

EVOLUTION ON TRIAL

Once the ACLU learned about Tennessee's new law, it took action. In May 1925, Tennessee's major newspapers ran a notice from the ACLU:

We are looking for a Tennessee teacher who is willing to accept our services in testing this law in the courts. Our lawyers think a friendly test case can be arranged without costing a teacher his or her job. . . . All we need now is a willing client.⁵

Town Leaders Form a Plan

The ACLU's notice excited George Rappalyea of Dayton, Tennessee. Born in New York, Rappalyea was thirty-one years old. He had grown up with a Baptist father and a Catholic mother. In Dayton, he joined the Five Points Methodist Episcopal Church.

While many people in Dayton were fundamentalist Christians, Rappalyea was not. He favored the idea of evolution, which had been advanced in a different form by the Methodist church's founder, John Wesley.⁶

Rappalyea also resented something that had happened at the funeral of a six-year-old child. The fundamentalist preacher told the grieving mother that her son could not have gone to heaven because he had not been baptized. The man's coldness angered Rappalyea. The same religious group had backed the Butler Act.

Outside of church, Rappalyea worked as a manager for the Cumberland Coal and Iron Company. There was not much to manage, though. About fifteen years earlier, the company had gone bankrupt. Most of Rappalyea's job involved supervising the breaking down and selling of machinery. The coal company's misfortunes had hurt

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the local economy. Dayton was the county seat for Rhea County, Tennessee. Sitting between Knoxville and Chattanooga, it was a small town in a rural area. Many people had lost jobs when the coal company filed for bankruptcy. Others were struggling farmers.

The proposed lawsuit would strike back at fundamentalists. Rappalyea felt it could also bring publicity and people to Dayton. They would spend money at the town's businesses. Investors might come as well. If they put money into the coal company or other businesses, Dayton would have more jobs. A lawsuit could boost the whole area's economy.

On May 5, 1925, Rappalyea presented the idea to a group at Robinson's Drug Store. The drugstore's soda fountain made it a popular gathering place. (Since it was the Prohibition era, the town had no legal bar.)

Fred Robinson, the store's owner, headed the Rhea County school board. Walter White was the local school superintendent. Two brothers, Herbert and Sue Hicks, were attorneys for the city of Dayton. Walter Haggard was another local attorney.

The group agreed with Rappalyea's idea. Surely, the ACLU's test case would be held somewhere. Why not bring any publicity and other benefits to Dayton? Now all they needed was a defendant.

W. F. Ferguson was the regular biology teacher at Dayton's Central High School. However, he was also the principal. Plus, he had a family. If the case involved any career risks, Ferguson had a lot to lose.⁷

John Scopes proved to be a better choice. At age twenty-four, he was single and had just finished his first year of teaching at Central High School. Scopes had



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actually majored in law at the University of Kentucky and planned to go to law school. To earn money in the meantime, he had applied for possible teaching positions.

After a sudden resignation in 1924, Dayton's school officials offered Scopes a job coaching the high school's football team. He would also teach algebra, physics, and chemistry. At \$150 a month, it was Scopes's best offer.⁸

Robinson sent a boy to bring Scopes from the local tennis court, where he had been playing doubles with some students. Still wearing his tennis clothes, Scopes came to the drugstore. Rappalyea said the group had been arguing about whether anyone teaching biology would have to teach evolution too.

"That's right," Scopes said. Robinson's store sold textbooks, including *A Civic Biology*. Scopes pulled a copy off the shelf and showed the section on evolution.

Rappalyea asked if Scopes had taught from that book. Scopes said yes. He had done a general review for the biology classes when Ferguson was out sick.

"Then you've been violating the law," Robinson said. He filled Scopes in on the ACLU's intent to challenge the Butler Law. "John," Robinson asked, "would you be willing to stand for a test case?"⁹

Scopes was not certain if he had actually covered evolution while doing the biology review. However, he had grown up in a freethinking family, and his father had been wary of various religious groups. Also, while Scopes went to church regularly, he did not side with the fundamentalists' view of the world. He agreed to the plan.



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A justice of the peace prepared a warrant to “arrest” Scopes, and a constable promptly served it. Then Scopes left to play more tennis. Meanwhile, Rappalyea telegraphed the ACLU in New York. “The stage is set,” he wrote. “The play can begin at once.”¹⁰

Meanwhile, Robinson and White began contacting the newspapers. As White put it, “Something has happened that’s going to put Dayton on the map!”¹¹

The Two Sides Square Off

The ACLU wired back that it would provide Scopes with legal counsel. Hays had John Randolph Neal, a law professor from Knoxville, appear with a local lawyer John Godsey at a preliminary hearing in Dayton on May 9. Meanwhile, newspapers across the nation spread the news about Scopes’s case.

Some newspapers criticized Dayton. They felt the case was a crass publicity stunt to attract business. Others saw it as a chance to challenge the antievolution movement.

The case especially intrigued Henry Louis Mencken, known as H. L. Mencken (1880–1956). He was an editor for the *American Mercury*, as well as a columnist for the *Baltimore Sun*. His biting wit had earned him a national reputation. Fundamentalists were one of his favorite targets.

“*Homo boobiens* is a fundamentalist for the precise reason he is uneducable,” Mencken once wrote.¹² The statement was a twist on the scientific term *Homo sapiens*. Instead of calling fundamentalists “knowledgeable men,” Mencken mocked them as stupid “boobs.” Mencken often made fun of rural people too.