

The L.A.  
Theatre  
Works  
Audio  
Docudrama  
Series

Pivotal  
Moments  
in  
American  
History

# **The L.A. Theatre Works Audio Docudrama Series**



# **The L.A. Theatre Works Audio Docudrama Series**

## **PIVOTAL MOMENTS IN AMERICAN HISTORY**

**The Great Tennessee Monkey Trial**

**The Real Dr. Strangelove**

**RFK: The Journey to Justice**

**The Chicago Conspiracy Trial**

**Top Secret: The Battle for the Pentagon Papers**

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METHUEN DRAMA  
Bloomsbury Publishing Plc  
50 Bedford Square, London, WC1B 3DP, UK  
1385 Broadway, New York, NY 10018, USA

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Cover design: Ben Anslow

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A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

ISBN:	HB:	978-1-3501-3578-9
	PB:	978-1-3501-3579-6
	ePDF:	978-1-3501-3580-2
	eBook:	978-1-3501-3581-9

Typeset by RefineCatch Limited, Bungay, Suffolk

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## Introduction

The five plays of this anthology—*The Great Tennessee Monkey Trial*, *The Real Dr. Strangelove*, *RFK: The Journey to Justice*, *The Chicago Conspiracy Trial*, and *Top Secret: The Battle for the Pentagon Papers*—focus on extraordinary crisis points in the history of the United States. At a time when many of our basic liberties as citizens are being questioned, it is deeply compelling to hear these voices and to witness their engagement with the world in situations not so dissimilar from our own. Our present political debates—concerning science and religion, nuclear proliferation, racial injustice, political protest, First Amendment rights—find their antecedents in the issues represented in these plays.

Although the anthology will be especially appealing to readers of American history, it also will excite the general public. These docudramas, based on primary sources and historical research, provide a vivid context and imaginative entryway into some of the most important events of the twentieth century in the United States. Key sections of *The Great Tennessee Monkey Trial*, for example, are taken directly from the trial transcripts—the famous orations of William Jennings Bryan and Clarence Darrow are included as are speeches made by Robert Kennedy and Martin Luther King in *RFK: The Journey to Justice*. Those readers drawn to the post-war periods of World War I, World War II, the Korean, and the Vietnam Wars, will find the plays particularly interesting as the anthology concentrates specifically on the core years of the “American Century” from the 1920s through the 1970s.

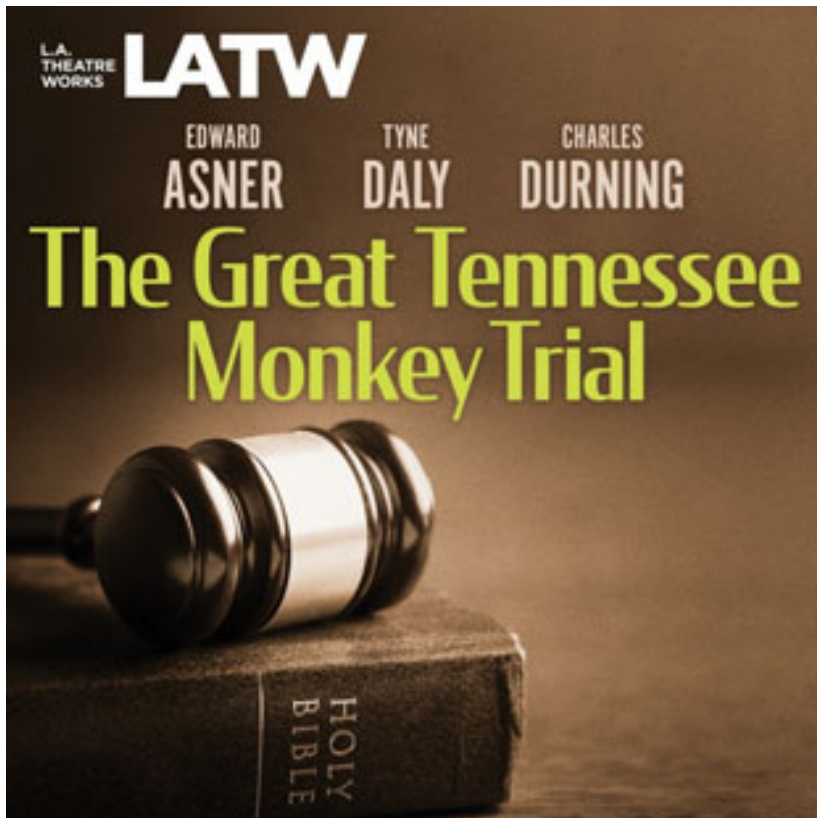
These plays are also about the power of words and about those who use words, both printed and spoken, for their seeming alchemical power to persuade and to transform the hearts and minds of the listeners. The anthology is a compendium of American language as it evolves through the twentieth century—language as speech, rhetoric, diatribe, propaganda, legal argument, debate. Can there be anything more disparate than the clash of words between Judge Julius Hoffman and the Chicago Seven? Yet they are united in their essential understanding of the power of language.

L.A. Theatre Works believes in the efficacy of words as theater, as political action, as agents of social change. Since 1985, the company has recorded over five hundred plays, both classic and contemporary. These productions are broadcast nationally on eighty radio stations and internationally in China and Germany. They are also streamed and podcast worldwide. Some of the plays in this anthology have toured the country presented as “live-in-performance” radio dramas in two hundred separate civic and performing arts venues and universities. The effect can be riveting as the audience is drawn into the “argument” of our ongoing national dialogue

And this has been as true in Beijing as it has been in New York, when L.A. Theatre Works made its first international tour of China in 2011 with the play *Top Secret: Battle for the Pentagon Papers*. In the middle of the performance, the audience broke into cheers when the character of Ben Bradlee announced that the *Washington Post* would publish the Pentagon documents.

These plays have the capacity to provoke, challenge, and activate the historical and political imagination—it is exciting to have them in one volume and to know that the ideas they contain will be read, analyzed, debated, and performed.

