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“The Loeb and Leopold Trial”

It was summer in Chicago; the year was 1924. Two precocious University of Chicago students, young men from tremendous privilege and possessing of superior intellect, plotted the perfect crime. They would kidnap a boy from a prestigious family, and forge a ransom note. But their motives were so easily explainable; the ransom was worthless to them. This was purely a thrill kill, a crime stemming from the troubled childhoods and misappropriated philosophies that the pair adhered to. Even by the standard of other murders, this was truly senseless crime. To Loeb and Leopold, it represented a triumph of their remarkable aptitudes over the inherent inferiority of the rest of society. This was the act of the *ubermensch*, the Nietzschean archetype who transcended the bourgeois morality of the commoner.

Unfortunately for Loeb and Leopold, their nihilistic aspirations could not supersede the reality of their own arrogance, and “the perfect crime” was not to be. What would ensue from their subsequent arrest, trial, and sentence to “life plus 99 years” would have implications far broader than the crime itself. This trial became the focus of the nascent culture war brewing in the 1920’s, a culture war that pitted radically different philosophies against each other in a battle that would come to forever alter American conceptions of crime and punishment. The

Loeb and Leopold trial would become a cultural and ideological landmark in an evolving nation. The Cook County Courthouse soon became the point of convergence between vestiges of the Enlightenment and burgeoning post-modernism. The trial of Nathan Leopold and Richard Loeb came to epitomize the controversy, confusion, and excess of America during the 1920's, and would prove to have a permanent influence on future trials.

Nathan Leopold, Jr., and Richard Loeb were an uncanny match. Each young man had his own complicated backstory; domineering governesses, family tragedy, and childhood trauma. Each was driven by latent fantasies that, when combined, seemed to be so insidiously symbiotic as to defy plausibility. Leopold fantasy was that of a “powerful slave”, bound to his king, but on whom the king had to rely for protection. Loeb, the exhibitor of the classic antisocial personality, lived his mental life in fantasies wherein he was a master criminal, suave and sophisticated, unbound by any legal or moral fetters. Leopold became the perfect sidekick to compliment Loeb's “master criminal” complex, and the two began a friendship founded upon numerous clandestine undertakings in the exclusive Kenwood neighborhood of Chicago, but soon they had spread their activities over a much larger area, robbing fraternities and committing petty arson.

Both young men had troubled childhoods. Loeb languished under his strict tutor, Ms. Struthers, who allowed him virtually no freedom. Young Dickie Loeb's childhood consisted almost exclusively of a rigorous schooling schedule. When not under the tyrannical eye of Ms. Struthers, Dickie occupied a fantasy world in which he was a master criminal, fed in part by his insatiable appetite for crime and detective novels. As he grew older, his antisocial personality tendencies had adapted to his changing life conditions; he was a master liar and manipulator,

but concealed it expertly under his charming facade. He was missing only a partner in crime, which he would find in his University of Chicago classmate Nathan Leopold.

Leopold, the brilliant son of Nathan Leopold, Sr., had demonstrated his preternatural intelligence from a young age, speaking his first sentence at four months of age (Theodore, p9). By 16 he had entered the University of Chicago, and was already renowned in the ornithological community, having been published in the *Harvard Review*. Leopold's exceptional mental attainments consumed him; he was interested strictly in intellectual pursuits, and his obsession with forging a cold, "overman" personality. The one object of his affection proved to be Richard Loeb. Leopold worshipped Loeb (and was in love with him), and transferred onto Loeb his Kingslave fantasy.

The increasing antagonism towards society, compounded by Leopold's voracious appetite for the writings of Friedrich Nietzsche, culminated in the pair's collective übermensch complex. The end result of their arrogance and increasing thirst to push the boundaries was the idea of performing the ultimate crime: a perfect murder. If Loeb and Leopold could get away with the most heinous act of all, they would solidify their status of superiority over the common man. After extensive planning, the pair decided to proceed with their plan to kidnap and murder a teenage boy from a wealthy family. The victim was Jacob Franks, a neighbor of the duo and Loeb's distant cousin. The killers lured Franks into a rental car, bludgeoned him with a chisel, and suffocated him, dumping the body in a railroad culvert. They poured hydrochloric acid over the naked body to render identification difficult, and proceeded home. However, months of careful planning and their intellectual hubris were insufficient to cover their tracks, and they were arrested soon after the discovery of the body. With their aspirations

of Nietzschean transcendence shattered, Loeb and Leopold, two young men with exceptional potential, now faced death by hanging.

