THE TENNESSEE ACADEMY OF SCIENCE AND THE SCOPES TRIAL

GEORGE E. WEBB

Department of History, Tennessee Technological University, Cookeville, TN 38505

ABSTRACT—The Tennessee Academy of Science had been in existence slightly more than a decade when the state legislature restricted the teaching of evolution in public schools in 1925. For several reasons, the Academy’s response to the antievolution campaign took many months to develop and did not manifest itself formally until the annual meeting in November. This meeting came four months after the infamous Scopes Trial and resulted in a resolution calling for the legislature to repeal the Butler Act. Early the next year, however, the Academy engaged counsel to prepare and submit a brief to the Tennessee Supreme Court in support of John T. Scopes’s appeal of his conviction. An analysis of the Academy’s involvement with this most famous of antievolution cases provides valuable insight concerning the organization’s role in science and education in Tennessee of the 1920s.

Few events in the history of Tennessee are better known than the Scopes Trial. During the first half of July 1925, much of the world’s media attention was directed toward the largely unremarkable village of Dayton, in the southeastern part of the state, where John Thomas Scopes was on trial for teaching evolution in the local high school. For some, Scopes was a martyr to modern science; for others, he was the embodiment of the modernist attack on traditional values. The young teacher stood accused of violating the recently passed Butler Act, by which teachers in all state-supported educational institutions (including colleges and universities) were prohibited from teaching “any theory that denies the story of Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals.” More than eight decades later, the trial continues to symbolize the ongoing controversy surrounding the teaching of evolution in public schools.

The details of the Scopes Trial are well known. The Butler Act, introduced by Representative John Washington Butler from a rural district in the north central part of the state, was the successful culmination of nearly a half decade of efforts to banish evolutionary concepts from public education. Largely because of the presence of William Jennings Bryan (unsuccessful presidential candidate and former Secretary of State), the antievolution crusade gained significant attention following the end of World War I. Bryan, through very selected reading of contemporary studies of German attitudes during the war, concluded that Darwinian concepts of the “struggle for existence” had propelled the Germans toward their militaristic efforts to conquer Europe. He also believed that the “materialistic” focus of evolutionary ideas eliminated reform prospects and minimized the importance of traditional religious teachings. Bryan’s campaign against the presence of Darwinism in the public schools was designed to eliminate these supposed threats to American society.

Many Americans embraced different views of the place of evolutionary teaching in the nation’s public schools. Progressive politicians and educators defeated campaigns to outlaw this teaching in Kentucky and North Carolina, arguing that such legislation would compromise efforts to modernize their states. The American Civil Liberties Union, increasingly concerned with matters of freedom of speech and conscience, viewed such legislation with alarm and offered to defend any Tennessee teacher who was arrested under the Butler Act. A small group of business leaders in Dayton, aided by young Scopes who agreed to serve as a defendant in such a case, took advantage of the ACLU offer. The Scopes Trial soon attracted well-known participants. William Jennings Bryan would serve as a special prosecutor, while noted criminal attorney Clarence Darrow would be a member of the high-powered ACLU legal team.

Despite the seeming importance of scientific concepts to the Scopes Trial, the role of scientists in the trial remained minimal. Following existing judicial practice, Judge John T. Raulston ruled against the admissibility of expert testimony during the trial, thus undercutting the defense effort to show that the Butler Act defined two separate actions: (1) the teaching of evolution, and (2) the teaching of this topic in a way that conflicted with the Bible. By calling as witnesses both scientific and religious leaders, who would testify as to what evolution was and how it was compatible with many different religious views, the defense hoped to show that the statute was fatally flawed. Without such expert witnesses, the defense was left with little ammunition to defend Scopes, although the ultimate goal of the ACLU, to gain a higher court decision as to the statute’s constitutionality, remained intact. As a result of Judge Raulston’s ruling, the Scopes Trial soon became a rather straightforward legal exercise, punctuated only by occasional dramatic episodes involving emotional appeals by attorneys on both sides. Scopes was convicted of violating the Butler Act and fined $100 by Judge Raulston. Defense attorneys immediately began working on Scopes’s appeal.