*Michael Hackett*  
*Professor of Theater*  
*UCLA School of Theater, Film and Television*  
*May 27, 2019*



### **Setting**

Dayton, Tennessee, the Rhea County Courthouse

### **Time**

July 7–21, 1925

### **About the Play**

L.A. Theatre Works' production of *The Great Tennessee Monkey Trial*, written by Peter Goodchild, is based entirely on original transcripts of the famous 1925 Tennessee v. John Scopes "Monkey Trial," which challenged the newly passed Tennessee legislature's Butler Act banning the teaching of evolution in the state's public schools. Recreated by a renowned cast of actors, the play transports audiences back to Dayton, Tennessee's sweltering, tension-filled courtroom during the summer of 1925 where they will experience first-hand the dramatic trial as it took place.

## **Original Live Theatre Production**

*The Great Tennessee Monkey Trial* by Peter Goodchild was originally commissioned and produced by L.A. Theatre Works and the BBC, in association with KCRW Santa Monica, CA. Recorded in 1994. It was directed by John Theocharis. The cast was as follows:

<b>William Jennings Bryan</b>	Edward Asner
<b>Howard Morgan</b>	Danny Cooksey
<b>John Thomas Scopes</b>	Jeff Corbett
<b>Narrator</b>	Tyne Daly
<b>Clarence Darrow</b>	Charles Durning
<b>Shelton</b>	Walt Goggins
<b>Dudley Field Malone</b>	Harold Gould
<b>Arthur Garfield Hays</b>	Gerrit Graham
<b>Ensemble</b>	Peter Jacobs
<b>Ensemble</b>	Macon McCalman
<b>Ben McKenzie</b>	Logan Ramsey
<b>Judge John Raulston</b>	John Randolph
<b>H.L. Mencken</b>	Joe Spano
<b>Ensemble</b>	Ray Stricklyn
<b>Attorney General Tom Stewart</b>	Harris Yulin

## **Additional Production**

Recorded in Cambridge, Massachusetts before a live audience at the Institute of Politics at the John F. Kennedy School of Government, Harvard University in April 2007. It was directed by Brendon Fox. The cast was as follows:

<b>William Jennings Bryan</b>	Edward Asner
<b>Ensemble</b>	Bill Brochtrup
<b>Ensemble</b>	Kyle Colerider-Krugh
<b>John Thomas Scopes</b>	Matthew Patrick Davis
<b>Clarence Darrow</b>	John de Lancie
<b>H.L. Mencken</b>	James Gleason
<b>Dudley Field Malone</b>	Harry Groener
<b>Judge John Raulston</b>	Jerry Hardin
<b>Attorney General Tom Stewart</b>	Geoffrey Lower
<b>Narrator</b>	Marnie Mosiman
<b>Arthur Garfield Hays</b>	Kenneth Alan Williams

## **Characters\***

### **Clarence Darrow**

Sixty-eight-year-old Darrow was near the end of his career as the foremost trial lawyer of his time, a career in which he had defended high-profile cases involving social injustice and also famous murderers. Only the year before Dayton, he had successfully defended the self-confessed murderers Leopold and Loeb.

He delighted in challenging traditional concepts of morality and religion. He regarded Christianity as an enslaving religion. Genesis, he believed, had given man an inflated sense of self-importance. In his mind the Dayton trial was a duel with traditional religion, very different from the issues of academic freedom that concerned his colleagues from the American Civil Liberties Union (ACLU), and this was to cause friction. Two years previously he had publicly challenged Bryan to answer questions on the meaning of the Bible but Bryan had not replied.

### **William Jennings Bryan**

In 1896, at the age of thirty-six, Bryan's oratory and enthusiasm made him the youngest Democratic presidential nominee ever. He was narrowly defeated but with popular reformist campaigns on votes for women and a minimum wage, he was twice more the Democrats' nominee—though without success.

In 1912 he had helped Woodrow Wilson to power, becoming his Secretary of State. A confirmed pacifist, he had resigned in protest when Wilson pushed to join the war in Europe. After leaving office he began his fundamentalist crusade amassing an enormous following, particularly in the Southern and Western states where he delivered up to 200 speeches a year and commanded audiences of thousands. By age sixty-five, he lived in Florida where he had become wealthy from property development.

### **Arthur Garfield Hays**

At age forty-four, Hays was a successful corporate lawyer who turned to the ACLU out of boredom and remained one of its central figures for three decades. His belief in direct action, such as selling banned books on Boston Commons, and supporting illegal union action, had resulted in periods in jail. Some years after Dayton, Hays, a Jew, had gone to Germany to defend the radicals accused of burning the Reichstag.

### **Dudley Field Malone**

Malone, age forty-four, was an international divorce lawyer who embraced radical causes. As a young man, he had been Bryan's Undersecretary at the State Department. Malone was the only member of the defense who was a practicing Christian.

### **Henry Louis Mencken**

H.L. Mencken, age forty-five, of the *Baltimore Sun* was one of the most influential journalists of the time and a friend of both Darrow and Hays. His paper had helped fund Scopes' defense. His caustic and disdainful reporting of the trial brought the local police chief to fear for his safety from angry locals.

*\*Ages given are those at the time of the trial*

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### **Tom Stewart**

Stewart, age thirty-four, was Tennessee's newly appointed Attorney General who led the prosecution team. He was to surprise and frustrate the defense with his tenacity and grasp of the law. He himself was not a fundamentalist but resented interference in state affairs by outsiders. Later he became a member of the Senate.

### **Judge John Raulston**

Raulston was a local judge and lay preacher, more used to trying bootleggers and petty thieves. At the time of the trial he was coming up for re-election to his post. After the trial he was to declare himself against evolution.

### **John Thomas Scopes**

Scopes, age twenty-four, was a general science teacher and part-time football coach at Rhea County High School in Dayton. He played little part in the proceedings, other than to resist those in the ACLU who wanted to replace Darrow as his counsel. During the trial, he received numerous lucrative offers from newspapers and of film work in Hollywood, all of which he turned down.

## Producing Director Notes

### *Susan Loewenberg*

In 2005 we were approached to do a national tour—to share a behind-the-scenes look at how we created our weekly radio show *The Play's the Thing*. We had no idea how it would—to borrow a word from Mr. Darwin—evolve.