The Leopold and Loeb families enlisted Clarence Darrow in defense of their sons. Darrow represented a unique and progressive idealism. To some he was heretical, to others, revolutionary. But he remained motivated by his adamant modernist worldview and stringent opposition to capital punishment. His eloquence was necessary to sell such a radical defense, especially on behalf of two young men who had committed a shocking and abhorrent crime. His opposition was Illinois state attorney Robert Crowe, who had determined to seek the extreme penalty, if not for murder, then for the kidnapping and attempted ransom. He possessed a contempt for Darrow's brand of modernist thought, fearing it was subversive and threatening to traditional American values.

The trial would have been what it was without the advent of mass culture. The birth of mass culture can be traced to the twenties, thanks to the new medium of radio. The Loeb and Leopold trial was the first great tabloid story of the day; the sordid details of the case captured the attention of enraptured Americans coast to coast. The trial fed into a much broader ideological conflict that had been precipitating since the end of World War 1. This incipient culture war was in some ways a referendum on the principles that had formed the framework of early American thought. The Loeb and Leopold trial personified this conflict. The question of guilt was never a matter of debate. Rather, this was a controversy over more esoteric questions like determinism, biology, and the influence of society on individual behavior.

Darrow's defense rested on many of these post-modernist suppositions. He sought to argue a more nuanced approach to criminology, one that took prior life experience, biology,

and outside influence into account when ascertaining the root of an individual's criminal behavior. For Loeb and Leopold, his strategy rested heavily on emotional appeal. Thus, new philosophical forces came into play as part of Darrow's defense. As a staunch determinist, Darrow argued that the two young killers had followed a predetermined path, a path written by their family's wealth, troubled childhoods, and myriad psychological factors. There was a heavy amount of Freudian influence that inundated the defense strategy (Freud himself was even offered a monetary sum to examine the boys on behalf of their families). Thus began a battle rooted in psychoanalysis and other realms of pseudoscience (such as taking cranial measures, charting glandular abnormalities, and various other methods). Most of the testimony was dominated by so-called "alienists", although they were divided into two ideological camps – the traditionalists called upon by state's attorney Robert Crowe, and the strict Freudians who argued on behalf of Clarence Darrow.

Darrow's argument for Nathan Leopold and Dickie Loeb was that they were products of a violent society, two intellectual machines without any sense of moral direction.

"We read of killing one hundred thousand men in a day. We read about it and we rejoiced in it -- if it was the other fellows who were killed. We were fed on flesh and drank blood. Even down to the prattling babe. I need not tell you how many upright, honorable young boys have come into this court charged with murder, some saved and some sent to their death, boys who fought in this war and learned to place a cheap value on human life. You know it and I know it. These boys were brought up in it. The tales of death were in their homes, their playgrounds, their schools; they were in the newspapers that they read; it was a part of the common frenzy -- what was a life? It was nothing. It was the least sacred thing in existence and these boys were trained to this cruelty."

The post-war world was a callous place. Violence and death had been a way of life for a

generation, and according to Darrow, this had permeated throughout American social strata from the soldier to the youngest child. Nathan Leopold and Dickie Loeb grew up in a nation traumatized from the first Great War. The horrors of the battlefields in the European theater were carried home with the soldiers who served, affecting even those who seemed to have little tangible link to the war effort. This was but one of the many facets that compounded within the psyche of the young killers to contribute towards their cold disconnect from basic morality.

