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Tuesday, August 13th, 1924.

10:30 o'clock A.M.

Court convened at 10:30 o'clock A.M. pursuant to adjournment heretofore taken.

Present: Same as before.

D R. H. S. H U L B E R T,

a witness called on behalf of the Defendants, having been previously sworn, resumed the stand for further cross examination by Mr. Crowe, and testified as follows:

MR. CROWE: Q Now, doctor, reverting for a moment to the x-rays of the skull, and not for the purpose of raising any technical question, I wish to ask you if these x-rays were taken stereoscopic?

A No, they were not.

MR. WALTER BACHRACH: I did not hear that, Mr. Crowe.

THE WITNESS: Stereoscopic, no.

MR. CROWE: Q They were not?

A No.

Q Is there any reason why they were not?

A I didn't think it necessary.

Q. Well, that is the best way to take them, is it not?

A. If you want a stereoscopic picture, yes. If you don't, no. Why make it double?

Q. In order to get the best possible picture of the skull, isn't that the proper and best way to take it?

A. It is a matter of opinion on the part of the one who has the picture taken, whether he wants it stereoscopic or not. I did not.

MR. CROVE: Q. In your discussion of the evidence of the endocrine disturbance in Leopold, you stated the amount of urea in the urine was increased, didn't you?

A. No. To this extent, that the urine that we examined for the routine urine examination was passed before we did the endocrine test, and the urine examination of the endocrine test, the sugar tolerance test; only the sugar in the urine was estimated.

Q. I am talking about urea in the urine.

A. I understand you, and I just said that in the

endocrine part of the urine examination we only ex-

amined for sugar. Page 80.

Q Doctor, you testified, didn't you, by his skin reaction, dermagraphia, by his sugar tolerance and by the increase of urea in his urine?

A I don't think I said that.

Q Look at the transcript, will you? (Handing transcript to the witness). The last part.

A Well, that is a misprint. That word is urea.

MR. WALTER BACHRACH: You did not write that transcript, did you?

A I did not.

MR. CROWE: Q Well, as a matter of fact, the amount of urea in the urine was increased, was it not?

A Based on what?

Q On the analysis?

A I find no reference in my notes to any urea measurement in the urine of Leopold.

MR. WALTER BACHRACH: In the sugar tolerance test --

THE WITNESS: No, he is all off.

MR. WALTER BACHRACH: I thought this was made for sugar.

MR. CROWE: I am talking about the analysis he made of the urine.

MR. BACHRACH: He made several, which one are you talking about?

MR. CROWE: Mr. Clerk, will you kindly swear the new witness, Mr. Bachrach.

MR. WALTER BACHRACH: Do you want to put me on the stand, Mr. Crowe?

THE COURT: Don't argue.

MR. CROWE: Q Did you make an examination to determine the amount of urea in the urine?

A No.

Q You did not?

A No.

Q You stated that the non-protein nitrogen in the blood of Leopold was increased?

A Yes.

Q Was this examined at the same time -- oh, you did not examine --

A Yes.

Q Did you estimate the nitrogen of the food for the period before the blood examination?

A I did not because he had been on a starvation diet and it was not necessary.

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Q What is the starvation diet and for how long a period did it last?

A He went without breakfast.

Q How soon after the breakfast did you make the examination?

A Not soon after, because he had no breakfast.

Q After the breakfast time, what time in the morning did you make the examination?

A Just a moment, sir. (Witness refers to notes).

Speaking of Leopold, Mr. Crowe? Were you speaking of Leopold?

Q Yes.

A Just a moment. On the 17th of June of this year at 11:45 A.M., daylight savings time, in Chicago, Leopold was given ninety-three grammes of glucose. He passed his urine before the sugar, at eleven o'clock emptied his bladder, and I can give you the minutes of all the other tests that we gave him, different things, and at what time we took specimens for blood or urine or what not if you wish.

Q Is it necessary, doctor, to know the relation between the nitrogen in the blood and the amount of

non-protein nitrogen in the blood before conclusions of any value can be drawn.

A It is not necessary. It used to be thought so. We do not think so any more.

Q You do attach considerable importance to the appearance of increased sugar in the blood and urine of Leopold after administering 100 grammes of glucose, do you not?

A Just to be exact, let me correct your figures. We planned to give him 100 grammes of glucose, which is the usual test, but when we considered the patient's body weight then we arranged the percent of glucose in relation to that, and then it was ninety-three grammes. But, to go on --

Q All right.

A We did attach considerable importance to the blood, sugar and the urinary sugar after giving him this glucose.

Q Can this effect be brought about by emotion?

A No.

Q It cannot. Is it not a fact that emotion results in mobilization of sugar in the body?

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A It does; some emotions do.

Q Might not this lower sugar tolerance, as you call it, be in fact an evidence of emotion?

A Not in this case, no.

Q Might it not be?

A No, not here.

Q What is neuro-circulatory asthenia?

A Sir?

Q Neuro-circulatory asthenia, what is it?

A What is neuro-circulatory asthenia?

Q Yes.

A It is a state of weakness of the heart and blood vessels in their nervous control; nervous control of the blood vessels and state of weakness in the sympathetic nerves which control the blood vessels, shown by an irritable heart causing a rather profound exhaustion on relatively slight efforts, and may be caused in some cases by over-strain such as that found frequently in the war. This thing was first worked out in the war by Lewis in England. The men had been in the trenches too long. But further summary since the war has led us to

is usually found in persons who are not in a normal state of physical health previous to the particular strain, and most frequently based on endocrine pathology. The best account of it is by Dr. Harlow Brooks, the leading physician in America, in the last issue in the Analysis of Clinical Medicine, which I have here if you wish to read it.

Q What is its significance, doctor?

A It is significant that in these persons with endocrine disease we find an inability to participate in severe strains, such as normal persons can participate in in emergencies, a tendency to faint, and there is a poor circulation of the brain as well as the rest of the body at these times.

Q Is that true of Leopold?

A Most of these persons with neuro-circulatory asthenia we find are failures in life in competition with others.

Q Is that true of Leopold?

A He is a failure in life, yes sir.

Q That was quite common among the soldiers during the war, was it not?

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Q Was it an evidence of mental disease in them?

A To this extent, yes. In these cases of neuro-circulatory asthenia we find predominately emotional instability.

Q How many thousands of soldiers, do you know, are affected in that manner in the American Army?

A I don't know. I would estimate about thirty thousand. May I refer to my notes?

Q All suffering from mental disease?

A I did not say that. I said emotional disorder.

Q Do you know it has been shown there is no connection with the disturbance in the functions of the thyroid gland?

A In what?

Q In this disease I am talking about?

A No, I know quite the contrary, that there is.

Q May it not be an evidence of prolonged emotion?

A Yes sir. I said it followed strain.

Q How do you estimate the blood pressure, doctor?

A By the blood pressure apparatus.

Q What method do you use?

A Compress the arteries in the upper arm and release the pressure, noticing when the pulse first comes through in the bend of the elbow. It registers on a machine which indicates the pressure in the bag at the time. When the pressure of the blood is the same as the pressure of the air in the bag, then the pulse begins to come through.

Q Do you use a stethoscope?

A Yes sir, almost always.

Q Which of the four tones did you use for determining the diastolic blood pressure?

A The last one.

Q Which one is that?

A The fourth one.

Q What is the effect of fatigue on the blood pressure?

A It usually lowers it, except in persons of hypertension, where it may accentuate it, but it usually lowers it.

Q What is the effect of emotional tension?

A What emotion?

Q The blood pressure.

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A What emotion?

Q What is the effect of any emotion?

A Some emotions elevate it and some lower it.

When you get angry your blood pressure goes up; when you are afraid, it goes down. What emotion have you in mind, sir?

Q Fear?

A Fear tends to lower it.

Q I think you stated that your knowledge of the endocrine gland function was based on what you had read and heard, didn't you?

A In part, yes sir.

Q Have you conducted any research or investigation yourself?

A Yes, I have done a good deal of investigation in endocrine pathology. None of it complete enough to publish.

Q You have published nothing?

A On endocrinology, no.

Q Whom do you regard as an authority on that in Chicago?

A I cannot answer your question. In America I

can, but not in Chicago.

Q Is there any authority on it in Chicago?

A There is no one man I recognize as superior to others in endocrinology here.

Q You recognize anybody in Chicago as superior to yourself on that?

A I have never made any such comparison.

Q You lay considerable stress on the baneful effect of Leopold's love of classifying?

A I did not phrase it just that way, but I put great stress on his classifying things.

Q His writing on birds dealt with a number of other subjects, did it not?

A I don't understand.

Q What did he write on birds?

A I have seen one, maybe more, reprint from scientific and lay journals on birds which he has written.

Q What about, did he classify the birds or write about them generally?

A I did not pay any attention to what he wrote. I was interested to see in what kind of journal he could write an article acceptable for publication.

Q Did you read the article?

A No.

Q Don't you think if you did read the article you might have gotten some insight into his mental condition?

A I might have, probably not, because I could not read it critically.

Q Wouldn't it have thrown some light on what he is interested in?

A I don't think reading the whole article would have thrown any light on that more than I understood he was good because able to publish articles in reputable journals on birds.

Q Did you read the title of it?

A Yes.

Q And you stopped there?

A No, I looked through the journal or I looked through the reprint, and noticed how recent it was.

Q What was the title of it?

A I am sure I don't know. It has escaped my memory, and I doubt if I have it in my notes, but I will look to see, sir. (Witness here refers to notes).

Well, I find ~~no~~ no reference here to it by name,

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but I see he published some and some of his class work at school, his course in English, one was a paper on birding for which he received an A.

Q Don't you think you would have gotten a better idea of the state of his mind by reading his writings than by examining his urine? What is your answer, doctor?

A I don't think a person's writings and urine are at all comparable.

Q Did all this pathology that you have described as regards Leopold ever lead him to consult a doctor prior to the murder?

A Yes, part of it.

Q What part?

A He had been under medical care considerably during his life. As a child, he was very frail and strictly dieted. His sicknesses were well attended medically.

Q What sicknesses did he have?

A His family would of course see to that and overlook nothing that was brought to their attention. He had chicken pox, measles and scarlet fever, during

all of which he was under medical care, and at these times the symptoms were exaggerated, symptoms we sometimes find in endocrine cases. He had several minor injuries. He ran a nail into his foot and was under medical care, something I have not previously mentioned because unimportant. He has worn glasses for headaches, which is a condition of pathology, and I would say he has been under medical care rather frequently in his life for pathological conditions within his body.

Q Are any of these endocrine disturbance?

A I said so.

Q Doctor, aren't they all infectious, isn't measles an infection, aren't they all infections with the exception of the eyestrain?

A No, at times he was treated for turbinate disease, and that was not infectious, for vaso-motor, blood vessel change.

The origin of scarlet fever is not known, but it is assumed to be infectious.

The same with measles. They have never isolated the organisms but whether they are infectious,

the interesting thing in this was that during these infectious diseases he showed complications we find in persons with an endocrine constitution.

Q Don't you believe that measles are infectious?

A I know they are contagious, and assume they are infectious.

Q Do you know?

A No, no one knows. We have never seen the organism.

Q If anybody did know, you would be the fellow?

A I don't know whether I would or you would.

Q You have talked about Leopold as following Loeb blindly?

A Yes.

Q Did he get anything out of the association other than the satisfaction of the desire to be a slave?

A Oh yes, a great deal.

Q And a great many other things?

A In the companionship of a highly intellectual man, he himself being a superior man intellectually in education.

Q You know about this childish compact, don't

A Yes.

Q That had something to do with Leopold following Loeb, didn't it?

A Yes.

Q Do you regard that compact as childish?

A Very definitely so.

Q Do you regard degeneracy as a childish trait?

A Not necessarily; it usually is a continuation of immaturity and may be regarded as childish, yes.

Q Now, Mrs. Loeb was not very sick during the pregnancy, was she?

A She had several acute infections during that pregnancy.

Q But she was not very sick, in your judgment?

A I don't know, that is a relative term, but I think a woman's condition with infections during pregnancy, that that is more important than other times of life.

Q Very sick is a relative term that you do not use in describing the patients here?

A I don't think I did, I may have.

Q Will you look at your report, speaking of Loeb's

mother, don't you state that she was not very sick?

THE WITNESS: Great Scott.

MR. CROWE: Q On page ??

A Yes.

Q Now, Richard Loeb was a perfect baby, wasn't he?

A So I was told.

Q And his brother, Tommy, was a premature child?

A So I was told, yes.

Q Do you regard Tommy as mentally sick?

A I have never seen Tommy.

MR. WALTERBACHRACH: I object to any inquiry about Tommy, as to his mental condition.

THE COURT: The doctor has answered.

MR. CROWE: Q You saw the governess when she was here, Miss Struthers?

A I saw Mrs. Bishop, yes.

Q You don't think she is mentally sick, do you?

A Well, it is very difficult to form a conclusion that could be verified in one interview, and the history of her in this case. I certainly was impressed with the fact that she was an unusual woman.

Q Unusual means abnormal, does it not?

A Often.

Q In her case did it mean abnormal? Answer that, please, without looking at your notes?

A I am not looking up an answer^{to} that question.

Q Well, will you answer the question?

A Yes and no.

Q Now, which is it, yes or no?

A This woman was unusual in her ideas of strictness to the child. She was unusual in her attitude toward the boy, continually regarding him as a child.

She was a woman of unusual intellectual attainments, too. I would not call that abnormal, she was above the average. She was, in my opinion, in error in her estimation of the boy.

She is abnormal to the extent that she will not take advice and her opinions are most firmly held, what opinions she may have. So to say that she is abnormal or not is difficult to state in a yes or no answer.

Q She denied any imperfections in herself?

A Absolutely, or in the boy, during the time he was under her care.

Q Dick was quite an actor, wasn't he?

A So I understand.

Q And being quite an actor would account for his liking to dress as an Indian and a cowboy and in costumes of that sort?

A Yes.

Q And for the look of intentness in the cowboy picture?

A I did not put very much emphasis on the cowboy picture. It was somewhat striking that he seemed to play the role with such a degree of intensity, yes.

Q And you knowing that he was able to act did not pay any attention to that?

A I did not say any attention, I said not much attention.

Q Not as much as Dr. White did?

A Apparently not.

Q Now, Dick, in the home, was quiet and affectionate, and extremely polite and respectful?

A Yes.

Q What does affectionate mean?

A It means he loved his father and mother.

Q And he showed he loved them?

A Well, so I was told, of course I never saw him at home. I mean by that just what I said, that

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he is affectionate at home in the ordinary sense.

Q He was impulsive?

A At times, yes.

Q Did he realize it?

A I imagine not. Few of us have much perspective on ourselves.

Q Now Dick used to plan a good deal, didn't he?

A Yes sir.

Q And worked out consistent schemes for the future?

A He certainly was a great planner.

Q And he worked out consistent schemes for the future, didn't he?

A He worked out many plans. I don't know how consistent they were.

Q If you don't, look at page 38 of your report.

A Yes sir.

Q Don't you state there, "While the patient (referring to Loeb) often acts without reflection and is quite impulsive, he nevertheless plans a great deal and works out consistent schemes for the future."

Q Now, Dick never felt that he wasn't wanted at his house, did he?

A He had a feeling that he was not popular with his brothers.

Q Well, he never contemplated running away?

A No. That is interesting, that he did not. Most children, when they feel unwelcome, do contemplate it. I suppose that is because of the racial training and obedience and respect to the parents, that he did not. That is my explanation of it.

Q Now, when Dr. Hoaly and Dr. Glueck on that said that he wanted to run away when he was a child, and they based some of their conclusions on that, they were mistaken, weren't they?

A I don't say so. I don't know what they brought out in their interviews with the boy. I am only aware of what Dr. Bowman and I or myself alone brought out.

Q He told you he did not want to run away, didn't he?

A That is what he told me.

Q And if he told them different, then he is lying

to somebody?

A Not necessarily. He may have referred to a different time.

Q Will you kindly turn to page 37 of your report.

A I have it.

Q Will you kindly turn to page 38 of your report.

A I have it.

Q No. 37?

A 37.

Q Yes sir, the last paragraph referring to Loeb.

"He is quite impulsive in things he does, and says he often regrets afterwards the way he has behaved."

A Yes.

Q That does not apply to this murder, though, does it?

A We were speaking here of his condition at home.

Q And that is limited to the things he does at home among his folks, and not the things he does to strangers or outsiders?

A I wouldn't say that. In this part of the interview we were talking about his youth and childhood and that was a characteristic of him at that time.

That is why I put it in here on page 37, if you wish.

Q Don't you say following that,

"This quality exists to such a degree that during the past year ^{or} two he has set himself definitely to alter himself in this respect"?

A Yes sir.

Q Now, the touch sensation on Loeb's legs is normal, isn't it?

A In our neurological examination we found one area in his legs which had a diminished discrimination to the sense of warmth, as I recall it.

Q In your testimony you said that there was a loss of touch and heat in his legs, did you not, in your testimony?

A No, not a definite loss; an impairment of his discrimination in this area.

Q Now, turn to 50 of your -- page 50.

A Yes sir.

Q Don't you say there that the pinpoint and light touch is normal?

A Yes.

Q Now is there any marked pathology in Loeb?

A Oh, yes.

Q Go ahead and tell us what it is. Can't you tell without looking at your report?

A I can tell it much better this way.

Q Well, try it without the report first.

THE WITNESS: (Addressing the Court) Must I?

THE COURT: No. I think you are questioning the doctor from the report and he has a right to refer to it.

THE WITNESS: A There is considerable pathology in Richard Loeb. The skin is the skin of an immature youth, so-called peaches and cream complexion, that we speak of in the text books; the teeth are abnormal in that he still has three of his deciduous teeth, milk teeth or baby teeth that have not matured; the hairy development is not very mature; there is an inguinal adenitis.

Q Isn't that due to gonorrhoea?

A It may be.

Q Isn't it in this case?

A I don't know. I didn't examine for the gonorrhoea.

I would have to examine afterwards to make comparison.

Q You knew he had gonorrhoea at fifteen?

A Yes, I know it.

Q Don't you think that was the cause of it?

A It may be. You asked me for pathology.

His blood pressure is not up to normal
it is 100 with a diastolic of 65.

He has a spasm of the ciliary muscle of
the eye.

He has tremors, sometimes apparently
three or four movements of the facial muscles; definite
tremors of the tongue; temporary injury to the
left knee. That is of no importance.

A slight defect in discrimination of
temperature in the posterior frontal aspects of the
inner middle third of both legs.

The heart is somewhat tubular in shape
and centrally placed.

The thyroid is not palpable.

He has dermatographia.

His basal metabolism is minus seventeen
percent, which is a very definite significant point
of pathology in this boy.

He has a moderate degree of anaemia.

He has a diminished alkali reserve.

His pulse is somewhat slow.

He fatigues.

His temperature is low.

THE COURT: Haven't you gentlemen got all that there in front of you?

MR. CROWE: Yes.

THE COURT: Just what the doctor is reading?

MR. CROWE: Yes.

THE COURT: He has read it before.

MR. CROWE: He insists upon reading it.

THE COURT: No, you asked him a question and he said he wished to refer to his notes to answer it. I don't care about the time, you can have all the time you want, but he has read it once, the whole report is in evidence and any question you wish to ask him on the report you may ask him, and if the doctor cannot answer without referring to his notes he may refer to them.

MR. CROWE: All right, I will ask him a question.

Q Now, doctor, there is considerable pathology

in Loeb?

A Yes sir.

Q And after you got all through in your report enumerating the various pathological things, you summed it up by saying, did you not, on page 51:

"Summary.

No marked pathology".

A That part on page 51 was part of the earliest part dictated and was done before some of the other tests had been done, which later tests were explained to the doctors when they came here.

Q In your report the other doctors read, your summary of his pathology reads as follows:

"Summary.

No marked pathology."

A That has reference to the physical examination.

Q Does it say that?

A It says it is in reference to the physical examination which was done on a certain date and does not have bearing on the rest of the examination.

Q This is the report that went to the other doctors?

A This is part of the report that went to the other doctors.

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Q Oh, did you give them something else?

A Yes, I told them what else we discovered since this part was dictated.

Q Did you give them a written report?

A No.

Q When he talked about kidnaping his brother, little Tommy, he was only joking, wasn't he?

A I find that question difficult in my mind. He said that he was only joking.

Q That is the only information you have got on it, is what he told you?

A But in his --

Q Isn't it, Doctor?

MR. WALTERBACHRACH: Let him answer the question.

A But in his discussion with me on the possibility of kidnaping young Tommy, he tried to make it facetious, but it seems to me I seemed to be impressed with the idea that there was some degree of sincerity in his contemplations along this line.

MR. CROWE: Q And the manner in which you described them in your -- no, strike that out.

The only information you got about his

about it?

A No.

Q He and Leopold?

A Yes.

Q And in your report you summed it up as follows, did you not, on page 101:

"The patient" --

that is Loeb, have you got it, doctor?

A Yes, next to the last line.

Q Yes. "The patient", meaning Loeb, "jokingly also suggested that they kidnap the patient's younger brother, aged ten. The patient did not seriously consider doing that."

And then turn to page 130, referring to the same matter, do you not say that he, referring to Loeb, described having in a joking way proposed to his associate that his younger brother Tommy be the victim and did he not say, according to your report,

"I could not have done it because I am tremendously fond of him".

Q Yes, he said that.

Q And you believed him, didn't you?

A Well, I believed that he was telling me what he thought. But my interpretation is not in exact accordance with that. He did contemplate kidnaping and murdering Tommy. He tries to apologize like so many persons do in an apology, by trying to make a half joke out of it. He said that:

"I could not really do it"

but the point of psychiatric importance is the fact that he did contemplate kidnaping his youngest brother, the one person in the world of whom he was probably the most fond.

MR. CROWE: Q What reason was there for wanting to put a rope around the neck of the victim and each pull it?

A Probably an equalization of guilt.

Q That is about the only reason, is it not?

A That was to cause death, in case he was not dead at the time.

Q Loeb did not get the real kick out of this crime that we have been told about, did he?

A I don't know what you have been told about.

Q I mean, by you doctors.

MR. WALTER BACHRACH I object to the question. It is assuming the entire testimony of all the other doctors who testified as to what they were told.

MR. CROWE: Q Well, what you said yourself.

A He was disappointed in the thrill or the kick that he got at this time, he told me.

Q And that disappointment did not begin following the crime, did it?

A I don't know just as to that.

Q Is it not a fact that for a week before it he began to lose any sense of pleasure in contemplating it, and he wanted to back out of it, getting afraid?

A Well, I accept that getting afraid. To a large extent your question is relevant. The psychiatric importance of that is that it is rather typical of these persons to do a great deal of contemplation and anticipation and to be awkward and incompetent in the execution of their various plans. This type prefers greater to the thinking of the doing.

Q Was Dick awkward in doing this?

A Well, I don't know what would be graceful.

Q Well, you use the explanation, didn't you, in

describing Dick's conduct, you said it was awkward, the manner in which he committed this crime, awkward.

A From his viewpoint, yes.

Q You stated on your direct examination that in describing the crime Loeb did not show any emotion, didn't you?

A I may have.

Q Well, did he show any emotion in describing the crime to you?

A Well, he said --

Q No, did he show any emotion?

A Yes, he showed emotion to the extent that he noticed the palpitation of the heart at that time.

Q What?

A That he noticed that his heart was beating faster at that time.

MR. WALTER BACHRACH: Are you having reference to the time he told him?

MR. CROWE: Q I am talking about the time he was relating the details of the crime to you.

A I beg your pardon.

Q Did he show any emotion then?

A That is a question. Dr. Bowman and I commented on that afterwards. I recall --

Q No, did he show any emotion when he was telling the details of the crime to you?

A I am trying to answer the question. It was not clear to us whether he showed emotion to us at that time. It seemed that in relating that to us he wiped his nose with his fingers, just such as I did, which might be interpreted as wiping away a nasal tear, or possibly had no emotional significance. I formed of the moment no definite impression, and Dr. Bowman didn't, either.

Q I don't care about Dr. Bowman. Just about yourself.

A Yes sir. I am not clear as to whether or not he showed any emotion at all at that time. If any, it was surprisingly slight.

Q Now, turn to page 107 of your report.

A Yes sir.

Q Being a description by Loeb of the crime, and turning to the page following that, where there is the statement that he makes, "We returned the car

to the agency at four thirty Thursday", and did you state at this point that he choked up and wiped his nose with his fingers?

A That is just the episode I was trying to describe to you.

Q Well, you left out the choked up part, didn't you, in your description?

A No, I am trying to leave out nothing. He did wipe his nose with his fingers, and it would seem, but not definitely, sharply, that he was emotional at that moment. If so, it was only for the moment.

Q Loeb is a very restless fellow, isn't he?

A Sometimes, yes sir.

Q But not all the time?

A No sir. He would even go to sleep in the examining room while I was talking to the other patient.

Q Well, a man who can go to sleep while a doctor is examining his companion's mental condition is not an extremely restless person, is he?

A Not at the time he is asleep, of course not.

Q Some of the lay witnesses have described him as extremely restless?

Q And nervous?

A Yes.

Q A person who could not sit down over two or three minutes, that he was always fidgety. You don't think he is quite that restless and nervous, do you?

A Well, he was not in jail.

Q And he is not in the court room here; he has not any difficulty sitting down for an hour or so at a time, has he?

A Apparently not.

Q Do you attach any importance as an expert to the fact that when he was fifteen years of age he used to run upstairs and sometimes take two steps at a time?

A Why did he run upstairs? Was he called or sent for something? Or what was it?

Q In going from one place to another, that is, in going to his room or his class he would run up the stairs and sometimes take two steps at a time.

Q The significance would all depend on the circumstances.

Q Did Loeb talk to you about his feeling towards

the Franks family after this murder?

A Loeb, you say?

Q Loeb, yes.

A I think so.

Q Well, as a matter of fact didn't Loeb tell you that it hurt him to talk to Mrs. Franks, it made him sad?

A I don't know whether he said sad or uncomfortable. I don't know he didn't want to. He had a negative, emotional tone toward that idea.

Q Well, turn to page 119.

A Yes sir.

Q Doesn't he say:

"What would make me sad would be to see Mrs. Franks in pain, but it doesn't make me sad to think about her or anybody else in pain. It is uncomfortable for me to see someone in pain?"

A yes sir.

Q Is that emotion?

A Well, it is awfully slight. Yes, it is emotional.

Q Don't you further say that he stated that:

"Although he had no feeling of remorse

"about the crime, he felt very, very sorry about it for his family's sake, because it might cause them distress"?

A Yes. That is in quotation marks, for this reason: his just saying he was very, very sorry was so superficially said -- well, you can compare it almost with saying:

"I am very, very sorry I dropped that fork off the table",

when you are invited out to dinner. There was no definite emotion in his bearing or conduct, which was the point we wanted to bring to the attention of the other physicians. There was a parrot-like phraseology of what he should say under the circumstances, and there was the discrepancy.

THE COURT: Five minutes recess, gentlemen.

Whereupon a short recess was here taken by Court and Counsel.

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in

Court reconvened pursuant to short
recess heretofore taken.

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D R. H. S. H U L B E R T,

a witness called on behalf of the Defendants, having
been previously sworn, resumed the stand for further
cross examination by Mr. Crowe and testified as follows:

MR. CROWE: Q Now, doctor, you do not think very
much of Loeb's judgment, do you?

A No sir.

Q Will you give me some illustrations of his lack
of judgment?

A Yes, sir. The greatest illustration is that he,
a boy with opportunities far higher than the average
boy in Chicago, would engage himself in a life which
was definitely doomed to destruction.

Q Well, that is the crime itself.

A Yes, that is the best example of defective judg-
ment that I can find in him.

Q Are there any other examples beyond the committing

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of this crime?

A Oh, yes, a great many.

Q Give them to us.

A His judgment in thinking that he was unwelcome at home when he was not.

Q That is when he was a boy?

A Yes.

Q That is quite common among boys of Eight or Nine, isn't it, to think that nobody loves them and they want to run away?

A Yes, it is rather common.

Q Did you ever run away as a boy, doctor?

A No, but I helped my brother do it. I did not myself.

Q Now give me another example of his lack of judgment.

A Why, his attitude toward his teacher or governess, Mrs. Bishop, showed immature judgment.

Q Now when did he have this governess, how old was he when she quit?

A When she quit he was Fourteen, a freshman in college, he had a governess till he was a freshman

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in college.

Q And he got her when?

A I think when he was six, I may be in error on that.

Q From six to fourteen you would expect a fellow to have the judgment of a boy of that age, wouldn't you?

A Certainly.

Q What else is there denoting lack of judgment on his part?

A Well, in relation to the consideration of a crime there certainly was defect of judgment when he would even entertain for more than an instant the thought of kidnaping and killing his father and younger brother. Very poor judgment.

Q Well, I am talking about other examples beyond the commission and the planning of this crime. You say there are a great many.

A Yes, a great many of them.

Q Give me some of them.

A Well, his judgment while at college, in trying to compete with other boys or young men who were fresh-

4x men, in their various activities, he being a boy of fourteen, and they being of an average age of eighteen or nineteen.

Q What did he want to compete with them in?

A He tried to compete with them in drinking and carousing.

Q Any person who drinks, then, whether he is young or old, shows a case of poor judgment, doesn't he?

A Scientifically, yes.

Q You don't regard it as a case of good judgment, do you?

A Unless it is medically prescribed, no.

Q No, what else?

A I think he showed poor judgment in his reading, in his extraneous reading.

Q Reading detective stories?

A Yes, sir.

Q That is quite common among y fellows, isn't it?

A No, it is in the minority very definitely, the reading with such avidity as he had of detective stories. I assume most boys that I have talked to pass through the phase of being interested in detective stories and deduction, crime, trials and so forth, but almost all

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from it in a few years, but in his case it persisted.

Q As a matter of fact, the average boy starts out, or he did when you or I were boys by reading Nick Carter and then they graduate into reading in Conan Doyle?

A And then they graduate out of the whole type of literature.

Q And the French detective stories?

A I don't know about those.

Q Is there any other instance you have of his poor judgment?

A He showed very poor judgment in -- well, in this particular instance he showed very poor judgment in planning to go to Ann Arbor ~~ka~~ and rob his own fraternity house. It isn't done.

Q If he wanted to get a typewriter to write these ransom letters on, that would be a part of the crime, wouldn't it?

A Well, I don't know if he did. But no, I am trying to keep away from the crime since you want me to. If you want to steal a typewriter there are certainly easier places, I imagine, than going to

Ann Arbor and robbing a fraternity house on the night of the football game.

Q Did he go up there for that express purpose, or did he go to see the football game?

A He went to Ann Arbor with his companion to rob one or two fraternity houses, planning to arrive late at night, so that no one would know that he was in town. I think they planned to arrive at three o'clock in the morning so as it was not to attend the football game.

Q Didn't he see the football game?

A No, I think not. I think he arrived there late at night. That is my impression.

Q That is only an impression?

A Well, I am testifying to my impressions, of course.

Q Now, is there anything else?

A I think it was very poor judgment to plan to cheat at cards, to plan with another fellow when both of them were well endowed financially.

Q Well, can you give us any example except criminalistic things?

A Yes sir, a great many.

Q Well, give those.

A I think he showed very poor judgment in selecting the courses he took at college. I think he showed very poor judgment in his evaluation of the various teachers and others that entered into his academic life.

Q What courses did he take?

A They are all in my report, I believe, but the major courses were history, -- and he said that he drifted through college following the line of least resistance and he said he had never studied hard, admitted he was intellectually lazy and he slid through with his studies with as little effort as possible. Now, that is poor judgment. Any man that wants to study law as he had planned to do should prepare himself as very best he can.

Q Now, General Grant, in his life of himself, states that when he went through West Point he spent most of his time reading Charlie Lever's novels and just slid through. Is that a case of poor judgment on Grant's part?

A It was.

MR. WALTER BACHRACH: I object to any investigation about General Grant.

THE COURT: He has answered.

MR. CROWE: Q Now, doctor, did you ever discuss with Loeb the proposition that if they were successful in concealing the body so it was never found and they got the first ten thousand dollars, whether they did not intend to come back and try to get a larger amount later on from Mr. Franks?

A I never discussed that with them.

Q Well, if that was their intention, to conceal the body in such a manner that it would never be found --

A Yes.

Q And after getting the first tenthousand, then come back to Franks to get some more money, a larger amount; then don't you think the ransom proposition would be important as the motive?

A Well, it was not important enough for them to tell me when we were discussing the crime, their motives.

Q It was not important enough for you to ask

them about, was it?

A Yes, I tried to ask everything which had any bearing on the crime.

Q Well, did you ask them about that?

A Yes, to this extent: that we asked them if the crime would be repeated, and he said no, he had plans of settling down and living the life of a gentleman or else possibly being a gentleman burglar. There was no mention made of any continuation of this crime. The opportunity to mention it was afforded.

Q Loeb at times would condemn his own conduct, wouldn't he?

A Yes sir.

Q Now, will you turn to page 131 of your report on Loeb?

A Yes.

Q Will you read to the court what you said about his pathology there?

A "He did not show any pathology except his low basal metabolism minus seventeen percent, which may be related to his relatively low sexual potency."

Q Now, doctor, go back to Leopold. You haven't a high regard for his judgment either, have you?

A No sir.

Q Independent of the matters and things --

A I might modify that. I have in academic matters.

Q In academic matters his judgment is very good?

A Yes.

Q And his judgment in connection with his crime of course is very bad?

A Yes.

Q Outside of the crime itself and the things which are intimately associated with the crime, that is the planning of it, will you give me some examples of Leopold's bad judgment?

A Yes, many. I think he showed very bad judgment in his selection of his acquaintances in life.

Q Whom have you got in mind?

A Loeb, for example.

Q I agree with you there. Who else?

A The group of men -- I cannot tell you their names -- with whom he ate at Ann Arbor. He said there was a group of seven or eight, a self-satisfied clique

that ate together, more or less exclusive from the others.

Well now, that is poor judgment, associating with them, a person develops in contact with normal persons and that was poor judgment.

Q What else would indicate poor judgment?

A Very ~~xxx~~ poor judgment/in his religious life, if we accept the average person as normal.

Q By that you mean his professed atheism?

A That is one result of it. His whole religious and philosophic life is full of examples of poor judgment.

Q Just confine yourself now to the atheist. He is in the same class as Voltaire and Bob Ingersoll and others.

A Oh, my no, because they were original thinkers and he is an echo.

Q Was Bob Ingersoll an original thinker or didn't he merely echo Tom Paine and Voltaire?

A I cannot give you any scientific opinion on that.

Q But you have one on Leopold. You stated that he merely echoes others.

original thoughts or didn't he echo what he had read of Paine and Voltaire?

MR. WALTERBACHRACH: We object. He has not examined Voltaire.

MR. CROWE: He says that as far as Leopold is concerned he had no original thought, that is, he must compare him with others and he has qualified himself as an expert.

MR. BACHRACH: Not on Voltaire.

MR. CROWE: Well, let us find out how much he knows about it.

MR. BACHRACH: I object to any inquiry about Voltaire.

THE COURT: If the doctor can answer --

A I said I could not answer scientifically. I, being the son of a Congregational Minister, would be brought up with a prejudice against men like Ingersoll, and I cannot give you a scientific discussion whether he was an echo of Tom Paine or anyone else.

Q Outside of his bad judgment in his religious views or lack of religion, what other examples are there?

A I think he showed poor judgment in being so exclusive while going through the elementary grades in school and not trying to form and maintain friend-

ships.

Q That was not his fault, was it? That was his parents' fault, sending him to a girls' school and having a governess take him back and forth.

A I did not say that that was a fault. I said it was poor judgment that he did not maintain friendships.

Q Was it his judgment or his parents' judgment that was responsible for that?

A For his going to a girls' school?

Q Yes.

A The family were very harmonious and they must have all concurred --

Q Do you think they consulted a boy six years old as to where they were going to send him?

A Certainly, I do. I think if they were going to send him to one school or another or one kindergarten or another, that he would be consulted.

Q Did Leopold pick out the girls' school or his parents?

A I imagine Mrs. Leopold did.

Q Then it was lack of judgment on her part and not on Leopold's?

A I didn't say it was poor judgment that he went

to Miss Spaid's school, I said it was poor judgment on his part not to maintain the friendships that he made at school.

Q What school, the Spaid school?

A Any schools that he attended.

Q Take the Spaid School of Girls. You would not want him to maintain all those friendships, would you?

A It would be natural for him to remain friendly with them --

Q Didn't he?

A He told me that as he went from grade to grade he dropped the acquaintanceships so that they did not ripen into friendships, and that I think showed poor judgment; we need friends.

Q When he was going ahead fast naturally he would begin to associate with different people all the time, wouldn't he?

A Yes.

Q And don't you think it would be better judgment to be on friendly terms with those that you are in daily contact with than to go back to the childish people you left behind?

A Not necessarily ; one can have any number of friends.

Q What else is there?

A I think he showed poor judgment in this instance; in his birding he came in contact with men, he being at that time a youth and these men were quite experienced in birding and they helped him very much and he had an opportunity to develop their semi-professional acquaintance into friendship. He had a chance to enrich his life by more knowledge of these men and he did not, he kept them outside his own personal life.

MR. CROWE: Q His time was pretty well occupied, was it not?

A He was everlastingly busy, yes.

Q A very busy man has not got the same opportunity to maintain friendships like a fellow who has considerable leisure on his hands?

A Oh, that is relative.

Q Is it poor judgment on his part that he turned his knowledge of ornithology into a practical line by having classes and making money out of it?

A No.

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Q That was a case of good judgment?

A Yes, if he made sufficient for his time and value.

Q Now, what else is there, doctor?

A Well, he showed poor judgment in the topics of conversation he indulged in most frequently with his associates and neighbors.

Q That goes back to his philosophy of life?

A Very largely, yes sir.

Q What else?

A He showed poor judgment in his petty delinquencies, which have been mentioned.

Q What else?

A I think he has shown very poor judgment since the arrest.

Q By that you mean he showed poor judgment when he confessed?

A Yes, from a self-sustaining viewpoint. I was not a party to that, but I mean in things which I know, but he has shown poor judgment in jail.

Q Give me an example of it.

A Oh, his reaction towards the photographers and newspapermen.

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Q What was that reaction?

A One of them --

Q You know, since he went to jail, he has not been quite as chummy with me as he was when I had him, so I don't know what he has been doing.

A I don't know what you mean, when you had him.

Q I mean for three or four days when he was showing poor judgment in confessing. Now, tell me some examples of poor judgment in jail.

A Oh, posing for flashlight pictures with such avidity, and things like that.

Q We have all done considerable posing during this trial, haven't we?

A Some desire to.

Q Would you consider that poor judgment on the part of those who did pose?

A Yes sir.

Q For pictures?

A Yes, if they desire to.

Q What else, doctor?

A I think he has shown elements of poor judgment in his relations with the psychiatrists who have

Q In what way, doctor?

A He has taken a supercilious attitude toward it all.

Q That is a conclusion. Now, tell us in what way?

A Sneering at the idea of the preparation of a sober scientific report on this case. That impressed me as poor judgment.

Q Well, the supercilious air that he assumed in that instance was that he thought ~~it~~ it was silly for you people to try to prove that he was insane, when as a matter of fact he was perfectly sane, isn't that true?

A No.

Q Well, was there anything else?

A I think he showed poor judgment for several years as shown by the marginal drawings on his notebooks, in that a man with the ability to develop himself intellectually should waste so much time in class idle.

Q Doctor, have you any other x-rays?

A Yes.

Q Would you mind letting us have those, too?

A The x-rays which I have are those which Dr. Eisen-

drath or some such man gave me. Not those which I took myself. The x-rays of his teeth. If you want those in evidence, I cannot qualify them legally.

Q No, not those, doctor. Have you any of your own?

A The x-rays are similar to those that we had here?

Q Yes. That you had taken in duplicate.

A In triplicate.

Q In triplicate, yes. Have you the others?

A No. One is on file with the Victor X-ray people, and the other on file with the National X-ray Laboratory, and I have the best copy for myself. I say the others, and they are all alike.

Q You say you have the best?

A Yes.

Q The others are not quite as good?

A Of course not.

Q They do not show certain things that this one does?

A They do, yes, but not quite so distinctly.

Q Will you get those during the noon recess for us?

A No sir.

Q We will return them.

A When they were taken they arranged with me that this

was to be their copy, and I was to get the best of the three.

Q Don't you think if you ask them to let you have them on a promise that we will return them, that they will let you have them?

A They might.

Q Well, will you do that at noon?

A Why, I am disinclined to, because you have the most clear copy. If you want to study pathology you don't take the poorest picture of the three.

MR. CROWE: Well, if the Court please, may I get a subpoena duces tecum? Now, you gave one to the --

THE COURT: Issue a citation for a subpoena duces tecum --

MR. CROWE: Well, we will make it out, if the Court please.

THE COURT: All right.

MR. CROWE: Q You gave one to the Victor -- is that right --

A Victor X-Ray Corporation. They are on --

Q Where are they located?

A On the near west side.

Q Do you know where?

A No.

Q And where is the other one?

A Dr. Blaine, 5 South Wabash.

Q Dr. Blaine, 5 South Wabash?

A Yes.

Q Now, are those the only x-rays that were taken of the two defendants by you?

A They were the only ones taken at that time, yes.

Q At any other time, by you?

A Yes.

Q They are the only ones?

A The only ones that I know of.

MR. CROWE: I think that is all.

REDIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q Do you regard it, doctor, as case of bad judgment for Leopold and Loeb to steal a typewriter from their fraternity house or from a fraternity house at Ann Arbor where the typewriter stolen was worth about \$50 and at that time Loeb had over Three Thousand Dollars in the bank?

A Yes.

MR. CROWE: Where is there any evidence as to how much money he had last fall, Mr. Bachrach?

MR. DARROW: I think our statements show it.

MR. BENJAMIN BACHRACH: Yes, our statements go back pretty far.

MR. CROWE: I understand they only go back to the first of January.

MR. WALTER BACHRACH: Let me modify it. Do you think it was a case of bad judgment for Loeb to steal a Fifty Dollar Corona typewriter from a fraternity, where he had facilities for getting such money for his needs, and with the allowance that he had back in last November, 1933?

2a A Yes, I do.

Q Now, do you consider it a case of bad judgment for Leopold and Loeb to throw bricks through the windshields of standing automobiles?

A Yes, very immature; very bad judgment.

Q Going back to the examinations which you made of Leopold and of Loeb in the jail, the questions that you asked these boys, were they of a leading or a non-leading character?

A I asked no leading questions if I could help it, and I think I asked none at all.

Q What was the purpose of your proceeding in that way?

A That is the best way to get the scientific facts, and that is all I wanted.

Q Were the examinations which you made of Leopold and Loeb in the county jail numerous and repeated?

A Yes, we saw them twelve times.

Q Did you have means due to the conditions under which the examinations took place and your psychiatric experience of determining the reliability of the facts

which you ascertained from your examination of those two boys?

A Yes, I was assured of the facts in practically every instance. I think Mr. Crowe brought out the only time there was any doubt, whether or not when he wiped his nose his nose was wet or wet with tears. In every other instance I am sure established the facts.

Q In connection with that incident did you have any doubt as to the shallowness of the emotional reaction to the situation?

A No doubts at all, because whether he had a tear or not his emotion at that time was pathologically shallow in proportion to the enormity of the thing he was discussing.

Q You state in your report on Loeb that he told a number of lies?

A Yes sir.

Q Were those lies of a tendency to mislead you in making a diagnosis of Loeb's mental condition?

A No sir, it lies in the tendency to repress things but not to mislead me.

Q And were they with respect to the withholding of information rather than an affirmative attempt to mislead you or otherwise?

A That was the nature of them, withholding.

Q Did you to a large extent ascertain during the course of your examination of Loeb the nature of that withheld information?

A To some extent.

Q The reports on Leopold and Loeb known as the Bowman-Hulbert Report and submitted to Drs. Healy, White and Glueck contain the statements that Loeb had lied during the course of the examination, do they not?

A Yes.

Q What was the purpose of putting that in the report?

A So the doctors would be aware of the same findings that we had; so that the doctors would know that the boys were not entirely frank, especially Loeb.

Q In arriving at the conclusions that you have with respect to Leopold and Loeb, did you take all

the statements that ~~you~~^{he} made to you at their face value?

A Oh no, I interpreted their statements.

Q The information that was withheld from you by Loeb related to other minor delinquencies, did it not?

A So I understand, yes sir.

Q And perversions?

A Yes sir.

Q Now, information in respect to such matters, if it had been disclosed to you, would have confirmed your conclusions rather than have altered them otherwise, isn't that correct?

