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most matter of fact way about his doings and movements immediately following this act. As his recital proceeded, I was amazed at the absolute absence of any signs of normal feeling, such as one would expect under the circumstances. He showed no remorse, no regret, no compassion for the people involved in this situation, and as he kept on talking it became very evident to me that there was a profound disparity between the things that he was talking about, the things that he was thinking about, and the things that he claimed he had carried out, and there became evident the absolute lack of normal human emotional response that would fit these situations, and the whole thing became incomprehensible to me except on the basis of a disordered personality.

I tried to visualize my own past experience in talking with a great many criminals of all sorts, probably about two thousand of them, and never before have I seen such disparity between one's ideation and talking and emotional response to it, except in cases of disordered personality.

In the course of my conversation with him, he told me how his little brother, of whom he

said he was most fond of any member of the family, how this boy passed in review before him as a possible victim of the kidnaping and killing. Even in connection with this statement, he showed the same lack of adequate emotional response to the situation.

I asked him to tell me how he accounted for this attitude of matter of factness to all these things, and he mentioned to me the same thing that he mentioned to one of the other examiners, that it struck him as unusual when he sat in the court room listening to the testimony of Mrs. Franks and that he came to explain it to himself as having nothing within him that might call forth a response to the situation.

MR. B. C. BACHRACH: Can't you keep your voice up? We have difficulty in hearing.

THE WITNESS: I then took up the discussion with him of his stay in jail, having in mind the background, -- the social and cultural background into which this boy was born and in which he was reared.

MR. B. C. BACHRACH: Let me interrupt you, doctor, before you leave the other subject.

In the conversation with Richard Loeb did he say anything about who it was that struck the

blow on the head of Robert Franks with the chisel?

THE WITNESS: He told me all the details of the crime, including the fact that he struck the blow.

Q Now, come back to the conversation in the jail.

A He also referred to the situation which came out here yesterday, this peculiar compact between him and Leopold.

Q Now get to the jail proposition.

A I then took up the question of this stay in jail and the manner in which he was adapting himself to that situation, and as I say, in view, keeping in mind the background from which he came, the fact that he had been used all his life to luxury and refinement in all his contacts, that again strengthened my belief in the peculiar disparity, the peculiar disorder of this boy's personality.

He seemed to be perfectly satisfied with the jail. He told me the whole thing seemed natural to him. He mentioned the fact that he was given a fairly good looking coat and he preferred a ragged coat.

I have observed his coming to the examinations, the various interviews I had with him, and

considered it as one of the important points that would lead me to my conclusion about him, the manner in which he entered the room, the levity, the perfect matter of factness, the childish playfulness that was evident, as though he did not at all take in the seriousness of the situation in which he found himself. Even if I had not talked with him any great length of time the whole impression he made upon me as I compare it with my experiences of disordered people was obviously that of a person who was in a disordered state of some sort.

I have been sitting here in the courtroom watching the two boys, keeping in mind the fact that they have listened to the State's Attorney's very effective delineation of their depravity, of their ruthlessness and cruelty; that they have listened to the doctors reveal their innermost thoughts, their innermost secrets, details of their intimate life; they have seen and listened to the witnesses in this gruesome tragedy, and as I watched them it seemed to me that they absolutely did not take in emotionally the meaning of this whole situation.

Once or twice as I see them coming in

and going from the courtroom, as I see them sitting there in a seat, it impresses me as though he were attending a college play of some sort. And it is extremely significant in formulating my opinion about these boys, that in the midst of this acute situation they fail so consistently to show the kind of emotional response that you would expect of any normal human being.

Q Did Loeb tell you anything else, doctor?

A In the course of my conversation with him, while I was trying to formulate my opinion as to his emotional makeup, I discussed the possible outcome of this whole situation. We spoke of the possibility of terminating his life by hanging and he said in a most matter of fact way, "Well, its too bad a fellow won't be able to read about it in the newspapers".

We talked about what would happen if after having spent a lifetime in prison he should come out. He wanted to know whether at that time he could get a complete file of the newspapers of this period, -- simply sanctioning my belief in the discordant situation between the things we talked about

and the kind of feelings that he expresses with reference to them. I have examined a lot of prisoners who were so-called hardened criminals --

MR. CROWE: I object. We are now talking about these two hardened criminals and not interested in any others.

MR. B. C. BACHRACH: Q Did you use any experience in connection with your work at Sing Sing, in forming any conclusion with reference to Richard Loeb, in his emotional responses or lack of them?

MR. CROWE: Just a moment. He gave his qualifications yesterday. We are not interested in the history of two or three thousand other hardened criminals.

MR. B. C. BACHRACH: We do not propose to give it.

THE WITNESS: A I could not help taking into consideration my past experience, in formulating my opinion about these boys. It is a thing I put great reliance upon. As I say, I have examined a lot of hardened criminals so-called, have examined a number of men awaiting execution, and never before have I seen just such a situation. The hardened criminal shows in every response a kind of cruelty. Loeb

is affable, polite and shows an habitual kind of refinement and yet seems to be incapable of responding to this situation with an adequate emotional response.

I then took up with him the question of what was going on in his mind, and came upon his phantasy life, as I have already listened to it here in the court room.

He told me about the origin of these phantasies, how they originated with a persistent leaning towards picturing himself in jail, punished, beaten, abused, looked on by various people, and how he realized even that early a certain emotional satisfaction in connection with these matters. It is the beginning of this phantasy life that particularly impressed me with abnormality. He was a boy surrounded with all comforts and that he should in his imaginative life, one might say in his unrealized ambition, picture himself in that sort of situation.

He told me of the growth of these phantasies, how they gradually were substituted by a persistent idea, a persistent picture that occurred

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to him of seeing himself as a master criminal, having committed what he called the most perfect crime, the most complete crime; how he had been at the head of a criminal gang directing their activities.

He told me of the experiences early in life where from outward observation it becomes clear that he was trying to put into actual behavior some of his phantasies. He told me about his playing detective, shadowing people, about walking down the street as though he were directing people to commit burglaries in various places.

I have seen some of his early pictures, and while I would not stress the photographs of this child yet I am convinced that the mere fact of having such photographs especially in connection with this photograph of the cowboy pointing a pistol that it is unusual and at any rate indicates an intensity of preoccupation with that sort of thing on the part of a youngster which is unusual, to say the least.

He told me how from the very beginning he derived a great deal of enjoyment and pleasure, and a certain exhilaration, to which I referred yesterday, physical exhilaration in the planning of these various crimes, in fact he told me that in

connection with the Franks case he seemed to have been in it mostly, most completely with respect to this preliminary planning of the detail and picturing himself carrying out the after effects.

These phantasies seemed to have been very vivid, at any rate he recalls them as having been very vivid and I cannot escape the impression that they must have exercised a strong psychological force in the shaping of his personality, in the developing and in the carrying out of his activities which is of interest and which has not been brought out by the other examiners that one phantasy that ran through a considerable period of time was what he calls the perfect collegian phantasy; in which he pictured himself as a junior in college, at the head of his class, the most popular member of the class, good looking, strong and healthy. And in my understanding of the value that this phantasy life had in this boy's development, I should put the same valuation on this phantasy of the perfect collegian as I do upon the phantasy of becoming the most accomplished criminal.

In my estimation of the situation, what

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a sense of complete power, a sense of completeness; and the physical exhilaration that went with all this carrying on to some extent satisfied this desire for power and completeness.

I should like to dwell a little more on the persistent carrying of his phantasy life into his real behavior and conduct in his daily life. Of course, phantasy life is a very normal part of the functioning of every individual, and phantasy life is commonly in accord with the kind of impressions that an individual has surrounding him. In the development of the individual there is a gradual transformation of the phantasies to meet the changing situations in ones development. Here we see on the other hand the continuous vivid persistence of the same phantasy which in its very beginning was so out of accord with the things that this boy came in contact with.

I should like to dwell at this point also a little more upon what he told me with reference to his beginning to lie so early in his development.

He said to me in speaking of Miss

these years, that while he was very much devoted to her, her extreme attentiveness, her extreme giving herself to him, the fact that she deprived him from natural contact with other boys in connection with his early realization of an extreme love for excitement and activity, made him feel irksome and uncomfortable in connection with that situation. If he did things that he thought would displease her and he did not wish to displease her, he early discovered that he could avoid that displeasure by lying to her about these things. How in the course of his development he resorted more and more to lying as a means of evading a difficult situation.

At one time in our conversation during the examination he evidently showed a desire to give me the facts in the situation and said with perfect honesty -- what appeared to me to be with perfect honesty -- "Doctor, I really don't know how this thing happened. I have been lying to myself so long that sometimes I cannot tell exactly what is a lie and what is not a lie."

In his general appearance during my various contacts with him, the boy impressed me as

being nervously ill at ease. It was particularly evident in connection with the exaggerated use of his facial musculature, with the occasional stammering, with the hectiveness with which he told certain things. His color was bad, and altogether I would like to mention one point from the examination of Drs. Hulbert and Bowman, the fact that he still has some of his baby teeth unreplaced.

From all of that I am inclined to feel that he is but poorly grounded in his general nervous makeup.

Now I have expressed a few things that impressed me most in the examination of this defendant.

MR. B. C. BACHRACH: Q Are there any other things that impressed you in your examination that you have not yet related?

A I referred yesterday to his early attitude toward his own family. It impressed me as strange that this boy who had all this attention and care devoted to him should have felt from the very earliest time in his recollection that he was not wanted, that he was not taken into the family circle in the same way

as the others. That he should have told his mother on one occasion that he wanted to run away from home.

Q Have you now told of substantially all the matters that you remember that you discussed with him, touched upon them?

A Certainly the ones that have left the most impression upon me.

Q To refresh your recollection, did you have any talk with him about drinking?

A I am coming to that when I discuss his developmental history.

I referred yesterday to the fact which I considered as significant, and which impressed me very much in his development, that although he was sheltered, kept from free and normal contact with boys of his own age, he was pushed at the age of fourteen years and three months, into the setting of a university crowd. I considered that as a most unfortunate experience, since with his already established feeling of inferiority about himself he was projected into a situation which demanded of him a kind of behavior that he was quite incapable of living up to.

He began drinking at fifteen, and indulged in other sorts of prowess, the same as older boys did in his class; and he had the feeling from the very beginning that he had to outdo those people in order to feel that he was perfectly at home, and one of them, I have talked with some of his associates who knew him at that time, and it seemed that by his crowd itself he was not taken as a grownup individual at all. He himself did not succeed in getting that feeling, and all his activities in pursuit of excitement, of drink, etc., in my impression of the case indicated a desire on his part to gain this sense of completeness, in being grown up.

As I look upon the developmental history of this boy, the fact that he was born in the home he was born in, the fact that he has brothers who have not shown any such tendencies, the fact that the Loeb home has been known in the special interests of the problem of child education, — I speak of these things because I know of one instance where a lady was invited into the home, ~~and~~ an out-of-town lady, to show what effort they made in that home

to give the best to their children in their development. With this background in mind, with the kind of developmental history that has followed in the case of Richard Loeb, the whole situation becomes incomprehensible to me except on the basis of a disordered personality.

I should stress the import of his close and intimate association with his governess, largely however, because it deprived him of these natural influences which must come to every boy in the course of normal development.

I should stress the early beginning of these strange phantasies, which in time became actual things that this boy has pursued; and this is very important, because in talking with him I am unable to discover any kind of purpose in life or ambition in life that one might have expected from a boy growing up in his background, and with the educational contact and facilities that this boy has had. These early phantasies became the emotions of his life, and undoubtedly exercised a compelling force in his development, and in the carrying out of his criminal activities. I should stress in

the development of this boy the fact that very early in life he secretly sought out reading matter which dealt with criminal affairs; he secretly tried to identify himself with exciting situations; particularly the book he mentions to me that left a definite impression upon him, the Anthony Trent book; and how from the start there has been such an increasing intrusion of this phantasy life upon his real conduct, that now and for some years past he has actually walked the streets motioning, carrying out physical activities, as though they were part and parcel of an actual experience; whereas, back of them was nothing but this phantasy. I am convinced, however, that in his development, the final relation of his development to the Franks situation was made possible by this peculiar and strange compact which arose between these two boys at about the age of fifteen.

Q You refer to the compact testified to by Dr. Healy?