The other major point of contention surrounded the writings of Friedrich Nietzsche. Although he had died long before the events of the trial, the early 20th century was in many ways the high tide of Nietzschean philosophy around the western world. The nihilistic implications of Nietzsche's immoralist musings and overt antagonism towards established Judeo-Christian values seemed to be diametrically opposed to such hallowed Americanisms rooted in the Enlightenment. Nietzsche's theoretical *übermensch* (with which young Leopold was so enraptured) was antithetical to the virtues of an orderly society. To those staunch traditionalists who feared the erosion of traditional morality, Nietzsche was their antichrist, and Loeb and Leopold his messengers. The moral vacuum left in the wake of such radical philosophy evokes Dostoevsky's assertion that "if God does not exist, everything is permitted."

"I know that no man who ever wrote a line failed to influence me to some extent," Darrow said concerning Nietzsche's influence on Loeb and Leopold. "I know that every life I ever touched influenced me, and I influenced it, and it is not given to me to unravel the infinite cause and say, 'This is I, and this is you.'" Darrow urged a show of mercy for the killers. Because of their age, and the complex factors that contributed to their psychological mal-development, it would be morally reprehensible to repay an act evil with another evil act.

Although Darrow expressed little hope for the future of his clients, he acknowledged that a life in confinement could be just as formative as the nihilism that shaped them in their adolescence, and perhaps they could one day be rehabilitated.

Darrow's twelve-hour closing argument remains one of the most eloquent speeches ever delivered against the death penalty. "I would not tell this court that I do not hope that some time, when life and age have changed their bodies, as they do, and have changed their emotions, as they do – that they may once more return to life. I would be the last person on earth to close the door of hope to any human being that lives, and least of all to my clients." However, he acknowledged that the young defendants had "nothing to look forward to" at the prospect of a life behind bars. It would be more merciful if they would go to the gallows, rather than rot away in a cell. But Darrow stressed that this while method is easier, its precedent is much more inhumane. Despite Leopold and Loeb's sordid crime, as young men, they could not be held fully accountable for their actions. He also asked Judge Caverly to account for the suffering of their families, who had to live forever with the stain of their son's guilt. In an enlightened society, the call for vengeance would not overwhelm human rights and human dignity. In perhaps the most poignant lines of his speech, Darrow reflected on the toll that capital punishment causes society:

"You may hang these boys; you may hang them by the neck until they are dead. But in doing it you will turn your face toward the past. In doing it you are making it harder for every other boy who in ignorance and darkness must grope his way through the mazes which only childhood knows."

Conversely, Illinois state attorney Robert Crowe recognized the implications of the trial.

To Crowe, the philosophy of Darrow incited a much greater potential for social discord. Crowe perceived that Darrow sought to undermine the cornerstone values of personal responsibility and justice. Darrow's embrace of psychoanalysis and environmental determinism was infuriating to Crowe, who saw such efforts as part of a broader ideological effort to subvert the criminal justice system. In his closing argument, Crowe excoriated Darrow and his brand of liberalism thusly:

"I want to tell you the real defense in this case, Your Honor. It is Clarence Darrow's dangerous philosophy of life. He said to Your Honor that he was not pleading alone for these two young men. He said he was looking to the future, that he was thinking about the ten thousand young boys that in the future would fill the chairs his clients filled, and he wants to soften the law. He wants them treated not with the severity that the law of this State prescribes, but it wants them treated with kindness and consideration. I want to tell Your Honor that it would be much better if God had not caused the crime to be disclosed. It would have been much better if it went unsolved and these men went unwhipped of justice. It would not have done near the harm to this community as will be done if Your Honor, as chief justice of this great court, puts your official seal of approval upon the doctrines preached by Clarence Darrow as a defense in this case."

Crowe voiced the fears of those traditionalists who saw the trial as a harbinger of impending doom for social morality. The doctrine adhered to by Darrow, a progressive philosophy rooted in compassion for the criminals, made a mockery of the sovereign duties of the state in enforcing criminal law. To Robert Crowe, the case presented a divergence in the nation's ideological road, a fundamental divergence that was surfacing throughout the "roaring twenties." His closing argument was an amalgamation of the concerns surrounding the trial and the supposed ramifications implicit in Clarence Darrow's defense. Crowe warned that if Loeb and Leopold were spared from the gallows, "a greater blow has been struck to

our institutions than by a hundred, yea, a thousand murders.” (Theodore, p. 161)

