Friedrich Nietzsche figures prominently in the transcript of the Scopes trial (1925), introduced by the prosecution as the exemplary philosopher of evolutionary theory, and furthermore recalled as the exculpatory influence for Darrow’s notorious defense of Leopold and Loeb (1924). Although Nietzsche’s polemical style may provoke such partisanship, his Genealogy of Morality (1887) nonetheless provides a compelling critical perspective on the scientific, religious, social and moral concerns contested in Dayton. In particular, Nietzsche’s genealogy of the scientist in terms of the ascetic ideal brings penetrating insight to the shared ambitions of defense and prosecution, and the corresponding intensity of their polemical engagement.

1. Overview: Nietzsche At, and Nietzsche On, the Scopes Trial
Amidst a crowded field of contenders, the Scopes trial retains a powerful claim to the title Trial of the Past Century, with repercussions that have already extended well into the next. As an acutely divisive event in American scientific, legal, political, educational and religious life, the Scopes trial has persistently attracted commentators intent on mapping the dense network of persons and interests forcefully drawn together in Dayton, Tennessee in the often hotly contentious proceedings of July 10–21, 1925. These commentators have been keen to explore both the foundations and the far-reaching consequences of courtroom polemics, sometimes with
their own polemical intentions laid bare: from journalist H. L. Mencken’s notoriously vituperative coverage of the trial (“Neanderthal man is organizing in these forlorn backwaters of the land, led by a fanatic, rid of sense and devoid of conscience”), through to the more balanced scholarly analyses that have emerged in the intervening decades, the Scopes trial has proven a near-inexhaustible resource for provoking both strong response and intensive investigation.

And yet, there is one noteworthy figure—like Charles Darwin, a figure who featured significantly in the courtroom proceedings without being a direct participant in them—who has gone largely unnoticed in accounts of the Scopes trial and who may present an opportunity for fresh critical approaches to it. That Friedrich Nietzsche (1844–1900) played an important role in the arguments of the Scopes trial is not widely recognized; that he could further play a significant role in informing our understanding of the trial itself has to date received no close consideration. In recognizing and addressing each of these roles—Nietzsche at, and Nietzsche on, the Scopes trial—critical attention brought to Nietzsche enriches the perspectives that may be brought in turn to the Scopes trial itself, whether complementing or at times redirecting certain aspects of the considerable historical, philosophical and sociological attention it has already received. The former, more overtly historical role—namely, Nietzsche’s recorded presence in argumentation at the Scopes trial—reveals how the reception of Nietzsche’s thought in American society intersected in striking ways with the reception of evolutionary theory itself. On the other hand, engaging Nietzsche as a kind of prophetic commentator on the record of courtroom proceedings addresses more overtly philosophical interests or concerns, grounded in turn on the evidence of Nietzsche’s own textual record.

Although the trial transcript refers to no particular text of Nietzsche, On the Genealogy of Morality: A Polemic (1887) offers a particularly incisive resource for examining the Scopes trial, its context and its consequences.

2. Important, relatively recent monographs devoted either to the Scopes trial itself or to issues with significant critical bearing on it include Shapiro 2013, Moran 2012, Lienesch 2007, Conkin 1998, and Larson 1997; the latter a work that offers the most comprehensive account of the actual events and personalities that shaped the trial, along with the substantive issues it engaged. Numbers 1992 remains a significant touchstone for the modern generation of scholars of the Scopes trial; see also Numbers 1998. Contemporary or near-contemporary commentary on the trial was not wholly restricted to polemical engagement, as the commentary of Walter Lippmann featured in this discussion will demonstrate.
3. All quotations of the Genealogy of Morality will use the English translation by Maudemarie Clarke and Alan J. Swensen (Hackett 1998), and citations will refer to this edition as GM, providing the treatise number and section markers common to all editions, with page references specific to this edition following. Many readers in English know this
The *Genealogy of Morality* reflects Nietzsche's mature intellectual engagement with science in light of its social, moral and psychological impact, and as contextualized by its association with religious—principally Christian—values and practices. Furthermore, the *Genealogy of Morality* is concerned at a deep level with both the power of mentorship and its corresponding dangers—in particular, the dangerous influence of a figure he identifies as the ascetic priest, who is presented as a genealogical forerunner of modern practitioners of science (*Wissenschaft*)—and thus speaks to anxieties that served as powerful motivation for both prosecution and defense.\(^4\) That Nietzsche has been overshadowed by Darwin in accounts of the Scopes trial is neither surprise nor mystery, but the *Genealogy of Morality* in particular offers trenchant commentary on many of the central issues under contention at Dayton, encompassing concerns highlighted at the time of the trial—including those of both the trial participants themselves and prominent contemporary commentators like Walter Lippmann (1889–1974)—as well as concerns that have transcended this historical moment, keeping the Scopes trial a vibrant presence in public consciousness and in judicial processes from the early twentieth into the early twenty-first century.\(^5\)

The conjunction of Nietzsche and Darwin in the preceding comments is not accidental: at the time of the Scopes trial, Nietzsche was popularly associated with many aspects of evolutionary theory in general and, further, with Darwin in particular, making him a convenient auxiliary target through which the prosecution sought to attack the influence of evolutionary thought. Ironically, Nietzsche's own critical engagement with what he took to be a Darwinian (or, at times, Spencerian) account of

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\(^4\) On mentorship as a central concern of the *Genealogy of Morality*, see Konoval 2013.

\(^5\) Larson's subtitle (1997) emphasizes the persistent critical relevance of the Scopes trial: *The Scopes Trial and America's Continuing Debate Over Science and Religion*, although Shapiro reports that the subtitle was chosen by the publisher (see Shapiro 2013, p. 169n13). For legal proceedings, see for example Epperson v. Arkansas (1968); Edwards v. Aguillard (1987); Kitzmiller v. Dover Area School District (2005). For more recent commentary on these as well as other proceedings, see Shapiro 2013, Moran 2012, and Lienesch 2007 (in particular, Chapter 8, “Renewal: The Continuing Re-creation of Creationism,” pp. 198–226); for valuable, if less up-to-date, discussion, see Larson 2003, Harrold 1991 and Nelkin 1982.
evolution\textsuperscript{6}—evidence of which is to be found in several of his works, including the \textit{Genealogy of Morality}\textsuperscript{7}—marks him as potentially sympathetic to prominent concerns of the prosecution, even if the prosecution would have been both temperamentally and strategically loathe to acknowledge any such affinity. Nonetheless, Nietzsche's concerns regarding evolutionary theory do not mark him as anti-scientific—indeed, he came to deeply regret his lack of training in chemistry and physiology, identifying the latter as a discipline essential to well-founded moral philosophy\textsuperscript{8}—and his penetrating assessment of both the benefits and the potential costs of scientific pursuits in the \textit{Genealogy of Morality} offers some prospect of critical mediation for the deep divisions that have often characterized responses to the Scopes trial.

Such attributes notwithstanding, Nietzsche's \textit{Genealogy of Morality} has as yet received relatively scarce employment in English-language science studies for its critical perspectives on science, despite the work's centrality

\textsuperscript{6} The spectrum of scholarly opinion on the nature of that critical engagement may be assessed to some extent from the titles of two relatively recent monographs, John Richardson's \textit{Nietzsche's New Darwinism} (2004) and Dirk R. Johnson's \textit{Nietzsche's Anti-Darwinism} (2010).

