

“REAPING THE WHIRLWIND”: A PROVISIONAL *SCOPES* TRIAL BIBLIOGRAPHY

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The closing scene of “Inherit the Wind” has a mortally stricken “William Jennings Bryan” babbling victory speeches and of elections to come.¹ Bryan’s last courtroom speech, never delivered, but preserved in print, was a “clean different thing”—a worthy summation by a brilliant orator, and a fitting introduction to this topic.

I don’t know that there is any special reason why I should add to what has been said, and yet the subject has been presented from so many viewpoints that I hope the court will pardon me if I mention a viewpoint that has not been referred to. Dayton is the center and the seat of the trial largely by circumstance. We are told that more words have been sent across the ocean by cable to Europe and Australia about the trial than has ever been sent by cable in regard to anything else happening in the United States. That isn’t because the trial is held in Dayton. It isn’t because a school-teacher has been subjected to the danger of a fine from \$100.00 to \$500.00, but I think illustrates how people can be drawn into prominence by attaching themselves to a great cause. Causes stir the world. It is because it goes deep. It is because it extends wide, and because it reaches into the future beyond the power of man to see. Here has been fought out a little case of little consequence as a case, but the world is interested because it raises an issue, and that issue will some day be settled right, whether it is settled on our side or the other side. It is going to be settled right. There can be no settlement of a great cause without discussion, and people will not discuss a cause until their attention is drawn to it The people will determine this issue. They will take sides upon this issue, they will state the question involved in this issue, they will

* “For they have sown the wind, and they shall reap the whirlwind.” *Hosea* 8:7 (King James). The title of the major dramatic work on the *Scopes* trial, *Inherit the Wind*, was taken from the Old Testament. “He that troubleth his own house shall inherit the wind; and the fool *shall be* servant to the wise heart.” *Proverbs* 11:29 (King James) (emphasis added).

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¹ JEROME LAWRENCE & ROBERT E. LEE, *INHERIT THE WIND* (1955).

examine the information—not so much that which has been brought out here, for very little has been brought out here, but this case will stimulate investigation and investigation will bring out information, and the facts will be known, and upon the facts, as ascertained, the decision will be rendered, and I think, my friends, . . . that if we are actuated by the spirit that should actuate everyone [sic] of us, no matter what our views may be, we ought not only desire, but pray, that that which is right will prevail, whether it be our way or somebody else's.²

It is in “examin[ing] the information” that this bibliography may have a role to play. Bryan was prophetic in his forecast that “this case will stimulate investigation and investigation will bring out information, and the facts will be known, and upon the facts, as ascertained, the decision will be reached.”³ This applies not only to the legal contributions or, the fundamental justice of the decision, but also to the *Scopes* trial’s position in the American legal pantheon. No printed bibliography exists specifically devoted to this case,⁴ and it is hoped that the present provisional offering will provide a useful start in this direction.

And why should we worry about further sources on *Scopes*? First, because public perception has been altered—in some cases subtly, in other cases more drastically—by “Inherit the Wind,” the play and award-winning movie based loosely on the case.⁵ Referral back to primary and major secondary sources can help set the record straight. Second, because publications on the trial are the best indication of its position in American legal history, and its influence on subsequent legislation and litigation. Bryan was correct in his statement that the *cause* was of primary importance, and the continuing war between creationism and evolution can only be properly appreciated by recourse to *Scopes*’s literary progeny. Finally, a panning of sources may reveal informational nuggets, which have washed out of the historical mother lode and which can only be retrieved through a careful scholarly examination of the evidence. It adds interest to the case when one realizes that the original of Johnny Cash’s “The Boy Whose Name Was Sue” participated in the legal arguments or when one discovers that Bryan’s life was threatened during his association with the case.

² THE WORLD’S MOST FAMOUS COURT TRIAL: TENNESSEE EVOLUTION CASE 316-17 (1925).

³ *Id.*

⁴ Part of Hunsberger’s *Clarence Darrow: A Bibliography* is devoted to the trial. See WILLARD D. HUNSBERGER, *CLARENCE DARROW: A BIBLIOGRAPHY* 160-79 (1981).

⁵ See, e.g., Phillip Johnson, “*Inherit the Wind: The Play’s the Thing*,” 13 REGENT U. L. REV. 279 (2001). The protagonists in the play were named Matthew Brady and Henry Drummond rather than Bryan and Darrow; the individual charged with the crime was Bert Cates, not *Scopes*.

The following bibliography attempts to include a representative supply of materials dealing with the *Scopes Trial*.⁶ Because the topics of evolution and creationism are so large, only sources that specifically mention the *Scopes* trial or that have a demonstrable primary connection with the case have been included.⁷ In some instances, a limited commentary has been supplied highlighting the source's potential usefulness to researchers.

This bibliography is divided into seven sections. The first includes briefs filed during the *Scopes Trial*. The second is comprised of books and monographs, including theses and dissertations, with relevance to the case, as well as book chapters and other references found in books, which are not specifically devoted to the trial. Those are followed by a list of law journals and reviews including articles, notes, comments, and letters. Section four contains articles, editorials, and letters from *The New York Times*. Section four alone could have been expanded to a list many times the present size had space and time considerations allowed for the inclusion of other newspapers. The fifth section contains relevant websites, while the sixth is devoted to "toonography." This includes both cartoons and photographs of the trial, adding yet another dimension of understanding to the case. A final division consists of citations derived from Willard D. Hunsberger's work on Clarence Darrow.⁸ Any bibliography must expect to be modified, but it is hoped that this offering, although only provisional, will serve as a useful source of information on a major American and media event which truly "reaped the whirlwind."

I. COURT CASES AND CASE CITATIONS⁹

1. *Scopes v. Tennessee*, 289 S.W. 363 (Tenn. 1927).
2. *Time, Inc. v. Hill*, 385 U.S. 374, 406 (1967) (Harlan, J., concurring in part and dissenting in part).

II. BOOKS AND MONOGRAPHS

3. PAUL BERGMAN & MICHAEL ASMINOW, *REAL JUSTICE: THE COURTROOM GOES TO THE MOVIES* (1996).

⁶ Space limitations have prevented the citation of further relevant information. It is hoped that a more complete bibliography building on this provisional effort may be published in the future.

⁷ Usually this is evident from the title or has been identified in a short descriptive sentence. Anti-evolution laws or activities *contemporaneous* with the *Scopes* case are typical.

⁸ See *supra* note 4.

⁹ This *excludes* several complete unofficial trial transcripts of the cases that were published commercially. See Hunsberger cites 385 and 386.

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7. STEWART G. COLE, HISTORY OF FUNDAMENTALISM (1931).
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17. MICHAEL E. PARRISH, ANXIOUS DECADES (1992).
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III. LEGAL JOURNALS AND LAW REVIEWS: ARTICLES, NOTES, COMMENTS, AND LETTERS

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¹⁰ See WORLD'S MOST FAMOUS COURT TRIAL: JOHN THOMAS SCOPES: NOTES FROM THE EDITORS 3-27 (The Legal Classics Library eds., 1984).

¹¹ See *id.* at 30-48.

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69. *Author of the Law Surprised at Fuss: John Washington Butler Thought All 'Right-Thinking' Men Believed the Bible*, N.Y. TIMES, July 18, 1925, at 1.
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102. *Darrow Expected Refusal: But Says He Still Hopes to Get Hearing in Federal Courts*, N.Y. TIMES, July 7, 1925, at 20.
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