

Closing Argument
The State of Illinois v. Nathan Leopold & Richard Loeb
Delivered by Clarence Darrow
Chicago, Illinois, August 22, 1924

Your Honor, it has been almost three months since the great responsibility of this case was assumed by my associates and myself. 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.

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.

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. 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 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 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 of great wealth, there is not a state's attorney in Illinois who could 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 are here with the lives of two boys imperiled, with the public aroused. For what?

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

I have heard in the last six weeks nothing but the cry for blood. I have heard from the office of the state's attorney only ugly hate. I have heard precedents quoted which would be a disgrace to a savage race. I have seen a court urged almost to the point of threats to hang two boys, in the face of science, in the face of philosophy, in the face of humanity, in the face of experience, in the face of all the better and more humane thought of the age.

Why, Mr. Savage [one of the prosecutors] says age makes no difference, and that if this court should do what every other court in Illinois has done since its foundation, and refuse to sentence these boys to death, none else would ever be hanged in Illinois.

Well, I can imagine some results worse than that. So long as this terrible tool is to be used for a plaything, without thought or consideration, we ought to get rid of it for the protection of human life.

Now, Your Honor, Mr. Savage, in as cruel a speech as he knew how to make, said to this court that we pled guilty because we are afraid to do anything else.

Your Honor, that is true.

It was not correct that we would have defended these boys in this court; we believe we have been fair to the public. Anyhow, we have tried, and we have tried under terribly hard conditions.

We have said to the public and to this court that neither the parents, nor the friends, nor the attorneys would want these boys released. Unfortunate though it be, it is true, and those the closest to them know perfectly well that they should not be released, and that they should be permanently isolated from society. We are asking this court to save their lives, which is the least and the most that a judge can do.

We did plead guilty before Your Honor because we were afraid to submit our cause to a jury.

I can tell Your Honor why. I have found that years and experience with life tempers one's emotions and makes him more understanding of his fellowman. When my friend Savage is my age, or even yours, he will read his address to this court with horror. I am aware that as one grows older he is less critical. He is not so sure. He is inclined to make some allowance for his fellowman. I am aware that a court has more experience, more judgment, and more kindness than a jury.

Your Honor, it may be hardly fair to the court, I am aware that I have helped to place a serious burden upon your shoulders. And at that, I have always meant to be your

friend, but this was not an act of friendship. I know perfectly well that where responsibility is divided by twelve, it is easy to say: "Away with him."

But, Your Honor, if these boys hang, you must do it. There can be no division of responsibility here. You can never explain that the rest overpowered you. It must be by your deliberate, cool, premeditated act, without a chance to shift responsibility. It was not a kindness to you. We placed this responsibility on your shoulders because we were mindful of the rights of our clients, and we were mindful of the unhappy families who have done no wrong.

Your Honor will never thank me for unloading this responsibility upon you, but you know that I would have been untrue to my clients if had not concluded to take this chance before court, instead of submitting it to a poisoned jury in the city of Chicago. I did it knowing that it would be an unheard of thing for any court, no matter who, to sentence these boys to death. Your Honor, I must for a moment criticize the arguments that have preceded me. I can sum up the prosecutor's arguments in a minute: cruelly, dastardly, premeditated, fiendish, abandoned, and malignant heart.

Now, that is what I have listened to for three days against two minors, two children, who have no right to sign a note or take a deed. Cowardly? Well, I don't know. Let me tell you something that I think is cowardly, whether their acts were or not. Here is Dickie Loeb, and Nathan Leopold, and the state objects to anybody calling one "Dickie" and the other "Babe" although everybody does, but they think they can hang them easier if their names are Richard and Nathan, so, we will call them Richard and Nathan. Eighteen and nineteen years old at the time of the homicide. Here are three officers watching them. They are led out and in [to] this jail and across the bridge waiting to be hanged. Not a chance to get away. Handcuffed when they get out of this room. Not a chance. Penned like rats in a trap; and for a lawyer with physiological eloquence to wave his fist in front of their faces and shout "Cowardly!" does not appeal to me as a brave act.

Cold-blooded? Why? Because they planned, and schemed. Yes. But here are the officers of justice, so-called, with all the power of the state, and he said they played for five cents a point. Now, I trust Your Honor knows better than I do how much of a game that would be. At poker I might guess, but I know little about bridge. But what else? He said that in a game one of them lost \$90 to the other one. They were playing again each other, and one of them lost \$90? Ninety dollars! Their joint money was just the same; and there is not another word of evidence in this case to sustain the statement of Mr. Crowe, who pleads to hang these boys. Your Honor, is it not trifling?

It would be trifling, excepting, Your Honor, that we are dealing in human life. And we are dealing in more than that; we are dealing in the future fate of two families. We are talking of placing a blot upon two houses that do not deserve it. And all that they can

get out of their imagination is that there was a game of bridge and one lost \$90 to the other, and therefore they went out and committed murder. Your Honor knows that it is utterly absurd. The evidence was absolutely worthless. The statement was made out of whole cloth, and Mr. Crowe felt like that policeman who came in here and perjured himself, as I will show you later on, who said that when he was talking with Nathan Leopold Jr., he told him the public was not satisfied with the motive. I wonder if the public is satisfied with the motive? If there is any person in Chicago who; under the evidence in this case would believe that this was the motive, then he is stupid. That is all I have to say for him, just plain stupid.

But let us go further than that. Who were these two boys? And how did it happen?

On a certain day they killed poor little Robert Franks. They were not to get \$10,000; they were to get \$5,000 if it worked; that is, \$5,000 each. Neither one could get more than five, and either one was risking his; neck in the job. So each one of my clients was risking his neck for \$5,000, if it had anything to do with it, which it did not.

Did they need the money? Why at this very time, and a few months before, Dickie Loeb had \$3,000 [in his] checking account in the bank. Your Honor, I would be ashamed to talk about this except that in all apparent seriousness they are asking to kill these two boys on the strength of this flimsy foolishness. At that time, Richard Loeb had a three-thousand-dollar checking account in the bank. He had three Liberty Bonds, one of which was past due, and the interest on each of them had not been collected for three years. And yet they would ask to hang him on the theory that he committed this murder because he needed money.

How about Leopold? Leopold was in regular receipt of \$125 a month; he had an automobile; paid nothing for board and clothes, and expenses; he got money whenever he wanted it, and he had arranged to go to Europe and had bought his ticket and was going to leave about the time he was arrested in this case. He passed his examination for the Harvard Law School, and was going to take a short trip to Europe before it was time for him to attend the fall term. His ticket had been bought, and his father was to give him \$3,000 to make the trip. Your Honor, jurors sometimes make mistakes, and courts do, too. If on this evidence the court is to construe a motive out of this case, then I insist that a motive could be construed out of any set of circumstances and facts that might be imagined.

The boys had been reared in luxury, they had never been denied anything; no want or desire left unsatisfied; no debts; no need of money; nothing. And yet they murdered a little boy, against whom they had nothing in the world, without malice, without reason, to get \$5,000 each. All right. All right, Your Honor, if the court believes it, if anyone believes it, I can't help it. That is what this case rests on. It could not stand up a minute without motive. without it, it was the senseless act of immature and diseased children,

as it was; a senseless act of children, wandering around in the dark and moved by some motion, that we still perhaps have not the knowledge or the insight into life to thoroughly understand.

Now, let me go on with it. What else do they claim?

It has been argued to this court that you can do no such thing as to grant the almost divine favor of saving the lives of two boys, that it is against the law, that the penalty for murder is death; and this court, who, in the fiction of the lawyers and the judges, forgets that he is a human being and becomes a court, pulseless, emotionless, devoid of those common feelings which alone make men; that this court as a human machine must hang them because they killed.

Now, let us see. I do not need to ask mercy from this court for these clients, nor for anybody else, nor for myself; though I have never yet found a person who did not need it. But I do not ask mercy for these boys. Your Honor may be as strict in the enforcement of the law as you please and you cannot hang these boys. You can only hang them because back of the law and back of justice and back of the common instincts of man, and back of the human feeling for the young, is the hoarse voice of the mob which says, "Kill." I need ask nothing. What is the law of Illinois? If one is found guilty of murder in the first degree by a jury, or if he pleads guilty before a court, the court or jury may do one of three things: he may hang, he may imprison for life, or he may imprison for a term of not less than fourteen years. Now, why is that the law? Does it follow from the statute that a court is bound to ascertain the impossible, and must necessarily measure the degrees of guilt? Not at all. He may not be able to do it. A court may act from any reason or , from no reason. A jury may fix anyone of these penalties as they separate. Why was this law passed? Undoubtedly in recognition of the growing feeling in all the forward-thinking people of the United States against capital punishment. Undoubtedly, through the deep reluctance of courts and juries to take human life.

Without any reason whatever, without any facts whatever, Your Honor must make the choice, and you have the same right to make one choice as another. It is Your Honor's province; you may do it, and I need ask nothing in order to have you do it. There is the statute. But there is more than that in this case.

We have sought to tell this court why he should not hang these boys. We have sought to tell this court, and to make this court believe, that they were diseased of mind, and that they were of tender age. However, before I discuss that, I ought to say another word in reference to the question of motive in this case. If there was no motive, except the senseless act of immature boys, then of course there is taken from this case all of the feeling of deep guilt upon the part of these defendants.

There was neither cruelty to the deceased, beyond taking his life, nor was there any depth of guilt and depravity on the part of the defendants, for it was a truly motiveless act, without the slightest feeling of hatred or revenge, done by a couple of children for no sane reason.

But, Your Honor, we have gone further than that, and we have sought to show you, as I think we have, the condition of these boys' minds. Of course it is not an easy task to find out the condition of another person's mind. Now, I was about to say that it needs no expert, it needs nothing but a bare recitation of these facts, and a fair consideration of them, to convince any human being that this was the act of diseased brains.