\textsuperscript{7} See, for example, his aversion to adaptation as a fundamental mechanism of life, as expressed in characteristically ironic terms: "The democratic idiosyncrasy against everything that rules and desires to rule [. . .] appears to me already to have become lord over the whole of physiology and the doctrine of life [. . .] by removing through sleight of hand one of its basic concepts, that of true \textit{activity}. Under the pressure of that idiosyncrasy one instead places 'adaptation' in the foreground, that is to say an activity of second rank, a mere reactivity; indeed life itself is defined as an ever more purposive inner adaptation to external circumstances (Herbert Spencer). In so doing, however, one mistakes the essence of life, its \textit{will to power}; in so doing one overlooks the essential pre-eminence of the spontaneous, attacking, infringing, reinterpreting, reordering, and formative forces \textit{[gestaltenden Kräfte],} upon whose effect the 'adaptation' first follows" (\textit{GM} II, §12, p. 52/\textit{KSA} 5. 315–16). Reactivity is one of the principal ways in which Nietzsche characterizes a kind of degenerate morality, in contrast to a "noble" morality that is broadly conceived in terms of agency and self-affirmation. For a helpful overview of conceptual traditions in German \textit{Naturwissenschaft} that may situate Nietzsche's critique of adaptation, see Richards 2002; in particular, Nietzsche's biologizing of the "will to power" in this passage suggests a genealogy that might be traced to a Blumenbachian \textit{Bildungstrieb}, a formative drive that extends beyond initial embryological development to animate and direct the major life processes, possibly including species genesis. The concept was itself a formative influence on Romantic \textit{Naturwissenschaft}, and of particular interest to Kant, Herder and Schelling (see Richards, pp. 211–37).

\textsuperscript{8} "It is admittedly just as necessary to win the participation of physiologists and physicians for these problems" (\textit{GM} I, §17 [p. 33]/\textit{KSA} 5.289). On Nietzsche's interest in the natural sciences in general, see the collection edited by Moore and Brobjer, \textit{Nietzsche and Science} (2004); on Nietzsche and physiology; in particular, see Richard S. G. Brown's article, "Nietzsche: That Profound Physiologist" (2004). On Nietzsche and chemistry, see Duncan Large, "Nietzsche's Conceptual Chemistry" (2004).
to the tremendous growth of interest in Nietzsche’s thought over the past couple of decades in Anglo-American academic philosophy more generally. This may be due to comparative unfamiliarity with the work amongst researchers involved in the history, philosophy and sociology of science, or possibly to a diffidence or discomfort in response to various aspects of the text. In part, such wariness simply reflects due scholarly diligence, given that the English term ‘science’ captures a much narrower semantic range than the German Wissenschaft that becomes a principal object of analysis in the Genealogy’s third and final treatise: “Wissenschaft” in Nietzsche’s understanding—and according to conventional German usage in the nineteenth century and after—encompasses both the natural sciences and scholarly pursuits in general, disciplines that often tend to be conceived of in distinctive, at times even sharply juxtaposed, terms in current English or North American cultural understanding. Far from rendering the Genealogy a blunt analytic instrument, however, this semantic breadth gives the text distinctive critical traction on the Scopes trial, where the concerns of the natural sciences and of philology—and of biblical scholarship in particular—are at times so closely interwoven as to elude a perspective that would frame the proceedings in terms of a confrontation between wholly distinctive ideologies or interests of science and religion. As Adam Shapiro has recently observed, “evolution, and its presence in schools, has become even more politically polarized and more deeply connected to claims of conflict between science and religion than it was in the 1920s” (Shapiro 2013, p. 4). Nietzsche’s genealogy of Wissenschaft thus promotes a useful, even salutary re-examination of such claims.

At first encounter, however, many readers might find it difficult to imagine how a determinedly polemical work like the Genealogy of Morality could serve any critical function that was of interest to both sides of the Scopes trial, or to balanced philosophical assessment more generally. In view of the strong passions in which the Scopes proceedings traded and which it continues to provoke, it might seem distinctly unpromising to invite the participation of a well-known polemicist as a critical resource

9. One index of this critical attention is the wealth of English language commentaries on the Genealogy, both as monographs (e.g., Conway 2008; Hatab 2008; Owen 2007; Janaway 2007; Leiter 2002, Ridley 1998), and in collections (May 2011, Leiter and Sinhababu 2007; Acampora 2006; Schacht 1994), a recent concentration of scholarly interest not associated with any other text by Nietzsche. The Genealogy of Morality has been seen as perhaps the Nietzschean text most amenable to the interests and approaches of the Analytic tradition (see, for example, Hatab, p. 1).

10. Or, at times, perhaps simple bewilderment: readers in search of philosophical commentary on scientific matters might not expect to find it in a treatise entitled “What Are Ascetic Ideals?” that begins with a lengthy dissection of the many forms of self-delusion exemplified by the composer, Richard Wagner.
for the trial, particularly if that polemicist was, amongst other things, the
author of a book customarily translated as “The Anti-Christ.” Nietzsche
was introduced to the courtroom by prosecutor William Jennings Bryan Sr. to serve wholly partisan purposes: namely, as part of a ploy designed to entrap the defense counsel in general, and Clarence Darrow in particular. Nonetheless, Bryan’s ploy serendipitously introduced a compelling—indeed, surprisingly sensitive—critical presence for our understanding of the proceedings as a whole, the author of a text which cogently addresses that age-old question concerning the relationship between science, religion and philosophy, if expressed in somewhat more contemporary terms: what has Dayton to do with Sils-Maria?

2. Nietzsche At the Scopes Trial

As a critical tool, Nietzsche’s *Genealogy of Morality* is well-adapted to engage with complexities and nuances encountered in the documentary record of the Scopes trial, addressing the courtroom focus on texts and historical contexts in light of the motivations and strategies of a variety of courtroom actors—those features of courtroom contest that may emerge red in tooth and claw. But if Nietzsche’s *Genealogy of Morality* may frame in turn the genealogy of a ‘trial of the century,’ Nietzsche’s own role in the Scopes trial was that of an instrument of courtroom struggle itself, presented as an emblem of the dangers of un-Christian values and of the association of evolution with eugenics. Nietzsche’s introduction to the proceedings thereby marked a significant escalation in the ongoing confrontations between Bryan and Darrow that would peak with Darrow’s infamous cross-examination of Bryan over matters of biblical interpretation.

At least part of the enduring fascination of the Scopes trial lies in the inter-personal frictions and, at times, outright ferocity that punctured courtroom decorum, evoking the drama of other trials of the century,

11. William Jennings Bryan Jr. was also engaged as a member of the prosecution, although he did not remain for the duration of the trial and was thus not present for his father’s fateful encounter with Darrow at the climax of the trial. All future references to “Bryan” in this discussion will be to the elder Bryan.

12. Nietzsche explicitly situates the writing of the Preface, which followed completion of the *Genealogy of Morality* itself, in his favorite mountain retreat, Sils-Maria, in the Upper Engadin of Switzerland. Nietzsche evidently refers to this site, a treasured ascetic space ideal for the pursuits of philosophy, in the final treatise of the *Genealogy*: “a voluntary obscurity perhaps; a steering-clear of oneself; an aversion to noise, veneration, newspaper, influence [. . .]; a mountain range for company, but not a dead one, rather one with *eyes* (that is with lakes); perhaps even a room in a crowded run-of-the-mill inn, where one is sure of being mistaken for someone else and can speak to anyone with impunity—that is ‘desert’ here: oh it is lonely enough, believe me!” (Nietzsche *GM* III, §8, p. 77/KSA 5.353). ‘Desert’ refers to the favored retreat of early Christian Syrian ascetics.
though those trials may be of centuries long past and now, rather like the Scopes trial itself, possessed of near-mythic dimensions.\textsuperscript{13} The appeal of such historical parallels is evident, if to be approached with caution. The historical resonance of the courtroom drama was energetically cultivated by the defense as part of the broader strategy it brought to the proceedings, drawing upon then-fashionable histories of science that emphasized a conflict of reason with religious faith. The defense was notably fond of invoking a topos of martyrdom on behalf of its client through pointed references to Copernicus, Galileo and Giordano Bruno, with variable historical pertinence or accuracy.