A Yes, it was significant to me that the first serious delinquency that he told me about, namely, his deliberate planning to cheat at cards in his own home, occurred on the same day when those other intimate biological phases of the compact occurred;

and how the seriousness of his criminal activities came into being in connection with this compact. I have seen Loeb a number of times, and have spent several days successively with him, and have observed him here; and from what I have said here this morning my impression is definite.

Q If you have reached any conclusion with reference to his mental condition, you may now state it.

A My impression is very definite that this boy is suffering from a disordered personality, that the nature of this disorder is primarily in a profound pathological discord between his intellectual and emotional life. We might designate it as a split personality if we will, but that this boy while capable of orienting himself intellectually to the situation in his immediate surrounding, is quite incapable of endowing these surroundings with an adequate emotion, and that in this sense he may be looked upon as a disintegrated or not completely integrated personality and that his actions can only become comprehensible when one keeps in mind that one is dealing here with this pathological situation.

I would like to say also that if I attempt to draw any definite relation between his makeup and the crime we are discussing here, the Franks crime, I have a strong impression that these continuous phantasies of his have acted in a manner not foreign to the way in which compulsive thoughts, continuously compulsive thoughts act upon an individual and in time come to control completely his behavior.

Q Now then, doctor, are you ready to begin with your examination of the defendant Nathan F. Leopold, Jr.?

A Yes.

Q You may proceed.

A The beginning of my examination of Leopold was on July 7, and continued for several successive days. I have seen him repeatedly since then, some mornings before he came to court.

The thing that impressed me in my contact with Leopold throughout these examinations was his extreme mental activity, the pressure of mental activity which was evident throughout all my conversations and talks with him. It is very evident as one talks with him that he possesses unusual intelli-

gence and that he has a definite love, a positive liking for using this intelligence in argumentation and in exposition.

I started out with him by asking him to tell me about the Franks murder and he too, while not showing the kind of emotional reaction that one would expect, showed definitely a positive interest in impressing me with the justification that he has developed in his own mind with respect to this crime. He argued with me that for many years he has cultivated and adhered to a purely hedonistic philosophy that all action is justified if it gives pleasure; that it was his ambition and has been for many years to become a perfect Nietzschean and to follow Nietzsche's philosophy all the way through. He argued that as a full justification of the murder itself as justified in his own mind on the basis of this philosophy. In telling me of the development of this philosophy of his it was very evident that a great source of pleasure to him in telling of these things was the maximization, the enlargement of his ego. There was a very evident egocentric phase, a desire to project to a very broad extent

his part in the cultivation of this philosophy. He told me he had freely expressed this philosophy among his friends and acquaintances, that he argued at times with his teachers in the classroom about it, and with his parents about it, but that he had this deep and unreasonable conviction -- I say unreasonable because I started to argue with him on the justification and reasonableness of this peculiar attitude toward himself. In my endeavor to find out how he happened to come upon that sort of philosophy of life for himself, he told me that very early in life he undertook deliberately to kill in himself anything which had to do with feeling, with sympathy, with ordinary human responsiveness and that he had persistently cultivated this attitude towards himself.

Whenever in the course of the examination, and especially when I talked about his attitude toward his family with respect to this crime, he caught himself expressing a feeling of sympathy for his family, he immediately apologized and showed an evident desire to show me how it affected him, and started out on his argument to convince me that he was absolutely devoid of any sympathy or any human

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normal feeling.

In pursuing this endeavor to discover what was at the basis of this situation, he said that very early in life, and particularly at the age of six, he became aware of a certain distressing and inimical feeling with respect to himself. It occurred in connection with some innocent play activities. He was romping around on a couch with one of his brothers, and that feeling this he was very much disturbed about this feeling which occurred repeatedly on various occasions. How he deliberately undertook to kill it and how it spread to a desire on his part to kill all feeling of emotion.

He told me how he gradually came to develop as part of the notion of himself that consistency is a religion with him. It is very evident in observing him in his conversations and in the manner in which he argued about his philosophy, that this boy has come to develop a definitely abnormal conception of himself, of his ego.

I am perfectly ready to place that conception of his ego within the category of what we know as paranoid, as a paranoid conception of his

"ego. I remember that when I asked him whether he would object to having me detail some of the intimate things with respect to his instinctive life, in a court room, how he said that he would rather hang than have me do so. That as he is now, he is still a Napoleon on St. Helena, despised by a lot of people, but admired by others because of the attitude that he can live through in connection with this situation.

He told me that people will still have a chance to consider him as possession royal proclivities, although these were directed into destructive channels.

In pursuing my inquiry in an attempt to understand how this boy developed in the manner in which he did, I found that in connection with his very evident intellectual superiority that came to light early in life, and the very evident cultivation of this intellectual superiority, it gave him a starting point for the consideration of himself as being different and apart from others. How this started his peculiarly intensive, -- if not strange, certainly peculiarly intensive early pursuits in the

collecting and classifying of things. How he spent hours in effort in getting ready, for instance, to go out on his birding expeditions. He would sit up a whole night, if he wanted to go off early in the morning, all tense, ready to go out on this expedition.

It is a known fact and he told me about it, how at a very early age, I think around six, he made it his effort and business to become acquainted with all the churches in his neighborhood, to inspect these churches, see all there was about them.

Also, how he started in at this early age to play with the idea of wanting to know the meaning of words in different languages, particularly the word "Yes". He asked his friends and relatives to find out for him from people what the word "Yes" was in different languages.

All of this he was certain of tended to give him the feeling of being different and apart from others, and this feeling grew on him as he developed, until now he considers himself fully as being a unique individual, with a philosophy all his own, justifying all his behavior and the activi-

ties in which he has indulged.

As one observes him speaking of his various delinquencies, one has the feeling that he probably has succeeded in eliminating sympathy, compassion, and all of the various tender feelings with which one is acquainted in ordinary human contacts. He speaks in a most perfectly matter of fact way of the details of this crime. In one interview when the two boys were together, in the course of the trial, when Dr. White was present, Dr. White asked Loeb how he felt when Mrs. Franks was on the stand. Loeb replied as I have already given it, and Leopold interjected the question "What do you mean, doctor; whether he laughed or was sad", in a smiling sort of way, -- a most incomprehensible ability to view this matter in a cold-blooded purely intellectual manner.

I inquired into his mental life, the kind of things he had been thinking about and dreaming and he revealed to me the onset and development of his phantasy life as has already been revealed here in the courtroom.

MR. CROWE: Doctor, just a moment. May we

take our recess now, Judge?

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

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

Court reconvened pursuant to short recess heretofore taken.

D R. B E R N A R D G L U E C K,
resumed the stand as a witness on behalf of the defendants, being further examined in chief by Mr. B. C. Bachrach, and testified as follows:

MR. B. C. BACHRACH: Q Dr. Clueck, just prior to the recess you were relating the conversations with the defendant, Leopold, touching his phantasy life. You may proceed.

A I was going to start on his phantasy life, but I should like to refer back for a moment to the discussion of the gradual transformation of his personality.

Q Will you do that?

A His exposition of his philosophy to me, in the face of his very evident intelligence, and in the face of the fact that he grew up in the kind of a household that he did, having a fine intelligence, having all the opportunities in the world that he could imagine, having before him all kinds of possibilities of a constructive future, I asked him,

who argued from a disordered mental background.

We then took up for discussion his phantasy life, which has already been referred to here. The thing that impressed me most about this is, that this active minded and unusually energetic fellow has for the past two years been going home almost daily, whenever he was in the city, and deliberately putting himself in a situation where he would allow these phantasies to go through his mind, to take hold of him. I spoke with a member of his family the other day, who told me that she would frequently go in to see whether he was asleep, and there he was lying, doing ~~xxxx~~ nothing, awake. I asked him about this, and he says that he came to deliberately go and phantasy these various things. They began at the age of nine. He designates them as the king-slave phantasy, which went through all sorts of variations in the course of his development; but the significant thing ~~is~~ there was the question of suffering, which was a part of this phantasy from the very beginning. He imagined himself in the role of a slave, and at times in the role of a king. I am not going into the details of this phantasy, but I would like to

refer to the fact that in his case also from the very beginning there has come into his existence a facility to project his phantasy into real life.

MR. CROWE: Inasmuch as you based your judgment in part on these phantasies, I would like to have you go to the details.

A All right, sir.

MR. BACHRACH: Do that, please, doctor.

THE WITNESS: The story, as I get it, is of a king having a slave and of this slave saving the king's life on various occasions. How this slave is offered his freedom by the king repeatedly but refuses. He could have his freedom if he wanted to.

That the slave is bound by a gilt chain, and one of these phantasies was that various kings would have war or combats and in order to settle their differences they would select for these combats their slaves, a slave representing one king and another slave another king. He pictured himself in the role of a very strong, very capable slave, who always won in these combats.

He told me also in connection with this

one phantasy of himself of having been kidnaped and then rescued and then made a slave and brought up by the king. As he told the phantasies, the history of these phantasies, they went through various transformations in the course of their development, but it was significant in telling this how readily he identified himself with either role. How his intelligence and judgment did not seem to help him to see this dual possibility of being at one time in one role and the other time in the other role.

Of course students of psycho-pathology realize what the meaning of this is, that the capacity for identifying one's self with the suffering bond slave also carries the capacity for identifying oneself with just the opposite sort of a situation.

It was significant to me that some years ago while at camp he definitely identified one of the counsellors with a character in this king-slave phantasy. That boys whom he would meet, on the street would be woven into this phantasy. That he elaborated a scheme of branding them, putting them in a part of the caste and so forth. All this while

he was developing this tremendous intellect and this steady and growing conviction that he was a superman, that he was a unique personality, entirely in control of all situations and stopping at nothing.

As I have talked with Leopold I have become quite convinced of the veracity of his statements.

I say this because I had a definite impression that my contact with him was as intimate as any contact I have ever had with a patient in my own consultation room.

He told me of the most intimate details of his life, some of which were referred to by Dr. Healy here yesterday; and at times I got an impression of a certain wistfulness with respect to some phases of this intimate life of his .

He told me that in connection with becoming aware of this inimical, emotional trend within him, this ~~instinctive~~ instinctive trend within him, he had persistently tried to eliminate it from his personality, and that he was irritated, that he was uncomfortable when this feeling took possession of him.

I then took up with him a discussion

of his relations with Loeb, and I might say here that in my study of this tragic situation I can see no way of understanding it except as one tries to understand the association between the two defendants.

He told me of his attitude toward Loeb, and of how completely he had put himself in the role of slave in connection with him. He said, "I can illustrate it to you by saying that I felt myself less than the dust beneath his feet", quoting from one of the poems of Lawrence Hope.

He told me of his abject devotion to Loeb, saying that he was jealous of the food and drink that Loeb took, because he could not come as close to him as did the food and drink.

I should like to dwell again on the intense, almost maniac type of depressure of mental activity which he exhibited, the continuous alertness, continuous interest in giving an exposition of his ideas and his various notions of himself.

In connection with his phantasy life, these mental pictures, these imaginings that he went through, had a great vividness for him, a great

the background of this defendant, his personal equipment, especially with respect to his remarkable intelligence and the remarkable store of energy that he has at his disposal, the fact that he had made up to the age of fifteen, at any rate, a consistent, constructive use of all these capacities of his, -- as I compare these with his delusional transformation of his personality, with this aberrant type of thinking of himself, and the kind of behavior that it led him into, I cannot escape the feeling that part of this pathological trend in his personality was a desire for self-destruction.

He has, as a matter of fact, so effectually transformed his personality, that from a psychological point of view, it is destroyed to all intents and purposes, when he is ready to commit murder, and commit any crime in justification of his philosophy.

I am of the impression that Leopold is and has been developing for some time to that point and is at present manifesting a paranoid personality in which are the elements of ~~s~~pathological ~~e~~xaggeration of his ego and fundamentally a profound

judgment disorder, because he cannot see and cannot be reasoned with as to what this whole philosophy of his, this wholotype of development of his, has led him into, characterized as I said, primarily by this pathological exaggeration of his ego, by this delusional type of thinking, and it may be that he is in the way of developing a definite psychosis or mental disorder of that type.

Now as I have indicated the relation of the lives and conduct of these two boys to the Franks crime is incomprehensible to me except insofar as I take into account the relation between these two individuals.