But let's get to something stronger than that. Were these boys in their right minds? Here were two boys with good intellect, one eighteen and one nineteen. They had all the prospects that life could hold out for any of the young; one a graduate of Chicago and another of Ann Arbor; one who had passed his examination for the Harvard Law School and was about to take a trip in Europe, another who had passed at Ann Arbor, the youngest in his class, with \$3,000 in the bank. Boys who never knew what it was to want a dollar; boys who could reach any position that was given to boys of that kind to reach; boys of distinguished and honorable families, families of wealth and position, with all the world before them. And they gave it all up for nothing, for nothing! They took a little companion of one of them, on a crowded street, and killed him, for nothing, and sacrificed everything that could be of value in human life upon the crazy scheme of a couple of immature lads.

Now, Your Honor, you have been a boy; I have been a boy. And we have known other boys. The best way to understand somebody else is to put yourself in his place. Is it within the realm of your imagination that a boy who was right, with all the prospects of life before him, who could choose what he wanted, without the slightest reason in the world would lure a young companion to his death, and take his place in the shadow of the gallows?

How insane they are I care not, whether medically or legally. They did not reason; they could not reason; they committed the most foolish, most unprovoked, most purposeless, most causeless act that any two boys ever committed, and they put themselves where the rope is dangling above their heads.

There are not physicians enough in the world to convince any thoughtful, fair-minded man that these boys are right. Was their act one of deliberation, of intellect, or were they driven by some force such as Dr. White and Dr. Glueck and Dr. Healy have told this court?

There are only two theories; one is that their diseased brains drove them to it; the other is the old theory of possession by devils, and my friend Marshall could have read you

books on that, too, but it has been pretty well given up in Illinois. That they were intelligent, sane, sound, and reasoning is unthinkable. Let me call Your Honor's attention to another thing.

Why did they kill little Bobby Franks? Not for money, not for spite; not for hate. They killed him as they might kill a spider or a fly, for the experience. They killed him because they were made that way. Because somewhere in the infinite processes that go to the making up of the boy or the man something slipped, and those unfortunate lads sit here hated, despised, outcasts, with the community shouting for their blood. Mr. Savage, with the immaturity of youth and inexperience, says that if we hang them there will be no more killing. This world has been one long slaughterhouse from the beginning until today, and killing goes on and on and on, and will forever. Why not read something, why not study something, why not think instead of blindly shouting for death?

Kill them. Will that prevent other senseless boys or other vicious men or vicious women from killing? No! It will simply call upon every weak-minded person to do as they have done. I know how easy it is to I talk about mothers when you want to do something cruel. But I am thinking of the others, too. I know that any mother might be the mother of little Bobby Franks, who left his home and went to his school, and who never came back. I know that any mother might be the mother of Richard Loeb and Nathan Leopold, just the same. The trouble is this, that if she is the mother of a Nathan Leopold or of a Richard Loeb, she has to ask herself the question: "How come my children came to be what they are? From what ancestry did they get this strain? How far removed was the poison that destroyed their lives? Was I the bearer of the seed that brings them to death?" Any mother might be the mother of any of them. But these two are the victims.

No one knows what will be the fate of the child he gets or the child she bears; the fate of the child is the last thing they consider.

I am sorry for the fathers as well as the mothers, for the fathers who give their strength and their lives for educating and protecting and creating a fortune for the boys that they love; for the mothers who go down into the shadow of death for their children, who nourish them and care for them, and risk their lives, that they may live, who watch them with tenderness and fondness and longing, and who go down into dishonor and disgrace for the children that they love.

All of these are helpless. We are all helpless. But when you are pitying the father and the mother of poor Bobby Franks, what about the fathers and mothers of these two unfortunate boys, and what about the, unfortunate boys themselves, and what about all the fathers and all the mothers and all the boys and all the girls who tread a dangerous maze in darkness from birth to death?

Do you think you can cure the hatreds and the maladjustments of the world by hanging them? You simply show your ignorance and your hate when you say it. You may here and there cure hatred with love and understanding, but you can only add fuel to the flames by cruelty and hate.

Your Honor, that no human being could have done what these boys did, excepting through the operation of a diseased brain. I do not propose to go through each step of the terrible deed, it would take too long. But I do want to call the attention of this court to some of the other acts of these two boys, in this distressing and weird homicide; acts which show conclusively that there could be no reason for their conduct.

I want to come down now to the actions on the afternoon of the tragedy.

Without any excuse, without the slightest motive, not moved by money, not moved by passion or hatred, by nothing except the vague wanderings of children, about four o'clock in the afternoon they started out to find somebody to kill. For nothing.

They went over to the Harvard School. Dick's little brother was there, on the playground. Dick went there himself in open daylight, known by all of them; he had been a pupil there himself, the school was near his home, and he looked over the little boys. They first picked out a little boy named Levinson, and Dick trailed him around. Now, of course, that is a hard story. It is a story that shocks one. A boy bent on killing, not knowing where he would go or who he would get, but seeking some victim. Here is a little boy, but the circumstances are not opportune, and so he fails to get him. Dick abandons that lead; Dick and Nathan are in the car, and they see Bobby Franks on the street, and they call to him to get into the car. It is about five o'clock in the afternoon, in the long summer days, on a thickly settled street, built up with homes, the houses of their friends and their companions known to everybody, automobiles appearing and disappearing, and they take him in the car.

If there had been a question of revenge, yes; if there had been a question of hate, where no one cares for his own fate, intent only on accomplishing his end, yes. But without any motive or any reason they picked up this little boy right in sight of their own homes, and surrounded by their neighbors. They hit him over the head with a chisel and killed him, and go on about their business, driving this car within half a block of Loeb's home, within the same distance of the Franks's home, drive it past the neighbors that they knew, in the open highway, in broad daylight. And still men will say that they have a bright intellect.

I say again, whatever madness and hate and frenzy may do to the human mind, there is not a single person who reasons who can believe that one of these acts was the act of men, of brains that were not diseased. There is no other explanation for it. And had it not been for the wealth and the weirdness and the notoriety, they would have been sent

to the psychopathic hospital for examination, and been taken care of, instead of the state demanding that this court take the last pound of flesh and the last drop of blood from two irresponsible lads.

They pull the dead boy into the backseat, and wrap him in a blanket, and this funeral car starts on its route. If ever any death car went over the same route or the same kind of a route driven by sane people, I have never heard of it, and I fancy no one else has ever heard of it.

This car is driven for twenty miles. The slightest accident, the slightest misfortune, a bit of curiosity, an arrest for speeding, anything would bring destruction. They go down the Midway, through the park, meeting hundreds of machines, in sight of thousands of eyes, with this dead boy. They go down a thickly populated street through South Chicago, and then for three miles take the longest street to go through this city; built solid with business, buildings, filled with automobiles backed upon the street, with streetcars on the track, with thousands of peering eyes; one boy driving and the other on the backseat, with the corpse of little Bobby Franks, the blood streaming from him, wetting everything in the car.

And yet they tell me that this is sanity; they tell me that the brains of these boys are not diseased. Their conduct shows exactly what it was, and shows that this court has before him two young men who should be examined in a psychopathic hospital and treated kindly and with care. They get through South Chicago, and they take the regular automobile road down toward Hammond. They stop at the forks of the road, and leave little Bobby Franks, soaked with blood, in the machine, and get their dinner, and eat it without an emotion or a qualm.

I repeat, you may search the annals of crime, and you can find no parallel. It is utterly at variance with every motive, and every act and every part of conduct that influences normal people in the commission of crime. There is not a sane thing in all of this from the beginning to the end. There was not a normal act in any of it, from its inception in a diseased brain, until today, when they sit here awaiting their doom.

But we are told that they planned. Well, what does that mean? A maniac plans, an idiot plans, an animal plans; any brain that functions may plan. But their plans were the diseased plans of the diseased mind. Is there any man with an air of intellect and a decent regard for human life, and the slightest bit of heart that does not understand this situation? And still, Your Honor, on account of its weirdness and its strangeness, and its advertising, we are forced to fight. For what? Forced to plead to this court that two boys, one eighteen and the other nineteen, may be permitted to live in silence and solitude and disgrace and spend all their days in the penitentiary. Asking this court and the state's attorney to be merciful enough to let these two boys be locked up in a prison until they die.

I sometimes wonder if I am dreaming. If in the first quarter of the twentieth century there has come back into the hearts of men the hate and feeling and the lust for blood which possesses the primitive savage of barbarous lands. What do they want? Tell me, is a lifetime for the young boys spent behind prison bars, is that not enough for this mad act? And is there any reason why this great public should be regaled by a hanging? I cannot understand it, Your Honor. It would be past belief, excepting that to the four corners of the earth the news of this weird act has been carried and men have been stirred, and the primitive has come back, and the intellect has been stifled, and men have been controlled by feelings and passions and hatred which should have died centuries ago.

My friend Savage pictured to you the putting of this dead boy in this culvert. Well, no one can minutely describe any killing and not make it shocking. It is shocking. It is shocking because we love life and because we instinctively draw back from death. It is shocking wherever it is and however it is, and perhaps all death is almost equally shocking.

But here is the picture of a dead boy, past pain, when no harm can come to him, put in a culvert, after taking off his clothes so that the evidence would be destroyed; and that is pictured to this court as a reason for hanging. Well, Your Honor, that does not appeal to me as strongly as the hitting over the head of little Robert Franks with a chisel. The boy was dead.

I could say something about the death penalty that, for some mysterious reason, the state wants in this case. Why do they want it? To vindicate the law? Oh, no. The law can be vindicated without killing anyone else. It might shock the fine sensibilities of the state's counsel that this boy was put into a culvert and left after he was dead, but, Your Honor, I can think of a scene that makes this pale into insignificance. I can think, and only think, Your Honor, of taking two boys, one eighteen and the other nineteen, irresponsible, weak, diseased, penning them in a cell, checking off the days and the hours and the minutes, until they will be taken out and hanged. Wouldn't it be a glorious day for Chicago?