What the Scopes trial precisely lacked, however, was a central—and preferably tragic—protagonist like a Bruno or a Galileo in the role of defendant, a lack that was intentional: the substitute teacher and volunteer defendant, John Scopes (1900–1970), was no Socrates, even if certain aspects of the trial invite meaningful comparison with events in fourth-century Athens.\textsuperscript{14} As Edward J. Larson has observed, Scopes’ involvement in a test case designed to highlight individual rights and academic freedom was welcomed by the American Civil Liberties Union in significant measure because he risked limited exposure to the consequences of a failed legal proceeding, such as the ACLU had come to expect of its legal endeavors in general: neither a family man nor a professional who anticipated putting down roots in the community, Scopes was a candidate well-suited to serve the interests and the conscience of the ACLU, not to mention the curious form of Dayton civic boosterism that was the actual genesis of the trial in Rhea County. Scopes was never at the center of proceedings; ironically, the trial is named for a defendant who offered no testimony and who played no active role in the proceedings themselves, addressing the court only in the aftermath of sentencing. Rather, the Scopes trial became as much a trial of texts as of any particular teacher, and of how such texts were to be read and interpreted: in particular, Darwin’s \textit{Origin of Species} and \textit{The Descent of Man}, George W. Hunter’s \textit{A Civic Biology}—the actual textbook through which evolutionary theory and its

\textsuperscript{13} On the mythography of the Scopes trial, see Numbers 1998; in particular, chapter four, “The Scopes Trial: History and Legend” (pp. 76–91).

\textsuperscript{14} If there was any tragic figure in the trial it was arguably William Jennings Bryan Sr. Larson notes that a focus on Bryan was central to defense strategy: “If Darrow had his way, Bryan would replace Scopes in the role of the accused. It was a simple theme and one Darrow kept reiterating until he hounded his target into the witness chair at Dayton” (Larson, p. 103). Bryan essentially took the place of Scopes at the center of the trial, whom the defense team kept from testifying in light of his highly peripheral role as a substitute teacher: as Scopes himself recalled it, “although I knew something of science in general, it would be quite another matter to deal exhaustively with scientific questions on the witness stand” (Scopes 1967, p. 188).
applications were to be introduced to young students—and, through very carefully chosen selections, the Bible. Although no single text of Nietzsche was engaged in this way, Nietzsche’s role as an author was nonetheless invoked in a line of attack that highlighted the vulnerability of Clarence Darrow, both in the courtroom and in public opinion—an arena in which victory was no less hotly contested.

When Bryan died within a week of the trial’s conclusion, many were inclined to blame his demise on the intensity of Darrow’s cross-examination, an inquisition that the judge was finally moved to quash at Darrow’s infamous interjection, “I am examining you on your fool ideas that no intelligent Christian on earth believes!” (Scopes transcript, Monday, July 20, 1925, p. 304). Instead of John Scopes, in the aftermath of the trial the role of martyr fell to Bryan, with the leading representative of defense counsel now turned grand inquisitor, evoking a trial of Galileo turned on its head. The qualms that certain members of ACLU had initially registered in engaging someone of Darrow’s notoriety for the defense—and his recent involvement in the Leopold-Loeb murder trial did indeed prove to be a significant vulnerability—were correspondingly magnified by the apparent aftershocks of the trial, and contributed to efforts to sideline Darrow from the appellate process. As Walter Lippmann observed shortly after the trial’s conclusion in an article entitled “Darrow’s Blunder” for New York World (23 July 1925), “now that the chuckling and giggling over the heckling of Bryan by Darrow has subsided it is dawning upon the friends of evolution that science was rendered a wretched service by that exhibition.”

Lippmann’s reservations, to which we will return, marked a deep concern that the issues raised by the Scopes trial and the interests it stirred were not neatly divided according to positions of prosecution and defense.

Nietzsche’s actual role in the Scopes trial would not seem to promise any critical kinship with Lippmann’s perspective on the trial, and his popular reputation as a morally audacious—even outrageous—author resonates forcefully with many features of the Genealogy of Morality. Indeed, well before its discussion of asceticism and the ideology of the sciences and their practitioners in the work’s third treatise (“What Are Ascetic

15. See Shapiro 2013 on transformations in the American textbook trade from the mid-nineteenth through the early twentieth century, on how these transformations affected the formation of biology as a curriculum, and their corresponding impact on the political and educational landscape in which the Scopes trial took place.

16. The published transcript gives “exempting” rather than “examining,” but the emendation has become the accepted record. All further citations of the transcript will use the abbreviation ST.

Ideals?”), the *Genealogy* appears to offer a playbook no less combative than the transcript of the Scopes trial itself. As it prepares to account for the triumph of Judeo-Christian values over Roman values—the triumph of a moral ideology of altruism and self-sacrifice over the virtue of mastery and its celebration through the suffering and sacrifice of others, the triumph of the Cross over the Colosseum—the *Genealogy of Morality* at first trades in fairly blunt dichotomies: Nietzsche characterizes the ascendance of a Judeo-Christian morality in terms of a successful “slave revolt” over “noble” values, a kind of rhetorical shock campaign through which the text provokes a re-evaluation of the assumed status and worth of altruistic morality. Indeed, when he first enters the court record, Nietzsche is introduced as an unalloyed ally and agent of what might appear to be the noble morality: namely, as a proponent of both thought and action that willfully contradicts the dictates of a Judeo-Christian morality. This association gave occasion on the fifth day of the trial for Bryan to recall Darrow’s recent participation in the defense of the notorious—and notoriously young—murderers, Nathan Leopold and Richard Loeb:

> These people come in from the outside of the state, and force upon the people of this state, and upon the children of the taxpayers of this state, a doctrine that refutes not only their belief in God, but their belief in a Savior and belief in heaven, and takes from them every moral standard that the Bible gives us. It is this doctrine that gives us Nietzsche, the only great author who tried to carry this to its logical conclusion, and we have the testimony of my distinguished friend from Chicago [i.e., Darrow] in his speech in the Loeb and Leopold case that 50,000 volumes had been written about Nietzsche, and [that] he is the greatest philosopher in the last hundred years, and have him pleading that because Leopold read Nietzsche and adopted Nietzsche’s philosophy of the superman, that he is not responsible for the taking of human life [. . .]. That is the doctrine, my friends, that they have tried to bring into existence, [which] they commence in the high schools with their foundation in the evolutionary theory, and we have the word of the distinguished lawyer that this is more read than any other in a hundred years, and the statement of that distinguished man that the teachings of Nietzsche made Leopold a murderer. (*ST*, Thursday July 16, 1925, pp. 178–79)

Furthermore, in his eagerness to associate Nietzsche with Darwin, Bryan was to overreach himself in the speech he prepared for summation, including demonstrably absurd claims:
Nietzsche did praise Darwin. He put him as one of the three great men of his century. He put Napoleon first, because Napoleon had made war respectable. And he put Darwin among the three great men, his supermen were merely the logical outgrowth of the survival of the fittest with will and power, the only natural, logical outcome of evolution. And Nietzsche, himself, became an atheist following that doctrine, and became insane, and his father and mother and an uncle were among the people he tried to kill. (ST, pp. 182–83)

The source of Bryan’s spurious claims about the murderous inclinations of Nietzsche is not identified; Nietzsche’s father, a Lutheran pastor in Röcken, died in a catatonic state when Nietzsche was a four-year-old boy. But the association drawn by Bryan between Nietzsche and evolutionary theory during proceedings was not merely opportunistic courtroom rhetoric: the perception of Nietzsche as a committed evolutionist in at least some sense was typical of the early reception of his writings, whether in Scandinavia, Germany, France, Britain, or the United States. Indeed, it was so pervasive that Martin Heidegger felt that the ‘biologizing’ of Nietzsche’s interpretation was among the greatest impediments to an understanding Nietzsche’s thought, the idiosyncrasies of Heidegger’s own approach notwithstanding.

In view of this context, Nietzsche offered Bryan a convenient weapon to wield against the textbook that lay at the center of the Scopes trial, Hunter’s A Civic Biology (1914). Bryan’s concern over the potentially deadly influence of books or authors—a concern that Darrow had notably shared in his defense of Leopold and Loeb—might appear somewhat

18. For Nietzsche’s impact on the American intellectual scene in particular, see Ratner-Rosenhagen 2012. The relationship of Nietzsche to evolutionary thought in general and to Darwin in particular has been the subject of much recent scholarly attention, and prone to a wide variety of interpretations, as noted above. See, for example, Johnson 2010; Richardson 2004, and Moore 2002.