A Why, of course, and I say that for this reason, that the things which we did bring out which the boys were reluctant to discuss further tended to confirm the opinion which was based on the material advanced, and I conclude that any further material still to be brought out would tend to confirm it still more. I found nothing ~~was~~ contradictory in this situation which they were reluctant to tell.

Q If information with respect to other minor delinquencies had been given you by Leopold and Loeb that was first withheld, how would that have changed

your conclusions, if at all?

A It would not have changed my conclusions unless this withheld material was absolutely foreign to anything else which I knew.

Q And the information which you subsequently discovered with respect to the perversions and the minor delinquencies, was not foreign?

A No.

Q Therefore, your statement now is what?

A More confirmed.

Q Mr. Crowe asked you some questions as to the number of sweethearts that Richard Loeb had, and asked you whether or not the number of them would not indicate a depth of emotion. I will ask you now to state whether or not the large number of sweethearts he had would not indicate a shallowness of emotion.

A It depends upon whether he had them all at one time. If he had many sweethearts all at one time, his emotions of course were shallow. The man who truly loves his sweetheart has no room in his heart for anyone else at that time.

MR. CROWE: Doctor, may I interrupt; are you

also an expert on love and love-making?

THE WITNESS: Only insofar as it has neuro-psychiatric importance.

MR. WALTER BACHRACH: Q You testified that you looked through the fleuroscope at Leopold and Loeb?

A Yes.

Q You subsequently looked at the films --

A Yes sir.

Q -- which have been offered in evidence here with respect to both boys?

A Yes.

Q Do you know whether or not the evidence of the calcification of the pineal gland in Leopole was put there by the impression of a thumb print?

A I know it was not.

Q Did you compare the films?

A Yes.

Q Which have been introduced in evidence here, with the other two films --

A Yes.

Q Which were taken?

A Yes.

Q Do all three films show the calcification of the pineal gland in Leopold?

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A Yes, they do. This one probably a little bit more distinct than the others and it is in the same place, the same direction, and the same configuration, and it is unmistakably from the same natural object in the boy's skull, and has no resemblance at all to a thumb print on a wet print, or any other bit of dishonesty.

Q Would the indistinctness of the pineal gland and its calcified condition in Leopold indicate -- I mean in the other two films now that we haven't here -- indicate in any way that Leopold has not got a calcified pineal gland?

A No, the indistinctness, relatively speaking, is due to the time of exposure. When one takes an x-ray of the skull one cannot in advance estimate the density of the bone and its resistance to the passage of the x-ray through it, so we usually take pictures of greater length or time of exposure and have the two at more or less distance from the man's skull.

In this case the tube was constantly fixed and the time of exposure varied in order to

get a clear picture.

Q Do the other two films that are not here show the reduced sella turcica in Leopold and its effect upon the pituitary gland?

A No, not its effect, but all three films show the sella turcica is relatively small compared with normal.

Q Was the sella turcica shown by the x-ray film offered in evidence here, as respect to Leopold, put there by the laying of a thumb print or a finger print?

A It was not. It was an untouched negative, properly taken and developed.

Q The negatives which have been introduced in evidence here, are correct, are they not?

A Absolutely. They are splendid pictures.

Q Now with respect to the Loeb and Leopold reports were they intended to contain every word that you ascertain from Loeb and Leopold in the course of your examination?

A They were not, and I am sure of that and for the reason that I suggested at one time that a public stenographer or court stenographer or what not

accompany us to the jail to take down the full dictation, and that was ruled out because it was not necessary. What was requested in this report was a psychiatric examination of these two boys to xxx save the time of those who would examine them later.

Q In your report, the Bowman-Hulbert report on Loeb and Leopold, you did not give your conclusions?

A No, they were left out.

Q Why?

A Because my conclusions have no interest to anyone else in consultation. What I imagined the men wanted, Dr. White, for example, were the findings, and let him draw his own conclusions from my findings and any supplementary findings he might make and after he had made his conclusions independently and I had made mine independently we might confer. That was the scientific way of doing it, and we did it that way.

Q Were you told by the lawyers for the defense to leave them out?

A I don't know whether I told them or they told me to leave them out.

Q. You purposely omitted them?

A. Certainly, they did not belong there.

Q. These reports were intended to be used by Dr. White, Dr. Healy and Dr. Glueck as a starting point in making their examination?

A. Yes.

Q. And they were to make their examination anew after they had seen those reports?

A. I don't understand you.

(Whereupon the question was here read by the reporter)

A. Yes, anything further than that they would find for themselves, they could take the report and examine themselves.

Q. It was not necessary for them to make a physical examination all over again?

A. Of course not.

Q. It was not necessary for them to make the endocrine examination all over again?

A. No, those were facts which could be established and were established.

Q. As far as the psychiatric examination they made

their own psychiatric examination?

A Wherever they thought the observations here were not complete or insufficient, not complete enough to satisfy them, they enlarged them and then drew their own psychiatric conclusions, yes sir.

Q Do you believe that it would have been possible for Leopold and Loeb to have deceived Dr. White, Dr. Healy and Dr. Glueck in the examination made by those doctors?

A Not in any pertinent matter, no.

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Q Will you give us your summary of the neuro-psychiatric factors that exist in Loeb?

MR. CROWE: That is objected to. It has already been gone over, and it is not redirect examination.

MR. WALTER BACHRACH: You have gone into that minutely on cross examination, and I merely want to bring it out for the purpose of enlightening the court.

THE COURT: Did you give it in your report?

THE WITNESS: In interrupted pieces.

THE COURT: Go ahead.

A A summary of the inner psychiatric findings in Richard Loeb based on my study is that he has endo-

ocrine disease which keeps him adolescent.

MR. WALTER BACHRACH: Q That is Leopold?

A No, Loeb, Richard Loeb -- keeps him adolescent, keeps him from participating in many activities, giving him too much time to indulge himself in reveries; that due to a fault in his training he became a liar to an abnormal extent; that his secret readings at too early an age planted in his mind morbid or criminalistic goals for a life ambition; that these goals were not replaced by normal goals because he did not come in close enough contact with many normal persons among his friends; that he is at the present time anaemic to a mild extent; that his contemplations or ponderings, reveries or phantasies, which have grown in his subconscious life have become dominant factors in his conscious life and activities; that he has a false estimate of himself and others; that he has periods of depression severe enough to be called unusual but not severe enough to cause him to try to suicide; that his sexual life has always been unsatisfactory to him and a very minor part of his whole

life; that his emotions are shallow, and his intellect well developed; his judgment is poor and that the delinquencies in which he has engaged, motivated by his subconscious life, have been the most important elements in life for him, and these delinquencies, including the Franks case, are the ultimate product of all the previously mentioned things.

THE COURT: We will now adjourn, gentlemen, until two o'clock this afternoon.

Whereupon an adjournment was here
taken to 2:00 o'clock P.M. Tuesday,
August 12th, 1924.

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Tuesday, August 12th, 1924.

2:00 O'Clock P.M.

Court reconvened at 3:00 O'Clock P.M.
Tuesday, August 12th, 1924, pursuant to
adjournment heretofore taken.

Present: Same as before.

MR. BENJAMIN C. BACHRACH: If your Honor please, when
we adjourned this noon the State was desirous of having
those films. In order to expedite matters we sent
Dr. Hulbert over to that place, and he will be a
few minutes late. We can put on another witness
in the meantime.

THE COURT: All right.

MR. DARR ; I can put on another witness meanwhile,
your Honor.

THE COURT: All right, Mr. Darrow.

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MRS. KATHERINE FITZGERALD,
a witness called on behalf of the Defendants, having
been first duly sworn, was examined in chief by Mr.
Darrow and testified as follows:

MR. DARROW: Q What is your name please?

A Mrs. Katherine Fitzgerald.

Q Where do you live?

A River Forest, Illinois.

Q What is your occupation?

A Secretary.

Q Secretary for whom?

A Mr. Albert Loeb.

Q And how long have you been secretary for Albert
Loeb?

A Fifteen years.

Q In that position do you have authority to sign
checks?

A I have.

Q You know Richard Loeb who sits here, don't you?

A I do.

Q How long have you known him?

A About the same length of time, fifteen years.

Q How long?

A About fifteen years.

Q Did you ever sign any checks for him?

A Yes sir.

Q Were you authorized to give him checks when he wished, when he asked for them?

A I was.

Q And have you done that from time to time?

A I have.

Q For how long?

A For about ten years, eight or ten years.

Q You did that without any special authority at the time from his father, that is, under a general authority?

A Under general authority.

Q Do you remember when you gave him the last check, the last time you gave him a check, about?

A I think it was in the month of March or April.

Q Last?

A Yes, in March.

Q Last March or April?

A Yes.

Q How much was it?

A Two hundred and fifty dollars.

Q How much was it?

A Two hundred and fifty dollars.

Q Was that cashed at once?

A The check?

Q Did that take the place of another check?

A No.

Q When did you give him one before that?

A In February.

Q How large a check was that?

A Two hundred and fifty dollars.

Q Do you know whether that was cashed immediately?

A Well --

Q I think you spoke to me about one that was lost.

A The March check was lost, but it was afterwards found.

Q How long was that cashed after it was given?

A About a month, it was cashed in April.

Q You have given him money at any time he asked for it for the last ten years or thereabouts?

A Yes.

CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q From the time he was nine years of age, any time he wanted any money you would give it to him?

A Yes.

Q Regardless of the amount?

A Well, if it was an unreasonable amount I would take it up with his father.

Q What do you term an unreasonable amount?

A I suppose if he asked for more than two hundred and fifty dollars I would take it up with his father, and ask him if it was all right.

Q As a matter of fact, his allowance was one hundred and twenty-five dollars a month?

A There was no specific amount.

Q Isn't that what you gave him, one hundred and twenty-five dollars?

A No, I did not say that, I said two hundred and fifty dollars.

Q A month?

A I gave him two hundred and fifty dollars each

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time he asked for it.

Q He would ask every two months -- in February?

A Yes.

Q And the next time you gave him a check was in April?

A In March.

Q Two hundred and fifty dollars in March?

A Yes, two hundred and fifty dollars in March.

Q Maybe that is one of the things that helped to spoil him, isn't it?

A I am not in a position to say.

MR. CRONE: That is all.

MR. DARROW: We will admit it.

(Witness excused).

J A C O B L O E B,

a witness called on behalf of the Defendants, having been first duly sworn, was examined in chief by Mr. Darrow and testified as follows:

MR. DARRON: Q What is your name?

A Jacob Loeb.

Q Where do you live, Mr. Loeb?

A 4860 Kimbark Avenue.

Q How long have you lived in Chicago?

A All my life.

Q You are a brother of Albert Loeb and an uncle of Dick?

A Yes.

Q Do you remember the time that Dick was arrested in this matter?

A I do.

Q Shortly after his confession appeared or about that time did you go to his room?

A I did.

Q And did you find anything in the way of bonds or --

A I found some bonds and a savings bank book in his desk.

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Q What bonds did you find?

A I found three.

Q What were they?

A There were two of the Victory Loan four and three-quarter percent with the coupons out off, but in the bank book, —

Q They had never been deposited?

A Never been deposited, and the bond has expired, expired May 20th, 1923. There are two of those. Do you want the numbers?

Q Well, you might give the numbers.

A 3700585 and 3700608.

Q And those are fifty dollar bonds?

A Fifty dollar bonds.

Q Are there any others?

A One more., Four and a quarter percent gold bonds expiring in 1928, number D-04436954.

Q What is the condition of the coupon on those?

A The coupons have been taken off except up to April 15, 1923.

Q None taken off since?

A No.

Q How many coupons do you say had not been deposited

on the others?

A Ten.

Q Ten? What is the oldest one?

A June 15, 1930.

Q And the rest are all the coupons subsequent to that date?

A Yes. I have not checked them over.

MR. DARROW: I do not think it is necessary to offer those in evidence.

MR. CROWE: That is satisfactory.

MR. DARROW: That is all. You may cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q You are the uncle of -- well,
that is all.

(WITNESS EXCUSED).

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A L L A N M. L O E B,

a witness called on behalf of the Defendants, having been first duly sworn, was examined in chief by Mr. Darrow and testified as follows:

MR. DARROW: Q Give us your name please?

A Allan M. Loeb.

Q Wheredo you live?

A I live at present with my uncle at 4860 Kimbark Avenue.

Q Previous to that you had been living in Washington?

A Seattle, Washington, yes sir.

Q How longhad you lived there?

A About eight months.

Q What was your business there?

A I was manager of the Sears, Roebuck & Company branch at Seattle, Washington.

Q You came after the arrest of Dick, your brother?

A Yes.

Q What was your business before you went to Washington?

A I was with Sears, Roebuck & Company, Chicago.

Q Do you recall the letter of Miss Struthers' that

was introduced with Dr. Healy's evidence?

A I do.

Q And did you give it to him?

A I gave it to Dr. Healy.

Q You are familiar with Miss Struthers' writing?

A Yes sir.

Q And that was her writing?

A That was her writing.

MR. DARROW: We somehow do not find that letter.

MR. CROWE: It is possible that we have it down in our box, and after adjournment we will make a search for it.

MR. DARROW: All right.

MR. CROWE: My impression was that I gave it back, although it is possible I gave it to Mr. Savage and he --

THE COURT: It has been read into the record?

MR. CROWE: Yes.

MR. DARROW: It has been read into the record, yes.

MR. CROWE: We will make a search for it after adjournment. There is no dispute about it. I either gave it to Walter Bachrach or Bill Savage. Neither

one of them have any recollection of it, however.

THE COURT: All right.

MR. DARROW: Q Did you also find a letter written by Nathan Leopold, Jr. to Dick?

A I did.

Q And that was the one that Dr. Healy introduced in evidence?

A That Dr. Healy read?

Q Yes.

A I don't remember whether he read it. I gave him that letter that was read in the record.

Q Well, it was read in court?

A Yes.

Q Do you remember the date of it? 1934, was it, or 1923?

A No, I don't remember the date of it. I think it was possibly '23.

MR. CROWE: I think it was in October --

MR. WALTER BACHRACH: October 10, 1923.

THE WITNESS: 1923.

MR. DARROW: Q October 10, 1923?

A Yes sir.

Q And that was found in Dick's belongings after he was --

A With a bunch of letters which were in his desk, yes sir.

Q You delivered it to Mr. Healy, Dr. Healy?

A Yes sir.

MR. DARROW: Now, I guess we are in the same shape on that.

MR. CROWE: Yes. Well, we have a copy of that, and it has been read into the record, and we will make a search for it.

MR. DARROW: So the identification goes just the same.

MR. CROWE: Yes. We will make no point on it.

MR. DARROW: I think that is all.

MR. CROWE: That is all.

MR. DARROW: I might ask him just one more question. You might as well stand here.

Q There was a picture introduced in evidence of Miss Struthers with Dick, the other day. Do you remember that picture?

A I do.

Q That has been marked for identification. Did you take that picture yourself?

A I took that picture myself.

MR. DARROW: That is all.

MR. CROWE: That is all.

(Witness excused)

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FOREMAN N. LEOPOLD,

a witness called on behalf of the Defendants, having been first duly sworn, was examined in chief by Mr. B. C. Bachrach, and testified as follows:

MR. B. C. BACHRACH: Q You may state your name please?

A Foreman N. Leopold.

Q Where do you live?

A 4754 Greenwood Avenue.

Q You are a brother of the defendant, Nathan F. Leopold, Jr.?

A I am.

Q How old are you?

A Twenty-nine years.

Q How old is Nathan Leopold?

A He will be twenty next November.

Q Do you remember any incidents during the life of your brother, Nathan F. Leopold, Jr. when he was about five years of age. Yes or no to that, please?

A Yes.

Q I call your attention to the word "churches".

Does that refresh your recollection about any partic-

ular acts on his part?

A Yes.

Q State what he did if anything with reference to churches.

A He was at that time extremely interested in seeing all the churches in the neighborhood, in knowing their names and knowing all about them, all that he could learn, what particular sect it belonged to, how long it had been there, the names of the various churches, and all he could learn about them. He saw all those in the neighborhood, and also wanted to see as many as he could by driving in automobiles in the vicinity.

Q Did his interest attach to the outside of the church?

A Yes.

Q State whether or not he displayed any memory of the location of those churches after he had seen them?

A Displayed an extremely good memory with regard to the location of these churches. He could tell where each one was, the name of it and all about it.

Q State whether or not churches were frequent subjects of conversations with him?

A They were very frequent.

Q And the family?

A They were very frequent subjects of conversations with him.

Q Tell us, Mr. Leopold, what the practice was between your father and Nathan F. Leopold, Jr. in the way of spending money after he became fifteen or sixteen years of age?

A Since that time he has been receiving an allowance of one hundred and twenty-five dollars a month. In addition to that he received money whenever he wanted to take a trip or do anything which required an extra expenditure of money. That was not included in his regular allowance. He paid no board, paid for no clothes, so that that amount of one hundred and twenty-five dollars a month was simply for his personal expenditures.

Q What about his board, was he required to pay board?

A No.

Q Did he have to pay any money out for his laundry?

A No.

Q Toilet articles?

A No.

Q Clothing?

A Nothing like that.

Q School books?

A School books were paid for by my father.

Q Now, state whether or not he had a machine of his own?

A He did.

Q An automobile?

A An automobile.

Q Supplied by whom?

A Supplied by my father.

Q And it was not necessary for him to invest any of his own money in the purchase of that machine, was it?

A No.

Q Who took care of the upkeep of that machine?

A My father paid for it.

Q Paid for it?

A Yes.

Q And was he obliged to spend any money of his own

toward the upkeep of it in the way of gasoline, oil and so forth?

A No.

Q How about his tuition at college or school or university?

A Paid for by my father, outside of his, Nathan's, allowance.

Q During this present year, in the early part of the year were you present at any conversation between Nathan F. Leopold, Jr. and your father regarding a trip by Nathan Leopold, Jr. to Europe this summer?

A I was present at several conversations.

Q At any of those conversations state whether or not there was anything said about the amount of money to be given him, if any, upon that trip, what it was.

A He had estimated approximately what the trip would cost.

Q What did he say?

A He said in the neighborhood of three thousand

dollars.

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Q What did your father say, if anything?

A He said he would give him three thousand dollars with which to make the trip.

Q Was the passage engaged on that trip?

A It was.

Q How long was the trip to last?

A He was to leave Chicago, I believe, on the 9th or 10th of June, approximately. I don't know the exact date, returning the very early part of October or end of September.

Q Do you know what became of the tickets for his transportation on the boat to Europe?

A They have been returned.

Q Did you see them up in my office?

A Yes.

Q Have you any recollection of any activities on the part of your brother, Nathan F. Leopold, with reference to collections?

A Ever since he has been five years old he has had one sort of collection or another. He had a collection of stamps, a collection of coins, a collection of bugs, a collection of butterflies, and a collection of birds for the past few years, eight or nine years.

Q You have heard the collection of birds in connection with his ornithological work described here in the court room, is that description substantially correct?

A That is substantially correct.

Q And have you a judgment as to approximately the number of specimens in that collection?

A My judgment would be between fifteen hundred and two thousand specimens.

Q ~~Did~~ ^{Did} you see a letter purporting to be written by Nathan F. Leopold, Jr., dated October 10th, 1923, to Richard A. Loeb?

A I did.

Q Did you see it here in the court room?

A I saw it handled here in the court room. I did not see it closely.

Q Was that the same letter that you had seen outside the courtroom?

A As far as I know.

Q Are you familiar with the handwriting of your brother, Nathan F. Leopold?

MR. CROWE: We will admit it.

MR. B. C. BACHRACH: You may take the witness.

MR. CROWE: That is all.

(No cross examination and witness
excused).

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L E O N A R D T U C K E R,

a witness called on behalf of the Defendants, having been first duly sworn, was examined in chief by Mr. Darrow, and testified as follows:

MR. DARROW: Q What is your name?

A Leonard Tucker.

Q Where do you live?

A 4917 Cottage Grove.

Q What is your business?

A Chauffeur.

Q For whom?

A Mr. A. H. Loeb.

Q Albert H. Loeb?

A Yes.

Q How long have you been chauffeur for Albert H. Loeb?

A I started to work for him the 27th day of August, 1914 and quit in 1918 and went back to work again in 1920 and am still working there, eight years altogether.

Q You drive around Chicago a good deal?

A Yes.

Q And outside?

A Yes, and outside.

Q Are you familiar with the streets, the route that was shown by the confession in this case passed over by Nathan Leopold, Jr. and Richard Loeb?

A I am.

Q At the time of the kidnaping of the Franks boy?

A Yes.

Q Have you been over it recently?

A Yes, some time since the thing happened. I have been over it once since the thing happened.

Q Did anybody go with you?

A Yes, Mr. Bachrach, Mr. Allen Roeb and yourself.

Q Do you remember the first street that the boys drove on?

A Ellis Avenue.

Q How far on Ellis Avenue?

A From 48th to 50th.

Q What kind of a street is that as to whether it is well built up?

A Yes, it is well built up and very much traveled.

Q And is that the street that the boys followed?

A Yes.

Q You passed by the house of Albert Loeb?

A Within less than half a block.

Q And the street that Franks lived on is the same street?

A On the same street, a block away.

Q And he passed within a half a block of that, too?

A No, it was a block.

Q A block?

A Yes.

Q From that what street did they take?

A They went on 50th street to Dorchester Avenue.

Q How is that street built up?

A Very much; just the same. Houses on each side.

Q Houses on both sides?

A Yes sir.

Q Traveled, is it?

A Yes sir, quite a bit.

Q And from Dorchester Avenue and 50th, where did they go?

A Went south to the Midway.

Q South to the Midway?

A Yes sir.

Q That would be about ten blocks?

A Eleven blocks.

Q Eleven blocks?

A Yes sir.

Q How is that street?

A Built up on both sides very much, in fact,
all the way.

Q How is it traveled?

A Very much.

Q Now, going on the Midway, what was the route taken?

A They went east on the Midway and through Jackson
Park to Jeffery Avenue.

Q Is that a regular driveway to Jackson Park,
and along the midway?

A Yes sir.

Q How is the travel through there?

A Heavy traffic all the time.

Q Do you know of any place on the south side except
ing downtown with the same amount of traffic there
is through the Midway?

A No, I don't, outside of the boulevards, Grand
or Michigan.

Q A constant stream of vehicles all the time?

A All the time, yes sir.

Q Now, from Jeffery Avenue, where?

A Right south to 92nd Street.

Q What is the character of that street?

A It is built up nearly all the way.

Q How is the travel?

A Very much; it is a through street.

Q At 92nd street you come to South Chicago? do you not?

A Yes sir.

Q How far did they travel in South Chicago, about?

A They went east on 92nd, right through the business section of South Chicago, to Ewing Avenue.

Q What is that, a busy section too?

A Partly, and resident.

Q A business section on 92nd and Ewing Avenue, which is built up solid, isn't it?

A Yes sir.

Q Do you know about how much distance they traveled through this solidly built business section?

A

I don't know the exact distance, no sir.

Q What would be your estimate of it?

A Do you mean from Jeffery to Ewing Avenue?

Q Yes.

A Two or three miles.

Q How far?

A Two or three miles, I should say.

Q And this is built up the same as the business section of Chicago?

A Yes sir.

Q Except a different kind of buildings?

A Yes.

Q And going out of South Chicago, where did they go to?

A On Ewing Avenue to 106th Street.

Q What kind of a street is that?

A It is a car track built up on either side.

Q How is it for traffic of automobiles?

A There is a lot of traffic there all the time. It is the principal street for the Indiana route.

Q And that is about 106th Street?

A Yes.

Q Where, from there?

A They went west to -- or east to Indianapolis Avenue.

Q And where did they go on Indianapolis Avenue?

A They went to just east of Robey Street, and then they turned south on a road that led into some kind of a factory or malt works.

Q Now, Indianapolis Avenue, is that a regular thoroughfare?

A Yes sir, a street car track.

Q And is it an ordinary street for that traffic, automobiles?

A Yes sir.

Q And a large amount of traffic between here, Chicago and Indiana?

A Yes sir, all the time.

Q Then when you got down to Robey, where they went into --

A A malt ~~is~~ factory, or something.

Q Toward the railroad track?

A Yes sir.

Q Then there was very little settlement?

A Very little there.

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Q For how far?

A I should say about two miles.

MR. DARROW: That is all.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q Do you know how you could get from Ellis Avenue and 49th Street to South Chicago without passing through a well built up neighborhood?

A 49th and --

Q And Ellis.

MR. DARROW: Where these people started. I suppose you don't mind that.

THE WITNESS: No, not until you get to the Midway, and then you could go by Stony Island --

MR. CROWE: Q You could not get from the Criminal Court building out to your house without passing through a well built up district?

A No.

Q And you could not get from this spot where these boys picked up the young Franks boy, out to the culvert, without passing some houses and through some business districts?

A No.

MR. CROWE: That is all.

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D R. H. S. H U L B E R T.

a witness called on behalf of the Defendants, having been previously sworn, resumed the stand and testified as follows:

REDIRECT EXAMINATION
(Continued)

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q Doctor, will you please give us a summary of the neuro-psychiatric factors in Nathan Leopold, Jr. in relation to the Franks crime?

A Yes sir.

MR. CROWE: I object; that has already been done.

MR. WALTER BACHRACH: I merely covered the Loeb situation this morning, and I am now addressing myself to the Leopold situation.

THE COURT: If it is already in, there is no necessity of its going in again.

MR. WALTER BACHRACH: Not in this form, if the Court please. It went in in a desultory or broken manner with interruptions, and I want to get it in as a unit.

THE COURT: Allright, you may go ahead, doctor.

THE WITNESS: The neuro-psychiatric finding in the case of Nathan Leopold which have a relation to the Franko crime are the condition of his health, based on his mother's health before he was born, and the family history of Bright's Disease; his precocious mental development; his physical frailty as a child, giving him too much time to contemplate those things which he did contemplate or ponder upon, they modifying his life more than the actual activities he indulged in; his garbled introduction into religion and his confused thoughts on religious matters, building up a belief for himself which was not able to guide him successfully through life; his precocious education and mental development all out of proportion to his judgment based on experiences or his natural emotional ability; his seclusiveness and lack of friends; his very narrow love life; the domination of his revery of phantasy; his endocrine constitution at the present time which is obviously abnormal and for which he is in no way responsible, but which does furnish the

basis for his intellectual life and modifies it to a certain extent; in fact, he is intellectually precocious and emotionally deficient; his associations especially with the other boy toward whom he had no critical judgment; these things, only a few of which, if any, were under his voluntary control -- these things caused his contribution towards this triple tragedy.

Q Did you during the noon recess go to the place where the duplicate films, the x-ray films were?

A I did, and met there Police Sergeant Mahan, and we went together.

Q At what place, what is the name of the place?

A Victor X-ray Corporation, 236 South Robey Street, Chicago.

Q At whose direction did you go there?

A At the direction of the State's Attorney and Mr. Bachrach.

Q And were those films brought down to the courtroom here?

A I saw Mr. Darnell there, who went over his files, and said he had duplicate films of his

chest and head, but not of the extremities, and he gave them to me, and I brought them here in an envelope which has not since been opened.

Q Will you let me have those films?

A From there we went to 5 Wabash Avenue, and got the films which had been in the National Pathological Laboratory.

Q Will you take these films and examine them and point out to us the film showing the calcified pineal gland in Nathan Leopold, Jr.?

A I recognize this film by the same number, although it has not been in my possession continuously, and because it has the identification mark that was on the other, and in this film which Dr. Darnell gave me you see the small sella-turcica --

Q Will you please speak louder so we can all hear you?

A On this I see the same small sella-turcica and the same calcified pineal shadow that we saw on the other.

Q Are those matters that you have now described evident in both copies which have been brought here

since the noon recess?

A These are the films from the National Laboratory, National Pathological Laboratory.

THE WITNESS: A very much larger cup or sella turcica on the same calcified pineal shadow, yes sir.

MR. WALTER BACHRACH: Q Are the evidences of a calcified pineal gland --

A Just a moment, please sir. I promised to return these and I wanted to mark them. The others are marked with Dr. Darnell's initials.

THE COURT: The doctor says those are marked by himself and the others by Dr. Darnell's initials.

MR. WALTER BACHRACH: Q Are the evidences of the calcified pineal gland and the sella turcica on these films which you have just referred to marks of finger prints?

A They are not.

Q Are they correct reproductions of the similar conditions of the same conditions existing in the head of Nathan Leopold, Jr.?

A They are.

MR. WALTER BACHRACH: We offer these films in

evidence and ask that they be marked Exhibit 1 and the following numbers as of this date. Please mark these, Mr. Stenographer. Mark the envelopes.

THE WITNESS: It does not show the wrist. Just the head and thorax.

MR. CROWE: You want these back?

THE WITNESS: Yes, please. I promised them back.

MR. CROWE: You have no objection to my keeping them tonight?

THE WITNESS: Not at all, sir.

(Whereupon said envelopes were marked Defendants' Exhibit 1 and Defendants' Exhibit 2, August 12, 1934).

MR. WALTER BACHRACH: That is all.

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RECROSS EXAMINATION

BY MR. OROWE.

MR. OROWE: Q Doctor, on cross examination you said that when you looked through the fluoroscope you could not see this gland.

A No, one cannot see it through the fluoroscope.

Q That is correct, is it not?

A That is correct. At least I didn't see it through the fluoroscope.

Q So from what you saw through the fluoroscope you don't know whether the gland was there, whether it was calcified or not?

A Just to this extent, that through the fluoroscope I identified more obvious findings --

Q I am talking about the gland.

MR. WALTER BACHRACH: He is answering.

MR. OROWE: Q If you could see it. You did not see the gland, did you?

A No.

Q So from what you saw you could not say whether the gland was there or not or whether it was calcified or not?

A Not through the fluoroscope alone.

Q Not at all through the fluoroscope, isn't that correct?

A You cannot see the pineal gland through the fluoroscope.

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Q At all?

A I did not see it at all.

MR. CROWE: If your honor please, under the supreme court decision, in order to avoid putting the experts on, the witness has to testify what he saw through the fluoroscope.

THE COURT: He did tell us.

MR. CROWE: Exactly what he sees in the picture.

THE COURT: He told us what he saw through the fluoroscope.

MR. CROWE: And he has told us what he did not see.

THE COURT: We are only interested in what he did see.

MR. CROWE: Q Did Nathan Leopold, Jr. or Richard Loeb tell you about breaking windows in automobiles?

A Yes.

Q You have not anything in your notes about that?

A Yes, in my report.

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Q Have you?

A I think so.

Q When did they do this?

A I think they have been doing that for a year
or so.

Q Where did they get the bricks?

A They didn't tell me.

Q And you didn't ask them?

A No, sir.

Q You don't think they picked up any in the park?

A I don't know whether they did, doctor -- Mr. Crowe,
excuse me.

Q And the only authority you have for that statement
is the word of the two defendants.

A Yes, they mentioned it repeatedly.

Q But that is your only authority, their word?

A Yes.

MR. CROWE: I think that is all, doctor.

(Witness Excused)

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The reports, known as the Bowman-Hulbert Reports, which were offered and received in evidence on the Direct Examination of the foregoing witness, Doctor Harold S. Hulbert (the Loeb Report being marked "Defendants' Exhibit 3, Aug. 8/24" and the Leopold Report "Defendants' Exhibit 4, Aug. 8/24") are in the words and figures as follows, to-wit:

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MR. B. C. BACHRACH: The defense rests, your
Honor.

THE COURT: The defense rests.

WHEREUPON THE DEFENDANTS HERE RESTED
THEIR CASE IN CHIEF.

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WHEREUPON THE PEOPLE TO FURTHER MAINTAIN
THE ISSUES ON THEIR PART, INTRODUCED
THE FURTHER FOLLOWING EVIDENCE IN REBUTTAL,
TO-WIT:

L A W R E N C E C U N E O,

a witness recalled on behalf of the People, in rebuttal,
having been previously sworn, was examined in chief
by Mr. Crowe, and testified as follows:

Q You are the same la o heretofore sworn in
this cause?

A Yes.

Q You are employed in the state's attorney's office?

A I am.

Q Were you present in the Hotel I e on the
preceding Decoration Day of this year in the evening
the state's attorney of this county told the deaf
Richard Loeb that the glasses f . the body of
Franks boy the property of his friend Nathan Leopold, Jr.?

A I was.

Q What, if anything, did you notice in the o t of

6a Richard Loeb immediately after he was told that?

A Why, his face lost color and he gave a violent start and after slight hesitation he said it was not possible they could be his glasses, and he was terribly agitated.

Q Were you present in the state's attorney's office around 13 o'clock midnight the following day when the state's attorney told Richard Loeb that not only were the glasses found near the body of young Franks, the glasses of Leopold, but also told him that the chauffeur had said that the red car had been in the garage all that afternoon until around 10:30?

A I was.

Q And also told him about the portable typewriter. What if anything did you observe in his actions at that time?

A He was agitated. We had to get him a glass of water to give him to speak. His throat seemed closed.

MR. WALTER BACHRACH: I ask to strike that out.

THE COURT: Let him say what he saw.

THE WITNESS: I saw his hands shake and his face lose color and he leaned back in the chair and slid

7a a little bit. Those the things I saw. And
I saw someone fetch him a glass of water.

MR. CROWE: Q Did you hear him say anything?

A Just "My God."

MR. CROWE: That is all.

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CROSS EXAMINATION

BY MR. DARRON.

MR. DARRON: Q What day of the week was it you were in the LaSalle?

A Thursday.

Q Do you know when he was taken into custody?

A I got there at about Three o'clock in the afternoon, between two and three.

Q What day was he taken into custody?

A That same day.

Q When was it that you were in Judge Crowe's office?

A The following day, Friday.

Q What time of day?

A All day from 9 o'clock in the morning.

Q Were you with him through the night, Thursday night?

A No, not Thursday night.

MR. DARRON: That is all.

MR. CROWD: That is all.

(Witness excused)

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THOMAS O'MALLEY,
 a witness called on behalf of the prosecution, in
 rebuttal, was first duly sworn and testified as
 follows:

DIRECT EXAMINATION

BY MR. GROWE.

MR. GROWE: Q State your name please?

A Thomas O'Malley.

Q You are sergeant of police and have charge of
the police in the state's attorney's office?

A Yes.

Q Directing your attention to Saturday morning round--
well, I don't know -- 10 o'clock, 9 or 10 day o'clock,
were you out at the little lunch room on Wabash avenue,
I think the number is 1352.

A I was.

Q Harish's?

A I was.

Q Was Richard Loeb there?

A He was.

Q And Leopold?

10m

Q And a number of police officers and the state's attorney and some of his assistants?

A Yes.

Q That is Saturday, May 31st, I believe of this year.

A Yes, about 10 o'clock.

Q What if anything did you see Loeb do at that time and place.

A Loeb fainted and fell down on the floor.

Q And then what happened to him?

A You ordered me to take him out to the machine and take him to the Windermere Hotel, and give him rest and something to eat.

Q And you did that?

A I did that.

11a

CROSS EXAMINATION

BY MR. DARRON.

MR. DARRON: Q What of day was it?

A I should judge about ten o'clock in the morning,
May 21st, this year.

Q And he fell down to the floor?

A Yes.

Q He was not acting, was he?

MR. CROWE: I didn't get that.

A He fainted and fell on the floor and I picked
him up.

MR. DARRON: That is all.

MR. CROWE: That is all.

(Witness excused)

- - - -

E. W. P U T K A M M E R

a witness recalled on behalf of the prosecution, in rebuttal, was first duly sworn and testified as follows:

DIRECT EXAMINATION

BY MR. CRONE.

MR. CRONE: Q You are the same E. W. Puttkammer who heretofore testified in this case and you have been sworn?

A I am.

Q You are a professor of criminal law in Chicago University?

A Yes.

Q During the past year the defendant, Nathan Leopold, Jr., was in your criminal law class?

A From the beginning of February on, yes.

Q How often did you see him weekly?

A During February and the first half of March, two hours a week, and during the spring quarter, which begins the very last part of March and lasts until the end of the academic year, four times a week.

Q And did you know him prior to that?

13a

Q Will you tell the court now just how he acted in your presence with reference to his speech and actions generally?

A I regarded him as one of the best students in the original law class, a very able student, very intelligent, and outside of the fact that he was more intelligent I suppose than the average, I did not regard him as in any way different from the general run of students. That would be the only peculiarity that occurs to me.

Q The only way in which he differed from other students is he was a little bit smarter than most of them?

A That is true.

MR. DARRON: Wait a moment. I object to that. Well, let it go, but it is repetition.

MR. CROWE: Q Did you hear him argue at different times?

A I did, yes.

Q What would you say as to his judgment?

MR. DARRON: I object to that. You had better find out how many times he heard him and the circumstances.

MR. CROWE: Q How many times did you hear him argue

in the class?

A It would be rather difficult to answer that but I should say --

MR. CROWE: Is Dr. Inibert here?

MR. WALTER BACHRACH: No, he has gone.

THE WITNESS: A As near as I can recall it would be once or twice at least every time we met.

MR. CROWE: Q And what is your opinion as to his judgment?

MR. BENJAMIN BACHRACH: We object, if the court please. That is not a matter on which you can ask a lay witness to give an opinion. I understand the rule is that they can give an opinion on mental condition as to being normal or abnormal in a case where insanity is in issue, whether they believe he is sane or insane, but that does not run to every faculty of the mind.

THE COURT: Well, Mr. Crowe is asking his judgment.

MR. CROWE: His opinion as to his judgment.

THE COURT: Generally?

MR. CROWE: Generally. Who is better able to judge, to tell whether a man's judgment is good or not than an

15m

intelligent person who associates with him?

THE COURT: His judgment might not be good on some matters but might be excellent on law and this man knows about law and can tell us along that line.

MR. CROWE: What do you think about his judgment in matters of law, in reference to his studies, etc.?

A He always seemed to me to have the ability to gather up all the threads of the argument and bring a logical conclusion out of them. Now, I suppose that that would amount to saying that his judgment as to those facts was good. I could count on him for a sensible answer.

MR. DAWSON: Wait a minute. Haven't you answered that?

THE WITNESS: I don't know whether it is the same thing.

MR. CROWE: You may cross examine.

16a

CROSS EXAMINATION

BY MR. DARROW.

MR. DARROW: Q He was in your class?

A Yes, sir.

Q How many other people?

A We have our criminal law class divided into two sections. I suppose your question is as to how many in each section?

Q Yes.

A He was at first a member of a smaller section, in which I think there were about forty. Later on, in a larger section, about 55, as near as I can recall.

Q How long was he in the smaller section?

A Until, I think, about the middle of April, but I may be wrong there. I am not very positive.

Q Did you ever see him or talk with him outside of the class?

A Occasionally in the hall, in the law school.

Q How many times?

A I couldn't say how many times.

Q Did you ever have any arguments with him in the hall that you now recall?

17a

A Yes, I think I did.

Q What about?

A About the ~~six~~ points we had been discussing in the class.

Q Was your main association with him in the class?

A Yes, it was.

Q How long did those classes last?

A Fifty-five minutes, more or less.

Q I suppose you did most of the talking, didn't you?

A No, I should not say so.

Q Give a lecture every time, wouldn't you?

A No. Our system is not the lecture system. It is a discussion of problems.

Q Would different members of the class talk?

A Yes.

Q You talk some?

A I do.

Q That was how many classes a week, four?

A Beg pardon?

Q How many classes did you say a week?

A Two a week first, and then four afterwards.

MR. DARROW: That is all.

MR. GROVE: That is all.

18m

MR. B.O. BACHRACH: One moment.

MR. DARROW: Q Your talk and discussion was mainly related to the law?

A It was.

Q You being a teacher and he being a student?

A Yes, sir.

Q And he being a good student and you -- well, you might not believe I meant it, but you were the teacher, anyway?

A I was the teacher.

MR. DANDON: That is all.

MR. CROWE: That is all.

THE COURT: We will take a recess for five minutes, gentlemen.

Whereupon a short recess was here taken by Court and Counsel.

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12

Court reconvened pursuant to short recess
heretofore taken.

LEON MANDOLL,

a witness recalled on behalf of the prosecution, in
retreat, having been previously sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. CROWE.

MR. CROWE: Q You are the same Leon Mandoll who has
heretofore testified in this cause?

A Yes, sir.

Q You have been sworn?

A Yes, sir.

Q How long have you known the defendant, Richard
Loeb?

A Since November, 1923.

Q And you have known him socially?

A Yes, sir.

Q Played cards with him?

A Yes, sir.

Q Been to dances that he was at?

2a

A No, sir.

Q Had lunch with him?

A No, sir.

Q Dined with him at any time?

A Yes, sir.

Q How many times did you dine with him?

A About two or three times.

Q And met him on a number of other occasions?

A Yes, sir.

Q Did you ever notice anything peculiar in him?

A No, sir.

Q Did he always strike you as a normal boy?

A Yes, sir.

Q How long have you known Nathan Leopold, Jr.?

A I have known him his name for quite some time, some eight or nine years; I knew him when he was eight or ten years old, but I have not seen him up to November, 1923, for a period of --

Q You and he got to be pretty well acquainted in the fall of 1923, didn't you?

A Yes, sir.

Q And contemplated at one time doing some

3a

A Yes, sir.

Q You have been out with him to social affairs?

A Yes, sir.

Q Played cards with him?

A Yes, sir.

Q You went to a football game down into the country with him, didn't you?

A Yes, sir.

Q How long were you away on that occasion with him?

A From Friday until Sunday evening.

Q Did you ever notice anything peculiar about him that set him apart from other boys?

A Only that he was very, very bright and intelligent; his mentality I thought was above that of other boys.

MR. GROVE: Q Outside of that his actions were the same as other boys?

A Yes, sir.

Q When he went around with that he was normal.

A Yes, sir.

MR. GROVE: Grove examine.

- - - -

4a

CROSS EXAMINATION

BY MR. DARROW.

Q You never went to school with him, did you?

A No, sir.

Q Anybody else with you when you went down in the country?

A Yes, sir.

Q How many?

A Three other fellows.

Q What were you doing? Camping?

A No, we went down to see a football game.

Q Where did you go?

A Iowa City.

Q Well, you were at the football game most of the time?

A Yes, sir.

Q He understood the football game all right?

A Yes, sir.

Q Ever talk with him about his philosophy?

A Yes, sir.

Q Notice anything out of the ordinary about that?

A He was very pronounced in his individualistic

philosophy.

5m

Q You heard him talk of a superman?

A Yes.

Q And about a superman not owing any duties to anyone else?

A Yes, sir.

Q And Nietzsche?

A Yes, sir.

Q Did you think his ideas were unusual?

A Not so much unusual for the ideas as for the emphasis which he placed on them.

Q He always placed great emphasis on them, didn't he?

A Yes.

Q Did you ever see any other boy in your life that did any such things?

XX

A Yes, sir.

Q Who?

A A student at Cornell University.

Q On the same doctrine?

A Very much the same, yes.

Q The Nietzschean doctrine?

A Yes.

(TO BE INSERTED)

HERE FOLLOWS TESTIMONY OF

DR. PATRICK.

D.R. HUGH T. PATRICK,

a witness called on behalf of the People, in rebuttal, having been first duly sworn, was examined in chief by Mr. Sbarbaro and testified as follows:

MR. SBARBARO: Q Will you state your name, please?

A Hugh T. Patrick.

Q Where do you reside?

A Chicago.

Q Where is your office?

A 25 East Washington Street.

Q What is your profession?

A Physician.

Q In the practice of your profession do you limit yourself to a specialty?

A Nervous and mental diseases.

Q Is that your specialty?

A It is.

Q How long has that been your specialty?

A That depends a little on how you take it. I began to specialize in the way of preparing myself in 1891. Since 1894 my practice has been limited.

Q Perhaps you can give it by this answer. What

has been your preparation and experience?

A I graduated in medicine at the Bellevue Hospital, medical college in New York City in 1884. Then served as interne at Randall's Island Hospital of New York City for a year and a half, and then vacation for a few months and read law, and came to Chicago in January, 1886, opened an office in February, and I have been in Chicago ever since except when I have been abroad studying.

Then I was in general practice here from February, 1886 until the summer or fall of 1891. Then I went abroad with the idea of preparing myself in nervous and mental diseases, and was over there for about three years, working first at Heidelberg with the leading professors on internal medicine, pathology, histology, nervous diseases and so on. That winter I went to Frankfort to do laboratory work, for two months, with Weigert and Edinger, and then to Vienna for the rest of that year, which carried me up to about the first of July, working there in Obersteiner's laboratory, doing clinical work with Krafft-Weisinger-Weithnagel and others, then about the end of August of that year I went to Berlin

and stayed there about a year, working with the principal neurologists there, taking first the vacation courses and then working through the academic year in different laboratories and clinics, hospitals and dispensaries and so on, on nervous and mental diseases, and then until the first of July, and from there I went to Paris and spent the rest of the summer learning French. Then early in the fall I went to Nancy to study hypnotism with Bernheim, and then back to Paris, and I worked principally at the Salpêtrière, until the following spring, and then to London for three or four months, working mostly at the National Hospital for the Paralyzed and Epileptic with Hughlings Jackson, Sir William Gowers, Sir Victor Horsley and Dr. Ferrier, later "Sir" but he was not "Sir" then, he has acquired that title since that time, and I worked with Sir Victor Horsley in his laboratory doing some research work on the nervous system, and then I came to Chicago and tried to make a living.

