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## **State-Wide Legislation Banning Teaching of Evolution**

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Until the publication of Charles R. Darwin's *On the Origin of Species by Means of Natural Selection, or the Preservation of Favoured Races in the Struggle for Life* on November 24, 1859, and his subsequent volume *The Descent of Man: and Selection in Relation to Sex* in 1871, the balance

of scientific opinion was against the theory of evolution.<sup>1</sup> Consequently, these publications caused no little excitement among the theologians, scholars, and lay readers in England and on the continent. Darwin probably foresaw the effect his theory of the descent of man would have upon the scientific disciplines. It is extremely doubtful, however, that he fully appreciated the repercussions it was to have upon the theological world. The *Origin of Species* precipitated a sharp controversy among and between scientists and theologians. This evolution controversy rapidly bridged the Atlantic and spread to the shores of the Americas.

In the United States, the evolution movement did not immediately capture public opinion outside of academic and theological circles or become wide-spread geographically. The most vocal section of the country was the general area of New England. There are numerous factors which help to account for the isolation of the controversy, including the literacy rate—the primitive state of communications media — a critical presidential election — and probably most important, the American Civil War. Virtually all religious persuasions rejected the Darwin evolution theory, however, and relegated it to a "puerile fancy" status.<sup>2</sup>

The genesis of the organized *anti-evolution* campaign in the United States is entwined with the fundamentalist movement which seems to have originated in 1909 with the uniting of conservative Protestants in an effort to resist the spread of "modernism" in theology. The fundamentalists published a set of twelve pamphlets entitled *The Fundamentals: A Testimony*, and distributed about three million free copies in an attempt to reach "every pastor, evangelist, missionary, theological student, Sunday School Superintendent, Y. M. C. A. and Y. W. C. A. secretary in the English speaking world." "The five fundamentals testified to in these volumes were: the inerrancy of the Bible, the virgin birth, the atonement, the resurrection and the second coming of Christ."<sup>3</sup>

In 1918 the World's Christian Fundamentals Association was founded; its aims being to defend the primacy of the Biblical gospel in the churches and to check all "anti-Christian" tendencies.<sup>4</sup> The fundamentalists took violent exception to the advocacy and teaching of evolutionary theories. They attempted to arrest this "heretical" practice by seeking local, state, and federal laws forbidding the teaching of such theories in the public schools. Colleges and universities were usually placed in the same categorical position as elementary and secondary schools if they were entirely or in part state supported.<sup>5</sup>

The participants in this anti-evolution controversy became one of the most vocal and adamant pressure groups since the abolitionists of the Civil War era and experienced their greatest triumphs within that amorphous geographical area often referred to as the "Bible belt." As more and more of the fundamentalists became acquainted with Darwin's "hypothesis" and its myriad of distortions, a debate was precipitated that has few equals in polemical literature.

One of the first evidences of the strength of the anti-evolutionists occurred in 1921 when an anti-evolution rider was attached to the appropriations bill in the South Carolina legislature. The proviso would have prohibited "the cult known as Darwinism" from being taught as "a creed to be followed" in all state supported public schools and institutions of higher learning. The amendment was adopted by the Senate without debate or opposition. The House refused concurrence on the proposed measure, however, and referred the entire appropriations bill to a joint conference committee where the anti-Darwin rider was subsequently removed.<sup>6</sup>

The next serious attempt to enact state-wide anti-evolution legislation occurred during January of 1922 in the Kentucky General Assembly. On January 20, William Jennings Bryan — three time Democratic presidential nominee, former United States Secretary of State, and a nationally acknowledged fundamentalist leader — addressed a joint session of the Kentucky legislature and advocated passage of an anti-evolution statute. Three days later, on January 23, 1922, a State Representative from Barren County introduced House bill 191, "An act to prohibit the teaching in public schools and other public institutions of learning, Darwinism, atheism, agnosticism or evolution as it pertains to the origin of man." The measure provided penalties of fines ranging from fifty (\$50.00) dollars to five thousand (\$5000.00) dollars, or imprisonment of ten days to one year. The bill further stipulated that any institution which permitted such doctrines to be taught was also subject to fine and forfeiture of its charter.' While this bill was being introduced, a Kentucky public school teacher was discharged for teaching, "in contradiction to the Bible," that the earth is spherical.'