19. See Heidegger 1961; in particular, pp. 465–74, “Nietzsches angeblicher Biologismus.” Inasmuch as Heidegger’s collation and publication of his Nietzsche lectures marked an important milestone in his post-war rehabilitation, the concern with Nietzsche’s alleged “Biologismus” had evident political undertones, particularly in response to the biologicist orientation of Nietzsche interpretation promoted by the prominent Nazi supporter, Alfred Baeumler (1887–1968). As Charles Bambach comments, “Heidegger would concur with Baeumler’s contention that the Nachlass was at the heart of Nietzsche’s genuine philosophy and that, when read properly, it could be thought to harbor a hidden political-metaphysical meaning. But [...] where Baeumler offers a metaphysics of Kampf grounded in race, blood, genetics, and heredity, Heidegger will reject what he perceives to be the cruelly biological premises of this vision for a more essential, ontologically grounded metaphysics” (Bambach 2003, pp. 282–83).
melodramatic in the context of a textbook on biology; but, even to modern readers, Hunter’s *Civic Biology* might not always appear all that civil:

If the stock of domesticated animals can be improved, it is not unfair to ask if the health and vigor of the future generations of men and women on the earth might not be improved by applying to them the laws of selection [. . .]. Studies have been made on a number of different families in this country, in which mental and moral defects were present in one or both of the original parents [. . .]. The cost to society of such families is very severe [. . .]. They not only do harm to others by corrupting, stealing or spreading disease, but they are actually protected and cared for by the state out of public money. Largely for them the poorhouse and the asylum exist. They take from society, but they give nothing in return. They are true parasites. If such people were lower animals, we would probably kill them off to prevent them from spreading. (Hunter 1914, pp. 261–63)\textsuperscript{20}

As Christine Rosen has carefully demonstrated, eugenic sympathies were often shared between religious and scientific outlooks in early 20\textsuperscript{th} century American society.\textsuperscript{21} Nonetheless, the religious and moral convictions that Bryan understood himself to be serving inspired his fear of Hunter’s unabashed advocacy of the principles of eugenics, and his determined opposition to the evolutionary principles that frequently served to justify them: in the summary argument he had prepared to deliver at the trial but did not actually present,\textsuperscript{22} Bryan offered a trenchant critique of the statements favoring eugenics readily found in Darwin’s *Descent of Man* (1871), referring to Darwin as “the high priest of evolution”\textsuperscript{23}—a highly suggestive

20. Near the conclusion of his major speech on religious liberty, delivered during the second day of proceedings, Darrow offered a more homespun version of Hunter’s argument in his comments on what he viewed as religious bigotry: “To strangle puppies is good when they grow up into mad dogs, maybe” (\textit{ST}, Monday, July 13, 1925, p. 92).

21. “Preachers had become enamored of the possibilities science presented; in eugenics they found a science whose message moved effortlessly from laboratory to church” (Rosen 2004, p. 4).

22. As Larson details in his account (1997), an important defense tactic was to deprive Bryan of the opportunity to present this summation in court; after rehearsing some of its contents outside the courtroom, Bryan instead made arrangements for the publication of this speech shortly before his death, and thus it came to be included with the publication of the trial transcript.

23. See \textit{ST}, Supplement, pp. 335–36. The passage Bryan quotes from chapter 5 of *The Descent of Man* is worth recording here, as it clearly demonstrates the overlap between Darwin and Hunter both in argument and even in certain details that Bryan was so concerned
designation in light of the genealogy of the scientist presented by Nietzsche in the third treatise of the *Genealogy of Morality*, as we will see.

Nietzsche, then, was invoked by the prosecution in the name of an ‘evolutionary’ philosophy that was associated with eugenic ambitions and practices, and that was portrayed more broadly as promoting the destruction of the received moral order—not to mention, the exculpation of the youthful murderers of an even younger boy, a particularly provocative way to highlight concerns over the vulnerability of youth that lurked at the heart of the Scopes trial no less than at the trial of Socrates. In view of such associations, how could Nietzsche’s thought conceivably be used to address the debate at Dayton in non-partisan critical terms?24

3. Nietzsche On the Scopes Trial

Contemporary responses to Nietzsche were not uniformly negative, of course, but his enthusiasts at the time do not necessarily help us to escape courtroom polemics: indeed, one of the earliest and most influential American proponents of Nietzsche, H. L. Mencken—author of *The

about: "with savages, the weak in body or mind are soon eliminated; and those that survive commonly exhibit a vigorous state of health. We civilized men, on the other hand, do our utmost to check the process of elimination; we build asylums for the imbecile, the maimed and the sick; we institute poor laws; and our medical men exert their utmost skill to save the life of every one to the last moment. There is reason to believe that vaccination has preserved thousands who, from a weak constitution, would formerly have succumbed to small-pox. Thus the weak members of civilized society ["societies" in the original—see Darwin 1871, p. 168] propagate their kind. No one who has attended to the breeding of domestic animals will doubt that this must be highly injurious to the race of man. It is surprising how soon a want of care, or care wrongly directed, leads to the degeneration of a domestic race; but, excepting in the case of man himself, hardly any one is so ignorant as to allow his worst animals to breed” (*ST* 1925, p. 335). Darwin’s reference to the deleterious effects of vaccination is of particular interest in the context of the appellate process that followed the Scopes trial: the prosecution argued in Tennessee Supreme Court on behalf of the Dayton court decision asserting majority legislative rights, by analogy with state provisions for vaccination (see Larson, p. 214).

24. Nietzsche’s seemingly eugenicist leanings are strikingly represented in certain passages of the *Genealogy of Morality*: “Those who from the outset are failed, downcast, broken—they are the ones, the weakest are the ones who most undermine life among humans, who most dangerously poison and call into question our confidence in life, in man, in ourselves. [. . .] That the sick not make the healthy sick [. . .] , that should certainly be the highest viewpoint on earth: but this would require above all else that the healthy remain separated from the sick, guarded even against the sight of the sick, that they not confuse themselves with the sick” (GM III, §14, pp. 87, 89/KSA 5.368, 5.371). For careful consideration of the issues raised by passages like these both in Nietzsche’s published work and in the *Nachlass* (the posthumously published contents of his extensive notebooks), see Moore 2002; in particular, chapter 1 (“The Physiology of Power”), chapter 2 (“The Physiology of Morality”), and chapter 4 (“Nietzsche and the Nervous Age”).
Philosophy of Nietzsche (1907)—was a commentator whose excoriation of Brian and of the Scopes trial can be read to a certain extent in Nietzschean terms. Mencken’s colleague, Walter Lippmann, on the other hand—another reader of Nietzsche, and the author of Preface to Morals (1929)—did not attend the Scopes trial but addressed it at some length in 1928 in the Barbour-Page lecture series he delivered at the University of Virginia, a series later published as American Inquisitors. Lippman’s lectures tacitly interpret key concerns of the Scopes trial in Nietzschean terms, but arrive at a critical stance far removed from that of Mencken.

In the lectures that comprise American Inquisitors, Lippmann made considerable use of imaginary dialogue featuring the martyred Socrates, borrowing the literary and philosophical device immortalized by Plato; but it is when Lippmann dramatizes an exchange between a pro-evolution Modernist and an opposing Fundamentalist that recognizably Nietzschean themes begin to emerge.25 Having established that the Modernist rests content to accept tentative conclusions of science, the Fundamentalist charges:

For me an eternal plan of salvation is at stake. For you there is nothing at stake but a few tentative opinions, none of which means anything to your happiness. Your request that I should be tolerant and amiable is, therefore, a suggestion that Isubmit the foundation of my life to the destructive effects of your skepticism, your indifference and your good nature. (Lippmann [1928] 2009, pp. 65–6)

As we will see, Nietzsche would not concur with the Fundamentalist’s account of the experience of the Modernist, but what is unmistakable in this exchange is the emergence of the ascetic: namely, that on the Fundamentalist’s account, science makes profound ascetic demands on his happiness and on his very soul itself; that he might be asked to give up any hope of salvation, the prospect of an afterlife free of the suffering and fear known in this life. This reflects one of the most persistent themes in the oratory of the prosecution of the Scopes trial, where the pernicious character of