It must be remembered that in a curious sort of way each one brought into this relationship a background of continuous abnormal mental activity, each one brought into the background the unique distinction of having been the youngest graduate of their respective universities; each has been fed upon and undoubtedly conditioned by a curious series of imaginations which through their persistence all this time have acquired the force of compulsion. The

thing that brought them together offered each of them respectively an amount of satisfaction which without each other they could not have realized.

To Loeb, the association with Leopold meant that he could share his great criminal plans and secrets and be associated in the actual carrying out of what he considered a perfect crime with a highly intellectual human being who would appreciate and admire his prowess in these directions.

It was in connection with this association that he came to realize, as he told me, the complete realization of all this preparatory dream life of his.

Leopold found in Loeb an opportunity to go the limit in giving himself in abject slavery to this individual whom he idealized as a king.

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Underneath this there was the force of that abnormal instinctive trend which Dr. Healy discussed yesterday, but as he said in open court, the actual condition of that phase of their relationship cannot be characterized in any other way than as curiously childish and immature.

I think that the crime, the Franks crime was perhaps the inevitable outcome of this curious coming together of two pathologically disordered personalities, each one of whom brought into the relationship a phase of their personality which made their contemplation and the execution of this crime possible.

Loeb, in my estimation, is suffering from such a profound discord between his intellectual and emotional life as to be incapable of appreciating the meaning, the feeling of this situation.

Leopold is governed to such large extent by his delusional thinking and the force that his phantasy life has exercised upon him, plus his aberrant instinctiveness trend that he too could not have done otherwise than has been carried out in connection with this crime.

MR. BENJAMIN BACHRACH: Q Have you related all the

2a: matters discussed with you by Leopold?

A Very likely not. I do not claim to remember all the matters that I talked about with him. I have tried to give as consistent a picture of my examination as I have at my disposal.

Q Now, will you state your conclusion, or your opinion, rather, based upon what you have quoted with reference to the mental condition of Nathan F. Leopold on the 21st day of May?

A Nathan F. Leopold, in my estimation, is a definitely paranoid personality, perhaps developing a definite paranoid psychosis. I have not seen a definite psychosis of this sort in as young a person as he is. His aberration is characterized primarily by this abnormal pathological transformation of his personality and by the delusional way of thinking.

Q Doctor, from your experience in your profession in dealing with persons of disordered mind, state whether or not it is common and ordinary to find in such persons a high degree of intelligence existing at the same time as the abnormality or diseased condition?

A If I should give an answer to this question in

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a general way, I should say that it is quite characteristic of paranoid individuals to have along with their disordered mental state a highly developed intelligence. I have had patients who have eluded detection for many years.

MR. CROWE: Now, I object to going into a lot of other cases.

MR. BENJAMIN BACHRACH: I won't insist upon that, Have you observed among other such persons under your care the ability to plan like ordinary intelligent people without abnormality?

A I have observed the most ingenious and great capacity to plan among paranoid patients.

Q Have you also observed among such persons an ability to prepare and conceal matters which would lead to the detection of such persons in certain transactions?

A I wish I could quote you some of my patients, but evidently I cannot; but I have had paranoid patients under my observation --

MR. CROWE: Wait a minute, doctor. If you can't, don't.

THE WITNESS: I won't quote the patient; simply say what they did.

4a

MR. CROWE: I say, if you cannot, don't.

MR. B.G. Bachrach: You might answer my question.

THE WITNESS: Yes.

Q State whether or not men of disordered minds and personalities, such as you find with Leopold, -- ordinarily other men whom you have come in contact with have the power of carrying on sustained efforts with reference to study or occupation at the same time showing abnormalities such as you find here?

A I think that is a question very largely of degree of disorder and disintegration of the personality; but patients suffering from mental disorder-- and 90 per cent of my patients in private practice do suffer from mental disorder-- carry on their activities while they are under treatment for their mental disorder. Patients suffering from mental disorder have been known repeatedly to be able to put out a sustained effort of going through college, of leading a profession, applying the lives to all of the requirements of that

Q I will ask you to state if, in your experience with persons afflicted with a mental disorder such as you have described resides in Richard Loeb, such persons could carry on their affairs while laboring under such disordered states?

A In a general way, I should say not as well as is the case with Leopold. The characteristic feature of the type of disorder which characterizes Loeb is the disintegration, the discord in the personality, where the patient has greater difficulty all along to use himself as a whole in the carrying out of his tasks, than is the case with a paranoid patient.

Q Can such a person prepare his lessons in school, and carry out his duties in the university?

A Yes.

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

6a

CROSS EXAMINATION

BY MR. OR

MR. OR : Q When did Leeb tell you he struck the blows that caused the death here?

A On one of the days when I e ned him at the jail early in July.

Q Have you got that in your notes?

A Probably.

Q Show it to me. I mean the notes you are reading from.

A I was not reading that from these notes.

Q Why not?

A Because these are the notes that I took in connection with the examination of Leopold. I had a little book for each.

Q When did you put t in this book?

A I them.

Q Show it to me.

A I am going to see whether I have it. I have here a note he , "The Franks murder".

Q Let me see it? (Witness note to c l.)

Now read the note-- I am ng you, rstand, doctor,

7a

for the note that Loeb told you he actually struck the blows-- will you read the note that says that?

A Well this is the note I have with reference to the murder, -- "Profound lack of adequate emotional response in presence of intact intelligence".

Q And that conveys to your mind and ought to convey to my mind and to the court's mind that Loeb told you that he struck the young Franks boy four times on the head with a chisel?

A I didn't say he told me he struck him four times on the head with the chisel.

Q Well, that he struck him on the head.

A Yes, it conveys to my mind the absolute conviction that this note refers to that time when I discussed with him the details of the murder.

Q Is that the only note that you have?

A That is the first one I came across, I don't know if there are any others.

Q All right, now wait a minute. Is that the only one you found to date showing that Loeb told you that he struck the blows that caused the death?

A So far -- I am looking for some more.

8m

Q How will you read that again because I didn't quite get it?

A This note?

Q Yes.

A It is number 10, headed, "The Franks murder, Profound lack of adequate emotional response in presence of intact intelligence." Now I am certain this was a sufficient notation for me.

Q Now will you look through your notes and see whether you made a memorandum to the effect that Loeb told you he struck the blows that caused the death here?

MR. BACHRACH: I ask that he be permitted now without any further questions to go through his notes and see if there is any memorandum in there and state when he gets through if he finds one.

THE COURT: Let the state's atto take up some other question and during recess at noon the doctor can go through his notes and when he returns he can point it out to us.

MR. OR : No. I don't want to do that, your honor.

I don't want these notes to be in the doctor's possession for an hour and a half. I insist that it is important, your honor, that he now find the note.

THE COURT: Well, if we do that I will suspend till after two. I will not waste half an hour for nothing. We will suspend until after two and at that time the doctor can point out in his notes if he has that there.

Whereupon a recess was here
taken to 1:45 o'clock P.M.
same day at 5th, 1934.

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Wednesday, August 6, 1924.

1:45 o'clock P.M.

Court convened pursuant to adjournment
heretofore taken at 1:45 o'clock P.M.
Wednesday, August 6th, 1924.

Present: Same as before.

D R . B E R N A R D G L U E C K,
resumed the stand for further cross examination by
Mr. Crowe, and testified as follows:

MR. CROWE: Q During the noon recess have you
been able to find the note you said you made to the
effect that Richard Loeb told you he struck the blow
or blows causing the death of the Franks' boy?

A Nothing more specific than I read you.

Q You said in your direct examination that another
phantasy of Richard Loeb was that he desired to excel
in college and be the leader of his junior class.

Q Not quite; that he fancied himself to be the
perfect collegian, as he calls it, to be at the
head of his class, the most popular man, etc.

Q And you took that phantasy into consideration

A Yes.

Q What is ambition?

A The pussuit of certain definite ends, is one way of defining it.

Q In a young lawyer, is the desire to become a leading member of the bar, or a judge, a phantasy or an ambition?

A It may be both.

Q Which is it?

A It may start as a phantasy and terminate in a definite healthy pursuit of an ambition.

Q Well, when the thought first occurs to a young lawyer that he would like to be the leading member of the bar, then it is a phantasy?

A Yes, maybe nothing else than that.

Q And if he succeeds in becoming the leader of the bar, then it becomes an ambition?

A If he pursues in accord with his phantasy a certain pursuit that would bring him to that end, yes, he lives it out in ambition.

Q When the thought first occurs to a young lawyer that he would like to be a leading member of the bar, that is a normal thought?

A Absolutely.

Q And a healthy thought?

A Absolutely.

Q What in your judgment, doctor, is the motive for this crime?

A Well, on the part of whom?

Q On the part of either of them, or both?

A I don't know that there was a direct motive for this crime. I do feel that in the case of Loeb the realization of the phantasy of a perfect crime had in his mind probably the motive of complete power, potency.

Q How about Leopold, what was his motive?

A I don't know that he had any.

Q You made a pretty thorough study of the facts and circumstances of this crime, didn't you?

A Yes sir.

Q And you don't know that there was any motive that actuated Leopold at all?

A I don't know that there was any specific motive.

Q Did you ever hear about the Ten Thousand Dollars?

A Yes sir.

Q Did you read the letter that these boys composed jointly and sent to Mr. Franks?

A I believe I did.

Q Telling him that if he wanted his boy back he would have to get the ten thousand dollars in certain denominations?

A I have.

Q Do you know anything about that? That this is a strictly commercial proposition, do you remember that?

A I think I do,

Q Do you know about the plan to get Mr. Franks over to the drug store and telephone him there to go to the train and throw the money off?

A Yes sir.

Q Do you know the details of how they threw the newspaper tightly wrapped and tied from the train to see where the Ten Thousand Dollars would go?

A Yes sir.

Q Do you know also that after they had telephoned the drug store twice and were told that Mr. Franks had not come there, when they saw the headline of the newspaper on the newstand, Loeb said to Leopold that they had better give up the idea of getting the money, and Leopold first insisted that they make a further effort to get the money?

A I don't know that I know of that.

Q Well, assume that that is a fact?

A Yes.

Q Don't you think the desire to get the ten thousand dollars is a motive here?

A I don't know whether it is the motive for the crime as you put it.

Q Well, do you think it is a part of the motive?

A It may well have been.

Q Would the further fact that Leopold needed money to satisfy his desire to gamble and live high, fast, -- would that lead you to believe that there was something in the Ten thousand dollars, as a motive?

MR. B. C. BACHRACH: One moment; I object to that because of the fact that there is no basis for that in the evidence. The only basis for that was in the opening statement of the State's Attorney that they needed money to gamble with.

MR. CROWE: I said Leopold.

MR. B. C. BACHRACH: Yes, Leopold.

MR. CROWE: Q Well, would the fact that the evi-

dence shows that the money used in this venture, four hundred dollars, was Loeb's money, that he gave it to Leopold, the money to open the account in the bank of one hundred dollars was Loeb's money and he gave it to Leopold and Leopold's desire to continue in an effort to get the money after the two telephone calls, and after seeing the headlines, -- would that not lead you to believe that Leopold ~~was~~ was actuated by a desire to get his part of that ten thousand dollars?

A I don't know. He may have been.

Q Would that be a phantasy?

A No.

Q That would be reality?

A Yes, that is actual behavior.

Q You do not think they were unkind in making Mr. Franks believe they wanted ten thousand dollars, do you; that they were just fooling Mr. Franks, that the ten thousand dollars did not mean anything?

A ~~It~~ It doesn't look as though they did.

Q Before you talked to the defendants, what was your idea as to why they committed this crime?

A I had no definite idea. I was very much inter-

ested when I read about it, as I am in all unusual human behavior, and the only idea I had was that the newspaper statements did not probably tell the whole story.

Q Did you not say that it was incomprehensible to you that two boys so situated could have committed this crime?

A Yes, on the facts that I knew before I examined them.

Q And after talking to them you came to the conclusion, on account of their brilliant opportunities of being useful citizens, they must have a diseased mind, or they would not have committed the crime?

A I came to the conclusion, on the basis of all the things I have testified to, yes.

Q Did you ever hear the expression "The black sheep in a family"?

A Yes, I have.

Q Wouldn't that fit this case?

A I don't know that it does. There is no definite meaning to black sheep as applied generally. I have known black sheep whom I found to be insane.