The relative lack of scientists’ involvement in the Scopes Trial provides the context for a discussion of the role of the Tennessee Academy of Science in this famous court case. As historians have noted (Webb, 1994; Larson, 1997), the ease
with which the Butler Act became law in early 1925 owed much to the lack of response by the state's scientific community. In contrast to developments the previous year in Kentucky and North Carolina, where the presidents of the state universities led the opposition to similar bills, the Tennessee intellectual establishment remained quiet. Harcourt A. Morgan, president of the University of Tennessee and an original member of the Tennessee Academy of Science, wrote to Governor Austin Peay in early February with reference to the pending legislation. Morgan informed the governor of the official position taken by the university: “The subject of Evolution so intricately involves religious beliefs, concerning which the University has no disposition to dictate, that the University declines to engage in the controversy” (Morgan, 1925). The president’s unwillingness to enter the fray was likely a result of his concern about the uncertain nature of state funding for the university, logically concluding that his opposition to the increasingly popular Butler Act would threaten appropriations for the Knoxville campus.

Similarly, no official comment concerning the Butler Act or Scopes Trial emerged from the Tennessee Academy of Science until its annual meeting at Vanderbilt University in late November. The meeting, described by Academy secretary-treasurer Roscoe Nunn as the “most largely attended meeting in many years,” attracted more than 100 individuals at the day’s sessions. The recently concluded Scopes Trial and the Butler Act were clearly items of interest to the membership, as indicated by a paper read in the morning session by Vanderbilt geologist and former Academy president L. C. Glenn, “Reasons for Belief in the Theory of Evolution.” More dramatic, however, was the Academy’s decision to adopt a resolution concerning the state’s antievolution statute. The resolution, unanimously approved at the business meeting, called for the repeal of the Butler Act, arguing that “any attempt to hamper by statute the pursuit of truth and the discovery and teaching of the facts of nature” was “contrary to the basic principles of freedom and the best interests of citizenship ....” The resolution characterized the Butler Act as “an unfortunate limitation of the intellectual freedom of teachers of science in our public schools,” “marks a backward step in our educational program,” and “takes away important privileges heretofore available to students, especially those in our higher institutions.” “In justice to our people,” the resolution concluded, “and for the welfare of the State, the Tennessee Academy of Science hereby earnestly recommends the repeal of the Act above mentioned at the next session of the State Legislature” (Nunn, 1926).

While waiting for the Legislature to consider this resolution, however, members of the Academy’s executive committee discussed the role the Academy might play in the appeal process. They invited Nashville attorney Henry E. Colton, who had attended the previous November’s annual meeting, to attend the 24 March 1926 meeting of the committee. Colton discussed the current status of the Scopes case before the Tennessee Supreme Court, convincing the committee to convene a special executive session of the Academy later that day to discuss the “advisability of having the Academy represented by a Counsel before the Supreme Court” (McGill, 1926a).

At the executive session, the Academy endorsed the proposal to involve itself in the Scopes Case and, six days later, the executive committee met again to implement the decision. Concluding that the Academy “should have the privilege through counsel of filing a brief and participating in the argument” before the court, the committee authorized the president “to engage competent counsel on as favorable terms as he may be able to secure” to represent the organization (McGill, 1926b). The committee unanimously endorsed this resolution and the president, Albert F. Ganier of the Nashville, Chattanooga, and St. Louis Railway, engaged Henry E. Colton, recently elected to Academy membership.

Colton’s task was not an easy one. The Tennessee Supreme Court had set aside May 31 and June 1 for oral arguments in the Scopes case, an unusual step in that one day of arguments was the norm (Larson, 1997: 214). Colton and his colleagues would thus have to prepare a brief to counter the state’s arguments, develop a suitable presentation to use before the court, and arrange for a printed version of their documents in a matter of weeks. Because the constitutional issues were of great interest, the brief would need to cite both state and federal court precedents, requiring careful and extensive research.