Q What medical societies and associations are you connected with?

A Perhaps I should add to that, however, in preparation then I have been back such over that same ground abroad four different times for period of about five months each time.

I went back in 1889 and then I think 1906, 1912 and 1913, and again about the first of January -- no, it was before that, at any rate five months in 1922 and 1923. I did not work all of that time on this trip, but I took a month off to see Italy.

Q Will you state, doctor, what medical societies and associations you are connected with or have been connected with?

A Oh, I have been president of the American Neurological Association, and I have twice been president of the Chicago Neurological Society; president of the Mississippi Valley Medical Association, and I am a member of the Neurological Society of Paris -- you don't want that in French, do you -- I am a member of the Chicago Pathological, of the American Medical Association, the Chicago Medical Society, Illinois State and Medical Society, Physicians Club, Society

of Internal Medicine -- I don't know of any more --
I don't remember.

Q Will you state what medical schools you are affiliated with or have been affiliated with, and what capacity you served?

A Oh, I have been connected with the Chicago Polyclinic, which is a post graduate institution since its foundation in about -- well, it was about 1886. I worked in different departments there, largely internal medicine, until the Department of Nervous Diseases was started, and then I worked in that until I went abroad, and then I have been connected with it ever since. I am the head of the department of nervous and mental diseases there and have been for a long time.

About 1894 I became connected with the Northwestern University Medical School, first as assistant professor then clinical professor and now for I think ten or eleven years I have been emeritus professor of nervous and mental diseases. I do not do any more active work having been honorably retired on account of senility.

Q Any other institutions, doctor,

A I have been -- I am attending neurologist or consulting neurologist for several hospitals.

I don't think it is necessary to enumerate them, three or four.

Q Will you tell what experience you had in the army in connection with the treatment of mental and nervous diseases, examinations?

A Not very much treatment. As soon as we were into the war I began to examine men right away in the local boards here and then I became a contract surgeon. A contract surgeon is not really in the army, although he wears a uniform and has to salute and be saluted. At any rate, as contract surgeon I examined I don't know how many but many thousand of ~~xxxxxx~~ recruits in the different camps.

I went first to Ft. Benjamin Harrison at Indianapolis and was there two or three different times.

I was at Camp Zachary Taylor at Louisville, Camp Custer in Michigan, Camp Shelby in Mississippi, and then after the cessation of the war

I worked for a time in a hospital in Massachusetts where we treated soldiers with nervous and mental disease.

Then after that when I came back from there I worked out at Fort Sheridan on nervous and mental cases, mostly nervous injuries.

Q Were you present in the office of the State's Attorney on Sunday, June 1st, 1924, at the request of the State's Attorney?

A Yes.

Q Will you state if you recall who were present?

A There were present the State's Attorney, yourself, Mr. Savage, I think Mr. Smith and there were some officers of detectives whose names I do not know were present, there were two stenographers and I was there and soon after I went in Mr. Leopold, Jr. was brought in and almost immediately after, his father, but the older Leopold did not stay very long. He left and then later Mr. Loeb was brought in. Then there were present, not from the beginning when I was there but during the time immediately succeeding there were Dr. Church and Dr. Krohn and then Dr.

Vasenor, chemist, --

Q By Leopold, Jr. you mean Nathan Leopold, Jr., and by Mr. Loeb you mean Richard Loeb, the defendants in this case?

A Yes.

Q Will you state an observation or examination you made at that time of the defendants Richard Loeb and Nathan Leopold, Jr.?

A I observed these gentlemen and listened to their conversation practically all that afternoon. I think this began about two o'clock.

After the elder Mr. Leopold left, I got into conversation with Nathan Leopold -- is it Nathan Leopold, Jr. -- and we had quite a conversation largely about psychology of birds and the relation of the psychology of birds and other animals to human beings, the relation of instinct to reason.

Mr. Leopold told me about a paper he had written on the psychology of birds based on the observation of some gulls and their change in migration routes, and that sort of thing. We talked about, I should think, perhaps fifteen or twenty

minutes, twenty minutes probably, and then Dr. Krohn came in and he took up the conversation with Leopold and I listened.

Dr. Vassner came in and had something to say, not very much, but it was a discussion of things of scientific interest largely.

Then after, I presume I had been there thirty or forty minutes, Mr. Loeb came in and he was asked to tell the story of this crime from the beginning, which he did, with a few interruptions, some interruptions from Mr. Leopold several times, but the State's Attorney requested him to reserve his objections or criticisms until after the story was finished, and then he would have an opportunity, which he was given, and he corrected some of the statements of Mr. Loeb so that there was quite a discussion of the event and the preparation and commission of this crime.

Then there were some questions asked of these young men by the State's Attorney and by the physicians.

During this time the young men had some-

thing to eat, they had a lunch. Mr. Loeb had a little table and Mr. Leopold was not given a table, and one of the police officers handed him a very cumbersome sandwich -- I don't know how thick it was, but it was a very unhandy thing to eat while held in the hand, and Mr. Loeb evidenced some little embarrassment how to handle this grub --

Q You mean Leopold?

A Did I say Loeb, yes, Mr. Leopold, and nobody seemed to notice his little embarrassment with this thing, and I asked him if he would not like to change seats with me, as I was sitting next to a filing case which would serve very well as a table. He thanked me very pleasantly and we made the exchange.

Then afterwards I wanted a drink of water. The fact of the matter is that all this recital had made me a little dry in the mouth and there was not any glass in sight. The two young gentlemen had all the available drinking vessels, and I asked Mr. Leopold if I might have one of his glasses and he very pleasantly gave it to me.

MR. DARROW: Doctor, could I get you to please speak a little louder?

THE WITNESS: Oh yes sir.

MR. DARROW: If you will do so, we will all be able to get you.

THE WITNESS: I beg your pardon, sir.

MR. DARROW: That is all right, if you will.

THE WITNESS: He gave me his glass very pleasantly, and I took a drink of water and then I asked him if he would have the drink, and he said he would. I filled the glass at the water cooler and returned it to him and he received it very politely and pleasantly. That was simply an episode that went on.

Well now, if you want most of the details that I recall, I will go ahead and give them to you.

After Mr. Leopold had finished his lunch, he had about half a glass of water and he took a small bottle from his pocket and dropped some fluid, drop by drop, into this glass of water. That looked rather interesting to the doctors, and the State's Attorney stated to us that that was aromatic

spirits of ammonia and asked Mr. Leopold if that wasn't it, and he said it was. He drank that.

After this colloquy in the State's Attorney's office we all went down into the jail yard, I think it was, in order to inspect the car which was supposed to be the car the gentlemen used in this affair, and Mr. Leopold identified it. Mr. Loeb said he didn't know if it was the same car, it looked like it, it was that kind of a car, but he couldn't tell if it was the same car. Mr. Leopold walked around it from the lefthand side of the car, around the rear to the righthand side and said, presently,

"Yes, this is the car, I know it by these scratches on the front door."

Then after being down there a little while these two young gentlemen, and some of the rest of us, went back to the State's Attorney's office, and they were requested to strip which they promptly did, and Dr. Krohn and I made a rather brief physical examination; we looked them over to see that there were no defects. There were no signs of bruises or any

injury.

We took the pulse.

I think I listened to the heart. I am not perfectly certain about that.

That is all.

MR. SBARBARO: Q The reflexes?

A Yes.

Q Have you an opinion, from the observation and examination~~s~~ detailed, as to whether the defendant, Richard Loeb, was suffering from any mental disease at that time?

A Yes.

Q What is that opinion?

A My opinion is that he showed no evidence of mental disease. Can you hear, Mr. Darrow?

MR. DARRON: I can hear now, doctor.

MR. SBARBARO: Q Will you state your reasons for that opinion, doctor?

A The reasons for that opinion are these: that unless we assume that every man who commits a deliberate, cold-blooded, planned murder, must, by that fact, be mentally diseased. There was

no evidence of any mental disease, in any of this communication or in any of the statements the boys made regarding it, or their earlier experiences; there was nothing in the examination; there were no mental obliquities or peculiarities shown, except their lack of appreciation of the enormity of the deed which they had committed.

Q Now, doctor, have you an opinion, from the observation and examination as detailed, as to whether the defendant, Nathan Leopold, Jr., was suffering from any mental disease at that time?

A Yes, I have an opinion.

Q What is that opinion?

A My opinion is that there was no evidence of mental disease.

Q And your reasons for that opinion?

A Well, the reasons are just as I have stated.

Q Now, doctor, assume a hypothetical person, who, on examination, disclosed the facts and circumstances that you have given, from your examination of Richard Loeb, and add thereto, these other facts that have been testified to here; that he is immature in his sexual development; that he still has three

baby or deciduous teeth; that the growth of hair on the body is scanty; that he only requires to shave twice or three times a week; that he has had several fainting spells during his life; that he has tremors of the hands and the tongue, and enlarged inguinal glands; that he also has dermatographia; and that his basal metabolism when examined on one day averages minus seventeen percent. Have you an opinion whether such an individual was suffering from any mental disease on May 21st, 1924?

MR. B. C. BACHRACH: I object.

THE COURT: Why?

MR. B. C. BACHRACH: I object on the ground that they have included in the hypothetical question at least about one-fiftieth of the evidence, not more than that.

MR. SEBARARO: He has taken this from the doctors.

MR. CROME: The defense have a right to add any other details they wish in their cross examination.

THE COURT: He may answer.

THE WITNESS: What was the end of that question, have I an opinion?

MR. SBARBARO: Q Have you an opinion whether such an individual was suffering from any mental disease on May 31st, 1924?

A Could I have a little more information or detail on those fainting fits he suffered, whether there was any convulsion with them, how often they occurred, and so on?

MR. SBARBARO: Q Well, it has been stated here, doctor, that after having several drinks, being drunk, he would faint, and on another occasion just before he was about to be initiated into a fraternity he fainted. During that initiation it appears that he was jumped on by eight or ten boys and fainted from the physical effects of the rough treatment. No convulsions of any kind.

MR. B. C. BACHRACH: I object, if the Court please. The evidence here shows that on one occasion he had fainting spells, frothed at the mouth and became rigid on several occasions, had glassy eyes.

MR. CROWE: That was at the Chicago Beach Hotel, if the Court please, on New Year's Eve, after twelve o'clock in the morning, when he was drunk, and

the man who was with him testified he vomited and after getting through with his vomit he wanted to lick a couple of waiters. At that time he thought he had passed out on account of being so drunk. You might add that to your hypothetical question as to the faint.

MR. B. C. BAHRACH: I would like to have it added also, if your Honor please, before that question is put, if it is put at all, objecting to it in the form it is now, that the evidence here shows he had an automobile accident, and that immediately thereafter there are evidences he fainted five times in a short time after that accident, and that the injuries there did not seem adequate for anything of that sort.

MR. CROWE: And that the doctor testified that in his opinion, who attended him at that time, the fainting was the result of the accident he had just suffered.

THE COURT: It is fair to assume you will not be through with Dr. Patrick at four o'clock?

MR. SBARBARO: You sir.

THECOURT: Dr. Patrick would be better satisfied, I know, if that hypothetical question was in good form.

We will suspend until tomorrow morning at ten thirty. By that time you will have your hypothetical ~~xxx~~ question with all the elements in it, so that the doctor will not be confused.

Whereupon an adjournment was here taken to 10:30 o'clock A.M. Wednesday, August 13th, 1924.

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Wednesday, August 13th, 1924.

10:30 o'clock A.M.

Court convened at 10:30 o'clock A.M.

Wednesday, August 13th, 1924, pursuant to adjournment heretofore taken.

Present, same as before.

D R. H U G H T. P A T R I C K,

resumed the stand as a witness on behalf of the prosecution, having been previously sworn, was examined and testified as follows:

DIRECT EXAMINATION
(Continued)
BY MR. SBARBARO.

MR. SBARBARO: Q You are the same Dr. Patrick who was sworn and testified here yesterday in this cause now on hearing?

A Yes.

Q Now, doctor, assume a hypothetical person who on examination disclosed the facts and circumstances that you have gained from your examination of Richard

Loeb; and add thereto these other facts that have been testified to here:

That he is immature in his sexual development;

That he still has three baby teeth;

That the growth of hair on the body is scanty, and he only requires to shave twice or three times a week;

That he has had several fainting spells during his life and that he has tremors of the hands and tongue and enlarged inguinal glands;

And that he also has dermatographia, and that his basal metabolism, when examined on one day, averaged minus seventeen percent.

Have you an opinion whether such an individual was suffering from any mental disease on May 21st, 1924?

A Yes.

Q What is that opinion, doctor?

A I would answer that the same as I did yesterday, that I see no evidence of any mental disorder.

Q Can you give your reasons, doctor?

A The reasons are that there is nothing in my

observation nor in these added data to indicate that there was any mental disorder at all, aside from the commission of the crime.

MR. DARROW: Aside from what, did you say? Pardon me?

A Aside from the commission of the crime. I stated yesterday, Mr. Darrow, that I saw no evidence of any mental disorder at all, unless one is to assume that the commission of a crime of this character, under these circumstances, was in itself to be assumed as evidence of mental disorder.

MR. SBARBARO: Now, Doctor, add these further facts:

That he has high or average intelligence for a college graduate; that he has been observed to be nervous and restless at various times, this being indicated by facial twitching, and slight stammering, his speech being rapid and jerky; that he smokes cigarettes in a curious jerky way, drawing deep breaths; that he frequently changes the topic of conversation; that he picks out the pin-points in arguments; and that he runs up and down stairs, taking two or three steps at a time;

Assume further that he has shown marked criminalistic tendencies, which began with lying when he was quite young, and grew to include larceny, burglary, arson, drunkenness, and cheating at cards;

Assume further that in his inner mental life he is stated to have had phantasies in which he would lie and preface his lie by saying "And now, 'Teddy'", as if talking to a Teddy-bear; of seeing himself in jail undergoing tortures and being exhibited to crowds, which caused a feeling of pleasure rather than pain;

That he phantasied himself as a cowboy or frontiersman, as a leader of a gang of criminals, committing a perfect crime;

And that in relation to some of these phantasies he has attempted to act them out by shadowing people on the streets, making signs with his hands as he walked a long, as if he were signaling to his gang concerning which houses should be robbed and which should be left alone;

Assume further, doctor, that he has been in the habit of reading detective stories and of

acting out some of the stories.

Assuming these additional facts, have you an opinion as to whether this hypothetical person had a mental disease on May 21, 1924?

A Yes.

Q What is that opinion?

A The same opinion.

Q Give it?

A That I see in this no additional evidence of mental disease.

Q Give your reasons again for this opinion?

A The reasons are these, that on my own examination and observation of this gentleman I did not see any evidence of mental disorder at all, and these added things would not change that opinion. In other words, I think that these things which you have added as a hypothetical question are not at all to my mind conclusive evidence of a diseased mind.

Q Assume further that the following were true of this hypothetical person; that having confessed to the commission of a homicide and kidnaping, he showed a lack of emotion in describing the crime; that he has at various times different swings of mood, occa-

sionally becoming depressed and thinking of suicide; that though he was graduated from the university at the age of eighteen, he had shown a lack of ambition and steady purpose during his life; that at the time of your examination he was eighteen, going on nineteen years of age. Have you an opinion as to whether this hypothetical person had a mental disease on May 21st, 1924?

A Yes.

Q What is that opinion?

A The same opinion as before.

Q Express it again for the purpose of the record.

A My opinion is that these data submitted regarding this hypothetical person are not at all sufficient upon which to base an assumption of mental disease.

Q You have read the so-called Bowman-Hulbert report as to the various examinations of Richard Loeb which is in evidence here.

A Yes.

Q Assume further that the facts stated in this Bowman-Hulbert report with reference to Richard Loeb are true in connection with this same hypothetical

person I have asked you about. Have you an opinion as to whether the hypothetical person was suffering from a mental disease on May 21st, 1924?

A Yes.

Q State your opinion?

A The same opinion.

Q Express again your reasons for it

A The reason is I did not find anything in that report regarding Mr. Loeb which would lead me to a diagnosis of a diseased mind or mental disease.

Q Assume further that this same hypothetical person is said to be or is inclined to be a leader of his gang: Would this in any way change your opinion as to his mental condition, or would you say that he can adjust himself very easily to any situation?

A I should think that would be a statement tending to show that he was normal in those respects.

Q Assume further that this same hypothetical person stated himself to be impulsive; what would you say this showed?

A I don't think I got that.

Q He said that he said himself to be impulsive.

A I think that is the statement in the report,

Mr. Sbarbaro; the statement in the report is that he set himself to correct his impulsiveness.

Q He set himself to correct his impulsiveness?

A Yes.

Q That is correct. What would you say as to this statement, doctor?

A Well, I think it showed in the first place that he recognized his impulsiveness, which would be a very intelligent and normal reaction to this emotional action which is the impulsiveness, and second, that he recognized that this impulsiveness was an undesirable quality and, third, that he had the good sense to set himself to correct it.

Q It is also stated, doctor, that this same hypothetical person was sensitive and at times depressed. Would this in any way convince you that these are abnormal or emotional reactions?

A I should say those were the perfectly normal reactions that everybody has now and then. I suppose we are all more or less sensitive, especially on some subjects, and I suppose everybody at times is more or less depressed. Those are attributes

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that belong to normal people.

Q In other words, doctor, these are in no sense abnormal emotional reactions?

A No, they are just the contrary.

Q It has also been testified to here, doctor, that this same hypothetical person has been recognized to have lied at times. Do you know whether or not it can be ascertained how many times he lied to them, and when it could have been recognized?

A That does not sound reasonable to me. If they recognized that sometimes he lied, I do not know how they can be certain that sometimes he did not lie when they did not recognize it. I don't know that that is particularly a thing for a psychiatrist to decide; that appears to be common sense.

Q It has also been testified, doctor, that this same hypothetical person has had phantasies, and that those phantasies nearly always were indulged in after he went to bed and before he went to sleep, this being a period of about half an hour. What would you say as to the effect?

A Why, I think that is a highly normal procedure.

I know that is when I have my phantasies, generally, after I go to bed and before I go to sleep, and I apprehend there isn't anybody with an active mind that does not have phantasies now and then relating to the things he is interested in. I cannot conceive that a man who is planning to be a lawyer would not have phantasies regarding entering the law, and regarding the practice of law.

It is well known that golfers have phantasies. after they go to bed, and play, of course, very much better than they as a matter of fact do. In other words, these phantasies that people have or day dreams, or air castles, or castles in Spain, are more ordinary terms for that sort of thing, are exactly what everybody indulges in now and then, and these things naturally take the line of the mental attitude of the individual.

If a man has artistic tendencies or ambitions, naturally his day dreams go along the line of artistic enjoyment, artistic attainment. If his trend is along scientific lines then he may have tendencies regarding making scientific discoveries

or making a name for himself as a scientist.

It is a highly normal procedure. Some people, of course, indulge in it more than others, and it is possible for that to reach an abnormal degree like any other mental process; but this thing of having phantasies for thirty minutes before going to sleep is -- well, I do not want to cast any reflections on anybody that says that is pathological, but it seems to me to be essentially a normal procedure.

MR. SBARBARO: Q It is stated, doctor, of this same hypothetical person, that he had extreme interest in planning crimes. Would you attach any significance or importance to that?

A Very great ~~is~~ significance. It shows he had a criminalistic tendency, if that ~~is~~ what he was interested in.

Q What would you say, doctor, as to the phantasies of one who has criminalistic tendencies?

A I would say as I have said before that his phantasies would probably be along the line of the thing that his mind is occupied with and the thing he is

interested in. Night before last, before I went to sleep, I had phantasies about being on the witness stand and some of the things that might be asked me and my imaginary answers, and so on. I do not see that that sort of thing is to be avoided by anybody. If a man is thinking of crime or planning crime or reading about crime, he naturally has phantasies relating to criminal deeds.

Q Now, doctor, assuming a hypothetical person who on examination and observation disclosed the facts and circumstances that you gained from your observation and examination of Nathan Leopold, Jr., and add to this set of facts the following facts that have been testified to here:

That the man is nineteen years of age and has a facial asymmetry, with prominent eyeballs, excessive hair and a precocious sexuality; that examination reveals the pineal gland has calcified, the sella turcica is narrow, there is a failure to react to injections of adrenalin, there is slight anaemia, the basal metabolism is minus five percent, the blood pressure varies between 100 and 115, systolic,

and 35 and 60 diastolic; that his pulse rate varies between 60 and 70, and that on one occasion, about three or four years ago, this pulse was found to be 120; that there is a slight increase of non-protein nitrogen in the blood; that the carbon dioxide combining power of the blood is slightly low; that there is a lowering of sugar tolerance; and assume further that he shows a slight tremor of the tongue, with dermatographia, neuro-circulatory asthenia, and that he is of a vagotonic type; also that his skin is dark and swarthy and is dry and harsh, and that he has some moles on the lower part of his back, and that he has flat feet. Assuming all these facts, doctor, have you an opinion as to whether this hypothetical person had a mental disease on May 21st, 1924?

A Yes.

Q And what is that opinion?

A My opinion is that he had no mental disease.

Q Will you express your reasons, doctor?

A The reasons are exactly the same as regards the other gentleman, namely, that I saw nothing during

my contact with the gentleman, nothing in his demeanor or conversation or the results of that interview and my examination that would lead me to suppose that he had any mental disease; and these things added are entirely insufficient whereupon to base a diagnosis of mental disease.

Q Well, assume further, that the following facts are also applied to this hypothetical person; that he is of a very high intelligence; that he is extremely selfish and egocentric; that he shows little or no evidence of emotion, no swings of mood, no feeling for his parents or others; and that he has, further, a feeling of inferiority and also of superiority.

Assume further that his inner mental life shows the development of phantasies, the earliest of which concerned itself with his vision of himself in command of soldiers, that he believed himself, in his phantasies, to be either a king or a slave, and that he felt he needed to find someone to take the part of either the king or the slave; and that he pictured a group of German soldiers raping a French girl; and that he compared a picture,

supposedly of the Madonna, with his own mother and aunt.

Assuming all these facts in addition, have you an opinion as to whether this hypothetical person had a mental disease on May 21, 1924?

A I have.

Q And what is your opinion?

A My opinion is that he had no mental disease.

Q Will you express your reasons for it, doctor?

A The reason is that none of these additional data are in any way sufficient to change my opinion. In other words, these things are either normal attributes or they are matters of no particular significance as regards mental disease.

Q Well, assume further, doctor, the following facts as applied to this same individual; that he has developed an atheistic view of religion; that he has adopted a philosophy of life which justifies the commission of any act, provided it brings him pleasure and not pain; and assume that he regards himself as a superman, superior to laws and customs; and assume that he stated that murder is justified if it gave him pleasure.

With these additional facts have you an opinion as to whether this hypothetical person had a mental disease on May 21st, 1924?

A Yes.

Q What is that opinion, doctor?

A That he had not,

Q State your reasons?

A The reasons are that none of these additional data are sufficient to show that he had a mental disease, and all of the data anterior to those are also insufficient, and do not indicate that there was any mental disease.

Q You have read the so-called Bowman-Hulbert report.

A Yes.

Q Assume further that the facts stated in this Bowman-Hulbert report with reference to Nathan Leopold, Jr. are true in connection with this same hypothetical person I have asked you to assume. Have you an opinion as to whether this hypothetical person was suffering from mental disease on May 21st, 1924?

A Yes.

Q State your opinion?

A That he had no mental disease at that time.

Q It has been stated here that this same hypothetical person has felt himself much inferior to other boys and it has been stated that this inferiority has been known as the inferiority complex. What would you say as to that?

A The statement in that report was that he had a feeling of inferiority regarding certain athletic matters, and that he recognized his superiority intellectually. Mr. Leopold stated to me that he did not enjoy athletic sports, and had never participated in them to any particular extent, and was not very clever at them. I think that statement was also made by Mr. Loeb that Sunday afternoon regarding Mr. Leopold. It is perfectly natural that he should have a feeling of inferiority in athletic sports, because he is and has been inferior in them, and he should have a feeling of superiority in his intellectual processes because he is superior. In other words, he sizes up himself for what he is and shows good judgment. I cannot see how that should be dignified by the name of inferiority complex.

A man who is not superior in athletics or

physical prowess and recognizes it, shows his good sense and good judgment, and if he is intellectually superior and recognizes that, it shows again he has good judgment. If I may be allowed to expand, I would say I place myself exactly in the same category. I have never been particularly expert --

MR. DARROW: I do not believe we ~~go~~ ought to have a comparison, doctor.

THE WITNESS: All right. It was only to explain my attitude.

MR. SBARBARO: Q It has been testified to here that this same hypothetical person is extremely sensitive to pain. Is it not a fact that that goes with the emotional or nervous type of individual, and not with the emotionally undeveloped or defective?

A Yes, that is true.

Q And cannot the same be said of vaso-motor instability?

A Yes.

Q It has been testified to here that this same

hypothetical person was physically O.K. in mountain climbing and long hikes but that in other athletic affairs he seemed to be less than normal. What would this indicate?

A It would indicate to me that there was not any great physical handicap, but that he did the long hikes and the mountain climbing without any trouble because he enjoyed those, and the other physical things he did not enjoy, so naturally they were uninteresting and repugnant to him, and he did not show the same athletic capacity in those things.

In other words, that would be more an emotional reaction than a physical incapacity.

Q It has also been stated here that the response to pain of this same hypothetical person is always by sweating, weakness and fainting. What would you say as to that?

A I would state again, that must naturally be an exaggerated statement; but if I am to take that as an assured fact, I would say that that is certainly an emotional reaction. In the case of anybody who responds to pain by sweating, fainting and weak-

ness, it is an emotional reaction, not physical.

It does not show any physical incapacity.

Q Is neuro-circulatory asthenia an emotional reaction?

A Well, neuro-circulatory asthenia has been the subject of very prolonged discussion, but my own opinion is that it is principally an emotional reaction, and I believe the consensus of opinion of the men who know most about it now is that at any rate it is to a considerable extent an emotional reaction. It is not a matter of purely physical fatigue. Those cases occurred in the army, and were so designated. That name was coined regarding the condition of some of the soldiers who did not take well to the training and discipline of the army.

Q It has also been testified to here that this same hypothetical person is very intense and highly nervous. What would you say as to that?

A It simply shows that he has the emotional reaction that many of us have. There is not anything particularly abnormal about the matter of having that sort of personality.

Q It has also been stated here that this same person appreciates that he is a very sensitive thin-skinned individual. If this opinion is correct, it would tend to show that he is fully developed emotionally, would ~~it~~ it not?

A Yes, it would.

Q The statement was made here that he does not like to see people suffer. Is not that an emotional reaction and abnormal one?

A It certainly is.

Q Is it not also a fact that if this same hypothetical person showed irritability and nervous tension, that this would be an emotional reaction?

A ~~That's~~ Absolutely.

Q Doctor, you have stated that you have read the Bowman-Hulbert report?

A Yes.

Q In your opinion, was there any of that report consistent?

A (No answer by the witness).

Q Was it all true?

MR. B. C. BACHRACH: I object to that, if the

Court please. Asking if it is true. You have to assume that.

MR. SBARBARO: I asked him if it is consistent.

THE COURT: How?

MR. SBARBARO: I asked him if he read everything in the Bowman-Hulbert report and if it was all in his opinion consistent and true.

MR. B. C. BACHRACH: That is not for him to say.

MR. SBARBARO: He examined the boys.

MR. CROWE: Wait a minute. For the purpose of the hypothetical question he has got to assume that those findings are true and that the conclusions are true; but independent of that, that being disposed of, as a scientist, whether the conclusions are consistent with one another and whether some of the findings could be true.

THE COURT: Oh, you can ask him that.

MR. CROWE: That is all we are asking.

MR. B. C. BACHRACH: If the Court please, let me just state my objection.

THE COURT: Could the doctor say that there is nothing contained in that report that is true?

THE WITNESS: I beg pardon?

THE COURT: Could you say that there is nothing contained in the Bowman-Hulbert report that is true?

THE WITNESS: Nothing that is true? Why, no, there is a great deal of it that is true.

THE COURT: Then he cannot answer the question as a whole. You can ask him as to any parts. If he will say that it is not true I will let him answer the question.

MR. B. C. BACHRACH: One moment. The question was to have the doctor characterize the report --

THE COURT: The doctor says that there are many things contained in the Bowman-Hulbert report which are true. Now let the counsel for the State bring out those which are untrue and those which are true. They have a right to do that, if they want to.

MR. B. C. BACHRACH: That is not what I am referring to. They say here -- here is a report in evidence, and they want to have this witness characterize that report.

THE COURT: No, he isn't going to do that. I am

ruling with you on that. He says he couldn't say that everything in the report isn't true, therefore he cannot answer that question.

MR. B. C. BACHRACH: Yes.

THE COURT: They can ask him though as to a section, they can ask him what his opinion is of this and that, if they want to take the whole report.

MR. B. C. BACHRACH: I should not think that that is a proper thing for expert testimony at all, if the Court please.

THE COURT: Oh, he has a right to ask that. Supposing Dr. Hulbert said so and so was the case, he has a right to ask Dr. Patrick if in his opinion the doctors did find so and so, if that contributed to, or if that had anything to do with mental disease.

MR. B. C. BACHRACH: The doctor has said that he read the whole report and it doesn't furnish evidence to satisfy him that they were mentally diseased. He has said that no.

THE COURT: Yes.

MR. B. C. BACHRACH: Now then, to call his attention to any particular thing in that report and ask him is this thing true, that is what they are asking him --

MR. CROWE: The question simmers down to this:

Is the report consistent, or is it inconsistent, are there inconsistent statements, and if there are, point them out.

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MR. B.C. BACHRACH: Why should we go into that report?

MR. GROWE: It is a medical report.

MR. B.C. BACHRACH: I know.

THE COURT: It is in evidence.

MR. B.C. BACHRACH: Yes, it is in evidence, but to have a witness called on the stand and asked to pick out certain things in the report and say this is consistent and that is not consistent, I don't think that is proper.

THE COURT: You may cross examine.

MR. B.C. BACHRACH: All right.

THE COURT: Go ahead.

MR. SBARBARO: Q Will you state if you know, doctor, whether or not there are any inconsistencies in the Bowman-Hulbert report, and if there are, will you illustrate them, please?

A I couldn't do that from memory, Mr. Sbarbaro. I did not charge my mind with that and I could not do it offhand.

Q Would you prefer to refer to it on the witness stand?

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A It would take some time. I think it would save time if you want me to do that, to let me look it over during the recess. I don't know -- I wouldn't undertake to do that offhand.

MR. SBARBARO: Suppose we take a recess.

THE WITNESS: It is a long report.

THE COURT: You can let the doctor look at it, but there is no use taking a recess now. If you take a recess now you cannot have another.

MR. CROWE: We do not want another.

THE COURT: Very well, you may have a recess for ten minutes.

THE WITNESS: Oh, I can't do it in ten minutes.

MR. DARROW: He meant during the noon hour.

THE WITNESS: Oh, yes, I can do it during the noon hour.

THE COURT: What I was going to say was this; if they have anything to ask you now, doctor, they can do it, and then if you are through with the doctor except to ask as to the Bowman-Hulbert report, you may withdraw him and put him back on at two o'clock.

MR. SBARBARO: Q Now, doctor, from any interview

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you had with Loeb or Leopold or any conversation that you got from either one of them, do you know of anything that might throw some light on the motive for this crime?

A Well, only the statements they made.

Q What were those statements, doctor?

A The statements were various and they were not very conclusive in my opinion. I doubt that I can use the exact words that they employed, except in some instances.

They were asked a number of questions that afternoon by different persons in the state's attorney's office as to why, and there was some insistence for them to explain why they should do a thing like this, and various answers were received which I take it most of us thought were rather inconclusive, and finally I remembered --

MR. DARROW: Just a minute, doctor, if you will pardon me. If the court please, if what the doctor is saying now is to go in as a statement, he should designate who said it and what they said.

THE COURT: Yes.

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THE WITNESS: Well, I can do that.

MR. DARROW: That is all, doctor.

THE WITNESS: Oh, very well. Well, after several of these questions had been answered in different ways, I remember that Mr. Loeb said, "God, I don't know why." Before that he had said in effect that it was for the thrill, for the experience and for the money.

Mr. Leopold stated first that he thought he did it because Dick wanted it done. Then he was asked whether it was not -- whether one of the reasons was not with the idea of matching his wits against the police, and seeing whether he could not put it over. He said yes, he thought that had something to do with it. Then he was asked -- the question was put in a negative way about to this effect, "Well, you boys didn't need any money; surely the acquisition of the money, the ransom, had nothing to do with this," and he said, yes it did have something to do with it.

And I think it was an explanation of that statement that they told us what they were going to do with this money, and the arrangements they

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had made for keeping it hid in a safety deposit box, and the arrangement that none of it was to be spent inside of a year in Chicago, but that one of them was expecting to go to Mexico and they thought it would be safe for him to spend some of his part down there, and the other was expecting to go to Europe, and they thought it would be safe for him to spend this money abroad. It was to be divided fifty-fifty, by the way.

MR. SBARBARO: You may cross examine him with the understanding that we will recall this witness at two o'clock.

MR. B.C.BACHRACH: I do not care to cross examine him until the evidence is all complete on direct.

MR. CROWE: Well, if counsel does not care to cross examine until all the evidence is in, I will put Dr. Church on the stand, and we might take our recess now while I get Dr. Church from our office.

THE COURT: Sure.

MR. CROWE: Then you will be back at two o'clock, doctor.

THE WITNESS: Yes.

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THE COURT: And in the meantime you might give Dr. Patrick that Bowman-Hulbert report to take with him.

THE WITNESS: All right.

MR. CROWE: Take it downstairs.

THE COURT: And we will take a recess for ten minutes.

MR. CROWE: Well, you can go back to your office, doctor, if you prefer.

THE WITNESS: I would prefer to go back to my office.

MR. CROWE: All right, go back to your office, then.

THE COURT: We will take a short recess, gentlemen.

Whereupon a short recess was
here taken by Court and Counsel.

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Court reconvened pursuant to short
recess heretofore taken.

D R. A R C H I B A L D C H U R C H ,
called as a witness on behalf of the Prosecution,
having been first duly sworn, was examined and testi-
fied as follows; in rebuttal:

DIRECT EXAMINATION

BY MR. SBARBARO.

MR. SBARBARO: Q State your name , please?

A Archibald Church.

Q Where do you reside, Dr. Church?

A Chicago.

Q Where is your office?

A Marshall

Field Annex.

Q Your profession?

A I am a physi-

cian.

Q In the practice of your profession do you
limit yourself to a specialty?

A I do.

Q State what that specialty is?

A Nervous and mental diseases.

Q What has been your preparation and experience?

Kindly go on and state the opportunities you have had for special study, and the extent of your practice, in nervous and mental diseases.

A Well, forty years ago I was appointed a member of the medical staff of the Illinois Hospital for the Insane at Elgin, and served in that capacity for four years, having about 2000 cases under my immediate supervision.

After that I spent a year in Europe, most of the time in Paris and Vienna, but with some time also at Leipsig, at Prague, Berlin and in London.

Upon my return I located in Chicago and devoted myself to the specialty of nervous and mental diseases, and the same or the next year was made professor of nervous diseases in the Chicago Polyclinic, a post graduate medical school, and the following year was made professor of medical diseases in the Chicago Medical College, now the medical school of Northwestern University.

I have been connected with that faculty .

ever since and am the head of the department for nervous and mental diseases.

MR. DARROW: What one was that, doctor? Excuse me.

A The Northwestern University Medical School. I have been actively on the medical staff of Mercy, Cook County, Wesley, St. Luke's and Michael Reese Hospitals in the department of nervous and mental diseases.

I served for three years as special examiner for the United States Health Service and afterwards for the Veterans' Bureau and am now consultant for the Veterans' Bureau on the subject of nervous and mental diseases, in which capacity I saw perhaps twenty-five hundred of the returned soldiers who had nervous and mental diseases. I have had a fairly active practice here in Chicago in that specialty for over thirty years.

I have written considerable on the subject, among other things a text book on nervous and mental diseases, which has reached a ninth edition and is used as a text book in nearly one hundred medical schools.

I think that is substantially the purview

of my activities in that line.

MR. SBARBARO: Q What medical societies and associations are you connected with or have been connected with?

A I am a member of the American Medical Association; of the Illinois State Society; a member of and president of the Chicago Medical Society; a member of the Chicago Neurological Society; a member of the Chicago Institute of Medicine; and a member and one-time Vice-President of the American Neurological Association.

Q Now, doctor, were you present in the office of the State's Attorney on Sunday, June 1st, 1924, at the request of the State's Attorney?

A I was.

Q Will you state if you recall who were present, as far as you know?

A Well, there was Dr. Wesener, Dr. Patrick, Dr. Krohn, Chief of Detectives Hughes, Mr. Crowe, and his assistants, a couple of stenographers, and then during the four or five hours a number came in and out whom I did not know. Of course also there were present --

Q Were the defendants present?

A -- the defendants, Leopold and Loeb.

Q Will you state any observation and examination that you made at that time of the defendant, Richard Loeb, and Nathan Leopold, Jr. Will you go on in your own way, doctor, and state what those examinations and observations consisted of, and what your conclusions were as a result of that examination.

MR. BACHRACH: I object to the question being double, and ask that it be separated, and that he state what he observed first.

THE COURT: Objection sustained.

MR. SBARBARO: Q Will you state what occurred, doctor.

A When I entered the room Dr. Krohn and Dr. Patrick were in conversation with Mr. Leopold, discussing the subject of the psychology of birds, and his studies and courses taken in psychology, and the character of the apparatus used in the psychological laboratory which he was familiar with.

A A little later Loeb was brought in and then upon the suggestion of Mr. Crowe, Loeb detailed all the circumstances of the Franks crime.

During his detailing those circumstances he was interrupted at times by Leopold with disclaimers or objections, and finally Leopold was asked to make notes, and they would be then considered after the termination of the statement by Loeb, and this he proceeded to do.

Very shortly after Loeb's entrance, both young men were supplied with a luncheon which they ate intermittently during the course of the interview during the next half hour or hour.

Loeb in a very methodical manner began with his statement dating back to November of last year, at which time they said that they, meaning, as I understood it, Leopold and himself, had determined upon the execution of a murder and kidnaping for ransom, and that they had discussed the details of that plan at frequent intervals over a period extending down to the time of its commission.

That they had formulated a letter which was to be sent to the father of the victim, that was of an open character so that it might be applicable to any parent; and in the formulation of this letter

mutual changes and suggestions had been made until it arrived in a finished form, the form which was used at the time.

He stated how in order to secure an automobile which would not be easily recognizable, they had arranged for the rental of a car from the Rent-a-Car Company on Michigan Avenue, and to that end how Leopold had registered at the Morrison Hotel under an assumed name, to which name they had forwarded pieces of mail in order that it might give an appearance of substantial fact to such registration; how later they transferred from the Morrison to the Hotel Trenier, and established their identity under that name in the same manner, and directed that the authority or license of the Rent-a-Car Company should be forwarded to Leopold, who had registered under the name of -- I can't recall that.

Q Ballard?

A Ballard. That they had provided the car obtained in this manner; and also the character of Leopold had been substantiated by Loeb through a telephone communication made at a certain place on Wabash Avenue,

Loeb then giving Leopold a good character as to reliability, so that the Rent-a-Car People would accept his assurances; that they had provided in the equipment of the car a bottle of chloroform, a bottle of hydrochloric acid, which they had some difficulty in buying owing to the fact that the drug stores where they applied for it were not provided with such a quantity; and had purchased a cold chisel, which had been protected on the sharp end by tape; Loeb said it was done by Leopold, and Leopold said it was done by Loeb, but which chisel was presented to them and identified by them at that time.

That they also had pieces of rope and pieces of cloth or rags to use as a gag, and had supplied the car also with a lap robe which would be useful in wrapping a body, or in carrying a body; that their plan was to pick up a boy by the name of Levinson; that with the car equipped as they described, they went to the school where Levinson was a pupil, and saw him playing in the yard; and then to make sure of his father's address, they drove to a drug store, and the telephone book was

consulted, in order that the letter which had been prepared for the parents might be sent to the proper address. That they then found that the Levinson boy had gone from the school to a vacant lot on the corner of Grand and 49th Street, where he was playing ball; that they hung around that corner for an hour or so, first on one side of Grand Boulevard and then the other, but were unable to keep satisfactory watch of the boy, to which end they then went to the house of Leopold, and secured a pair of field glasses with which they would then be able to see the boy in his play and watch his movements; that this boy with other boys went up an alleyway, and they lost track of him, although they had formerly secreted themselves in an adjoining alley, in order to better watch the boys and at the same time be out of view themselves.

That they then drove down to the Levinson home, expecting to meet the boy on the road, but were unable to see him. Then in driving back, as they came along on Ellis Avenue, they saw the Franks boy, and immediately decided to pick him up

as a suitable victim; that they turned the car about, and came up to the curb stone; that Loeb invited the Franks boy to take a seat in the car, and he would give him a ride home; that the Franks boy demurred, and said he only had a little ways to go, and did not need a ride, but Loeb said, "Get in; I want to talk with you about a tennis racket that I saw you have when you were playing with my brother two or three days ago at my house", or something to that effect. And thereupon the Franks boy consented to get in.

They asked him if he would mind driving around the block, and he said no; that they then drove south to 50th Street, and then east on 50th Street; that along about Kimbark or Kenwood Avenue one of them in the rear seat struck the boy on the back of the head with the chisel, which had been prepared for that purpose, several blows, and he was then dragged over the back of the seat on to the floor of the rear portion of the car.

At this point Loeb insisted that he was doing the driving, and that Leopold was in the back seat, and did the striking. Leopold denied this,

and said that he himself was driving, and that Loeb was in the rear seat.

Some discussion was held between them on this point, each accusing the other of having struck the blows.

When Loeb made this statement that Leopold was in the rear of the car and did the striking, he looked at him in a furtive, rather frightened way, showing some emotion in making the assertion.

They said they then drove south somewhere toward the midway and after driving about in order that the time might pass until darkness ensued, they stopped at one place and sent a telephone message to a young lady on the north side, stopped at another place to get something to eat, and if my memory serves me right, they said at that time they found that the boy was dead; that his eyes were glazed, that he was rigid, and as they said, rigor mortis had developed.

They also said that immediately after he was struck and pulled into the back of the car, he made some noises, and rags which had been prepared

for the purpose of gagging him were stuffed in his mouth.

Later they drove on to the prairies and disposed of the body, carrying the body in the blanket a distance of perhaps three hundred yards, one at the head and one at the feet, to a culvert, at which place he was disrobed entirely, part of his clothing having been removed previously.

That then Leopold, because Loeb hesitated to do it, poured the acid over the face and genitals; that the body then was taken and thrust head first into the culvert; Leopold having prepared himself for the purpose by taking with him a pair of rubber boots to enable him to wade into the stream.

That they then gathered up the clothing, and Leopold's coat, which had been taken off so that he might pursue his job, and with these garments they returned to the car and then to the residence of Loeb where everything was burned except the blanket and the belt and the shoes, because they thought these would not be consumed thoroughly in the fire of the furnace.

That the belt and the shoes were subsequently buried at a certain point on the south side, and that the robe was subsequently burned somewhere near the right-of-way of the Illinois central tracks by pouring gasoline over it, and that they then returned and posted the letter at the post office on ^{55th} ~~55th~~ Street, directed to Mr. Franks, and went back home, leaving this rented car, I think, at the Leopold house. That the next morning they found that the car had been stained by blood on the floor in the rear portion, and they washed it out, telling the chauffeur, who made some inquiry, that they had been out on a drinking spree and that the stains were wine stains.

They also washed off the rubber boots and the clothing that they wore, which had been spattered during the night.

In the afternoon, I believe it was, they said that they returned the rented car to its owners, and either at that time or on a subsequent occasion, threw away the chisel which they had used in beating the boy over the head.

Then certain questions were asked Loeb by Leopold tending to confirm his contention that he did the driving, and that Loeb did the striking.

And Leopold at the request of Mr. Crowe also printed his name or wrote his name and the name of Mr. Franks on a piece of paper several times, knowing that it was for comparison with the address he had used on the envelope of the letter mailed to Mr. Franks on 55th Street.

