its action would be in violation of the Fed Const. 

void Scope

(1) legislature which is

C???? if the State legislature within the general scope of State action of

vested in the Federal govt

(3) There are two main prohibitions in the enforced by the U.S. Constitution on

The legislative action by a State ¶ The most important is the prohibition 14th Amend which provides that no state shall ??? deprive any person of his life liberty or property without due process of law. ¶ The other provision is contained in Article I Section 10 of the Constitution which prohibits a state from passing any “law impairing the obligation of a contract.”

The Act of the Legislature violates the Constitution of the United States in both respects.

I. The Act dep

???? in Ia.
Whether we deal with the State as a separate sovereignty or whether M

As the one of the agencies of the United States as a sovereign in the state power the problem is the
government All the powers of same The sovereign the state are not vested

under the Constitution of the United States the power of the State legislature is not unlimited.

All The powers of the States are divided into with respect to their exercise vested in 3 agencies.

agency may exercise only

1 The Federal govt. This includes delegated

those x powers specifically designated by the Fed Constitution in the U.S. govt of the US

2 Those power The power vested in the State government Which includes all the remaining sovereign power except powers

1a such ? are prohibited by the Constitution of the States government is by the U.S. Constitution prohibited from exercising are

2 x and which ? reserved to the people of the State: and

(b) such power as the State govt is by the State Constitution of the State of Tennessee prohibited from exercising.

(3). The powers reserved by the Federal Constitution to the people of the

The power reserved to the people of the State. This includes those inalienable rights which under the Federal & the State Con-

stitution the legislature of the United States nor of the State of Tennessee may interfere
1. The teaching of Evolution  Whether we agree with the theory of Evolution or not there is nothing inherently vicious in such teaching is such nor can such teaching be made To make the warrant the leg. of the State in making this a crime? the teaching of evolution must have some relation to the general purpose of State??.

It must in a be aimed to protect the

promote public health, the public safety or public morals

2. This act There can be no question that the teaching of Evolution is part of the teaching of Science By Sec ?? of the Constitution it is the duty of the State Leg. & of all its officers.
Regardless of whether Mr. Scopes

The Religious freedom is one of the guarantees of every state constitution. As stated by Tho Jefferson it is so essential to the protection of the life, liberty and property of the citizen and vital to a Republican form of Government.

“freedom of the mind”

If this is essential to the protection of life & liberty and property a state law depriving a citizen or his children of that right is a law depriving a person of life, liberty, and property without due process of law in violation of the fourteenth amendment to the Constitution of the United States and of the bill of rights in the State Constitution.

Furthermore this enactment since religious freedom is vital to a Republican form of government & since the Constitution guarantees a Rep. form of govt to the States the law is in violation of also violates that provision of the Constitution.

under normal conditions

Of course these rights may be asserted only by the person whose rights are infringed.
definately and does not fully inform set forth the nature of the offense

the under due process clause of the Constitution

void

C. The act is unconstitutional because it is vague & indefinite. This is a penal statute. A penal statute must define the nature of the offense. The Tennessee statute makes it criminal to teach “any theory that denies the story of Divine Creation of man as taught in the Bible.” No one is agreed as to the Story of the Divine Creation of man as taught in the Bible. The Fundamentalists have one theory. While the Modernists have an entirely different view of the matter; and Mr. Bryan’s view is still different. According to the Modernists the theory of Evolution is not inconsistency with the story of the Divine Creation of man as taught in the Bible.

II The Act is unconstitutional because it impairs the obligation of a contract in violation of Sec. 10 of Article I of the Constitution.

Mr. Scopes was employed for the period of one year to teach “Science.” Science has a well defined meaning & the Legislature cannot change the terms of the contract by requiring him to teach something that is not science.

III The Act violates the Tennessee statute ensuring religious liberty. The Tennessee Constitution is most liberal on this point. It provides: ‘It is in violation of Article XI Sec. 3 of the Constitution [sic].’

Take in
The act the Tennessee Act clearly interferes with this right – and the Act s passed by the is outside “of the general powers of government.

In Article X Sec. IV is provided: take
III. It may also be claimed that this Act is unconstitutional because in violation of Article IV Sec. 4 which provides that “the United States shall guarantee to every State in the union a Republican form of government.”
Every citizen every public employee on this prosecution is constitutional parent

? Assuming that The right of the tax payer whose pupils children are being taught in the public school however may be asserted by Mr. Scopes in his defense. parents

Assuming that the tax payer's constitutional rights are violated by this act then it follows that no person has the right to deprive him of his constitutional rights - and no state law can makes it criminal for a person not to deprive a citizen of his constitutional rights is unconstitutional.

nearly

It is on this theory that in every rate case the attorney general and the district attorney are made parties. They are Even though they are required by Statute to punish any violations of the Crim. Law, the Courts enjoin them from doing so.

It is as if after the Stock Dividend Law had been declared unconstitutional Congress were to make it criminal for the Secretary of the Treasury not to continue to collect that tax. In a prosecution of the Secretary he could assert the unconstitutionality of the law -
The Act is in violation of the Fourteenth Amendment to the Constitution of the U.S. &

A. In that the act Act of the legislature is arbitrary and without any reasonable relation to the competency of the State to effect

B. In that the act of the legislature makes it criminal for a teacher not

of children attending
to violate the liberty of the parent to bring
up their children and to worship God
according to the dictates of their own conscience

C. In that the Act of the legislature does not apprise

does not apprise

offense fails to prescribe with reasonable certainty the elements of the offense

making certain acts innocent
in themselves is m criminal offences

D. The Act

II The Act of
I Due Process Clause of the Federal State Constitutions.

(a) Act made criminal which has no element of criminality about it.

(b) This act unduly interferes with the Suprem

Supreme Court recently has held that in the Oregon Case that the “rights guaranteed by the Constitution.

That “Parents have & Guardians have the right to direct the upbringing & Education of their children under their control.” This liberty of parents may not be interfered with by legislation which has no reasonable relation to some purpose within the Competency of the State.

Supreme Court

The fundamental theory of liberty upon which all governments of the Union excludes any general power of the State to compel its citizens to accept instruction which they themselves believe to be false & erroneous or to accept instruction in science which no scientist accepts today.