Despite the many demands, the Academy’s legal team accomplished its goal, submitting to the court a document of nearly 170 pages as an amicus curiae (“friend of the court”) brief to augment the brief filed by the defense (Tennessee Academy of Science, 1926). This brief presented many of the same arguments as used by the defense team and was praised by Clarence Darrow for its high quality (Alexander, 1926). The Academy’s brief focused on several ideas, but the most significant were several arguments that stressed the statute’s overtly religious nature. Colton and his colleagues emphasized that the objection to the teaching of evolution was based on a narrow, literalist view of Biblical writings which was held by relatively few Americans. Near the end of the brief, the Academy’s counsel stressed that the Butler Act had been enacted “in the interest of partisan religious propaganda,” prohibiting the teaching of evolution “because it conflicts with one interpretation of a section of the Bible ....” (Tennessee Academy of Science, 1926: 140). Providing such preferential treatment of a specific religious viewpoint was clearly in violation of the Tennessee Constitution (federal court rulings concerning church-state separation did not begin until the 1940s).

Yet the most potent argument advanced in opposition to the Butler Act concerned the unreasonable position in which it placed teachers. Because there were numerous “creation” accounts in the Bible, and because each of these accounts had been interpreted in a variety of ways (many of which eliminated any conflict between Biblical accounts and evolution), it proved impossible for any teacher to determine which of these accounts the legislature had in mind when it drafted the statute under review. This argument returned to one of the major defense ideas expressed in the original trial, that the Butler Act did not prohibit the teaching of evolution unless such teaching denied the story of divine creation in the Bible. If the teacher were faced with several different Biblical accounts and a number of different interpretations, some of which indicated that there existed no inherent conflict between Darwinian and Biblical accounts, how could the teacher know which account to follow to determine if, indeed, he or she was violating the Butler Act? The act thus violated the Fourteenth Amendment to the U.S. Constitution because of its vagueness, a fatal flaw for any legislation (Tennessee Academy of Science, 1926: 25–52).
The hearing before the Tennessee Supreme Court attracted significant media attention, but at no time did it resemble the circus-like atmosphere that had existed in Dayton the previous summer. The court chamber was filled with spectators, but John Thomas Scopes was noticeable for his evolution and atheism were essentially identical perspectives. No inherent conflict existed, he concluded, between the idea of human evolution, while Justice Chambliss wrote that the teaching of "theistic" evolution would be permissible (Scopes v. State, 1927).

The uniqueness of the Scopes case led the court to allow two of the defense attorneys, one of whom was Henry Colton, to respond to the state's argument. Presenting his comments the next morning, the Academy's counsel pointed out that many Tennessee Christians accepted evolution with no crisis of faith, therefore calling into question the State's argument that evolution and atheism were essentially identical perspectives. No inherent conflict existed, he concluded, between the idea of human evolution and the idea of the divine origin of man, as indicated by the large number of religious leaders who had been able to integrate the two ideas into their theological thought. Following Colton's response, each side presented closing arguments. The fate of John Thomas Scopes and of the Butler Act now rested with the Tennessee Supreme Court (Larson, 1997: 212-219).

The Kentucky Supreme Court had not announced its decision when the annual meeting of the Academy convened in Nashville in late November. At the business meeting before the first session of papers, Academy president Ganier asked Colton, now a respected member of the Academy, to discuss the current status of the Scopes case. He described the work he and his colleagues had done in preparation of the amicus curiae brief and then noted that he anticipated a decision in the pending case before the end of the year. Indicating the continued importance of the anti-evolution statute to members of the Academy, Colton advised the Academy to delay any active steps toward legislative repeal of the law until after the court announced its decision (McGill, 1926c).

The long-awaited decision in the Scopes appeal case was announced in mid-January 1927, the delay primarily being a result of the judges' unwillingness to announce their conclusion before the 1926 election, in which all faced re-election. The decision presented a complex and confusing end to the infamous "Monkey Trial." Only four members of the court participated in the decision, as one of the justices who had heard the case had died in the interim and his successor did not participate. The majority opinion, written by Chief Justice Green, upheld the constitutionality of the Butler Act as a legitimate exercise of the state's power over the educational system. Green and two of his colleagues rejected the charge that the statute attempted to establish a specific religious perspective, as it did not require the teaching of anything, let alone specific religious ideas. Similarly, the charge that Scopes's individual liberty had been restricted could be rejected because the Butler Act only applied to state employees performing their official functions. Scopes thus possessed no right to serve the State of Tennessee except on those terms mandated by the State (Larson, 1997: 220-221).