Q And then you knew a number who are sane?

8r

A I don't know as I know a number.

Q You know of a number?

A Yes, I know some.

Q You know of a number of men who started out in life with every promise of being useful citizens who dissipated their opportunities, took to drinking and gambling and deserted their wife for some loose woman?

A Yes.

Q And they were sane?

A Well, they had psychological factors at work which might explain the situation.

Q When Benedict Arnold who enjoyed the confidence and esteem of his fellow citizens betrayed his country for position and money and destroyed his life or his reputation in that manner, was he a paranoid?

A I don't know.

Q Was he sane?

A I don't know.

Q What is your judgment of Judas Iscariot?

MR. DARROW: We object to that question, your Honor.

THE COURT: Go ahead. The doctor I don't think ever examined him, did you?

THE WITNESS: I don't think so, your Honor.

MR. CROWE: What was that? I didn't get it.

(Reporter reads the remarks of the Court).

MR. CROWE: Q Assume, doctor, for the purpose of this question that Leopold and not Loeb did the actual killing, would that change your opinion as to Loeb?

A As to Loeb? I don't know.

Q Well, assume it. Assume that is the fact. What is your conclusion as to Loeb, would it be the same as it was or different?

MR. DARROW: I object to that, unless it is confined to the condition of his mind.

MR. CROWE: Q I am willing to accept that amendment, your conclusion as to the condition of his mind.

A Assuming that Leopold did the killing, I don't think that fact in itself would change my opinion about Loeb.

Q Would it change your opinion about Leopold?

A I don't think it would.

Q Now, you have come to the conclusions that you

have by subjective symptoms, haven't you?

A And objective attitude and behavior.

Q x You have noted the subjective symptoms or things that are told you by the patient that you cannot see, the truth of which you believe?

A Yes.

Q And objective symptoms are things that any person can see?

A Not necessarily.

Q That the average person can see?

A Not necessarily.

Q Well, what are they?

A I think I see objective phenomena differently from the average person. I see them with eyes trained to the observation of human conduct.

Q You spoke about the conduct of the defendants in the court room since the trial began. Up until Saturday of last week they indulged in a good deal of merriment, did they not, laughing and joking?

A I do not know about the time element. I have not specifically in mind what they did up to a certain day and what they have done since. But I have the impression of such observation that I have had

of them.

Q You did not make any note as to when they were laughing?

A No.

Q You remember the State's Attorney commenting upon the fact that they were behaving in an unseemingly manner, laughing and sneering?

A I think I have heard that.

Q From that point on have not the defendants refrained from that demeanor?

A I don't know.

Q You have not seen them laugh, smile or sneer this morning, have you?

A I have seen them. I see them now.

Q Laughing and smiling?

A I see them with a face of levity.

Q Now?

A Yes.

Q Have you noticed any difference in their demeanor since their laughing and sneering was commented on by the State's Attorney?

A I don't know that I have been able to place it by any time element.

Q Have you noticed a change?

A I don't know that I have.

Q Have you or not noticed a change in their demeanor?

A I don't know that I can definitely distinguish between what they did up to a certain time and what they have done since.

Q You base your opinion partly upon their demeanor?

A Yes.

Q And you now cannot state whether or not there has been any change in their demeanor?

A I cannot.

Q You stated that one element that you considered in arriving at your opinion was the absolute cold-blooded manner in which Loeb went over the details of the crime with you?

A I don't know that I used those particular words, but what I wanted to express was the absence of adequate emotional response.

Q And also on the fact that he told you that when Mrs. Franks was on the stand he could not feel any sympathy?

A Yes.

Q How did Loeb know that he did not have the

proper feeling within him when Mrs. Franks was testifying?

A I suppose the same way as anybody else would.

Q Then he is not different in his emotions than anybody else?

A That is not necessarily so.

Q Or in his reactions?

A That is not necessarily so.

Q Do you think that Loeb has less emotion than Loeb?

A I don't know that I want to measure it by less or more. What I have in mind is adequate or appropriate emotional response. I may venture the opinion that in my contacts with Leopold I have found an element of positive interest and responsiveness in connection with certain situations, that I was not aware of in my contact with Loeb.

Q In other words, you observed more interest in Leopold than you did in Loeb?

A Yes, on the whole.

Q And interest is emotion?

A Well, it is actuated by some feeling, yes.

Q By emotion. Now, assume, doctor, that when

Loeb was brought into the LaSalle Hotel and questioned by the State's Attorney, and was told by the State's Attorney that the glasses found at the scene of the crime belonged to Leopold, he gasped, showed anxiety and fear, and asked for water, and says, "My God, that is terrible" or words to that effect, does that indicate emotion?

A It indicates capacity for emotional response.

Q Adequate to the situation?

A I don't know. I don't know the details of the situation.

Q I have just tried to tell them to you; that the State's Attorney told him, "Richard, the glasses found alongside the body belonged to your friend, Nathan Leopold."

A Yes.

Q And then he responded as I have described. Is that an adequate response emotionally?

A I don't know. Some people might have fainted; some people might have responded differently. I don't know whether it is adequate. It is appropriate if he showed fear and apprehension.

Q Assuming that later, the following night, of Decoration Day, he was told by the State's Attorney that not only were the glasses found at the scene of the crime the property of Leopold, but that also Leopold's chauffeur had told the truth about ~~xxx~~ the car being in the barn or in the garage, and the maid had told about the Underwood typewriter, and that the State's Attorney had enough of evidence to prefer a charge of murder against Leopold, and detailed one or two other evidential facts that he had, that he cried, that he had to be supported, he manifested great concern and fear and talked about his family, and had to be given water; would that indicate emotion?

A It indicates capacity for emotional response.

Q And do you think it was adequate or appropriate under the circumstances?

A It was appropriate.

Q And that later on the following day with the authorities and the other defendant, after visiting the second place described in their confessions, that he fainted?

A Yes.

16r

Q And had to be lifted up and put in an automobile and taken to a hotel and put to bed, does that indicate emotion?

A Yes. Not necessarily, however, solely emotion. The fainting part of it we have evidence, we have a record that the boy, Loeb, has had fainting attacks in the past; I have not been able to define the situation, and I have not spoken of it. It would not necessarily indicate a response to emotions.

Q In your previous question you wanted an illustration, if I had one, where he fainted. That is why I gave you that one.

A Well, I didn't --

Q Now, assume, later in the afternoon of that day after he had rested, slept, ate, he asked me to call up his mother and talk to her on the phone, and the voice broke, and he cried, would that indicate emotion?

A Yes sir.

Q Assume further that all the time that the defendant, Leopold, was in the custody of the authorities, that is the State's Attorney, that at no time did he

faint, or at no time did he show fear?

A Yes.

Q Would you still persist in your opinion that Leopold is more emotional than Loeb?

A That is not my opinion, sir.

Q You think Leopold is the more emotional?

A That is not my opinion, sir.

Q Well, which is the more emotional?

A I told you in reply to a question that in my contact with Leopold he showed a more active interest, and later on I said, actuated by emotion, but you are asking me the question as to who has the greater emotional control.

Q Well, now, doctor, you are taking into consideration in basing your opinion as to the mental attitude of both of these defendants many things that they told you.

A Yes.

Q That is, about their boyish phantasies, their criminalistic tendencies, their stealing this and stealing that, their pictures that they had taken and their attitude since the commission of the crime. Now, assume that the State's Attorney who has had

twenty years of experience in handling criminals, whose business it is to handle them, talked to these boys for several days and that for a day, a day and a half, they maintained to him that they had nothing to do with this crime and told him an alibi -- and I might add that convinced the State's Attorney and experienced police officers that they did not have anything to do with it -- and that after that when evidence was presented to Loeb telling that sufficient evidence had been accumulated against Leopold to charge Leopold with the murder and that the State's Attorney intended also to charge him with the murder because he said he had been with Leopold; and assume that Loeb showed this emotion that I have described and immediately began to blame Leopold for originating the conspiracy and placed the responsibility of the actual killing upon him; assume further that immediately upon Leopold being told that Loeb was talking that he began to talk and blamed Loeb for conceiving the crime and actually committing the murder; that they became so bitter towards each other that they wouldn't eat or speak together for over a day following that,

and that each one of them freely told all the details of the crime as you have read them in the newspapers and heard them in court, and freely accompanied the authorities to the various places where the evidence could be found.

Assume further that Loeb made this argument to Leopold and the authorities when Leopold said that Loeb had originated the crime and had actually committed the killing, saying, "Now, I can convince you that I am right. You didn't know young Franks and I did. We wanted to get him into that car in the front seat, so that he could be killed from behind. If he didn't get in we were going to wait for another time. If I were not at the wheel, how could I have got him to sit alongside of me? He wouldn't have sat alongside of a stranger at the wheel. If the front door was open and I was in the back, and the side curtains were up, he wouldn't have seen me, so you must admit I was driving the car."

Assume further that a chauffeur testified that shortly before the boy was picked up he

had recognized Loeb as driving the car. Is there any reason that you know of why they should not have told the State's Attorney the matters and things that you say they told you, which you have based your opinion upon, with all that in mind?

A When do you mean, that they should have told you the matters they told me?

Q When they were making their confessions, and showing the various places where I could gather the evidence.

A What matters do you refer to?

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Q Well, about their boyish phantasies and all these matters that you think are matters of extenuation.

A Yes, I see a good reason. You were not interested in studying their personalities.

Q Was that the only reason?

A You are a prosecuting attorney, and I am a physician.

Q Is that the only reason?

A That would be sufficient reason why they should not tell you about their developmental history. Did you ask them about that?

Q I asked them to tell me everything that led up to this crime, and what their motive was.

A Would you have expected them to tell you their developmental history?

Q When they were talking and confessing, I expected they were telling me all about the crime, and when they told me that the \$10,000 was a large part of the motive, I didn't think they were fooling either Mr. Franks or myself when they wrote that letter.

A I don't want to ask you any more questions, or turn this into an argument, but I would like to ask you whether

other prisoners who have confessed to you have given you their life history.

MR. CROWE: When I take the stand, doctor, I will let you and Mr. Darrow examine me.

THE WITNESS: Well, I just wanted to know.

(This exchange brought a ripple of laughter from the spectators.)

MR. CR : Q If these things they told you about, their boyish phantasies, their criminal proclivities, their degeneracy, were not true, you would form a different conclusion would you not?

A Yes, and I very likely would have some inkling that they were not true.

Q They did not lie to you?

A I don't believe so.

Q When I asked them, they perverts, they denied it. What reason they at that time, after having confessed to a murder, for denying such a childish delinquency as perversion, as Dr. Healy characterizes it?

A The reason that any reasonable man would have, in telling t sort of thing to another man.

Q When the defendant Leopold said to you that he would

3m

rather hang than have the world know that he was a
pervert, you believed him, did you?

A I don't know that that was very much of a difference.
I have known people who felt that way.

Q No. Did you believe him when he stated that he
would rather hang than have you tell the world that he
was a pervert?

A I don't know that I did.

Q Don't you know that he told you that for the purpose
of qualifying you as a mitigating witness?

A I don't know that.

Q You think that these men are co to liars, do
you not?

A I don't think so.

Q Do you Dr. White was mis n when he said that
they liars?

A I 't the d. I d if s -
thing about Loeb.

Q Do you th that they are liars?

A Yes, I Leeb difficulty --

Q How about Leop ?

A I don't so about Leopold, no.

4n

Q You don't think he is a liar?

A Well, he may be a liar, but I don't know that he is a consummate liar.

Q Just a plain ordinary liar?

A He may be, very well.

(This caused further laughter from the spectators.)

MR. CROWE: I am glad we have found something ordinary about these supermen.

Q Now, you know from what you have heard in court here that he has lied to everybody except Dr. White up to date, and the reason he could not lie to Dr. White was that Dr. White could read his mind as a surgeon reads a body with an x-ray; and you have not any idea that he would be so unkind as to lie to you in order to escape the gallows.

A I don't know just exactly how to answer that question. You put it on a basis of unkindness --

MR. CROWE: If you ot answer it, that is all.

MR. DARROW: Were you proceeding to answer it?

THE WITNESS: I was.

MR. C : Q Can you answer it?

MR. DARROW: I object, he is asked a question --

MR. C : Q Can you answer the question, doctor?