Wouldn't it be a glorious triumph for the state's attorney? Wouldn't it be a great triumph for justice in this land? Wouldn't it be a glorious illustration of Christianity and kindness and charity? I can picture them, wakened in the gray light of morning, furnished [with a] suit of clothes' by the state, led to the scaffold, their feet tied, black caps drawn over their heads, stood on a trapdoor, the hangman pressing a spring, so that it gives way under them; can see them fall through space and stopped by the rope around their necks.

I am always suspicious of righteous indignation. Nothing is more cruel than righteous indignation. To hear young men talk glibly of justice.

Who knows what it is? Does Mr. Savage know? Does Mr. Crowe know? Do I know? Does Your Honor know? Is there any human machinery for finding it out? Is there any man can weigh me and say what I deserve?

Can Your Honor? Let us be honest. Can Your Honor appraise yourself and say what you deserve? Can Your Honor appraise these two young men and say what they deserve? Justice must take account of infinite circumstances which a human being cannot understand.

These boys left this body down in the culvert and they came back telephoned home that they would be too late for supper. Here, surely, was an act of consideration on the part of Leopold, telephoning home that he would be late for supper. Dr. Krohn says he must be able to think and act because he could do this. But the boy who through habit would telephone his home that he would be late for supper had not a tremor or a thought or a shudder at taking the life of little Bobby Franks for nothing, and he has not had one yet. He was in the habit of doing what he did when he telephoned, that was all; but in the presence of life and death, and a cruel death, he had no tremor, and no thought.

They came back. They got their dinner. They parked the bloody automobile in front of Leopold's house. They cleaned it to some extent that night and left it standing in the street in front of their home. They took it into the garage the next day and washed it, and the poor little Dickie Loeb-I shouldn't call him Dickie, and I shouldn't call him poor, because that might be playing for sympathy, and you have no right to ask for sympathy in this world: you should ask for justice, whatever that may be; and only the state's attorneys know.

And then in a day or so we find Dick Loeb with his pockets stuffed with newspapers telling of the Franks's tragedy. We find him consulting with his friends in the club, with the newspaper reporters; and my experience is that the last person that a conscious criminal associates with is a reporter. He even shuns them more than he does a detective, because they are smarter and less merciful. But he picks up a reporter, and he tells him he has read a great many detective stories, and he knows just how this would happen and that the fellow who telephoned must have been down on Sixty-third Street, and the way to find him is to go down on Sixty-third Street and visit the drugstores, and he would go with him.

And Dick Loeb pilots reporters around the drugstores where the telephoning was done, and he talks about it, and he takes the newspapers, and takes them with him, and he is having a glorious time. And yet he is "perfectly oriented," in the language of Dr. Krohn. "Perfectly oriented." Is there any question about the condition of his mind? Why was he doing it? He liked to hear about it. He had done something that he could not boast of directly, but he did want to hear other people talk about it, and he looked

around there, and helped them find the place where the telephone message was sent out.

Does not the man who knows what he is doing, who for some reason has been overpowered and commits what is called a crime, keep as far away from it as he can? Does he go to the reporters and help them hunt it out? There is not a single act in this case that is not the act of a diseased mind, not one.

Talk about scheming. Yes, it is the scheme of disease; it is the scheme of infancy; it is the scheme of fools; it is the scheme of irresponsibility from the time it was conceived until the last act in the tragedy.

Now, Your Honor, let me go a little further with this. I have gone over some of the high spots in this tragedy. This tragedy has not claimed all the attention it has had on account of its atrocity. There are two reasons, and only two that I can see. First is the reputed extreme wealth of these families; not only the Loeb and Leopold families, but the Franks family, and of course it is unusual. And next is the fact [that] it is weird and uncanny and motiveless. That is what attracted the attention of the world. Many may 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. They may for the time being have an emotion, but they will bitterly regret it. And I undertake to say that if these two boys are sentenced to death, and are hanged on that day, there will be a pall settle over the people of this land that will be dark and deep, and at least cover every humane and intelligent person with its gloom. I wonder if it will do good. I marveled when I heard Mr. Savage talk. Mr. Savage tells this court that if these boys are hanged, there will be no more murder. Mr. Savage is an optimist. He says that if the defendants are hanged there will be no more boys like these. I could give him a sketch of punishment, punishment beginning with the brute which killed something because something hurt it; the punishment the savage; if a person is injured in the tribe, they must injure somebody in the other tribe; it makes no difference who it is, but somebody. If one is killed his friends or family must kill in return.

You can trace it all down through the history of man. You can trace the burnings, the boilings, the drawings and quarterings, the hangings of people in England at the crossroads, carving them up and hanging them, as examples for all to see.

We can come down to the last century when nearly two hundred crimes were punishable by death, and by death in every form; not only hanging that was too humane, but burning, boiling, cutting into pieces, torturing in all conceivable forms.

I know that every step in the progress of humanity has been met and opposed by prosecutors, and many times by courts. I know that when poaching and petty larceny was punishable by death in England, juries refused to convict. They were too humane

to obey the law; and judges refused to sentence. I know that when the delusion of witchcraft was spreading over Europe, claiming its victims by the millions, many a judge so shaped his cases that no crime of witchcraft could be punished in his court. I know that these trials were stopped in America because juries would no longer convict.

Gradually the laws have been changed and modified, and men look back with horror at the hangings and the killings of the past. What did they find in England? That as they got rid of these barbarous statutes, crimes decreased instead of increased; as the criminal law was modified and humanized, there was less crime instead of more. I will undertake to say, Your Honor, that you can scarcely find a single book written by a student, and I will include all the works on criminology of the past, that has not made the statement over and over again that as the penal code was made less terrible, crimes grew less frequent.

If these two boys die on the scaffold, which I can never bring myself to imagine, If they do die on the scaffold, the details of this will be spread over the world. Every newspaper in the United States will carry a full account. Every newspaper of Chicago will be filled with the gruesome details. It will enter every home and every family. Will it make men better or make men worse? I would like to put that to the intelligence of man, at least such intelligence as they have. I would like to appeal to the feelings of human beings so far as they have feelings-- would it make the human heart softer or would it make hearts harder?

What influence would it have upon the millions of men who will read it? What influence would it have upon the millions of women who will read it, more sensitive, more impressionable, more imaginative than men? Would it help them if Your Honor should do what the state begs you to do? What influence would it have upon the infinite number of children who will devour its details as Dickie Loeb has enjoyed reading detective stories? Would it make them better or would it make them worse? The question needs no answer. You can answer it from the human heart. What influence, let me ask you, will it have for the unborn babes still sleeping in their mother's womb? Do I need to argue to Your Honor that cruelty only breeds cruelty? That hatred only causes hatred; that if there is any way to soften this human heart which is hard enough at its best, if there is any way to kill evil and hatred and all that goes with it, it is not through evil and hatred and cruelty; it is through charity, and love, and understanding.

I am not pleading so much for these boys as I am for the infinite number of others to follow, those who perhaps cannot be as well defended as these have been, those who may go down in the storm, and the tempest, without aid. It is of them I am thinking, and for them I am begging of this court not to turn backward toward the barbarous and cruel past.

Now, Your Honor, who are these two boys?

Leopold, with a wonderfully brilliant mind; Loeb, with an unusual intelligence; both from their very youth, crowded like hothouse plants, to learn more and more and more. Dr. Krohn says that they are intelligent. But it takes something besides brains to make a human being who can adjust himself to life.

In fact, as Dr. Church and as Dr. Singer regretfully admitted, brains are not the chief essential in human conduct. There is no question about it. The emotions are the urge that make us live; the urge that makes us work or play, or move along the pathways of life. They are the instinctive things. In fact, intellect is a late development of life. Long before it was evolved, the emotional life kept the organism in existence until death. Whatever our action is, it comes from the emotions, and nobody is balanced without them.

The intellect does not count so much. The state put on three alienists and Dr. Krohn. Two of them, Dr. Patrick and Dr. Church, are undoubtedly able men. One of them, Dr. Church, is a man whom I have known for thirty years, and for whom I have the highest regard.

On Sunday, June 1, before any of the friends of these boys or their counsel could see them, while they were in the care of the state's attorney's office, they brought them in to be examined by these alienists. I am not going to discuss that in detail as I may later on. Dr. Patrick said the only thing unnatural he noted about it was that they had no emotional reactions. Dr. Church said the same. These are their alienists, not ours. These boys could tell this gruesome story without a change of countenance, without the slightest feelings. There were no emotional reactions to it. What was the reason? I do not know. How can I tell why? I know what causes the emotional life. I know it comes from the nerves, the muscles, the endocrine glands, the vegetative system. I know it is the most important part of life. I know it is practically left out of some. I know that without it men cannot live. I know that without it they cannot act with the rest. I know they cannot feel what you feel and what I feel; that they cannot feel the moral shocks which come to men who are educated and who have not been deprived of an emotional system or emotional feelings. I know it, and every person who has honestly studied this subject knows it as well.

Is Dickey Loeb to blame because out of the infinite forces that conspired to form him, the infinite forces that were at work producing him ages before he was born, that because out of these infinite combinations he was born without it? If he is, then there should be a new definition for justice. Is he to blame for what he did not have and never had? Is he to blame that his machine is imperfect? Who is to blame? I do not know. I have never in my life been interested so much in fixing blame as I have in relieving people from blame. I am not wise enough to fix it. I know that somewhere in

the past that entered into him something missed. It may be defective nerves. It may be a defective heart or liver. It may be defective endocrine glands. I know it is something. I know that nothing happens in this world without a cause.