While the anti-evolution bills — two additional measures had been introduced — were being discussed in the legislature, public opinion became aroused over the controversial measures. A large majority of the rural population seemed to favor the restrictive legislation, while in the urban areas sentiments appeared to be about equally divided. When the original bill came to a vote on March 9 — the other two measures had previously been defeated — the House heatedly debated for five hours before it defeated the bill by the narrowest possible margin of one vote. One Representative, whose vote against the bill made the issue a deadlock, telephoned his preacher and sought divine guidance for the casting of his vote. Then the Representative from Breathitt County, where anti-evolution sentiment was strong, surprisingly cast the final and deciding vote against the restrictive measure. Thus, the vote in the House, though a narrow margin, ended serious consideration of anti-evolution legislation in Kentucky at that time.'

The Southern Baptist Convention of 1922 helped to set the stage upon which the anti-evolution drama was to further unfold. The Baptists declared that the textbook was the anvil upon which evolution was to be crushed. Textbooks "calculated to undermine the faith of students in the Bible" must not be used. In explanation, the convention declared, ". . . if in the department of science no textbook can be found which does correctly teach about evolution the teacher ought to be able to interpret the textbook in the light of revealed Biblical facts. . . ." The convention then made its position unequivocally clear by declaring, "One can understand both the Bible and evolution and believe one of them, but he cannot understand both and believe both."<sup>11</sup>

After the defeat of Kentucky's anti-evolution bill, interest became centered on the state of Oklahoma where House bill 197 — an act creating and providing for a system of free textbooks in the public schools of that state — was introduced in the legislature during February of 1923.<sup>12</sup> While the proposed measure was under consideration a Representative from Caddo County proffered an "anti-Darwin clause." The amendment read, ". . . provided, further, that no copyright shall be purchased, nor textbook adopted that teaches the 'Materialistic Conception of History' (i. e.) The Darwin Theory of Creation vs. the Bible Account of Creation."<sup>13</sup>

After a "chaotic" session featured by threats of personal violence, the House passed the bill eighty-seven to two on the final roll call vote and forwarded the measure to the Senate. On March 22, the Senate passed the bill by a vote of twenty-nine to seven with the "anti-Darwin" amendment still intact.<sup>14</sup> Two days later the bill was sent to the governor's

desk, and on March 26, 1923, Governor John C. Walton signed the measure into law. It was thus that Oklahoma earned the dubious distinction of being the *first* state in the union to take official action to prohibit the teaching of evolutionary theories in its public schools.

Strict adherence to the law was practiced. According to a statement by the State Superintendent of Public Instruction, the State Textbook Commission carefully scrutinized the various books submitted to that body, making certain that nothing "hinting" at the Darwinian theory had been "slipped" into the wording."

Because of economic reasons the free textbook act, with its accompanying "anti-Darwin" amendment, became an unpopular statute. On March 31, 1925, Governor M. E. Trapp signed Senate bill 54 which repealed the law. This action left Oklahoma free of restrictions in the selection of future textbooks. Just as Oklahoma had been the first state to adopt the obfuscaable anti-Darwin legislation by the medium of the textbook act, it was also the first state ever to repeal a free textbook law."

Florida became the next center of attention for the anti-evolutionists. During the 1923 session of the Florida Legislature, William Jennings Bryan, who had become a resident of that state, appeared before the legislators and delivered a speech "against these who believe they descended from monkeys, the disbelievers, and those who profess ignorance." Subsequently, on May 14, 1923, the Florida Senate formally adopted a resolution previously passed by the House and written by Bryan which declared, "it is against the interests of the State to teach any theory that relates man in blood relationship with any lower animal," in the public schools or institutions of the state." The resolve further stipulated that the public schools should not be impeded by "sectarian views" or "teachings designed to attack the religious beliefs of the public." Hence, it was considered "improper and subversive to the best interest of the people" for any teacher in those schools to teach 'atheism or agnosticism or to teach as *true* Darwinism or any other hypothesis that links man in blood relationship to any other form of life.'"