Mr. Loeb then detailed how he had planted a letter in the rear of the last car on a Michigan Central train in the box for messages and directories, and how they had mailed instructions or had telephoned instructions, rather, to Mr. Franks regarding taking that train, their first plan being to direct him to a Keep the City Clean box where they expected to plant a letter with such instructions, and that they had sent a Yellow Cab to his house so he would have just time enough to take this train, the purpose being that he should throw from the train a cigar box containing ten thousand dollars in certain denominations of bills which were to be old and so not easily

marked, at a given point on the right-of-way of the Illinois Central opposite the Champion factory, which is to the east of the right-of-way somewhere near 72nd street, where they expected to be on hand with a rented car, provided with something to obscure the number, the license number, so as to be enabled to pick up the box, make their getaway, and if they found that the train was slowing up at that point or if it did not reach that point on scheduled time they would realize that methods or means were being taken to interfere with the progress of their plans, and that they could then get away.

All of this matter was gone into at much greater length and detail than I have taken or should take, And I then asked Leopold why in Heaven he did such a thing, whereupon his face trembled, he almost broke into tears, and he said he didn't know ~~xxx~~ why in the world he ever did such a thing.

Leopold said to me that they were able, -- they knew exactly what they were to do, and they were able at any time to have desisted from the pursuit of

of their plan, but that he was not a quitter; and I said, "Wasn't one of the purposes of the whole thing to beat the detective forces", and he said, "Yes, that was a very large part of it" . He said, "I suppose it was egotistic."

During the latter part of this interview Leopold said to me, "You won't be able to find anything in this that would be of any help to us, not a thing."

He said this ~~ix~~ in an undertone. Why he said it I don't know, but that is what he said.

During the course of the examination, of course, the young men were under continuous observation and watchful attention on my part. Their physical conditions and attitudes and emotional reactions were observed as carefully as I could, and at the end of the interview it was announced that the automobile was in the jail yard, and we all adjourned to the jail yard.

Shortly after we reached the jail yard there was quite a crowd of reporters and court officers and physicians, Dr. Hektone and Dr. Ralph Webster joined us at that time, and somebody let off a flashlight and Loeb collapsed against the wall of

jail. Leopold looked at him sneeringly and said, "Poor weakling", or that is what I understood him to say.

At this time they evidently were not in entire harmony and sympathy owing to these mutual accusations or charges of having used the lethal weapon.

I think that covers by observations and experiences and contact with these two young men.

Q Doctor, do you recall having heard Dr. Krohn ask any questions, or Dr. Patrick?

A Yes, after I asked Leopold if he understood just what he was doing, the nature of his act, its criminal character, and the penalty provided, to all of which he said, "Yes, certainly". Dr. Krohn asked similar questions of Loeb who replied in the same way.

Q Was there anything said about the ransom?

A Yes, I asked Leopold what the ransom had to do with it, and he said, "Well, that was a secondary consideration, but of course it was an important one."

They also said about the ransom money that they had agreed between them that it should be

divided half and half, or fifty-fifty were the words used, and that it was understood and agreed that none of that money should be spent in the city of Chicago within a period of a year, but that it might be spent at a distance, either abroad or in some distant city.

Q Doctor, do you recall having heard the State's Attorney ask about picking a pocket of ten thousand dollars?

A Yes, he asked Leopold if he would pick his pocket, that is, Mr. Crowe's pocket, of ten thousand dollars, and Leopold took it rather laughingly and said he did not suppose he would have ten thousand dollars in his pocket, or something to that effect. I am not quite clear about that.

Q Didn't he say that if he could get away with it, he would?

A Well, he may have said so; I am not clear about that.

Q Now, doctor, you stated that you observed certain emotional reactions. What are your conclusions?

A Conclusions as to what?

Q With reference to those emotional reactions?

A The emotional manifestations were entirely on the part of Loeb. Leopold showed no emotion of any kind, but he intimated that his philosophy was one which dictated the suppression of emotion and that he had practiced their suppression so that he was on his guard against manifesting any emotion. Leopold showed distinct emotion --

Q Loeb, you mean?

A Loeb, yes; when asked why he did such a crime.

Q Have you an opinion, doctor, from your observation and examination, as to whether the defendant, Richard Loeb, was suffering from any mental disease on that day, at that time?

MR. B. C. BACHRACH: What day?

MR. SBARBARO: June 1st.

THE WITNESS: I have an opinion.

MR. SBARBARO: Q What is that opinion, doctor?

A That there was no mental disease of any character.

Q Will you state your reasons for that opinion?

A The young men were entirely oriented --

MR. DARROW: Just a minute. Are you talking

about both of them now?

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THE WITNESS: Yea.

MR. DARROW: Do you want it that way?

MR. SBARBARO: I would rather have you address yourself to Richard Loeb, please.

THE WITNESS: Your question, I thought, was comprehensive of the two.

Q No, as to Loeb.

A As to Loeb. The young man was entirely oriented, he knew who he was and where he was, and the time of day and everything about it. His memory was extraordinarily good; his logical powers as manifested during the interview were normal, and I saw no evidence of any mental disease.

Q Now, doctor, have you an opinion from your observation and examination of Nathan Leopold, Jr. as to whether he was suffering from any mental disease at that same time?

A I have.

Q What is that opinion?

A There was no evidence of any mental disease.

Q Will you state your reasons again, please?

A Because he was perfectly oriented, of good memory, of extreme intellectual reasoning capacity, and apparently

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of good judgment within the range of the subject matter.

1m

Q Now, doctor, assume a hypothetical person who on examination disclosed the facts and circumstances that you gained from your examination of Richard Loeb, and add thereto these other facts that have been testified to here:

That he is immature in his sexual development;

That he still has three baby teeth;

That the growth of hair on the body is scanty, and he only requires to shave twice or three times a week;

That he has had several fainting spells during his life;

That he has tremors of the hand and tongue and enlarged inguinal glands;

That he also has dermagraphia, and that his basal metabolism, when examined on one day, averaged minus 17 per cent.

Have you an opinion whether such an individual was suffering from any mental disease on May 21, 1924?

A I have.

Q What is that opinion?

A My opinion is that there was no mental disease.

2m Q And will you give your reasons, please?

A The additional facts which I am expected to assume are of insignificant importance and most of them are entirely trivial, have no bearing on mental qualities.

Q Now, doctor, add further these further facts: that this same hypothetical person has a high or average intelligence for a college graduate; that he has been observed to be nervous and restless; this being indicated by facial twitching and slight stammering, his speech being rapid and rather jerky; that he smokes cigarettes in a curious jerky way, drawing deep breaths; that he frequently changes the topic of conversation; that he picks out the pin points in arguments; and that he runs up and down stairs, taking two or three steps at a time.

Assume further that he has shown a marked criminalistic tendency, which began with lying when he was quite young, and grew to include larceny, burglary, arson, drunkenness, and cheating at cards.

Assume further that in his inner mental life he is stated to have had phantasies in which he

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would lie and preface his lie by saying, "And now, Teddy," as if talking to a Teddy-bear; of seeing himself in jail undergoing tortures and being exhibited to crowds, which caused a feeling of pleasure rather than pain; and that he phantasied himself as a cowboy or frontiersman, as a leader of a gang of criminals, committing a perfect crime; and that in relation to some of these phantasies he has attempted to act them out by shadowing people on the streets, making signs with his hands as he walked along, as if he were signaling to his gang concerning which houses should be robbed and which should be left alone. Assume, further, doctor, that he has been in the habit of reading detective stories, and of acting out some of these stories.

Assuming these additional facts, have you an opinion as to whether this hypothetical person had a mental disease on May 21, 1924?

A I have an opinion.

Q Will you state that opinion?

A That there was no mental disease.

Q And will you give your reasons, from those

4m additional facts which you have assumed?

A Those additional facts have very little significance except as relates to the phantasies. Phantasies are day dreams. Everybody has them. Everybody knows they are dreams. They have an interest in relation to character and conduct, but they do not compel conduct nor excuse it. Those additional facts would imply a slowly growing criminal character, but would not furnish the basis for an opinion that there was any mental disease in that individual.

Q What would you say, doctor, as to reading detective stories?

A It is a very common practice.

Q You have read some yourself, haven't you, doctor?

MR. B.C.BACHRACH: I object.

MR. DARROW: Wait. He is not being examined. He is the witness.

MR. SBARBARO: Q Well, does reading detective stories indicate any mental disease?

A No.

Q Now, doctor, assume further that the following were

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5m true of this hypothetical person; that, having confessed to the commission of a homicide and kidnaping for ransom, he showed a lack of emotion in describing the crime; that he had at various times swings of mood, occasionally becoming depressed and thinking of suicide; and assume further that, though he graduated from a university at the age of eighteen, he had shown a lack of ambition and steady purpose during his life; and assume further that at the time of your examination he is eighteen, going on nineteen years of age. Would you have an opinion as to whether this hypothetical person had a mental disease on May 21, 1924?

A There is nothing in those additional assumptions which would enable me to say there was any mental disease.

Q Have you an opinion, first?

A I have.

Q And what is that opinion?

A That there is nothing in those additional assumptions upon which you could predicate mental disease.

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Q Now, doctor, you have read the so-called Bowman-Hulbert report as to the various examinations of Richard Loeb, and which is in evidence here.

A I have.

Q Now, doctor, assume further, in addition to what has already been asked of you to assume, that the facts stated in this Bowman-Hulbert report with reference to Richard Loeb are true in connection with this case or with this same hypothetical person, doctor, that I have asked you to assume in previous questions. Have you an opinion as to whether this hypothetical person was suffering from a mental disease on May 21, 1924?

A I have such an opinion.

Q Would you state what that opinion is?

A That there was no mental disease on that date.

Q Give your reasons.

A This report, which is very carefully and thoroughly prepared, and based upon painstaking examinations, fails to present anything which is significant of mental disease.

Q Assuming a hypothetical person who on examination and observation disclosed the facts and circumstances

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that you have gained from your examination and observation of Nathan Leopold, Jr., and add to this set of facts the following facts that have been testified to here:

The man is about nineteen years of age, has asymmetry, with prominent eyeballs, excessive hair, a precocious sexuality;

That examination reveals the pineal gland is calcified; that the sella tursica is narrow; there is a failure to react to injections of adrenalin; there is a slight anemia; the basal metabolism is minus 5 per cent;

Blood pressure varies between 100 and 115 systolic, and 35 and 60 diastolic;

That the pulse rate varies between 60 and 70, and that on one occasion about three or four years ago his pulse was found to be 120;

That there is a slight increase of non-protein nitrogen in the blood, that the carbon dioxide combining power of the ~~hm~~ blood is slightly low.

That there is a lowering of sugar tolerance;

That he shows a slight tremor of the tongue,

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with dermatographia, neuro-circulatory asthenia, that he is of a vagotonic type;

That his skin is dark and swarthy, dry and harsh;

That he has some moles on the lower part of his back;

That he has flat feet.

Assuming all of these facts, have you an opinion as to whether this hypothetical person had a mental disease on May 21, 1924?

A I am to assume those facts in conjunction with my observation?

Q Yes.

A I have such an opinion.

Q State what that opinion is.

A That there was no evidence of mental disease on May 21st.

Q Give your reasons for that.

A All of these additional assumptions are either trivial or well within the range of physiological health. They are all indicative of physical characteristics, and have no bearing upon the mental con-

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Q What significance do you attach to the testimony here that this hypothetical person had a calcified pineal gland, and that the sella turcica was small and narrow?

A The calcification of the pineal gland is only determined by the x-ray, and x-ray pictures are open to very serious question in many cases.

MR. DARROW: Just a minute. I object to the answer, your Honor. That is not an answer to his question.

MR. CROWE: I submit it is.

MR. DARROW: No, that statement isn't an answer, and I move to strike it out.

MR. CROWE: I submit he be allowed to finish his answer.

MR. DARROW: No. He said, "What significance do you give to it?" That is assuming it is true. I don't object to his saying it isn't true. That is different, but the question should be answered.

THE COURT: Yes.

MR. SBARBARO: It has been testified to here as a fact.

THE COURT: What?

MR. SBARBARO: It has been testified to here as

THE COURT: Exactly, and that is what Mr. Darrow
objects to, because the doctor hasn't answered.
Assuming that what they say is true -- that is what
you mean, isn't it?

MR. SBARBARO: Yes.

THE COURT: Then what significance would that have,
doctor?

THE WITNESS: It has no significance.

MR. SBARBARO: Why hasn't it any significance?

A Because the pineal gland always contains a
certain amount of gritty material known as grain
sand, it is almost invariably found there, and very
frequently will give a picture under the x-ray tech-
nique.

Q At what age does that gland calcify?

A There is no definite age for its calcification.

Q Assume, doctor, that the sella turcica is very
small and narrow, what significance would you attach
to that?

A None at all. We find the greatest variation
of the proportions of the sella turcica within the
range of health.

Q It has some relation to the size of the skull, doesn't it?

A Some relation to the size of the skull. In some cases it is narrow as you look through the skull, and in other cases it is broad as you look through the skull, and narrow in the longitudinal plane.

Q Now assume, further, doctor, that the following facts are also applied to this hypothetical person, in addition to your observation, and the previously assumed facts; that he is of a very high intelligence; that he is extremely selfish and egocentric; that he shows little or no evidence of emotion, no swings of mood, no feeling for his parents or others; and that he has, further, a feeling of inferiority, and also of superiority; assume further, that his inner mental life shows the development of phantasies, the earliest of which concerned itself with his vision of himself in command of soldiers; that he believed himself, in his phantasies, to be either a king or a slave; and that he felt he needed to find someone to take the part of either the king or the slave; and that he pictured a group of German soldiers raping a

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French girl, and that he compared a picture, supposedly of the Madonna, with his own mother and aunt.

Assuming all of these facts, have you an opinion as to whether this hypothetical person had a mental disease on May 21st, 1924?

A Yes sir, I have an opinion.

Q What is that opinion, doctor?

A That there was no mental disease.

Q Will you give your reasons?

A The additional assumptions do not justify, in my opinion, a conclusion that there was any mental disease.

MR. SBARBARBO: It is about twelve thirty, your Honor, may we suspend now?

THE COURT: We will suspend now until two o'clock.

Whereupon an adjournment was heretaken
to 2:00 o'clock P.M. Wednesday,
August 13th, 1924.

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Wednesday, August 13th, 1934,

2:00 o'clock P.M.

Court reconvened at 2:00 o'clock P.M.

Wednesday, August 13th, 1934, pursuant
to adjournment heretofore taken.

Present, same as before.

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THE COURT: Are you going to withdraw Dr. Church
temporarily?

MR. CROWE: Yes. Let the record show that Dr.
Church is withdrawn temporarily by agreement, and
Dr. Patrick takes the stand again.

(The witness Dr. Archibald Church
temporarily excused).

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D R. H U G H T. P A T R I C K,

a witness called on behalf of the prosecution in rebuttal, having been previously sworn, resumed the stand and testified as follows:

DIRECT EXAMINATION
(Continued)
BY MR. SBARBARO.

MR. SBARBARO: Q You are the same Dr. Patrick who testified here this morning, and stated you needed a little time for the purpose of reviewing the Bowman-Hulbert report, to ascertain or look for inconsistencies.

A Yes.

Q Have you done so?

A Yes.

Q State to the court if you find any or not?

A I did not discover any material inconsistencies of fact, but I thought I discovered a good many inconsistencies of inference or conclusion; that is, statements with which on the basis of the report I should have to disagree with.

Q Go on and state those, doctor.

MR. DARROW: Just a moment. Objection to that.

He may give as a physician the opinion which he has, but to take up any of these things, and say that this is wrong, this is wrong and that is wrong, I insist is not proper practice.

If counsel wants to ask about any specific things, I don't see any objection to that.

THE COURT: He may answer. Dr. Patrick says he does not agree with Drs. Hulbert and Bowman as to some of their conclusions.

MR. SBARBARO: I will ask the doctor to point them out.

THE COURT: Have the doctor point them out, yes.

MR. DARROW: I object.

THE COURT: I will let him point them out.

MR. SBARBARO: I think your Honor ruled on that this morning.

MR. DARROW: No, he talked about the inconsistencies of facts this morning.

MR. SBARBARO: I will ask the doctor now to point them out.

THE COURT: All right.

MR. DARROW: If the Court has passed on it, that

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settles it.

MR. SBARBARO: Yes.

THE COURT: Let the doctor point them out.

MR. DARROW: All right.

THE COURT: You can cross examine along that line later.

MR. SBARBARO: Q Go ahead, doctor.

A I would not undertake to point them all out. Your Honor, they gave me a pretty tough job to do in a short time.

THE COURT: I know it, doctor.

THE WITNESS: Is it proper to take these as relating to one defendant and then the other?

THE COURT: One first, and then the other.

THE WITNESS: I can take each one. I don't believe I can do them both at the same time.

THE COURT: That is the better way, doctor. First Loeb and then Leopold, or any way you see fit. Have you got a copy of the report?

MR. SBARBARO: The copy of the report is right here.

THE WITNESS: They are right here.

THE COURT: Have you got a copy of it?

MR. DARROW: Yes.

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THE COURT: Oh, you have got a copy of it?

MR. DARROW: Yes, we have got it here.

THE WITNESS: There is a statement made -- I can't give you the page of that, your Honor, but it is towards the end. I can find it for you if you want to see it.

THE COURT: Just take it up as you like.

THE WITNESS: It is in Leopold's. That is the other one.

THE COURT: Leopold?

THE WITNESS: Yes.

THE COURT: Leopold. I think we have got that mixed up here.

THE WITNESS. I know just about where it is. This may not be of any importance but the statement was made twice that --

MR. B. C. BACHRACH: What page?

THE WITNESS: This is on page 147 that I am looking at now, the last paragraph.

THE COURT: Leopold.

MR. B. C. BACHRACH: Yes.

THE WITNESS: The second line of the last paragraph --

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or no, the last paragraph, the beginning, says,

"The x-ray examination of skull reveals a small sella turcica".

That statement is made somewhere else in the text and I did not see that included in the x-ray report which is also here. I don't know what page that is on. Of course, I haven't any means of saying there is any inaccuracy about whether the sella turcica was small or not. I just noticed that, that it says the sella turcica was small whereas in the x-ray report, which would be the only means of ascertaining whether the sella turcica is small or not, there is no mention of a small sella turcica.

MR. SBARBARO: Q Would that have any significance, doctor, if it is small?

A No, none at all.

Then the statement is made -- I was just coming to that, here it is on page 149, Mr. Bachrach, the last paragraph, it says:

"There is definite evidence of involvement of the pineal and pituitary glands."

I cannot see that there is in this statement any evi-

dence whatsoever of the involvement of the pituitary gland.

The statement is made that there is a small sella turcica but that does not mean there is any abnormality necessarily in the pituitary at all. People have big sella turcicas.

MR. DARROW: We will object to argument -- well, go on, Mr. Bachrach wants to --

THE WITNESS: Well, that is as far as I can see an entirely unjustifiable conclusion, and then the inference is that that is ~~not~~ of considerable importance as regards the gentleman's presence or absence of mental disease and it is not of any importance.

There is one obviously exaggerated statement I mentioned this morning. It says --

MR. B. C. BACHRACH: What page, doctor?

THE WITNESS: Oh, page 12.

MR. B. C. BACHRACH: On Loeb's now?

THE WITNESS: Leopold. These are all concerning Mr. Leopold. Page 12; I cannot tell you which paragraph, sir. I had to do this in a hurry and I

made my notes hurriedly but the statement is made that his response to pain has always been by sweating, weakness and fainting.

THE COURT: The last paragraph.

MR. B. C. BACHRACH: I have it.

THE WITNESS: That is an obviously exaggerated statement. Presumably the statement was not meant to be taken literally. Pain is a relative term. It is not to be supposed that anybody responds to every pain, whether it is severe or not very severe, by fainting, sweating and weakness. A person might respond in that way for an exceedingly severe pain, but it is not to be imagined that everybody responds in that way.

MR. DARROW: Isn't that more of a lawyer's point than a doctor's?

THE WITNESS: I beg pardon.

MR. DARROW: Is that more of a lawyer's point than a doctor's?

THE WITNESS: That is not for me to decide, Mr. Darrow. I am not trying to decide anything except what is obviously a faulty statement. Are you ready?

MR. B. C. BACHRACH: Yes.

THE WITNESS: Now, on page 64.

MR. B. C. BACHRACH: I have it, doctor.

THE WITNESS: Yes. The statement is made, the patient kept a very logical mind with all of the phantasies.

THE COURT: The last half of the last paragraph.

MR. B. C. BACHRACH: I have it, I have it.

THE WITNESS: That statement is entirely inconsistent with other statements to the effect of a split personality and a discrepancy between his emotions and his intellectual processes. If he kept a logical mind in the presence of all his phantasies, then it means that the phantasies hadn't any particular influence on his conduct. That is the natural conclusion to be drawn from it.

Then there are some statements that I don't think are particularly important, but I think the inference in the statement is entirely exaggerated. On page 130, Mr. Bachrach.

MR. B. C. BACHRACH: I have it, doctor.

THE WITNESS: I think that is toward the top of the page. It is said that he has had hallucinations. I

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cannot give you the language on that.

THE COURT: "Has had a number of hallucinations".

THE WITNESS. Yes. Thank you. Then the illustration of that statement, or the facts to support it, are entirely inadequate. Those are not things that should be dignified by the expression of hallucination, because inmental disease --

MR. B. C. BACHRACH: The language is, "Hallucinatory experience".

THE WITNESS: yes. Well, then, the word "hallucination" occurs a little further along.

MR. B. C. BACHRACH: It does not appear ~~is~~ in my copy, Doctor.

THE WITNESS: Doesn't it? I thought it did.

That is on the next page, Mr. Bachrach, on the top of the page:

"That they at times approached actual hallucinations".

I thought the word was there somewhere. Of course, the statement that they at times approach actual hallucinations is not a very strong statement, but it is altogether too strong for the facts as adduced here.

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Those are rather ordinary experiences, such as might be entirely physiological.

When we speak of hallucinations we generally mean quite pathological. It is a matter of inference. I do not say the statement is grossly inexact, but I do not think it is warranted by the facts.

Pardon me; were you going to say something?

MR. DARROW: No.

THE WITNESS: On page 132 --

MR. B. C. BACHRACH: I have the place.

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1m A (Continuing) -- the statement was made, "Indulged in phantasies to an extreme degree." There is not any evidence in the report of extreme degree. He had phantasies like all the rest of us. Some people have more and some less. Some indulge in that thing more and some less, but there is not any evidence in this statement anywhere that these phantasies were of an extreme degree. In other words, that I think is an entirely unwarranted conclusion, unless these doctors had some evidence which is not in the statement.

 On the same page, a little further on, a statement is made that these phantasies-- I don't know whether it is "have" or "had", I have not the verb here-- a definite bearing on his behaviour. The way it is stated, the inference is that the phantasies caused his behaviour. Well, that is not the case.

MR. DARROW: It is a question of opinion, is it not?

THE WITNESS: What is that?

MR. DARROW: I object to the positive statement. It is a question of opinion, is it not?

THE WITNESS: I should think so.

2m MR. DARROW: Yes. I don't object to your opinion,
doctor.

THE WITNESS: No.

MR. DARROW: You have a right to give that, of
course.

THE WITNESS: What I mean is that there is no evidence
in the rest of the statement that these phantasies did
cause any of his behaviour. He had phantasies and he
had behaviour, but there is not anything there to show
that the behaviour was caused by the phantasies.

MR. DARROW: Is that a question of opinion?

THE WITNESS: That is my opinion, yes, on these
conclusions. I say it is a conclusion that is not
~~warranted~~ warranted by the evidence used in the statement.

MR. DARROW: You mean in your opinion it is not
warranted by the evidence.

THE WITNESS: Yes, that is my opinion.

MR. DARROW: That is all right.

THE WITNESS: Page 133.

MR. B.C.BACHRACH: I have it.

THE WITNESS: There is the statement that this
resulted in his becoming pathologically suggestible.

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Throughout the whole statement there is not any evidence there that he was suggestible at all any more than anybody else is. That seems to be an assertion without any basis in fact.

May I refer to this now, your Honor?

THE COURT: Sure. (Handing the witness the report.)

THE WITNESS: Page 134, the first paragraph, relates to -- it begins, "The patient has always had a marked feeling of inferiority, apparently based largely on the idea that he was physically inferior to his comrades", and the rest of that -- the inference is he had a very unusual pathological feeling of inferiority. There is not anything in the statement to show that such was the case at all. That is simply a statement. Now, if they had ascertained any reason for that outside of what is referred to in the statement, I don't know. There is not anything in the statement to show that.

MR. WALTER BACHRACH: If your Honor please, it seems to me as far as we have gone now that it is perfectly apparent that what this witness is being asked to do is to sit as a reviewing court and pass upon the conclusions and inferences drawn by Drs. Bowman and

4m' Hulbert. The situation presented is one very similar to that which would arise in the event that after Dr. Patrick got through testifying we put on several experts who took up his testimony and then testified here in court that his conclusions are unwarranted.

THE COURT: No, the doctor--

MR. WALTER BACHRACH: Now, this is evidence in a case which contains certain statements of fact and certain inferences, and Dr. Patrick is now saying that certain inferences are warranted and certain ones are unwarranted. That is a matter for the Court to pass on.

THE COURT: Dr. Patrick is put on by the state in rebuttal. Dr. Patrick has been given this Bowman-Hulbert report, which is in evidence. Dr. Patrick is now giving as his opinion from what he finds in there that the conclusions of the other doctors are not correct, in his opinion.

MR. WALTER BACHRACH: Now, suppose when Dr. Patrick gets through we put on an expert and he says that

Dr. Patrick's opinions are unwarranted in stating that

Dr. Hulbert's and Dr. Bowman's are unwarranted?

THE COURT: No, the State had a right to rebut anything that was put on by the defense. First the State put in their evidence of aggravation and then the defense put on their evidence of mitigation, and as part of the evidence of mitigation they put on alienists to show that these boys while not legally insane, that their minds were somewhat diseased; they were mentally unbalanced; they were not normal. And this report was handed to Dr. Healy and Dr. Glueck and Dr. White, and from the examination of the defendants, together with what they found in the Bowman-Hulbert report, Drs. Healy, Glueck, and White gave their conclusions.

Now then, Dr. Patrick is put on in behalf of the State. He has also been given the same report that Drs. Healy, Glueck and White were given, and I think that Dr. Patrick has a right to give his conclusions the same as the other men did, and as to what is contained in this report.

MR. WALTER BACHRAC: Yes, but --

THE COURT: Together with his observation of the

defendants, as far as he went.

MR. WALTER BACHRACH: But we did not attempt to show by Drs. Healy or White anything about the facts of this report, other than they had this report before them when they started their examination and made an examination of these defendants.

THE COURT: And this report, together with the examination and observation had of the defendants is what they based their conclusions on, is it not?

MR. WALTER BACHRACH: Yes, but it was not based on Bowman's opinions or conclusions, but upon the facts stated in this report.

THE COURT: Yes, together with the observations they made, and Dr. Patrick --

MR. WALTER BACHRACH: As verified by their examinations of the defendants. Now, obviously, Dr. Patrick is not taking into consideration the conclusions that Drs. Healy, White or Glueck made from their examinations of the defendants in this case, which are the things which had to be taken into consideration along with this report.

THE COURT: I know, but you have a right to cross

examine Dr. Patrick again, and you have a right to call Dr. Patrick's attention to the fact, if such is the fact, that in addition to this report which they made and which Drs. Bowman and Hulbert said was written on the 21st, that since that time they have made various other observations, upon which they based their conclusions. They based their conclusions upon this written report together with other observations made at a later time.

They said they made this report in a hurry or concluded it on the 21st, but later on they made further observations upon which they based their final conclusions. Is not that the idea?

MR. WALTER BACHRACH: Yes, but my point is that it is perfectly proper for Dr. Patrick to take facts like these and say that from certain facts he would draw certain inferences. My point is he cannot be asked facts which would cause him to act as a reviewing tribunal over Drs. Bowman and Hulbert, because if that were the case it would be a shifting from one side to the other. We would review Dr.

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Patrick and then somebody else would review our experts.

THE COURT: Oh no, I think Dr. Patrick has a right from what he finds there to give his conclusions. It is the same thing as saying that Dr. Patrick says this is so and this is so. He means, as he has already said, that that is my opinion. Isn't that true, doctor, that it is your opinion?

THE WITNESS: My opinion, my conclusions.

THE COURT: Your conclusion.

THE WITNESS: yes.

THE COURT: Oh, yes, I will let the doctor answer.

THE WITNESS: Shall I go back to the first paragraph.

MR. SBARBARO: Go right ahead, doctor.

MR. B. C. BACHRACH: On page 134?

THE WITNESS: On page 134, yes. May I just glance at that again?

THE COURT: Yes (handing report to the witness).

THE WITNESS: Well, I can make it perhaps more -- I can make it briefer and perhaps in a way that

would satisfy both sides by saying that that entire first paragraph does not convey to me that there is anything abnormal about this particular thing at all.

The inference of the paragraph as written is that this is evidence of abnormality. I don't think it is at all.

MR. CROWE: Let the court see that paragraph, doctor.

THE WITNESS: yes sir. (Witness shows paragraph to the Court).

Now, the same conclusion is to be drawn from the second paragraph which is in relation to his feeling of inferiority, and also the relation of his phantasies to his conduct. I don't know just how explicitly the statement is made, but that these phantasies are unusual. They are not at all unusual, except that probably they are rather more complex and complete than they would be in the ordinary young man of that age, because this young man of nineteen has an unusual intellect, he has unusual capacity for thinking, and imagining things; and consequently his phantasies would be

a little different, and certainly more complex than those of an inferior intellectuality, -- which has absolutely nothing abnormal about it.

On page 137 --

MR. B. C. BACHRACH: I have it, doctor.

THE WITNESS: I think that whole page, practically, is a lot of very interesting speculation, but there is not a thing in it that indicates that this young man was pathological, or had a diseased mind.

As it is written and presented, it is presented in a way to infer that he had, that this is evidence of a diseased mind. It is not at all. Shall I go ahead?

MR. SBARBARO: Q Go right ahead, doctor.

THE WITNESS: Then also on page 137, the statement beginning in the next to the last line:

"His behavior for the past year has been largely dominated by his own emotional drives".

It is stated as if that were evidence of a pathological state. It is not. That applies to all of us, practically. That is the way our behavior

is arranged; that is the way our machinery works, yours and mine, and everybody else's. It is not peculiar to this gentleman.

On page 139 --

MR. B. C. BACHRACH: I have it, doctor.

A (Continuing) -- the statement:

"He lacks the emotional reaction of either the normal individual or the hardened criminal."

Now, the emotional reaction as shown throughout this report is the emotional reaction of a normal individual, except as regards the crime, and there I entirely agree with these gentlemen, that his reaction as regards the crime is not normal, and therein I should say it is the reaction of a hardened criminal.

I think that the statement is entirely unjustified by any facts adduced in the statement.

Are we confining ourselves now to this statement?

May I say that my own observations show exactly the same thing.

MR. B. C. BACHRACH: What is the statement you are talking about now?

THE WITNESS: All right, sir.

Page 140 the statement is made:

"This split between intellectual and emotional processes is very striking."

There isn't anything in the report to show that there is any split that is striking at all except as regards the criminal procedures. There there certainly is. I agree with these gentlemen in that absolutely. I practically stated that in the very beginning of my testimony.

I think it is the latter part of that same page —

(Judge Caverly here handed the witness his copy of the Bowman-Hulbert report).

? THE WITNESS: Thank you, sir.

Yes, page 140, the latter part of that paragraph infers that this young man has or is about to have dementia praecox. There isn't any such ~~xxx~~ evidence in the whole statement at all.

MR. B. C. BACHRACH: In which paragraph?

THE WITNESS: First paragraph, page 140.

THE COURT: First paragraph, last line.

MR. B. C. BACHRACH: The language is that it is considered by Krepelin to be the essential feature of dementia praecox. Is that the language?

THE WITNESS: Yes. The inference is that that applies to this young man stating that he had this and then that Krepelin, who is a very fine psychiatrist, there is no doubt about that, we will all concede that -- the inference is that that applies to this gentleman.

There isn't anything to show that it does.

Then page 140, still the last paragraph and following over on to the next page, it speaks of his inattention during the examination in the jail, and then alludes to his having made numerous pictures on the margins of his notebook and so on, referring back to what was recounted earlier in the report and calls this fatigue of attention. There isn't anything to show that it was fatigue of attention at all.

The fact of the matter is that he did not attend. I am not questioning their statement of fact, but to call this a fatigue of attention, there

isn't anything to show that there was any fatigue at all. That he did not attend is certainly true, but to call it a fatigue of attention is absolutely unwarranted. There is nothing there to show that there was any fatigue of attention.

Do you wish me to explain or is that all you want?

MR. SBARBARO: Q Go ahead and explain it, doctor.

A I mean that this inattention in classes, when he was drawing all kinds of pictures on the margins, there isn't any reason to suppose that he was fatigued. He might have been familiar with what was going on in the classroom and passed his time by making these sketches; or he might not have been interested in what was going on and diverted his mind in other ways, but to jump to the conclusion that he had a pathological fatigue of attention is perfectly absurd.

Page 141, the statement that his judgments have always been quite immature. There isn't anything in the whole statement to show that his judgment was ~~x~~ immature unless it was immature

judgment to commit this crime. That might be a question.

The same page, further down, I think it is toward the bottom of the page, Mr. Bachrach.

MR. B. C. BACHRACH: I have it.

THE WITNESS: It states that he has never developed a healthy adult level where an individual's emotions are harnessed and directed by his intellectual processes. That applies to any other boy of nineteen years and to most of us that have passed well beyond that. It is perfectly ridiculous to suppose that most of us are directed by our intellectual processes.

We are not. We are directed by our emotions.

The statement is made as if that were an evidence of a diseased mind. That is the way healthy minds and healthy people act and behave.

May I ask the court a question or will the court allow me to ask a question. Here is a very curious thing that they have got in here, your Honor.

(The witness conferred with the Court

regarding a portion of the Bowman-Hulbert report).

THE COURT: Dr. Patrick says that on the bottom of page 142, which need not be read aloud, and the first paragraph of page 143 is what he is referring to, is a perfectly natural statement for a layman to make under such conditions.

THE WITNESS: All right.

MR. B. C. BACHRACH: They understand what it is.

THE WITNESS: Yes. I mean from a layman's standpoint that is a perfectly reasonable statement, and as regards a good deal of this, some of us might pretty well agree; a great deal of machinery and very little grist.

MR. DARROW: I ask to have that remark stricken out.

THE WITNESS: All right.

MR. DARROW; I think the doctor should confine himself to giving expert opinions on the case that is presented to him.

THE WITNESS: All right, sir. I apologize, Mr. Dar-
row.

MR. DARROW: It is the lawyer's province to do the other.

THE COURT: All right, it may go out.

THE WITNESS: Pages 144 and 145. That whole statement, pages 144 and 145 implies the same thing, that this is a Schizophrenic individual. There is not anything in the report that shows that he is at all.

MR. SBARBARO: Q Doctor, will you talk louder so that they can hear you?

MR. DARROW: Who, the witness.

MR. SBARBARO: ~~Who~~ No. The newspaper men want to hear you.

MR. DARROW: It will be too bad if they missed it, doctor.

THE WITNESS: There are some other things here that show that Mr. Leopold had perfectly normal emotional reactions.

MR. DARROW; I object to the doctor doing anything but testifying. If he is hunting up these things for the sake of reading an essay, I object to it.

MR. SBARBARO: Q Are they in the report?

A Yes.

MR. DARROW: If they ask him questions, he should answer them.

THE WITNESS: Yes, they are in the report.

MR. SBARBARO: If they are in the reports, I do not see why this witness shouldn't be permitted to give them.

MR. DARROW: If you have anything to ask him, go ahead and ask him. You presented his evidence this afternoon, and then asked him about any inconsistencies in this report, and that is all you did ask him about.

MR. SBARBARO: These are inconsistencies which he found in the report.

MR. DARROW: I object to his volunteering testimony. If there is anything else they want to ask him about, let them direct his attention to that.

MR. SBARBARO: We asked the witness to point them out, and he is proceeding to point them out.

THE COURT: Well, I don't know how you are going to put it. I suppose you could put it in this way:

"Q find on page 143 so and so"
and you may ask him along that line.

MR. DARROW: I understood that he got through with that, your Honor.

MR. B. C. BACHRACH: Yes, he got through with that.

THE COURT: Oh, I don't know. Are you through?

THE WITNESS: Well, the things that I have just used, are what I made since I left this morning. These are some other things that I jotted down previously.

MR. DARROW: I suggest that he communicate them to counsel, and then if counsel wants to ask him any further questions about it, let him do so.

THE COURT: Oh, yes.

MR. DARROW: But I don't think it is the doctor's business to make an argument here.

THE COURT: No.

MR. SBARBARO: Q Are there any further inconsistencies in this report that you are able to point out, and if so what are they?

A By an inconsistency do you mean a conclusion drawn from the facts stated in the report?

Q Exactly.

MR. DARROW: That wasn't the first question, or the question on which the doctor proceeded. It was that one thing in the report was inconsistent with another, and he was asked to hunt that out,

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and he has told it.

MR. CROWE: I submit that if the conclusion is inconsistent with the facts, that is an inconsistency, and the doctor should be permitted to continue as he has been going along.

MR. DARROW: I object to the doctor being permitted to make an argument in this case. If the counsel has omitted something, and I don't mind his consulting with the doctor to find out, I don't object to the question being asked, but I don't think the doctor should take any such attitude in this case.

THE COURT: No. That is the proper way. You may ask him. The doctor couldn't very well review what the other men said, and say that it isn't true. They have a right to know wherein he says that it is inconsistent, ~~we~~ so that they may cross examine Dr. Patrick, if they want to, later.

MR. SBARBARO: Q Is there anything further, doctor, that you have found ~~that~~ you haven't told us about?

MR. DARROW: That I object to.

MR. SBARBARO: Q If there is, tell it.

THE COURT: From his observation?

MR. SBARBARO: From his observation of the Bowman-Hulbert report.

MR. DARROW: Is that in the nature of an inconsistency? If it is, is it inconsistent with his opinion, or is it inconsistent with the report itself, one part being inconsistent with another part of the statement?

MR. SBARBARO: This is in connection with what he has already told us about.

MR. DARROW: I object to his volunteering something. Counsel should ask him what he wants.

MR. SBARBARO: He started off to give us his opinion.

MR. DARROW: No, he started off to say --

THE COURT: I want to give you all the leeway I can, if we can get it in within reason. I want Dr. Patrick to tell us all he can both with reference to the report, and his observation of the two defendants.

MR. DARROW: All of that was given before lunch, except the report.

MR. CROWE: I am satisfied the testimony is

exactly similar to what we have already listened to. Suppose the doctor states it, and if it is not proper, strike it out.

MR. DARROW: I object to his making an argument.

THE COURT: Oh, yes; we will not have the doctor make an argument.

MR. CROWE: When he starts to make an argument, stop him.

MR. DARROW: The very starting of his last statement was simply an argument.

THE COURT: Strike it out. Put another question to the doctor, and see if we can straighten this matter out. It would have been better if you had gone over the Bowman-Hulbert report with Dr. Patrick before he came here, and have him point out to you what he wanted, and then you could put your questions to him, and defendants' counsel would have been in better position to cross examine him along that line.

MR. SBARBARO: He did not get back, your Honor, until five minutes of two.

THE COURT: I did not mean that; I mean some time ago. But since you have not done it, I want to do the best I can, and I want to get all that

Dr. Patrick knows about these boys if I can.

MR. CROWE: We did not have the Hulbert report until it was introduced in evidence, which was last Friday.

THE COURT: I understand.

MR. DARROW: But it was published long ago.

MR. CROWE: There have been a lot of things published.

THE COURT: Go ahead. Let's try and get along here. I do not care so much about technicalities, gentlemen. They cut but little figure. There is no jury here, and I would like to get all the information I can, and I would like to be as fully advised as I possibly can be by Dr. Patrick and the other gentlemen who have been here. It is pretty hard for the doctor to state it the way the lawyers want it.

MR. DARROW: I do not object to the counsel going and talking with the doctor, and finding out what he has, for the purpose of the question.

THE COURT: We will take our recess now, gentle-

men, instead of ten minutes later, and then we will not have another recess this afternoon. Take your ten minutes and talk with Dr. Patrick. That may save us time.

Whereupon a short recess was here taken by court and counsel.

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Court reconvened pursuant to short
recess heretofore taken.

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D R. H U G H T. P A T R I C K,

a witness called on behalf of the Prosecution, having
been previously duly sworn, resumed the stand, for
further examination on rebuttal, and testified as
follows:

DIRECT EXAMINATION
(Continued)
BY MR. SBARBARO.

MR. SBARBARO: Q Now, doctor, have you found from
the Bowman-Hulbert report additional evidences of
emotional manifestations on the part of Leopold other
than those you have mentioned so far?

MR. B.C. BACHRACH: I object, if the court please.
The question to be determined here is with reference
to the defendants and not what somebody else finds.
This is an entirely different thing from what we have
been having. If he finds emotions he must find them
in the defendants and not in the reports of some other

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doctors.

MR. CROWE: Oh, no, if your honor please. This report is the basis of the testimony of three other doctors, called on behalf of the defendants, and they have testified that Loeb is lacking in emotion. Now, it is perfectly competent for another doctor to point out that in the foundation of their testimony there is plenty of evidences of emotion. They have said they are using that as a basis.

THE COURT: Now, I am going to let the doctor tell what he can here. The conclusions of Drs. White, Glueck, Healy and Hulbert, if I understand them, was from this opinion known as the Bowman-Hulbert opinion, together with observations made later on the defendants. I think, as Dr. Hulbert said, this report was gotten together in a hurry so that the other doctors might have it, and I think he said that it was on the 21st and later he corrected himself and said that it was on the 24th that the report was signed by them and handed to the other doctors.

MR. BACHRACH: I know.

THE COURT: And later that they had other observations

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and made other investigations of the defendants in jail, and upon that and what the other doctors had found they arrived at their conclusions. Now, if there is anything here, or if there is any particular question here included in the Bowman-Hulbert report that you want to ask Dr. Patrick about I will let you do it. Any particular question on anything in that report, you can ask the doctor and you can ask the doctor then what his opinion of such and such is, and he can give us his opinion.

MR. CROWE: Let me try to make myself clear. Dr. White, Dr. Healy and Dr. Glueck testified that considering the Bowman report and also their own observations--

THE COURT: Exactly.

MR. CROWE: Now, wait, let me finish; they find that the ~~had~~ defendants are abnormally lacking in emotion. Now, they do not say that they came to that conclusion merely from their observations, but they say from a consideration of the findings in this report, together with our observations, we have come to the conclusion that there is no emotion in either one of these defendants.

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THE COURT: Now, I am willing to let you --

MR. CROWE: Now, it is competent, if your Honor please, for our expert to say, I have read this report, and as far as the defendant, Loeb, is concerned there is an abundance of evidence to show that he has a highly emotional nature, and then point out the things contained in that report which indicate to an expert that it is evidence of emotion. That is our question.

THE COURT: That is what I said before. I will permit you -- anything contained in that report, ~~and~~ any examination by Drs. Hulbert and Bowman, he can take that report of Drs. Hulbert and Bowman have made, together with his own observation of these two defendants and give us his conclusions as to that, but he cannot confuse the other men, you know.

MR. CROWE: Well, the question, if your Honor please, is this; is there any evidence contained in the finding of Dr. Hulbert and Dr. Bowman?

THE COURT: The record is clear. Ask any particular one --

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MR. CROWE: Let me finish.

THE COURT: You can pick out any particular findings they have made and ask him along that line.

MR. CROWE: Let me finish. Are there any findings in this report which indicate emotion on the part of Loeb?

THE COURT: Yes.

MR. CROWE: Well, that is our question.

THE COURT: I am perfectly willing to let him do that, but he must point it out.

MR. CROWE: Certainly.

THE COURT: Yes. That is all right, doctor.

THE WITNESS: All right.

MR. CROWE: Q Are there any findings in that report indicating emotion on the part of Loeb?

THE WITNESS: Yes, I gave a number of those this morning. It is not ~~me~~ necessary to rehearse those?

THE COURT: No.

THE WITNESS: I think there were a few others that were not testified to this morning. I recall -- this relates to Mr. Leopold, by the way, not to Mr. Loeb; I think we were talking about Loeb.

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Mr. Leopold; his statement of his feeling of pride when he received the Phi Beta Kappa pin, that is a perfectly normal emotional reaction.