25. “Modernist” was a conventional term used at the time to refer to those who generally identified themselves as theologically progressive Christians—often in favor of a rapprochement between scientific developments and Christianity (including the embrace of evolutionary science and education)—and to distinguish them from proponents of the fundamentalist movement, which was opposed to what were seen as the theological encroachments of science and historical biblical scholarship (often generally referred to as the “Higher Criticism”); on the term “fundamentalism” itself, see below, note 26. The ACLU was anxious not to alienate Christian modernists, a strategy that frustrated supporters of Darrow and provoked much division within the defense camp in general, particularly after the conclusion of the trial (and Darrow’s cross-examination of Bryan).
biblical interpretation purportedly demanded by the teaching of evolution is often weighed in terms of the severe and unforeseen ascetic demands students are at risk of undertaking: if the Bible is false with respect to its portrayal of the origins of the earth and its denizens, where might one draw the line beyond which no more textual error can be anticipated, and at what point might disputation with received authority end? Returning to the sources for Lippmann’s mock-Socratic dialogue, we find such risks highlighted in Book VII of Plato’s Republic, where the character Socrates offers a veiled critique of the historical Socrates:

We hold from childhood certain convictions about just and fine things; we’re brought up with them as with our parents, we obey and honor them [. . .]. I don’t suppose that it has escaped your notice that, when young people get their first taste of arguments, they misuse it by treating it as a kind of game of contradiction. They imitate those who’ve refuted them by refuting others themselves, and, like puppies, they enjoy dragging and tearing those around them with their arguments [. . .]. Then, when they’ve refuted many and been refuted by them in turn, they forcefully and quickly fall into disbelieving what they believed before. And, as a result, they themselves and the whole of philosophy are discredited in the eyes of others. (Republic, 538c, 539b–c)

The unruly enthusiasm of puppies is a pointed contrast to the proper nature of the guardian, which was developed in Republic 375a-376b through analogy with guard dogs of a suitable pedigree and philosophical nature. If the purpose of a philosophical education is to enrich one’s life, the risk of being encouraged to challenge and possibly give up “the convictions of

26. Distinctive types of mechanism or agents are subsumed by the broad term evolution, though it is specifically associated with natural selection at the Scopes trial: quoting Dr. Horatio H. Newman on behalf of the defense, Hays observes, “the layman uses the term Darwinism as a synonym of evolution in the broadest sense; the evolutionist never uses the word in this sense, but always uses it as a synonym for natural selection, one of Darwin’s chief theories. The general principle of evolution has nothing to do with natural selection” (ST, Thursday July 16, 1925, pp. 154–55). As Larson observes, the evidentiary problems confronting natural selection early in the twentieth century had made it possible even for contributors to The Fundamentals—the booklet project that ran from 1905 through 1915, and from which the term fundamentalism derived its name—to support a kind of Lamarckian theistic evolution. For example, Larson quotes the theologian and Fundamentals contributor, James Orr, who had written in 1904: “Assume God—as many devout evolutionists do—to be immanent in the evolutionary process, and His intelligence and purpose to be expressed in it; then evolution, so far from conflicting with theism, may become a new and heightened form of the theistic argument” (quoted in Larson 1997, p. 20). On the American fundamentalist movement in general, see George W. Marsden’s benchmark study, Fundamentalism and American Culture (2006).
their fathers” (538d) may thus produce an ironic result, whether in Athens or in Dayton.

A further ascetic theme, that of a profound reduction of the human place in the order of beings—and, correspondingly, of human aspirations for special treatment among beings—likewise provided the occasion for some of the courtroom humor that emerged in the midst of polemical exchange. Reviewing a taxonomic diagram from Hunter’s Civic Biology, in which circles of varying size are used to represent the numbers of species somewhat arbitrarily grouped within various classes and phyla, Bryan pointed first to the largest of the circles used to represent insects, at 360,000 species—mocking the diagram’s use of round numbers with the inapposite gibe that “I don’t think all of these animals breed in round numbers” (ST, Thursday, July 16, 1925, p. 174)—before turning to the correspondingly small circle of mammals, at 3500 species. Though this circle is found at the top of Hunter’s diagram, it is not only among the smallest of the representative circles but furthermore effaces any distinction within that tight circumference between human beings and other mammals: that is, the visible order of Hunter’s diagram presents its viewers with an emblematic reduction of the human being both in terms of the size of its class ‘footprint’ and in terms of species distinction within that class. Bryan emphasizes the perceived reductive character of the human/mammal equivalence, challenging his audience,

there is a little circle and man is in the circle, find him, find man [. . .]. Talk about putting Daniel in the lion’s den! How dare those scientists put man in a little ring like that with everything that is bad [. . .] all these animals that have an odor [. . .] [laughter recorded in the courtroom]. (ST, Thursday, July 16, 1925, pp. 174–175)

Ascetic themes and anxieties like those highlighted by Lippmann and Bryan figure throughout the Genealogy of Morality, but find particular resonance in the final treatise, “What Do Ascetic Ideals Mean?” where they become the focus of searching critical examination. If it is the Fundamentalist of Lippmann’s dialogue who complains about the unfair ascetic demands placed on him by the scientific presumptions of the Modernist—echoing Bryan’s concern about the place of humanity in the visible order charted by Hunter’s Civic Biology—it is Nietzsche who seeks to redress the balance of injury. Among the principal targets of the critique of the scientist or scholar pursued in the Genealogy—’scholar’ reflecting the broader sense of the German term, Wissenschaft, that is used by Nietzsche—

27. The inclusiveness of this term is highly pertinent to Nietzsche’s critique and,
encounter the problem of self-misunderstanding: namely, that such figures do not recognize the extent to which they are beholden to asceticism, and that they are indeed the most recent transfiguration of the ascetic priest and among the latest devotees of the ascetic ideal, established by the priestly caste as the highest mode of life. From a Nietzschean perspective, the Scopes trial appears rife with such ascetic devotees. In the course of the trial, Arthur Garfield Hays, a member of the defense counsel no less combative than Darrow, pursues a Copernican analogy with Darwinian evolution:

the Copernican theory is accepted by everybody today—we know the earth and the planets revolve about the sun. Now, [...] it is the contention of the defense [that] these things we are showing [in support of the theory of evolution] are just as legitimate facts, just as well substantiated as the Copernican theory [...]. (ST, Thursday, July 16, 1925, p. 157)

Nietzsche grasps hold of the ascetic thread woven through this argument, entwining the Copernican with the Darwinian, as though he were there in the courtroom with Hays:

Has man [...] become less in need of an otherworldly solution to this riddle of existence now that this existence looks even more arbitrary, more loiterer-like, more dispensable in the visible order of things? Hasn’t precisely the self-belittlement of man, his will to

furthermore, to the concerns regarding historical and philological criticism raised in concert with scientific challenges at the Scopes trial. In the first treatise of the Genealogy of Morality, for example, the scholar as both Classical philologist and comparative philologist provides some of the most crucial data on which the Genealogy presumes to tackle the psychology of ancient peoples, through a study of the evolution of the recorded use of words, both within and between cultures (see GM I, §4–§5). Thus, when he undertakes a critique of the ‘scientist’ and his will to truth in the final treatise, Nietzsche is pointedly including himself and the enterprise of philology as a target of his own critique. Although Nietzsche must turn at times to conjectural history to pursue key lines of inquiry for his genealogy, he does not dismiss this genealogy as mere speculation: philology is one of the essential disciplinary means by which his conjectures are to be constrained within the sphere of Wissenschaft and by the will to truth.