We chose Peter Goodchild's *The Great Tennessee Monkey Trial* after we discovered that out of all the recordings we had given to public school teachers across the country this was the most utilized play. The play was so well received that we toured it again in 2007–2008 and in 2009. The issues that fuel the drama of Goodchild's work were headlines of every newspaper and debated on television and radio talk shows with as much controversy as the original trial in 1925. Politicians, from the President to the Speaker of the House, stated their opinion. School boards in Kansas and other states voted on whether or not evolution can be taught as science. The terms have changed—what was once a battle between science and faith had now become reframed as a debate between evolution and intelligent design, an approach to life's beginning put forth by the Seattle-based Discovery Institute—but the passion on both sides remained as divisive as ever.

*The Great Tennessee Monkey Trial* resonates today for many reasons. It is a fascinating piece of real drama set in 1925 when America was changing. A world war had ended, social traditions were under strain, jazz played in the background, and a great wave of revivalism swept the country. Dayton, Tennessee was a sleepy town looking for a way to put itself on the map and in the Butler Act a few of its citizens found a way, with the help of the ACLU, to stage what would turn out to be the trial of its time.

John Thomas Scopes, a young science teacher and part-time football coach, was persuaded to volunteer to challenge the state's law forbidding the teaching of evolution in the classroom. The trial attracted a most unlikely set of lawyers and observers—from the three-time Presidential candidate and former Secretary of State turned religious speaker William Jennings Bryan, on the prosecution side, to Clarence Darrow, a famed criminal attorney for the defense. Arthur Garfield Hays, a prominent free speech advocate, joined Darrow, as did international divorce lawyer Dudley Field Malone, who was to make one of the most powerful speeches during the trial.

A circus atmosphere pervaded the town—from the 1,000 people who swarmed the courtroom the first day, to the side-show chimpanzees said to have been brought in by the prosecution, the evangelists preaching to crowds of the faithful, and the Anti-Evolution League members selling copies of T.T. Martin's book *Hell and the High School*. Eventually the trial would be moved outside to the lawn, where several thousand more came to listen. Journalists, including H.L. Mencken, came from around the country, and the trial would become the first court case ever to be broadcast on national radio. The whole country was listening and avidly following the case's arguments and testimonies. On trial were both Darwin's theories as well as the Bible's claims and the debate between the two sides was often acrimonious and fiery.

Fast-forward to today and the same questions are before us. What is it that makes this particular branch of science so controversial? Why are we, over ninety years after that famous trial, still echoing the arguments of its great orators, Clarence Darrow and William Jennings Bryan?

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We have found, we hope, a different way to approach these difficult and complex questions. By going backward and taking another look at what actually happened in that hot and dusty courtroom, perhaps we can go forward in our thinking with new ways to approach this highly charged debate. From a backstage look at how a radio drama is created, we found ourselves creating something else, something that perhaps only theater can do in its alchemical mix of intimacy and community. We found ourselves staging a national conversation—one that began with the docudrama by Peter Goodchild and will go on to include those in our towns and cities who are a part of this drama today. Scientists, theologians, politicians, historians, legal scholars, and more joined the actors in this great road show and we ask you, our reader, to do so as well.

## Author's Notes

### *Peter Goodchild*

The trial is perhaps best known from the play *Inherit the Wind*, later made into a film starring Spencer Tracy and Fredric March. For all their dramatic power, both the play and the film significantly distort events and simplify the issues surrounding the legendary confrontation between Clarence Darrow and William Jennings Bryan in Dayton, Tennessee eighty years ago. The trial in “Inherit the Wind” is seen as a clash between open-mindedness and dogmatism, but both Darwinism and the original Scopes trial raise more complex issues.

When first published in 1859, the impact of Darwin's *Origin of the Species* was truly profound. According to Darwin, species arose by the “natural selection of numerous, slight, favorable variations” and these variations, over time, proved beneficial in the battle for “survival of the fittest.” Not only did this theory challenge the authority of the Bible and its account of creation but it also raised questions about the relationship of man to his universe. His position as the crowning creation of a universe created by a loving God was no longer secure. Instead he could be seen as just the latest arrival in an impersonal universe, which operated by the random rules of natural selection and was tainted by the cruelty of survival of the fittest.

Darwin himself had been deeply disturbed by his own findings. However, after the furor at the time of publication, a majority of scientists came to accept the fact of evolution—albeit without understanding the mechanism—and many faithful came to accept it as the means by which a still benevolent God worked his will.

The First World War changed that. Its brutality and the apparent breakdown of traditional values that followed generated widespread concern, and among conservative Christians Darwinism was seen to have much to answer for. Not only had it weakened the moral authority of the Bible, but it was argued that, through the writings of Friedrich Nietzsche, Darwinism had provided the Germans with the justification for a violent and competitive struggle “for the good of the world.” Furthermore a 1916 study of religious belief among college students and professors showed that, while 15 percent of freshmen were “unbelievers,” the number had grown to nearly 40 percent by the time they graduated. Furthermore the greatest number, over 80 percent, was found amongst biologists.

These criticisms of the social impact of Darwinism were embraced by the one-time reformist politician William Jennings Bryan. He declared that “to destroy the faith of Christians and lay the foundations for the bloodiest war in history would seem enough to condemn Darwinism.”

In Bryan, the Baptists, Methodists, and Pentecostals who, in 1919, had collaborated to create the World Christian Fundamentals Association, found a leader powerful enough to turn their campaign into political action. In 1921, Bryan joined the Baptists in Kentucky calling for a state law against teaching evolution in public schools. The resolution just failed, but over the next four years the anti-evolution crusade attempted restrictive legislation in seven states, and succeeded in four of them. The last had been the Butler Act, passed by the Tennessee legislature in early 1925. It stated:

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That it shall be unlawful for any teacher in the public schools of the state to teach any theory that denies the story of the Divine Creation of man taught in the Bible, and to teach instead that man has descended from a lower order of animals.

With these attacks on religious freedom, its involvement in issues ranging from prohibition to abortion and its links in some areas to the violent Ku Klux Klan, fundamentalism was being seen as a threat to civil liberties. So concerned was the newly formed American Civil Liberties Union (ACLU) that they decided to mount a test case. They advertised throughout Tennessee for a teacher of evolution who would challenge the new law, and their call was answered by a group of businessmen in the once prosperous mining town of Dayton. They hoped that such an event in Dayton would restore its fortunes and they approached a general science teacher at the local high school, John Scopes. Scopes proved a willing collaborator and went off to have himself arrested.