Crowe’s fears were echoed in print and in conversation across the nation. The Loeb and Leopold Trial had become the first great crime story of the decade, and the philosophical warfare between Crowe and Darrow resonated with even the casual observer. Few trials had encompassed so many complex elements. The prestige and talents of the killers, in addition to the complex undertones of their respective fantasies and their apparent homosexuality, garnered unprecedented interest. To some, the outcome of the trial would be a referendum on the ideological future of the nation. The *Chicago Tribune* opined that

“If the crime was committed according to the confessions, it was one of the most acute, complex, and thoroughly reasoned crimes in the history of crime, revealing not only exceptional mentality but an even more exceptional lack of moral perception or inhibition. Thus it seem that the question of penalty involves our fundamental conception of moral responsibility for criminal acts. To the lay public, the facts being established, the application to the criminal law in such a case can hardly seem doubtful, and the failure to apply it, a reversal of our accepted doctrine of responsibility and our policy for punishment of crime.”

The *Tribune* fed into the widespread concerns surrounding the psychoanalysis of Leopold and Loeb. Was the trial a sign of moral declension; was it to be a failure of the criminal justice system? The *Montreal Herald* ran another widespread editorial as a response to the testimony of Darrow’s alienists and the immense publicity surrounding “Babe and Dickie”, saying:

“These darlings merely murdered a little boy 14 years of age in the most loathsome manner, and proceeded to make fun of the distracted family of their victim. “Babe” and “Dickie,” indeed, and why not? It means also that the people of the United States are on trial; it means that democracy and republicanism are faced with the greatest danger of their existence. The elected of the people are no better

and no worse than the people themselves”

The newspapers feared Darrow’s progressivism could translate to an effectively anarchistic approach to criminal justice. If the heinous murderers Loeb and Leopold could charm their way out of the gallows, some saw it as a death knell for law and order, and even the American way. Traditionalists saw a failure to execute the two murderers as a triumph for a philosophy that did not allow for personal responsibility. It was a frightening prospect for countless observers of “the trial of the century.”

To the chagrin of Crowe and much of the nation, Judge Caverly would ultimately side with Darrow and spare Loeb and Leopold from the noose. He acknowledged in his sentence, the “profound and unusual interest” the case had attracted around the nation. (Theodore, p 168.) He also addressed the “mitigating circumstances” that formed the framework of Darrow’s defense, but having found none, acknowledged that no evidence of mental ailment could be found. Although the crime showed a level of coldly calculated design and demonstrated psychological competency on the part of the killers, Caverly said “it would have been the task of least resistance to impose the extreme penalty of the law”, and due to the young age of the killers, they would be sentenced to life imprisonment. Darrow’s defense had worked. His ideology had, for the intents and purposes of the trial itself, been victorious.

Being almost a century removed from the infamous events that took place that summer in 1924, there are numerous lenses through which a retrospective can be constructed. Certainly, the alarmism spread by Crowe and countless news outlets across the nation failed to materialize into the consequences of which they were so frightened. Judge Caverly’s show of mercy in granting Leopold and Loeb life sentences did not doom hallowed legal institutions. It did not

mean a dramatic cultural shift, or the rejection of traditional Enlightenment thought. The godless, Nietzschean anarchism Loeb and Leopold represented did not manifest itself in any widespread way. The trial did, however, usher in a new era for civil liberties attorneys in the vein of Clarence Darrow. His ingenious defense strategy and use of nuanced emotional appeal had a powerful impact on the trial's audience and resonates long after his death.

There was an equally significant cultural impact from the trial. Whether it was the so-called "Battle of the Alienists" or Darrow's legendary closing argument (which had Judge Caverly reportedly in tears), it was in many ways a landmark moment for the nation's ideological future. Enlightenment notions of individualism and personal responsibility converged with postmodern ideals like Freudian psychology and determinism in a way that was unprecedented. The philosophical nature of the trial, augmented by the mass media circus that surrounded it, captivated a nation. The events that unfolded in Chicago were symbolic of the ideological evolution occurring in America as the nation moved away from the Industrial Revolution and into the uncharted modern world. "The Trial of the Century" embodies the worst and best parts of the decade.

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