There are at least two theories of man's responsibility. There may be more. There is the old theory that if a man does something it is because he willfully, purposely, maliciously, and with a malignant heart sees fit to do it. And that goes back to the possession of man by devils. The old indictments used to read that a man being possessed of a devil did so and so. But why was he possessed with the devil? Did he invite him in? Could he help it? Very few half-civilized people believe that doctrine anymore. Science has been at work, humanity has been at work, scholarship has been at work, and intelligent people now know that every human being is the product of the endless heredity back of him and the infinite environment around him. He is made as he is and he is the sport of all that goes before him and is applied to him, and under the same stress and storm, you would act one way and I act another, and poor Dickey Loeb another.

Dr. Church said so and Dr. Singer said so, and it is the truth. Take a normal boy, Your Honor. Do you suppose he could have taken a boy into an automobile without any reason and hit him over the head and killed him? I might just as well ask you whether you thought the sun could shine at midnight in this latitude. It is not a part of normality. Something was wrong. I am asking Your Honor not to visit the grave and dire and terrible misfortunes of Dickey Loeb and Nathan Leopold upon these two boys. I do not know where to place it. I know it is somewhere in the infinite economy of nature, and if I were wise enough I could find it. I know it is there, and to say that because they are as they are you should hang them, is brutality and cruelty, and savors of the fang and claw.

Now, Your Honor is familiar with Chicago the same as I am, and I am willing to admit right here and now that the two ablest alienists in Chicago are Dr. Church and Dr. Patrick. There may be abler ones, but we lawyers do not know them.

And I will go further: if my friend Crowe had not got to them first, I would have tried to get them. There is no question about it at all. And I say that, Your Honor, without casting the slightest reflection on either of them, for I really have a high regard for them, and aside from that a deep friendship for Dr. Church. And I have considerable regard for Dr. Singer.

We could not get them, and Mr. Crowe was very wise, and he deserves a great deal of credit for the industry, the research, and the thoroughness that he and his staff have used in detecting this terrible crime. He worked with intelligence and rapidity. If here and there he trampled on the edges of the Constitution I am not going to talk about it here. If he did it, he is not the first one in that office and probably will not be the last

who will do it, so let that go. A great many people in this world believe the end justifies the means. I don't know but that I do myself And that is the reason I never want to take the side of the prosecution, because I might harm an individual. I am sure the state will live anyhow.

On that Sunday afternoon before we had a chance, he got in two alienists, Church and Patrick, and also called Dr. Krohn, and they around hearing these boys tell their stories, and that is all. Your Honor they were not holding an examination. They were holding an inquest and nothing else. It has not the slightest reference to, or earmarks of an examination for sanity. It was just an inquest; a little premature, but still an inquest.

What is the truth about it? What did Patrick say? He said that it was not a good opportunity for examination. What did Church say? I read from his own book what was necessary for an examination, and he said that it was not a good opportunity for an examination. What did Krohn say? "It was a fine opportunity for an examination," the best he had ever heard of, or that ever anybody had, because their souls were stripped naked. Krohn is not an alienist. He is an orator. He said, because their souls were naked to them. Well, if Krohn's was naked, there would not be much to show. But Patrick and Church said that the conditions were unfavorable for an examination, that they never would choose it, that their opportunities were poor. And yet Krohn states the contrary. Krohn, who by his own admissions, for sixteen years has not been a physician, but has used a license for the sake of haunting these courts, civil and criminal, and going up and down the land peddling perjury. He has told Your Honor what he has done, and there is scarcely a child on the street who does not know it, there is not a judge in the court who does not know it; there is not a lawyer at the bar who does not know it; there is not a physician in Chicago who does not know it; and I am willing to stake the lives of these two boys on the court knowing it, and I will throw my own in for good measure. What else did he say, in which the state's alienists dispute him?

Both of them say that these boys showed no adequate emotion. Krohn said they did. One boy fainted. They had been in the hands of the state's attorney for sixty hours. They had been in the hands of policemen, lawyers, detectives, stenographers, inquisitors, and newspapermen for sixty hours, and one of them fainted. Well, the only person who is entirely without emotions is a dead man. You cannot live without breathing and some emotional responses. Krohn says, "Why, Loeb had emotion. He was polite; begged our pardon; got up from his chair"; even Dr. Krohn knows better than that. I fancy If Your Honor goes into an elevator where there is a lady he takes off his hat. Is that out of emotion for the lady or is it habit? You say, "Please," and "thank you," because of habit. Emotions haven't the slightest thing to do with it. Mr. Leopold has good manners. Mr. Loeb has good manners. They have been taught them. They have lived them. That does not mean that they are emotional. It means training. That is

all it means. And Dr. Krohn knew it.

Krohn told the story of this interview and he told almost twice as much as the other two men who sat there and heard it. And how he told it, how he told it! When he testified my mind carried me back to the time when I was a kid, which was some years ago, 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.

I can imagine a psychiatrist, a real one who knows the mechanism of man, who knows life and its machinery, who knows the misfortunes of youth, who knows the stress and the strain of adolescence which comes to every boy and overpowers so many, who knows the weird fantastic world that hedges around the life of a child; I can imagine a psychiatrist who might honestly think that under the crude definitions of the law the defendants were sane and knew the difference between right and wrong.

Without any consideration of the lives and the trainings of these boys, without any evidence from experts, I have tried to make a plain statement of the facts of this case, and I believe, as I have said repeatedly, that no one can honestly study the facts and conclude that anything but diseased minds was responsible for this terrible act. Let us see how far we can account for it, Your Honor.

The mind, of course, is an illusive thing. Whether it exists or not no one can tell. It cannot be found as you find the brain. Its relation to the brain and the nervous system is uncertain. It simply means the activity of the body, which is coordinated with the brain. But when we do find from human conduct that we believe there is a diseased mind, we naturally speculate on how it came about. And we wish to find always, if possible, the reason why it is so. We may find it, we may not find it; because the unknown is infinitely wider and larger than the known, both as to the human mind and as to almost everything else in the universe.

I have tried to study the lives of these two most unfortunate boys. Three months ago, if their friends and the friends of the family had been asked to pick out the most promising lads of their acquaintance, they probably would have picked these two boys. With every opportunity, with plenty of wealth, they would have said that those two would succeed. In a day, by an act of madness, all this is destroyed, until best they can hope for now is a life of silence and pain, continuing to end of their years.

How did it happen?

Let us take Dickie Loeb first.

I do not claim to know how it happened; I have sought to find out; I know that something, or some combination of things, is responsible for his mad act. I know that there are no accidents in nature. I know that effect follows cause. I know that if I were wise enough, and knew enough about this case, I could lay my finger on the cause. I will do the best I can, but it is largely speculation. The child, of course, is born without knowledge. Impressions are made upon its mind as it goes along. Dickie Loeb was a child of wealth and opportunity. Over and over in this court Your Honor has been asked, and other courts have been asked, to consider boys who have no chance; they have been asked to consider the poor, whose home had: been the street, with no education and no opportunity in life, and they have done it, and done it rightfully.

But Your Honor, it is just as often a great misfortune to be the child of the rich as it is to be the child of the poor. Wealth has its misfortunes. Too much, too great opportunity and advantage given to a child has its misfortunes. Can I find what was wrong? I think I can. Here was a boy at a tender age, placed in the hands of a governess, intellectual, vigorous, devoted, with a strong ambition for the welfare of this boy. He was, pushed in his studies, as plants are forced in hothouses. He had no pleasures, such as a boy should have, except as they were gained by lying and cheating. Now, I am not criticizing the nurse. I suggest that some day Your Honor look at her picture. It explains her fully. Forceful, brooking no Interference, she loved the boy, and her ambition was that he should reach the highest perfection. No time to pause, no time to stop from one book to another, no time to have those pleasures which a boy ought to have to create a normal life. And what happened?

Your Honor, what would happen? Nothing strange or unusual. This nurse was with him all the time, except when he stole out at night, from two to fourteen years of age, and it is instructive to read her letter to show her attitude. It speaks volumes; tells exactly the relation between these two people. He, scheming and planning as healthy boys would do, to get out from under her restraint. She, putting before him the best books, which children generally do not want; and he, when she was not looking, reading detective stories, which he devoured, story after story, in his young life. Of all of this there can be no question. What is the result? Every story he read was a story of crime. We have a statute in this state, passed only last year, if I recall it, which forbids minors reading stories of crime. Why? There is only one reason. Because the legislature in its wisdom felt that it would produce criminal tendencies in the boys who read them. The legislature of this state has given its opinion, and forbidden boys to read these books. He read them day after day. He never stopped. While he was passing through college at Ann Arbor he was still reading them. When he was a senior he read them, and almost nothing else.

Now, these facts are beyond dispute. He early developed the tendency to mix with

crime, to be a detective; as a little boy shadowing people on the street; as a little child going out with his fantasy of being the head of a band of criminals and directing them on the street. How did this grow and develop in him? Let us see. It seems to me as natural as the day following the night. Every detective story is a story of a sleuth getting the best of it; trailing some unfortunate individual through devious ways until his victim is finally landed in jail or stands on the gallows. They all show how smart the detective is, and where the criminal himself falls down.

This boy early in his life conceived the idea that there could be a perfect crime, one that nobody could ever detect; that there could be one where the detective did not land his game; a perfect crime. He had been interested in the story of Charley Ross, who was kidnapped. He was interested in these things all his life. He believed in his childish way that a crime could be so carefully planned that there would be no detection, and his idea was to plan and accomplish a perfect crime. It would involve kidnapping, and involve murder.

They wanted to commit a perfect crime. There had been growing in this brain, dwarfed and twisted, not due to any wickedness of Dickie Loeb, for he is a child. It grew as he grew; it grew from those around him; it grew from the lack of the proper training until it possessed him. He believed he could beat the police. He believed he could plan the perfect crime. He had thought of it and talked of it for years. Had talked of it as a child; had worked at it as child, and this sorry act of his, utterly irrational and motiveless, a plan to commit a perfect crime which must contain kidnapping, and there must be ransom, or else it could not perfect, and they must get the money.