The businessmen of Dayton may have relished the trial but the state legislature knew the strength of liberal opinion nationwide against the law, and feared both ridicule and accusations of bigotry. They were determined to avoid any debate of the broad issues of academic and religious freedom, which the ACLU wished to publicize through the trial. Instead they intended to limit the case to the simple question of John Scopes' guilt under the Act. The prosecution was led by the able 34-year-old state Attorney General, Tom Stewart. Bryan himself was invited to join the team but had not tried a case in thirty years. However, he was expected to make both an opening and closing speech.

Arthur Garfield Hays led the ACLU's legal team defending Scopes and he had welcomed an offer from the leading trial lawyer of the day, Clarence Darrow, to join the defense. Darrow, in turn, brought with him Dudley Malone, a wealthy Irish Catholic divorce lawyer, and along with them came one of the best-known journalists of the time, H.L. Mencken of the *Baltimore Sun*.

By the time the trial opened in sweltering heat on Friday, July 10, 1925 there were estimated to be some 200 journalists covering the case, and telegraph operators wired stories to Europe and Australia. It was also going to be the first American trial to be broadcast nationally by radio. Outside the court, evangelists shared the streets of Dayton with monkeys and chimpanzees dressed in suits and ties, and stalls selling "Monkey Fizz" soda, celebrating man's alleged common ancestry with the apes. On his arrival, Bryan had set the tone by declaring that, "If evolution wins, Christianity goes." Everyone was hoping for a momentous event, a battle royal between science and faith.

## Act One

*The opening (fade up gospel music: “We Will Understand It Better By and By”):*

**Narrator** It was the trial of the century—two of the most famous men in America locked in ideological combat. For the press it was the headline story of the decade, and it marked the first time the new medium of radio was used to broadcast a trial to listeners all across the nation. The issues were as controversial then as they are today. It was an event that came to be known as . . . THE GREAT TENNESSEE MONKEY TRIAL.

*Sound of crowd in an expectant state. Train whistle is heard. Crowd cheers approaching train.*

**Narrator** Tuesday, July 7, 1925, the Royal Palm Limited train from Florida was making a special stop at the tiny train station in Dayton, Tennessee.

A crowd numbering several hundred was there to greet one of the most celebrated men to ever visit this backwater town; one-time Secretary of State and three-time Democratic Presidential candidate—William Jennings Bryan. He had come to join the prosecution in the case of John Thomas Scopes versus the state of Tennessee

**Bryan** Well, I’m here.

*Crowd cheers.*

Long have I looked forward to getting to Dayton and I’m ready for anything that is to be done. John Scopes has been indicted for the teaching of evolution in our public schools, which is against the law in this state.

Make no mistake, my dear friends, the contest between evolution and Christianity is a duel to the death; a battle between the unbelievers that attempt to speak through so-called “science,” and the defenders of the Christian faith speaking through the legislature of Tennessee.

*Cheers.*

If the Butler Act is upheld and evolution is banned from our schools—and the morals of our children protected—there will be millions of Christians everywhere who—with hearts full of gratitude—will call you, the people of Dayton, blessed.

*Cheers, the band begins to play and fades out.*

**Narrator** It was in the aftermath of the First World War that religious fundamentalism was re-ignited in America and brought men like William Jennings Bryan to its ranks.

The shock of a brutal conflict, and the perceived breakdown of traditional values, created a search for causes; for reasons; and among conservative Christians one of the main targets was Darwin’s theory of evolution.

By 1925, Bryan was heading a formidable movement, using state legislation to prevent the teaching of evolution across the nation. Tennessee was the first to pass such an act, introduced by farmer-senator John Butler.

**Butler** It shall be unlawful for any teacher in any of the Universities, Normals and all other public schools in the state of Tennessee 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.

**Narrator** Known as the Butler Act, it was passed by the Tennessee legislature on March 21, 1925. The fundamentalists cheered.

The American Civil Liberties Union, however, saw it as a threat to the constitution and decided to mount a test case.

They advertised throughout Tennessee for a teacher who would challenge the new law, and this was where the little town of Dayton got involved.

An attractive and once prosperous iron and coal-mining town, with eleven churches serving only 1800 inhabitants, Dayton had fallen on hard times and was desperately looking to better itself. So they turned to a popular science teacher by the name of John Thomas Scopes.

**Scopes** On May 5, a group of local businessmen asked to meet with me in Frank Robinson's Drug Store and Soda Fountain.

*To them.*

Morning, Mr. Robinson.

**Robinson** John.

**Scopes** Mr. White

**White** John.

**Scopes** (*to audience*) Frank Robinson handed me the *Chattanooga News* where the American Civil Liberties Union was offering to pay the expenses of anyone willing to test the constitutionality of the Butler Act.

**Robinson** It's an opportunity to put this little town back on the map.

**White** John, we need a volunteer.

**Scopes** (*to audience*) I knew that, sooner or later, someone would have to take a stand against the stifling of freedom the Butler Act represented.

(*To Robinson.*) Sure, I'll volunteer, provided you can prove I've taught evolution.

**Robinson** Well, you filled in as a biology teacher when the principal was sick, didn't you?

**White** Didn't you cover evolution?

**Scopes** (*to audience*) To tell the truth, I wasn't sure I had, but Robinson and the others weren't concerned about this technicality. I had expressed a willingness to stand trial and that was enough. Frank walked over to the phone and called the *Chattanooga News*.

**Robinson** This is F.E. Robinson in Dayton; I'm chairman of the school board here. We've just arrested a man for teaching evolution. What'd ya think about that?!

**Narrator** In fact, John Scopes had to find the sheriff to get *himself* arrested; after that Scopes returned to playing tennis.

Robinson then sent a cable to the American Civil Liberties Union and there was a prompt reply . . .

*Sound of telegraph.*

**Hays** "We will cooperate Scopes case with financial aid, legal advice, and publicity."

**White** Frank, we're in business!

**Narrator** As intended, the trial became national news almost immediately and the giants of both the liberal and fundamentalist causes came and answered the call to battle.

The first to step up to the plate was William Jennings Bryan. He had been Woodrow Wilson's Secretary of State during the First World War, but now, with his political career in decline, he attached himself to a variety of causes. By 1925 he had found fame as a leader of the fundamentalists.