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THE WITNESS: Repeat the question, please.

(Reporter repeats the question)

THE WITNESS: A I said I could not answer the question, the way you put it, by saying that he would not be so unkind to me. I gave you my impression, my honest impression that I don't believe he has lied to me.

MR. CROWE: Q Now, doctor, you have stated that Leopold has talked about suicide a number of times?

A No, sir.

MR. DARROW: I don't believe he did.

MR. CROWE: Q You were talking about who, when you said that.

A I said that Loeb, I think -- I don't know that I mentioned it even about Loeb, but I do know that Loeb has told me about depressions in which he contemplated suicide, but I don't know that I have testified to that particular point.

Q Doctor, one of the distinguishing things that you have related has been about the feeling that Loeb had, that as a boy the folks did not like him, he was not wanted there and felt lonesome. That is an unusual
ton?

Em

A It is an unusual thing for a child to express that sort of a situation.

Q Doctor, don't you know it is quite common for all boys, or nearly all boys, around a certain age, to feel that they are not wanted at home, and they want to run away, and then when they are rich, come back and make the folks all sorry for the way they treated them?

A I don't think that that is common, sir. There is a certain longing and restlessness and wanting to get away in connection with puberty. This thing that he told me antedated puberty by a number of years.

Q How old was he?

A About nine or thereabouts.

Q Doctor, do you remember the picture that was quite popular some years ago, about the little tot sitting down and saying, "Nobody loves me. I'm going out in the back yard and eat worms; two smooth ones and one wooly one"?

A I don't know that I remember the picture; I remember the saying.

Q Well, do you think that little tot was a paranoic with murderous tendencies?

27r

A Neither was this little tot.

MR. CROWE: That is all.

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REDIRECT EXAMINATION

BY MR. B. C. BACHRACH.

MR. B.C.BACHRACH: Q Just a few questions. You have testified that you have observed the conduct of these two boys in the court room?

A Yes sir.

Q And you drew certain significant inferences from that conduct?

A Yes sir.

Q Doctor, during all the time that this hearing has been going on, is it your opinion that Richard Loeb understands what is going on here at this hearing?

A Yes sir, intellectually he does.

Q And Nathan Leopold, the same?

A Undoubtedly.

28r

Q Would the fact that the State's Attorney at any part of this hearing called particular attention to conduct of either defendant as to laughing and sneering, would the fact that that thing occurred and that thereafter ~~might~~ either one of these defendants changed their conduct in this respect, be of any significance?

A Not much.

MR. B. C. BACHRACH: That is all.

MR. CROWE: That is all.

(Witness excused)

MR. DARROW: Mr. Crowe. Your Honor, laboring under the impression that this cross examination would take much longer, I arranged to have the lay witnesses come tomorrow, quite a number of them coming, and I did not like to have them come and go away again. As a consequence, we have not got them here, and I am going to ask the Court if we cannot adjourn at this time, and we will expedite matters tomorrow.

MR. CROWE: I can appreciate from the length of

29r

time I consumed in other examinations that counsel was probably warranted in thinking that I was going to take up a great deal more time.

MR. DARROW: That is the only reason.

THE COURT: All right.

MR. CROWE: It is a fair request, your Honor, and I have no objection.

THE COURT: Witnesses that the defense expected could not get here in time this afternoon, and both sides have agreed that the case may go over. We will suspend now until tomorrow morning at 10:30 o'clock.

Whereupon an adjournment was here taken to 10:30 o'clock, Thursday A.M., August 7th, 1934.

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Thursday, August 7, 1924.

10:30 o'clock A.M.

Court convened at 10:30 o'clock A.M. Thursday, August 7th, 1924, pursuant to adjournment heretofore taken.

Present: Same as before.

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After a brief conference between Court and Counsel, Judge Caverly made the following announcement:

JUDGE CAVERLY: Counsel on both sides have asked me to give them a little time this morning in which to confer. If they agree it may save two and probably three days time in this trial.

We will suspend now for thirty minutes for that purpose. Counsel may retire.

(Whereupon a recess was here taken for the purpose of conference of Counsel on both sides.)

Court convened pursuant to recess heretofore taken.

M A X S C H R A Y E R ,

called as a witness on behalf of the Defendants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Where do you live?

A 5461 Everett, Chicago.

Q How old are you?

A Twenty-one.

Q What is your business?

A Jobber of

household goods with Robert M. Schrayner & Company.

Q Robert M. Schrayner is your father?

A Yes.

Q How long have you been in business?

A About four months.

Q Where were you before that?

A University

of Michigan, I graduated there.

Q Do you know Richard Loeb?

A Yes.

Q How long have you known him?

A I met Richard Loeb in 1914, in the University of Chicago High School, but I did not know him, to really know him until the fall of 1931, when I met him at the University of Michigan.

Q How well did you know him?

A I knew him very well.

Q Did you live in the same building?

A Yes, for a considerable time, in the fraternity house at Michigan.

Q And you met him daily?

A Yes.

Q Did you observe him as to the question of nerves?

A Yes sir.

Q What did you observe?

A Why I observed that he was very nervous practically all the time.

MR. CROWE: I object.

MR. DARROW: Q How --

MR. CROWE: Wait a minute. I object and ask that the answer be stricken out as a conclusion.

THE COURT: It may go out at the present time.

MR. DARROW: Q State what you observe in that regard.

A I observed that a great deal of the time he was nervous physically, hands moving --

MR. CROWE: I object. Wait a minute. That is a conclusion and I ask that it be stricken.

THE COURT: That may be stricken. Go ahead and tell him what he did. You started to say something about his hands.

MR. DARROW: Yes.

A His hands moved in quick short movings and he had a twitching of the face, mouth; walked rapidly at intervals back and forth, pacing the room very often.

Q How was he as to drinking during that time?

A At the time I knew him at Michigan he drank a little. At times he drank -- well, he drank a great deal at one occasion. He used to drink quite a bit on special occasions.

Q Do you know anything about his fainting?

A He fainted several times at Michigan. I myself witnesses him faint twice -- I myself witnessed him faint three times and I remember the occasion of him fainting once or twice other times when I didn't see him.

MR. CROWE: Wait a minute. Strike that out. I move to strike that out, your Honor.

THE COURT: That may go out. That is that portion where he fainted where he didn't see him. Those where he saw him himself may stand.

MR. DARROW: Q In reference to this nervousness, what did you see about his smoking cigarettes, as to the method?

A He smoked a great deal.

Q In what way?

A Well, he smoked -- he seemed to have a very nervous hold of the cigarette and puffed quickly and long puffs.

MR. DARROW: Q How was he as to responsibility?

MR. CROWE: I object.

MR. DARROW: Q What did you observe as to his responsibility?

THE COURT: You can tell what you observed and what you saw.

MR. DARROW: Q What you saw?

A As to his responsibility?

Q Yes.

A Well, at all times he was not at all responsible

as others --

MR. CROWE: Object. A conclusion.

THE COURT: You cannot arrive at any conclusion. That is for the Court to arrive at. You can tell what you saw and from that the Court will arrive at conclusions from the evidence that is given.

THE WITNESS: Well, I --

THE COURT: Tell what you saw, what did he do, if anything?

MR. DARROW: Q Describe him?

A He was a type of individual whom we did not trust a great deal.

MR. CROWE: Oh, no. I object. A conclusion.

MR. DARROW: Q Did you have conversations with him and hear him in conversation?

A Yes sir.

Q How was he as to concentration, following out a line, or whether he was able to do it or did it?

A He very often in an argument missed, seemed to go off on a small point and argue on something that was not of importance, was not the main topic of the argument.

MR. CROWE: I object to that, and ask that it be

stricken. That is his conclusion as to whether it was important.

MR. DARROW: Well, more or less of course --

MR. CROWE: No, tell what the argument was.

THE COURT: Sustained.

MR. CROWE: What point he went off on. Let us judge whether it is important or not.

MR. DARROW: Oh no.

MR. CROWE: A great many things you say I don't think are important, and a great many things I say you do not think are important.

THE COURT: Q Can you tell us what argument he made at those times?

A No sir.

MR. DARROW: Q You associated with him constantly day by day, didn't you?

A Yes.

Q In your fraternity he was a senior, was he?

A Yes sir.

Q And you were a senior?

A Yes sir.

Q Do any things that they characterize as privileges

go with being a senior?

A Yes..

Q What?

A One privilege is the privilege of being a mentor over a freshman, having charge of a freshman and being responsible for that freshman.

Q And is that given seniors?

A That is given to practically every senior.

Q Was it given to Dick?

A No sir.

MR. CROWE: Wait a minute. I object. It is immaterial.

MR. DARROW: I will ask why.

MR. CROWE: It was not given to all of them.

MR. DARROW: He says practically everyone. He can say that.

MR. CROWE: I know he said practically, but not all of them.

MR. DARROW: Just a minute. Let me follow that up.

Q Was there any other one that that was not given to?

A Not that I know of.

THE COURT: I will let the answer stand.

THE COURT: Q By whom were these privileges given?

A The head of the house, together with the advice of the executive committee.

Q What do you mean by the head of the house?

A The president of the house.

MR. CROWE: The fraternity.

THE COURT: Q Of the university?

A No, of the fraternity house.

Q And with the advice of the committee, you say?

A Yes.

MR. DARROW: Q Do you know about his reading?

A Somewhat, yes sir.

Q What was it?

A Well, he was known as a reader of dime novels and detective stories.

Q What did they call him there, if you know?

MR. CROWE: I object.

MR. DARROW: Do you object to that?

MR. CROWE: I object to that, it is immaterial what he was called.

MR. DARROW: We will follow it up with his apparent liking of the name.

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THE COURT: They were nicknames, were they not?

MR. DARROW: Yes.

THE COURT: We all have nicknames.

MR. DARROW: But we don't have the same one.

THE COURT: I think I will sustain the objection.

MR. DARROW: Q Did you ever notice his laugh?

A Yes.

Q How was that?

MR. CROWE: Wait a minute.

A He laughed heartily.

MR. DARROW: Q And was it with reference to any special things, or how was that?

A It seemed --

MR. CROWE: Wait a moment. I object. State what he laughed heartily at that you remember.

MR. DARROW: He cannot tell the exact times or exact occasions or how many times, but if it was a nervous reaction --

MR. CROWE: I insist if we are going into the laugh we ought to get the reason. If he heard the experts testify I would laugh with him heartily. I insist we ought to know the occasion of the hearty laugh.

MR. DARROW: It would be impossible to state all the occasions.

THE COURT: Q Was that uniform with him?

THE WITNESS: It seemed to be, yes.

MR. DARROW: Q How was it as to his laughing, was it at humorous things or at anything that came along?

A He seemed to laugh at a great many things that were not humorous.

MR. CROWE: Just a moment. Are there any other lay witnesses in the room?

MR. DARROW: I don't think so.

Q In your association with him and observation of him during the time, did you form an opinion as to his maturity or childishness in reference to his years?

MR. CROWE: That should be from things that he has observed. What he has in the back of his head, we do not know.

MR. DARROW: I understand that is not the law.

MR. CROWE: That is the law.

MR. DARROW: He has the same right to give an opinion.

MR. CROWE: Just on matters and things he has related to the court.

MR. CROWE: Absolutely.

MR. DARROW: A member of the family can say if a person is sane or insane.

MR. CROWE: Based upon facts that he has related.

MR. DARROW: I insist that is not the law.

MR. CROWE: I am willing to present authorities on that.

MR. DARROW: We can present them too.

MR. CROWE: In other words, it is a conclusion. A man could come in and say, "In my opinion, that man is sane or insane", and walk off the stand. You have to give matters and things upon which they base their opinion so that the court or jury can come to a conclusion as to whether their opinions are correct or not.

MR. DARROW: I insist there is not any question but a lay witness, the associate of a person or a member of the family or anybody else associated with him being perfectly competent to give an opinion as to the sanity or insanity of anybody. I am not asking that but I am asking along the same lines. If your honor has some doubt I will find some authorities and bring

them in at two o'clock.

THE COURT: I will let him answer subject to Mr. Crowe's objection which I will rule on later.

MR. DARROW: We will present authorities.

MR. CROWE: Read the question.

(Question read by the reporter)

THE COURT: I will let him answer subject to your objection. I do not think they are bound to give every detail upon which the witness' opinion is based. The court has a right to cross examine.

