hysteria of war, the pattern for interference with education was set, and majority dogmas became firmly entrenched. The

American Civil Liberties Union Committee on Academic Freedom, *The Gag on Teaching* (New York: ACLU, 1931), 4–5.

dogmas of conventional patriotism developed first as part of the war propaganda, evidenced in the laws for the teaching of the Constitution, flag saluting, special oaths of loyalty from teachers, and the revision of history textbooks. Then came the efforts of the Ku Klux Klan and the Fundamentalists in the name of Protestantism to outlaw evolution, compel the reading of the Bible (Protestant version) and, in one state, to ban all private (meaning Catholic) schools. . . .

The tendencies to restrict freedom of teaching can be fought only by constant agitation, repeal of the present restrictive laws, opposition to specific measures and cases of discrimination and by the growth of teachers' unions to protect teachers' liberties.

AMERICAN FEDERATION OF TEACHERS

Concern over Intolerance

July 18, 1925

The American Federation of Teachers was a more militant organization of educators in comparison to the much larger National Education Association, which never expressed itself clearly on the matter of the Butler law in Tennessee.

The following resolution was adopted by the American Federation of Teachers, assembled in convention from June 29 to July 2:

The American Federation of Teachers is deeply concerned about the effect of the Tennessee anti-evolution law on the development of enlightenment in teaching in this country.

In certain states of the union teaching as a constructive social function has been menaced, and may be menaced again, by misguided legislative authority that fears to trust the intelligence, the public spirit and the devotion to duty of the profession whose obligation it is, and whose desire it is, to serve the people by training the children for intelligent citizenship. The reactionary Lusk school laws in the state of

"Resolution Adopted by the American Federation of Teachers," *School and Society*, 18 July 1925, 74–75.