We might as well be honest with ourselves, Your Honor. Before would tie a noose around the neck of a boy I would try to call back my mind the emotions of youth. I would try to remember what world looked like to me when I was a child. I would try to remember how strong were these instinctive, persistent emotions that moved life. I would try to remember how weak and inefficient was youth in presence of the surging, controlling feelings of the child.

But, Your Honor, that is not all there is to boyhood. Nature is strong and she is pitiless. She works in her own mysterious way, and we are her victims. We have not much to do with it ourselves. Nature takes this job in hand, and we play our parts. In the words of old Omar Khayyam, we are only
Impotent pieces in the game He plays
Upon this checkerboard of nights and days,
Hither and thither moves, and checks, and slays,
And one by one back in the closet lays.

What had this boy to do with it? He was not his own father; he was not his own mother; he was not his own grandparents. All of this was handed to him. He did not

surround himself with governesses and wealth. He did not make himself and yet he is to be compelled to pay.

For God's sake, are we crazy? In the face of history, of every line of philosophy, against the teaching of every religionist and seer and prophet the world has ever given us, we are still doing what our barbaric, ancestors did when they came out of the caves and the woods.

Your Honor, I am almost ashamed to talk about it. I can hardly imagine that we are in the twentieth century. And yet there are men who seriously say that for what Nature has done, for what life has done, for what training has done, you should hang these boys.

I say this again, without finding fault with his parents, for whom I have the highest regard, and who doubtless did the best they could. They might have done better if they had not had so much money. I do not know. Great wealth often curses all who touch it..

I catch myself many and many a time repeating phrases of my childhood, and I have not quite got into my second childhood yet. I have caught myself doing this while I still could catch myself. It means nothing. We may have all the dreams and visions and build all the castles we wish, but the castles of youth should be discarded with youth, and when they linger to the time when boys should think wiser things, then it indicates a diseased mind. "When I was young I thought as a child, I spoke as a child, I understood as a child; but now I have put off childish things," said the Psalmist twenty centuries ago. It is when these dreams of boyhood, these fantasies of youth still linger, and the growing boy is still a child, a child in emotion, a child in feeling, a child in hallucinations that you can say that it is the dreams and the hallucinations of childhood that are responsible for his conduct. There is not an act in all this horrible tragedy that was not the act of a child, the act of a child wandering around in the morning of life, moved by the new feelings of a boy, moved by the uncontrolled impulses which his teaching was not strong enough to take care of, moved by the dreams and the hallucinations which haunt the brain of a child. I say, Your Honor, that it would be the height of cruelty, of injustice, of wrong and barbarism to visit the penalty upon this poor boy.

This boy needed more of home, more love, more directing. He needed to have his emotions awakened. He needed guiding hands along the serious road that youth must travel. Had these been given him, he would not be here today. Now, Your Honor, I want to speak of the other lad, Babe.

Babe is somewhat older than Dick, and is a boy of remarkable mind, away beyond his years. He is a sort of freak in this direction, as in others; a boy without emotions, a boy obsessed of philosophy, a boy obsessed of learning, busy every minute of his life.

He went through school quickly; he went to college young; he could learn faster than almost everybody else. His emotional life was lacking, as every alienist and witness in this case excepting Dr. Krohn has told you. He was just a half boy, in intellect, an intellectual machine going without balance and without a governor, seeking to find out everything there was in life intellectually; seeking to solve every philosophy, but using his intellect only.

Of course his family did not understand him; few men would. His mother died when he was young; he had plenty of money, everything was given to him that he wanted. Both these boys with unlimited money; both these boys with automobiles; both of these boys with every luxury around them and in front of them. They grew up in this environment.

Babe took to philosophy. I call him Babe, not because I want it to affect Your Honor, but because everybody else does. He is the youngest of the family and I suppose that is why he got his nickname. We will call him a man. Mr. Crowe thinks it is easier to hang a man than a boy, and so I will call him a man if I can think of it.

He grew up in this way. He became enamored of the philosophy of Nietzsche. Your Honor, I have read almost everything that Nietzsche ever wrote. He was a man of a wonderful intellect; the most original philosopher of the last century. Nietzsche believed that some time the superman would be born, that evolution was working toward the superman. He wrote one book, *Beyond Good and Evil*, which was a criticism of all moral codes as the world understands them; a treatise holding that the intelligent man is beyond good and evil, that the laws for good and the laws for evil do not apply to those who approach the superman. He wrote on the will to power. Nathan Leopold is not the only boy who has read Nietzsche. He may be the only one who was influenced in the way that he was influenced.

At seventeen, at sixteen, at eighteen, while healthy boys were playing baseball or working on the farm, or doing odd jobs, Babe was reading Nietzsche, a boy who never should have seen it, at that early age.

Nietzsche held a contemptuous, scornful attitude to all those things which the young are taught as important in life; a fixing of new values which are not the values by which any normal child has ever yet been reared. Nietzsche's attitude is but a philosophical dream, containing more or less truth, that was not meant by anyone to be applied to life.

Nietzsche says, "The morality of the master class is irritating to the taste of the present day because of its fundamental principle that a man has obligation only to his equals; that he may act to all of lower rank and to all that are foreign, as he pleases."

In other words, man has no obligations; he may do with all other men and all other boys, and all society, as he pleases. The superman was a creation of Nietzsche.

The supermanlike qualities lie not in their genius, but in their freedom from scruple. They rightly felt themselves to be above the law. What they thought was right, not because sanctioned by any law, beyond themselves, but because they did it. So the superman will be a law unto himself. What he does will come from the will and superabundant power within him.

Here is a boy at sixteen or seventeen becoming obsessed with these doctrines. There isn't any question about the facts. Their own witnesses tell it and every one of our witnesses tell it. It was not a casual bit of philosophy with him; it was his life. He believed in a superman. He and Dickie Loeb were the supermen. There might have been others, but they were two, and two chums. The ordinary commands of society were not for him.

Many of us read this philosophy but know that it has no actual application to life; but not he. It became a part of his being. It was his philosophy. He lived it and practiced it; he thought it applied to him, and he could not have believed it excepting that it either caused a diseased mind or was the result of a diseased mind.

Here is a boy who by day and by night, in season and out, was talking of the superman, owing no obligations to anyone; whatever gave him pleasure he should do, believing it just as another man might believe a religion or any philosophical theory.

You remember that I asked Dr. Church about these religious cases and he said, "Yes, many people go to the insane asylum on account of them," that "they place a literal meaning on parables and believe them thoroughly"? I asked Dr. Church, whom again I say I believe to be an honest man, and an intelligent man, I asked him whether the same thing might be done or might come from a philosophical belief and he said, "If one believed it strongly enough."

And I asked him about Nietzsche. He said he knew something of Nietzsche, something of his responsibility for the war, for which he perhaps was not responsible. He said he knew something about his doctrines. I asked him what became of him, and he said he was insane for fifteen years just before the time of his death. His very doctrine is a species of insanity.

Here is a man, a wise man, perhaps not wise, but a brilliant, thoughtful man who has made his impress upon the world. Every student of philosophy knows him. His own doctrines made him a maniac. And here is a young boy, in the adolescent age, harassed by everything that harasses children, who takes this philosophy and believes it literally. It is a part of his life. It is his life. Do you suppose this mad act could have been done

by him in any other way? What could he have to win from this homicide?

A boy with a beautiful home, with automobiles, a graduate of college, going to Europe, and then to study law at Harvard; as brilliant in intellect as any boy that you could find; a boy with every prospect that life might hold out to him; and yet he goes out and commits this weird, strange, wild, mad act, that he may die on the gallows or live in a prison cell until he dies of old age or disease.

He did it, obsessed of an idea, perhaps to some extent influenced by what has not been developed publicly in this case-perversions this case were present in the boy. Both signs of insanity, both, together with this act, proving a diseased mind..

Is there any question about what was responsible for him?

What else could be? A boy in his youth, with every promise that the world could hold out before him, wealth and position and intellect, yes, genius, scholarship, nothing that he could not obtain, and he throws it away, and mounts the gallows or goes into a cell for life. It is too foolish to talk about. Can Your Honor imagine a sane brain doing it? Can you imagine it coming from anything but a diseased mind? Can you imagine it is any part of normality? And yet, Your Honor, you are asked to hang a boy of his age, abnormal, obsessed of dreams and visions, a philosophy that destroyed his life, when there is no sort of question in the world as to what caused his downfall.

I know, Your Honor, that every atom of life in all this universe is bound up together. I know that a pebble cannot be thrown into the ocean without disturbing every drop of water in the sea. I know that every life is inextricably mixed and woven with every other life. I know that every influence, conscious and unconscious, acts and reacts on every living organism, and that no one can fix the blame. I know that all life is a series of infinite chances, which sometimes result one way and sometimes another. I have not the infinite wisdom that can fathom it, neither has any other human brain. But I do know that if back of it is a power that made it, that power alone can tell, and if there is no power then it is an infinite chance which man cannot solve.

Why should this boy's life be bound up with Frederick Nietzsche, who died thirty years ago, insane, in Germany? I don't know. I only know it is. I know that no man who ever wrote a line that I read failed to influence me to some extent. I know that every life I ever touched influenced me, and I influenced it; and that it is not given to me to unravel the infinite causes and say, "This is I, and this is you." I am responsible for so much; and you are responsible for so much. I know that in the infinite universe everything has its place and that the smallest particle is a part of all. Tell me that you can visit the wrath of fate and chance and life and eternity upon a nineteen-year-old boy! If you could, justice would be a travesty and mercy a fraud.