Renowned as a preacher and great orator there were many who were put off by his messianic approach. Back in Nebraska, his home state, he was described as:

**Nebraskan** "Like the River Platte—a mile wide at the mouth, but only six inches deep."

**Narrator** Bryan's involvement in the trial galvanized another great American into joining the fray. The country's most famous criminal lawyer and one of its most public agnostics: Mr. Clarence Darrow.

**Darrow** I was in New York when I saw that Mr. Bryan had volunteered to assist in the prosecution. At once I volunteered to assist in the defense—free of charge.

My only object was to focus attention on the evil at hand—the program of Mr. Bryan and the other fundamentalists in America.

With me came my friends, Arthur Garfield Hays, attorney for the American Civil Liberties Union; and Dudley Field Malone, international divorce lawyer.

**Narrator** And so they assembled from far 'n' wide in Dayton, Tennessee; two titans of the American scene preparing for battle or, as Bryan liked to say, "a duel to the death."

John Scopes may have been on trial for a misdemeanor carrying a likely penalty of only \$100, but there were some 200 journalists in town, and not just from the U.S. Of A., but from all over the world.

H.L. Mencken, the renowned journalist with the acid tongue, set the scene best:

**Mencken** Thursday, July 9, 1925: The town I confess, greatly surprised me. I expected to find a squalid Southern village, with darkies snoozing on the horse blocks, pigs rooting under the houses and the inhabitants full of hookworm and malaria.

What I found instead was a country town of charm and even beauty. The town boomers have banqueted Darrow as well as Bryan, but there is no mistaking which of the two has the crowd. What Bryan says doesn't seem to these congenial Baptists and Methodists to be argument; it seems to be a mere graceful statement of the obvious.

**Narrator** The trial began on Friday, the 10th of July, in the surprisingly large and elegant courthouse at the centre of Dayton.

*The crowd murmurs.*

**Darrow** At the top of the grand staircase, we entered the largest courtroom I have ever seen; able to accommodate a thousand of its townspeople.

Above the judge's seat, and in other places around the courtroom, were monster signs saying, "Read Your Bible Daily"—it looked as though there was a discount sale somewhere.

**Bailiff** All rise.

**Narrator** The court was presided over by John Raulston, a local judge and lay preacher, more used to trying bootleggers and petty thieves than issues of national importance. Tennessee's ambitious Attorney General, Tom Stewart, led the prosecution.

**Bailiff** All be seated.

**Raulston** Gentlemen, I desire to show you that we are glad to have you here—the foreign lawyers for both the state and the defense. I shall accord you the same privileges accorded to local counsel and I assure you again that we are delighted to have you with us. Mr. Attorney General Stewart, are you ready to proceed with the selection of the jury?

**Stewart** Yes, Your Honor.

**Raulston** Are you ready, Colonel Darrow?

**Darrow** Yes, sir.

**Narrator** By local custom attorneys on both sides were graced with the title "Colonel."

**Raulston** Good. I would like to invite Rev. Cartwright to open the court with a prayer.

**Cartwright** Oh, God, our divine Father, we recognize Thee as the Supreme Ruler of the universe. We are incapable alone of thinking pure thoughts or performing righteous deeds. Hear our prayers and grant that the President of the United States down to the most insignificant officer of this court seek thy Wisdom and Honor and Glorify thy name . . .

**Narrator** The entire prayer ran over five minutes.

**Raulston** Thank you, Reverend Cartwright.

Gentlemen, shall we have the names drawn?

**Narrator** And so it was on the “First Day” the jury was examined. A four-year-old boy, perched on the corner of Judge Raulston’s desk, drew the names of possible jurors from a large wooden box.

**Stewart** Mr. Riley, are you related by blood or marriage to John T. Scopes?

**Riley** No, sir.

**Stewart** Have you formed an opinion about him?

**Riley** No opinion, just what I’ve heard.

**Stewart** Just rumor talk?

**Riley** Yes sir.

**Stewart** Pass him on to you, Colonel.

**Darrow** Mr. Riley, you a farmer?

**Riley** Yes. And I was a coal miner too . . . for awhile.

**Darrow** I see. Member of a church?

**Riley** Yes, sir.

**Darrow** Which one?

**Riley** Baptist.

**Darrow** Do you have any feeling that evolution is a wrong teaching at this time?

**Riley** Well, I haven’t studied very much about it.

**Darrow** Ever heard Mr. Bryan speak about it?

**Riley** No, sir.

**Darrow** Ever read anything he said about it?

**Riley** No, sir. I can’t read.

**Darrow** Well, you’re fortunate. With those glasses do you have a problem with your eyes?

**Riley** No, sir. I am uneducated, just uneducated.

**Narrator** Few of the prospective jurors knew what “evolution” was, but some who did had a very particular view.

**Darrow** You say you are a pastor, Mr. Massingill?

**Massingill** (*proudly*) Yes, I am pastoring four churches at this time.

**Darrow** Ever preach on evolution?

**Massingill** I’m strictly for the Bible.

**Darrow** I’m talking about evolution, I’m not talking about the Bible! Did you preach for or against evolution?

**Massingill** I preached against it, of course!

**Darrow** I challenge for cause. Your Honor.

**Raulston** Well, I want every juror to start with an open mind. I will have to excuse you, Reverend Massingill.

**Mencken** Friday, July 10: The selection of a jury went on all afternoon in the atmosphere of a blast furnace. It was obvious after a few rounds that the jury would be unanimously hot for Genesis.

The most that Mr. Darrow could hope for was to sneak in a few men bold enough to declare publicly that they would have to hear the evidence against Scopes *before* condemning him.

This is a strictly Christian community. For them, to be accused of heresy by their peers is like being accused of boiling their grandmother to make soap in Maryland.

**Narrator** By the end of the day the choices had been made—ten farmers, a teacher and a former U.S. Marshall.

*Sound of crowd exiting the courtroom.*

It was now the weekend and the crowds dispersed. Dayton, for the first time in its life, experienced a traffic jam as the visitors headed for the cool of the mountains. But when Darrow went out for an evening stroll, he found Dayton far from deserted.

**Darrow** Like mushrooms on every corner: “Hot Dog” booths, fruit peddlers, ice cream vendors had sprung into existence. Evangelists’ tents were propped up everywhere. It sounded like hordes of howling dervishes were holding forth crying out against the wickedness of Darwin.

