

# NEWS AND COMMENTS

## THE TEACHING OF CREATION AND EVOLUTION IN THE STATE OF TENNESSEE

A new Tennessee law states that evolution can only be presented as a theory, and creation accounts must also be taught in the public schools, colleges, and universities. Passed in May 1973, it is scheduled to take effect with the 1975/76 school year. The controversy surrounding the teaching of creation and evolution in the classroom has been long and intense in the State of Tennessee.

### THE BUTLER ACT

In 1925 Tennessee passed a law forbidding the teaching of “any theory that denies the story of the divine creation of man as taught in the Bible,” along with the teaching that “man descended from a lower order of animals.” Written and introduced by Rep. John Washington Butler, the “Butler Act” was passed by the House without debate on 28 January 1925. Seventy-one voted in favor of the bill and only 5 dissented. Although a strong majority seemed to back this bill, many had favored the Butler Act solely for political reasons, expecting it to die in the Senate. Using the same reasoning, however, the Senate also approved it, fully expecting the governor to veto it. But in March 1925, pressured by his fellow Baptists, Gov. Austin Peay signed the act, saying, “Nobody believes that it is going to be an active statute.”

### THE CHALLENGE

Believing the Butler Act to be unconstitutional, the American Civil Liberties Union (ACLU) placed a classified ad in the *Chattanooga Times* on 4 April 1925, offering financial backing for the defense in a test case of this law. George Rappleyea, an engineer at Dayton Coal and Iron Company, and also one of the few evolutionists in Dayton, saw this ad and recognized the opportunity to make the little town of Dayton (located in Rhea County in southeastern Tennessee) famous from the publicity of such a trial.

The following day, Rappleyea met with Walter White, superintendent of the Rhea County public schools, and Sue K. Hicks, a young lawyer (named after his mother), both of whom favored the Butler Act. By arguing that this “sporting proposition” would put Dayton on the map, Rappleyea

convinced White and Hicks to aid in challenging the Butler Act, which was not yet enforced. If the courts found it unconstitutional, it would be repealed. On the other hand, if the law were upheld, it would be enforced, and White and Hicks would be the victors.

The next step was finding a likely candidate for this test case, someone who would be willing to risk losing his job. John Thomas Scopes, a 24-year-old science teacher at the Dayton High School, believed in evolution and supported its teaching, especially because the high-school biology textbooks discussed it. After agreeing to play the “sacrificial role” and after the ACLU approved the plan, Scopes “confessed” to teaching Darwin’s theory of evolution, contrary to the state law. Rappleyea swore out a warrant against Scopes.

Hicks invited William Jennings Bryan, former secretary of state and three-times presidential candidate, to serve on the prosecution along with Bryan’s son, William Jennings Bryan, Jr., and A. T. Stewart, attorney general of the Eighteenth Circuit (which included Rhea County). After Scopes had already retained two Tennessee lawyers for his defense, Clarence Darrow, “the master jury-pleader and noted agnostic,” offered his services along with those of Dudley Field Malone, a well-known divorce lawyer. They were joined by Arthur Garfield Hays, ACLU counsel.

## **THE SCOPES TRIAL**

Immediate publicity brought a swarm of spectators and journalists to Dayton for the trial, which began on July 10.

Although the defense had summoned scientists and Biblical scholars to serve as expert witnesses showing that evolutionary theory did not conflict with an allegorical interpretation of the Bible, Judge John T. Raulston ruled out their testimony as irrelevant. Hays was finally permitted to summarize the experts’ position in the absence of the jury in order to lay the foundation for an appeal.

When Raulston feared the floor of the old courthouse building would not be able to support the weight of the spectators, the trial was moved to the courthouse lawn. On July 20 Hays called a startled Bryan to the stand to testify as an expert witness on the Bible. Bryan agreed, despite the objections raised by other members of the prosecution. For an hour and a half, in the stifling heat, Darrow grilled Bryan with questions aimed at attacking his literal interpretation of the Bible. When asked if he believed that the earth was created in seven days, Bryan conceded that creation days might possibly have been a span of time longer than 24-hour periods.

The next morning Raulston ruled Bryan's testimony be stricken from the record. Darrow broadly hinted that he wanted a verdict of guilty in order to make an appeal possible. Never summoned to testify in his own behalf, Scopes was found guilty, and Raulston fined him \$100.