MR. SMITH: It is not a question of sanity or insanity.

MR. CROWE: The question is, "Do you think he acted childishly?" That is a conclusion. He ought to tell the childish acts.

THE COURT: You can ask him. I think the court has the right to give the weight to the testimony of each witness that he thinks it is entitled to. If the defense puts on a witness and he testifies to certain things and the state cross examines him and draws forth certain other facts the court has the right to give the weight to what the witness says that it is entitled

to. If the court considers it is a matter that should not be taken into consideration in mitigation he will simply eliminate it but I think the authorities say that a lay witness can testify to any of those things from constant association with him and things like that they have a right to tell. I will strike it out if they cannot sustain it with authority, but in matters of this kind the state can cross examine. I will let it go in subject to Mr. Crowe's objection and have the authorities presented at two o'clock.

MR. DARROW: Q Just go ahead and answer that.

A My impression was he was very childish in his actions.

Q I don't know whether you stated, I think you did, but there seems to be some question about whether Dick was ~~asked~~ allowed the responsibility of being mentor to any freshman?

A No sir, he was not allowed that responsibility.

Q Did you ever hear him in argument with the other boys?

A Yes sir.

Q Did the boys take occasion to argue with him on various matters?

A Yes sir.

Q In what way?

A Well, oftentimes would argue with him on things that were more or less irrelevant or foolish, for the purpose of getting him --

MR. CROWE: Wait a minute; I object; that is a conclusion. Let him state what the arguments were and who started them.

MR. DARROW: He had better not tell all the argument, had he?

MR. CROWE: Well, let us find out what he can tell.

THE COURT: Let him answer, subject to the same ruling. This testimony is only as it appeared to him. He doesn't conclude that this man was this, that or the other thing. This is how he appeared to him at the time it was said, this is how he appeared to him, and the cross examination along that line will show whether or not it will appear to me in the same way. He has a right to say how things appeared to him, but he cannot give his conclusions; he cannot say a man was insane.

MR. CROWE: ~~Mr.~~ Darrow wouldn't let him.

THE COURT: He can say he appeared this or he appeared that or he appeared the other.

MR. DARROW: Maybe I would and maybe I wouldn't.

THE COURT: He could not say the man was insane, but he can say that he appeared thus and so to him. I think I will let him answer, but it will all be subject to your objection later on, Mr. Crowe.

MR. DARROW: Q You remember what that question was? You had not finished it?

A No.

MR. DARROW: Read the question and answer as far as he has gotten with it.

(Whereupon the question and answer were here read).

Q Now, go on.

A For the purpose of getting him into an argument. He argued rather strenuously on things that sometimes amused the rest of us.

MR. CROWE: You are having some trouble to keep from laughing, aren't you?

THE WITNESS: No sir.

MR. DARROW: At who?

MR. CROWE: I imagine at the defense.

MR. DARROW: How was he -- well, your imagination is active.

Q How was he as to common sense affairs?

A In common sense he was far inferior to his own intellect, as far as book learning was concerned. He was a good student, but he did not seem to have the logical common sense that went with it.

Q How was he as to being practical?

A Rather impractical.

Q Did you form any opinion as to whether he was normal or abnormal, based on your entire acquaintance with him and all you saw and heard?

A I felt that he was --

MR. CROWE: No, answer the question.

MR. DARROW: Q First answer yes or no.

A Yes.

Q What was it?

A I felt that he was inferior to the other fellows of his --

MR. CROWE: No, no; answer the question, was he normal or abnormal?

THE WITNESS: I answered the question, yes, he was

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MR. CROWE: Abnormal.

MR. DARROW: You may cross examine.

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CROSS EXAMINATION
BY STATE'S ATTORNEY CROWE.

MR. CROWE: Q Do you remember being questioned in the State's Attorney's office about Loeb?

A Yes sir.

Q Was this question asked you, "Yes, there is nothing about his actions or anything else, that would indicate to you that he was anything but a bright young chap", and did you answer as follows, "At that time, yes."

And then you were asked this question:

"Perfectly sane and normal", and your answer was:

"He seemed to me at that time to be perfectly sane and normal."

Were those questions put to you and did you so answer?

A I don't recall.

Q Will you state that they were not put to you and you did not so answer?

A No, I don't recall. I can't say either way.

Q Is your recollection good?

A Generally very good.

Q Do you remember being questioned in our office?

A Yes sir.

Q Do you remember being asked as to whether he was sane and normal?

A I remember being questioned as to whether he was sane.

Q And normal?

A I don't remember that.

Q And you answered:

"He seemed to me at that time to be perfectly sane and normal"?

A I don't remember that.

Q You won't say you didn't say it, will you?

A No, but I won't say.

Q How old are you?

A Twenty-one.

Q And how old is Loeb?

A I believe he is nineteen.

Q What fraternity do you belong to?

A Zeta Beta Tau.

Q And what kind of a fraternity is that?

A Jewish fraternity.

Q I mean -- I didn't want to go into that.

A A General fraternity.

Q A general fraternity?

A Yes.

Q How do you get into that fraternity? How are members taken in?

A Elected by the body.

Q I know but what is the process?

A I don't care to answer that.

THE COURT: What is that?

MR. CROWE: What is the process?

MR. DARROW: I suppose that is a fraternity secret. Maybe you should not go into that closely. Perhaps you can get it some other way.

MR. CROWE: Q When a man is brought into the fraternity, who vouches for him?

A Every brother of the fraternity.

Q Every one of them?

A yes sir.

Q And before he is brought in he is what you term rushed?

A Yes sir.

Q By rushed you mean that his name is proposed and he is watched and investigated for a considerable period before he is elected?

A Yes sir.

Q And he is brought into the house for lunch so that everybody can get acquainted with him?

A Yes/sir.

Q To find out whether he is a desirable member?

A Yes.

Q You don't elect any nuts, do you, to the fraternity? that you know of?

A Not that we know of.

Q How long a time is a man rushed?

A It varies.

Q I know, but what is the usual length of time?

A It varies from a day to a year, two years.

Q How long was this man rushed?

A About two and a half months.

Q He was introduced to all the members?

A I believe so, yes.

Q Brought to the house?

A Yes sir.

Q Had dinner at the house?

A Yes.

Q And all that was for the purpose of giving you an opportunity to find out whether he was the kind of man you wanted in there?

A Yes sir.

Q And after two and a half months investigation and observation, you concluded that he was a normal, decent fellow, is not that correct?

A We concluded he was the kind of a fellow we wanted to take in.

Q You didn't want a foolish person in there, did you?

A No.

Q You didn't want an abnormal person in there?

A I don't know what you mean by abnormal in that sense.

Q You said he was abnormal. What do you mean?

A I mean that he — I said I mean in certain ways he was not normal but not in all ways. He was not entirely abnormal.

Q You are a university graduate, aren't you?

A Yes.

A Yes sir.

Q Mr. Darrow asked you whether he was abnormal and you said yes. Now, do you know what Mr. Darrow meant by that?

A I assumed he was referring to the questions that preceded, so far as his responsibility was concerned.

Q How many members of the fraternity were there at that time?

A Probably twenty-eight, thirty.

Q And how were the other twenty-eight outside of Loeb, were they normal?

A In most ways, yes.

Q Are you normal?

A I don't know.

THE COURT: If you don't stop that hilarity and laughing back there I will clean out the courtroom. This is not a vaudeville show. The State's Attorney has a right to cross examine this man and he has a right to answer. Behave yourselves back there or I will clean out the courtroom.

MR. CROWE: Q Mr. Witness, I note you say that Loeb was nervous and his hands twitched?

A Yes.

Q And he laughed?

A Yes.

Q Since you have been on the stand you have moved your hands around your chin and your mouth and down around your sides and you have crossed and uncrossed them, and you have been smiling all the time, haven't you?

A Yes.

Q Was he any more nervous than you are now, at any time?

A I think so, yes.

Q What causes you to smile all during this examination?

MR. DARROW: I object. I have not observed ~~he~~ he did.

MR. CROWE: He just said he did.

MR. DARROW: Well, I had not observed it.

MR. CROWE: He smiled from the time he got on the stand. What caused that?

MR. DARROW: I object to the question. If he smiled unduly I didn't notice it, and I have been looking at him.

MR. CROWE: He has given a laugh as an indication of abnormality. I want to know about this smile.

MR. DARROW: The question is: What caused you to smile all the time on the witness stand?

MR. CROWE Yes, what caused you to smile all the time?

MR. DARROW: I Object to the question.

MR. CROWE: Q You regard this as a solemn serious proceeding, don't you?

A Yes.

Q There is nothing humorous in it to you, is there?

A Occasionally, yes.

Q Did Dick ever laugh at anything as solemn as this proceeding is while a member of the fraternity?

A I can't answer that. I don't remember that.

Q Dick was the youngest member of the fraternity, wasn't he?

A When he was at school?

Q Yes.

A He was the youngest in his class, certainly. I don't remember whether he was younger than some of the freshmen. I doubt it.

Q There was never any effort after you had all inves-

igated him for two and a half months and taken him in the fraternity, made to throw him out, was there?

A No sir.

Q So that anything he might have done did not cause any criticism, official criticism of the body?

A There was a criticism but --

Q No official criticism?

A I don't know what you mean by "official criticism".

Q Did the fraternity as a fraternity ever censure him for anything he did?

A Yes.

Q What?

A Drinking for one.

Q Did you have a meeting for that purpose?

A To censure him, you mean?

Q Yes.

A We had a meeting of the executive committee of the house, which is supported by the entire house.

Q And did you pass a resolution censuring him for drinking, by the executive committee?

A Yes sir.

Q Can you get a copy of it?

A No sir. I don't believe so, Perhaps.

Q Where are the records kept?

A In Ann Arbor.

Q Did any other boys in the fraternity drink?

A Yes.

Q And some of them got drunk?

A Occasionally.

Q A great many of the student body generally drink and get drunk?

A Well, I would not say it in that way. I would say occasionally some did.

Q A large percentage of them drink?

A A large percentage of them drank at times.

Q And a great many of them got drunk?

A I would not agree to that.

Q When you boys got together in the fraternity house, you kidded each other a great deal, didn't you?

A Yes.

Q And you would kid Dick, you and the rest of them, and Dick and you would kid the others?

A Yes.

Q And you would have kidding arguments?

A Yes.

Q Are those the arguments you are referring to?

A Yes sir, many of them.

Q So there is nothing unusual in that?

A No sir.

Q You remember being in the State's Attorney's office?

A Yes sir.

Q Being questioned?

A Yes sir.

Q On June 9th, 1924, about five twenty-five P.M.

A I remember the date.

Q Were you there more than once for the purpose of being questioned?

A No, just once.

Q Mr. Savage, sitting behind me, and Mr. Smith, conducted the questioning?

A I think Mr. Savage did entirely.

Q Were you asked this question by Mr. Savage and did you make this reply, talking about Loeb:

"And you used to see him daily, referring to Loeb?

A Yes.

Q And pal around with him and other boys?

"A Not him in particular? Yes.

Q But all the members of the fraternity?

A Yes."

Were those questions put to you and did you make those answers?

A I can't remember exactly.

Q Did you say that in substance?

A It is true.

Q Did you say that in substance?

A Yes, right there.

Q Why right there? Are you afraid of the other stuff?

A I am afraid of nothing, no sir.

Q Well, those questions were put to you and you made those answers, is that correct?

A Yes .

Q Then were you asked the question:

"Now he was a few years younger than you at that time?

A Yes."

Is that correct?

A Yes sir.

Q Then were you asked:

"What impressed you most of all was that he
was an exceptionally bright fellow",

and you answered:

"Yes".

A That is true.

Q The next question is:

"That ^{is} Loeb. You said you thought he
was a little young and some of his ideas might
have been a little different from what yours
were during that time and some of the older
boys, is that right",

and you answered:

"Well, yes."

A Yes sir.

MR. DARROW: How long is this going to take?

MR. CROWE: Not very long.

MR. DARROW: I am going to submit he has a right to
look at it. Will it take him long to look at it?

MR. CORNE: Like to look at what?

MR. DARROW: At ~~that~~^{his} statement in the State's Attor-
ney's office that he is being examined on.

MR. CROWE: He has no right to look at this.

MR. SMITH: You can refer to this.