*Sound of dance-hall music.*

**Scopes** On Saturday night an old girlfriend asked me to walk her back from the dance pavilion. As we walked, suddenly, and to my great surprise, she enveloped me in a passionate embrace.

*Kiss.*

Simultaneously the path was flooded with light and a horde of photographers snapped away. After that, I was not so keen to accept even the most harmless invitation.

*Sound of court spectators.*

**Narrator** The court reconvened on Monday, July 13—the “Second Day.”

**Raulston** Rev. Moffett would you please lead us in prayer.

**Moffett** Oh God, our Father. Thou who art the creator of the heavens and the earth and the sea and all that is in them; bless this court this morning. Guide our presiding judge, bless the jury, each member of it, that they shall be able to make a decision *according to the law* . . .

**Narrator** . . . When the prayer was finished Stewart read the indictment.

**Stewart** The grand jurors for the state of Tennessee present that John Thomas Scopes did willfully teach in the public schools certain theories that deny the story of the divine creation of man as taught in the Bible and did teach instead that man has descended from a lower order of animals.

**Raulston** So what is your plea, gentlemen? Colonel Hays.

**Hays** Your Honor, we the Defense make a motion to quash the indictment, and we would like simply to present our thirteen reasons for that motion.

**Narrator** In this attempt to quash the indictment at the lower court, the defense was challenging the constitutionality of the new law.

If they failed, they hoped to appeal the case to the federal court. This higher court would be bound to consider the constitutionality of the Butler Act.

The prosecution, on the other hand, was determined to stick to a narrow interpretation; simply establishing that Scopes was guilty of his teaching offence as indicted.

**Stewart** Your Honor, it has occurred to me that the jury should leave the courtroom.

**Hays** I object.

**Stewart** It doesn’t make any difference whether you do or not, Colonel Hays. I addressed the Court.

**Hays** Your Honor, the jury has got to be the judge of the law.

**Stewart** There is no issue before the jury. Let the jury leave the room.

**Hays** Your Honor . . . we would like to present “experts” . . .

**Stewart** You don’t need experts to explain a statute that explains itself. Mr. Scopes taught evolution. He was a school teacher in a school funded by the state of Tennessee. The questions have all been settled in Tennessee. If these gentlemen have any laws in the great metropolitan city of New York or in the *great white cities* of the . . .

**Malone** I would like to say here that I do not consider further allusion to geographical parts of the country as particularly necessary . . .

**Raulston** Please, please! Do not take offense! I want you gentlemen from New York or any other foreign state, to always remember that you are our guests and . . .

**Stewart** It was not my intention, Your Honor, to insult or hurt the feelings of either one of these various gentleman, but . . .

**Narrator** And so it went the whole morning as both sides jockeyed for position and for what was or was not to be “admitted.” The jury was eventually dismissed.

That afternoon Stewart and Darrow clashed over the preferential treatment the Butler Act gave to the Bible.

**Darrow** Your Honor.

**Stewart** (*in mid-argument*) The Butler Act does not even approach interference with religious worship.

**Darrow** It gives preference to the Bible.

**Stewart** To the Bible?

**Darrow** Yes, why not the Koran?

**Stewart** It does not mention the Koran?

**Darrow** Then doesn't it prefer the Bible to the Koran?

**Stewart** We are not living in a heathen country so how could it prefer the Bible to the Koran?

*Derisive laughter at the defense table.*

**Stewart** Are you saying teaching the Bible in the public schools is a religious matter?

**Malone** (*jumping in*) It is an invasion of the right of the citizen . . .

**Stewart** Because it imposes an opinion?

**Malone** Because it imposes a *religious* opinion!

**Darrow** (*picking up*) What we mean is this: to impose on a *science course* a particular view of creation from the Bible is, in our view, *interfering* with the civil rights . . .

**Stewart** (*jumps in*) The Butler Act is not an invasion of a man's religious rights! He can go to church on Sunday or any other day, and there worship according to the dictates of his conscience. Mr. Scopes, the defendant, can do this. So this is not an invasion of religious liberty.

The legislature has simply directed through the Butler Act that public money shall not be spent in the teaching of theories that conflict or contravene the story of creation—*as stated in the Bible*—which the legislature have a right to do . . .

**Darrow** Can I proceed, Your Honor?

**Raulston** I will hear you, Colonel Darrow.

**Stewart** Your Honor?! . . .

**Raulston** Sit down, General Stewart. It's Colonel Darrow's turn.

**Darrow** Thank you, and I shall always remember that this court, Your Honor, is the first one that ever gave me the great title of "Colonel" and I hope it will stick to me when I get back North—(*Dig to Stewart.*) to those *great white cities!*

**Raulston** I want you to take it back to your home, Colonel.

**Darrow** I shall try do that, Your Honor. Now the case we have to argue is a case at law; and hard as it is for me to bring my mind to conceive it—almost impossible as it is to put my mind back into the sixteenth century—I am going to argue this law as if it were serious and as if it were a death struggle between two civilizations.

What we find here today is as brazen and bold an attempt to destroy learning as was ever made in the Middle Ages. The only difference is we have not provided that Mr. Scopes shall be burned at the stake. But there is time for that, Your Honor. We have to approach these things gradually.

Now we have been informed that the legislature has the right to prescribe study in the public schools. Within reason, they no doubt have.

But the people of Tennessee adopted a piece of legislation that says you shan't teach any theory on the origin of man, *except* the divine account contained in the Bible.

No legislature is strong enough to pick any book as being divine. The state of Tennessee has no more right to teach the Bible as the Divine Book than that the Koran is the one, or the Book of Mormon, or the books of Confucius or the Buddha, or the essays of Emerson, or any one of a thousand books to which human souls have gone for consolation.

Now I ask you; what *is* the Bible? The Bible is made up of sixty-six books written over a period of about 1,000 years, some of them very early and some of them comparatively late.

It is a book primarily of religion and morals. It is not a book of science—never was and never was meant to be. There is nothing prescribed that would tell you how to build a railroad, or a steamboat, or how to make anything that would advance civilization.

It is not a book on biology—they knew nothing about it. They thought the earth was created 4,004 years before the Christian era. We know better. I doubt if there is a person in Tennessee who does not know better.

And there are in America at least 500 different sects or churches, all of which quarrel with each other on the importance or non-importance of certain things or the construction of certain passages. So, who is the chief mogul who is going to tell us what the Bible means?