28. Copernicus comes up repeatedly in defense arguments, and not just for the purposes of analogy with the (problematic) acceptance of Darwinian evolution (for example, Hays would erroneously assert on the second day of proceedings that, “when the Copernican theory was first promulgated, he was under censure of the state”—see ST, Monday, July 13, 1925, p. 56). In his notorious examination of Bryan on the seventh day of proceedings, Darrow would rely on Bryan’s unwillingness to promote a geocentric cosmos in support of the claim in Joshua, 10.13, that the sun was made to stand still, thereby forcing Bryan to acknowledge that he engaged in biblical interpretation. The import of this admission will be discussed below.
self-belittlement been marching relentlessly forward since Copernicus? Alas, the belief in his dignity, uniqueness, irreplaceability in the hierarchy of beings is lost—he has become an animal, without simile, qualification, or reservation an animal, he who in his earlier belief was almost god (“child of God,” “God-man”) . . . Since Copernicus, man seems to have stumbled onto an inclined plane—he is now rolling faster and faster away from the center—[and] whither? into nothingness? into the “penetrating feeling of his nothingness?” (GM III, §25, p. 112/KSA 5.404)

Thus, with one potent image—that image making pointed reference to Galileo’s famous account of the acceleration of bodies in the Discourses on Two New Sciences (1638)—Nietzsche connects two of the key scientific episodes deployed in the arguments of the Scopes trial, with humanity swept helplessly down the inclined plane from Copernicus to the “Darwinian beast” (GM Preface, §7, p. 6/KSA 5.254), a connection that is certainly not characterized in such precipitous terms by defense counsel.

What concerns Nietzsche in such passages is therefore the same concern expressed by Bryan and by Lippmann’s Fundamentalist, a concern over nihilism that is central to the critique of the third treatise of the Genealogy of Morality: namely, that the fundamental, almost constitutional asceticism of modern science threatens to obliterate the signposts of meaning by which we hope to orientate our lives in the face of the fundamentally tragic aspects of life, of the certainty of suffering and death both to ourselves and to those we love. Nietzsche is not calling for an end to the pursuit of natural science and its associated forms of inquiry—to ignore the psychological pressures of our inescapable, animalistic biological heritage,

29. Unsurprisingly, Galileo was an especially prominent historical figure summoned by the defense to represent both the virtues and the martyrdom of the scientist, or indeed of anyone who was prepared to stand up in support of science; the Dominican friar Giordano Bruno received mention as well, given the particular gruesomeness of his martyrdom. Larson has pointed out the contributions to this courtroom rhetoric that may be traced to the polemical texts by John William Draper, History of the Conflict Between Religion and Science (1874), and Andrew Dickson White, The Warfare of Science (1876), subsequently expanded into a two-volume work, A History of the Warfare of Science with Theology in Christendom (1896). According to Larson, Darrow had been exposed to these works since childhood, and Hays both quoted from White at Dayton and is reported to have tried to share copies of White’s work with those attending the trial—see Larson 1997, p. 22. English-language scholarship on Galileo’s engagement with theology and the Church has come a long way since the days of Draper and White: for a representative selection of trends in comparatively recent research—and important perspectives that might inform comparisons rather than uncritically associate the trials of Galileo and Scopes—see McMullin 2005; Shea and Artigas 2003; Feldhay 1995; Langford 1992; Blackwell 1991, and Westfall 1989.
for example, or to pretend that we live in a geocentric universe—but he is calling for an end to our will-to-ignorance regarding the costs of the pursuit of such knowledge, to recognize that indeed there are costs entailed in the asking of great questions, whether pursued through great books like the *De Revolutionibus* or *The Origin of Species*:

All science (and by no means only astronomy, concerning whose humiliating and debasing effect Kant made a noteworthy confession, “it annihilates my importance” . . .) all science [. . .] today aims to talk man out of his previous respect for himself, as if this were nothing but a bizarre self-conceit; one could even say that science’s own pride, its own austere form of stoical ataraxy consists in upholding this hard-won *self-contempt* of man as his last, most serious claim to respect from himself [. . .]. ([GM III, §25, p. 112/KSA 5.404])

Behind science, too, Nietzsche therefore observes the pursuit of an ascetic ideal conjoined with the pursuit of enlightenment: “Does anyone really think that [. . .] the defeat of theological astronomy meant the defeat of that ideal?” ([GM III, §25, p. 112/KSA 5.404]). Whatever pretense the scientist might claim to worldly engagement with nature, Nietzsche discloses an ascetic ambition that is shared between *Wissenschaft* and religion, between the scientist and the ascetic priest; thus, “science [. . .] is not the opposite of the ascetic ideal but rather its most recent and noblest form” ([GM III, §23, p. 107/KSA 5.396–97]).

This is not to suggest that simple ascetic negation of the world or of worldly life is all that characterizes an association between religion and *Wissenschaft* or science on Nietzsche’s account: if neither the ascetic priest nor the scientist held any stake in worldly concerns, then on what basis could their interests ever collide in a courtroom? Nietzsche does not view all forms of asceticism as either disinterested in, or otherwise incapable of engagement with the world: in general, instrumental forms of asceticism—asceticism that can be directed toward positive, this-world forms of achievement—are found to be highly productive rather than nihilistic—that is, in contrast to an ascetic idealism which denies the value of worldly life (outside of its potential use as preparation for an otherworldly afterlife). 30 Even so, the very architect and champion of the ascetic ideal, the ascetic priest, is a daunting figure to be contended with insofar

30. “A certain asceticism [. . .], a hard and lighthearted renunciation with the best of intentions, belongs to the most favorable conditions of highest spirituality, likewise also to its most natural consequences: from the outset, then, it will not astonish us if the ascetic ideal has always been treated with considerable prepossession precisely by philosophers [. . .]. One could say that it was only on the apron strings of this ideal that philosophy ever
as he has clearly succeeded in instantiating a ‘worldview’ that has largely defeated its competitors. From this perspective, therefore, the *Genealogy of Morality* itself reflects an attempt to contest and possibly reclaim the domain of asceticism and its fruits from the ascetic priest, with the *Genealogy* offered as a kind of training regimen: following the example of the author himself, Nietzsche’s readers will be challenged to pursue sustained critical confrontation with a complex of yet unquestioned assumptions about the nature of morality, the capacity to lead a meaningful life, and the value of life itself, so that they might productively reorient their values and enjoy a reinvigorated sense of purpose in their personal development or Bildung. However, this critical project cannot be pursued under the auspices of a simplistic, anti-religious polemic: amongst other things, it will not set aside the domain of Wissenschaft, for the *Genealogy* will carefully calibrate the extent to which religion and Wissenschaft make parallel claims on the moral allegiance of the reader. Thus, whatever worldly contest may obtain between Wissenschaft and religion in a Nietzschean genealogy, it is not the conventional clash or battle between science and religion as fundamentally opposed ideologies, such as commentators on the Scopes trial have often been inspired either to embrace or to repudiate.

Nietzsche’s concern with both the genealogy and the prospects of asceticism are reflected in the term’s etymology: the religious ascetic draws his or her nomenclature from the Greek askesis, training, and can thus be understood as a kind of spiritual athlete, one for whom bodily discipline and self-mastery of various forms may be central to religious practice, a bridge between the physical and the metaphysical. In that animality of the Italian philosopher Gino Ferrini, *Genealogy of Morality* reflects a form of asceticism that is, as Ferrini puts it, “learned to take its first steps and half-steps on earth” (Nietzsche *GM* III, §9, p. 79/KSA 5.356).

31. “The ascetic priest is the incarnate wish for a different existence, an existence somewhere else, and in fact the highest degree of this wish, its true fervor and passion: but the very power of his wishing is the shackles that binds him here; in this very process he becomes a tool that must work at creating more favorable conditions for being-here and being-human—with this very power he ties to existence the entire herd of the deformed, of sorts, short-changed, failed, those of every kind who suffer from themselves, by instinctively going before them as shepherd. One understands me already: this ascetic priest, this seeming enemy of life, this negating one—precisely he belongs to the very great conserving and yes-creating forces of life . . .” (Nietzsche *GM* III, §13, p. 86/KSA 5.366).