Following unsuccessful attempts in both houses of the legislature in 1923, the most widely known of all the anti-evolution laws was enacted by Tennessee in 1925. During the previous year W. B. Marr, a Nashville attorney, and several other political followers of William Jennings Bryan arranged for the "great commoner" to lecture in Nashville on the subject "Is the Bible True?" When the Tennessee General Assembly convened in 1925 some five hundred copies of Bryan's address were distributed to the legislature in the hope of gaining support for anti-evolution legislation. Subsequently, on January 20, 1925, State Senator John A. Shelton of Savannah introduced a bill to "prohibit the teaching of evolution in public schools.'"

On the following day a more stringent measure was introduced in the House by Representative John Washington Butler. Butler, a former school teacher, was considered a very pious man and had lived his entire life on the family farm in Macon County. During the early twenties, an itinerant preacher had convinced him that the teaching of evolution was evil and sacrilegious. The vagabond minister had related how the teaching of evolution turned children from God and parents into the arms of agnosticism and atheism. In 1922 Butler ran for a seat in the state legislature promising that if elected he would introduce anti-evolution legislation for the benefit of the public schools of the state. His campaign proved successful, but as a freshman legislator he failed to introduce the promised legislation. In 1924 he stood for reelection with the anti-evolution promise still a plank in his platform and won by an overwhelming majority."

After taking his seat, Butler, this time true to his word, introduced the following bill:

HOUSE BILL NO. 185.<sup>21</sup>

(By Mr. Butler)

An act prohibiting the teaching of the Evolution Theory in all the Universities, Normals, and all other public schools of Tennessee, which are supported in whole or in part by the public school funds of the State, and to provide penalties for the violations thereof.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee, That it shall be unlawful for any teacher in any of the Universitis (sic), Normals and all other public schools of the State which are supported in whole or in part by the public school funds of the State, to teach any theory that denies the story of the Divine Creation of Man as taught in the Bible, and to teach instead that man has descended from a lower order of animals.*

Section 2. *Be it further enacted, That any teacher found guilty of the violation of this Act Shall be guilty of a misdemeanor and upon conviction, shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each offense.*

Section 3. *Be it further enacted, That this Act take effect from and after its passage, the public welfare requiring it.*

Passed March 11, 1925

W. F. Berry  
Speaker of the House of Representatives

L. D. Hill,  
Speaker of the Senate

Approved March 19, 1925

Austin Peay,  
Governor

The House gave prompt attention to Butler's proposal and referred it to the Education Committee. On January 23, six days after its introduction, the measure received final House approval by a seventy-one to five vote. "Apparently there was no formidable opposition to the measure for the [Nashville] *Banner* observed that during the two-hour session in which it was approved, the house had 'covered a wide range of territory, from a local measure to prohibit suck-egg dogs from running at large . . . to a general measure prohibiting the teaching of evolution.'<sup>22</sup>

Meanwhile the Shelton bill met with less success in the Senate. It was referred to the Judiciary Committee which recommended rejection of the measure on the ground that "it would not be the part of wisdom for the legislature to pass laws that even remotely affected the question of religious belief." When the Butler bill reached the Senate it was also referred to the Judiciary Committee where it was likewise rejected. The following day, however, the measure was brought to the Senate "floor" for its third and final reading where impassioned pleas for its passage were heard.<sup>23</sup>

On March 10, the Senate Judiciary Committee reversed its previous recommendation and submitted a second report which endorsed enactment of the Butler anti-evolution bill. The controversial proviso received final consideration on March 13 and for more than three hours was heatedly discussed. "Satire, history, theology, humor and the Scriptures were all a part of the tense debate which preceded the final vote, "which approved the bill by a margin of twenty-four to six and sent the restrictive measure to Governor Austin Peay's desk."<sup>24</sup>