No criminal statute can rest that way. There is not a chance for it. And the Butler Act is a criminal statute, and every criminal statute must be plain and simple. My

friend the Attorney General says John Scopes knows what he is here for. Yes, I know what he is here for. He is here because the fundamentalists are against anyone who thinks.

**Voice** Heathen!

*The crowd reacts loudly.*

**Darrow** I know John Scopes is here because ignorance and bigotry are rampant. That is a pretty strong combination, Your Honor, and it makes him fearful. But the indictment the state uses to bring him here must be clear, it must be plain and simple.

I am a pseudo-scientist, and I believe in evolution; a pseudo-scientist so named by somebody from Florida. Mr. Bryan neither knows nor cares what science is, except to grab it by the throat and throttle it to death.

Now as a pseudo-scientist, can a legislative body say to someone like me, “You cannot read a book or take a lesson, or make a talk on science until you first find out whether you are saying anything against Genesis?”

It could, if it were not for the work of Thomas Jefferson, which is woven into every state constitution including this one and which says that no preference shall be given to any religion by law.

Yet here we have the state of Tennessee teaching evolution for years, and then along comes somebody who says we have to believe it as *they* believe it. And they publish a law—the Butler Act—inhibiting learning.

It makes the Bible the yardstick to measure every man’s intellect; to measure every man’s intelligence; and to measure every man’s learning.

Is your mathematics good? Turn to Elijah. Is your astronomy good? See Genesis chapter two, verse seven. Is your chemistry good? See Deuteronomy three, six, or anything that tells about brimstone.

Every bit of knowledge that the mind has must be submitted to a religious test, and that is a travesty of justice and of the constitution. Show me that barber’s case will you, Mr. Hays?

Now, Your Honor, I have got a case here—a Tennessee case where somebody had passed a law which said it was a misdemeanor for any barber to shave, shampoo, cut hair, or keep the bathrooms open on Sunday.

*Laughter in the court.*

Well, of course, I suppose it would be wicked to take a bath on Sunday—I don’t know.

*More laughter.*

But that was not the trouble with the statute. The trouble was a barber could not give a bath on Sunday: but anybody else could.

Now I do not question the right of the legislature to fix the courses of study in a school.

What the state of Tennessee cannot do is make it a criminal act for this teacher to teach evolution and then permit books on evolution to be sold in every store and to permit newspapers from foreign countries to bring into your peaceful community the horrible utterances of evolution.

Oh no, nothing like that. Your Honor knows the fires that have been lighted in America to kindle religious bigotry and hate. If today . . .

**Raulston** Sorry to interrupt your argument, Colonel, but it is adjourning time.

**Darrow** If I may, I can close in five minutes. I shall . . .

**Raulston** Proceed tomorrow.

**Darrow** I shall not talk long, Your Honor. I will tell you this.

If today you can take a thing like evolution and make it a crime to teach it in the public school, tomorrow you can make it a crime to teach it in the private schools and then at the hustings or in church.

At the next session you may ban books and the newspapers. If you can do one you can do the other and, after a while, Your Honor, it is the setting of man against man, and creed against creed, until with flying banners and beating drums we are marching backwards to the sixteenth century when bigots burned the men who dared to bring any intelligence and enlightenment and culture to the human mind. Tomorrow I will say a few more words.

*The crowd reacts with hissing.*

**Raulston** Court is adjourned to 9 o'clock tomorrow morning.

**Mencken** Darrow's speech was not designed for reading but for hearing. It rose like a wind and ended like a flourish of bugles. The very judge on the bench, towards the end of it, began to look uneasy. But the morons in the audience, when it was over, simply hissed it.

During the whole delivery, the old mountebank, Bryan, sat tight-lipped and unmoved. He has these Hillbillies locked up and he knows it. His nonsense is their idea of sense.

**Narrator** The third day of the trial was as hot as ever—97 degrees. It was Raulston's intention to adjourn the court while he completed his opinion.

*The judge raps for order. The crowd does not respond immediately.*

**Raulston** Reverend Stribling, you may open with prayer . . .

**Stribling** Our Father, help us to be loyal . . .

**Darrow** Your Honor, I want to make an objection before the jury comes in.

**Raulston** What is it, Colonel Darrow?

**Darrow** I object to prayer and I object to the jury being present when the court rules on the objection.

**Stewart** (*having not heard*) What is it?

**Raulston** Colonel Darrow objects to the court being opened with prayer, especially in the presence of the jury.

**Stewart** The jury is not here.

**Raulston** No? Well, I do not want to be unreasonable about anything but it has been my custom since I have been a judge to have prayers in the courtroom when it was convenient. I believe in prayer. I constantly invoke divine guidance myself when I'm on the bench. Reverend.

*Motions to continue the prayer.*

**Stribling** Our Father, help us to be . . .

**Darrow** Just a minute.

**Raulston** Yes.

**Darrow** I understand that His Honor has sometimes opened a court with prayer and sometimes not, and we took no exception on the first day or the second; but seeing that this has persisted and that this case is one where it is claimed by the state that there is a conflict between science and religion, then above all other cases there should be no attempt by means of prayer to influence the jury.

**Stewart** The state makes no contention that this is a conflict between science and religion. It is a case as to whether or not a schoolteacher has taught a doctrine prohibited by statute—that is all! The ideas extended by the agnostic counsel for the defense are foreign to the thoughts and ideas of the people of this state.

**Hays** I take exception to the statement “agnostic counsel for the defense.”

**Malone** (*joining in*) Your Honor, those prayers we have already heard have been duly argumentative in that they help to increase a atmosphere of hostility to our point of view.

**Stewart** I would advise, Mr. Malone, that this is a God-fearing country.

**Malone** And it is no more God-fearing than that from which I come and in which I live!

**Raulston** Gentlemen, gentlemen, do not turn this into an argument.

*Beat.*

I've instructed the ministers leading the prayers to make no reference to the issues involved in this case. Therefore I am pledged to overrule the objection of counsel and invite Dr. Stribling to open the court with prayer.

**Darrow** I note an exception, Your Honor.

**Raulston** Dr. Stribling, please, please . . .

**Stribling** Our Father, to Thee we give all praise for every good thing in life and we invoke thy blessings upon us this morning—

**Narrator** When the prayer ended and Raulston adjourned the court he continued working on his opinion as to whether the case should proceed or be dismissed. However, when the court reconvened later in the afternoon, the defense raised the issue of prayers yet again.