The statement regarding his emotional reaction at the time when his mother had her blood pressure taken or rather when some physician took his mother's blood pressure, that was also a perfectly normal emotional reaction.

MR. B.C. BACHRACH: I object now. I thought we had a long argument about what was in this Bowman-Hulbert report, and when we come to it it has nothing to do with it.

THE COURT: The doctor now says he is going to tell us what he found from his own observation of Leopold.

MR. B.C. BACHRACH: Well, why he shouldn't ~~ask~~ be asked that question, and let that matter be settled once and for all.

THE WITNESS: There are one or two other points in this report.

MR. B.C. BACHRACH: Then I suggest that be finished first.

THE COURT: All right,

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A His emotional reaction on the death of his mother was a perfectly normal thing, as described in the report. His emotional reaction as regards his family as the present time is perfectly normal and natural. His statement that he does not like to see people suffer is also evidence of a normal emotional response. His fondness for little children is a perfectly normal emotion, all showing that he has with regard to all these things a perfectly normal emotional life. On page 131 of that report it says, "He has certain compulsions and superstitions". Of course those are of no particular importance, but they are purely emotional states, such as other normal people have. I think that is all with regard to the report.

MR. SBARBARO: Q Now from your own observation, did you find anything of mental reaction as to Leopold, in addition to what you have already said?

A As far as the emotional reactions could go in that situation, they were entirely normal in every respect. In his reaction to small things that occurred in the state's attorney's office, he showed a perfectly normal

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emotional reaction of pride, for example, as regards some printing he had done.

MR. DARROW: With regard to what?

THE WITNESS: He had printed some letters; I think it was something -- I think previously, before the crime, he had printed some letters, or something of that sort, and he was asked to show how he printed, and he showed evidently considerable pride and pleasure in the way he could do that, and in the way he had done it. When he was about to do this, I handed him my fountain pen, and he took that and responded in the ordinary way, although a very small thing, but showing that on very slight occasion he had an emotional response which was really rather delicate, more so than you would find in other young men of that age. The same thing occurred here in the court room. I spoke to him, and he responded, and smiled at me as I did at him, and his emotional response was just as normal as mine. He stated that afternoon as regards the --

MR. DARROW: Now what is this about?

MR. CROWE: Emotional response.

MR. DARROW: The report, or another question?

MR. SBARBARO: Emotional response.

MR. DARROW: All right; go ahead.

A This is what occurred in my presence, Mr. Darrow, in the State's Attorney's office, the day I saw these young men. There was a discussion between the two defendants as to who wielded the chisel with which ~~was~~ the boy was struck on the head. Mr. Leopold said that he could not do that sort of thing, that the idea of striking anybody on the head was so repulsive and repugnant to him that he didn't think he could do it, -- showing a very considerable emotional state as regards that sort of thing, which was entirely normal.

MR. SBARBARO: Q Are there any others, doctor?

A I don't think of any others, no sir.

MR. SBARBARO: Q Have you found any inconsistencies in the Bowman-Hulbert report as to Loeb? If so, will you point that out.

A Of the same sort. Not very many, because there are not very many statements made in that, except his statement as to his physical condition and so on. Page 132.

MR. B. C. BACHRACH: I have it, doctor.

A The statement was made that:"

"The patient has always had a marked feeling of inferiority".

That is a quotation. Those are the words used in the report. There is not anything, there is no statement of fact in the report to support that assertion, unless the inference is that the patient made that or the defendant made that statement himself. But there are no facts, no transactions, no occurrences or situations in the report which go to show that the patient has always had a marked feeling of inferiority.

Pages 133 and 134.

MR. B. C. BACHRACH: I have it, doctor.

A There is a -- I don't know that it is a definite statement. I think it is rather ~~definite~~ definite. At any rate, there is the assumption of sexual impotence. There are no statements of fact in the report, as I recall it, that support that, and it is entirely contrary to the statements that the patient made to me himself.

MR. SBARBARO: Q What was that statement, doctor?

A At the end of that afternoon, about six thirty, when Dr. Krohn and I had the boys stripped and examined them, we asked them at what age they began to have hetero-sexual relations, and they told us, and then Mr. Leopold was asked about how often --

Q Mr. Loeb, you mean?

A Mr. Loeb, I mean. I asked him about how often, I think I asked him. Possibly Dr. Krohn asked the question. And he gave us approximately the frequency, which was entirely normal, certainly not subnormal.

Q What was that, doctor?

A About twice a week.

THE COURT: Anything further along that line you can --

MR. SBARBARO; That is all.

Q Anything further?

A Page 136.

THE COURT: If there is, you will do it in private.

MR. SBARBARO: No, that is all on that.

THE WITNESS: Nothing more on that sexual thing,
no. Page 136, Mr. Bachrach.

MR. B. C. BACHRACH: 136, yes.

A There is a statement made:

"The defect in his sense of proportion
is obvious".

There is not anything in the report to show that
his sense of proportion is defective, except as
regards the crime, this or other crimes.

MR. B. C. BACHRACH: That is on page 136, you say?

THE WITNESS: 136, yes sir.

THE COURT: The last line.

THE WITNESS: I cannot tell you what --

MR. B. C. BACHRACH: Oh yes.

THE WITNESS: Page 138.

MR. B. C. BACHRACH: Yes.

THE WITNESS: A statement is made that there is
or he has -- I don't know what the verb is -- a total
lack of appropriate emotional response to situations.
There is not anything in thereport to show a lack of
appropriate emotional response to situations,
except as regards his delinquencies, and there are

plenty of things in the report that show that he had entirely appropriate emotional response to all other situations which are covered by this report. That is all.

MR. SBARBARO: Q What did you find, doctor, from your observations?

MR. DARROW: Hasn't he been over that?

MR. SBARBARO: Not as to Loeb.

MR. DARROW: I thought he had. Well, go ahead.

MR. SBARBARO: Q Anything additional, doctor?

A I don't think there was anything of particular importance. He behaved in a perfectly normal way, except as regards his attitude on the crime.

Q Now, doctor, you were asked yesterday on the witness stand with reference to fainting spells as to Loeb. The evidence shows that Loeb fainted during some kind of a class rush at the University of Michigan, after six or seven older and larger boys had jumped upon him. That was the first faint. The second faint that was testified to was when he took the physical initiation into a fraternity at Michigan and was handled very roughly.

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The third faint was during the formal initiation, and inasmuch as it was secret the surrounding circumstances are not known to us.

The next faint was when he came in at eleven o'clock Sunday morning to the fraternity house and collapsed. The witness did not know whether he had been out all Saturday night and Sunday morning carousing and getting drunk, or whether the faint was a drunken stupor or not.

The next faint was at the Chicago Beach Hotel during a New Year's Eve celebration. The witness testified that he had been drunk and that Loeb was drunk. He first stated that there was a froth about his mouth and later a drunken vomit, and after he was revived he wanted to lick a couple of waiters, and in addition to this the witness stated that he thought at that time his condition was due to his being drunk. **XX**

The next was five faintings following an automobile accident at Charlevoix, and the doctor testified that in his judgment at that time the faintings were due to the accident, though there

were no signs of physical injury.

In addition to that, on the Saturday morning following the confession, while accompanying the State's Attorney to various places mentioned in his confession and while at the eating place at 1352 Wabash Avenue, after having been identified by several witnesses, he fainted and was removed to a hotel. It further appears that on the Sunday following the confession, after talking to the alienists and while in the jail yard, a flashlight was suddenly exploded, and he was observed to collapse and lean against the wall for a moment.

Is there anything in those fainting instances that would indicate to you or that would modify your opinion?

A No sir.

Q As to his mental disease?

A No.

Q Now, doctor, is there anything in the facts I have asked you to assume, in addition to those which were the result of your observation and examination of these two defendants on Sunday, June the 1st,

1924, that will cause you to modify or change your opinion as expressed on the witness stand on Tuesday afternoon, namely, that unless a cold-blooded premeditated crime is of itself to be regarded as evidence of mental disease, then these two defendants are not suffering from any mental disease?

MR. B. C. BACHRACH: I object, if the Court please.

THE COURT: Sustained.

MR. B. C. BACHRACH: That is not the proper way.

THE COURT: Sustained.

MR. SBARBARO: Q Are you still of that opinion, doctor?

MR. B. C. BACHRACH: I object.

THE COURT: Sustained. He has not shown the doctor changed his opinion. There is no use repeating it.

MR. SBARBARO: Take the witness.

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CROSS EXAMINATION
BY MR. B. C. BACHRACH.

MR. B. C. BACHRACH: Q Dr. Patrick, Mr. Darrow here hears very well, but I do not, and if you will simply keep your voice up so I can hear we will get along a great deal faster.

A Yes sir, All right. If you will kindly indicate when I let it drop; I might do it unwittingly.

Q I do not wish to annoy you at all at that time.

A That is all right, sir.

Q With reference to the inconsistencies you have testified about in the Bowman-Hulbert report, did you understand that these reports were made to be submitted to the Judge as opinions of Hulbert and Bowman?

A I don't know anything about the purpose of them except as stated in the statement itself.

Q Yes.

A In the beginning of that statement I think it says that they were -- that these examinations were

made with the idea of determining whether these young men were mentally deranged or something like that.

Q Yes.

A That is the only thing I know about the purpose why those examinations were made.

Q I observed when you named most of the pages that you named, after one or two at the beginning; they were from page 130 on in both reports.

A I beg your pardon, sir?

Q The pages that you called --

A Alluded to?

Q Alluded to, yes.

A Yes.

Q Most of the pages were from numbers 130 and larger numbers after that, 32, 33, 34, 35, 36, 40.

A Yes, I think they were.

Q Did you observe there that it was a sort of summary or inference drawn by Dr. Hulbert and Dr. Bowman from the other matters that they had investigated?

A Yes.

Q And your conclusion was and is what you have testi-

fied to here, that some of those inferences stated in the latter part of the report were not justified by the facts theretofore set forth.

A Yes.

Q Well, as to the correctness of the facts theretofore set forth, you did not pretend to give any opinion here, did you?

A No; as to the facts of their examination, you mean what they found, the blood pressure and the weight --

Q Everything that they found before.

A Well, I wouldn't like to say that I would accept everything --

Q No, I didn't ask that.

MR. CROWE: Let him answer and see whether it is responsive.

MR. B. C. BACHRACH: I would sooner see first. I see it now.

THE WITNESS: Perhaps I did not understand the question.

MR. CROWE: I insist he ought to finish his answer.

MR. B. C. BACHRACH : Let us see what the question is.

THE COURT: Read the question to the doctor, please.

(Whereupon the question was here read by
the Court reporter).

THE WITNESS: No, I don't give any opinion.

MR. B. C. BACHRACH: No. Any criticism that you
have made or that you have described here, so far as
inconsistency in the report, related entirely to the
inference drawn in the latter part of this report?

A Yes, that is right.

Q Directing your attention, doctor, to Sunday the
first day of June, 1924, will you tell me at what
time the physical examination of the two boys took
place in the State's Attorney's office?

A I should think in the neighborhood of six
twenty in the afternoon.

Q And after that physical examination started
or was completed, did you then go home?

A Yes.

Q You live somewhere on the north side, do you?

A Yes.

Q Have you a memory as to about the time you ar-
rived ~~at~~ home?

A I think I left here about six thirty or six

thirty-five.

Q Yes?

A And as a matter of fact, I haven't any recollection of reaching home, but I suppose I did.

Q I presume you did not stop anywhere?

A I don't know whether I did or not.

Q Do you have in mind the time at which you arrived at the State's Attorney's office on that day?

A I have approximately, Mr. Bachrach. That must have been about a quarter of two. I know I was at dinner when they called me and asked me to come down, and on Sundays we have dinner, sometimes at one and sometimes between that and one thirty, I don't know exactly; I couldn't tell you; but that would not vary very much.

Q Do you remember seeing Mr. Darrow and myself in one of the rooms in the State's Attorney's office when you arrived there?

A I remember seeing Mr. Darrow. I didn't know you by sight and by name at that time and whether you were there or not I would not know.

Q Well you saw Mr. Darrow there ?

A I saw Mr. Darrow, I remember that.

Q Do you remember that after you saw Mr. Darrow quite a time elapsed before the State's Attorney disposed of Mr. Darrow, Mr. Leopold, Sr., Mr. Jacob Loeb and myself?

A Well, I haven't any knowledge of the State's Attorney disposing of you gentlemen at all. I did not see you after you went in.

Q Do you remember seeing Mr. Leopold, Sr.?

A Oh, yes.

Q In the room where the two defendants were, together with the officers?

A Well, the two defendants were not there when Mr. Leopold, Sr. was in, as I recall it. I think it was only Leopold, Jr. of the two, who was there.

Q He was alone then?

A Yes, I think so. I think Mr. Loeb came in afterwards.

Q The room that was occupied by Nathan Leopold, Jr. at the time the elder Leopold came in was the State's Attorney's own office, was it not?

A Yes, I suppose it is the State's Attorney's own office. At any rate, it is the one I have

always been in there.

Q I just wanted to distinguish the room; that was all I cared about.

A I suppose it is called that; I don't know.

MR. CROWE: My private office.

MR. B. C. BACHRACH: Q Mr. Crowe's private office.

A Yes sir.

Q Now then, when Mr. Leopold, Sr., came into that room, who all were present in the room?

A I can't tell you exactly Mr. Bachrach, because most of the people in there were people I did not know.

Q Well, mention as many as you can, and then see if I can add some?

A All right. Mr. Sbarbaro -- at the moment that Mr. Leopold, Jr. came in, I couldn't tell you, but during this time when I had my conversation --

Q I am not referring to that. Did the conversation start prior to the visit of Mr. Leopold, Sr.?

A No, I think not.

Q You think not?

A No.

Q It did not start from some time after that as a matter of fact, did it?

A It started quite soon after Leopold, Sr. left the room.

Q Let me see if I can refresh your recollection about that.

A All right.

Q When Mr. Nathan Leopold, Sr. came into the room it had not started, the examination of the boy?

A Oh no, the examination of the boy had not.

Q There was a question there of permitting Mr. Leopold, Sr. to have a conversation with his son, was there not?

A Yes, there was.

Q And some difficulty arose, and Mr. Leopold objected to talking before a large audience.

A Oh, I remember very well he said --

Q Do you remember his protests?

A He said he wanted to talk with his son alone. I remember that very well, yes sir.

Q Did he say that he ought not to be compelled to talk before all those people there, that he wanted to talk with his son, and they told him if he wanted

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to talk with him at all, he would have to talk before everybody there? Is that the fact?

A I don't remember just the remarks that were made, but I remember very well that Mr. Leopold, Sr. wished to talk to his son alone, and rather plead to be allowed to do so.

Q Yes.

A And that privilege was not granted to him.

Q Did he also say that his son was entitled to have counsel present?

A I don't know.

Q To get advice about his actions in the matter?

A I think that Leopold, Jr. said something to the effect that he ought to have his lawyer there.

Q Don't you remember Mr. Leopold, Sr., stating that if the lawyer was there, he could advise him to talk or not to talk, as he --

A I don't remember that remark, Mr. Bachrach. That was conversation that did not particularly involve me, and I didn't pay any particular attention to it.

Q Well, do you remember that after some talk on

that subject, the question of Mr. Leopold, Sr., talking with his son alone, Mr. Leopold, Sr. was asked to step out of the room?

A I don't know that. I know he did step out.

Q You do not remember that he was asked by Mr. Crowe to step out?

A No, I don't remember that.

Q You do not remember that at that time, from something he said, it indicated to Mr. Crowe that Mr. Leopold, Sr. was trying to tell his son not to talk any more with the State's Attorney than he already had talked?

A I don't know that anything like that was said.

Q Well, whatever was said, it made no impression upon you?

A Not particularly.

Q Were you listening?

A Well, yes, I was listening. I was seated right almost beside them.

Q Well, give us an idea of how many were present in the room at that time?

A Mr. Crowe was there.

Q Mr. Sbarbaro?

A I think so.

Q And Mr. Milton Smith, this gentleman here?

A Well, whether he was there at that moment, I do not know. These gentlemen were all strangers to me.

Q How about Captain Shoemaker?

A I beg your pardon?

Q Captain Shoemaker; Chief Hughes; three or four sergeants?

A Chief Hughes was there later. Whether he was there at that time or not, I don't know.

Q Some stenographers?

A I think one stenographer was there at that time. Later there was another one.

Q Did there appear to you to be about twelve or fifteen people in the room?

A Not then; later there were.

Q They came later?

A Yes.

Q Now then, do you remember that after Mr. Leopold, Sr., left the room, considerable time elapsed until you saw Mr. Crowe again?

A Well, some time elapsed, yes.

Q Yes. Were you informed anything about Mr. Crowe's talk with Mr. Darrow and me, Mr. Bachrach, and with Mr. Leopold, Sr., and Mr. Jacob Loeb?

A No sir, I was not.

Q You were not present, but were you informed about it?

A No. During the time that Mr. Crowe was absent, was when I was having my conversation with young Mr. Leopold.

Q You had it at that time?

A Yes.

Q Now, what would be your best judgment as to the hour at which you had that conversation?

A I should think that was between two and two thirty. That conversation which occurred during the presence of Mr. Leopold, Sr., was exceedingly brief. I should say he wasn't in there as long as five minutes; probably three or four minutes.

Q Prior to the time that he came in there, was there any talk that occurred between you and Mr. Crowe?

A Well, yes. I went down there, and they had

asked me --

Q Just answer yes or no, please.

A I beg your pardon. Was there any conversation?

Q Yes. I am not interested in the conversation itself.

A Yes, I had some conversation with Mr. Crowe.

Q How long did it last?

A Three or four minutes.

Q Is it not a fact that several times before Nathan Leopold was brought in there to talk with you in the conversation that you have referred to, Mr. Crowe stepped in and out several times?

A Before Mr. Leopold, Jr., came in?

Q Yes.

A I think probably he did. I am not very certain about that, however.

Q Is it not a fact that your conversation with Nathan Leopold, Jr., did not begin until after half past two?

A I don't know, but I should not think so. I should feel quite certain that it was not later than

half past two, but I don't know exactly what time it was then I went down there. I couldn't say.

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Q When did you first talk with Mr. Crowe about this case?

A That afternoon, after I reached his office.

Q Prior to reaching his office did you have any arrangement about performing services for the state in this matter?

A No. I had been called up before I was called to the state's attorney's office, by Mr. Ettelson.

Q By Mr. Sam Ettelson?

A Yes.

Q When?

A That Sunday — well, just a few minutes, or a little while before I was called from the state's attorney's office.

Q What was the conversation?

A Mr. Ettelson asked me if I was in a position to — well, I don't know how he expressed it, but at any rate, to take part for the state in the Franks murder case, and I said I was. I think the purport of that inquiry was to know or to ascertain whether I had been retained by the defense. I don't remember that that term was used, but that was as I recall it

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the tenor of the inquiry. I told him that I was free to be retained by the state, and he said that he could not retain me for the state, that that could only be done by the state's attorney, and that he would call me back later. Before he did call me back -- whether he ever did or not, I don't know, but before he did, I was called by someone from the state's attorney's office and asked if I would come right down; and in response to that I did go down.

Q I presume that on that Sunday you were aware of the fact that on the day before, on Saturday, May 31st, the report was printed in all the Chicago papers that confessions had been made by Nathan Leopold, Jr., and Richard Loeb.

A I presume so.

Q And you were called on June 1st, on Sunday, first by Mr. Ettelson.

A Yes.

Q Did he tell you for whom he was acting in the matter?

A I think he did not state definitely, but I understood from him that he was acting for Mr. Franks.

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Q Mr. Jacob Franks, the father of the boy who was killed.

A Presumably, yes.

Q Now, with whom did you make the arrangement for compensation for your services?

A With the state's attorney, Mr. Crowe.

Q And did you make an arrangement as to the amount per day you were to be paid?

A Yes.

Q How much was that, that you agreed upon?

A \$250.

Q Have you received any money yet?

A No.

Q Have you had any further talk about it as to who was going to pay you?

A No. Do you mean for my services here in court?

Q And other places, if any?

A For anything else, yes, there was some other conversation at Mackinac Island about a fee. Do you want to know about that?

Q About a fee for your services here?

A Not services in court, but a fee for a trip

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down to Chicago.

Q Yes.

A From Mackinac Island.

MR. CROWE: Tell us about that, doctor.

MR. B.C.BACHRACH: What?

MR. CROWE: Tell us about that.

MR. B.C.BACHRACH: You can ask him if it is proper, when your time comes. You cannot ask him now about it. Was there anything in that conversation— just answer this yes or no.

THE WITNESS: What conversation?

MR. B.C.BACHRACH: Q The one in Mackinac.

A Yes.

Q That related to your getting fees for services from the state here, in that conversation?

A Yes.

MR. CROWE: It was an offer by the defense to pay you, was it?

MR. B.C.BACHRACH: I object to that as improper.

MR. DARROW: No such offer was made by anybody on the part of the defense.

MR. CROWE: Tell him to state the conversation.

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MR.B.C.BACHRACH: You can ask him the question when the time comes.

THE WITNESS: You asked me to answer yes or no; I answered yes, Mr. Bachrach.

MR. B.C.BACHRACH: Q You spoke of compensation for the time you spent in court as a witness. Were you to receive from the state any compensation in any other service?

A No, there was never anything said about that till afterwards.

Q Did you have a conversation with Mr. Crowe about that?

A Yes.

Q Well, was there another arrangement made?

A No.

Q Or anything said about paying you for services in preparation for your testimony here?

A No.

Q What other services were to be covered by the compensation other than your services in court?

A Compensation from the state?

Q Yes.

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A Why, a trip down from Mackinac Island with reference to this case.

Q And the time spent on that occasion?

A Yes.

Q Are you to be compensated for any work done in reading the Hulbert and Bowman report?

A I suppose that all goes in the per diem.

Q That is what I thought. Any work done in connection with this case that relates to your testimony here you regard as going into the per diem?

A Yes, sure.

Q Coming back to the situation in the state's attorney's office on June 1, 1924, when you had your first talk with Leopold, were any of the other physicians present?

A Part of the time. At first, I think there was no other physician present, and after a time -- not a very long time -- Dr. Krohn came in and took part in this conversation, and a little later Dr. Wesener -- I presume he is a doctor -- he is a chemist, by profession, he came in and I think he entered slightly into this conversation. There were no other physicians present

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7m at that time; I am quite sure there was none other.

Q With this group of people that were in the room, was your conversation open for them all to hear, or was it more or less private between you and Leopold?

A Well, anybody in the room might have heard it. I don't think anybody was paying particular attention to it. I don't know.

Q Were they talking to each other?

A I think so.

Q Were the stenographers taking down or was the stenographer taking down your conversation with Leopold?

A I think he was not, but it is possible that he did.

Q Have you seen any transcript of that conversation?

A No, sir.

Q Has anybody talked to you about a transcript of that conversation?

A No, sir.

Q Did you relate on direct examination the substance of that conversation, or just the topic which you discussed, on your direct examination this morning?

A I spoke of the topics, and I gave part of the substance.

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Q I should like if it is not too much trouble, I should like to get you to repeat as nearly as you can the entire conversations, giving the substance where you do not remember the exact conversation.

A Very well. I was introduced to Mr. Leopold or I introduced myself, I don't know which. At any rate we spoke to each other, and I think we shook hands; and presently he asked me who had me come there; at any rate, whom I represented. I told him I was there at the request of the State's Attorney. Oh, well, then, he said you are for the state. I said yes, I presume I am.

I cannot tell exactly how the further conversation started, but he asked me what might -- oh, I know; he asked whether I had a large private practice in addition to my work for the State's Attorney which made me smile as I do not work for the State's Attorney very often.

MR. B.C. BACHRACH: Q You don't?

A So I explained to him that I did not do -- that I had no particular connection with the State's Attorney and that I did mostly a consultation practice in nervous

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and mental diseases. He said in effect,

"Well, then, you are interested
in psychology, or you are a
psychologist,"

or something to that effect; and I said, well, I
was a sort of a practical psychologist, and he said
he was interested in psychology, and that really
started our conversation.

He said he had done -- he was interested
in the psychology of birds, particularly, and that
he had observed birds. I think I had told him I had
heard of that; I think there were statements in the
papers to that effect, and he told me that he made
observations on birds and had written some small
things, and one paper he seemed to think was better
than the others, and of considerable importance in
that it showed that birds were not always controlled
by instinct, but that they were at any rate at times
controlled by reason.

And I asked him how he had come to this
conclusion, and he told me that he had observed that
certain gulls, the name of which I do not recall at

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all, and that these gulls had regular routes of migration north and south, and that these regular routes were always east and west of Chicago, but that recently he had observed some of these gulls on a sandbar up in Lake Michigan, I think, somewhere, and that this was quite anomolous, and that these birds had taken a route, a migration route leading through this Chicago district; and that the following year there were more of these, and that showed that they had reasoned out that for some cause or other this was a better route of migration than the one that they had previously been taking.

And we spoke then in a rather general way about whether animals do reason or not, and, if they do, at how low a scale in the animal life they begin to reason, the relation of reason to instinct, and the relation of behavior in the lower animals to behavior in men, and I think one remark that Mr. Loeb made --

Q Leopold.

A Leopold, I mean -- that people were generally

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very unwilling or incapable of subjecting their behavior to scientific analysis. I think really Mr. Leopold did most of the talking. I made a few remarks about behavior in people, that it was very interesting and that it was something very difficult to explain, and that is about the tenor of the conversation.

Q How long would you say that conversation lasted?

A Oh, I should think about twenty minutes.

Q In that conversation did you discuss anything else except psychology ~~xxx~~ as applied to the birds and the birds themselves and what he observed, as indicated by you in your telling of this last conversation?

A Will you repeat that question?

(Question was here read by the
Court Reporter).

A Oh, I think there were a few casual remarks. When he spoke about my practice or inquired about it, I said, "Perhaps you know my assistant," and he asked me who it was and I told him and he said, "No", he did not know him. Then afterwards

he asked me why I thought he might be acquainted with my assistant and I told him why I thought so. I ~~can~~ don't recall anything more about it.

Q Now, toward the last end of that conversation or some time during that conversation, Dr. Krohn came in, later on.

A Yes.

Q And Dr. Wesener?

A Dr. Wesener. W-e-s-e-n-e-r, I think it is.

Q And did Dr. Church come in?

A That was after this conversation was over.

MR. CROWE: So there will be no misunderstanding and we won't have to waste time, Dr. Wesener and several others came there as chemists purely. They had nothing to do with this and they have already testified to what they did.

THE COURT: They testified on the stand.

MR. CROWE: Yes.

MR. DARROW: We assumed they had, yes.

MR. CROWE: I say that so there will be no misunderstanding on that.

MR. B. C. BACHRACH: Q Then after they came in,

Dr. Church came in there?

A Yes, he came in later.

Q About what time? doctor?

A I don't know, sir.

Q You don't know just when he was in the room?

A I would have to guess at that, Mr. Bachrach, I don't know at all.

Q Well, had he come into the room before that interruption came of Mr. Leopold, Sr. coming in there and having his talk with Mr. Crowe?

A Oh, Dr. Church came a good while after that.

Q A good while after that?

A Yes. Well, I don't mean hours, but a considerable period.

Q Well, do you remember what part of that conversation it was, at what point in that conversation, or how near the end, I mean, of that conversation that you have just related, that Mr. Crowe came back?

A I don't know at all.

Q Do you remember of his coming back?

A Oh, I remember he did come back because he was there afterwards.

Q Well, when he came back did he take charge of the proceedings then?

A How soon after he came back he took charge, I don't know; but he did take charge after a while, after Mr. Loeb came in and —

Q After Richard Loeb?

A Yes, Richard Loeb, after he came in, and there was some lunch brought in for the boys, and then Mr. Crowe took charge and asked the questions.

MR. B. C. BACHRACH: If your Honor please, shall I go on further?

THE COURT: Well, all right. We will suspend until tomorrow morning at ten thirty o'clock.

Whereupon an adjournment was here taken to Thursday, August 14th, 1924 at the hour of 10:30 o'clock A.M.

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Thursday, August 14th, 1924.

10:30 o'clock A.M.

Court convened at 10:30 o'clock A.M. Thursday, August 14th, 1924, pursuant to adjournment heretofore taken.

Present, same as before.

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D R . H U G H T . P A T R I C K ,

a witness called on behalf of the prosecution in rebuttal, having been previously duly sworn, was examined and testified as follows:

CROSS EXAMINATION (CONTINUED)

BY MR. B.C. BACHRACH.

MR. B.C. BACHRACH: Q Dr. Patrick, yesterday when we adjourned we were discussing what took place in the State's Attorney's office on Sunday, June 1st, and I believe we reached the point where you had finished your first talk with Nathan Leopold, Jr. Before leaving that I would like to ask you a little more about that talk. In general it was about ornithology,

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psychology, of birds. Was there any other subject discussed by you and him?

A I can't say there was any conversation on ornithology as such. We didn't talk about the different kinds of birds especially, but it was the psychology of birds more especially, and the psychology of the lower animals. If he wanted to take up ornithology I don't suppose I could much object, but it was not on birds in general.

Q Whatever it was, was there any other subject discussed by you and him at that time?

A I can't do better than repeat in substance what I said before. The psychology of birds; he spoke particularly about this one paper he had written, which he thought showed that birds reasoned and were not controlled by instinct alone. He spoke of one or two other articles he had written, which I believe were somewhat similar, but not so pretentious as this one.

Then there was some conversation about the relation of psychology in the lower animals to psychology in man, and the relation of behaviour in animals, and some talk about human behaviour; the relation of instinct

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to reason, and a question perhaps of where instinct ceased and reason began; and how much after all human beings were controlled by reason, and how much by their instincts or emotions. I don't remember that there was any particular topic outside of that range of subjects.

Q Who selected the topics, you or he?

A He did. I think I spoke of that, too. He asked me a question which led up to the statement of what my ordinary everyday work is, and that introduced the subject of psychology.

Q What did you tell him?

A I told him that my work was in nervous and mental diseases.

Q Did you amplify it at all?

A I think I did not. I don't remember that I did, sir.

Q Did you in the first part of the conversation with him discuss the purpose of your interview with him?

A He asked me in effect who requested me to be there, why I was there, or whom I represented, or

along
questions/that line, and I told him I was there at
the request of the State's Attorney. I stated
that yesterday. Thereupon he, for a time, didn't
say anything more; he didn't seem to be inclined
to talk to me. And it was -- oh, I don't know,
just a few minutes -- when the conversation was
resumed along those lines.

I think it began by his asking me -- a
large practice aside from my work for the State's
Attorney, and it was in reply to that question
that I told him my work was in nervous and mental
diseases, and was principally private practice;
that I did not do much work for the State's Attorney.

Q Did he tell you that he had heard of you before?

A I think he did not.

Q Have you told everything that was said about any
information given to him as to your purpose in being
there?

A I think I have.

Q Now during that first conversation did you ob-
serve him closely while talking to him?

A I was sitting facing him, I should say not

quite as far as I am from you and we were talking to each other directly.

I did not make any particular effort to observe him but I could not help observing him how he behaved and what he looked like.

Q Was it your purpose there to observe him?

A Yes, I presume it was.

Q And in accordance with your purpose you did observe him then?

A Yes, I did.

Q In that talk concerning the birds, the instincts and psychology of birds and of lower animals and of humans, what were you endeavoring to learn from him?

A I don't know that I was endeavoring to learn anything particular. This was rather a casual conversation. Of course, I could not help making mental notes as we went along as to his intelligence and reactions and what kind of a young man he seemed to be.

Q At the time that you were having this conversation, did you or did you not regard that as part

of your examination?

A Well, I suppose I did. I don't know as I thought so very much about it, but I was there to serve the State's Attorney. I presume I made mental notes of this at the time. I don't know why I would not. It is habitual.

Q Was there any confusion in the situation there at all?

A Not very much confusion. It was not particularly tranquil, people coming in and going out. I don't know how much they disturbed Leopold. They did not disturb me any. I was not paying attention to the other things and apparently he was not.

Q Did you regard the situation there as one well adapted for an examination into the mental state of Leopold at that time?

A Well, this sort of conversation, of course, would throw very considerable light upon his mental processes, etc.

Q My question is very simple. Did you regard that situation as you found it, talking with Leopold in the manner that you have indicated here as well adapted to bringing out the matters connected with

his mental state?

A Exceedingly well adapted for bringing out certain things. Mr. Bachrach, let me frankly avow that I would not consider that a complete mental examination if that is what you are driving at. You might call it the beginning of one.

Q Do you think it was well adapted to find out such things?

A It was very well adapted for ascertaining certain mental qualities, yes.

Q Which ones?

A In the first place, it was well adapted to ascertain as to his concentration, his ability to hold a conversation and a theme when there were other people about, going in and out. It was an excellent opportunity to see how logical his mind was. It was an excellent opportunity to ascertain to a considerable degree his opinion as to his own intelligence and acquirements. It was an excellent opportunity to observe his use of language and his memory.

Q At the time you began the conversation, did

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you have in mind that the opportunity afforded there was good for that purpose, or is that an afterthought. Have you thought about that since?

A No, I have not thought about it until you asked me just now.

Q Did you think of it beforehand?

A Before what?

Q Before the interview, when you started to have the interview, did you think:

"This is a good opportunity for finding out his concentration".

A No. I thought, "Here is an opportunity to observe this young man".

Of course, I thought that.

Q Now after the time, immediately after the conversation referred to, the real examination came along after that, did it not, when the other doctors were present and it was more formal?

A I don't know. I can tell you what occurred -- I don't know --

Q Did you regard that as a different sort of examination than the one that you were having

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prior to that?

A Not very different. It was a much more serious subject of conversation.

Q Talking about the crime, were they not?

A Yes.

Q Now how much of that conversation would you say elapsed before the other doctors came in and listened to it or took part in it?

A Well, as I said yesterday, I should think about twenty minutes that Leopold and I were talking before Dr. Krohn came in, and after Dr. Krohn came in, he took part in the conversation. It was a three-legged conversation then.

Q Still on the same subjects?

A Very much the same, yes.

Q Was there any change?

A Yes, from the time Dr. Krohn began to take part in the conversation, I had less to say. The conversation then was more between Dr. Krohn and Mr. Leopold, but it was very much along the same line.

Q Did you listen to it?

A Yes, sure.

Q It was an encouraging of him to talk along those same lines that we had been talking to you?

A Well, I don't know that there was any encouraging.

Q He didn't need any, did he?

A He didn't need any.

Q He didn't need any?

A No.

Q Did he appear to you at that time during that conversation to be at all excited?

A No.

Q Perfectly cool, calm and collected?

A Well, I don't know that I know exactly what perfectly means, but he was quite cool, collected and at himself.

Q Now, prior to the time that Mr. Crowe took charge of the proceedings there, was there anything else talked of by you or Dr. Krohn or any other doctor with Leopold except on the subjects that you have heretofore indicated?

A Well, the conversation was along those lines. Whether any other matters were introduced, I could

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not really tell. As I said yesterday, Dr. Wesener came in and I do not remember the few remarks or questions, remarks he made or questions he asked. I don't remember at all what he said.

Dr. Krohn was the principal gentleman then talking with Mr. Leopold, and that was along the lines of psychology, mental processes and so on.

Q Did you take any notes?

A No. Of that conversation?

Q Yes.

A I think I jotted down one or two things afterwards. Not at the time.

Q No.

A I too.

Q One or two things?

A Yes.

Q Have you them with you?

A Yes, I think I have. I don't know. Yes, I have.

(Witness here pulls paper from inner coat pocket).

Q When did you jot those down?

A The same afternoon, a little later.

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Q In the room?

A Yes. That is a piece of paper I got off the desk in the State's Attorney's office.

Q You may read what you jotted down.

A All right.

"Discussed psychology of birds, instinct and reason, psychology of men."

There was a reference made to one of the German philosophers, I think it was Haeckel. I might be mistaken about that.

And Mr. Leopold asked me if I understood German. I said yes, and he said:

"Well then, you understand what Haeckel -- that was the German philosopher -- meant by stufenleiter".

Q By what?

A Stufenleiter.

Q What does that mean in English?

A Well, it means a ladder.

MR. CROWE: What?

THE WITNESS: It means a ladder.

MR. B. C. BACHRACH: Q A stepladder?

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A A stepladder, more literally yes. Ladder was the word Mr. Leopold used in translating it.

"Behaviour problems."

And another one I mentioned yesterday and which I have not mentioned this morning:

"The reluctance of people to consider themselves scientifically."

I think that was a remark that Mr. Leopold made, that people were reluctant to look at themselves scientifically and from an intellectual standpoint alone.

Now, here is a lower note, a little further down.

Q Just read it.

A Yes, I must explain first. This applies in part to this conversation I am speaking of, and in part to what succeeded that, that Leopold was prompt and responsive, and I have written a German word here, "zugänglich". It really means "accessible", and I wrote it in German, because it is a word very much used, particularly by German psychiatrists, by Praepelin, who has been alluded to here several times, in relation to dementia praecox or schizophrenia.

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Q Did he mention it?

A No. I say, I have that word in my notes, and you asked me about my notes.

Q All right.

A I say, I am explaining why I used the German word, because I have it written in German. It is the word that expresses the situation a little better than the English word "accessible".

Q You mean, you found him accessible.

A Yes, very.

Q Go ahead; what else?

A Emotionally normal. In my notes there is a plus sign after emotional, which is my own shorthand for normal; emotionally normal in discussion.

Then I have noted here what I spoke of yesterday; his normal reactions; when I offered him my place to sit down to eat his lunch.--

Q And his response about the glass of water?

A Wait a minute. You are asking me about my notes and I am getting to that.

Q That is there, is it not?

A I am getting to it, yes.

When he accepted my pen to do the printing, etc.; and in doing the printing he seemed to be quite susceptible to flattery.

Q But those are the notes you jotted down?

A Yes. They are not very extensive.

Q You observed particularly with reference to his emotions, did you not?

A Yes.

Q Who first talked about ornithology, you or he?

A Oh, he did. I don't know much about ornithology.

Q I suppose not.

A You understand, Mr. Bachrach, I don't know that he used that word at all.

Q I don't care about the word.

A He told me about birds.

Q Just the subject?

A All right.

Q Do you remember now, and can you tell us, just how it came about that that subject of birds -- I will leave out the word ornithology which seems to be troublesome --

A All right.

psychology of birds, or instincts, began?

A Yes, I think I can.

Q Please do that.

A I explained that yesterday, I believe, in my testimony. Mr. Leopold asked me the question about my professional activities and I told him.

Then he said something to the effect:

"Well, then, you are interested in psychology; you know something about psychology."

and I said:

"Well, more or less; I am a sort of practical psychologist."

Then he said that he was interested in psychology and particularly in the psychology of birds. That is how this conversation arose.

Q What did you say then?

A What did I say?

Q Yes.

A I mostly listened, Mr. Bachrach. I asked a question now and then. He said he thought he had shown conclusively that birds did reason, and I said:

"Well, that is a rather radical assertion",

or something to that effect, and he went on to explain why he felt sure of the fact.

Q Had you heard before your conversation with him that Leopold was much interested in ornithology?

A I think I had seen that in the papers. I didn't know anything about it otherwise.

Q Did it occur to you at that time that ornithology was a subject which, if he discussed, would be discussed at ease by him?

A I don't think I made that comment.

Q I did not say comment.

A I mean, comment to myself.

Q Yes?

A No, but I make it now. He would.

Q He would?

A He is interested in it, and familiar with it, and of course he would be supposedly at least on that subject.

Q Well now, have we exhausted, not every word, but the substance of the conversation that occurred before the State's Attorney came in, and then took up the matter of the crime?

A I think so.

Q Now, I wish you would relate as minutely as you can, -- and I do not expect you to give it word for word, the substance of the conversation of any person who talked there, and anything that anybody did after Mr. Crowe came in?

A Well, that is a kind of large order. After Dr. Krohn and Dr. Wesener came in, then the others came in. I couldn't tell you, but I could tell you about who was there afterwards. At any rate, in a few moments there were a couple of stenographers sitting at the desk, and Mr. Leopold came in and sat --

Q You mean Mr. Loeb?

A I beg your pardon -- Mr. Loeb came in and sat close to the east wall, and rather near the door. A small table was placed before him, and a lunch put on that. In the meantime, Mr. Leopold had moved rather diagonally across the room from that, near where the water cooler stands.

Mr. Crowe sat down to the right of Mr. Loeb.

Then Dr. Church came in and sat to my right,

I was sitting along the east wall to the right of Mr. Crowe, Mr. Crowe facing west.

Dr. Krohn then sat almost facing Mr. Loeb between him and the desk.

Dr. Church was sitting at my right, and Mr. Leopold over here (Indicating).

Then there were present Mr. Savage, Mr. Sbarbaro, I think a couple of police officers or sheriffs officers, and I think Mr. Smith was there. These gentlemen were strangers to me then, and I don't know particularly -- I wasn't much interested in who was there.

Q How many police officers?

A Altogether?

Q Yes.

A Well, let me see. Including the prisoners there were about -- I think Chief Hughes was there.

Q Chief of detectives; they call him chief?

A Chief of Detectives, yes. I think he was there. There would be about --

Q Was Shoemaker there?

A I beg your pardon?

Q Captain Shoemaker?

A I don't know him by sight. I think he was not, but I am not sure. I suppose there were about ten people there or something like that. There may have been more.

Q Don't you think there were about fifteen?

A No, I shouldn't think there were fifteen, but it was possible.

Q Let us count them?

A How?

Q Let us count those you have enumerated. There were the State's Attorney and three assistants. That is four.

A Four, and the two prisoners make six.

Q Six.

A And four doctors are ten. Well, it might go to fifteen.

Q You are allowing for only four officers, are you not, and that includes Chief Hughes.

A I don't think I am allowing for as many as that besides Chief Hughes, in addition to him.

But I don't know.

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Q And two stenographers?

A Yes, two stenographers. I guess it would reach --

Q About seventeen?

A Well, I don't think so, but I don't know.

Q ^{Did} ~~do~~ you ever in your life make an examination of any person, as to his mental state, under circumstances of that kind before?

A I think not.

Q Well, when they were all assembled, how did the meeting open?

A Mr. Crowe spoke to Mr. Loeb and said,

"Now, Dick, I would like you to tell us this story all over again, the same as you did before."

Mr. Loeb said:

"Well, do you want the whole story from the beginning, or just the story of the crime itself, and of that day, the day of the crime?"

Mr. Crowe said:

"Well, I guess you might as well begin at the beginning and tell the whole story."

Q May I interrupt you for a moment?

A Yes.

Q Prior to Mr. Crowe's making that arrangement, was there any talk among you and the doctors with Mr. Crowe as to having that thing done for your benefit?

A I think he said:

"I want you doctors to hear this story,
and I want you to observe these young men".

I think he made some such remark. At any rate, we knew that was what we were there for.

Q Mr. Crowe in fact directed what the examination should consist of at that time, is that correct?

A Well, no. He asked us, as I recall it, to observe these young men, and we observed them, listened in, so to speak, and asked them questions afterwards.

Q Go on. State what Loeb said.

A Oh gee, do you want me to tell all that I remember he said?

Q I want you to tell it with the greatest minutiae, phase, as far as you remember?

A All right. He said:

"Well, we began planning this" --

he said, Mr. Leopold said --

"last November; it seems to me it isn't so long, but maybe it is; I don't know; at any rate, it's three or four months ago; we began to consider the plan of kidnaping some child for ransom, and by degrees we worked out the details. We discussed it frequently, and finally concluded that the best plan would be to kidnap the child of some family we knew, so that we would know that they were able to pay the ransom, and that we could get it; and also it would have to be some child we would know, else we could not get the child into the automobile, because the plan was to kidnap the child, and then kill him; and if we got a child we knew, we couldn't restore him to his family after obtaining the money, because then of course we would be exposed. So that the plan was to kidnap the child and work out a plan for getting the money, and then etherize the child to death and conceal the body.

"Then we worked out a plan after considering numerous plans to get the money like this" --

I am not so perfectly certain I can get this all in detail, but this is as I recall it --

"We were to write a letter to the father demanding ten thousand dollars ransom.

This letter was to be pasted or stuck inside of a 'keep the city clean' box" --

and that box that they selected was located at some corner which I don't recall.

"In this letter the terms of the ransom were indicated. The parent was to be called up and told that the child was perfectly safe and all right, and that he should go to this box, where he would find the letter, and he was to follow the instructions."

As I recall it, the letter instructed the father to go to a telephone and call up another telephone in which way he was to receive instructions to go and take a certain Illinois Central train leaving at a certain time, at any rate, it was a train leaving the Illinois

Central train or Michigan Central, I don't recall, but a certain train, and in their observation car in the rack for telegraph blanks he would find a letter telling him what to do.