MR. CROWE: I will let you see it.

MR. DARROW: If you are seeking to impeach a witness, you introduce what he said at some other time and place, then he has a right to look at it. It does not follow but what he might have said something else in connection with it. I don't know that he did. I haven't seen it. That is why I am asking him whether it is long.

MR. CROWE: There are only a few more questions on this line.

MR. DARROW: May I ask, have you read all of it?

MR. CROWE: I have got about five more questions.

MR. DARROW: What I mean is, did you read every question?

MR. CROWE: No, there are some referring to other matters. I am not going into some referring to Leopold.

MR. DARROW: What I am getting at is this. You folks are honest people. I don't doubt you at all. A witness has a right to look at a document if he is cross examined on it.

MR. CROWE: This is not a document, your Honor.

MR. DARROW: Any testimony.

MR. CROWE: Suppose I did not have this reduced to writing at all. Haven't I right to ask him didn't he tell Joseph Savage and Milton Smith certain things in response to certain questions? This is not a document.

THE COURT: No. I can see what the counsel for the defense claims. There might be some other questions in there --

MR. CROWE: I am perfectly willing to put his entire statement in.

THE COURT: That is all right.

MR. DARROW: I asked him in good faith. If he says there is not anything that will modify it, I will take his word for it.

THE COURT: Yes.

MR. DARROW: But the rule is to show it.

THE COURT: Suppose, for instance, there were ten questions and answers there and you only selected three --

MR. CROWE: I am perfectly willing to put the entire document in.

THE COURT: But I am trying to straighten out the position Mr. Darrow takes. Suppose there were ten questions and answers and the State's Attorney only puts five to him, and there were one or two of the other five that would throw an entirely different light on the situation. If that were true, he would have a right to see them. But Mr. Darrow says he will take your word for it, and if that is all there is to it, that ends it.

MR. DARROW: If there is nothing there that will modify it, I will take your word for it.

MR. CROWE: Q You said you thought he was a little young and some of his ideas ~~were~~ might have been a little different from what yours were during that time and some of the older boys? Is that right, and did you answer: "Well, yes"?

A Yes sir. I think that is right.

THE COURT: Speak up, we all want to hear what you say.

MR. CROWE: Q Is that right?

A That is right.

Q And then were you asked this question:

"You laid that to his age",

and did you answer:

"I did at that time, yes."

A Yes.

Q Then were you asked this question, "Well, you do now, don't you?" and you answered:

"Well, I" --

and you were interrupted with this question:

"There is nothing without taking the crime into consideration"

and you answered:

"Before the crime, I will say so"

and then were you asked:

"There is nothing about his actions or anything else that would indicate to you that he was anything but a bright, young cap",

and did you answer:

"at that time, yes."

Is that correct?

A I think so.

Q And then were you asked this question:

"Perfectly sane and normal?"

And did you answer:

"He seemed to me at that time to be perfectly sane and normal".

A I remember that.

Q And then was this question asked you:

"And he seemed to be above the average intelligence for his years and for a fellow who could sit down and hold a conversation on most any subject, is that right",

and did you answer,

"Yes".

A I think so.

Q And then were you asked:

"Hold an intelligent conversation",

and you answered:

"Yes".

Is that right?

A I think so.

Q Leopold was up there at the same time, wasn't he?

A Where, at Michigan?

Q Yes.

A He was there one year, the first year.

Q You knew Leopold?

A Slightly.

Q Now, you want to help a fraternity brother out, don't you?

A Not in this case particularly, no sir.

Q Well, you have an obligation to help one another, haven't you?

A I have no obligation, not in this case, no, there is no obligation.

Q But there is a general obligation?

A Not as affects crime, no sir.

Q You are very friendly with him aren't you?

A When?

Q Now?

A I haven't seen him for some time.

Q Well, the last time you saw him you were very friendly with him?

A Yes sir.

Q Have you been over to jail to see him?

A No sir.

MR. CROWE: I think that is all.

MR. DARROW: May I look at that just a moment?

(Whereupon State's Attorney Crowe handed

typewritten manuscript from which he had

been questioning the witness, to Mr. Darrow).

MR. CROWE: If your Honor please, these are the memoranda of the State's Attorney. I am perfectly willing to introduce the entire statement in evidence, but I am not going to let Mr. Darrow look at our memos.

MR. DARROW: Well, I was only looking at the part you read.

MR. CROWE: If you don't think I read this correctly, when we come to impeach this man, I will put the stenographer on who took it and wrote it out, and let him read his notes.

MR. DARROW: I will tell you, it is not necessary for me to say that I don't think you read it correctly, I wouldn't do that, but we have a perfect right to see it. I am not going to insist on a formal ruling on it right now.

MR. CROWE: It is a private memorandum made by the State's Attorney's office.

MR. DARROW: No, it is not, and in the future I shall object to any question from any document without it being submitted to the witness first if that is the situation.

THE COURT: Where there is a statement of that kind, questions and answers put to a witness, it is similar to the evidence taken at a coroner's inquest. If there are ten questions and answers --

MR. CROWE: They are entitled to have them all.

THE COURT: Yes.

MR. CROWE: I am willing to give them all to them.

THE COURT: That is all we can ask. If there are no others, it does not make any difference. But sometimes where there are ten questions put and seven asked here on impeachment, the answers to the other three, if there are three, might modify the testimony or might change the testimony somewhat as to one of the questions that was put. That is the only reason for seeing them all.

MR. CROWE: You haven't a right, your Honor, to go into a part of a conversation and attempt to keep the balance of it out. Mr. Darrow is now asking for all he told --

MR. DARROW: I don't think you have got me right.

MR. CROWE: Wait a minute.

MR. DARROW: All right, surely.

MR. CROWE: Your Honor talked about corner's minutes. Those are public documents, and I have no more right to them than Mr. Darrow; but any private papers Mr. Darrow has, they are his papers, and I haven't a right to inspect them, and he hasn't a right to inspect any papers I have in my office. Those are my private papers in my own office, in my own files. He can ask after we get through, now tell everything else you told the State's Attorney, and when the stenographer gets on to impeach the statement, he can ask him to read the entire statement. That I am perfectly willing to have him do.

MR. DARROW: I don't think it admits of a question. I don't think it needs to be decided now, but no lawyer can present any document in writing to any witness and ask him whether he said so and so without submitting the documents.

MR. SMITH: We are not submitting the document.

MR. DARROW: I didn't say you are. I say you cannot ask him the questions without submitting it.

MR. SMITH: We are not submitting it. We are simply asking a question ^{from} ~~how~~ it.

MR. DARROW: Well, you cannot ask a question from it without submitting it.

MR. CROWE: I am not offering it. I am asking him did you say this. If he denies it I will put the stenographer on to read the notes, or I can put Mr. Savage on to testify to this. This is merely a question and answer.

MR. DARROW: You don't get my point.

MR. CROWE: Yes, I get your point. This is not a document, but a memorandum.

MR. DARROW: You haven't a right to use any document or memorandum without showing it to us.

THE COURT: There isn't any dispute about this witness. He has no issue with the answers which he did remember and the others he said he did not remember. Asked directly whether or not he did or did not say those things, and he said, no, he did not do it. There does not seem to be very much controversy here. Now, ask him if there were any more questions.

Were there any other questions asked you in the State's Attorney's office at that time, that you now remember?

A No sir, I don't remember. I don't recall the questions the State's Attorney asked me.

MR. DARROW: I want to re-examine the witness a little, and I will not bother with this question with this witness, but in future I will probably insist on his showing any document before he asks questions about it.

MR. CROWE: How perfectly absurd. Suppose before examining a witness I make some notes, so I will know what questions I want to ask him, is that a document I have to submit?

MR. DARROW: That is not this case. This is a question where what he said at some other time, which was written down, is to be used to contradict his testimony, and he has a right to see it. I don't think we need to raise the question now, but if you want to raise it now, I think either of us can find authorities before two o'clock.

THE COURT: All right. Is there anything further of this witness?

MR. DARROW: I want to ask a few questions.

THE COURT: Go ahead.

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REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW. Q How did you happen to be taken to the state's attorney's office?

A I was taken down there by two policemen.

Q By a policeman? You were sent for and taken right at the time?

A Yes, sir.

Q Did you know what you were going for?

A They didn't tell me, but I had an idea.

Q And you did not know that you were going until a policeman came and got you?

A They called me up first and told me to come down and I said I couldn't, and so they came and got me.

Q Where did you go, where did he take you?

A It is in the criminal court building, I believe Mr. Crowe's office.

Q How many people were there?

A At first there were four, Mr. Crowe, Mr. Savage, Mr. Ettleson and myself, and then I was moved to another room with Mr. Savage, Mr. Smith and a stenographer, I believe.

Q Who questioned you?

2m

A At first Mr. Savage led the questioning. Mr. Crowe asked me a couple of questions, and Mr. Smith later on asked a few questions.

Q Were you asked the questions as soon as you got there?

A Practically, yes, sir.

Q Did you have any chance to consider your acquaintance with Loeb and what had been said between you and Loeb and his conduct in the fraternity house and all those things, before you were questioned?

A Very little.

Q Nobody went there with you?

A No, sir.

Q You consulted with nobody?

A No, sir.

Q And you were pulled in by the officers without any chance to consider it at all?

A Yes, sir.

Q And you have had plenty of chances to consider it since?

A Yes, sir.

Q And you have done it?

A Yes, sir.

MR. DARROW: That is all.

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RECROSS EXAMINATION

BY STATE'S ATTORNEY CROWE.

MR. CROWE: Q When you were coming down, you said you had an idea of what you were coming down for?

A I didn't know just what it was. I supposed it was in connection with this case.

Q In connection with your acquaintance with Loeb and Leopold, didn't they tell you over the phone?

A No, sir.

Q What did they tell you over the phone?

A They told me I was wanted at Judge Crowe's office, and I asked what for, and they said they didn't know.

Q Now, when you got down there, there were a number of other fraternity brothers out in the hall?

A I am not sure, I think there were about one or two.

MR. SAVAGE: Q Ringer?

A I don't remember.

MR. CROWE: Q You don't require an hour or a week to answer a question as to what kind of a man an intimate friend of yours is, do you?

A Generally, no.

Q And we asked you about Loeb you honest answers?

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A As well as I could, absolutely.

MR. CROWE: That is all.

MR. DARROW: Just one other question.

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RE-REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Was there anything else said by resolution or action, by way of censure, except drinking? Was there anything said about immaturity, or don't you know?

A Do you mean, was there any censure by the house?

Q Yes.

A We often discussed his immaturity in connection with not allowing him full senior privileges.

Q Do you know whether it appeared of record, or don't you know?

A I don't know.

MR. DARROW: That is all.

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RE-RECROSS EXAMINATION

BY STATE'S ATTORNEY CROWE.

MR. CROWE: Q Now, wait. Your discussion of his immaturity was on account of his being younger than the rest of them, that is it, isn't it?

A I think that was probably the main reason, one of the reasons.

Q Certainly. And you didn't like to see a young lad like that drink?

A Well, we didn't specify a young lad, no. Any lad.

Q I know, but his immaturity, when you discussed it, was on account of his being younger than the rest of them?

A Well, we didn't go into it at that time. It might have been, but we didn't know.

MR. CROWE: All right, that is all.

MR. DARROW: Q Was it on account of his youth in years, or on account of his immaturity, his conduct, action and appearance?

A I think it was the latter.

MR. DARROW: All right, that is all.

(Witness excused.)

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L O R R A I N E N A T H A N ,

a witness called on behalf of the defendants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW.

Q Will you give us your name?

A Lorraine Nathan.

Q Where do you live?

A 5318 Ellis Avenue.

Q What is your father's business?

A Quaker Lace Company.

Q Will you give us that again?

A Quaker Lace Company.

Q What is your age?

A Eighteen.

Q You are acquainted with Richard Loeb?

A Yes, I am.

Q How long have you known him?

A Since November, 1921.

Q And how well have you known him?

A Very well.

Q You used to go with him to parties and dinners?

A Yes, I did.

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Q And how often were you in the habit of seeing him?

A Well, he was away at school so I did not see him only when he came in at week ends.

Q You knew him before he went to school?

A No.

Q Where was he when you first got acquainted with him, he went to Ann Arbor?

A He went to Ann Arbor, yes.