There is something else in this case, Your Honor, that is stronger still. There is a large element of chance in life. I know I will die. I don't know when; I don't know how; I don't know where; and I don't want to know. I know it will come. I know that it depends on infinite chances. Did I make myself? And control my fate? I cannot fix my death unless I commit suicide, and I cannot do that because the will to live is too strong; I know it depends on infinite chances.

Take the rabbit running through the woods; a fox meets him at a certain fence. If the rabbit had not started when it did, it would not have met the fox and would have lived longer. If the fox had started later or earlier it would not have met the rabbit and its fate would have been different.

My death will depend upon chances. It may be by the taking in of a germ; it may be a pistol; it may be the decaying of my faculties, and all that makes life; it may be a cancer; it may be anyone of an indefinite number of things, and where I am at a certain time, and whether I take in that germ, and the condition of my system when I breathe is an accident which is sealed up in the book of fate and which no human being can open.

These boys, neither one of them, could possibly have committed this act excepting by coming together. It was not the act for one; it was the act of two. It was the act of their planning, their conniving, their believing in each other; their thinking themselves supermen. Without it they could not have done it. It would not have happened. Their parents happened to meet, these boys happened to meet; some sort of chemical alchemy operated so that they cared for each other, and poor Bobby Franks's dead body was found in the culvert as a result. Neither of them could have done it alone.

I want to call your attention, Your Honor, to the two letters in this case which settle this matter to my mind conclusively; not only the condition of these boys' minds, but the terrible fate that overtook them.

Your Honor, I am sorry for poor Bobby Franks, and I think anybody who knows me knows that I am not saying it simply to talk. I am sorry for the bereaved father and the bereaved mother, and I would like to know what they would do with these poor unfortunate lads who are here in this court today. I know something of them, of their lives, their charity, of their ideas, and nobody here sympathizes with them more than I.

On the twenty-first day of May, poor Bobby Franks, stripped naked, was left in a culvert down near the Indiana line. I know it came through the mad act of mad boys. Mr. Savage told us that Franks, if had lived, would have been a great man and have accomplished much. I want to leave this thought with Your Honor now. I do not know what Bobby Franks would have been had he grown to be a man. I do not know the

laws that control one's growth. Sometimes, Your Honor, a boy of great promise is cut off in his early youth. Sometimes he dies and is placed in a culvert. Sometimes a boy of great promise stands on a trap door and is hanged by the neck until dead. Sometimes he dies of diphtheria. Death somehow pays no attention to age, sex, prospects, wealth or intellect.

And I want to say this, that the death of poor little Bobby Franks should not be in vain. Would it mean anything if on account of that death these two boys were taken out and a rope tied around their necks' and they died felons? Would that show that Bobby Franks had a purpose in his life and a purpose in his death? No, Your Honor, the unfortunate and tragic death of this weak young lad should mean something. I should mean an appeal to the fathers and the mothers, an appeal to the, teachers, to the religious guides, to society at large. It should mean an appeal to all of them to appraise children, to understand the emotions that control them, to understand the ideas that possess them, to teach them to avoid the pitfalls of life.

I have discussed somewhat in detail these two boys separately. The coming together was the means of their undoing. Your Honor is familiar with the facts in reference to their association. They had a weird, almost impossible relationship. Leopold, with his obsession of the superman, had repeatedly said that Loeb was his idea of the superman. He had the attitude toward him that one has to his most devoted friend, or that a man has to a lover. Without the combination of these two nothing of this sort probably could have happened. It is not necessary for us, Your Honor, to rely upon words to prove the condition of the boys' minds, and to prove the effect of this strange and fatal relationship between these two boys.

It is mostly told in a letter which the state itself introduced in case. Not the whole story, but enough of it is shown, so that no intelligent, thoughtful person could fail to realize what was the relationship between them and how they had played upon each other to effect their downfall and their ruin. I want to read this letter once more, a letter which was introduced by the state, a letter dated October 9, a month and three days before their trip to Ann Arbor, and I want the court to say in his own mind whether this letter was anything but the products of a diseased mind, and if it does not show a relationship that was responsible for this terrible homicide. This was written by Leopold to Loeb. They lived close together, only a few blocks from each other; saw each other every day, but Leopold wrote him this letter:

October 9, 1923.

Dear Dick:

In view of our former relations, I take it for granted that its [sic] unnecessary to

make any excuse for writing you at this time, and still I am going to state my reasons for so doing, as this may turn out to be a long letter, and I don't want to cause you the inconvenience of reading it all to find out what it contains if you are not interested in the subjects dealt with.

First, I am enclosing the document which I mentioned to you today, and which I will explain later. Second, I am going to tell you of a new fact which has come up since our discussion. And third, I am going to put in writing what my attitude toward our present relations, with a view of avoiding future possible misunderstandings, and in the hope (though I think it rather vain) that possibly we may have misunderstood each other, and can yet clear this matter up.

Now, as to the first, I wanted you this afternoon, and still want you, to feel that we are on an equal footing legally, and therefore, I purposely committed the same tort of which you were guilty, the only difference being that in your case the facts would be harder to prove than in mine, should I deny them. The enclosed document should secure you against changing my mind in admitting the facts, if the matter should come up, as it would prove to any court that they were true.

As to the second. On your suggestion I immediately phoned Dick Rubel, and speaking from a paper prepared beforehand (to be sure of the exact wording) said: "Dick, when we were together yesterday, did I tell you that Dick (Loeb) had told me the things which I then told you, or that it was merely my opinion that I believed them to be so?"

I asked this twice to be sure he understood, and on the same answer both times (which I took down as he spoke) felt that he did understand.

He replied: "No, you did not tell me that Dick told you these things, but said that they were in your opinion true."

He further denied telling you subsequently that I had said that they were gleaned from conversation with you, and I then told him that he was quite right, that you never had told me. I further told him that this was merely your suggestion of how to settle a question of fact that he was in no way implicated, and that neither of us would be angry with him at his reply. (I imply your assent to this.)

This of course proves that you were mistaken this afternoon in the question of my having actually and technically broken confidence, and voids my apology, which I made contingent on proof of this matter.

Now, as to the third, last, and most important question. When you came to my

home this afternoon I expected either to break friendship with you or attempt to kill you unless you told me why you acted as you did yesterday.

You did, however, tell me, and hence the question shifted to the fact that I would act as before if you persisted in thinking me treacherous, either in act (which you waived if Dick's opinion went with mine) or in intention.

Now, I apprehend, though here I am not quite sure, that you said that you did not think me treacherous in intent, nor ever have, but that you considered me in the wrong and expected such statement from me. This statement I unconditionally refused to make until such time as I may become convinced of its truth.

However, the question of our relation I think must be in your hands (unless the above conceptions are mistaken), inasmuch as you have satisfied first one and then the other requirement, upon which I agreed to refrain from attempting to kill you or refusing to continue our friendship. Hence I have no reason not to continue to be on friendly terms with you, and would under ordinary conditions continue as before.

The only question, then, is with you. You demand me to perform an act, namely, state that I acted wrongly. This I refuse. Now it is up to you to inflict the penalty for this refusal at your discretion, to break friendship, inflict physical punishment, or anything else you like, or on the other hand to continue as before.

The decision, therefore, must rest with you. This is all of my opinion on the right and wrong of the matter.

Now comes a practical question. I think that I would ordinarily be expected to, and in fact do expect to continue my attitude toward you, as before, until I learn either by direct words or by conduct on your part which way your decision has been formed. This I shall do.

Now a word of advice. I do not wish to influence your decision either way, but I do want to warn you that in case you deem it advisable to discontinue our friendship, that in both our interests extreme care must be had. The motif of "A falling out of-" would be sure to be popular, which is patently undesirable and forms an irksome but unavoidable bond between us.

Therefore, it is, in my humble opinion, expedient, though our breach need be no less real in fact, yet to observe the conventionalities, such as salutation on the street and a general appearance of at least not unfriendly relations on all occasions when we may be thrown together in public.

Now, Dick, I am going to make a request to which I have perhaps no right, and yet which I dare to make also for "Auld Lang Syne." Will you, if not too inconvenient, let me know your answer (before I leave tomorrow) on the last count? This, to which I have no right, would greatly help my peace of mind in the next few days when it is most necessary to me. You can if you will merely call up my home before 12 noon and leave a message saying, "Dick says yes," if you wish our relations to continue as before, and "Dick says no," if not.

It is unnecessary to add that your decision will of course have no effect on my keeping to myself our confidences of the past, and that I regret the whole affair more than I can say.

Hoping not to have caused you too much trouble in reading this, I am (for the present), as ever

"BABE"

Now, I undertake to say that under any interpretation of this taking into account all the things Your Honor knows, that have not been made public, or leaving them out, nobody can interpret that letter excepting on the theory of a diseased mind, and with it goes this strange document which was referred to in the letter:

I, Nathan F. Leopold Jr. being under no duress or compulsion, do hereby affirm and declare that on this, the ninth day of October, 1923, I for reasons of my own locked the door of the room in which I was with one Richard A. Loeb, with the intent of blocking his only feasible mode of egress, and that I further indicated my intention of applying physical force upon the person of the said Richard A. Loeb if necessary to carry out my design, to wit, to block his only feasible mode of egress.

There is nothing in this case, whether heard alone by the court or heard in public, that can explain these documents, on the theory that the defendants were normal human beings....

But I am going to add a little more in an effort to explain my system of the Nietzschean philosophy with regard to you. It may not have occurred to you why a mere mistake in judgment on your part should be treated as a crime when on the part of another it should not be so considered? Here are the reasons. In formulating a superman he is, on account of certain superior qualities inherent in him, exempted from the ordinary laws which govern ordinary men. He is not liable for anything he may do, whereas others would be, except for the one crime that it is possible for him to commit, to make a mistake.