The previous instructions had been that he was to have the ten thousand dollars in old bills tied in a compact package so that when it was thrown from the train it would not burst open; that he was to stand, I think, on the lefthand side of the observation car and when he reached a brick building or a smokestack of some manufacturing plant that had a name on it in big letters, he was then to throw the package as far as he could off the train.

They contemplated being there with an automobile and this plan was worked out because this was a fast train and even if the train were signalled to stop after the money was thrown it would take some time for them to stop the train, and the boys would have plenty of time to get the package of money and get into their automobile that would be waiting and get away with it.

This parent was to be notified only a short time before the train left so that he would not have time to communicate with the police and have them informed so as to prevent this and in any event he would not know where he was going to throw this money off until he got the letter in the car. And those were the ways.

Then before they could carry out this plan they had to procure an automobile. They could not use either of their own cars, because they would be known, especially as the car of Leopold was, I think, a red car, a car that could be more readily identified, and so they worked out a plan for getting a car, and I believe Mr. Loeb said it took them some time to figure out a plan wherein they could get a car, wherewith they could get a car which would not be identified as belonging to them.

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So they found a place called a Rent-a-Car business, and went there, and found where they could get a car. They would have to make a deposit of \$50, which was easy, but that they had to be recommended or vouched for by two people. And they managed that-- I don't think I can get that quite straight, but I know some of the steps of it.

One of these gentlemen went to the Morrison Hotel and registered under an assumed name, and then the plan was that the hotel was to be called up and asked if this Mr. So and So of Peoria was stopping there. He went to the Morrison and took a room, taking with him a suitcase with some old books in it. He took this suitcase to the room and mussed up the bed. This was in the afternoon. Went back the next day and found that the suitcase had been taken out of the room and that apparently had not been left mussed. Presumably the maid going in to fix it for the night had found it mussed, as if it had been slept in, and rearranged it. At any rate, the hotel people had found the bed had not been slept in, and they took the

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suitcase out of the room, and he went back and he thought it was not very safe, so he did not claim his suitcase, and left; I think, called up the Rent-a-Car people and told them he had gone to another hotel.

Then one of them impersonated, I think, a Mr. Mason. They told the Rent-a-Car people to call up a certain telephone at a certain time and ask for Mr. Mason. One of the boys stayed at the telephone or near it, and when the bell rang he answered as Mr. Mason, said he knew this gentleman from Peoria and he was all right.

So they got the car, took it out once or twice on little trips and took it back. So they had no trouble in getting it when they wanted it for this job.

Then he told how they had provided for the crime itself by the purchase of a can of ether where-with to etherize the child. I will say boy hereafter, because I don't know whether they ever considered kidnaping a girl or not. It runs in my mind it was mostly to be a boy. At any rate, to etherize the boy.

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They told us where they got this ether.

They also got a bottle of hydrochloric acid, after a brief discussion between themselves as to whether hydrochloric acid or sulphuric acid would be the better acid to disfigure the corpse, so it could not be recognized, but they decided on hydrochloric; told where they got it, the size of the bottle, what kind of a bottle it was in.

He told us where they bought the cold chisel, for the purpose of striking the boy on the head, where they got the adhesive tape to wrap around the cold chisel so that the point of it should not hurt the hands of the man who wielded the cold chisel, and tape also for the purpose of strapping the gag into the mouth of the victim so he should not make any noise.

He told us about getting a carriage robe or blanket wherewith to cover the boy after he would be knocked senseless, and about getting a pair of rubber boots for Mr. Leopold to put on when they would take the body into this little creek where the culvert was.

He previously recounted how they had discussed the various and sundry ways of disposing of the body,

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and how they had finally selected this culvert, with which Mr. Leopold was familiar, as he had been down there on birding expeditions and was familiar with the topography of the neighborhood. This particular culvert was picked out as a good place to dispose of the body.

Then he recounted what they did on the day of the crime, and all of that I do not remember. It involves getting something to eat and cruising about in this rented car. They drove by the Harvard School. They thought a boy from this school would be a likely subject, and there were some boys playing in the neighborhood at the Harvard School, and Mr. Loeb got out of the car and went in and talked to some of these boys, and then left.

Then I think both of them got out of the car and went up an alley and stood at the corner of the alley watching some of these Harvard schoolboys playing with a physical director, and they selected one of these boys as a likely boy, and presently they thought it looked pretty suspicious, their standing in the alley, so they left there and got the car.

Then this boy had in mind left the playground

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or the place where he was with the other boys, and this man who was with them, presumably a physical instructor, and this boy left them and went up an alley. They thought he would be back because the physical director had not left. When they left they thought probably he had gone off and would come back, but he did not come back. So they had to give him up.

Then they got in a car and drove around looking for ^a likely victim. They were driving north, I think between 47th and 48th street, between 48th and 49th, and they saw the Franks boy going south on that street, and Mr. Loeb said, just like that, he snapped his fingers, he concluded there was the opportunity. So they drove the car north to the next intersecting street, I think it was 48th, turned around, and drove south along the curbstone until they overtook the Franks boy, when Mr. Loeb accosted him and asked him if he did not want a lift. He said no, he was much obliged, he was only going a couple of blocks. Mr. Loeb said,

"Get in, I want to ask about your

It seems a day or two before the Franks boy was over at Mr. Loeb's home playing tennis with a younger brother. The Franks boy had a good tennis racket which was fitted to his age and strength whereas Mr. Loeb's younger brother had an old tennis racket of his, the prisoner's, which was not a very good racket and was too heavy for him, and Mr. Loeb had examined the Franks boy's tennis racket and spoke to him about it and said his brother ought to have one like that, so that was the excuse for getting the boy into the car.

He got in and sat on the front seat.

The curtains of the car had all been put up, so that nobody outside could see what went on in the car.

Now, at that point there was a discrepancy between the statement of the two prisoners.

Q. Go on, and relate what occurred.

A. I will relate what Mr. Loeb said, the way he put it; he said he was driving the car and sat on the lefthand side, that he leaned over and opened the front door and called the Franks boy, calling him by his first name and asked him to get in and

he did get in.

They drove on south and just at what point the boy was struck over the head I don't recall, but Mr. Loeb's statement was that Mr. Leopold then struck him over the head with the cold chisel and they had supposed that one blow of the cold chisel would be enough to stun the boy, but it was not; that he made a whimpering and moaning sound so that it was necessary to hit him three or four times; at any rate he was struck over the head three or four times until he was stunned, and even then he was making the same little whimpering or moaning noises, and then Mr. Leopold, who, according to Mr. Loeb's statement, had wielded the chisel, took him out of the front seat and took him into the tonneau behind and stuffed the gag with which he had provided himself into his mouth and strapped them in with adhesive tape and covered him up with the robe which they had provided for the purpose.

They had, by the way, provided themselves with revolvers, each one, so that if anybody stopped them or if they were in any danger of being caught

they proposed to shoot whoever interfered with them.

They then drove the car -- I don't recall the route they pursued at all.

Q At that point were there any interruptions to Mr. Richard Loeb's statement?

A Yes, I might say that probably before this point and at several points during Mr. Loeb's recital, Mr. Leopold interrupted to make corrections, and the State's Attorney asked him to wait until Mr. Loeb had quite finished his recital when he would be given an opportunity to make any corrections which he wanted to make.

Q Did the State's Attorney say that immediately after the first interruption or had Leopold interrupted several times before Mr. Crowe made that statement?

A I don't know.

Q Do you remember what the interruptions were?

A I only know that he interrupted and said:

"That is not right", or

"May I make a correction", or

"No, that is wrong".

He did not get further than that, and that he signi-
fied he wanted to correct some of these statements.

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Q All right. Please finish up Loeb's statement.

A I might also say that atleast twice during this afternoon while this recital was going on, that Mr. Leopold asked to speak with Mr. Savage privately which he did in the adjoining washroom or toilet room just off the State's Attorney's office.

Q You did not hear what he said?

A No, I did not hear what he said. I remember something about what was said about it, but I did not hear anything he said to Mr. Savage, and I don't think anybody in the room could. They went into the room and stayed a moment and returned.

Q Now, I suppose that Loeb's statement went right on then.

A Loeb's statement went on essentially without material interruptions and --

Q What did he say?

A He said, for instance, I recall this that he said, after the boy was dragged into the tonneau where the rear seat is, that he did not remember exactly the turns they made or which corners they passed until they had reached some blocks further on.

Then he said where they went, but the details of what occurred up to the time they got to this culvert I am not particularly clear about in my mind except that they concluded that some of the metal things in the boy's clothing could not well be burned, that they might leave evidence in the ashes, they proceeded to undress the boy and take the clothes back and burn them, and they cut off the buckle of his belt and a school pin which he had and disposed of that somewhere down in that neighborhood. I think they buried them.

Then they finally got the body undressed on the edge of this sluggish stream and Mr. Leopold put on these rubber boots, I think they called them hip boots, at any rate, rubber boots, and he got into the water and when they took the boy out of the car they found that he had already expired either from the blows of the chisel or from the gag having been forced too far into his throat; at any rate they found the boy was dead, and so they did not need to use the ether, and they poured the acid on to the face and then Mr. Leopold got into the water

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and took one end and Mr. Loeb took the other end and they left the body down into the water and pushed it into the culvert.

Exactly what their movements were after that, I don't remember.

I remember they took the clothes back to one of the homes of these boys and burned them in the furnace. It seems to me they washed the lap robe, they did not burn that, and later they washed the car because they found blood on the floor of it, and they were washing it out, and the chauffeur came and asked them if he might help them and they said no, that it was all right, that they had been out the night before and spilled some wine in the car and wanted to wash it out before they took it back.

I don't recall the details of the disposition of all these things and there was more antecedent about the plan of getting the money having miscarried -- I will have to go back because I could not get it all consecutively.

Q It was Loeb talking all the time?

A When they came to put this letter to Mr. Franks which had been previously written quite a while before on the typewriter by Mr. Leopold they found it would not stick to the inside of this box so they had to give up this part of it and Mr. Franks was told over the telephone to go to a drug store and get a message there, and he was very much excited and did not remember the telephone number, and I think did not remember the drug store.

Q Did Loeb tell you that?

A I think he did.

Q That Franks didn't remember it?

A Yes. I don't think he --

Q Aren't you mistaken about that, doctor?

A Maybe; No. I think the boys told about that. They didn't know at the time that they were telephoning that he forgot the number, but it was the explanation that their plan miscarried, that they didn't get the telephone message they expected from Mr. Franks.

I don't mean to say that when they were

waiting for the message, which they didn't get, that they knew he had forgotten. That they put in. How they ascertained that, I don't know.

Q But Loeb said it?

A I think he did.

Q That Franks got confused or didn't remember the number?

A I think he did.

Q All right.

A I suppose they had been told that. I don't know.

MR. B. C. BACHRACH: May we have our recess now, if your Honor please?

THE COURT: Yes, we will take the usual recess, gentlemen, for five minutes.

Whereupon a short recess was here
taken by Court and Counsel.

Court reconvened pursuant to short
recess heretofore taken.

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D R. H U G H T. P A T R I C K,

a witness called in rebuttal on behalf of the Prosecution, having been previously duly sworn, resumed the stand and testified as follows:

CROSS EXAMINATION
(Continued)
BY MR. B. C. BACHRACH.

MR. B. C. BACHRACH: Shall I proceed, your Honor?

THE COURT: Yes, Mr. Bachrach.

MR. B. C. BACHRACH: Q Doctor, do you have in mind where you left off in the conversation in the State's Attorney's office, before the recess?

A I think I had got to the place of what they did after they had disposed of the body, and all the details following that I do not recall, except about their washing out the car. They spoke of the statement they had arranged to make, that on this evening they had picked up a couple of girls and

had driven around and drank a good deal, and the girls were not satisfactory and they got rid of them, and then they did not remember where else they had been or what else they had done. I know there was some statement made about that.

Another thing that occurred was that -- I think it was at the second time that Mr. Leopold had gone into the adjoining room with Mr. Savage and came back, that Mr. Crowe asked him to state what he had said to Mr. Savage in there, and he, I remember, had asked Mr. Savage whether he should tell certain things -- I don't remember exactly what they were, regarding this thing, whether he should tell it all or not, and Mr. Savage told him to tell the whole thing exactly as it was. Now, exactly what that was, if he had the whole question in his mind that he should tell or not, I do not recall.

Q You do not know what that related to?

A I say, it related to the occurrences connected with the crime. I believe it was whether he should state that he was driving the car, and that Mr. Loeb

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was the man who wielded the cold chisel -- I am not so very certain, but it was some such detail of the crime that he wanted Mr. Savage's advice on, as to whether or not he should go into that.

In reply to a question, he said that Mr. Savage told him to tell the whole thing just as it was, and conceal nothing.

Q And did he?

A I presume he did.

Q What did he say?

A Well, Mr. Bachrach, I say I am not certain as to what these points were concerning which he was in doubt as to whether he should tell it all, but I think that was one of them, the question of who wielded the chisel. There was a difference in the statement, I know, that came out, and I was coming to that at once.

Q Go on then in your own way, doctor, and tell it.

A Then after Mr. Loeb had about finished, Mr. Leopold made some corrections, and the principal one was that he was driving the car, and that Mr.

Loeb was the man in the rear seat who had wielded

the chisel, and he adduced in support of that, that he knew exactly the streets they had traversed, and the corners they had turned immediately after the boy was stunned with the chisel, and taken into the tonneau of the car, and that he knew exactly, because he was driving, and Mr. Loeb did not know exactly because he was busy stuffing the gag into the boy's mouth, and strapping it there, and covering him up, and of course he would not be apt to know.

Then he made some minor corrections of no great importance; I think two or more, related to directions or the topography of the situation; that is, where a certain restaurant was where they had gotten something to eat, the name of the proprietor, where the drug store was located where they got the ether, where the hardware store was located where they got the cold chisel, and things of that sort.

The only real essential correction and difference was regarding the question of who struck the boy on the head.

Then after Mr. Leopold-- while he was talking, Mr. Loeb was making notes on a piece of paper, and then he presented his view of it, or his recollection of it. Mr. Leopold took no notes. He seemed to be able to carry all those details in his head, better than I could.

Q That is, when Mr. Leopold was talking, Mr. Loeb was taking notes?

A Yes.

Q But when Mr. Loeb talked, Mr. Leopold did not take notes.

A He did not take notes.

Q Go ahead. What else occurred.

A Well, then they were asked a few questions, not very many.

Q I am very anxious to hear about the questions and who asked them, and what answers were made.

A Well, they were asked --

Q By whom?

A By Mr. Crowe, Dr. Church and Dr. Krohn; I don't remember whether I asked any questions; if I did, they were very few -- one or two maybe.

Q Well, as near as you can, give the questions asked, and by whom?

A Well, one of the principal questions was the question of motive.

Q Who asked it?

A Mr. Crowe, Dr. Church and Dr. Krohn principally.

Q Can you tell what the question was?

A Yes, I can tell some of them. It was Mr. Drowe who asked the questions which I spoke of yesterday in passing, something like this, -- and this he addressed to Mr. Leopold. He said,

"Well, now, you boys didn't do this thing for money, did you? You have got plenty of money. Your parents are wealthy, or well to do. You have always had an abundance of spending money. You didn't plan this crime for getting the money?"

And he said:

"Well, that was a part of it."

Q Who said that?

A Mr. Leopold; Mr. Loeb; I don't remember. He was asked about the same question, and he gave in

effect the same reply, that it was not alone for the money, but that getting the money was a part of the motive.

Q Was that elaborated at all?

A Well, it was elaborated only to the extent of how they were to get the money, why it was to be in old bills, so that the bills ~~wax~~ could not be traced, and what they were going to do with the money afterwards.

Q Was there anything said there by either one of them in answer to the question of money being the motive, that showed that it had relation to the performing or committing of a perfect crime?

A I don't know whether the word perfect was used or not, Mr. Bachrach.

Q Well, was that idea present?

A Yes, that idea was present.

Q Well, can you tell us about that; what was said?

A Well, questions were asked to about this effect; I think I asked Mr. Leopold whether one of the motives of this crime was not to show their ability as com-

pared with the ability of the police, whether it was not the enjoyment of putting it over, and showing up their intelligence as superior to the intelligence of the police department. Now, it was not expressed, I apprehend, in those exact terms, but that was the idea of the question, and Mr. Leopold said, yes, he thought that had something to do with it. In answer to a question, Mr. Loeb said he thought that part of the motive was to get the experience and get the thrill out of it, the excitement of performing a crime like that.

Then as I said yesterday, he had been asked the same sort of question several times and he finally said, "God, I don't know why."

Q Loeb, said that?

A Yes. They were asked whether they had any remorse about it or felt about it and Mr. Loeb said he regretted it on account of his father who was in poor health. They were asked whether they might not have quit it any time, they did not need to go on with this, and he said of course they could have quit any time, and I think both of them used

different times the expression that they were not a quitter.

Q Did this conversation occur prior to or after the interruptions of Loeb or the checking up?

A Yes, after.

Q Well, prior to the time that the motive was discussed did Leopold ask questions of Loeb?

A Yes.

Q Did he in those questions point out that Dick originated the crime and had begun shadowing people when he was seven years old? Did he ask him:

"Don't you know you did that thing"?

A He asked him that and he asked him about a game that he played with his younger brother up at Charlevoix.

Q Detective?

A I think they call it the game of detective, and there was one other answer that Mr. Leopold gave. I think that was the first time he was asked why he did it or what his motives were, and he said, well, he thought because Dick wanted it done.

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Q Did he also call attention to the statement, or make the statement,

"Dick, you know, you have always read detective stories and always wanted to commit a perfect crime"?

A I don't remember whether he asked him whether he always wanted to commit a perfect crime. I remember his asking him, yes, if he had not always been fond of detective stories, and stories of crime.

He asked him also or stated whether he had not as a boy shadowed people or followed them about the street, "as if you were a detective", and I remember Mr. Loeb's explanation of the detective game with his little brother up at Charlevoix, to the effect that his brother was much younger and, of course, less vigorous, and it would not be any fun to play tennis with him because he would be so obviously over-matched, that it would not be any fun to indulge in games of competition with a boy so much smaller and less adequate in a physical way, so they or he had figured out this other game, in which they would be more like equals, and which they could ~~be~~ play

with mutual enjoyment.

Q Well, when Leopold asked the question about the detective stories and detectives, did he in substance ask him or say to him:

"You know, you always wanted to commit a perfect crime"?

A I do not recall that expression being used.

Q Or anything that meant that?

A No, I don't remember that question, that he always wanted to commit a crime. I can't remember that, Mr. Bachrach. He may have said it, I don't know.

Q Well, I don't want to harrass you in any way, doctor, but I will ask you to go on and tell the rest of what occurred there.

A A very unexpected question, Mr. Bachrach. I have not arranged my thoughts along that line at all. I will do the best I can. I don't remember anything more essential that occurred in the office. Then we went down to the jail yard.

Q Yes.

QA To see the car, to see a car which was there, and these young gentlemen were asked if that was the

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car that they had used, and that they got from the Rent-a-Car place, and Mr. Loeb looked at it and he said,

"I don't know if that is the car or not. It may be. It was a car like that. It is the same make, but whether it is the same car or not, I don't know."

Mr. Leopold looked at it and walked from the left side of the car around to the other side, and finally said, "

"This is the car. I know the car."

And he was asked how he knew, and he said,

"I noticed these scratches on the front door, righthand door."

What more occurred in the jail yard I don't know.

There were a good many people down there, and I stood aside and was talking to Dr. Church and then to Mr. Crowe, and I was talking with Mr. Savage and Chief Hughes, and what if anything occurred there regarding the boys I don't know.

Q Did you see Richard Loeb faint or collapse there? You heard about it then?

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A I saw it in the paper. I did not hear about it then. I remember there was a flashlight, as if they were taking a photograph, but I was not in the bunch. I was off to one side.

Q I see.

A Then we went back or returned to the State's Attorney's office, and Dr. Krohn and I were requested to look over the boys physically, which we did very briefly.

They stripped, and we took the pulse to see if they had any tremor or any astigmas, which is an abnormal movement of the eyes and determined by the reflexes.

I think I listened to their heart, their muscles, asked them a few questions.

Mr. Loeb had a little red mark, I think, on his right wrist. I asked him what that was, and he said from a baseball.

Q You took no notes of those matters?

A No.

Q The only notes you have taken were the notes you had here this morning?

A Yes.

Q Of that interview?

A Yes.

Q And then did you leave after that?

A I did not read all of those notes, Mr. Bachrach.

Q Oh, I asked you to read them all.

A No, you asked me to read the notes regarding my conversation with Mr. Leopold.

Q I beg your pardon?

A I read all of those.

Q Then you may read them now, doctor.

A All right. They are not very numerous or very long.

The next note, after the note in which the statement was made that people were very reluctant to consider themselves scientifically, then there was some discussion with Dr. Krohn and Dr. Wesener and myself.

The next note is that later Mr. Crowe questioned Loeb and he told the story which he had first,

which he had previously told to others, and to repeat this story he had told in the State's Attorney's office on Friday; this was on Sunday.

I don't think that note amounts to anything, but that is here.

Then Mr. Leopold made a statement that Mr. Crowe had told him that if he would tell the whole story of the crime without any reservations, that Mr. Crowe would particularly take care of him.

Mr. Crowe denied that he had made any such statement as that, and Mr. Leopold said he did.

I have noted that down, whether that is in the reports to you or not, but I happened to put it down.

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Q You are certain that was Leopold that said that?

A Yes. The next note I have is what I have already stated here --

Q Don't repeat any of those you have given.

A All right. I will see if there is anything else. Yes, I have a note here of a statement I made yesterday, that after Mr. Leopold had finished his luncheon he took a little bottle from his pocket and dropped some of the contents in some water in a glass and drank it; and I have a note that when he did that his hand was very steady and that was of interest to me from several standpoints, and that is why I noted that.

Yes, I have a note here which is in quotation marks in which it says that Mr. Loeb in reply to one of these questions as to motive said,

"The spirit of adventure".

So he must have used those words because I have that in quotation marks.

Q Does that refresh your recollection?

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A No, if I wrote it down and put it in quotation marks it is on paper and it is not here.

Q By here you mean?

rA In my memory. It might be there or it might not. It is more apt not to be if I wrote it down. I have a note here to the effect and I think it came about ~~in~~ through a question of Mr. Leopold, a question Mr. Leopold asked Mr. Loeb regarding his reading. There may have been other questions asked of Mr. Loeb along the same line, but at any rate he gave an account of his reading and why he read the things he did and what he read, and I have made a note here that Loeb's account of his reading was exceedingly clear and reasonable, although I think in error.

Now, exactly what I meant by this notation,

"I think in error",

I don't remember. I have not paid any attention to these notes since, but I put them in my pocket when I was coming over here. I don't know whether I meant he was lying about it or he misrepresented some of the reasons for reading what he did.

Q That was Loeb?

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A That was Loeb.

Q What was he reading?

A I don't remember, I could not tell you that.

Q Was there any significance to the things read by him?

A I don't think any particular significance. It looked to me to be about the reading of many boys or young men of that age and younger. He started pretty far back as I recall it in the things he read and what he thought about them and so I thought he gave a very clear and connected account of it.

Q But what they were, you don't remember?

A I don't remember at all. That is all, sir.

Now, wait a minute. I don't know what I have got here. There is a note that brings another thing to mind. I think I stated that also yesterday, that in this discussion between these two young men as to who wielded the cold chisel, Mr. Leopold said that he was incapable of doing that sort of thing, that hitting anybody over the head with a weapon would be an exceedingly difficult or impossible thing for him to do. He didn't explain why. Obviously it was

4m not through any sympathy for the Franks boy, but the mere act; that is the thing that is very frequent among people. I don't say that it is particularly abnormal, but that is one of the statements made.

Q Well, have you told all that you remember about that; about that entire meeting now?

A That is all that is present in my memory at this moment. Perhaps more could be evoked, I don't know.

Q During any part of that meeting there did Leopold appear to be anything but frank in his statements to you?

A Well, there wasn't any obvious evidence that he was lying. I don't think I particularly questioned whether he was or not. It looked to me as if the boys were both telling it, in the main, about as it occurred; but they had these differences of statement. Now obviously one of them must have been wrong about it.

Q Now outside of those differences as to who wielded the chisel, did you get any impression of any lack of candor on the part of Leopold in answer to questions?

A No, not any particular evidence. Of course, I couldn't tell whether he was always telling the truth

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or not. I don't know.

Q I understand you didn't see any --

A But I don't think there was any very marked misleading. There may have been. I don't know.

Q And how about Loeb in that connection?

A About the same thing.

Q Did you get the impression from anything that Leopold said that he was trying to get you to understand that he was suffering from some mental disease?

A Oh, no, not at all. He was asked some question about his -- as to whether he was mentally all right, and he said he was. I don't remember whether that question was asked of Mr. Loeb or not.

Q Well, without reference to that question, did you get the impression from anything that Loeb said on that occasion that he was trying to make you believe that he was suffering from some mental disease?

A Oh, no.

Q And you left there about 6:30?

A Yes.

Q Well, up to the time that you left, you state here on the witness stand that in that examination

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that you had, no evidence was furnished you showing that Leopold was mentally diseased on the 21st day of May, 1924?

A Yes.

Q And the same as to Loeb?

A Yes.

Q And you never saw either one of them again until you saw them in the courtroom yesterday?

A That is correct.

Q Had you ever seen either one of them before that date?

A Not that I know of, no, sir.

MR. B. C. BACHRACH: Take the witness.

MR. SBARBARO: No redirect. That is all, Dr. Patrick.

(No redirect examination and witness excused).

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MR. CROWE: Is Dr. Church here.

He is down in my office, your Honor, and by the time he gets up here it will be adjournment time.

THE COURT: Can we not run until four thirty this afternoon, the day being nice and cool?

MR. B. C. BACHRACH: Before Dr. Patrick goes, if you would like to ask any questions about that matter in Mackinac, I ask you to ask them here in the courtroom now. We do not think anything discreditable occurred in the matter, but if you think there was, you ought to ask him here in open Court.

MR. CROWE: I am not taking any instructions on how to try a lawsuit from Mr. Bachrach. I learned that long ago.

MR. B. C. BACHRACH: That is all right.

THE COURT: We will suspend until two o'clock, with the understanding that as long as the weather is nice and cool, we will run until four thirty instead of adjourning at four.

Whereupon an adjournment was here taken to
2:00 o'clock P.M. Thursday, August 14, 1924.

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Thursday, August 14th, 1924.

3:00 o'clock P.M.

Court convened at 3:00 o'clock P.M. Thursday, August 14th, 1924, pursuant to adjournment heretofore taken.

Present, Same as before.

D R . A R C H I B A L D C H U R C H ,

a witness called in rebuttal on behalf of the prosecution, having been previously duly sworn, resumed the stand and testified as follows:

DIRECT EXAMINATION
(Continued)
BY MR. SBARBARO.

MR. SBARBARO: Q You are the same Dr. Church who took the stand on the 13th of August, the day before yesterday, whose testimony was interrupted?

A Yes.

Q If you recall, Doctor, I was asking you at that

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time to assume some facts relative to a hypothetical individual. Have you those facts in mind?

A I have.

Q I will ask you to assume further the following facts as applied to the same individual:

That he has developed an atheistic view of religion; that he has adopted a philosophy of life which justifies the commission of an act provided it brings him pleasure and not pain.

Assume that he regards himself as a superman superior to laws and customs; assume that he has stated that murder is justified if it gives him pleasure.

With these additional facts have you an opinion as to whether this hypothetical person had mental disease on May 21st, 1924?

A I have.

Q What is your opinion, doctor?

A That there was no mental disease on that date.

Q Will you give your reasons for that, Doctor?

A There is nothing in the additional assumptions which indicate any such disease.

Q Now, doctor, assume further, in addition to what has already been asked of you to assume, that the facts stated in this Bowman-Hulbert report with reference to Nathan Leopold, Jr. are true in connection with this same hypothetical person that I have asked you to assume in previous questions. Have you an opinion as to whether this hypothetical person was suffering from a mental disease on May 21st, 1924?

A Yes sir.

Q What is that opinion?

A That there was no mental disease on that date.

Q Will you give your reasons for that, doctor?

A There is nothing in the report that justifies, in my opinion, the idea of mental disease.

Q Now, Dr. Church, when the State's Attorney asked you whether or not you would accept employment as an alienist in this case for the State, did you not tell him, only on condition that whatever you found you would be free to state, that you would not under any circumstance be a partisan in this matter?

MR. DARROW: Well, that is very leading. Let it go.

A I did.

MR. SBARBARO: Q And then did not the State's Attorney tell you that as a quasi-judicial officer he would not hire an alienist except under those conditions?

MR. DARROW: I object to that question.

THE COURT: Oh, yes. He may tell what was said.

MR. DARROW: Certainly.

THE COURT: To put such a question to the witness that can be answered by yes or no, that isn't proper.

MR. DARROW: I object to any conversation that Mr. Crowe had or anything he might say or do as a quasi-judicial officer. I have not much confidence in quasi-judicial officers. They are just like the rest of us lawyers; they see it from their own standpoint. I do not think it is competent.

MR. CROWE: Mr. Darrow and Mr. Bachrach, when they had their alienists on the stand, had them state the terms of their employment, and I think it is only fair that we should be allowed to go ahead.

MR. DARROW: I do not object to that.

MR. CROWE: Then ~~xxx~~ go ahead and let him tell.

MR. DARROW: But I do object to the conclusion that he was a quasi-judicial officer, and would not hire Dr. Church unless he could conscientiously testify.

MR. CROWE: Then strike that out.

MR. SBARBARO: Q State what the conversation was with the State's Attorney.

A I was loath to enter the case at all, and I told Mr. Crowe that I would not have anything to do with it unless I had absolute liberty to reach my own conclusion in my own way, and in no sense would I be a partisan witness; and that I reserved the right to retire from the case at any moment. Mr. Crowe said to me that that was exactly in accord with his own views, and if the boys were insane, he did not want to hang insane boys; that that was not his duty.

MR. DARROW: I ask to have the last part of the answer stricken out.

THE COURT: Yes.

MR. SBARBARO: Take the witness.

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CROSS EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Doctor, so that you and I may understand it, I remember very distinctly your testifying in a case where I was concerned many years ago, where neither of us got any money, trying to save one Prendergast, who was sentenced to execution, and I don't want you to think that I am imputing anything to you, for I am willing to take your statement as you give it, that you would not testify unless you believed what you were saying. I just want to say that for you. And once or twice since then you have testified in cases where I was interested, have you not?

A Yes, Mr. Darrow.

Q You never heard of this case excepting through the newspapers until you were called on Sunday, did you?

A Never.

Q You did not know either of the boys or their families?

A I did not know either of the boys, and as far

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2m knowledge of the families.

Q You have been an alienist, I believe you said, for upwards of forty years.

A Yes.

Q You have been connected with a number of hospitals, and were once superintendent of the Elgin hospital.

A I was assistant.

Q Or chief medical examiner.

A I was on the medical staff, not superintendent.

Q And you have privately treated a great many people who had nervous and mental diseases, have you not?

A Yes.

Q In all these years?

A Yes.

Q When you were spoken to in this case, it was while these ~~hm~~ two boys were still in charge of the state's attorney, was it not?

A So I understand.

Q Well, I will try not to mislead you this far, anyway. And before the parents or lawyers had been able to have consultation with them; you understand that, do you not?

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A I understand that some of the relations had seen them before I saw them.

Q Well, that was several days before, before the confession that was spoken of had been made, was it not?

A My recollection is that the confession was made in the early morning of June 1st, and I was called into the case on June 1st, and saw them on June 1st about half past two o'clock.

Q Well, you mean, some of the parents had seen them that day?

A I am under the impression that Mr. Leopold saw his son a few minutes before I saw him.

Q Were you present?

A No.

Q You were under the impression also that the State's Attorney refused to let them talk excepting in the presence of the officers and himself, are you not?

A I don't know; I don't know anything about that.

Q Leave it that way. That has already been testified to, anyhow. You saw Mr. Bachrach and me in

the outside office when you went in, I take it?

A No, I did not.

Q Well, I saw you, doctor. You did not notice us if we were there?

A No; I am sorry to say.

Q You went in about half past two?

A Yes, about half past two.

Q When did you go out?

A About half past six.

Q So you were there about four hours, you think?

A Something like that.

Q Who else was present?

A Dr. Patrick, Dr. Wesener, Dr. Krohn, Chief of Detectives Hughes, Mr. Crowe and some of his assistants were in and out, I think Messrs. Sbarbaro and Smith and Mr. Savage and I think there were two stenographers.

Q Did you and Dr. Krohn and Dr. Patrick go in together?

A We were all there, yes.

Q During such conversation and examination as you had?

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Q There were two stenographers present, too, weren't there?

A That is my recollection.

Q I presume that your contract was that you should report to him what you found and reserve the right to testify or not to testify for the State as you saw fit, but would not take employment from the other side?

A There was nothing said about employment on the other side.

Q You would not have done it, anyhow, I take it?

A Probably not.

MR. DARROW: I am not finding any fault with that that is the regular way and alienists think it is the right thing to do, and the lawyers as far as you know consider that the honorable thing to do.

A Yes, I think that is customary.

Q Now, there were some fifteen people in the room while you were talking to these boys?

A I think hardly that many, but there were too many, I know that.

Q Too many for a thorough consultation?

A Too many for an ideal examination.

Q You never had anybody bring you a patient to treat where you called in any such number of people as that, did you?

A Occasionally it is very difficult to keep all the members of the family out.

Q I asked you a specific question.

A No, I never treated a patient in private practice, examined a patient before as many people.

Q You have laid down the rules yourself as to how a private examination should be conducted, have you not?

A Well, I control the situation under those conditions.

Q Did you ask any questions?

A Yes.

Q Who did ~~xxx~~ most of the questioning?

A Really there were very few questions asked. Dr. Patrick asked a few and Dr. Krohn asked a few and Mr. Crowe asked a few, but most of it was continuous narrative on the part of Mr. Loeb and some

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questions asked him by Leopold and some back and forth conversation between them.

Q Did any of the officers ask any questions, or don't you remember?

A I don't think so, I don't think they asked any questions at all.

Q Did you ask any?

A Yes.

Q Do you remember any you asked?

A Yes.

Q What?

A I asked Leopold why he committed such a crime, and with some emotion he replied:

"I don't know why in the world I did it."

I asked him what did he -- I then asked Mr. Leopold if he did not know what he was doing, and if he was not able to resist from a course of conduct at any point, and he said it was. I asked him if he knew the criminal nature of what he was doing and the penalty provided and he said he did of course.

Q Do you when you are examining a patient regard their statement that they are able to resist very

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seriously?

A I take them for what they are worth.

Q Yes. That is not much, is it?

A Sometimes it is not worth anything. Sometimes it is very important.

Q You have heard people say they could drink or leave it alone, when they wanted to, haven't you?

A Yes.

Q You did not take that very seriously, did you? With some of them, anyway?

A With some of them, no.

Q So a man's judgment on how far he could resist, or not resist on any state of facts you would not take very seriously probably, as a whole?

A I should want corroborative evidence of incidents or something of that sort.

Q You never saw either of these two before, as you have already stated, and you never saw them again until you came into court to testify the other day, did you?

A I live very close to them and I may have seen them incidentally, but not to my knowledge.

Q Well, if you did, that did not enter into your

opinion any?

A None at all, no.

Q Well, that is all I am interested in.

A Yes.

Q Did you give an opinion that day when you left?

A No.

Q Did you have one when you went away?

A Yes, I had an opinion up to that point, which was based upon what I had seen and knew.

Q A pretty positive one?

A That was to this effect, if you wish me to state it.

Q Pretty positive as to whether the minds were in any way diseased?

A Pretty positive to the effect that I could see no evidence of any mental disease.

Q Yes.

A Up to that time.

Q That is all right. Did you ask any questions to find out evidence of mental disease?

A No.

Q Did anybody else that you know of?

A Well, all of the questions and conversations were for the purpose, as far as I was concerned, of determining their mental status.

Q Well, did you hear them talk about anything except this crime?

A Yes.

Q What other subjects?

A I heard Leopold talking about the courses he had taken in psychology, the apparatus with which he is familiar in making certain laboratory psychological investigations.

Q That was with reference to birds and animals, was it not?

A No, that was regular psychology, him and psychology.

Q What course did you hear him say he had taken?

A Well, I think he said he had taken up a course both at Michigan and at Chicago.

Q Dr. Patrick was there at that time?

A Dr. Patrick was there.

Q Well, --

A As I came in they were speaking something

about the psychology of birds, migration of birds.

Q Yes.

A And then with Dr. Krohn the question turned upon the particular variety of apparatus used in the psychological laboratory, with which he was familiar.

Q What was said about that?

A I can't recall exactly. He named a particular style of instrument with which Dr. Krohn seemed to be familiar.

Q You were not familiar with it?

A No.

Q So that did not give you much light on it?

A No. They were discussing those things, and I don't know that I gave any particular attention to that.

Q What other topics did anybody discuss with either Leopold or Loeb?

A Other topics than the crime?

Q Than the crime, and this that you have already stated?

A The question came up as to aberrant sexual

relations between them.

Q Now, just a moment. The court has directed that you do that quietly, doctor.

(Whereupon the following examination was carried on out of the hearing of the public).

A Well, they intimated they had been accused of such practices, and that for a long period of time they took precautions not to be seen together.

Q A little lower, doctor.

A In order that no gossip might be favored by such apparent society. They denied them, they denied having done such things. One of them said that they did not want to be seen together, but they were like the young ladies that needed a chaperon, for the good of the public.

Q Did you ask anything about that?

A Well, I asked them if anything of that sort had happened.

Q Why did you ask that?

A Sir?

Q Why did you ask that?

A Because the subject had been broached.

Q How is that?

A Because the subject had been broached.

Q Is that all?

A And because, of course, I wanted to know.

Q Why did you want to know?

A Because those practices are not so very uncommon among people who are closely associated in companionship.

Q That would not be a reason, would it?

A Yes.

Q Was that the reason you wanted to know?

A I wanted to know if there was anything of that sort in the case.

Q Why?

A I think I had seen in the paper some intimation that they had taken sexual liberties with the body of the boy.

Q I see.

A And I wanted to know if they had this aberrant sexual trend.

Q Did you ask them whether there had been sexual relations between themselves?

A Yes.

Q Why did you ask them that?

A For the same reason. I wanted to know if they had a tendency to those things, whether it was a sexual crime or not.

Q Does that fact ever have a bearing on mental condition?

A Oh, I think it does.

Q Yes. That is why you asked, was it not?

A Yes.

Q All right. That is what I was getting at. And you assumed, didn't you, that there was no such thing?

A That was their statement.

Q I say you assumed -- you did not come to an opinion, did you?

A I was not sure that that statement on their part was entirely dependable.

MR. DARROW: Will you repeat that.

(Whereupon the answer was here read by
the Court Reporter).

MR. DARROW: Q Did you assume either way, come to any opinion?

A No. There was something else on that subject. Oh, yes. They said that the gossip had been set afloat by a young boy who had a week-end party at some country place, had accused one of them of getting into the hammock or bed with the other, and that that was the reason this story got about, and the reason they had to avoid any appearance of great personal intimacy.

Q Now, you don't know whether after you asked that question you assumed they had or had not?

A No, I did not assume anything.

Q But you do know that it is one of those things that a physician inquires into in considering mental condition, don't you?

A Oh, yes.

Q Doctor, may I ask, if this matter comes up again, we have an understanding --

A Pardon me.

Q I say, if this matter comes up again we have an understanding that it should be private?

A I see.

Q So if you will let us know.

A Yes.

(Whereupon the following examination was had in open court):

MR. DARROW: Q You said that you found nothing in this conversation and examination taking place as you have stated that led you to think there was any mental difficulty, is that right?

A Yes, that is right.

Q Did you say you found any lack of emotion in either one of them in relating this question of the crime?

A There seemed to be a distinct lack of emotion on the part of Leopold.

Q Yes?

A But there was emotion on the part of Loeb. In reply to a question as to whether they did not feel remorse, Leopold said not, but Loeb said he did feel remorse when he came to pour the acid over the boy's face.

Q When what? A When he came to pour the acid over the boy's face.

22r Q Was that word used? A I don't think he used
that word, but that he felt repugnance.

lm Q Well, is there any difference between repugnance
and remorse?

A Yes.

Q I thought so. And Leopold did not feel either
remorse or repugnance?

A He would not use the acid, he said. He couldn't
do that, he said.

Q Did he show any remorse?

A No, he didn't show it.

Q Or any emotion?

A Well, when it came to the question of the striking
of the blows, he with considerable heat and earnestness
asserted that he would be incapable of striking a blow
on the head; that to hit any large shining object of
that sort, like a human head, was beyond his capacity.

Q Was that when there was some difference between
the two boys as to which one struck the blows?

A Yes.

Q Leopold was claiming that Loeb struck them, and
Loeb was claiming that Leopold struck them?

A Yes.

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Q And in that he made this statement. What do you mean by an emotion?

A Emotion is a play of feeling.

Q What does it come from?

MR. CROWE: Talk a little louder.

MR. DARROW: Q I say, what does it come from?

A Well, I don't know that I can tell you. We are all at all times in a certain plane of emotional state, that is either pleasurable and comfortable, or unpleasurable; and a pleasurable emotion may be established by a great many stimuli, and an unpleasant emotion may be produced by a great many stimuli.

Q Probably I should have made that question a little more definite. Emotions are not depending on the intellect, are they?

A Well, I think they are. I do not believe you can divorce emotion from intellect.

Q Well, then, when he made this statement, it might have been purely intellect, might it not, making an argument?

A Yes.

Q There might have been no emotion in it, just

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defending himself.

A Yes, sir, it might.

Q Well, it was, was it not?

A Yes, I think it was produced -- his statements were produced in the way of defence, and of course that in a sense is emotion.

Q Now, there is a difference between the part of the human anatomy which produces emotion, and the mind, which is supposed to be the seat of reason.

A I don't know of any such difference.

Q Well, emotion is supposed to be an instinctive thing, is it not?

MR. CROWE: Louder, please.

MR. D W: I beg your pardon.

A Yes.

MR. DARROW: Q And reason and intellect are not supposed to be?

A No, but many emotions are the reflex of intellectual conditions.

Q Yes, stimulated from the inside.

A In the mind, yes.

Q And may be stimulated from inside or outside,

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may they not?

A Yes.

Q But the emotion comes probably through the nervous system, does it not?

A Well, all of the processes of mentation and intellectuality, of which the emotions are a part, are from the nervous system.

Q Would you be able to distinguish between emotion and intellect?

A Not entirely. I cannot do it. No one has emotion unless he intellectually perceives it, otherwise there would not be any such thing as emotion.

Q A sensitive plant has not it?

A I am talking about human emotions.

Q How about the animals?

A I believe they have emotions.

Q Dependent on intellect?

A I believe they have intellect to a certain point.

Q Do you think an animal's emotions are dependent on intellect?

A I don't believe you can distinguish between

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instincts, emotions and intellect.

Q Let me see if we can understand that. You simply mean there are some manifestations that you cannot separate or that there are no manifestations that can be separated?

A I don't think I get you, Mr. Darrow.

Q Well, probably that is not very plain. There are some manifestations that you evidently think could not be distinguished between intellectual and emotional.

A I don't believe that anyone can have an emotion without intellectually perceiving it and being intellectually affected by it.

Q How about stepping on a tack?

A It would not hurt you if you did not intellectually perceive it.

Q You have read of these experiments on animals, especially the frog, where they have taken the brain out and they act just the same?

A They are reflexes of the spinal cord, but they would have no emotion.

Q You think they are stimuli applied from the outside?

A Yes.

Q And they act apparently as if they had any intellect?

A But they have no perception or emotion.

Q How do you know?

A Because the organ essential to that perception is gone.

Q You are assuming that is the mind?

A I am assuming that is the mind, the product of brain action, there is no mind without brain.

Q You are assuming that mind is the product of brain action?

A Yes, I believe it.

Q And you feel confident of that?

A Yes.

Q Is there any other part of the human system that has anything to do with the mind or brain?

A I don't think so.

Q You don't think it is a product of the whole activity, the whole ~~zk~~ being?

A Only as the brain participates.

Q But that was not my question. The mind is prob-

ably a product of the whole organism, isn't it?

A No, I don't think so.

Q The rest of the organism except the brain has nothing to do with it?

A The brain is the sole organ of the mind.

Q You mean that all the activities of the mind come from the brain?

A That is what I said. I certainly mean that.

Q Independent of anything else, any other part of the human system?

A Yes, practically independent of anything else.

Q Is that the most modern view or don't you know?

A I don't know.

Q Well, we will leave it there. Now to get back -- you think that the center of the intellect is in the brain, doctor?

A I believe so.