Austin Peay was a popular public servant and was filling the governor's chair for a second term of office. He had inaugurated a progressive building program and was in the process of improving the highways, schools, hospitals, and prisons of the state. In order to accomplish his aims, he desperately needed the support of the rural legislators of the Butler camp. Consequently, on March 21, 1925, he signed the obfuscalable measure into law and stated that he thought it would be an inactive statute, as it contravened neither "freedom of religion" nor "strict separation of church and state."<sup>28</sup>

It was inevitable, however, that a transgression of the law would be detected and litigation initiated. This circumstance occurred in the world famous test case *The State of Tennessee vs. John Thomas Scopes*. "Professor" Scopes was a bespectacled, red-haired, twenty-four-year-old science teacher and football coach at the Rhea County High School in Dayton, Tennessee. Scopes was generally well liked throughout the small Dayton community and enjoyed the respect and admiration of his students. Before his arrest and subsequent indictment, his only "vices" were considered to be smoking cigarettes and dancing, both of which he did on occasion in public.<sup>29</sup>

With the satirical pen of H. L. Mencken setting the pace, the press seized upon the colorful issue with considerable alacrity. A half-circus, half-revival meeting atmosphere prevailed in Dayton before and during the adjudicatory process which featured William Jennings Bryan, the paladin of fundamentalism, for the prosecution, and Clarence Darrow, the nation's most eminent criminal lawyer, as counsel for the defense. Throughout the trial there was considerable speculation and debate concerning whether the proceeding was a legal, educational, religious, scientific, or political phenomenon. The "monkey trial" quickly evolved into a personal "tournament of intellects" between Bryan and Darrow. After eight days of litigation highlighted by the personal animosity of the counselors, the "bizarre" case ended abruptly with the conviction of Scopes. The presiding judge, John T. Raulston, pronounced sentence of a one hundred (\$100.00) dollar fine and a fundamentalist preacher, "Brother Jones," pronounced the benediction. No other case of consequence has since come before the Tennessee courts. Despite several attempts to repeal the obfuscalable law, however, Tennessee's anti-evolution measure remains on the statute books to the present day.

The next state to wear the fundamentalist yoke of "intellectual bondage" was Mississippi. Early in the 1926 legislative session, the Reverend L. Walter Evans, a Representative from Leake County, introduced a bill to prevent the teaching of "the theory that man descended from a lower order of animals," in the state supported schools of Mississippi. The proviso contained a penalty of a fine ranging from one hundred (\$100.00) dollars to five hundred (\$500.00) dollars and forfeiture of teaching certificate for transgressors of the proposed measure.<sup>30</sup> Practically all of the Senate audited the "stormy" House session and witnessed the proposal of a ludicrous amendment making the penalty for violation "death by burning at the stake, . . ."<sup>31</sup>

The House ignored an adverse committee report and approved Evans' anti-evolution bill on February 8, 1926. The speedy action by the House probably was the result of the efforts of the self-styled Doctor T. T. Martin, who had journeyed to Jackson to stimulate anti-evolution support. "Doctor" Martin addressed the legislature and admonished them by saying, "Go back to the fathers and mothers of Mississippi and tell them because you could not face the scorn and abuse of Bolsheviks and Anarchists and

Atheists and agnostics and their co-workers, you turned over their children to a teaching that God's Word is a tissue of lies.'"<sup>20</sup>

The prohibitive act then passed the upper chamber by a vote of twenty-nine to sixteen — despite an adverse committee report — and Governor Henry L. Whitfield signed the bill into law on March 11, 1926."<sup>21</sup>

The next state to defend Genesis by statute was Arkansas. Prior to the convening of the state's forty-sixth General Assembly in January of 1927, there was a well-organized effort to induce the legislature to enact an anti-evolution law. A petition was widely circulated by the literal interpreters who believed in the infallibility of the Mosaic account of creation labeling "... the Darwin theory of the origin of man ... [as] erroneous, false, and misleading, and calculated in its nature to lead men from the truth of God. . . ." The petition requested the legislature "to enact a law, similar to the 'Tennessee Anti-Evolution Law' with just such changes and modifications as will make it applicable to the state of Arkansas.'"<sup>22</sup>