32. Nietzsche’s attention to a positive and specifically athletic form of asceticism is detailed in *GM* III, §8, where he addresses the chastity of philosophers: “in this there is nothing of chastity out of any [mere] ascetic scruples or hatred of the senses, just as little as it is chastity when an athlete or jockey abstains from women [. . .]—rather, it is their motherly instinct here that ruthlessly commands all other stores and allowances of energy, of animal vigor, for the benefit of the growing work: the greater energy then consumes the lesser one” (p. 78/KSA 5.355). Athletic asceticism has powerful religious associations as well: one is reminded here of the sheer athleticism of the ascetic desert saints fasting and
man, that odor which Bryan asked his courtroom audience to inhale, evolution treads on the peculiarly sensitive role of the body in longstanding Christian tradition. In *Christianity and the Rhetoric of Empire*, Averil Cameron observes, “the theme of the incarnation of Christ imposed the language of the body, and with it bodily symbolism, on Christian writing. All the central elements in orthodox Christianity—the Incarnation, the Resurrection, the Trinity, the Eucharist—focus on the body as symbolic of higher truth” (Cameron 1991, p. 68). The body as a site of contention over truth—because it is held to serve as a peculiarly sensitive conduit for truth—marks a recurrent flashpoint of the trial: as Bryan puts it, “if this doctrine [of evolution] is true [. . .] that means they eliminate the virgin birth [. . .] [and] they eliminate the resurrection of the body [. . .].” (*ST*, Thursday, July 16, 1925, p. 178).

This struggle between competing claims over the truth of the body, whether child of God or child of evolution, recalls a fundamental contention of the final treatise of the *Genealogy of Morality*. Nietzsche writes,

> it is still a *metaphysical* belief on which our belief in science rests—
> we knowers today, we godless ones and anti-metaphysicians, we too still take our fire from that great fire that was ignited by a thousand-year old belief, that belief of Christians, which was also Plato’s belief, that God is truth, that truth is divine [. . .] [the] highest authority. (*GM* III, §24, p. 110/ *KSA* 5.400–401)

In his final comments after the delivery of the jury’s verdict, Judge John T. Raulston embraced such convictions, assuring the court that, “there are two things in this world that are indestructible, that man cannot destroy, or [that] no force in the world can destroy. One is truth [. . .]. Another thing indestructible in America and in Europe and everywhere else, is the word of God” (*ST*, Tuesday, July 21, 1925, p. 318). The interpenetration of truth, God, and God’s word presents an indissoluble trinity that casts a formidable shadow. Although justifiably suspected of partiality to the prosecution, Judge Raulston nevertheless appears to have drawn the inspiration for his summary comments from arguments presented five days earlier by defense counsel member Dudley Field Malone:

> standing on pillars for more than forty days and forty nights, competing with both the record set by Jesus and the style in which he set it—virtuoso feats for the Syrian “stage desert,” as Nietzsche characterizes it in *GM* III, §8.

33. In later work, such as *Twilight of the Idols* (1888), Nietzsche was increasingly inclined to portray Christianity as a kind of Trojan horse for Platonist ontology and its corresponding values and ideals. As Nietzsche recognized, this portrayal enjoys a strong historical and philosophical foundation: for a comparatively recent scholarly overview, see Pelikan 1993.
There is never a duel with the truth. The truth always wins and we are not afraid of it. The truth is no coward. The truth does not need the law. The truth does not need the forces of government. The truth does not need Mr. Bryan. The truth is imperishable, eternal, and immortal and needs no human agency to support it. (ST, Thursday, July 16, 1925, p. 187)

For both Raulston and Malone, this truth stands beyond the reach of judicial contest or polemic, offering a transcendental benchmark. But on which bended knee is this imperishable, eternal and immortal truth to be approached?

In the third treatise of the Genealogy, Nietzsche asserts that, “what compels one to [. . .] this unconditional will to truth, is the belief in the ascetic ideal itself, even if as its unconscious imperative” (GM III, §24, pp. 109–110/KSA 5.400); thus, a Christian ethic finds itself promoting the ideals of would-be atheists, such as those scientists and scholars to whom Nietzsche refers conceive themselves to be. In the Scopes trial, correspondingly, we witness an ideology of the ascetic being engaged on both sides of the case. A concern with the pursuit of truth as conceived in ascetic terms marks the very opening of Darrow’s infamous interrogation of Bryan on the seventh day of proceedings:

Q: You have given considerable study to the Bible, haven’t you, Mr. Bryan? [. . .] and sometimes have made interpretations of various things?

A: I would not say interpretations, Mr. Darrow, but comments on the lesson.

Q: If you comment to any extent, these comments have been interpretations.

A: [. . .] my discussion might be to some extent interpretations, but they have not been primarily intended as interpretations. (ST, Monday, July 20, 1925, p. 284; emphasis added)

In this brief but telling exchange, we see Bryan attempting to evade the very noose that had been carefully prepared by the prosecution itself to ensnare the teaching of evolution: namely, that while the proponents of evolutionary theory may seek to present themselves as strict observers of the inviolable truth of evolutionary ‘facts’ rather than as mere interpreters of the book of nature—to quote defense counsel Arthur Garfield Hays, “all the scientists in the country are only on one side of the question; [. . .] [namely,] they are not here to give opinions; they are here to state facts”
it is rather the fundamentalist position that restricts itself to a plainly factual account—that is, to the facts of the Book of God. Bryan’s team had been pursuing a line of argument to establish that, while proponents of evolution would like to lay claim to the same type of factual account, as warranted by scientific expertise, such proponents are (in fact) the lowly creatures of mere hypothesis and interpretation: as prosecutor Sue K. Hicks frames it, “Mr. Darrow said in his speech not so long ago, that evolution is a mystery. Therefore, if expert testimony is full of pitfalls or dangers, or uncertainties in any issue, how much more so must it be in this issue” (ST, Thursday, July 16, 1925, p. 165; emphasis added). In short order, however, Darrow will demonstrate that Bryan does indeed engage in interpretation; moreover, in a form of interpretation that is certainly not constrained by a straightforwardly factual or literal reading of any kind when it comes to matters like the length of the ‘days’ in Genesis 1 or Joshua commanding the sun to stand still (“Do you believe at that time the entire sun went around the earth?” “No, I believe that the earth goes around the sun”).

The close conceptual association between the factual and the literal in matters of interpretation of those two great books, the Book of Nature and the Book of God, thus framed one of the principal zones of contention between the prosecution and the defense in the Scopes trial. This confrontation can be understood, on Nietzsche’s account, in terms of competing appeals to the same epistemological virtues—that is, to the same ascetic principles of interpretation:

I know all this from too close a proximity perhaps: that commendable philosophers’ abstinence [. . .] that stoicism of the intellect that finally forbids itself a “no” just as strictly as a “yes”; that wanting to halt before the factual, the factum brutum [. . .] in which French science now seeks a kind of moral superiority over German science, that renunciation of all interpretation (of doing violence, pressing into orderly form, abridging, omitting, padding, fabricating, falsifying and whatever else belongs to the essence of all interpreting)—broadly speaking, this expresses asceticism of virtue as

34. Recall that Hays attempted to establish the factual character of evolution by analogy with Copernican cosmology—that is, with the fact that “the earth and the planets revolve about the sun” (ST, Thursday, July 16, 1925, p. 157).

35. Bryan saw fit to emphasize this point in his major speech on the fifth day of proceedings: “the legislature paid evolution a higher honor than it deserves. Evolution is not a theory but a hypothesis” (ST, Thursday, July 16, 1925, p. 177).

forcefully as does any negation of sensuality [. . .]. (GM III, §24, p. 109/KSA 5. 399–400)

In the Scopes transcript, one would be hard-pressed to distinguish between the competing parties on the basis of a stoic renunciation of interpretation: all seek to lay claim to this particular ascetic virtue. One observes such jockeying for the epistemological/moral high ground in the frequent rhetorical recourse to a juxtaposition of fact and interpretation, a juxtaposition that is particularly resonant with respect to central arguments over jurisprudence and the application of the Butler Law—that is, the statute on which John Scopes was brought before the court, as signed into law in Tennessee on March 21, 1925. The interpretation of the Bible is correspondingly tied to the interpretation of the Butler Law itself by the defense:

What are the questions of fact? A man is guilty of a violation of the law if he teaches any theory different from the theory taught in the Bible. Has the judge a right to know what the Bible is? Does that law say that anything is contrary to the Bible that does not interpret the Bible literally—every word interpreted literally? Oh no, the law says that he must teach a theory that denies the story as stated in the Bible. Are we able to say what is stated in the Bible? Or is it a matter of words interpreted literally? Is your Honor going to put into that statute “any theory contrary to creation as stated in the Bible” with the words “literally interpreted word by word”? Because if you are, the statute doesn’t say so. Are we entitled to show what the Bible is? Are we entitled to show its meaning? Are we entitled to show what evolution is? 37

Given that the textual status of the Bible was essential for the application of the Butler Law, Hays argues on behalf of the defense counsel’s right to present expert theological opinion as well as expert scientific opinion, to determine the factual status of the Bible (“what the Bible is”) in harmony with the factual status of evolution itself.