Q And the center of emotion is there too?

A Yes.

Q As a matter of fact, without trying to be childish, which I am not in this matter, but to see if we can understand it, the brain receives and sends out

messages from all the nerves of the body, does it not?

A Yes.

Q A sort of central telephone exchange for the body?

A Roughly.

Q And how much it does beside that is still a question of investigation, is it not?

A There are many questions that are not settled.

Q Well, maybe that is enough for this purpose. Now let us get something further about this case.

You say that any emotion you saw in Leopold was connected with the brain?

A I said I saw no manifestations of emotion except the way in which he repelled the accusation of having struck the blow.

Q And that was as purely intellectual, in your opinion, as his discussion of psychology?

A Yes.

Q Did you see anything about him that was not intellectual in his manifestations?

A No sir, I cannot say that I did.

Q So you would be utterly incapable of distinguish-
ing between the emotional reactions and the intellec-
tual reactions.

A I believe they are identical.

Q So if anybody wants to say that a man emotionally
is one way and intellectually another way, you don't
agree with that theory?

A I do not.

Q All right. And of course whatever was ~~xxx~~ true
of Leopold was true of Loeb in this regard?

A Yes.

Q You assumed they told you the truth, didn't you?

A No, I assumed nothing.

Q Did you believe it?

A I believed it insofar as it was capable of being
checked up and proven.

Q Did you ever check it up?

A In many respects.

Q In what respects?

A For instance, when he said that they buried the
body in the culvert, that was checked up and the body
was found in the culvert.

Q Did you think that was very important as ascertaining the condition of their minds?

A As very important in determining the truth of their statement.

Q That question was not under dispute, was it?

A You are asking me what I believed from their statement.

Q You say you checked it up, doctor?

A Yes.

Q Did you go out and see?

A No, I did not.

Q How did you check it up?

A By the statements of those who found the body.

Q You mean to say you asked somebody whether that statement was true?

A No, Mr. Darrow, but I had the account of all who had come in contact with the case.

Q You never doubted for a minute in listening to Leopold and Loeb but that the body was put in the culvert, did you?

A No.

Q And it would have been just the same as if it had been put in an ash heap as far as this case is

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concerned?

A Yes, if it was so stated and it had been found in the ash heap.

Q Just the same?

A Yes.

Q Did you question any other of their statements as to the truth of them?

A Yes.

Q What one, doctor?

A When they both stated that the other had struck the blows, I knew that one was lying.

Q Werethere any other statements that you questioned?

A The statement in regard to the subject which we discussed here I doubted.

Q You just doubted?

A I questioned it. I think that is the way you put it.

MR. DARROW: To save the record, that reference in the doctor's answer refers to what was given outside the hearing of the spectators.

THE COURT: All right.

MR. DARROW: Q Anything else you doubted?

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A No, I think not.

Q Those statements that were explained here outside of hearing and which you questioned, have you ever checked them up since?

A I haven't been able to, except --

Q Have you ever tried to?

MR. CROWE: Let him finish.

MR. DARROW: All right.

A No, I have never had the opportunity to, except through the reports of Bowman and Hulbert.

Q Have you ever tried in any other way?

A I never have.

Q Did you say Loeb showed more emotional reactions than Leopold?

A He did.

Q Well, as between intellect and emotion, do you mean that he showed more intellectual reaction?

A No, he showed less self-control, I imagine.

Q You think he has less self-control than Leopold?

A I thought so then and I think so now, under certain circumstances.

Q. Is that what you mean by emotion, the question of self-control?

A No.

Q What?

A No. One's emotions are subject to self control, to some extent.

Q How much, doctor?

A Oh, it varies with different people. Some people give way at the slightest emotion, and the lack of emotional control is very common in very many of the mental disorders.

Q It is not uncommon with everybody, is it?

A I don't think anyone can absolutely control their emotions.

Q Nobody can do that, can they?

A Not absolutely, no.

Q Are you able to tell how far they can do it, with anybody?

A No, that is a subjective situation into which no one can enter.

Q Can you tell with yourself?

A Well, I know when I am disposed to have emotional moments, that sometimes I can control them to some degree, and at other times to a less degree.

Q And sometimes possibly not at all?

A That may be. I don't recall giving way to my emotions to that extent, though I can imagine circumstances under which I would perhaps be incapable of controlling them.

Q Now, you say Loeb apparently had less control of his emotions than Leopold, you believe?

A Apparently, yes.

Q But you won't be sure about that, even?

A Well, he might have shown emotion for a purpose. For instance, when I asked him —

Q You could not tell much about what are the facts here, could you?

A No. One has to make observations and then draw deductions.

Q You could have done just as well standing off and looking at him, couldn't you?

A As far as his emotional manifestations are concerned, yes.

Q And as far as anything else is concerned, couldn't you?

A No.

Q Is it important to find out something about

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the ancestry of the patient?

A It is.

Q Did you find out?

A ~~xx~~ Not at that time.

Q Did you find out since, doctor?

A Yes.

Q What is it important to find out in reference to ancestry?

A Temperamentally, mental and physical defects, or their absence.

Q From what source have you found that out since?

A From the report of your medical staff.

Q When did you see that?

A I think Monday.

Q Monday?

A Yes.

Q Whereabouts?

A In the State's Attorney's office.

Q How did you happen to be there?
sent for, sir.

A I was

Q For what?

A To attend this trial.

Q To testify, wasn't that it?

A I suppose so.

Q Well, you did make up your mind, before you saw that, didn't you?

A Yes sir.

Q Did you ever try to find out any other way, up to that time?

A Yes.

Q Where?
friends of the family.

A By conversations with

Q Who?
drews, who grew up as a boy with Leopold.

A Well, Dr. Willis An-

Q Dr. Willis Andrews?

A Yes.

Q Did he know the ancestry?

A Yes, to some extent. He knew the parents of Leopold, the father.

Q Do you remember what he said about them?

A They were people of fine character, good citizens, and stable individuals.

Q Did that help you much as to arriving at the mental condition of the individuals?

A Which?

Q That their ancestors were people of high character.

A They do help, but not much.

Q Not much, no. Well, did you find out from anybody anything that helped, much?

A No.

Q All right. Let us pass that. Have I got the last edition, now, Doctor, the ninth?

A The ninth is the last, yes.

Q It isn't so old that you have changed your opinion much on it, is it? Still I presume you learn a little every day, as I try to?

A I like to live and learn, yes. Even Dr. Hall likes to live and learn.

Q Yes.

A It is a little hard for him, but even he likes to live and learn.

MR. DARROW: To whom are you referring?

THE WITNESS: My friend down there, Dr. Hall.

MR. DARROW: I don't know whether it is harder for him than it is for the rest of us.

Q Now, I don't consider it any sin to change your mind, doctor, as I suppose you know, if I was honest with you.

A I beg your pardon.

Q I say, I don't consider it any sin to change your mind as I suppose you know, if I was honest with you.

A Yes.

Q But sofar as you know, this is your latest on this subject, and you have said here:

"The examination of a patient with mental disorder is a much more complex process than that of a case of physical disease."

I assume you will take my word for reading it correctly; if you don't, I will show it to you.

A Oh, yes, Mr. Darrow, I will.

Q I know you will.

"For it is necessary in the former not only to ascertain the present physical condition, as with ordinary patients, but also to investigate the mental state, which involves the employment of unusual and new methods and

"brings us into contact with a novel series of psychic phenomena, and moreover to attain our end we need to study the whole past life of the patient, his diseases, accidents, schooling, occupation, environment, temperament, character; nor can we stop here; for it is of the greatest importance to inform ourselves as to conditions among his antecedents to determine the type of family from which he sprung, and the presence or absence of an hereditary taint. There is therefore much to learn even before seeing the patient in person."

And you did not learn that before seeing them, surely?

A I didnot have the opportunity.

Q Now, continuing, from your book:-- that part which I interjected there of course was my own --:

"The history of a case of insanity as now recorded in our best insane hospitals makes a rather formidable volume. It includes every kind of physical record made in the general hospital, as well as a tho-

" rough survey of the patient's life and ancestral conditions, and keen psychological analysis of his psychosis and its beginning and progress. In medicolegal cases, we have to guard against several sources of error in our diagnosis, among which are the concealment of delusions by an actually insane patient and the" --

A Mr. Darrow, let me ask you, are you reading that on the supposition that I wrote it?

Q Did you?

A No. If you will turn to the preface, the second paragraph of the preface, you will see that it was written by Dr. Frederick Peterson of Columbia University, who assumes all responsibility for that.

Q Now, doctor, I am familiar with that. But nine editions of this have been published under your name, have they not?

A Under the combined names.

Q Yes.

A With that preface in every edition.

Q Have you read this?

A No, I don't know that I have.

Q There is the first you have ever heard of it? Are you not a little careless about the use of your name, doctor?

A In the eighth edition that section of the book was entirely rewritten and since that I don't believe I have read it completely through.

Q Which edition is this I have here?

A (Continuing) That is not my book; that is Peterson's book.

Q Now, I have got the fifth edition, and it is practically the same, is it not?

A I don't know. I think it was in the seventh or eighth edition that that section on mental disease was entirely rewritten. You will find in the preface it says --

Q Oh, I will take your word for that, doctor.

MR. CROWE: Let him finish his answer.

MR. DARROW: Oh, certainly.

A This is not a joint work:

"Dr. Church in neurology, and Dr. Peterson in psychiatry have contributed to the making

"of a single volume",
and therefore each is solely responsible for the work
in his own department.

Q Doctor, don't you think you share in the responsibility, when you let nine editions go out?

A Of course, but I couldn't --

Q Well, now, tell me --

MR. CROWE: Just a moment. I object to ~~xxxxx~~ cross examining upon a textbook, a portion of which -- and the ~~xxxxxx~~ portion that he is being cross examined on -- he did not write, and disclaims any responsibility for.

MR. DARROW: But does he?

MR. CROWE: You can only cross examine him on something that he has based his opinion on in this case. The preface, if your Honor please, particularly disclaims any responsibility for this section.

THE COURT: Well, let the doctor state.

MR. DARROW: Q Doctor, you are a psychiatrist, are you not?

A I try to be.

Q Well, that is in your line, of course?

A Yes sir.

Q I know that you are one, and I think that we all know it, and I do not want for a minute to belittle it, but you are a psychiatrist the same as the man you collaborated with? I don't mean the degree of perfection of either one of you, but I mean the field.

A We are supposed to be following the same line of work.

Q That is what I mean.

A Yes.

Q He is an eminent man, too, isn't he?

A Yes.

Q And you would not question what I have been reading as being correct, would you, that is, as being proper in the examination of a patient, would you?

A The only question I raised was when you start reading you say so and so.

Q Oh, well, I was probably wrong, doctor.

A Oh, yes, I want you to be right.

MR. CROWE: Wait a minute. I object again, for

this reason, your Honor: Mr. Darrow is reading

What is necessary in order to determine what caused insanity in an insane person. The doctor is not testifying that these people are insane. He says they are sane.

Now, if a person is insane, in order to find out how he became insane, the character of his insanity and the form it is taking, it is necessary to go into a great many things which it is not necessary to go into at all when you are talking about a sane man.

In other words, the doctor talks to one of the stenographers here respecting something in the court room. He can see by his actions, his talk, very quickly that the man is sane. It is not necessary for him to point out, in order for him to express an opinion that he is sane, whether he had a grandaunt who died of some form of insanity or not. That is the basis of Mr. Darrow's question, what it is necessary to know in the case of an insane person,

MR. DARROW: Your Honor --

THE COURT: The doctor has said that those men are not mentally diseased, and Mr. Darrow has a right

to ask upon what he based his opinion, his observations, if any, and how he came to arrive at his conclusion. You may proceed.

MR. DARROW: I think that the remarks of my friend here are highly improper. He suggests to the doctor what to answer, and I would tell the doctor he better not follow Judge Crowe, because he had not read the book and I have. He might get in worse.

Q You have no doubt about the learning and skill of your ~~xx~~ collaborator who wrote this book?

A Associate, rather.

Q How is that?

A Associate, because we did not labor together.

Q Associate, yes. Well, we will use the word "associate". Either way the answer would be the same, ~~xxxx~~ wouldn't it?

A Yes, I think so.

Q And you have made many examinations and as far as you could, followed along this line, haven't you?

A I attempt to do so in every case.

Q I presume you and your friend share the royalties on the book?

A Yes. Quite a liberal one too, Mr. Darrow.

Q Well, I am glad of that, doctor. You have better luck with yours than I have with mine. Did you tell these boys what you were there for?

A No.

Q Did anybody else?

A Not as far as I know.

Q As far as they were concerned, they might have thought you were there to give bail for them, mightn't they?

A I think they have too much intelligence to expect a doctor to give bail.

Q Well, you have these royalties, doctor.

A They didn't know about that, you see.

Q Well, you might do it. But nobody in your presence explained to them why you were there?

A No sir.

MR. CROWE: That isn't absolutely essential, is it, Mr. Darrow?

MR. DARROW: Well, now, let's see.

Q "Were I to formulate a series of rules to guide the examiner in his investigation of a mental condition of a patient, they

"would be somewhat as follows: yet it is to be remembered that these are not fixed rules, but subject to much modification by the tact, good judgment and common sense of the examiner.

1. It is to be presumed that previous to seeing the patient the examiner has fully informed himself of all the facts to be furnished by relatives or friends, and has, when possible, inspected letters and other writings, which often prove fruitful sources of information."

That is one you did not comply with, is it not?

A It says, "When possible."

Q Yes.

A No, I had no such opportunity.

Q Well, doctor, you live in Chicago?

A Yes.

Q You had a chance to find them and talk with all of them, if you wanted to?

A No, not before I saw the boys.

Q Well, you have since, haven't you?

A I had the chance of going and asking them, but I

had no idea that they would reply. Consequently,
I did not go.

Q Doctor, you could have taken time to find out something about the boys before you examined them, couldn't you?

A No.

Q Why not?

A Because I was called into the case at two o'clock and I commenced my examination at half past two.

Q Why did you have to begin at half past two?

MR. CROWE: If he waited until Monday, they would not have answered.

A There was no other opportunity, so far as I know.

MR. DARROW: Q You knew it was Sunday, and a writ of habeas corpus could not have been gotten until Monday, didn't you?

A I didn't know anything about it.

Q You did not?

A No.

Q That is the reason you didn't do it?

A I was asked to come down here and examine the boys, and I came.

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Q Anyhow, you didn't do it?

A I never thought of doing it.

Q How?

A I never thought of doing it.

Q You never thought of doing it? A Before I saw them, no sir.

Q Well, let me read No.2.

"Go to the patient as a physician and not under the pretense of being something else, a device so often suggested by the family and friends."

Q You didn't go to them as a physician, did you?

A Yes, I did. I was introduced as Dr. Church.

Q Doctor, did you go to them as a physician?

A Not as their physician, no.

Q Now, there is not any use of our quibbling over it. You know the relations of a physician and patient, don't you?

A I do.

Q Did you go to these boys as a physician?

A I did not go under any other pretense.

Q Well, doctor, is there any reason why you cannot

give me an answer?

MR. CROWE: I submit he has answered.

MR. DARROW: Q Did you go as a physician to these boys?

A I did. I went as a physician.

Q To these boys?

A Not as their physician, but as a physician.

Q As Dr. Crowe's physician?

A No.

Q For the sake of giving your testimony, if you could, to hang them; that is why you went there, was it not, Dr. Church?

A Not at all.

MR. CROWE: I object.

THE WITNESS: Not at all. You know better than that.

MR. DARROW: I will strike out "could".

THE WITNESS: You know better than that, Mr. Darrow.

MR. DARROW: Well, I will be perfectly honest with you. I should not have used the word "could".

THE COURT: Strike it out.

MR. CROWE: I insist the doctor be allowed to answer.

MR. DARROW: No, I would not say anything to 'this' doctor that --

MR. CROWE: No. I insist that the doctor be allowed to answer.

MR. DARROW: To go --

MR. CROWE: No, just wait a minute. I insist that the doctor be allowed to finish his answer, if your Honor please.

MR. DARROW: Hasn't that been stricken out?

THE COURT: Just a minute.

MR. CROWE: I don't think Mr. Darrow should be permitted to ask a question, and then when he knows the answer is going to hurt him, ask to have it stricken out.

MR. DARROW: Oh, what is the use of quibbling with me.

THE COURT: Wait, gentlemen.

MR. CROWE: I am not quibbling with you, but I insist --

MR. DARROW: You know perfectly well that I inadvertently used the word "could", I know this doctor well enough to know that he wouldn't--

MR. CROWE: When you ask a question and you don't like the answer --

MR. DARROW: Oh, don't worry. I don't play any tricks.

THE COURT: We will suspend for five minutes, gentlemen, and when you come back try and be a little calmer.

Whereupon a short recess was
here taken by Court and Counsel.

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Court convened pursuant to short recess
heretofore taken.

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D R . A R C H I B A L D C H U R C H ,
a witness called in rebuttal on behalf of the pro-
secution, having been previously duly sworn, resumed
the stand and testified as follows:

CROSS EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Doctor, I want to ask now that question
as I should have asked it before.

A Without emotion?

Q No, no. I think you know me well enough to know
I would not presume for a single minute you were doing
something unfair. I believe you do anyway.

MR. CROWE: Talk louder.

MR. DARROW: Q You knew when you went in there, and
when you observed, if not examined these two boys, that
were called by the State's Attorney for an opinion, with
the view that if you honestly believed they were sane,
you would testify to that effect in court where they

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were endeavoring to convict them on a charge of murder.

A Yes, I had that understanding.

Q You would not still pretend that you went there as the boys' physician?

A No, I didn't mean to say I ever did go.

Q I did not think you did.

A I disclaimed that specifically.

Q But you did not say anything to them, and nobody else did in your presence.

A No, sir.

Q "Rule 3. Proceed to the physical examination of the patient, during which tactful questioning will determine the direction of following further inquiry". Did you do that?

MR. CROWE: Just a moment. I object to counsel reading a set of rules prescribed in some text book; asking the doctor whether he followed those rules. That is a matter of argument, as to whether the examination he made is complete enough. He has stated what he has done, and the conclusions he came to after his examination, and the reading of the report of the other alienists, and taking into con-

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sideration the hypothetical questions, the findings that were made. Then on top of that the preface of the book expressly disclaims any responsibility on the part of the witness for any statements made by his associate who wrote that section.

If you had a policeman on the stand who was testifying to an arrest, you might as well ask him whether when he arrested the murderer he had secured certain information, whether he had applied for a warrant, whether he proceeded by opening his coat, showing his star, and saying,

"I am a police officer".

Suppose the police officer stated that he made the arrest. He details the manner of it. If there is anything improper in it, that is a matter of argument later, rather than reading a manual as to the proper way in which to arrest a man. I don't suppose Mr. Darrow thinks that I acted properly when I arrested these two men, or when I kept them and refused to let him talk to them, so that he could tell them to keep their mouths ~~shut~~ shut. I imagine he thinks that all my conduct in this case is improper.

4m MR. DARROW: Oh, no, I would not say that.

THE COURT: Dr. Church has qualified as an expert. He has answered the hypothetical questions put by the state's attorney, and he has arrived at conclusions. Mr. Darrow has a right to inquire how he arrived at those conclusions, in any manner or form that he sees fit. He may ask the doctor if he did thus and so, and the doctor may say yes or no, or he can say it was not necessary, or that he has another method of doing it. Let him answer.

MR. DARROW: Q You did not make any physical examination, did you.

A No.

Q You have made physical examinations of patients, have you not?

A Yes.

Q In the main, to what extent? You need not repeat it all, but what do you do?

A In private practice you make a routine physical examination.

Q Blood tests?

A Blood tests generally.

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Q Urine tests?

A Urine tests.

Q X-rays?

A When needed.

Q The weight, and all those things?

A Yes, the condition of the chest and abdominal and pelvic organs, the muscular system, skin, etc.

Q Therefore, that might ~~throw~~^{throw} some light on their mental condition?

A In certain instances, the condition of the body throws a very definite light on the mental condition, but only in rare cases, practically only in puerperal insanity and general paresis.

Q Do you not almost uniformly make physical examinations or have them made?

A Yes.

Q You say the condition of the body throws some light on the mind. That is all there is to the mind, is it not, reaction from the body?

A And the surrounding situations.

Q Is there anything in the mind excepting the manifestations of the physical organization?

3m

A Practically not.

Q Do the ductless glands have anything to do with conduct?

A Yes.

Q Have you ever made any special study of them?

A Yes. I think I reported the first case in English medical literature on diseases of the pituitary gland.

Q The pineal gland is in the head, is it not?

A Yes.

Q Closest of any to the brain?

A Yes, practically in the center of the brain.

Q And of all the glands it would have the most to do, probably-- I am not sure, and I am asking you to find out-- with the activity of the brain, and through that the manifestations of the mind, would it not?

A Its function has not been established. It is supposed to have more to do with the growth, and with the development of sexual attributes, than with the higher functions of the brain.

Q That has to do with the activity of the brain

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A Yes.

Q And with the by-product of the organism, the mind?

A Yes.

Q The sexual organization is very close to it, is it not?

A Yes.

Q Part of the machinery of perpetuating life, and necessarily very close biologically, is it not?

A In men there is a psychic element that comes in, a psycho-sexual situation which is very much more pronounced apparently than in the lower orders; but it is one of the dominating influences of character, and of mental action.

Q You of course know what it means to say that the pineal gland was calcified to some extent.

A Yes.

Q Do those naturally calcify in the course of things?

A Calcification is a very irregular process in the pineal gland. It sometimes occurs early, sometimes late, and sometimes never.

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Q Is there any rule about it?

A None at all.

Q You are quite sure that there is no general rule, subject to variation, are you?

A Most calcification processes appear in middle or late life, but we frequently have them very early in life.

Q The rule is, they appear in middle or late life, is it not?

A Calcification processes, yes, sir.

Q And if they calcify, early in life, it is at least unusual, to put it moderately, is it not?

A I should say it is unusual.

Q And would doubtless or most likely have an effect on the behaviour, would it not?

A Well, that is entirely speculative because we do not know the function of the pineal gland. In cases which have been attributed to disease of the pineal gland, ordinarily the disease involved the surrounding portions of the brain and we do not know if it is the involvement of the surrounding portion or the gland itself which may have been

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associated with the symptom presented by the individual. The same is true--

Q Let me put it as indefinitely as your answer.

MR. CROWE: Let him finish his answer.

MR. DARROW: I beg your pardon. I thought you had finished.

THE WITNESS: Well, it is substantially finished.

MR. DARROW: Q It might have an effect on the brain and its activities, might it not?

A As far as we know, it has no effect, the calcification of the pineal gland.

Q You have not answered my question. Could you say it would not?

A I cannot say it would, I don't know.

Q You still seem to be fencing with me, doctor.

A I don't know, there is no evidence that it does.

Q Let me ask you once more. Could you say it might not?

A I cannot say anything about it, excepting that there is nothing known whether it does produce those effects.

Q Have you any real objection to answering my

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question, doctor?

,THE WITNESS: I am very anxious to cooperate in every way--

MR. CROWE: I submit it has been answered. Mr. Darrow has asked him, would it have any effect upon the mind, and he said nobody knows.

THE COURT: Can you answer it any other way, doctor, other than the manner you have answered?

A No, the matter is so indefinite I cannot definitely answer it.

MR. DARROW: Q Then the effect of the pineal gland, is still doubtful?

A Yes, and as far as the calcification of the pineal gland, as far as I know, it has not any effect.

Q You say that you know it has no effect?

A I have seen many cases in which it has calcified without any possible effect that could be determined.

Q Doctor, if the natural time, the ordinary time for its calcification is in middle or in late life would it be any evidence of premature decay if it calcified early?

A I don't know.

Q You don't know. Well, that is an answer. Are the evidences of baby teeth an indication of youth?

A Not in themselves, no. It is retarded development in the dental structure and that is all I can say about that.

Q Is that any indication of retarded development in the human being?

A Not necessarily so.

Q I did not say necessarily. I said is it an indication?

A No, it is not.

Q Has sexual development any relation to age or youth as to the period of development?

A Yes.

Q Now, you say that the field is still open on all ductless glands so that you cannot tell what the effect is?

A We know something about most of them.

Q Pretty positively?

A Pretty positively.

Q They are supposed to have a very distinct effect upon behavior, aren't they?

upon metabolism, growth and involution than upon behaviour.

Q You are familiar with Crile?

A Yes.

Q Did you ever read his work on ductless glands?

A yes.

Q Are you familiar with Canon of Harvard?

A No.

Q You have heard his name?

A Yes.

Q You know that he is one of the original workers in ductless glands?

A Not one of the original, but one who is, as I understand, a very active worker.

Q A professor at Harvard?

A I imagine he is, I am not sure.

Q Did you ever happen to read Crile's book, his Mechanistic Book on the war?

A No.

Q Do not Crile and Canon both say that they are important factors in behaviour?

MR. CROWE: We object. You cannot cross examine

on a textbook that is not in evidence. If it is important to the defense to have these men testify, he ought to call them.

THE COURT: He has a right to ask him if the doctor knows and if he does not know --

THE WITNESS: I do not know anything about Crile's Mechanistic Causes of the War.

MR. DARROW: Q You know that he has written a number of articles on that subject?

A I know he has written a great many books on the ductless glands. He has a peculiar personal philosophy in regard to a number of things which is not altogether shared by the majority.

Q Do you know now whether eminent authorities on the ductless gland do or do not hold the doctrine that the ductless glands are the strongest factor in behaviour?

A I believe there are such. There is a growing school of ductless gland explanation for pretty much anything, I think they are running into a riotous fashion myself.

Q You don't sympathize with it?

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A I am conservative on the subject.

Q You think that there is no human behaviour that could not be accounted for by the structure and surroundings -- answer that question?

THE WITNESS: I did not think you had completed the question.

MR. DARROW: Repeat the question please.

(The question was here read by the court reporter).

THE WITNESS: The structure of what?

MR. DARROW: Q The structure of the machine, the human machine.

A I assume the structure of the machine is essential to its reactions.

Q And if you were wise enough you could find out what caused conduct, couldn't you?

A If we were wise enough, yes.

Q Well, none of us are. I don't claim that. Do you happen to know this book on Endocrinology?

(Showing witness Timme's Endocrinology).

A No, I know Timme, but I don't know the book.

Q Is Timme a man of attainments?

A Yes.

MR. DARROW: I will just have the reporter note that I have shown him a copy of Lectures on Endocrinology by Walter Rimme. I may refer to it again.

Q I want to ask one or two more questions. I won't keep you much longer. I see one rule:

"Gain good will of patient by kindness and consideration."

You did not try that, did you?

A I treated him with perfect courtesy as far as I am capable of doing so.

Q The wording here is,

"Kindness and consideration".

A I am telling you what I did.

MR. CROWE: I think we are all pretty kind to him.

MR. DARROW: Yes. That is what a fox thinks when it is out raiding a chicken roost.

Q Now, we had a little conversation about emotions. By the way, preceding that, are there various centers in the brain for certain emotions?

A Not as far as I know,

Q That is an ordinary theory, however, is it not?

A Yes, there are some who place sexual emotions

in the cerrabellum and others who place certain moral emotions in the large ganglia at the base, but as far as I know, there is no confirmation of those localizations.

Q So you don't lay much store by those then?

A I do not.

Q Is it correct to say that moral emotions do?

A Moral emotions?

Q Yes.

A Well, that is descriptive of one variety of emotional action.

Q Of what kind?

A Those which pertain to the duties and obligations between men.

Q Are they emotions?

A I think so.

Q They are emotions in the sense of intellect, aren't they?

A Well, they are the ethical relations which are based upon an emotional condition.

Q Where does one get those?

A They are usually a matter of experience or education.

Q Yes.

A The ethical ideas must always be instilled in a child.

Q He does not have them until that?

A No.

Q He is born without any of them, probably?

A Because the only two emotions which he has at birth are first that of fear to sound and fear from a sense of falling.

Q Yes.

A Those are the only two things that a small child possesses.

Q That is all that any infant has, is it not?

A In the emotional field, yes, as far as I know.

Q The whole idea of what you consider moral emotions is built up from teachings, is it not?

A Precept and example.

Q And the strength of the precept and the example and the teaching as compared with the primitive emotions determines the conduct, doesn't it?

A Yes, I think those things are related.

Q That is, if the teaching is deep enough and the

habit is strong enough, people will stay in a groove, what we would call the moral groove.

A Yes.

Q And if the emotions are so strong and the teachings are so weak they may leap over it?

A Yes.

Q That is about all there is to it, is it not?

A It is a question of self control, which turns again upon the question of discipline.

Q That is what I am trying to ask you. Self control means pure discipline, doesn't it?

A Yes.

Q There is not any such thing as self control, when you analyze it, ~~is~~ is there?

A Only as it is a reflex of education and experience.

Q It means a habit that is formed by teaching, doesn't it?

A Yes.

Q It does not mean anything that is born into a man, that acts independently, some organ?

A No.

Q And if the habit is deep enough and the emotion is not too strong, the individual, whoever he is and whatever he is, follows the habit, doesn't he?

A That is the tendency.

Q Is there any exception to it, as far as you know?

A No, I think not.

Q So the whole question of education, what we call moral education, is a question of fixing habit deep into the individual so that they will withstand temptation.

A Yes, I think so.

Q Now, in this book I referred to; you have said something about emotions.

"Actions induced by disorders of emotion.

As already elsewhere intimated, simple depressed emotions are accompanied by a general motor inhibition and simple exhilarated emotions by a general motor agitation."

That is true, is it not?

MR. CROWE: Just a moment. Wait a moment. Are you now reading from Dr. Peterson's section or his section?

MR. DARROW: I think I am reading from Dr. Peterson's

section, am I not?

A Yes.

Q Of course, if I had Dr. Peterson he might say -- this is Dr. Peterson in the Church and Peterson book. You are familiar with it, aren't you?

A I am familiar with the first portion of it.

Q I have marked that. Do you want to look at it a minute?

A No, that is all right.

Q "As already elsewhere intimated, simple depressed emotions are accompanied by a general motor inhibition and simple exhilarated emotions by a general motor agitation, but when the depressed effect attains to the degree of anxious dread we may have a restlessness, a desire for flight, which in itself amounts to a motor agitation.

"This anxious state often leads" -- before I read that, is that correct, doctor?

A Yes, I agree with that.

Q Well, I will read the last sentence over.

"But when the depressed effect attains to the

"degree of anxious dread, we may have a restlessness, a desire for flight, which in itself amounts to a motor agitation."

That means a motor agitation, I suppose, may come from feelings within yourself.

A Yes.

Q "This anxious state often leads to suicidal attempts, even to homicidal assaults, arson, and other forms of crime and violence."

That is true, is it not?

A Yes, I think that is true.

Q "The whole nervous system seems to be in such a state of tension that only an explosion can give relief."

Is that true?

A It is true in some cases.

Q It is true where it is true, is it not? That is about all you can say?

A If it is true, it is true.

Q When anything happens, there is a reason for it, isn't there, probably?

A I think so.

Q Now, doctor, you have told us all the information you got regarding these two boys, have you?

A Substantially.

Q Substantially?

A Yes.

Q When is the most trying age in a young man?

A At the age of puberty and adolescence.

Q A universal rule, is it not?

A Well, I would not say it is universal, because some individuals show more turmoil at the involutinal period.

Q Now, doctor, perhaps I did not ask that question as I should have, because I want to be exact. By universal rule I do not mean that it covers everybody. I do not suppose you could give a rule that covers everybody.

A I suppose you meant it was universal as far as young men were concerned.

Q Yes.

A Some individuals break at that time and some break at the period of involution, along in the late fifties or sixties. They may go through adolescence

very satisfactorily and then break at the involu-
tional period of life.

Q They may go through the adolescence all right
and then break on senescence.

A Yes.

Q Yes, I know. I am watching for that. But with
young men the period of stress and strain is with the
adolescence, is it not?

A That is a critical period in the life of a
young man.

Q Puberty?

A Yes.

Q And that, of course, has to do back biologically
with the origin of life proper?

A Yes.

Q It is really the change of a child from a
condition where he has no inherent sexuality to a male
or female, is it not?

A Well, it is the change from boyhood to manhood.

Q Yes.

A Because every child has inherent sexuality.

Q Well, he has not yet up to that time developed

that difference.

A That is the difference, the development from the unproductive to the productive period of life.

Q Then comes a change of emotional life, doesn't it, as a rule?

A A change of what?

Q Emotional life?

A Yes sir.

Q Then if ever, with the young man or the young woman, they are the most apt to jump out of or leave the habits that have been inculcated in them to keep in a given path and break over on account of new feelings or emotions, are they not?

A They are. We are all familiar with the swell head of youth.

Q And we are familiar with the insanity of youth, too, aren't we?

A Some of us.

Q Well, you are, anyway?

A I have seen some of them, yes sir.

Q And it is the most prolific time for insanity with youth, isn't it?

Q When does that come?

A Well, the period is somewhat indefinite. It varies in different individuals. It varies in different races. But somewhere between the age of twelve and twenty.

Q Suicide is not infrequent at that age, is it?

A Well, it is not rare. I should say that it is not —

Q Well, probably infrequent is a little too strong a statement?

A yes.

Q It is more apt to occur then than at any other time, in youth?

A In youth, yes.

Q When you get to the next period, the senescence, why it might come again, perhaps, but in youth that is the time it is most apt to occur, is it not?

A It is.

Q Of course, that period is not fixed as to years, is it? Very little in the human organism that can be absolutely fixed as to years, I presume.

A There is great variability, of course.

Q Yes, that is what I meant.

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Q You would say as a rule from twelve to twenty.

A To twenty.

Q Sometimes it will run from fifteen to twenty; and fifteen to twenty-five, and ~~XXXXX~~^{even} greater?

A Well, from fourteen to seventeen is the most pronounced period, perhaps, on an average.

Q No physician would be apt, ~~is~~ no good physician would be apt to examine a child for any ailments without considering puberty and adolescence?

A Not if the individual were at that time of life.

Q I mean that, of course.

A Yes.

Q And of course a wise educator ought to consider that?

A Certainly.

Q In questions of education?

A Yes.

Q Do one's beliefs and theories of action or theories of life ever affect their conduct?

A Oh, yes.

Q There cannot be any question about that, can there, doctor?

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A I think not.

Q The emotions and beliefs act and react probably upon each other, more or less. That is, a man may have certain emotions that may contribute to certain views, and he may have certain views that will contribute to certain emotions, I presume.

A I think so.

Q You have heard of many instances of homicides and other such matters coming from religious zealots, haven't you?

A Yes.

Q And those are not at all uncommon.

A Well, of course, that term is indefinite.

Q Yes, that is indefinite.

A We hear of them too frequently.

Q They happen anyway?

A We hear of them too frequently.

Q Do you know of the Freeman case in New York, where a father sacrificed his son on an altar in the parlor? You do, don't you?

MR. CROWE: Wait a moment, I object. I object to that, your Honor. He objected to my going into

specific cases.

MR. DARROW: All right, I wont follow it up with the doctor.

THE COURT: Sustained.

MR. DARROW: Q But everybody recognizes the effect of intense beliefs on conduct if they are persisted in?

A Certainly.

Q He might get that by an intense religious belief and he might get that by an intense anti-religious belief, mightn't he?

A I should think so.

Q The religious opinions, like the other opinions of youth, are not very well matured as a rule, are they?

A Well, not as a rule, but they are often very intense,

Q They are often more intense than they are in later years, aren't they?

A Yes sir.

Q Probably generally more so?

A I think so.

Q A young man who believes something, if he believes it, believes it strongly, doesn't he?

A Yes, I think that is the rule.

Q And no man sees how impossible it is to follow out any belief implicitly, or most beliefs implicitly, doesn't he?

A Yes, he becomes ultra conservative and indifferent.

Q And he sees the numerous obstacles that hedge about ones ideas?

A I suppose so.

Q So you would say that a very strong and fixed and persistent belief is a factor in human conduct very often?

A Certainly.

Q In your examination did you ask Leopold anything about his views of life?

A He made some statement. I don't think I asked him those questions, but questions were asked as to his religion, and he stated he was atheistic, and that he believes that all religions were anthropomorphic, and, consequently, lacking in inspiration.

Q Did you go any further?

A He spoke of --

Q I beg your pardon.

A He spoke of materialism and the Nietzsche point of view.

Q Had you finished that, doctor?

A Yes.

Q Did you examine him as to his views of life?

A As to his what?

Q His views of life, philosophy of life, if he had any?

A Yes, I have just answered that.

MR. DARROW: My associate was whispering to me while the last part of it was given. Will you kindly read the last part of that answer?

(Whereupon the last part of the answer was here read by the stenographer).

MR. DARROW: Q Are you familiar with the Nietzsche point of view?

A Yes, in a way.

Q Been much of a reader of Nietzsche?

A Well, I can't say I read him all. I read sufficient to get an impression regarding him, and knowing something of his life and finish, I did not feel

that it was essential to pursue a profound study of his ideas, excepting as they had reacted upon the German nation.

Q His finish was that of an insane person, was it not?

A Yes.

Q For many years before he died?

A I think he was in an asylum several times before he died finally in an asylum.

Q Do you think his view had anything to do with that?

A No, I don't think they had, but I did not accept --

Q You never examined him, I don't suppose?

A No.

MR. CROWE: Wait a minute. Let him finish.

MR. DARROW: All right, let him finish.

MR. CROWE: Let him finish his answer.

MR. DARROW: Sure.

Q I beg your pardon, doctor, you have a right to finish your answer.

A I could not accept his superman theory or philosophy and the irresponsibility of such a superman.

Q His idea was that the superman owed no responsibility to anybody.

A To anybody, and also in relation to state matters, that the state was in a position of a superman, and had no conscience and need not have.

Q You think that might have affected his conduct?

A Well, I cannot --

Q Or can't you give an opinion?

A (Continuing) -- say about that. If he thoroughly believed that he might be liable to follow its guidance.

Q Now, you are not clear whether his views had anything to do with his disease or not.

A No, I had no positive point of view on that point.

Q Then you probably would not have an opinion either as to whether his disease had anything to do with his views?

A No.

MR. CROWE: You did not examine him, did you?

MR. DARROW: Q Did you talk with Leopold enough to find out whether his views were intense and long fixed, or ephemeral?

A Yes, to this extent; he stated that he had given up any idea of the ordinary religions for several years, for two years, I think perhaps he stated so

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that he had been rather firm in his attitude on those subjects for that period of time, which carried with it the feeling of irresponsibility as far as any duty to infinite control ~~at~~ or any hereafter was concerned. He seemed very positive in his views about everything, excessively sure of himself.

Q Well, doctor, those views as to religion seemed very thoroughly fixed, did they not?

A I thought so.

Q As to the superman, did you go into it enough to know whether those were firmly fixed?

A No. I saw the trend of his thought only. I did not know how thoroughly he held to that idea.

Q How far one's conduct might be influenced by his views would depend a good deal upon the strength and permanency of them, would it not?

A It would.

Q And that you could not give an opinion on in this case?

A No, excepting as to his attitude on religion.

Q In your view down there, or examination, or whatever it was, was anything said about Loeb having begun

as a detective at seven years of age?

A No. Leopold called attention to the fact that Loeb had devised one or two detective games.

Q Yes.

A And Loeb explained them, I think, in a slight way, that he with his brother and friends indulged in certain detective games, but not much detail about that was brought out, except that he had done some shadowing, and some of those games consisted in separating with his playmates, and seeing who would be able to find the other one under certain circumstances.

Q Did he not say that he had begun shadowing people at seven years of age?

A I didn't learn that at that time.

Q Well, you learned that it was very young, did you not?

A Well, he is very young still. I suppose it dated back some years, but I do not know how far back it dated.

Q Was it also said that he had an ambition as he grew along to commit a perfect crime?

A There was no mention of any perfect crime, so far as I recall, at that time.

Q There wasn't any? And you took no such thing into account?

A No.

Q Was there any mention of being a master criminal?

A No.

Q So that was not taken into account?

A There was some statement about his reading a great many detective stories.

Q Yes.

A He said that it was a side issue, or at least his recreation.

Q A tendency of a boy seven or eight years of age to shadow people is not common, is it?

A I should say very unusual.

Q To what do you ~~xxxxxx~~ attribute it?

A I presume some incident in some situation that has come to his notice either through being told stories or reading stories in which that thing was done.

Q You would not attribute it to pure cussedness or wilfulness, would you? It was something that

had come up in his early life?

A A make-believe sort of thing common among children and young individuals, as they play Indians, or anything else.

Q There is a difference between playing Indian and being one, isn't there?

A Yes, a very considerable difference.

Q And a difference between playing detective and acting as one?

A No, acting as one and playing as one I should think would be the same thing.

Q If a boy of that age purely induced by his love of it would follow people on the street in earnest to see where they went to and who they were and what they were doing, that would not be playing, would it?

A Yes, that might be regular play, a regular game.

Q Nobody playing with him?

A Yes, I have seen children play alone and carry out a character and pursue it logically.

Q Have you ever seen that kind of play?

A Never that particular play in any other individual.

Q It would be a very strange and unusual thing,

Would it not?

A Yes.

Q If he continued that and acts of that sort up to sixteen or seventeen, it would be still more strange and weird, wouldn't it?

A Yes, I think that would be very unusual.

Q Wouldn't it be ~~xxx~~ abnormal?

A It would be -- that is an indefinite term again -- it would be very unusual.

Q Unusual is a little indefinite?

A Yes, I know it, and I find a difficulty --

Q We lawyers and doctors have to deal in definite ~~xxxxxx~~ terms.

A The usual boy does not follow up his play quite so consistently.

Q Nor the normal boy does he?

A Nor the normal boy, if there is a normal boy.

Q Unusual and abnormal might mean pretty near the same things?

A Yes, I accept it.

Q Well, now, did you say -- I think I will start over again. Strike that out.

You know something about dreams?

Q Do you ever use them in your business, I mean, the examination of dreams?

A Yes, I regularly inquire into the character of dreams in nervous people.

Q They throw a good deal of light on a person?

A According to Freud they are a very good index of character. I do not follow Freud to that degree.

Q Do you follow him to any extent?

A No. The character of the dreams, whether it is pleasurable or unpleasurable, has for me a significance as a reflex of the physical condition; but the content of the dream to my mind is of very little significance.

Q Did you say insignificant -- I didn't get it?

A I say --

Q The content is what?

A I say whether it is pleasurable or unpleasurable has for me a significance as a reflex of the physical state; but the content of the dream is, to my mind, of very little significance.

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Q Well, now, doctor, to read from Mr. Peterson's book again. Church and Peterson, 775, the last edition,

"Sometimes insanity first manifests itself in dreams, though the mind is still normal by day".

Do you think that is true?

A I have never had any experience which would enable me to accept that statement.

Q You will have that stricken out of the next edition, then?

MR. CROWE: Now, just a moment. I object on this ground, if your Honor please, that there is not any evidence of any dreams anywhere here. There is evidence of phantasies, teddy bears, and some other childish things, but nobody has testified to any
x dream.

MR. DARROW: Well, my remembrance is that they did.

MR. CROWE: Well, who did?

MR. DARROW: Dr. White and Dr. --

MR. CROWE: No, there is not a line of testimony about a dream, if yo_ur Honor please. Phantasies,

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day dreams, castles in Spain, but no dreams.

MR. DARROW: Well, I think they inquired into his dreams.

MR. CROWE: Well, now, can you cite any testimony as to a dream?

MR. DARROW: However, I wouldn't be definite about it.

MR. CROWE: Well, I am speaking definitely when I say there isn't any.

THE COURT: I am inclined to accept Mr. Crowe's view.

MR. CROWE: How is that, your Honor?

THE COURT: I say, I am inclined to accept your view as to that. I don't remember. There was talk of day dreams, as you say.

MR. CROWE: Yes.

THE COURT: Who do you think testified to it?

MR. DARROW: Well, I think that Dr. White and Dr. Healy did.

MR. CROWE: Tell the dream they related.

MR. DARROW: I cannot do it.

MR. CROWE: Well, there isn't any evidence of it at all, I am absolutely certain of that.

MR. DARROW: That is my remembrance, but I might be

wrong about it.

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MR. CROWE: I am absolutely certain of it.

MR. DARROW: Well, I will ask a few more questions. I am not going to keep this witness long, and if you will adjourn a bit early I will find out about dreams. I don't mean to adjourn on that account, but I will not keep him here much more than a quarter after four.

THE WITNESS: Mr. Darrow, if you can possibly let me get away by half past four, I would appreciate it. I am very anxious to join my wife. She is not very well, and I want to catch the five o'clock train.

MR. DARROW: Will there be any redirect?

MR. CROWE: One question.

THE WITNESS: It will be a very great favor, if you will let me away at half past four.

