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There are two main prohibitions in the U.S. Constitution on the legislative action by a state. The most important is the prohibition 14th Amend - which provide 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 departs from Ia.

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(1) legislature which is within the general scope of State action - of vested in the Federal govt

(3) There are two main prohibitions in 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."

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Whether we deal with the state as a separate sovereignty or whether we deal with it as the one of the agencies of the United States as a sovereign form the problem is the same. <sup>all the powers of the state are not vested</sup>

in the state government

Under the Constitution of the United States the power of the State legislature is ~~not~~ limited. All the powers of the State are divided into with respect to their exercise vested in 3 agencies.

- 1<sup>o</sup> The Federal govt. This ~~includes~~ <sup>agency may exercise or</sup> those powers specifically ~~designated~~ <sup>delegated</sup> by the Fed Constitution in the U.S. govt of the US -
- 2<sup>o</sup> ~~The power~~ The power vested in the State government ~~which~~ This includes all the remaining sovereign power except <sup>powers</sup> such as are prohibited by the Constitution of the State government is by the U.S. Constitution prohibited from exercising <sup>are</sup> and which <sup>are</sup> 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 State. The power reserved to the people of the State. This includes those inalienable rights with which under the Federal & the State Constitution <sup>neither</sup> <sup>govt</sup> the legislature of the United States nor of the State of Tennessee may interfere

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(4)

~~10~~ The teaching of evolution Whether we agree with the theory of evolution or not there is nothing inherently vicious in such teaching - ~~not can such teaching be made to~~ <sup>in such</sup> ~~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~~ - It must ~~in a~~ be aimed to ~~protect~~ ~~promote~~ <sup>the</sup> 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. 1 of the Constitution it is ~~the duty of the~~ of Tennessee - This is a constitutional declaration by the State of Tenn. that the teaching of science is in itself ~~not only without crime~~ - but a legit. & proper ~~function~~ duty of the State leg. & of all its officers.

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Regardless of whether Mr. Scopes

Religious freedom is one of the guarantees of every state constitution. As stated by Mr. 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.

If this <sup>freedom of the mind</sup> 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 his life, liberty and property without due process of law in violation of the fourteenth amendment to the Constitution of the United States and 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 gov't to the state the law ~~is in violation~~ also violates that provision of the Constitution.

Of course <sup>under normal conditions</sup> these rights may be asserted only by the person whose rights are infringed.

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and does not ~~fully inform~~ <sup>definitely</sup> set forth the nature of the offense.

← under the <sup>the</sup> due process clause of the Constitution

C. The act is ~~un~~ <sup>void</sup> constitutional because it is vague & indefinite. This is a penal statute - A penal statute must define the nature of the offense. The Tennessee statute made it criminal to teach "any theory that denies ~~any~~ the story of the Divine Creation of man as taught in the Bible" - ~~None is agreed~~ There is no agreement 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 inconsistent with the story of the ~~Divine~~ 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 <sup>of Tennessee</sup> cannot change the contract terms of the contract by requiring him to teach something that is not science.

during the period of his employment

III The act ~~violates~~ <sup>is in violation of</sup> Article XI Sec. 3 of the Tennessee Constitution ensuring religious liberty. ~~wh?~~ The Tennessee Constitution is most liberal on this point.

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The ~~act~~ Tennessee Act clearly inter-  
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Every citizen every public employe  
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Constitutional parent  
\* Assuming that the right of the tax payer whose  
pupils children are being taught in the public school  
may be asserted by Mr. Scopes in his defense.  
Assuming that the tax payers constitutional rights  
are violated by this act then it follows that no  
person has the right to deprive him of his con-  
stitutional rights and no state law which makes  
it criminal for a person not to deprive a  
citizen of his constitutional rights is uncon-  
stitutional.

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 crim-  
inations of the crim. law, the Courts enjoin them  
from doing so.

It is as if after the Stock Dividend Law had been  
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I The act is in violation of the Fourteenth  
Amendment to the Constitution of the U.S. &

the - <sup>act</sup>  
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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 <sup>of children attending</sup>  
to violate the liberty of the parent to bring  
up their children and to <sup>to</sup> worship God  
according to the dictates of their own conscience

guaranteed  
of the Fed  
Const by  
the 14th  
Amendment  
to

C. In that the act of the legislature ~~does~~  
~~not~~ fails to prescribe with reason-  
able certainty the elements of the offense

making certain acts innocent  
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~~D. The Act~~  
II The Act of

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# I Due Process Clause of the Federal State Constitutions.

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

(b) ~~This act unduly interferes~~ Supreme Court has held that in the Oregon case that the rights ~~are~~ guaranteed by the Constitution

"Parents ~~have~~ & Guardians have the right to direct the upbringing & Education of their children under their control" - This liberty of parent may not be ~~interfered with~~ abridged by legislation which has no reasonable relation to some purpose within the ~~Contemp~~ Competency of the State

Supreme Court

The fundamental theory of liberty upon which all governments ~~of the Union~~ refer ~~to~~ excludes any general power of the State to Stagnate its children by forcing them to accept instruction from public teachers - Obviously if their liberty may not be curtailed in that ~~or so~~ as to require instruction from Public T by from public teachers - they may not be forced to accept instruction involving religious instruction which they themselves believe to be false & ~~erroneous~~ or to accept instruction in science which no scientist accepts today.

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