Darrow and his associates immediately appealed Scopes' case to the Tennessee Supreme Court; the verdict came in January 1927. Of the five justices, one disqualified himself, one deemed the Butler Act unconstitutional because of its vagueness, while another held it valid but not violated. The two remaining justices ruled the law constitutional and violated. But Rappleyea's plan to test the law came to grief, for the court used a technicality in the trial proceedings to dismiss the case and reverse the penalty. Scopes' fine had been levied by the judge, but the Constitution required any fine of more than \$50 to be set by the trial jury. The opinion of the Supreme Court was that:

*We see nothing to be gained by prolonging the life of this bizarre case. On the contrary, we think the peace and dignity of the State, which all criminal prosecutions are brought to redress, will be better conserved by the entry of a nolle prosequi herein.*

District Attorney Stewart agreed to drop the charges, leaving the Butler Act intact and valid and Scopes unpunished.

## **OPPOSITION RESURGES IN 1960**

During the next 40 years, the Butler Act remained unchallenged. In the 1960s, however, science teachers in Tennessee began urging the restoration of "freedom of thought and speech to the teachers and school-children" of their state. Legislators were petitioned to repeal this law which did "harm to the teaching of science, harm to the ideals of Democracy, and harm to the reputation of Tennessee." Church leaders were also asked to support repeal measures, for it was argued that religion could not be helped by the suppression of scientific theories. The *Chattanooga Times* commented that the validity of evolutionary concepts was not the issue; rather it was the freedom to fully examine any argument in the search for truth. Others resisted the repeal measures, believing the Butler Act to already be a dead letter, and argued that bringing up the issue again would call unnecessary and unfavorable attention to Tennessee. Though much was said about eliminating the law, it still remained on the books.

## THE LAW REPEALED

In May 1967 the Butler Act faced another serious challenge. Gary L. Scott, a 24-year-old science teacher, was dismissed from the Jacksboro High School for allegedly violating this law by discussing Darwin's theory of evolution in his classroom.

Aided by the National Science Teachers Association (NSTA), Scott filed an official complaint directly aimed at eliminating the Butler Act. It stated that all should be given the freedom to exercise "the rights guaranteed in the First Amendment to the Constitution of the United States to the freedoms of religion, speech, press, assembly, association, thought and belief, and academic inquiry and study." In a statement to the press, Addison E. Lee, NSTA president, added:

*Society cannot tolerate any obstruction of the process of academic inquiry and the dissemination of information and ideas. These are not local matters. Science and education must be free to investigate, to think, and to evaluate. We cannot stand by without action when these rights are endangered.*

Faced with the threat of a second "monkey trial," the Tennessee Legislature moved to repeal the Butler Act.

## CREATIONISTS RESPOND

Realizing that the teaching of evolutionary theory was legalized by the repeal, Russell C. Artist, biology professor at David Lipscomb College in Nashville, and a member of the Creation Research Society (CRS), attempted to include the Biblical version of creation in the textbooks used in the public schools. Meeting with the Tennessee State Textbook Commission in 1970 to promote a CRS textbook entitled *Biology: A Search for Order in Complexity*, Dr. Artist contrasted this book with those which gave evolution as the "only explanation, not only for the diversity of life upon this earth, but for the history of man." Dr. Artist concluded his speech by appealing for equal time for creation, stating:

*Let me say that the scientists of this state, as well as other interested people, are demanding that evolution be taught as a theory of science, not as a religion or a philosophy. Then both sides will have to be mentioned, both the accomplishments and the difficulties of evolutionary theory.*

*The creation account will be considered as a thorough-going alternative to evolution! The idea that the theory of evolution is science and creation is just religion is now known to be false, as many men of science are saying today.*

Although the Commission gave the CRS the opportunity to submit the text *before* the date normally open for adoption, this book was eventually rejected.

## THE GENESIS BILL

Dr. Artist did not let this defeat stop his efforts. He went to see a fellow member of the Church of Christ, Sen. Milton H. Hamilton of Union City. As a result, Senator Hamilton agreed to sponsor a new bill requiring equal time for creation. A similar bill in the House was introduced by House Speaker Ned McWherter, aided by Rep. Tommy Bennett of Jamestown.

