When ACLU leaders learned that John T. Scopes, a 24-year-old Dayton high school teacher, had volunteered to be a defendant in the "Monkey Trial," they agreed to defend him. The phrase "Monkey Trial" derived from the erroneous belief that Darwin had written that humans were descended directly from monkeys. (Actually, Darwin surmised that humans had evolved from hairy tree-dwelling creatures, but he never specified that those creatures were "monkeys.")

While Scopes was the central figure in the trial, he was by no means the star of the proceeding. There were in fact two stars. One was Clarence Darrow, the most renowned criminal-defense lawyer in the United States. A prominent member of Scopes's defense team, Darrow was an outspoken agnostic—a skeptic who neither accepts nor rejects the existence of God. The other star was associate prosecutor William Jennings Bryan. A former member of Congress, secretary of state, and three-time Democratic candidate for president, Bryan was the leading spokesman for a popular new Christian movement known as the fundamentalist movement. Members of this movement, called fundamentalists, believed that society was becoming increasingly immoral and that people needed to get back to the basic, or fundamental, teachings of the Bible. They also believed that everything in the Bible was literally true.

The potential for a Darrow-Bryan courtroom clash attracted the interest of hundreds of thousands of people worldwide. At the same time, Darrow and Bryan were just two figures in a colorful cast of characters that came to public attention in this headline-grabbing trial.

**The Trial is Set**

John Scopes, a teacher at Rhea County High School, did not readily volunteer to be the defendant in a case testing the Butler Act. He had to be convinced to do so by Dayton leaders, who believed that the nationwide publicity the trial would bring would be good for the town, which had fallen on hard times since the turn of the century. They picked Scopes because, earlier in 1925, he had substituted for the school's regular biology teacher, and had followed a lesson plan that included teaching evolution from an approved textbook, George Hunter's A Civic Biology Presented in Problems (1914).

Scopes told the town leaders that he actually could not remember having taught Darwinism to the students, but that he did oppose the Butler Act. After further discussion, they convinced him to participate, and he agreed to stand trial. He turned himself in to the authorities, who swiftly released him without bond pending an indictment.

The chief prosecutor assigned to the case was Arthur Stewart, the attorney general of Tennessee's 18th Judicial District, which included Rhea County. At the behest of the WCFA, Bryan volunteered his services as an associate prosecutor. Stewart was of two minds about Bryan's participation. On the one hand, having the Great Commoner at his side enhanced the prosecution's chances of favorably influencing the jury, which was certain to have its share of fundamentalists. But Bryan was 65 years old, had not practiced law in more than 20 years, and was suffering from severe diabetes.

Stewart was worried that Bryan could entangle the trial in complex religion-versus-evolution arguments. A religious moderate, Stewart wanted the case to turn on two simple matters: the right of Tennessee to control its public schools, and the duty of a public employee to obey state policy. Stewart recruited Ben McKenzie, his long-serving predecessor as attorney general, as another associate prosecutor.

Scopes initially chose John Neal, a Knoxville lawyer, who had rushed to Dayton to defend him. A former law professor, Neal had served in the state legislature and run for governor as an independent against Peay in 1924. Meanwhile, the American Civil Liberties Union appointed Arthur Garfield Hays, a prominent free-speech advocate and member of the organization's executive committee, to lead the defense team. Hays insisted on bringing in Dudley Field Malone, his law partner. Malone was a highly capable attorney, but was best known for high-profile divorce cases, and many people at the time, particularly fundamentalists, considered divorce disreputable. At Scopes's request, Neal remained on the team, and soon after Bryan joined the prosecution, Clarence Darrow volunteered his services. A master of courtroom strategy, the 68-year-old Darrow was the shrewdest and foremost criminal-defense lawyer in America.

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A Rhea County grand jury indicted Scopes on May 25, 1925. The trial was set to begin six weeks later at the county courthouse in Dayton before Circuit Judge John Raulston. In addition to being a judge, Raulston was a Methodist lay minister who carried a well-thumbed Bible everywhere he went.

### Tennessee v. Scopes

The trial of The State of Tennessee v. John Thomas Scopes began on Friday, July 10, 1925, in the county courthouse in Dayton. The courtroom could comfortably hold around 200 people. On the first day, and on most of the successive days of the trial, more than 500 people jammed into it. "The crowd filled the aisles, the windows, the doors, the space behind the bar [behind which spectators sat] and bench," one spectator wrote, "while photographers and movie men were perched on chairs, tables, and ladders."

The first day was taken up with jury selection. Twelve local men, 11 of them devoted churchgoers, were chosen to serve. "It was safe to assume," Scopes later recalled, "that I had an excellent chance of being convicted."

Once jury selection was in place, the defense informed Judge Raulston of its intent to put "expert witnesses" on the stand—nine scientists and four clergymen who were "modernists," or persons who saw no real conflict between Christianity and Darwinism. The prosecution objected on the ground that the testimony of the modernists had no bearing on whether Scopes had violated the law. Raulston postponed a ruling on the matter.