**Raulston** (*banging gavel*) The court will come to order. I have—

**Hays** You Honor, may I present a petition to the court from religious representatives here in Dayton? “We, the following petition Your Honor that, if you continue opening the court of Rhea County with prayer . . .”

**Stewart** Your Honor, just a minute. I submit that Colonel Hays is absolutely out of order . . .

**Hays** Your Honor . . .

**Stewart** . . . Your Honor has passed upon the motion of prayer!

**Hays** I insist upon making this motion.

**Stewart** (*shouting*) I am making my exception to the court, would you please keep your mouth shut!

**Hays** Will Your Honor hear my motion?

**Stewart** I am making an exception . . .!

**Raulston** I will hear it, Colonel Hays.

**Stewart** This is entirely out of order, and I except to it with all the vehemence of my nature.

**Hays** “. . . It is requested that you select officiating clergymen from among *other* than fundamentalist churches.” The signatories are eminent men, Your Honor: A Rabbi, two Unitarians and a Congregationalist.

**Raulston** I shall ask the Pastors’ Association from now on to name the man who is to conduct prayer.

*Laughter and loud applause.*

**Hays** Your Honor knows that the men of the Pastors’ association are not among the class of men that signed this petition.

**Raulston** Some are perhaps fundamentalists—I don’t know.

*Another round of applause.*

**Narrator** Days of baking heat, along with delays in the judge’s decision, were fueling an already hostile situation.

That evening the defense lawyers took some time to relax. As a publicity stunt, they enjoyed dinner with a “distant relative”—the immaculately dressed chimpanzee—Big Joe Mendi—who ate ketchup—daintily—with a spoon.

*Sound of monkey slurping.*

When the court opened on Wednesday—the fourth day—Judge Raulston, at last, presented his ruling.

**Raulston** The courts are not concerned in questions of public policy and the motive or wisdom of a statute is the responsibility of the legislature, not of these courts.

Further, public schools are not maintained as places of worship; the relationship between the teacher and his employer are purely contractual, and if his conscience constrains him to teach evolution then he can find opportunities elsewhere. The court having passed on each ground is now pleased to overrule the whole motion and require the defendant to plead further.

**Narrator** And there it was! After three and a half days of legal haggling, Raulston had set the exact limits on the case that the prosecution wanted. But the defense was determined to keep the broader issues in play. Stewart estimated that his whole case would take only an hour; while the defense believed their case would take weeks. Scopes pleaded . . .

**Scopes** Not guilty.

**Stewart** Yesterday afternoon, near the hour of adjournment, I said a thing which upon reflection I feel sorry for. As soon as I said it I knew I had said the wrong thing and I want to say to Mr. Hays that there was nothing back of what I said at all, except a temporarily ruffed temper. I am sorry for it and I apologize.

**Hays** (*taking no prisoners*) I am happy to accept the apology of the Attorney General on condition that there be no further reference or allusions that are disrespectful to the state from which counsel for the defense come; and no reference or allusions to the economic, political, social, or religious views of the counsel for the defense; and further I wish to warn counsel for the prosecution that if statements of that sort are made in the presence of the jury we will regard them as prejudicial.

**Narrator** After that little dust-up, Dudley Malone, the New York Irish Catholic divorce lawyer, began preparing the ground for the defense's case.

**Raulston** (*interrupts*) Before you get started, Colonel . . . I want to thank the little girl or whoever it may be that is so mindful to the court as to send up this beautiful bouquet of flowers.

*Great applause all around.*

**Raulston** (*continues*) Now, Col. Malone, I don't want any argumentative statement made in front of the jury. I just want a brief statement of your theory.

**Malone** I understand, Your Honor. The defense believes that "God is a spirit and they that worship Him must worship Him in spirit and in truth." That said, we the defense will show that there are millions of people who believe in evolution as well as in the creation stories set forth in the Bible and who find no conflict between the two.

And that we, the defense, maintain that such opinions are a matter of faith and interpretation, which each individual must determine for himself.

The defense also thinks that there is no conflict between evolution and Christianity. There may be between evolution and peculiar ideas of Christianity, which are held by Mr. Bryan, but we deny that the evangelical leader of the prosecution is an authorized spokesman for the Christians of the United States.

Now I wish to read from a commentary in praise of Jefferson's Statute of Religious Freedom. It reads, quote, "to attempt to compel people to accept a religious doctrine by act of law is to make not Christians but hypocrites." End quote

And what could be more true than this statement? And who wrote these words—William Jennings Bryan.

**Stewart** Your Honor, I except to that part of the statement that was brought in Mr. Bryan's name and . . .

**Malone** My relations with Mr. Bryan have been such for so many years, he would be the last one to think anything I have to say would have my personality in it. I do not think, Your Honor, that Mr. Bryan is the least sensitive about it.

**Bryan** Not a bit. I ask no protection from the court. When the proper time comes I shall be able to show the gentleman that I stand today just where I did.

*Great applause. Repeated banging of the gavel.*

**Mencken** (*over the gavel*) It was the first time Bryan spoke and it is clear that he is no longer thought of as a politician and job seeker in these godly regions, but has become half man and half archangel—in brief, a sort of fundamentalist pope.

**Malone** Can I continue?

**Raulston** Proceed, yes, Colonel Malone.

**Malone** We shall prove that Christianity is bound up with no scientific theory, and that it has survived 2,000 years in the face of all the discoveries of science.

And for the purpose of illustration, we hope to show you from embryology the development of a child from a single cell to its birth.

**Stewart** But we do not want him to read that part about the embryo . . .

**Raulston** Carry on, Mr. Malone, please.

**Malone** We shall show how, during its development in the womb, the embryo actually recapitulates the stages of evolution. And we also expect to show you how vital the theory of evolution is to geology.

And finally, the defense denies that it is part of any movement or conspiracy on the part of scientists to destroy the authority of Christianity or the Bible. The defense maintains that Genesis is in part a hymn, in part an allegory, written by men who thought the earth was flat and whose authority simply cannot be accepted to control the teachings of science in our schools.

**Raulston** Have you finished, Colonel Malone? Any further statement from the state's side?