Although the constitutionality of the Butler Act had been confirmed, the court's decision did little to clarify the precise meaning of the contested statute. Justice Colin P. McKinney dissented from the opinion, accepting the defense position that the statute was unreasonably vague. Chief Justice Green and Justice Cook argued that the Butler Act prohibited all teaching of human evolution, while Justice Chambliss wrote that the teaching of "theistic" evolution would be permissible (Scopes v. State, 1927).

The court further clouded the issue by overturning the conviction of John Thomas Scopes on a questionable technicality. Following the conviction of Scopes in Dayton, Judge Raulston had proposed that he impose the fine of $100, following his court's precedent in similar cases involving misdemeanors such as bootlegging. Neither the jury, prosecution, nor defense objected to this action, nor was the issue of imposing the fine raised during the appeal process. The court, however, seemingly searching for a way to end the case, seized on the fact that the Tennessee Constitution required all fines greater than $50 to be levied by a jury. They then declared Scopes's conviction in error. Chief Justice Green then urged the Attorney General not to appeal the decision, arguing that "We see nothing to be gained by prolonging the life of this bizarre case." The State agreed a few days later (Larson, 1997: 220-221; Scopes v. State, 1927). Because Scopes's conviction had been overturned, defense had no grounds to appeal this decision. The case would thus never receive a hearing before the United States Supreme Court, nor would the Butler Act's constitutionality ever be formally determined.

When the January 1927 issue of the Journal of the Tennessee Academy of Science appeared a few weeks later, among the articles was an essay by Henry E. Colton, "The Present Status of the Anti-Evolution Law in Tennessee." Colton summarized both the defense presentation before the state supreme court and the court's decision. Stressing those parts of the decision that seemed to support the defense argument relating to the issue of vagueness, Colton argued that allowing the case to die, as suggested by the court and accepted by the Attorney General, would do great disservice to the teachers of Tennessee. This issue could be raised again, he emphasized, as both the court's decision and the State's acceptance of it could be reviewed if the case were re-opened, either by petition or by the court's own motion to rehear (Colton, 1927).

The State of Tennessee, however, saw no reason to pursue the Scopes case any further. At the Academy's executive committee meeting in early March, therefore, Colton submit-
ted a letter suggesting that a test case be arranged that would involve members of the University of Tennessee faculty. Because the Butler Act applied to all public education institutions, university faculty, most of whom continued to teach evolutionary concepts in their classes, were also subject to prosecution under the statute. The executive committee approved the proposal and directed Secretary J. T. McGill to forward a copy of Colton’s letter to an appropriate member of the university faculty to determine the degree of support for such action (McGill, 1927a). McGill corresponded with former Academy vice president C. A. Mooers, director of the university’s Agricultural Experiment Station. His response two months later was discouraging. Mooers reported that the sentiment of his colleagues in Knoxville was decidedly against pursuing such a course of action (McGill, 1927b).

The impact of the Scopes Trial, both in Tennessee and in the nation as a whole, was both profound and ambiguous. Science textbook publishers immediately minimized or eliminated the coverage of evolution in their public school biology texts, creating a watered-down biology curriculum that remained in place until the Sputnik crisis of the late 1950s. The resulting curricular reform, coordinated by the federal government through the National Science Foundation, provided students with quality science education which included discussions of evolution in biology classes. The recognized importance of science in the Cold War context further revealed the three existing antievolution statutes (Arkansas and Mississippi had enacted such laws in the late 1920s) as embarrassing anachronisms. Through legislative repeal (Tennessee) and court cases (Arkansas and Mississippi), these laws had disappeared by 1970 (Webb, 1994: 93-154).

The Academy’s role in the Scopes Trial, although slow to develop, revealed an awareness of the importance of the antievolution crusade and an eventual willingness to engage the topic. By going on record in opposition to the Butler Act, calling for the legislature to repeal the statute, and arranging for a formal Academy presentation before the Tennessee Supreme Court, the organization actively participated in the most famous of all antievolution episodes. That these efforts failed reveals more about the Tennessee of the 1920s than about the Tennessee Academy of Science.

LITERATURE CITED


Copyright of Journal of the Tennessee Academy of Science is the property of Tennessee Academy of Sciences and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.