After the legislature convened, Representative A. L. Rotenberry introduced such a measure which forbade the teaching of "any theory that denies the story of the divine creation of man as taught in the Bible." Persons who violated the act were to be deemed guilty of a misdemeanor and upon conviction were to be fined from two hundred (\$200.00) dollars to one thousand (\$1000.00) dollars, plus revocation of their teaching certificate.<sup>23</sup> After a "desperate fight," the House passed the bill by a vote of fifty to forty-seven. On the following day, however, the measure received a different fate in the Senate where it was "tabled" and never "reported."<sup>24</sup>

After the defeat of his bill, Representative Rotenberry announced that he would resort to the initiative and referendum, rather than attempt to "strengthen the Legislature." He desired that "the people at large," "rather than the lamentably unreceptive Senate, to have an opportunity of bringing into being an anti-evolution law 'with teeth in it.'"<sup>25</sup> Thus, as other states had sought truth by a vote of their respective legislatures, Arkansas — in the spirit of Rousseau — was to seek truth from the entire electorate.

Petitions were circulated over the state and quickly received the requisite number of signatures to place an anti-evolution measure on the ballot in the November general election.<sup>26</sup> In part, the "state question" read, "that it shall be unlawful for any teacher or other instructor in any university, college, normal, public school or other institution of the state which is supported in whole or in part from public funds derived by state or local taxation to teach the theory or doctrine that mankind ascended or descended from a lower order of animals, . . . ." A fine of five hundred (\$500.00) dollars and dismissal from state service was provided for possible violators.<sup>27</sup>

As expected, when the polls closed on November 7, 1928, the electorate had overwhelmingly approved the anti-evolution measure by a vote of 108,000 to 63,000. Thus, Arkansas has the distinction of being the only state to protect Genesis by a vote of the people.<sup>28</sup>

Oklahoma, Florida, Tennessee, Mississippi, and Arkansas were the only states to legislate against evolution. However, they were not the only states to witness a pungent anti-evolution controversy during the decade of the 1920's. The legislatures of Alabama, California, Delaware, Georgia, Kentucky, Louisiana, Maine, Minnesota, Missouri, North Carolina, North Dakota, New Hampshire, South Carolina, West Virginia and Texas rejected anti-evolution bills during the decade — several states rejected the pro-

hibitive measures twice. During the period 1921 through 1929, no less than "thirty-seven anti-evolution bills, resolutions or riders were introduced . . ." in states stretching from coast to coast. Moreover, many local school boards, such as Atlanta, Georgia, and more recently Wall, South Dakota, passed anti-evolution rulings and the Texas State Textbook Commission officially banned textbooks relating to the theory of evolution while several other states did so unofficially.<sup>28</sup>

## FOOTNOTES

<sup>1</sup>Sir William C. Dampier, *A History of Science*, 4th ed. (Cambridge, Cambridge University Press, 1948), pp. 272-73.

<sup>2</sup>Bert James Loewenberg, "The Controversy Over Evolution In New England 1859-1873," *New England Quarterly*, Vol. VIII (1935), pp. 232-57.

<sup>3</sup>Gail Kennedy, Ed., *Evolution and Religion: The Conflict Between Science and Theology in Modern America* (Boston, D. C. Heath Co., 1957), p. VIII.

<sup>4</sup>William Sweet, *The Story of Religion in America* (New York, Harper and Brothers, 1950), p. 407. Sweet states, "The Fundamentalist movement began in 1910 with the publication of a series of little books entitled, *The Fundamentals* . . ." Author's italics.

<sup>5</sup>R. Halliburton, Jr., "The Nation's First Anti-Darwin Law: Passage and Repeal," *Southwestern Social Science Quarterly*, Vol. XLI (1960), p. 123.

<sup>6</sup>"Proposed Legislation Against the Teaching of Evolution," *Science* n s, Vol. LV (1922), p. 319.