MR. DARROW: All right, doctor. I will try to help you out.

THE COURT: What time ~~is~~ does your ~~train~~ train leave?

THE WITNESS: Six o'clock standard time.

THE COURT: I will let you go any time you want to.

THE WITNESS: Yes, Mr. Darrow thinks he can finish up by that time.

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MR. CROWE: Just a moment, Mr. Darrow. Dr. Hall will tell you that there was not any testimony on that subject.

MR. DARROW: Well, I am not going to ask the witness about it, anyway.

Q Do phantasies have anything to do in diagnoses?

A Yes, I think phantasies have a significance in regard to character.

Q Did you examine for any in this case?

A No.

Q Did you ask any question about it?

A No.

Q What does projection mean as used by psychiatrists?

A Projection?

Q Yes.

A Projection is used in a variety of ways. They project themselves into certain characters or something like that, but I don't know, as you ask the question, what you refer to.

Q Well, probably I should make it more specific, doctor.

A All right.

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Q Phantasies are things that are ordinarily inquired about in questions of mental disease, are they not?

A No, I don't think so.

Q Well, if you find any of them--

A In mental diseases we inquire of those things which show change of character.

Q How is that?

A Those things which show change of character and delusional states or hallucinations on which delusions are founded.

Q Do they begin with phantasies?

A Well, I think in some cases they do.

Q And no psychiatrist examining a patient would fail, if they found any evidence of it, to follow it out, ~~would~~ would they?

A If they found any evidence of phantasies, they would certainly follow it out.

Q If they stumbled on to it in any way?

A Yes.

Q Projection means that phantasies is carried over into real life, doesn't it?

A I don't know the significance of that term, pro-

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jection of a phantasy.

Q Well, suppose we cut out "projection". They sometimes are, are they not?

A As long as they remain phantasies, the individual who has the phantasies knows their nature, that they are dreams or aspirations, and he may try to live up to them.

Q Yes.

A In that way they modify conduct.

Q And in that way they modify conduct?

A Yes.

Q A diseased mind functions in phantasies, often, doesn't it?

A I presume it does.

Q And phantasy and reality frequently become one, do they not?

A Well, to the ~~it~~ diseased mind they ~~sometimes~~ sometimes become indistinguishable.

Q Yes, as between the two.

A Due to lack of judgment.

Q And the individual is ruled by phantasies as well as realities, often, is he not?

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A Not until they become the delusional stage when he comes to believe implicitly in his phantasy.

Q What is the difference between phantasy and delusion?

A Delusion is an error of judgment, which the patient cannot correct under any circumstances; and phantasy is a dream which he realizes is a phantasy or a dream, the nature of which is perfectly evident to him.

Q You mean he can correct a phantasy but he cannot correct a delusion?

A Yes.

Q Well, now, are you sure that anybody can correct anything, as a matter of will?

A Well, I mean by correct it, to adjust his mental operations in accordance with the reasonable attitude.

Q Did you finish, doctor?

A If it is an insane delusion, it cannot be corrected. That is, his belief in it, his error of judgment, is a fixed quantity.

Q Well, if it is a phantasy that is strong enough, it is fixed, isn't it?

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3m A Then I say it becomes a delusion of an insane character.

Q Well, you wouldn't want to draw a line as to just where the phantasy left off and the delusion began, would you, doctor?

A Yes, I think I practically can do that. As soon as the patient believes the phantasy to be fact, then it becomes an insane delusion.

Q Are there borderline cases?

A I hardly think so, in that relation. It might be difficult to say at what time, at what moment that change took place.

Q That is what I thought. A phantasy as you understand it, may develop into a delusion.

A Yes.

Q And there is no human being wise enough to lay a finger on the spot where one left off and the other began?

A True.

Q In these things there is a lot more we are not sure of in the operation of the mind, than we are sure of?

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A Oh surely.

Q The mind functions the same way in day dreams as in night dreams, does it not?

A No, I don't think so. In phantasies the content of the phantasy is usually much more orderly, much more reasonable and natural; but in dreams physical facts have no longer much importance.

Q Are you sure about that?

A Yes. For instance, a man in a dream may jump over a church, or something of that sort.

Q And he may jump out of bed, or a window, in a dream?

A No; as a dream element.

Q I see.

A In phantasies, the phantasy corresponds to what is reasonable or possible.

Q A phantasy does?

A Yes. For instance, Dick Whittington heard the bells of London ringing

"Lord Mayor of London".

That was phantasy, but the possibility of becoming

Lord Mayor of London was not an impossibility.

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Q Do you mean that when a thing is possible, it is a phantasy and when it is not, it is a delusion?

A No, I don't mean that.

Q You could not draw that line, could you?

A No. In a phantasy, the phantasy is consistent.

It is more or less reasonable; it is within the range of attainment, of possibility; but in a delusion many things occur which are absolutely beyond the possibilities for physical reasons, which in a phantasy would be recognized at once.

Q What does a day dream mean?

A A phantasy.

Q May one not, while they are working, or resting, or at any time while they are awake, apparently, have their day dreams?

A Not if they are working, if there is any intent concentration of attention.

Q I did not say that.

A I thought you said, when they were working.

Q I did. But is not a large part of the work done automatically?

A Yes.

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11m Q A man may hoe corn and his mind be up among the stars, may it not?

A Yes; quite so.

Q Or down somewhere else?

A Yes; if his mind is in a condition so that his attention may wander he may have day dreams at any time.

Q Yes. And that is not unusual?

A Not at all.

Q And the night dreams are the same way, are they not?

A Oh yes. I suppose there is no such thing as dreamless sleep, Mr. Darrow.

Q I don't believe there is; I think we agree on that. We agree on pretty much everything.

A I have studied that particular question for nearly forty years, and I don't believe there is a moment of dreamless sleep.

Q As a broad general rule, a daydream and a night dream are both reflections of mental life?

A Nothing can occur in a phantasy or in a night dream that has not in some way come to the experience of the individual.

Q If you would know all a man's dreams or a boy's

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dreams, and phantasies, and hopes, and ideals, you would know something about they boy, would you not?

A You would know the boy's character.

Q Yes. You might go home to-night and dream about this testimony and I might dream about the cross exsmination, it means a part of our lives, and that it has sunk into us to a certain extent, doesn't it?

A Yes.

Q I think that is all. Well, wait just a minute, doctor, I suppose you won't mind my asking you, and you won't mind stating it, if I assume that you are paid for your services?

A Yes, sir.

Q Well, there won't be any criticism of it any further. That is all.

THE WITNESS: That is, Mr. Darrow, I hope to be.

MR.DARROW: Yes, you hope to be?

THE WITNESS: Yes.

MR. DARROW: Well, that is all.

MR. SBARBARO: Just one more question, doctor.

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REDIRECT EXAMINATION.

BY MR. SBARBARO.

MR. SBARBARO: Q In stating your opinion here, doctor, you not only took into consideration the Bowman-Hulbert report and your own observation and examination, but you took into consideration also all those hypothetical facts which I asked you to assume, is that correct?

A I did.

MR. SBARBARO: That is all.

MR. DARROW: He has already said that. There is one other question I want to ask you, and just one.

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RECROSS EXAMINATION

BY MR. DARROW.

Q Who arranged for your pay? I am not going to ask you how much, I know it will be reasonable?

A Mr. Crowe.

Q Did you have any conversation with Mr. Ettleson about it?

A Yes, Mr. Ettleson called me up and asked me if I had been retained in the case, and I told him no, I didn't wish to be, and then he said that, subject to the approval of the State's Attorney, he wished to have me come into the case.

Q He is the first man that called ~~xxxxx~~ you up?

A He is the first man that called me up.

MR. DARROW: Well, I slipped a cog in not calling you first, doctor. That is all.

THE COURT: That is all. It is hardly worth while putting another witness on the stand, gentlemen. It is past four twenty now, and we will suspend until tomorrow morning at ten thirty.

Whereupon an adjournment was here taken to 10:30 o'clock Friday, August 15, 1924.

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Friday, August 15th, 1924.

10:30 o'clock A.M.

Court convened at 10:30 o'clock A.M. Friday, August 15th, 1924, pursuant to adjournment heretofore taken.

Present, same as before.

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THE COURT: I might say at this time that, because of another matter coming up before me at noon today, the hearing this morning will adjourn at ten minutes to twelve, and the afternoon session will convene at ten minutes to two.

You may proceed, gentlemen.

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D R. R O L L I N T U R N E R W O O D Y A T T

a witness called in rebuttal on behalf of the prosecution, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SMITH.

MR. SMITH: Q You may state your name, please?

A Rollin Turner Woodyatt.

MR. WALTER BACHRACH: Will you please speak up. I cannot hear your name.

A Rollin Turner Woodyatt.

MR. SMITH: Q How do you spell your last name?

A W-o-o-d-y-a-t-t.

Q Where do you live?

A Evanston.

Q Where is your office?

A 104 South Michigan Avenue, Chicago, Illinois.

Q What is your business or profession?

A I am a physician.

Q Do you confine yourself, doctor, to any specialty

in the practice of your profession?

A Internal medicine.

Q Will you kindly state your preparation and experience in practicing that specialty?

A I was graduated from the University of Chicago, and Cornell University; received my degree of medicine at Rush Medical College; completed an internship in the Presbyterian Hospital; was an assistant of professor James B. Herrick; followed some post graduate work at the University of Chicago thereafter; was then two years in Germany studying special phases of medicine.

Q What were those special phases, doctor?

A I studied in particular pathology and metabolism, the latter with Professor Friedrich Mueller in Munich.

Returning to Chicago I continued some further studies in chemistry at the University of Chicago.

I founded a research laboratory which is now known as the Clinic Research Laboratory of the Otho S. A. Sprague Memorial Institute for Medical Research. I am director of that laboratory at the present time; professor of medicine -- that is

to say, clinical professor in the department of medicine of the University of Chicago; attending physician at the Presbyterian and Evanston Hospitals.

During the last fifteen years I have been engaged particularly in investigations along chemical lines of physiology, and in the practice of medicine.

Q Doctor, about how frequently have you employed basal metabolism estimates in your practice?

A During the last two years, several hundred times.

Q Is the Jones Metabolometer the most accurate machine?

A It is not so regarded.

Q Why, doctor?

MR. DARROW: Just a moment. I move to strike out the answer, as to how it is regarded. That was not the question. But -- oh, well, I will withdraw it. Let him go.

MR. SMITH: Q Is the Jones machine the most accurate machine? How do you regard it, doctor?

A I do not consider it so.

Q Give the reasons for your answer?

A The Jones Metabolometer is a small, compact, portable machine which is useful for quick determinations of an approximate nature, but it is not the machine which is used by any of the men to my knowledge who are doing fundamental scientific work on the basal metabolic rate.

Q Doctor, what conditions must be observed in performing the test?

A In order to obtain a dependable result in determining the basal metabolic rate the individual to be examined must have no food in the stomach or bowel, he should preferably have been without all food for at least twelve hours, as they say, he must be in the post absorbtive, preferably the individual should have had absolute rest for twelve hours at least before the test. He must have one hour of complete physical rest preferably lying down directly before the test is undertaken.

During the test he must be recumbent and perfectly quiet physically and nervously and emotionally.

After the actual process is under way

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great care must be taken to see that the air passages in the apparatus are so adjusted that no leaks occur and no embarrassment to the breathing is caused, and when the test is made by other machines besides the one mentioned --

Q Which one, doctor?

A Such a machine, for instance, as the Boothby-Sanderford modification of the Tissot apparatus in which the gas analyses are subsequently made by the Haldane method great care has to be used in the technical details of the analyses calculations, etc.

For accurate and dependable rate determinations in important cases, it is always preferable to repeat the test on more than one day to make sure that the figures obtained on one day are checked by those made on subsequent days.

Q Would the same person show different results under different conditions?

A Yes.

Q Would emotion influence the result, doctor?

A It may.

Q In what way?

A Excitement may cause an increased tension of the muscles and increased metabolic rate.

Emotion may cause a movement which would increase the basal metabolic rate.

Q Assume, doctor, that three tests are made in immediate succession on one day, and that the average of the three is taken, what is the meaning of minus five percent?

A A reading properly made of minus five percent would fall within the range of normal variation.

Q What if a rate of minus seventeen percent under the same conditions on the same day?

A A rate of minus seventeen percent would indicate that the metabolic rate of that individual as recorded was below the average, but it would not be beyond the range which is sometimes observed in the case of people who are considered to be absolutely normal.

Q Doctor, are you familiar with the test that was said to have been used in connection with Dr. Hulbert's examination, that is, the blood sugar tolerance test, I have reference to?

A Yes.

Q Do you use this test frequently yourself, doctor?

MR. DARROW: Hadn't you better show how he is familiar with it, first?

MR. SMITH: Q Well, how are you familiar with that test, doctor?

A From what has been told me about the test performed I conclude that it is --

MR. DARROW: No.

MR. WALTER BACHRACH: I object to what he has been told.

MR. SMITH: Q The question is, doctor, how do you know what test was used by Dr. Hulbert, your own familiarity with the test?

A I was not present when Dr. Hulbert made the test, and I have to depend on what has been told me as to what test was made.

Q What conclusion would you draw from a reading as follows:

"by taking 97 milligrams of glucose by mouth the blood was 100 milligrams percent of sugar and the urine showed no sugar; thirty minutes after the blood showed

"173 milligrams percent of sugar,
and the urine showed no sugar; sixty
minutes after the blood showed 210
milligrams percent of sugar and the
urine has sugar present; one hundred
and twenty minutes after the blood
showed 148 milligrams percent of sugar,
and the urine showed a trace of sugar."

What conclusion would you draw from such a reading,
doctor?

A The report that the urine to begin with showed
no sugar would indicate that the tests made for sugar
in the urine were not of the more refined sort, because
the urine always contains some sugar under ordinary
conditions, provided a sufficiently accurate test is
used for measuring.

So that I would conclude that the ordinary
qualitative tests for sugar in the urine were depended
on in that respect.

Otherwise, the finding would simply indicate
that after taking the dose of sugar that individual
at that time did not burn or store the glucose quite

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as rapidly as an individual in perfectly good condition would ordinarily do.

Q Could such a reading be obtained in the case of a perfectly normal man under certain conditions?

A Certainly.

Q Under the subject of acidosis, doctor, -- and I am speaking now about a blood chemistry test known as the Van Slyke, and its procedure for estimating the carbon dioxide combining power of the blood, or the blood plasma; are you familiar with this test?

A Yes.

Q About how often have you used it in your own work?

A It has been performed in our laboratory probably thousands of times in the last two years.

Q Are there any particular precautions that have to be taken to obtain a true reading when this test is used?

A There are.

Q What are they, doctor?

A This test consists in a measurement of the gases,

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and in particular of the gas carbon dioxide, which is in the blood, and which exists in the Blood in the form of a bicarbonate or carbonate with some of the metals.

In taking a sample of blood, some of the carbon dioxide which is present is lost if the blood is exposed to the air and has to be replaced.

A very common mistake is not to replace all of the carbon dioxide that is lost.

Further than that, the precautions required are those which pertain to any gas analytical method of precision.

Q If any error, doctor, is made in the carrying out of this test, is it likely to give a reading that is too low or too high?

A The commonest error is to obtain readings slightly too low.

Q If you received a report from the laboratory stating that the blood showed 55 volumes of carbon dioxide present, what would you conclude?

A That the report was within the normal limits.

Q If it were reported three points lower,

that is, 52.2 percent, would you feel justified in

assuming that the person examined had any evidence of acidosis?

A I would first want to assure myself that the tests had been accurately carried out, and repeated by different operators.

Q If you were satisfied that the test had been perfectly made, would you then say that the person showed evidence of acidosis.

A It might be considered that he showed evidence of a slight acidosis. That could not be positively stated, however, without knowing how the carbon dioxide percentage ran in that individual case, habitually. But it would ordinarily be considered that he showed a slight acidosis.

Q And in the answer to the previous question, doctor, you said you would like to have the test made by different operators. Why would you like to have that?

A Because any operator may make a slight mistake in carrying out that test, so that if a good deal depended on the accuracy of the figures, we would always repeat the test, and frequently two of us in

the laboratory would perform it, in order to check one against the other.

Q Doctor, if the person did show evidence of acidosis, such as you describe, would this imply that there was anything abnormal about it?

A Not necessarily.

Q Do perfectly healthy people have acidosis at times?

A All normal people have acidosis at times.

Q Will you explain more fully what you mean?

A If an individual fasts, there always occurs after a sufficient number of hours, the number differing with different individuals, what is known as a fasting acidosis.

Some individuals will show a slight fasting acidosis if they skip a meal, as, for instance, having had breakfast, they skip lunch, when they may show a slight fasting acidosis in the afternoon. Severe muscular exertion such as the running of a fifty or one hundred yard race always leads to an acidosis. If an individual holds his breath for a certain length of time, he develops a slight asphyxio-acidosis.

An individual on a certain diet which is too high in fat and too low in carbohydrate relatively, invariably shows an acidosis. The taking of considerable amounts of acid in the diet may produce findings of acidosis, etc.

Q Doctor, would emotion at any time produce acidosis?

A I would not say that the emotion was capable directly of producing an acidosis but the emotion may induce bodily states so that the acidosis results.

Q Under the subject of blood urea, when we speak of non-protein nitrogen in the blood, we understand, do we not, that this non-protein nitrogen consists largely of the nitrogen that is in the urea that is present in the blood?

MR. B. C. BACHRACH: We object on the ground that the question is leading.

THE COURT: Go ahead, doctor.

A The non-protein nitrogen of the blood consists largely of urea nitrogen.

MR. SMITH: Q How about the percentage of non-protein nitrogen in the blood, is this subject to change in normal people depending on what they are eating, et cetera?

A Will you read that question, please?

(Whereupon the question was here read
by the stenographer).

A It is subject to variations in normal individuals depending on what they are eating, how much water they are taking into the body, and other factors.

Q Doctor, what conclusion would you draw from a statement that a man's blood on one occasion contained 44 milligrams of non-protein nitrogen percent, taken before breakfast?

A I would conclude that that reading was a little above the average, but I would not base any inference on it unless it had been confirmed, and unless I knew more about the general physical condition under which the test was made.

Q Under the head of blood pressure, doctor, is a systolic blood pressure of from 100 to 115, and a diastolic pressure of from 35 to 60 in a man of nineteen lower than is usually found in a person in first-class condition?

A It is.

Q Could such a low blood pressure exist in a per-

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fectly healthy person?

A It could.

Q Can any healthy man have a blood pressure as low as this at times?

A Under certain circumstances.

Q What are those circumstances, doctor?

A Well, for example, if a man were under a nervous or emotional strain, such a strain, for instance, as would lead the man to faint, that would be associated in all probability with a marked lowering of the blood pressure.

Q Would you feel that the finding of a pressure such as that described, necessarily indicated any diseased condition of the body?

A It would not necessarily indicate any diseased condition. It might indicate a diseased condition, but that could not be told from the blood pressure alone.

Q Assume, doctor, that a man of nineteen who is in jail on a charge of murder to which he has confessed, has a basal metabolism rate of minus five

percent with results of sugar tolerance non-protein

nitrogen in the blood, carbon dioxide combining power of the blood, and blood pressure as I have outlined in my previous question, have you an opinion as to whether from those facts he had any disease of the endocrine glands?

A There would be nothing in those findings which would justify a diagnosis of disease of the endocrine glands.

Q Will you give the reasons, doctor, for your answer.

A Because there is nothing in those findings that would be incompatible with health.

Q Is such a combination of laboratory findings compatible with entire normality?

A It is.

Q Doctor, would this opinion be changed by a further statement to the effect that this person showed no positive reaction to an injection of adrenalin?

A No.

Q Why?

A Most normal people -- well, before answering that question I would like to know how much adrenalin he

received.

Q Well, I think the question is just the injection of adrenalin. I suppose the normal or the usual injection that a doctor would give in an examination.

A When using adrenalin in the so-called adrenalin test, a test that is described in the literature as the Goetsch test, a small dose is used. Many normal individuals show no response to that test.

MR. SMITH: We are trying to find out how much adrenalin was used, so we will pass to the next question, and answer that later if we can find it.

Q What in your opinion is the present state of medical knowledge of endocrine function basing yourself on your own experience and reading?

A The present day knowledge about certain of the endocrine glands is based upon a body of concrete orderly facts. Our knowledge of the Islands of Langerhans or the so-called pancreatic islets is very definite. We know if these organs are taken out of the body the individual loses the power to burn glucose. We know that this loss of power to burn glucose is due to a lack in the body of a secre-

tion known as insulin, which can be separated from the islet tissue, and when these glands are taken out the individual loses his power to burn glucose and if we put the right amount of insulin back in he behaves as though the glands had not been taken out.

In the case of thyroid gland a great deal of definite concrete information is at hand. We know that the thyroid produces a substance isolated by E. C. Kendall of Rochester, known as thyroïdin, a substance whose chemical position is known and the substance is obtainable on the market. It has been injected into animals and humans thousands of times and very accurate observations have been made concerning the facts so that the knowledge of the Islands of Langerhans and the thyroid may be said to be, although incomplete, on a scientific basis.

There are some very definite tangible bits of information about the adrenal glands, the hypothalamus, the parathyroid --

Q By hypotheses you mean the pituitary gland?

A The pituitary body or gland. Except for these exceptional items of knowledge, the general status

of knowledge concerning the endocrine glands might, I think, be compared to the interior of Africa before Stanley went in there. There are many definite facts known but they are scattered disorderly and unrelated.

This field of endocrinology beyond the coast line of definite information is a field which has been exploited by romantic writers, charlatans and others which are not to be classified as scientists. A great deal remains to be known about that field, little coherent and concrete is now known about it.

Q Isn't it a fact that these known things concern extreme changes in the glands and that nothing is known of the minor changes?

A No, minor changes of the thyroid function or of the islets may be detected to a very definite measure.

Q But other than that, the other things you spoke of here, isn't it a fact that these known things concern extreme changes in the glands outside of the thyroid and the pituitary?

A The most extreme changes are the first to be discovered and noted.

The less marked the changes are the more room there is for doubt as to their authenticity.

MR. SMITH: The amount of adrenalin is not in the report, so can you answer the question without knowing the exact amount of adrenalin?

A Assuming the average dose used in that test my answer would be as it was.

MR. SMITH: You may cross examine.

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CROSS EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q How old are you, doctor?

A Forty six.

Q What is the character of the laboratory with which you are now connected?

A It is a research laboratory in one of the buildings of the Rush Medical College supported by the S. A. Sprague Memorial Institution for Medical Research.

Q What is the character of the research work that is being done there?

A We have worked particularly on chemical phases of physiology and clinical medicine.

Q Do you spend all of your time over there?

A I spend too much of my time there.

Q Do you spend all of your professional time there?

A Not all of it, at the present time about one-half or one-third of it. It differs at different times.

Q What is the character of your professional work

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2m away ~~fn~~ from that laboratory?

A I practice internal medicine.

Q Have you done any research work in the endocrine glands yourself?

A The most outstanding disease of the endocrine glands known is diabetes. I have worked intensively on that for fifteen years.

Q Have you worked on any other phase of endocrine disturbances yourself?

A The chemical processes of the body are intimately connected with the action of the endocrine glands, and one cannot be studying body chemistry without becoming involved in the study of the endocrine glands.

Q As the result of your study of body chemistry, have you found that there was any relation of the operation of the body or the functioning of the various glands, and the mind?

A My research work in the laboratory has been on chemical phases. Personally I believe there is a relation between the function of the ductless glands and the mind.

Q Do you also believe that there is a relation

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between the ductless glands and human conduct?

A Do you wish me to give an opinion, or hazard my guess?

Q What is your belief about it, from your experience and studies?

A Well, I try not to have beliefs, scientific beliefs, unless I know definitely that they are correct.

Q Have you any belief one way or the other on the subject?

A I am willing to hazard my personal guess.

Q Will you do that?

A I guess that the endocrine glands have some relationship at times to conduct.

Q Would a hyper-thyroid affect conduct any?

A I have never seen it affect conduct in any specific way.

Q Would it affect the nervous constitution in any way?

A Yes.

Q Does it in any way tend to produce an unstable nervous system?

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A What do you mean by hyperthyroid?

Q Well, What do you mean by it?

A I don't know.

Q What is a hyperthyroid?

A I don't know.

Q Is there such a thing as a hyperthyroid functioning?

A Do you mean an excessive functioning of the thyroid gland?

Q You understood that is what I meant when I first asked you the question, did you not?

MR. SMITH: I object to his arguing with the witness.

MR. W. BACHRACH: I mean that.

A Well, I am sincere in saying that those terms are very differently used, and very loosely used by different writers, and I wish merely to be sure that I know how you are using it.

Q I am using it, meaning an excessive functioning of the thyroid gland. Has that any relation--

A Tell me what the function of the thyroid gland is, which function you refer to?

Q Well, what is the function of the thyroid gland?

A I don't know.

Q You never made any study of that?

A Yes sir, I have made a great deal of study of it.

Q Do you know any of the functions of the thyroid gland?

A I think I have some idea of some of them.

Q Will you tell us what those are?

A It is very definitely known that the thyroid gland produces a substance, the substance isolated by Kendall, known as thyroxin, and I understand what the physiological effects of too much thyroxin in the system are, but as to whether the thyroid has a further function than that, opinions differ.

Q What is the effect of too much thyroxin?

A When a considerable dose or a sufficient dose of thyroxin, it increases the basal metabolic rate.

Q What is the effect of an excessive increase of the basal metabolic rate? Has it any effect on the heart?

A We know what effects are commonly associated with that, but whether they are due to the increase

of the basal metabolic rate or something that goes with it, I don't know.

Q Well, what effects are commonly associated with it, doctor?

A The heart rate is usually increased.

Q Does the increase of the heart action in any way affect the nervous system?

A I don't know.

Q Have you any knowledge as to the relation between the functioning of the ductless gland and the nervous system?

A Nothing very definite.

Q Have you read anything on that subject?

A Yes, a great deal.

Q Whose book have you read?

A I have read current literature, articles as they come out in the research journals.

Q There has been considerable research done along that line of late, has there not?

A An enormous amount.

Q Do you know Dr. Karl Bowman of Boston?

A Yes, I have heard of him.

Q Have you ever heard of the researches he has made?

A I am not familiar with Dr. Bowman's personal researches.

Q Have you ever seen any of the books of his?

A I don't recall having read any of Dr. Bowman's articles.

Q Did you ever meet Dr. Walter Tinney?

A Yes.

Q Have you ever read any of his articles?

A Not any more than I could help.

Q Why?

MR. SMITH: Why, doctor?

THE WITNESS: Because I do not consider that those articles are scientific research articles, and my line is scientific investigation.

MR. WALTER BACHRACH: Q Where is Dr. Tinney's work done?

A Dr. Tinney works in New York.

Q What institution is he connected with?

A I don't remember offhand.

Q What is his profession?

A He is said to be a surgeon.

Q A surgeon?

A As I understand it, yes.

Q Did you ever hear of Krahl?

A Yes, I know Dr. Krahl very well.

Q Have you ever read any of his works?

A Yes sir.

Q Have you read any of his works on the endocrine system?

A Yes, I have.

Q Do you know Dr. Cannon?

A Yes.

Q Is he a man of high standing?

A He is.

Q Have you read any of his works?

A I have.

Q He is one of the leading men in that field, is he not?

Q In what field?

Q Endocrine?

A Dr. Cannon is a physiologist.

Q Has he made any studies of the endocrine system?

A You cannot study physiology without studying the endocrine.

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Q Then your answer is that he has?

A That he has what?

Q That he has made study?

A Yes, Dr. Cannon has made studies with particular reference to the thyroid and adrenals, to my knowledge.

Q He has written a great deal on the subject, has he not?

A He has.

Q He is one of the first writers on the subject?

A In point of time?

Q Yes.

A No.

Q Who was ahead of him?

A The writing on that subject has been going on before he was born.

Q He is one of the outstanding men in that field, is he not, doctor, as far as his articles go?

A Yes, Dr. Cannon is one of the well known conservative reliable men working in that field.

Q Do you know anything about psychiatry?

A No.

Q Do you know anything about the relation of the en-

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doctrine gland to the mind, as a result of your own study?

A Nothing coherent and definite that I could state.

Q Do you know whether psychopathic personality is a classification in psychiatry?

A I understand that it is.

Q Do you know whether or not --

MR. SMITH: I object to any questions being asked of this doctor; he is not a psychiatrist.

THE COURT: You put him on as an expert, they may cross examine.

MR. WALTER BACHRACH: Q Do you know whether there is any relation between the functioning of the endocrine glands and the psychopathic personality?

A It is theoretically assumed that there is. I personally don't know.

Q What bearing has the emotional condition upon the person being examined in a correct determination of the amount of acidosis?

A It might be very different -- well, what I think or what I have in mind in this connection is that if an individual is worried, anxious, or subject to

emotions such as fear, anger or hate, it might interfere with his eating, his digestion, or in a number of ways be sufficient to occasion a slight acidosis.

Q Could you as an expert about to make a test determine whether a person was in a state of emotion that would in any way affect the results of an acidosis test?

A I would have to know the details concerning his diet, how he had rested the night before and just what time of day the test was made, and whether it was a satisfactory way to make it.

Q Would observation that you would have of a person on whom you were about to make an acidosis test in any way aid you in determining whether the person was undergoing emotions which might affect the result of the test?

A Why, it might or it might not. He might have been under emotion and not be under emotion at that time.

Q When you make a test, an acidosis test, you ordinarily give your directions to the person to be tested the day before, do you not?

A No.

Q When do you give your directions?

A Usually you are not giving any directions. You are finding out what the condition is.

Q Well, suppose you wanted to make a test of a person as to acidosis, would you tell him a day or so in advance that you wanted him to take a good rest?

A No.

Q You would not do that at all?

A No, certainly not.

Q You would merely take the person as you found him?

A Certainly, but I would use my judgment about interpreting the results.

Q Well, after all, the judgment of the tester is one of the primary factors in arriving at the correctness of the conclusion reached, is it not?

A The test shows you whether the body alkali is a little higher or a little bit lower than a certain point. As to what that means, depends entirely on circumstances. It may be an indication of disease; it may be an indication of a normal variation.

Q Well, a man who is making a test is best qualified

to determine whether or not the conditions under which the test were made were proper or not, is that true?

A Usually not.

Q That is not true?

A Usually the test is made by a laboratory technician.

Q Yes.

A He has nothing to do with the interpretation.

Q Doesn't he know whether the test is properly made?

A He knows whether the analysis is correctly carried out.

Q Do you know Dr. Moore of the National Laboratories here in Chicago?

A Yes.

Q Is he a man of any particular standing as a laboratory expert?

A Dr. Moore, I believe, is an excellent laboratory man.

Q Well, if Dr. Moore made a test of this kind, would his conclusions be reliable?

A In respect to the technique of the test?

Q Yes.

A I venture to say I would accept Dr. Moore's analysis as correct, if he told me it was dependable.

Q You say you have not met Dr. Karl M. Bowman?

A No.

Q Do you know Dr. Hulbert, H. S. Hulbert?

A No, never heard of him.

Q Do you know whether Hulbert ever heard of you?

MR. SMITH: I object.

THE WITNESS. I understand not.

MR. BACHRACH: Q Does heightened emotion have a tendency to increase or decrease blood pressure?

A Well, emotions are of different kinds.

Q What kinds are there?

A Well, fear is an emotion, and anger, I understand, is an emotion, Anxiety is said to be an emotion.

Q Well, is it?

A I think different emotions have different effects on the body.

Q Now, what is the effect of anxiety upon the blood pressure?

A I have seen anxiety lower blood pressure. I don't know whether it always does just that same thing.

Q Have you ever seen it raise it?

A If the anxiety is attended with some tension, increased alertness and a keyed-up condition, I believe that it may raise the blood pressure.

Q How about fear, would that increase or decrease the blood pressure?

A I have seen people in fear become unconscious, with a blood pressure so low that you could not feel it with your finger.

Q Does it ever increase the blood pressure?

A I haven't personally in mind an instance in which I have seen fear increase the blood pressure. That is a depression emotion.

Q What is the usual effect of fear on the blood pressure?

A I believe that the usual effect of fear is to lower blood pressure.

Q What is the usual effect of anxiety?

A Well, if it were tinctured -- if it were a pure anxiety, I think one would have to discriminate between different kinds.

Q What kinds are there?

A Well, a man may be anxious because he has forgotten to mail a letter. That wouldn't be anything serious.

Q That is not a difference in kind, that is a difference in degree, isn't it?

A That kind of anxiety might excite one man or might amuse another.

Q Is it not a matter of degree?

A I think it is a very complex mixture. Anxiety is scarcely a pure substance.

Q What effect does anger have on the blood pressure?

A A purposeful anger usually increases the blood pressure.

Q What do you mean by a purposeful anger?

A I mean that anger is likely to lead to purposeful action.

Q What is the usual effect of that kind of anger?

A I have never personally made blood pressure readings on a large number of angry people.

Q You do not know much about the effect of anger then on blood pressure?

A I believe it would be agreed by most people that

anger has a tendency to increase the rapidity of the heart and raise the blood pressure.

Q Well, if a person is angry to the extent you have indicated, would that be apparent in his conduct?

A I did not indicate any degree.

Q Well, if a person was angry to the extent that it would affect the blood pressure, would that in any way show itself in his conduct at the time the test was being taken?

A Well, it might and it might not. It would depend on the individual's ability to conceal his emotions.

Q And if a person outwardly were very calm and placid at the time his blood pressure were being taken, he still might be very angry to the extent that it might affect his blood pressure and raise it very much, is that right?

A Yes. I have seen men who could be very angry, to the extent of raising their heart beat and blood pressure, and not show it externally.

Q Suppose you were taking a man's blood pressure, and you had an opportunity of observing him, and you

saw that he was very calm, very placid, smiling, and you took his blood pressure. Would you make any allowance for a possible hidden anger in arriving at the conclusion with respect to the tests that were being made or the results shown?

A If I had no reason to suspect any interfering emotion, I would ordinarily not make allowance for it.

Q Well, if you took his pulse and found his pulse was normal and he appeared to engage in conversation with you in a perfectly normal way, and he was in jail, we will say, or he was living a rather quiet life, with regular habits, going to ~~xxx~~ bed at regular times, and he appeared calm in his exterior, and you took his blood pressure, would you assume that he was angry?

A No, I probably would not.

MR. WALTER BACHRACH: Does your honor wish to take a recess now?

THE COURT: No, we will run on until ten minutes of twelve.

MR. WALTER BACHRACH: Q What effect does emotion have on basal metabolism?

A I don't know whether emotion directly affects the basal metabolism except insofar as it leads to more or less tension of the muscles.

Q Is not its greatest tendency toward increasing the basal metabolism, instead of lowering it?

A I think that is more common, yes.

Q And if there is an unusually low basal metabolism, would that indicate in any way an absence of emotion?

A No.

Q Would it have any bearing on the question? In other words, would you not expect to find an increased basal metabolism where there was emotion present?

A Not necessarily, no.

Q Ordinarily, would you not?

A If it were a depressing emotion, I would not expect it to have the effect of an exciting emotion.

Q Would a depressing emotion such as you have described here, of fear or anxiety, have a tendency to cause a decrease in the basal metabolism?

A On the basis of direct personal study I cannot

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answer that question. I have asked a number of men in the country, and opinions can be given but not facts.

Q You do not know?

A I do not know.

Q As a matter of fact, you do not know the relation at all from any studies that you have made, or experimental work, between the emotions and blood pressure, do you? You never have done any research work along that line, have you?

A I have made a good many observations.

Q Did you do any research work along that line?

A Just what do you mean by research work?

Q Have you studied any extensive number of cases, and kept data on them?

A Yes.

Q Have you ever caught a man who was running to a fire, who was very much excited, and taken his blood pressure?

A No.

Q Have you ever taken any person in any position of great stress, and taken his blood pressure?

A Yes.

Q What was it?

A Why, when you are taking blood pressure in the ordinary practice of medicine, people are frequently under great stress. They may have the fear that they have a cancer, or they may fear that they are going to be turned down for the army or for life insurance. Stress is a nuisance in medical examinations in general.

Q In all of these cases, when you take blood pressure, what allowances do you make for the condition of the person at the time the blood pressure is taken?

A If everything is not satisfactory, you simply wait and do it again, until you get enough of them to be pretty sure that they always run the same way, before you make your interpretation.

Q In other words, how many times do you have to take a person's blood pressure to find out what the results, the correct results, are, as far as he is concerned?

A It differs sometimes. You take a blood pressure this afternoon and find that it is quite high and

the next morning after that you find that it is not, and then you see that the first blood pressure reading must have indicated something temporary.

Q Let me ask you this, doctor. The results of a test in any one particular field as for example the adrenal field, by the injection of adrenalin, by themselves do not mean very much, do they; the conclusions arrived at in any one test do not mean much by themselves.

A You mean isolated laboratory tests?

Q Isolated laboratory tests.

A No, isolated laboratory tests are mere items that have to be taken collectively and duly interpreted.

Q A person who is making a physical examination, a physician making a physical examination of a patient, when he wants to find out the physical condition of that person does not take the result of any one test that he makes.

A No.

Q Nor in any one field?

A No.

Q He tests the functioning of the various organs.

A Insofar as he thinks they are pertinent.

Q If a patient was being examined physically with a view of ascertaining what relation if any there was between his physical condition and the operation of his mind, the physician would ordinarily take all the various tests that could be made on his body, would he not?

A No, that would be ridiculous.

Q What ones would he make?

A If he were a psychiatrist he would make the tests that his experience indicated were essential and to the point.

Q How do you know what tests a psychiatrist would make?

A I have seen them working.

Q Have you ever seen a neurologist work?

A Yes.

Q What would a neuro-psychiatrist do?

A A man, any physician, in any line who has common sense should make examination, all the examination that he thinks would bear on the case essentially, but you cannot make all possible tests on every case, it is out of the question.

Q Would a neuropsychiatrist make an endocrine examination?

A I don't know what you refer to.

Q Would he use an adrenalin test?

A Some would, I would not myself.

Q You are not a psychiatrist and not a neurologist, are you?

A No.

Q Would a neuro-psychiatrist or a neurologist or a psychiatrist, any one of the three, make a basal metabolism test?

A Those things would depend on the individual's judgment of what was essential and what was non-essential.

Q Wouldn't they examine the heart, the eye, the fundus of the eye?

A To answer the question I believe that physical examinations should be as complete as necessary for the settlement of the problem in hand.

Q Would it not ordinarily be regarded that all these things would have a bearing upon the question of the presence or absence of mental disorder?

A As I say, I am not a psychiatrist and what their

judgment would be would depend upon their viewpoint.

Q Is your laboratory being availed of at all by psychiatrists & -- does Dr. Singer use your laboratory?

A No.

Q Dr. Krohn?

A No.

Q Do any other psychiatrists in Chicago ever resort to your laboratory?

A The neurologists on the staff of the hospital occasionally come in.

Q Dr. Patrick?

A He is not on our staff.

Q Has he ever resorted to your laboratory?

A No, I think not.

Q Dr. Church?

A No.

Q Well, what neurologist does?

A My laboratory is not a laboratory of resort for other physicians, it is a research laboratory.

Q It is not used at all by any physicians for the purpose of having specific tests made on their pa-

tients?

A No, it is a laboratory for scientific research.

Q Well, as a matter of fact, neurologists and psychiatrists today are the ones who are using or making research tests to a much greater extent than any other medical field, isn't that true?

A I wouldn't say so.

Q Well, they do to a large extent, do they not?

A I don't think there is any difference. I think that a progressive man uses what he can lay his hands on, whether he is a psychiatrist or a Democrat or anything else.

Q Don't they frequently resort to research laboratories to find out the cause of dementia praecox or paresis?

A The cause of dementia praecox has never been found out by any laboratory.

Q Are they trying to find out through the use of laboratories as well as in other ways?

A Who do you refer to?

Q Psychiatrists?

A Why that is a research problem. Whether the answer will be arrived at by laboratory means or some other means, I don't know.

Q It may be arrived at as a result of physical research, may it not?

A Yes, or common sense, I don't know.

Q Common sense, too?

A Yes.

Q What is the difference between the two?

A Between common sense and what?

Q And physical research? A Well, I think common sense is a thing that has to be used in any research.

Q They both go together, sometimes, do they not?

A Yes, and sometimes they run separately.

Q You use it in your laboratory, don't you?

A We try to.

Q What is the function of the pituitary gland?

A I don't know.

Q You only know what are the chemical secretions of the gland, is that right?

A No, I don't know that.

Q Well, what do you know about the pituitary gland?

A Well, I know its location and what it looks like, and I know what the views are concerning its anatomical structure, and I know in general the relationship between the pituitary gland and diabetes insipidus, or the pituitary gland and acromegaly gigantism, and so forth. I know something about the efforts that have been made to extract the active principle and identify it.

Q Do you know the relationship, if there is any, between the functioning of the pituitary gland and epilepsy?

A There is not, to my knowledge, any definite relationship proven between the pituitary gland and epilepsy.

Q Are you sure that there is no relationship between the two?

A No, I wouldn't say anything like that.

Q Would you say that there was no relationship between the functioning of the thyroid gland and mental conditions?

A No, I say that I wouldn't say that there was none.

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Q Do you know whether the pituitary gland has got any function?

A Yes, I do.

Q Well, what is it?

A Well, I know that the pituitary gland had to do with growth and development for one thing.

Q Has it any relation to the other endocrine glands?

A Do you mean directly or indirectly, or in what way?

Q In its functioning? Does a disordered function of the pituitary in any way affect the thyroid, for example?

A You cannot disturb a function of any organ in the body without disturbing all the other organs.

Q Is that true so far as the mind is concerned?

A I wouldn't be surprised.

Q Do you know anything about the pineal gland?

A Do you mean the pineal body?

Q Yes, it is usually called the pineal, or pineal gland, isn't it?

A Well, all authorities do not agree that that is a gland.

Q You have heard it called that, haven't you?

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A. Yes.

Q It was supposed to be onde some primitive form of eye in the individual, wasn't it?

A Yes.

Q Well, now, what is its function?

A I don't know.

Q Do you know whether it has got a function?

A No, not positively. I presume that it has a function.

Q Do you know what relation if any it has to the operation of the mind?

A No.

Q Do you know whether it has any relation to the operation of the mind?

A No.

Q Do you know whether there is any relation between the functioning of the brain and the mind?

A Any relation?

Q Yes.

A Yes.

Q What relation is there between the brain and the mind?

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A I couldn't answer that question.

Q You don't know.

A No.

Q Do you know what emotion is?

A I know some emotions.

Q What is your definition of an emotion?

A Well, I think definitions are abominable, but I mean such things as anger, fear, hate and so forth.

Q Is there any relation between the emotions and the mind?

A Yes.

Q What relation is there between the emotions and the mind?

A I don't know.

Q Do you know whether there is any?

A I am pretty sure there is.

Q What is the mind?

A I don't know.

Q What is it made up of? Have you ever studied the mind?

A Yes, I have studied it.

Q Do you know where it is located?

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Q Did you ever see it?

A No.

Q You stated on your direct examination that a basal metabolism of seventeen degrees or seventeen per cent was below average--

A Minus seventeen.

Q -- minus seventeen, that it was below the average?

A Yes.

Q Does that, taken into consideration with other abnormal functioning of the endocrines, indicate anything?

A What other functions?

Q Well, suppose there is a hyper-thyroid function, we will say, and suppose upon the injection of adrenalin there is none of the usual reaction such as pallor, excitement, sweating, and the other things that usually are supposed to accompany the administration of adrenalin--

MR. SMITH: What dose of adrenalin?

MR. BACHRACH: The same as you did.

MR. SMITH: We did not even know from the report what dose--

5m MR. BACHRACH: You asked the question here and got his answer on the basis of some usual administration of a certain usual amount of adrenalin and I am taking the same assumption.

MR. SMITH: See if the doctor knows what you are assuming.

MR. BACHRACH: Read the question, please.

(Whereupon the question was here
read by the Court Reporter.)

Q Would you say in that situation that a minus seventeen per cent shown by the basal metabolism test was an indication of anything?

A Mr. Bachrach, it might be, but the evidence presented would not prove it one way or the other.

Q In other words, as I understand your direct testimony here, you are not attempting to say that the conclusions which have been submitted to you are not evidence of anything but you say they do not prove it to you, is that right?

A They are evidence of two things, health or disease, but you cannot tell which.

Q They might be either one, is that true?

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A Yes.

Q And you are not attempting to say on the facts submitted to you that they show health?

A No.

Q They might show disease?

A They might show disease.

THE COURT: We will now suspend until ten minutes of two.

Whereupon an adjournment
was here taken until 1:50 P.M.
Friday August 15th, 1924.