Now obviously any code which conferred upon an individual or upon a group extraordinary privileges without also putting on him extraordinary responsibility, would be unfair and bad. Therefore, the superman is held to have committed a crime every time he errs in judgment, a mistake excusable in others. But you may say that you have previously made mistakes which did not treat as crimes. This is true. To cite an example, the other night you expressed the opinion, and insisted, that Marcus Aurelius Antonius was practically the founder of Stoicism. In so doing you committed a crime. But it was a slight crime, and I chose to forgive it. I have, and had before that, forgiven the crime which you committed in committing the error in judgment which caused the whole train of events. I did not and do not wish to charge you with crime, but I feel justified in using any of the consequences of your crime for which you are held responsible, to my advantage. This and only this I did, so you see how careful you must be.

Is that the letter of a normal eighteen-year-old boy, or is it the letter of a diseased brain? Is that the letter of boys acting as boys should, and thinking as boys should, or is it the letter of one whose philosophy has taken possession of him, who understands that what the world calls a crime is something that the superman may do, who believes that the only crime the superman can commit is to make a mistake? He believed it. He was immature. It possessed him. It was manifest in the strange compact that the court already knows about between these two boys, by which each was to yield something and each was to give something. Out of that compact and out of these diseased minds grew this terrible crime.

I submit the facts do not rest on the evidence of these boys alone. It is proven by the writings; it is proven by every act. It is proven by their companions, and there can be no question about it.

We brought into this courtroom a number of their boyfriends, whom they had known day by day, who had associated with them in the club-house, were their constant companions, and they tell the same stories. They tell the story that neither of these two boys was responsible for his conduct.

Maremont, whom the state first called, one of the oldest of the boys, said that Leopold had never had any judgment of any sort. They talked about the superman. Leopold argued his philosophy. It was a religion with him. But as to judgment of things in life he had none. He was developed intellectually, wanting emotionally, developed in those things which a boy does not need and should not have at his age, but absolutely void of the healthy feelings, of the healthy instincts of practical life that are necessary to the child.

We called not less than ten or twelve of their companions and all of them testified the same: Dickie Loeb was not allowed by his companions the privileges of his class

because of his childishness and his lack of judgment.

As to the standing of these boys amongst their fellows, that they were irresponsible, that they had no judgment, that they were childish, that their acts were strange, that their beliefs were impossible for boys, is beyond question in this case.

And what did they do on the other side?

It was given out that they had a vast army of witnesses. They called three. A professor who talked with Leopold only upon his law studies, and two others who admitted all that we said, on cross-examination, and the rest were dismissed. So it leaves all of this beyond dispute and admitted in this case.

Now both sides have called alienists and I will refer to that for a few moments. I shall only take a little time with the alienists.

The facts here are plain; when these boys had made the confession on Sunday afternoon before their counsel or their friends had any chance to see them, Mr. Crowe sent out for four men. He sent out for Dr. Patrick, who is an alienist; Dr. Church, who is an alienist; Dr. Krohn, who is a witness, a testifier; and Dr. Singer, who is pretty good, I would not criticize him but would not class him with Patrick and with Church. I have said to Your Honor that in my opinion he sent for the two ablest men in Chicago as far as the public knows them, Dr. Church and Dr. Patrick. You heard Dr. Church's testimony. Dr. Church is an honest man though an alienist. Under cross-examination he admitted every position which I took. He admitted the failure of emotional life in these boys; he admitted its importance; he admitted the importance of beliefs strongly held in human conduct; he said himself that if he could get at all the facts he would understand what was back of this strange murder. Every single position that we have claimed in this case Dr. Church admitted.

Dr. Singer did the same. The only difference between them was this it took but one question to get Dr. Church to admit it, and it took ten to a dozen to get Dr. Singer. He objected and hedged and ran and quibbled. There could be no mistake about it, and Your Honor heard it in this courtroom. He sought every way he could to avoid the truth, and when it came to the point that he could not dodge any longer, he admitted every proposition just exactly the same as Dr. Church admitted them: the value of emotional life; its effect on conduct; that it was the ruling thing in conduct, as every person knows who is familiar with psychology and who is familiar with the human system.

Could there be any doubt, Your Honor, but what both those witnesses, Church and Singer, or any doubt but what Patrick would have testified for us? Now what did they do in their examination? What kind of a chance did these alienists have? It is perfectly

obvious that they had none. Church, Patrick, Krohn went into a room with these two boys who had been in the possession of the state's attorney's office for sixty hours; they were surrounded by policemen, were surrounded by guards and detectives and state's attorneys; twelve or fifteen of them, and here they told their story. Of course this audience had a friendly attitude toward them. I know my friend Judge Crowe had a friendly attitude because I saw divers, various and sundry pictures of Prosecutor Crowe taken with these boys.

When I first saw them I believed it showed friendship for the boys, but now I am inclined to think that he had them taken just as a lawyer who goes up in the country fishing has his picture taken with his catch. The boys had been led doubtless to believe that these people were friends. They were taken there, in the presence of all this crowd. What was done? The boys told their story, and that was all. Of course, Krohn remembered a lot that did not take place, and we would expect that of him; and he forgot much that did take place and we would expect that of him, too. So far as the honest witnesses were concerned, they said that not a word was spoken excepting a little conversation upon birds and the relation of the story that they had already given to the state's attorney; and from that, and nothing else, both Patrick and Church said they showed no reaction as ordinary persons should show it, and intimated clearly that the commission of the crime itself would put them on inquiry as to whether these boys were mentally right; both admitted that the conditions surrounding them made the right kind of examination impossible; both admitted that they needed a better chance to form a reliable opinion.

The most they said was that at this time they saw no evidence of Insanity.

Now, Your Honor, no experts, and no alienists with any chance to examine, have testified that these boys were normal.

Singer did a thing more marvelous still. He never saw these boys until he came into this court, excepting when they were brought down in violation of their constitutional rights to the office of judge Crowe, after they had been turned over to the jailer, and there various questions were asked them, and to all of these the boys replied that they respectfully refused to answer on advice of counsel. And yet that was enough for Singer.

Your Honor, if these boys had gone to the office of anyone of the eminent gentlemen, had been taken by their parents or gone by themselves, and the doctors had seriously tried to find out whether there was anything wrong about their minds, how would they have done it? They would have taken them patiently and carefully. They would have sought to get their confidence. They would have listened to their story. They would have listened to it in the attitude of a father listening to his child. You know it. Every doctor knows it. In no other way could they find their mental condition. And the men who are

honest with this question
have admitted it.;

And yet Dr. Krohn will testify that they had the best chance in the world, when his own associates, sitting where they were, said they did not.

Your Honor, nobody's life or liberty or property should be taken from them upon an examination like that. It was not an examination. It was simply an effort to get witnesses, regardless of facts, who might a some time come into court and give their testimony, to take these boys' lives.

Now, I imagine that in closing this case judge Crowe will say that our witnesses mainly came from the East. That is true. And he is responsible for it. I am not blaming him, but he is responsible for it. There are other alienists in Chicago, and the evidence shows that we had the boys examined by numerous ones in Chicago. We wanted to get the best. Did we get them?

Your Honor knows that the place where a man lives does not affect his truthfulness or his ability. We brought the man who stands probably above all of them, and who certainly is far superior to anybody called upon the other side. First of all, we called Dr. William A. White. And who is he? For many years he has been superintendent of the Government Hospital for the Insane in Washington; a man who has written more books, delivered more lectures, and had more honors, and knows this subject better than all of their alienists put together; a man who plainly came here not for money, and who receives for his testimony the same per diem as is paid by the other side; a man who knows his subject, and whose ability and truthfulness must have impressed this court. It will not do, Your Honor, to say that because Dr. White is not a resident of Chicago that he lies. No man stands higher in the United States, no man is better known than Dr, White, his learning and intelligence was obvious from his evidence in this case.

Who else did we get? Do I need to say anything about Dr. Healy? Is there any question about his integrity? A man who seldom goes into court except upon the order of the court.

Your Honor was connected with the Municipal Court. You know that Dr. Healy was the first man who operated with the courts in the city of Chicago to give aid to the unfortunate youths whose minds were afflicted and who were the victims of the law. His books are known wherever men study boys. His reputation is known all over the United States and in Europe. Compare him and his reputation with Dr. Krohn. Compare it with any other witness that the state called in this case.

Dr. Glueck, who was for years the alienist at Sing Sing, and connected with the penal

institutions in the state of New York; a man of eminent attainments and ripe scholarship. No one is his superior. And Dr. Hulbert, a young man who spent nineteen days in the examination of these boys, together with Dr. Bowen, an eminent doctor in his line from Boston. These two physicians spent all this time getting every detail of these boys' lives, and structures; each one of these alienists took all the time they needed for a thorough examination, without the presence of lawyers, detectives, and policemen. Each one of these psychiatrists tells this court the story, the sad, pitiful story, of the unfortunate minds of these two young lads.

I submit, Your Honor, that there can be no question about the relative value of these two sets of alienists; there can be no question of their means of understanding; there can be no question but that "White, Glueck, Hulbert, and Healy knew what they were talking about, for they had every chance to find out. They are either lying to this court, or their opinions good.

On the other hand, not one single man called by the state had any chance to know. He was called in to see these boys, the same as the state would call a hangman: "Here are the boys; officer, do your duty." And that is all there was of it.

Now, Your Honor, I shall pass that subject. I think all of the facts of this extraordinary case, all of the testimony of the alienists, all that Your Honor has seen and heard, all their friends and acquaintances who have come here to enlighten this court, I think all of it shows that this terrible act was the act of immature and diseased brains, the act of children. Nobody can explain it in any other way. No one can imagine it in any other way. It is not possible that it could have happened in any other way. And I submit, Your Honor, that by every law of humanity, by every law of justice, by every feeling of righteousness, by every instinct of pity, mercy, and charity, Your Honor should say that because of the condition of these boys' minds, it would be monstrous to visit upon them the vengeance that is asked by the state.