The Senate passed the bill by a vote of 28 to 1, in April 1973. There was no debate, perhaps because of the presence of television cameras. Section 1 of the bill reads:

*Any biology textbook used for teaching in the public schools, which expresses an opinion of, or relates to a theory about origins or creation of man and his world shall be prohibited from being used as a textbook in such system unless it specifically states that it is a theory as to the origin and creation of man and his world and is not represented to be scientific fact. Any textbook so used in the public education system which expresses an opinion or relates to a theory or theories shall give in the same text book and under the same subject commensurate attention to, and an equal amount of emphasis on, the origins and creation of man and his world as the same is recorded in other theories, including, but not limited to, the Genesis account in the Bible. The provisions of this Act shall not apply to the use of any textbook now legally in use, until the beginning of the school year of 1975-76....*

The following week on 26 April 1973, the same measure was debated in the House for an hour and 20 minutes. While Rep. W. C. Carter of Rhea County applauded the bill as “a remedy to a bad act” (referring to the repeal of the antievolutionary law in 1967), Rep. John Bragg of Murfreesboro blasted it as “a sacrilege to my religion,” for it “reduces God to

theory.” Before the debate had ended, several amendments were adopted which limited the restrictions placed on the textbooks by allowing teachers to use supplementary materials to meet the requirements, defining the Bible as a reference work rather than a textbook, and prohibiting the inclusion of occult or satanic theories of origins in the texts. Representative Bragg led the opposition: “The people originating this bill will be appalled by what finally appears in the textbooks,” he stated, warning that an author who rejected the Bible could wreck the creation story as presented in the Bible. He continued: “I believe the Biblical account is fact, not theory. If you want to open up a bag of worms, you vote for this bill. This sounds good, but I submit to you this is a vicious bill.” Despite his objections, the Genesis bill was passed by 69 to 15, with 15 not voting.

Although Gov. Winfield Dunn had a 5-day period in which to sign or veto the measure, he withheld his signature, and when the deadline expired, the bill automatically became a law on 8 May 1973. Some people remained unhappy, however, because no theory, including the Biblical account of creation, could be presented as fact.

An editorial in the *Nashville Tennessean*, 9 May 1973, summarized the situation:

*The so-called ‘Genesis bill’ may now be law in Tennessee, but that doesn’t mean they immediately will start teaching the biblical account of creation in the classroom.*

*First off, the law does not become effective until the 1975-76 school year. Textbooks for the state’s schools are adopted in five-year cycles and the science textbooks are now in the third year of their current cycle.*

*In addition, the law addresses itself only to what textbooks shall be used in biology classes, saying the books shall give ‘equal emphasis’ to the biblical story of man’s origin. The law does not regulate the classroom teacher’s method or style of teaching.*

*Those in charge of administering the new law — passed by the 88th General Assembly — acknowledge privately that it is well-nigh impossible to assure that the legislators’ intent will be realized.*

*The lawmakers apparently wanted to insure that the Genesis account will be taught in the public schools and*

*that it will be given as much attention and emphasis as the theory of evolution.*

*But anything short of stationing a policeman in every classroom is unlikely to accomplish that aim, since teachers are apt to teach what they wish — emphasizing what they will — without regard to what the textbooks might say, some educators believe.*

In December 1973 opposition to the new law went into action. Especially locked in battle with the creationists was the National Association of Biology Teachers (NABT), which retained counsel to challenge the new statute in courts, finally filing suit on 29 December 1973. Two zoology professors at the University of Tennessee, Joseph C. Daniel, Jr. and Arthur Jones, and a Knoxville biology teacher, Larry Wilder, were named plaintiffs, along with the NABT.

The lawsuit challenged the Genesis bill, charging it with violation of the free exercise of religion and the freedoms of speech and press. It asked the federal court to block the enforcement of the controversial state law, thus attempting to delete the law before it could be actuated in the classrooms. The lawsuit stated:

*The challenged Tennessee statute is an establishment of religion by the state in violation of due process of the 14th Amendment as it incorporates the establishment clause of the 1st Amendment of the U.S. Constitution. The establishment of religion violates the rights of all plaintiffs.*

In January 1974 the *Nashville Banner* reported that bills had been introduced in both houses of the General Assembly to eradicate the 1973 Genesis law. Senator J. H. White of Memphis introduced a bill in the Senate, and Rep. Roy Daniels, also of Memphis, introduced a similar bill in the House. Both had opposed the 1973 law. When the debate arose in the Senate, Senator White stated:

*We engage in debate over the origin of man, when we should be addressing ourselves to the future of man and grappling with the problems with which man is beset in the here and now... We should be addressing our efforts towards the problems of disease, affliction, illiteracy, crime, drug abuse, unemployment, overpopulation, corruption in government, and the ultimate blasphemy, the constant warring among the nations of man.*

Apparently Senator White does not believe that man's basic concept of his own origin will influence his philosophical approach to the above-mentioned problems.

At the current time of this writing, the lawsuit is still awaiting action in the courts, and the two bills to repeal the 1973 Genesis law died in the Senate and House.

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