Establishing the historical descent of the Bible, no less than the historical descent of man, was therefore a key strategy for the defense:

What is the Bible? Different [sects] of Christians disagree in their answers to this question [. . .]. Which version does the Tennessee legislature call for? Does it intend to distinguish between the different religious sects in passing this law? Does it mean the

Protestant, the St. James version, rather than the Catholic or Douay Bible?\textsuperscript{38}

The defense aimed to trace evolving features of the Bible not only in such extrinsic terms—that is, through transmission of the Bible according to various compilations, translations and authorizations, as well as their corresponding exegetical commitments—but in pointedly intrinsic terms as well. This was essential for determining the legality of teaching evolution, for German historical criticism of the 19\textsuperscript{th} century had developed a philological basis for distinguishing between the two evident accounts of creation found in Genesis 1 and 2—the first account ending at Genesis 2.4a, with the establishment of the Sabbath\textsuperscript{39}—that contradict each other in several crucial matters of sequence if taken literally, thereby undermining the assumption of the Butler Law that there was only one, coherent account of creation to be contended with in Genesis.\textsuperscript{40} Judge Raulston had cannily tried to pre-empt this problem on the first day of proceedings by reading into the court record only the first of these two creation accounts, leaving out the establishment of the Sabbath in Genesis 2 along with the entirety of the second creation narrative that immediately follows it (see \textit{ST}, Friday, July 10, 1925, pp. 5–6). On the seventh day of proceedings—that is, immediately before Darrow’s examination of Bryan on matters of Biblical exegesis—Hays at last found the opportunity to respond to Judge Raulston’s pre-emptive tactics, and read into the court record an extended statement by Dr. Shailer Matthews, Dean of the Divinity school at the

\textsuperscript{38} Argument by Hays (\textit{ST}, Wednesday, July 15, 1925, p. 121); “sects” emends the typographical error, “secas”.

\textsuperscript{39} My thanks to Professor Robert Daum for confirming that this division indeed reflects current scholarly consensus on the documentary hypothesis.

\textsuperscript{40} As both a German and a philologist trained in the 19\textsuperscript{th} century German tradition, Nietzsche stood in close scholarly proximity to this deep threat to the fundamentalist cause, and had observed in an early essay, “Fate and History” (1862), that historical research had fundamentally undermined the credibility of Christianity. Indeed, it would appear at times that evolution’s most invidious characteristic was its capacity to aid and abet the intrusion of German historical criticism on American soil, a highly sensitive issue in the aftermath of World War I. Characteristic of such concerns, as Marsden recounts, “the radical dispensationalist journal \textit{Our Hope} [. . .] attributed German militarism directly to German [historical] theology”—see Marsden 2006, p. 148; for the fuller context, see Marsden 2006, pp. 141–53, “World War I, Premillennialism and American Fundamentalism: 1917–1918.” When Darrow pressed Bryan on his knowledge of philology, he might as well have asked Bryan if he preferred to consort with the enemy: “you have never taken any pains to find anything about the origin of languages?” “I have never studied it as a science.” [Note how Bryan’s use of science corresponds with scholarly \textit{Wissenschaft}.] “Have you ever by any chance read Max Mueller?” “No.” “The great German philologist?” “No.” (\textit{ST}, Monday, July 20, 1925, p. 296.)
University of Chicago, which included the following challenge to the biblical-coherence assumption of the Butler Law: “There are two accounts in Genesis of the creation of man. They are not identical and at points differ widely. It would be difficult to say which is the teaching of the Bible” (ST, Monday, July 20, 1925, p. 224). Thus, a literal reading of the facts of Genesis 1–2 would produce an internally inconsistent account that the facts of evolution could not be held accountable for failing to satisfy—a self-defeat of the provisions of the statute, inflicted at the hands of an ascetic ideal of interpretation.

4. Coda: Justice and the Persistence of Polemics

In explicitly associating “questions of fact” with the “matter of words interpreted literally,” Hays was demanding that judicial interpretation itself halt before the factum brutum—that is, restrict itself to a literal reading of the Butler statute—effectually claiming that justice would be served only by an ascetic interpretive stance with respect to the terms of that statute. Hays thereby invoked what would be recognized in Nietzsche’s terms as a “renunciation of all interpretation” such that, to convict Scopes, the law would have to be redrafted so that a literal reading of the statute itself would necessarily enshrine a literal reading of the Bible (with the further difficulties that this would entail providing ample ammunition for defense strategy, if not in the immediate proceedings then upon appeal). On Hays’ account, therefore, to convict Scopes on the strength of the current wording of the Butler Law would be as much a travesty of the impartiality of truth—that is, of the literal, factual content of the law—as it would be of the impartiality of justice.

Both defense and prosecution understandably sought to portray opposition to their respective positions on the Butler Law as the expression of extrinsic interests and forces being inappropriately brought to bear on matters of jurisprudence. The relationship of justice and the law to courtroom polemics, therefore, recalls Nietzsche’s account in the second treatise of the Genealogy of Morality of the fundamentally ascetic aspirations of justice as the rule of law, in which a higher power intervenes in the contest of interests to impose settlement:

the most decisive thing the highest power does and forces through against the predominance of counter- and after-feelings [. . .] is the establishment of the law; the imperative declaration of what in general is to count in its eyes as permitted, as just, what as forbidden, as unjust: after it has established the law, it treats infringements and arbitrary actions of individuals or entire groups as wanton acts
against the law, as rebellion against the highest power itself, thereby diverting the feeling of its subjects away from the most immediate injury [. . .] and thus achieving in the long run the opposite of what all revenge wants, which sees only the viewpoint of the injured one, allows only it to count—from now on the eye is trained for an ever more impersonal appraisal of deeds [. . .]. (GM II, §11, pp. 49–50/KSA 5.312)

The process of law is thus conceived as a form of ascetic discipline for both its administrators and its petitioners: those individuals or groups who seek personal satisfaction from their contest before the law are to surrender such desires to the agency of an impersonal, impartial institution of justice, though their fierce passion to pursue litigation may yet smolder, ever at the ready to be fanned once more into flame.

Through the eyes of Nietzsche, therefore, we gain a distinctive perspective on the peculiar intensity of the contest in Dayton, at the heart of which lay curious forms of agreement. Answering Jerome, it turns out that Athens hath a great deal to do with Jerusalem, no less than Dayton with Sils-Maria: in the heat of polemical engagement, we can observe contestants who passionately compete over the same prize, while strenuously jockeying to assert the legitimacy and authority of their claim to that prize—a prize that one may find no less contested today. For it is one thing to agree on the nature of truth, and on the general means by which it is to be secured and defended; but who shall then determine the particular form of ascetic devotion through which we may approach the God of Truth?

41. To observe the polemics that persist over textbooks and the teaching of evolution, perhaps one need look no further than the activities of the Texas State Board of Education, whose former chairman, Don McLeroy, famously declared, “evolution is hooey”—see Collins 2012. Lippmann’s American Inquisitors was itself a tale of two trials over textbooks: the Scopes trial, and the 1927 hearing through which Chicago Mayor William Thompson succeeded in ousting Chicago Superintendent of Schools, William McAndrew, for incorporating insufficiently patriotic history textbooks in the curriculum. What were entwined concerns for Lippmann in the 1920’s over evolution and patriotic history evidently persist as such in the State of Texas—with ramifications that, on Collins’ account, extend well beyond state borders: “No matter where you live, if your children go to public schools, the textbooks they use were very possibly written under Texas influence. If they graduated with a reflexive suspicion of the concept of separation of church and state and an unexpected interest in the contributions of the National Rifle Association to American history, you know who to blame”—namely, the same board that, according to chairman McLeroy, put Texas “light years ahead of any other state when it comes to challenging evolution!” (Collins 2012, pp. 18, 19).
References


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