I want to discuss now another thing which this court must consider and which to my mind is absolutely conclusive in this case. That is, the age of these boys.

I shall discuss it more in detail than I have discussed it before, and I submit, Your Honor, that it is not possible for any court to hang these two boys if he pays any attention whatever to the modern attitude toward the young, if he pays any attention whatever to the precedents in this county, if he pays any attention to the humane instincts which move ordinary men.

I have a list of executions in Cook County beginning in 1840, which I presume covers the first one, because I asked to have it go to the beginning. Ninety poor unfortunate men have given up their lives to stop murder in Chicago. Ninety men have been hanged by the neck until dead, because of the ancient superstition that in some way

hanging one man keeps another from committing a crime. The ancient superstition, I say, because I defy the state to point to a criminologist, a scientist, student, who has ever said it. Still we go on, as if human conduct was not influenced and controlled by natural laws the same as all the rest of the universe is the subject of law. We treat crime as if it had no cause. We go on saying, "Hang the unfortunates, and it will end." Was there ever a murder without a cause? Was there ever a crime without a cause? And yet all punishment proceeds upon the theory that there is no cause; and the only way to treat crime is to intimidate every one into goodness and obedience to law. We lawyers are a long way behind.

Crime has its cause. Perhaps all crimes do not have the same cause. Perhaps all crimes do not have the same cause but they all have some cause. And people today are seeking to find out the cause. We lawyers never try to find out. Scientists are studying it; criminologists are investigating it; but we lawyers go on and on and on, punishing and hanging and thinking that by general terror we can stamp out crime.

It never occurs to the lawyer that crime has a cause as certainly as disease, and that the way to rationally treat any abnormal condition is to remove the cause. If a doctor were called on to treat typhoid fever he would probably try to find out what kind of milk or water the patient drank, and perhaps clean out the well so that no one else could get typhoid from the same source. But if a lawyer was called on to treat a typhoid patient, he would give him thirty days in jail, and then he would think that nobody else would ever dare to take it. If the patient got well in fifteen days, he would be kept until his time was up; if the disease was worse at the end of thirty days, the patient would be released because his time was out.

As a rule, lawyers are not scientists. They have learned the doctrine of hate and fear, and they think that there is only one way to make men good, and that is to put them in such terror that they do not dare to be bad. They act unmindful of history, and science, and all the experience of the past.

Still, we are making some progress. Courts give attention to some things that they did not give attention to before.

Once in England they hanged children seven years of age; not necessarily hanged them, because hanging was never meant for punishment; it was meant for an exhibition. If somebody committed a crime, he would be hanged by the head or the heels, it didn't matter much which, at the four crossroads, so that everybody could look at him until his bones were bare, and so that people would be good because they had seen the gruesome result of crime and hate.

Hanging was not necessarily meant for punishment. The culprit might be killed in any other way, and then hanged. Hanging was an exhibition. They were hanged on the

highest hill, and hanged at the crossways, and hanged in public places, so that all men could see. If there is any virtue in hanging, that was the logical way, because you cannot awe men into goodness unless they know about the hanging. We have not grown better than the ancients. We have grown more squeamish; we do not like to look at it, that is all. They hanged them at seven years; they hanged them again at eleven and fourteen.

We have raised the age of hanging. We have raised it by the humanity of courts, by the understanding of courts, by the progress in science which at last is reaching the law; and in ninety men hanged in Illinois from its beginning, not one single person under twenty-three was ever hanged upon a plea of guilty, not one. If Your Honor should do this, you would violate every precedent that had been set in Illinois for almost a century. There can be no excuse for it, and no justification for it, because this is the policy of the law which is rooted in the feelings of humanity, which are deep in every human being that thinks and feels. There have been two or three cases where juries have convicted boys younger than this, and where courts on convictions have refused to set aside the sentence because a jury had found it.

Your Honor, what excuse could you possibly have for putting these boys to death? You would have to turn your back on every precedent of the past. You would have to turn your back on the progress of the world. You would have to ignore all human sentiment and feeling, of which I know the court has his full share. You would have to do all this if you would hang boys of eighteen and nineteen years of age who have come into this court and thrown themselves upon your mercy.

Your Honor, I must hasten along, for I will close tonight. I know I should have closed before. Still there seems so much that I would like to say. I do not know whether Your Honor, humane and considerate as I believe you to be, would have disturbed a jury's verdict in his case, but I know that no judge in Cook County ever himself upon a plea of guilty passed judgment of death in a case below the age of twenty-three, and only one at the age of twenty-three was ever hanged on a plea of guilty.

Your Honor, if in this court a boy of eighteen and a boy of nineteen should be hanged on a plea of guilty, in violation of every precedent of the past, in violation of the policy of the law to take care of the young, in violation of all the progress that has been made and of the humanity that has been shown in the care of the young; in violation of the law that places boys in reformatories instead of prisons, if Your Honor in violation of all that and in the face of all the past should stand here in Chicago alone to hang a boy on a plea of guilty, then we are turning our' faces backward, toward the barbarism which once possessed the world. If Your Honor can hang a boy at eighteen, some other judge can hang him at seventeen, or sixteen, or fourteen. Someday, if there is any such thing as progress in the world, if there is any spirit of humanity that is working in the hearts of men, someday men would look back upon this as a barbarous age which

deliberately set itself in the way of progress, humanity, and sympathy, and committed an unforgivable act.

I do not know how much salvage there is in these two boys, hate to say it in their presence, but what is there to look forward to? I do not know but what Your Honor would be merciful if you tied a rope around their necks and let them die; merciful to them, but not merciful to civilization, and not merciful to those who would be left behind. To spend the balance of their days in prison is mighty little to look forward to, if anything. Is it anything? They may have the hope that as the years roll around they might be released. I do not know. I will be honest with this court as I have tried to be from the beginning. I know that these boys are not fit to be at large. I believe they will not be until they pass through the next stage of life, at forty-five or fifty. Whether they will be then, I cannot tell. I am sure of this; that I will not be here to help them. So far as I am concerned, it is over.

I would not tell this court that I do not hope that some time, when life and age has changed their bodies, as it does, and has changed their emotions, as it does, 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. But what have they to look forward to? Nothing. And I think here of the stanzas of Housman:

Now hollow fires burn out to black,
And lights are fluttering low:
Square your shoulders, lift your pack
And leave your friends and go.
O never fear, lads, naught's to dread,
Look not left nor right:
In all the endless road you tread
There's nothing but the night.

I care not, Your Honor, whether the march begins at the gallows or when the gates of Joliet close upon them, there is nothing but the night, and that is little for any human being to expect. But there are others to be considered. Here are these two families, who have led honest lives, who will bear the name that they bear, and future generations must carry it on. Here is Leopold's father, and this boy was the pride of his life. He watched him, he cared for him, he worked for him; the boy was brilliant and accomplished, he educated him, and he thought that fame and position awaited him, as it should have awaited. It is a hard thing for a father to see his life's hopes crumble into dust.

Should he be considered? Should his brothers be considered? Will it do society any good or make your life safer, or any human being's life safer, if it should be handed down from generation to generation, that this boy, their kin, died upon the scaffold?

And Loeb's, the same. Here is the faithful uncle and brother, who have watched here day by day, while Dickie's father and his mother are too ill to stand this terrific strain, and shall be waiting for a message which means more to them than it can mean to you or me. Shall these be taken into account in this general bereavement?

Now, I must say a word more and then I will leave this with you where I should have left it long ago. None of us are unmindful of the public; courts are not, and juries are not. We placed our fate in the hands of a trained court, thinking that he would be more mindful and considerate than a jury. I cannot say how people feel. I have stood here for three months as one might stand at the ocean trying to sweep back the tide. I hope the seas are subsiding and the wind is falling, and I believe they are, but I wish to make no false pretense to this court. The easy thing and the popular thing to do is to hang my clients. I know it. Men and women who do not think will applaud. The cruel and the thoughtless will approve. It will be easy today; but in Chicago, and reaching out over the length and breadth of the land, more and more fathers and mothers, the humane, the kind, and the hopeful, who are gaining an understanding and asking questions not only about these poor boys but about their own, these will join in no acclaim at the death of my clients. But, Your Honor, what they shall ask may not count. I know the easy way. I know Your Honor stands between the future and the past. I know the future is with me, and what I stand for here; not merely for the lives of these two unfortunate lads, but for all boys and all girls; for all of the young, and as far as possible, for all of the old. I am pleading for life, understanding, charity, kindness, and the infinite mercy that considers all. I am pleading that we overcome cruelty with kindness and hatred with love. I know the future is on my side. Your Honor stands between the past and the future. 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. In doing it you will make it harder for unborn children. You may save them and make it easier for every child that some time may stand where these boys stand. You will make it easier for every human being with an aspiration and a vision and a hope and a fate. I am pleading for the future; I am pleading for a time when hatred and cruelty will not control the hearts of men. When we can learn by, reason and judgment and understanding and faith that all life is worth saving, and that mercy is the highest attribute of man.

I feel that I should apologize for the length of time I have taken. This case may not be as important as I think it is, and I am sure I do not need to tell this court, or to tell my friends, that I would fight just as hard for the poor as for the rich. If I should succeed in saving these boys' lives and do nothing for the progress of the law, I should feel sad, indeed. If I can succeed, my greatest reward and my greatest hope will be that I have done something for the tens of thousands of other boys, or the countless unfortunates who must tread the same road in blind childhood that these poor boys have trod, that I

have done something to help human understanding, to temper justice with mercy, to overcome hate with love.

I was reading last night of the aspiration of the old Persian poet, Omar Khayyam. It appealed to me as the highest that can vision. I wish it was in my heart, and I wish it was in the hearts of all:

So I be written in the Book of Love,
Do not care about that Book above.
Erase my name or write it as you will,
So I be written in the Book of Love.

[Leopold & Loeb Trial Homepage](#)