After a weekend recess, the trial resumed on Monday, July 13. The defense immediately filed a written motion asking Judge Raulston to throw out Scopes's indictment. The motion provided 14 separate legal, state constitutional, and federal constitutional arguments. The defense did not expect the judge to throw out the case; in fact, the defense fully expected to lose the jury trial and appeal the case to a higher court. Since issues not brought up in an original trial could not be raised in an appeal, the defense had to cover every possible base in its motion.

Among its arguments, the defense motion asserted that the Butler Act violated the First Amendment to the U.S. Constitution, which prohibited the "establishment of religion." The motion also held that the Butler Act violated the guarantees of freedom of speech and freedom of religion found in both the U.S. and Tennessee constitutions. The defense further contended that the law violated a provision of the state constitution that required lawmakers to "cherish science" in public education. Darrow, who became the principal speaker for the defense, added that religious conservatives were undermining public education by stifling the freedom of educators to teach in accord with their understanding of science and the truth.

The prosecution, led by Stewart, had little interest in the constitutional issues raised by the defense. It was Scopes, he asserted—not the Butler Act—that was on trial. The Tennessee legislature had every right to govern the state's schools as they saw fit, he charged. Scopes had clearly broken the law, he concluded, and deserved to be punished.

On Wednesday, July 15, Raulston turned down the defense's motion to have the indictment thrown out. He refused to overturn the Butler Act, noting that it "gives no preference to any particular religion or mode of worship." He added that if Scopes wanted to teach evolution, he should have left Tennessee. These were essentially the prosecution's positions.

That same day, Scopes's lawyers formally entered a plea of not guilty on his behalf. They declined to have Scopes testify, since they did not consider whether he had actually taught evolution to be the issue. Instead, they called five witnesses to the stand: two of Scopes's students; Walter White, the superintendent of Dayton's public schools; Fred Robinson, the county schools chairman; and Maynard Metcalf, a Maryland zoologist. The students testified that Scopes had indeed covered evolution in class, but Darrow got them to admit that they had not suffered any harm from the lesson. White confirmed that A Civic Biology remained the state-approved biology textbook, in spite of both the Butler Act and the book's embrace of Darwin's theory of evolution.

The defense had planned to call several expert witnesses to testify on evolution, but the prosecution objected, claiming that such testimony would be irrelevant. After listening to arguments from both sides, Judge Raulston ruled against any further testimony by expert witnesses on Friday, July 17. He did allow them to submit affidavits to the court, however, so that they would be admissible in any appeal. The only expert witness who had testified before the judge's ruling was Metcalf. In his testimony, he had affirmed that the scientific community worldwide overwhelmingly endorsed the theory of evolution even though many questions about it remained unanswered.

Darrow angrily objected to Raulston's ruling and suggested that the judge was biased in favor of the prosecution. After a weekend recess, the judge cited Darrow for contempt of court for his remarks. Darrow apologized, and Raulston rescinded the contempt citation.

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In a surprise move on Monday, July 20, Darrow called Bryan as an expert witness to testify about the Bible. Associate prosecutor McKenzie vigorously objected, but Bryan agreed, so long as Darrow agreed to be questioned by him later on in the trial. The judge allowed Bryan to take the stand.

This was the moment everyone had waited for: a head-on collision between the Great Commoner and the nation's top defense attorney. For the next two hours, Darrow peppered Bryan with a series of questions on the Bible: Where did Cain find a wife? Did Bryan really believe that Jonah could survive in the belly of a whale? Did Bryan truly accept that Joshua made the sun stand still? On and on Darrow drilled Bryan on the blisteringly hot summer afternoon, frequently interrupting Bryan's replies with counter-arguments and statements. Flustered, Bryan stumbled over some of his answers, but he staunchly defended a literal interpretation of the Bible. "I believe in creation as there told," Bryan said, "and if I am not able to explain it, I will accept it."

At one point, Darrow got Bryan to concede that a “day” in the Genesis account of creation might be considerably longer than 24 hours. This was a significant departure from taking everything literally, and a disappointment to Bryan’s followers. After more than two hours on the defensive, a red-faced Bryan finally rose to his feet, jabbed a finer at Darrow’s face and accused him of attempting to “slur the Bible.” An angry Darrow countered, “I am examining your fool ideas, [which] no intelligent Christian on Earth believes!” Before things got out of hand, Judge Raulston rapped his gavel and adjourned court for the day.

The following day, July 21, the judge removed Bryan's testimony from the official trial record, saying it had nothing to do with the matter of Scopes's guilt or innocence. Darrow then pulled his biggest surprise: He rested the defense's case and asked Raulston immediately to instruct the jury to find Scopes guilty. Had Scopes simply changed his plea to guilty, the case could not have been appealed. By sending the case straight to the jury, Darrow also prevented closing arguments. Bryan had been boasting for days that he was preparing a great closing speech. Now he would not have the chance to deliver it. The jury then retired to deliberate.