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Leopold and Loeb

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LEOPOLD AND LOEB; Perspective

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Body

Perspective

Just over 75 years ago, Clarence Darrow argued one of the most challenging cases of his career. In 1924, the city of Chicago was shocked by the brutal murder of a 14-year-old boy by Nathan Leopold, 19, and Richard Loeb, 18. The defendants' wealthy families brought in Mr. Darrow to defend them from murder and kidnapping charges.

Defending the two presented staggering problems. The crime was barbaric; the victim was a child; the evidence showed the defendants had planned the crime in advance. To make things worse, Messrs. *Leopold and Loeb* were particularly unsympathetic characters: rich, arrogant and heartless. They showed no remorse. Letters between them proclaimed their belief in the theory that a few people (like themselves) were supermen, above ordinary rules of law.

Mr. Darrow at first planned to try the case before a jury, but decided that a guilty plea was the best strategy for saving his clients from the gallows (the Illinois death penalty then meant hanging). A jury trial would only bring outraged members of the community into the courtroom. Guilty pleas shifted the sentencing decision from jury to judge, in particular Criminal Court Judge John Caverly. Judge Caverly

could choose between imprisonment for life and the death penalty. I know perfectly well, Mr. Darrow told the court, that where responsibility is divided by 12, it is easy to say: Away with him. But, your Honor, if these boys hang, you must do it. ... It must be by your deliberate, cool, premeditated act, without a chance to shift responsibility.

Mr. Darrow tried to make a decision to hang the defendants as uncomfortable as possible for the judge. He repeatedly referred to his two clients in terms that both humanized them and emphasized their youth. They were most often boys; sometimes lads; occasionally even children. Mr. Darrow also used not merely his clients' first names, but their childlike nicknames, Dickie and Babe, to reinforce his argument that the two were too young to be sentenced to death.

Although the prosecution was led by an experienced attorney and former judge, Robert Crowe, Mr. Darrow sought to embody the State in the person of a younger member of the prosecution team with the unfortunate name Joe Savage (at one point Mr. Darrow wondered aloud, did you pick him for his name or his ability?). Assessing Mr. Savage's cruel argument for the death penalty, the 67-year-old defense counsel predicted: When my friend Savage is my age, he will read his address to this court with horror. And Mr. Darrow was hardly above the play on words that the name invited. When another lawyer for the State cited a passage from Blackstone approving the death penalty for 13-year-olds, Mr. Darrow called the argument one that would bring a blush of shame to the face of a savage.

Knowing that public opinion was a possible influence upon the judge, Mr. Darrow treated the hostile public as seriously as any party. At the outset of his speech he acknowledged the enormous publicity the case had received. He derided the opinion of the masses: [W]hen the public is interested and demand a punishment, no matter what the offense, it thinks of one punishment, and that is death. Sounding like a critic of today's strident opinion mongers, he continued, in this land of ours, where talk is cheap, where newspapers are plenty, where the most immature expresses his opinion, and the more immature the stronger ... a court couldn't help feeling the great pressure of the public opinion which exists in this case. The prosecution had played its part, he noted, using the press to fan this community into a frenzy of hate. But he assured the judge that the temporarily aroused public was like an unreasoning beast. Many say now

that they want to hang these boys but I know that giving the people blood is something like giving them their dinner. When they get it they go to sleep.

Mr. Darrow's speech lasted three days. Amidst the verbal torrent, he paid careful attention to a handful of emotionally charged words the State used against him. Rather than avoiding these terms, Mr. Darrow confronted them head-on: Brother Savage's argument I can sum up in a minute: Cruel; dastardly; premeditated; fiendish; abandoned and malignant heart; cowardly; cold-blooded. By taking the words out of context and reducing them to a list of redundant adjectives, Mr. Darrow tried to diminish their persuasive force. He then created a new context for the crucial charge that his clients were cold-blooded:

You may stand them up on the trap-door of the scaffold, and choke them to death, but that act will be infinitely more cold-blooded ... than any act that these boys have committed. Cold-blooded! Let the State, who is so anxious to take these boys' lives, set an example in consideration, kindheartedness and tenderness before they call my clients cold-blooded.

Mr. Darrow reserved particular contempt for one of the State's expert witnesses, a Dr. Krohn. When he testified, Mr. Darrow said, my mind carried me back to the time when I was a kid, and we used to eat watermelons. I have seen little boys take a rind of watermelon and cover their whole faces with water, eat it, devour it, and have the time of their lives, up to their ears in watermelon. And when I heard Dr. Krohn testify in this case, to take the blood of these two boys, I could see his mouth water with the joy it gave him, and he showed all the delight and pleasure of myself and my young companions when we ate watermelon.

Mr. Darrow had the good sense to concede what he had to, thereby preserving his credibility with his audience. He admitted that the crime was a terrible one, that the boys deserved to be punished, and that the parents of the victim deserved the utmost sympathy. On the critical issue of the defendants' state of mind - Mr. Darrow argued that they had diseased minds, making hanging an inhumane penalty - he even allowed that the law might not consider them insane: I can imagine a psychiatrist who might honestly think that under the crude definitions of the law the defendants were sane and know the difference between right and wrong.

But to induce the judge not to hang his clients, Mr. Darrow vigorously proclaimed the crime to be the mad act of diseased minds. Responding to the proof that the murder was premeditated, Mr. Darrow said: But we are told that they planned. What does that mean? A maniac plans; an animal plans; any brain that functions may plan; but their plans were the diseased plans of the diseased mind. They killed for no reason, as they might kill a spider or a fly. They sacrificed everything that could be of value in human life upon the crazy scheme of a couple of immature lads.

Mr. Darrow invoked the progress of civilization, the need to fight hate with love, even religion: ... is there any doubt about whether these boys would be safe in the hands of the founder of the Christian religion? It would be blasphemy to say they would not. He claimed that the rich defendants were burdened by their wealth; without it, the public might have been less interested in the case, and a plea bargain would have spared their lives. He used their wealth to show the madness of the crime - they had everything, wealth and position in society and prosperous futures, all thrown away to mount the gallows or go into a cell for life. Perhaps, he suggested, money had corrupted their moral development. Great wealth often curses all who touch it.

It must have been an unforgettable memorable performance. Ultimately, Judge Caverly accepted Mr. Darrow's conclusion and sentenced the defendants to life imprisonment for murder, and 99 years for kidnapping. Mr. Loeb died in jail, at the hands of a fellow inmate, in 1936. Mr. Leopold served 33 years, was paroled, and lived quietly until his death in 1971.

As for Mr. Darrow, in the year following the *Leopold and Loeb* case he journeyed to Dayton, Tennessee, to defend a rebellious teacher named John T. Scopes.

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