<sup>7</sup>Arthur M. Miller, "Kentucky and the Theory of Evolution," *Science* n s, Vol. LV (1922), p. 179.

<sup>8</sup>Ray Ginger, *Six Days or Forever? Tennessee v. John Thomas Scopes* (Boston, Beacon Press, 1958), p. 59.

<sup>9</sup>Arthur M. Miller, "The Vote on the Evolution Bill in the Kentucky State Legislature," *Science* n s, Vol. LV (1922), p. 317.

<sup>10</sup>"The Report of the Committee on the Report of the Education Board," *Annual of the Southern Baptist Convention 1922*, May 17-22, 1922, p. 33.

<sup>11</sup>*House Journal*, Regular Session, Ninth Legislature, Oklahoma, 1923, p. 304.

<sup>12</sup>*Session Laws of Oklahoma*, 1923, p. 296.

<sup>13</sup>*House Journal*, Regular Session, Ninth Legislature, Oklahoma, 1923, p. 1380.

<sup>14</sup>*Tulsa Tribune*, July 17, 1925, p. 1.

<sup>15</sup>R. Halliburton, Jr., "Oklahoma's Anti-Evolution Controversy, 1923-1930" (M. A. Thesis, Oklahoma State University, 1959), p. 28.

<sup>16</sup>"Darwinism And Mr. Bryan," *Science* n s, Vol. LVIII (1923), p. 82.

<sup>17</sup>Harbor Allen, "The Anti-Evolution Campaign in America," *Current History*, Vol. XXIV (1926), p. 895.

<sup>18</sup>Ginger, *Six Days or Forever? op. cit.*, p. 34.



\*Kenneth K. Bailey, "The Enactment of Tennessee's Anti-Evolution Law," *Journal of Southern History*, Vol. XVI (1950), p. 475.

\**New York Times*, July 18, 1925, Sec. I, p. 1; Ginger, *Six Days or Forever? op. cit.*, p. 8.

\**Tennessee Public Acts*, 1925, pp. 50-51.

\*Kenneth K. Bailey, "The Enactment of Tennessee's Anti-Evolution Law," (M. A. Thesis, Vanderbilt University, 1949), p. 86.

\*....., "The Enactment of Tennessee's Anti-Evolution Law," *Journal of Southern History*, Vol. XVI (1950), pp. 477-78.

\**Ibid.*, pp. 480-82.

\*"No Monkeying With Evolution in Tennessee," *Literary Digest*, Vol. XVC (1925), pp. 30-31; Ginger, *Six Days or Forever? op. cit.*, pp. 11-12.

\**New York Times*, May 20, 1925, Sec. I, p. 22.

\**New York Times*, February 9, 1926, p. 12; "Banishing Evolution in the South," *Literary Digest*, Vol. LXXXIX (1926), p. 30.

\*"The Teaching of Evolution in the South," *School and Society*, Vol. XXIII (1926), p. 235.

\*Ginger, *Six Days or Forever? op. cit.*, p. 16.

\*"Banishing Evolution in the South," *Literary Digest*, Vol. LXXXIX (1926), p. 30; *New York Times*, February 9, 1926, p. 12.

\*"The Teaching of Evolution in Arkansas," *Science n s*, Vol. LXIV (1926), p. 356.

\*Maynard Shipley, "A Year of the Monkey War," *Independent*, Vol. CXIX (1927), p. 326.

\*"Proposed Legislation Against the Teaching of Evolution," *School and Society*, Vol. XXV (1927), p. 224.

\*Maynard Shipley, "A Year of the Monkey War," *Independent*, Vol. CXIX (1927), p. 327.

\**New York Times*, May 6, 1928, Sec. III, p. 2.

\*"The Teaching of Evolution in Arkansas," *School and Society*, Vol. XXVIII (1928), p. 677.

\*Maynard Shipley, "Growth of the Anti-Evolution Movement," *Current History*, Vol. XXXII (1930), p. 332.

\**Ibid.*, pp. 331-32.

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