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# The Trial as a Circus: *Inherit the Wind*

By GERALD F. UELMEN\*

I SAW *Inherit the Wind*<sup>1</sup> for the first time thirty-five years ago, before I became a lawyer, and I loved it. In some respects, becoming a lawyer ruined the film for me. Not much that goes on in the film resembles a real trial, and some of the theatrics now seem hokey. Also, in the course of writing a one-man play about the life of William Jennings Bryan, I spent considerable time reading accounts and transcripts from the actual trial the film is supposed to depict. That ruined the film even more, realizing how many liberties were taken with actual events.

The film is loosely based on the events surrounding the 1925 trial of John Scopes in Dayton, Tennessee, for teaching Darwin's theory of evolution to high school students. Rather than ruin the film for you, by pointing out all of the legal and historical inaccuracies, I decided to write an essay on why this film is still great entertainment, just like the *Scopes* trial itself was great entertainment. There's truly something refreshing about unabashedly treating a trial as a circus. To some extent, every trial is a potential circus, but we rarely set out to make it one. In Dayton, Tennessee in 1925, they did. And they succeeded to an extent unparalleled in American history.

Today, labeling a trial as a "circus" is rarely intended as a compliment. Trials are supposed to be taken quite seriously by everyone involved, and the lawyers are supposed to focus their persuasive powers on the judge and the jury, not the peanut gallery. At several key moments during the trial as portrayed in *Inherit the Wind*, the lawyer characters based on Clarence Darrow and William Jennings Bryan actually turn their backs on the judge and jury, and address remarks directly to the appreciative courtroom audience, which cheers, hisses, and provides a cacophony of catcalls. Real lawyers would never do that. But at some point, I'm sure, Stanley Kramer said, "What the hell, these aren't real lawyers, anyway." With respect to Bryan, he was probably right. I discovered several points in the transcript of the *Scopes* trial where Bryan forgot he was arguing to a judge and punctuated his oratory with frequent references to the listeners as "my friends."

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1. *INHERIT THE WIND* (United Artists 1960).

Ironically, the current movement to ban television cameras from courtrooms in the wake of the O.J. Simpson trial is based on the premise that the cameras are like the Sirens of old, seducing the lawyers, witnesses and even the judge to play to the television audience, thus turning the trial into a "circus." Television cameras can have that effect. Witnesses may testify as if they're performing a gig. Lawyers may trade cheap shots to provide sound bites for the evening news. The judge may delay his most dramatic rulings until prime time.

Some of the most amusing moments in *Inherit the Wind* depict media coverage of a trial in the age before television. The judge is frequently interrupted by explosions of flash powder. The newspaper reporters, including Gene Kelly portraying a character based on H.L. Mencken (with more dapperness and charm than Mencken ever mustered), loudly dictate their stories into telephones right from the courtroom, as the proceedings unfold. They get glowering glances from the lawyers whose performances they pan. And a huge microphone is brought into the courtroom to broadcast the verdict over the radio, setting off a shoving match among the trial participants to hog the microphone. It reminded me of one wag's comment that the most dangerous place in a courtroom is to stand between Alan Dershowitz and a television camera. As depicted in *Inherit the Wind*, the most dangerous place in the courtroom is between Matt Brady, a.k.a. William Jennings Bryan (played brilliantly by Frederic March), and the WGN microphone. When the microphone is removed, Bryan drops dead on the spot. H.L. Mencken attributes his death to a "busted belly," but the symptoms more closely resemble a severe reaction to adulatory deprivation, also known as "F. Lee Bailey disease."

The *Scopes* trial was deliberately designed to be a three-ring circus, so no one was critical or disappointed when it became an entertainment extravaganza. Actually, the arrest and trial of John Scopes was cooked up by the town fathers in Robinson's Drug Store, one block from the Dayton courthouse. I got a chance to visit Dayton fifteen years ago, and was thrilled to discover the courtroom preserved just as it appears in 1925 photographs. Visiting the town was like walking through a time warp. Robinson's Drug Store was still there, and it was still called Robinson's Drug Store. We met Mr. Robinson, who was the eight-year-old son of the drug store proprietor when the *Scopes* trial took place.

