

**THE PLEA OF CLARENCE DARROW,
AUGUST 22ND, 23RD & 25TH,
MCMXXIII, IN DEFENSE OF RICHARD
LOEB AND NATHAN LEOPOLD, JR.,
ON TRIAL FOR MURDER**

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CLARENCE DARROW**

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MCMXXIII

**In Defense of
RICHARD LOEB and NATHAN LEOPOLD,
on Trial for Murder**

Authorized and Revised Edition
Together with a brief Summary of
the Facts

Ralph Fletcher Seymour
Chicago

Storage

218

Society in its relation to those charged with crime, through its organized agencies first demanded revenge as a punishment, then protection, then restraint. To-day it aims to reform or reconstruct the offender, and already anticipates the day when prevention of crime may become a practical achievement.

Clarence Darrow gave voice to this forward looking principle of social government in his eloquent plea before the bar of Justice, and has expressed it with such clearness and conviction that it must long remain as a masterpiece of pleading for the social outcast and the offender. As such the publishers have undertaken its publication.

THE FACTS

On May 21, 1924, Robert Franks, aged fourteen, was picked up on one of the prominent streets of Chicago by an automobile which was in the possession of Nathan Leopold, Jr., and Richard Loeb. He was driven within half a block of Loeb's house and about the same distance from Frank's house, was hit on the head with a chisel and killed.

Robert Franks was in the front seat when the blow was struck. He was then pulled into the back seat and driven about twenty miles through some of the principal streets of Chicago and along the main automobile way. He was taken into the machine about half past four o'clock and taken by daylight through the main populated parts of the south side and that portion which is mostly frequented by automobiles. He was killed instantly and after this ride, his body was stripped and he was put into a culvert in a lonely spot about twenty miles from where he was picked up.

Nathan Leopold, Jr., was nineteen years old and Richard Loeb, eighteen years old. Loeb was well acquainted with young Franks. Before this time, Leopold and Loeb had prepared a letter addressed "Dear Sir," in which they demanded \$10,000 ransom. Even the minute before Franks was picked up on the street neither Leopold nor Loeb had settled on the person they should kidnap. Immediately after the killing the ransom letter was addressed and mailed to the father of Robert Franks. All three families are people of considerable wealth.

Leopold was the youngest boy who ever graduated from the Chicago University and at the time, was preparing to enter Harvard Law College. Before entering

Harvard, he was to take a trip to Europe and had already purchased his ticket for the ocean voyage.

Loeb was the youngest graduate of the University of Michigan and was intending to study law. Both Leopold and Loeb had always been well supplied with money and there was no financial reason why they should have committed either the crime of kidnaping or that of murder.

When the body of Robert Franks was placed in the culvert, the eye glasses of Leopold dropped from his pocket and, after several other arrests, these were found by the police and identified as Leopold's glasses. At the time of their arrest, no one believed that they had anything to do with the kidnaping and killing. They were taken to the State's Attorney's office and after being in the custody of the attorneys and officers for about sixty hours, they confessed to the full details of the crime.

It was claimed by the defense that their minds were diseased and also that on account of their extreme youth, they should not be hanged.

The Illinois statutes provide that on a verdict or plea of guilty, a defendant may be sentenced to death or to a term in the penitentiary for not less than fourteen years and up to life.

The statute also provides that on a plea of guilty, "In all cases where the court possesses any discretion as to the extent of the punishment, it shall be the duty of the court to examine witnesses as to the aggravation and mitigation of the offense."

The defendants in this case pleaded guilty before Judge Caverly; thereupon evidence was offered both by the State and the defense on the question of aggravation and mitigation. Alienists were introduced by both sides, touching the mental condition of the two boys.

The hearing occupied about thirty days. The defendants were sentenced to the penitentiary for life.

PLEA OF CLARENCE DARROW



OUR HONOR, it has been almost three months since the great responsibility of this case was assumed by my associates and myself. I am willing to confess that it has been three months of great anxiety. A burden which I gladly would have been spared excepting for my feelings of affection toward some of the members of one of these unfortunate families. This responsibility is almost too great for any one to assume; but we lawyers can no more choose than the court can choose.

Our anxiety over this case has not been due to the facts that are connected with this most unfortunate affair, but to the almost unheard of publicity it has received; to the fact that newspapers all over this country have been giving it space such as they have almost never before given to any case. The fact that day after day the people of Chicago have been regaled with stories of all sorts about it, until almost every person has formed an opinion.

And when the public is interested and demands a punishment, no matter what the offense, great or small, it thinks of only one punishment, and that is death.

It may not be a question that involves the taking of human life; it may be a question of pure prejudice alone; but when the public speaks as one man it thinks only of killing.

We have been in this stress and strain for three months. We did what we could and all we could to gain the confidence of the public, who in the end really control, whether wisely or unwisely.

It was announced that there were millions of dollars to be spent on this case. Wild and extravagant stories were freely published as though they were facts. Here was to be an effort to save the lives of two boys by the use of money in fabulous amounts, amounts such as these families never even had.

We announced to the public that no excessive use of money would be made in this case, neither for lawyers nor for psychiatrists, or in any other way. We have faithfully kept that promise.

The psychiatrists, as has been shown by the evidence in this case, are receiving a per diem, and only a per diem, which is the same as is paid by the State.

The attorneys, at their own request, have agreed to take such amount as the officers of the Chicago Bar Association may think is proper in this case.

If we fail in this defense it will not be for lack of money. It will be on account of money. Money has been the most serious handicap that we have met. There are times when poverty is fortunate.

I insist, your Honor, that had this been the case of two boys of these defendants' age, unconnected with families supposed to have great wealth, there is not a State's Attorney in Illinois who would not have consented at once to a plea of guilty and a punishment in the penitentiary for life. Not one.

No lawyer could have justified any other attitude. No prosecution could have justified it.

We could have come into this court without evidence, without argument, and this court would have given to

us what every judge in the City of Chicago has given to every boy in the City of Chicago since the first capital case was tried. We would have had no contest.

We are here with the lives of two boys imperiled, with the public aroused.

For what?

Because, unfortunately, the parents have money. Nothing else.

I told your Honor in the beginning that never had there been a case in Chicago, where on a plea of guilty a boy under twenty-one had been sentenced to death. I will raise that age and say, never has there been a case where a human being under the age of twenty-three has been sentenced to death. And, I think I am safe in saying, although I have not examined all the records and could not—but I think I am safe in saying—that never has there been such a case in the State of Illinois.

And yet this court is urged, aye, threatened, that he must hang two boys contrary to precedents, contrary to the acts of every judge who ever held court in this state.

Why?

Tell me what public necessity there is for this.

Why need the State's Attorney ask for something that never before has been demanded?

Why need a judge be urged by every argument, moderate and immoderate, to hang two boys in the face of every precedent in Illinois, and in the face of the progress of the last fifty years?

Lawyers stand here by the day and read cases from the Dark Ages, where Judges have said that if a man had a grain of sense left and a child if he was barely out of his cradle, could be hanged because he knew the difference between right and wrong. Death sentences for eighteen, seventeen, sixteen and fourteen years have