*Inherit the Wind* does a masterful job of exposing the underlying motives of civic boosterism that pervade the trial. Henry Drummond, a.k.a. Clarence Darrow, portrayed by an overweight Spencer Tracy, is recruited by a newspaper to serve as defense counsel precisely because his presence will produce newsworthy fireworks. Volunteer prosecutor Matt Brady is

welcomed to town with a big parade, complete with brass band playing "Give Me That Old Time Religion." The town fathers are thrilled that the little hamlet of Hillsboro will host an event every bit as exciting as "the Chatauqua in Chattanooga."

Without some drama and some romance, however, a circus movie can get boring. *Inherit the Wind* serves up generous portions of drama and romance, and that's where the film parts company with the historical events that actually occurred in Dayton. While the trial tested the validity of a state law prohibiting the teaching of "evil-looshen," as all of the hayseed characters portrayed in the film pronounce it, not much was really at stake for John Scopes. He faced a small fine if convicted, and William Jennings Bryan offered to pay the fine for him if the ACLU didn't.<sup>2</sup> The movie seeks to build a little more suspense by portraying a dramatic arrest of Bert Kates, the character based on Scopes, and keeping him in jail throughout the trial. And Matt Brady is portrayed bitterly protesting when Kates is not sent to prison after his conviction.

The most dramatic incident in the film never happened in the actual trial. Matt Brady calls Bert Kates' fiancée to the stand, and forces her to reveal Bert's irreverent musings about religion to the jury. Brady almost salivates as he presses the reluctant young lady to "Tell it, tell it, tell it!" There's not much subtlety here. The good guys are the "thinkers." Spencer Tracy ends the film by professing his secret belief in God, his secret admiration for Matt Brady, and his secret contempt for E.K. Hornbeck, the Mencken character. Then he slams *The Bible* and Darwin's *Origin of Species* together, and strides out of the courtroom. The bad guys are all looney yokels and bigots, portrayed in much the same way the media now portrays the Buchanan wing of the Republican Party.

The high point, just as it was the high point of the *Scopes* trial, comes when Henry Drummond calls Matt Brady to the witness stand and cross-examines him on his literal interpretation of *The Bible*. While some of the questions used were actually put to Bryan by Darrow, the movie depicts Brady as a bumbling bigot who crumbles under Drummond's onslaught. It's fun to watch, but nothing like what really happened. Bryan actually angered some of his supporters from the bible belt by conceding that the seven days in which the creation of the world is described in Genesis may *not* have been twenty-four-hour days, but may have been periods of thousands of years, thus accepting the possibility of a reconciliation of evolutionary theory and divine creation. Bryan also delivered a zinger to Dar-

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2. John Scopes was a great admirer of Bryan, who was the commencement speaker at his high school graduation.

row, by pointing out that while Darrow labelled Tennessee parents “yokels” for seeking to control the teaching of Darwin in public schools, Darrow himself just one year before put the blame for the murder of Bobby Franks by Loeb and Leopold on the University of Chicago, because the university taught Loeb and Leopold the philosophy of Nietzsche. Within a single year, the “great defender” attacked the University of Chicago for corrupting his murderous clients by teaching from the books of one philosopher, then attacked the state of Tennessee for seeking to prevent the “corruption” of its youth by teaching from the books of another philosopher. Perhaps Darrow would explain that it depends on the current popularity of the philosopher in question. Or perhaps he would insist that consistency is a hobgoblin. In any event, the circus portrayed in *Inherit the Wind* casts Darrow as the ringmaster and Bryan as the clown. Bryan’s reputation was ruined by both the movie and the play on which it was based. The film is every bit as entertaining as a trip to the circus and should be relished in that spirit. But history it ain’t. The “trial of the century” known as *People v. John T. Scopes* featured plenty of circus clowns, but William Jennings Bryan was not among them.