Q Were you called to the state's attorney's office?

A I was.

Q You say you first met him in 1931?

A Yes, I did.

Q How often did you see him between 1931 and 1933?

A It is hard to say, when he was away at school, I saw him occasionally week ends on an average of a week end every two months.

Q How about vacation time?

A Yes, I did.

Q Was he frequently at your house?

A He was.

Q Were you ever at his house?

A Once.

Q And in general, what was the character of your association?

A Just school day friends.

Q Did you go to dances and parties?

A We did.

Q And to lunches and dinners?

A No.

Q What does your family consist of?

A Mother and father, two girls and a boy.

Q Did you observe any difference in him the different times you saw him?

A Since June, the early part of June, 1933, I saw a complete change in him.

Q And where did you see him at that time?

A He was at our home.

Q Tell what you observed about him at that time.

A For a university graduate he was unusually infantile in his behavior, I thought.

MR. CROWE: If your honor please, that is a conclusion and I move to strike it out.

THE COURT: She may tell what he did.

THE WITNESS: Upon occasions, one occasion I remember distinctly he came in and I am positive he had not been

drinking, he took introductions to some guests he had not known very flippantly and that was not his custom of doing. He then started dancing down the middle of the room and at that time we were passing some chocolates and he put his thumb into each one of them to find a hard-center one and he did this in all seriousness and then he went out in the reception hall and tried on all the hats of the guests. I thought this was rather peculiar, because he had not been drinking at all and I told my sister that I thought Dickie was acting --

MR. CROWE: That should go out.

MR. DARROW: Q What did you think?

A That he was acting rather idiotically and my sister said "That is not idiotic, he must be cuckoo", and she explained the difference between insanity and being idiotic as she knew it.

Q And did anything else take place at that time?

A He used to walk out of the door, and then he would come back and say, "Lorraine, your mother may need this", and he had taken some ornament out of the house we had not seen and he did this in a rather serious way.

Q Did you see him again after that?

51mr

A Yes, I did.

Q How often?

A I saw him, I think it was in February, February 29.

Q What did you observe about him at that time?

A He was very unemotional, as I recall the event, and he said, he did not remember having acted that way.

Q And how long did you see him that time?

A Well, we had a date that evening.

Q What did you do?

A We went out riding because we were quarrelling.

Q What were his actions then?

A He drove rather recklessly and did not seem to care what came in front of him and if people were passing in front they had to dodge him, he would not dodge them. I pleaded with him to go slowly and he did not seem to take heed, did not seem to realize he was racing.

Q Do you remember his going to Birmingham?

A Yes, that was in June, 1923.

Q Did you see him at that time?

A He came home from Ann Arbor before he went to Birmingham and it was from that time I first found him to be anything but what I thought him to be. He was irrational

52mr .

and irresponsible I thought at that time and he left for Ann Arbor. We had quarrels. I told him I found such a change in him that our friendship could not be anything but sister and brother and he resented that and said he would not consider it and to wait until I took the initiative and reconsidered my attitude. He left for Birmingham that night and when he came back he phoned my sister in the morning and asked her to intercede for him. He phoned me ~~later~~ later and we made a date for the following evening, Saturday night. He came over and he looked rather haggard that evening. He had been in Birmingham and he seemed nervous and he twitched his lip and he was quite nervous. We stayed at home that evening, it was quite and I did not want to go out dancing.

Q Did he write you about this, or was it at a later date?

A What are you referring to, Mr. Darrow?

Q After he returned from Birmingham?

A No. He called up my sister in the morning to ask her to intervene, and then he phoned me later. He didn't write at the time.

Q Was he away a while after that?

A Yes, he left for Charlevoix.

53mr

Q When did he see him again?

A The next time I saw him was the latter part of September, when he came back from Charlevoix.

Q How was he at that time?

A He acted very irrational, and he was very babyish at that time, and infantile, I thought.

Q Did you form any opinion during these times that you were with him, about his condition?

A Well, I thought he was irresponsible and irrational at times.

Q How was he as to childishness or as to immaturity?

A Well, he had graduated from the university at a young age, but this was not apparent in his general behaviour.

Q Did you c cate with his people about his actions?

MR. CROWE: I object.

MR. DARROW: Q Well, did you have any conversation with anybody about him, about the condition of his mind, without stating what it was?

MR. OR : I object.

THE COURT: She may answer.

MR. DARROW: Q Did you have any conversations with anybody about the condition of his mind, you don't need to

54nr

state what it was?

A With my mother.

Q Do you know anything about his drinking?

A He had drank heavily, but he was not intoxicated in my presence.

Q Do you remember his calling, about February 21st, and you going out driving with him?

A Yes, he called for me at school, he had just returned from Charlevoix for about a five-day visit, and he called for me at school and took me home. He was more composed at that time than I had seen him for a long time.

Q What year was that?

A This year, 1984.

Q And how was he the next time you saw him?

A The next time I saw him he was still infantile, that was the Sunday that I related about his taking those introductions to the people so flippantly, and acted in a childish manner.

MR. CROWE: I move to strike that out, your Honor, as not responsive.

MR. D : What part do you mean?

MR. C : All of it.

55mr

How he appeared and acted in her presence, is perfectly competent for her to testify to, but her conclusions that he was infantile may go out.

MR. D W: Q When was the last time you saw him?

A May 6th.

Q May 6th was the last?

A Yes.

Q From your observation of him and your association with him, what he said and did, what did you think of him as to whether he was balanced or unbalanced in mind, or normal or abnormal?

A Well, I didn't think that these infantile tendencies had anything to do with his being abnormal. They were personal conclusions.

MR. DARROW: You may cross examine.

CROSS EXAMINATION

BY MR CROWE.

MR. CROWE: Q Doctor, you haven't stated anything — oh, I beg your pardon. You haven't stated anything about a split personality?

MR. DARROW: I object to the question.

THE COURT: Yes, strike it out.

MR. CROWE: Q Did you observe that?

MR. DARROW: I object to the question.

THE COURT: Yes, strike it out. The objection is sustained.

MR. OR : Q Dick was fond of you, wasn't he?

A I presume so.

Q And you were fond of him?

A I was.

Q What?

A I was.

Q And still are?

A No. Not in that way.

Q In what way?

A I am not fond of him.

Q What?

Q But from that time on you have been going with each other up until May 6th?

A No, occasionally I would see him.

Q Well, occasionally?

A I would see him, but that didn't mean anything.

Q Being a lady of course you wouldn't lie to help Dick out?

A I should say not.

Q And you wouldn't lie to the state's attorney?

A I did not.

Q Do you remember being down in the states attorney's office on June 27, 1924, and in the presence of your mother, your sister, Mr. Allen, the short writer, and Mr. Savage, making some statements there?

A I do.

Q You were telling the truth there, were you not?

A I was.

Q Do you remember this question being asked you: "Q Was there anything about Richard" (referring to Loeb) "that impressed you as being peculiar in any way?"

MR. DARROW: Now, just a minute --

A Yes, sir.

MR. : Q And you answered "Never"?

A Yes, I did answer that way.

MR. DARROW: Now, just a minute. I object until the witness is shown the testimony.

MR. CROWE: She is not entitled to it, your Honor, this is my private memoranda.

MR. DARROW: It is not your private memoranda. She came down to your office at your request, and you took her statement, and you are asking her whether she made these statements down there.

MR. CROWE: And she said she did.

MR. D W: Now, it is a perfectly plain proposition of law, that you should show the witness, before the questions are asked, the statements from which you propose to read.

MR. CROWE: No. That is not the law.

Q Was this question asked you?

THE COURT: Just a moment.

MR. CROWE: Well, I will show it to her (handing statement to witness).

MR. DARROW: Now, I want her to read the statement through.

MR. CROWE: No, she is going to read the questions and answers that I put to her.

MR. D W: No, I object to that. She is entitled to read her whole statement.

MR. CROWE: No, she is not entitled to read her whole statement.

MR. DARROW: Well, now, you and I disagree. If the Court agrees with me, that is all right, but if not, I will bring in my authorities.

MR. CROWE: We have had so many new rules of law advanced by Mr. Darrow in this case, and I want to ask if we have got to a point where we cannot show that a witness has deliberately committed perjury by statements made at another time?

MR. DARROW: I object to that.

THE COURT: Strike it out of the record. She has not testified yet on cross examination.

MR. CROWE: All right.

THE COURT: I am inclined to rule with the states attorney. This is not a public document, it is not a signed document. If it were, you could ask her if that is her signature, and then read any question to her that was put to her. For the purpose of impeachment, if she made one statement in the states attorney's office and another one here, I think the states attorney has a right to show whether or not that question was put to her in his office, and if she denies it, then he can show it by the shorthand man who took the notes, if necessary. But, however, it is very near to the regular

adjourning time, and rather than have any wrong done to either side, or having the record not straight, I will let you submit your authorities at ten minutes ~~to~~ of two. We are adjourning ten minutes earlier, and then I will have ten minutes for the authorities, and we will proceed with the cross examination of the witness at two o'clock. At ten minutes of two I will look at the authorities, and at two o'clock we will resume with the testimony.

MR. CROWE: I assume Mr. Darrow will produce his authorities, he having the affirmance of the proposition?

THE COURT: Yes.

MR. CROWE: I also want the Court to advise the witness that she is not to talk with anybody with reference to her testimony, during the noon recess.

THE COURT: Very well. She understands that is the instruction of the Court.

We will now adjourn until 1 o'clock this afternoon.

Whereupon an adjournment was here taken by Court and Counsel to 1:50 o'clock P.M. August 7th, 1924.

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Thursday, August 7th, 1924,

1:50 o'clock P.M.

Court convened at 1:50 o'clock P.M. Thursday, August 7th, 1924, pursuant to adjournment heretofore taken.

Present, same as before.

MR. DARROW: Your Honor, I have been working on this through the luncheon hour and I have not found an Illinois case. I have run down the encyclopedia of evidence in which I find that it is in some states that it is sufficient to show the witness writing, permitting him to inspect it.

In some jurisdictions it is optional with the impeaching party to show the writing to the witness or to read various parts thereof.

In Alabama where the writing is read to the witness it must be read to him in its entirety.

In other jurisdictions to establish a foundation the writing must be shown to the witness.

It is proper, however, at the request of the assailed witness to read the writing to him. Where the

witness cannot read the writing he is entitled to have it read to him.

MR. CROWE: Well, there is not any doubt about that.

MR. DARROW: I do not think there is any difference although I have not found a case to the point in Illinois. Where there is a shorthand transcript the authorities do hold that the shorthand transcript may be read, but I have not found where the question was raised as to the right to inspect it first.

Where the testimony is taken down by a stenographer at the time the question is read from the minutes of the stenographer as transcribed and of course there might be some things in it that would qualify the answer. It seems to me the witness should have the right to inspect it.

THE COURT: The Court will sustain his original ruling, that they are not entitled to inspect it, but I will ask Mr. Crowe if he cross examines the witness upon part of his statement that he ask him everything that was put to him.

MR. CROWE: The rule is this, as I understand it, and it is in line with your Honor's decision that

I ask him, "Did you not on a certain occasion and
in the presence of certain persons --
giving the time and place, make a statement
to this effect."

After I have done that it is proper for Mr. Darrow on
redirect to ask the witness to state the entire
conversation, as he recalls it, and when we get to
the proposition of impeachment and put the stenogra-
pher on, Mr. Darrow can then go into the entire
conversation, but at this time all I am obliged to
do is to ask as to those matters upon which I intend
to impeach.

THE COURT: I think you are right.

The record will show that the objection
of the defense is overruled.

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M I S S L O R R A I N E N A T H A N,
then resumed the stand for further examination and
testified as follows:

CROSS EXAMINATION
(Continued)

BY STATE'S ATTORNEY CROWE

MR. CROWE: Q You are Miss Lorraine Nathan?

A Yes, I am.

Q The same young lady who testified this morning?

A Yes.

Q I will ask you whether or not, Miss Nathan, on
Thursday, June 27th, 1924, at one thirty P.M. you
were not in the office of the State's Attorney of
Cook County in this building and in the presence of
your mother, Mrs. Jennie Nathan -- is that her name?

A Yes, it is.

Q And Miss Rosaline Nathan, your sister?

A Yes.

Q A court reporter named E. M. Allen, you were not
asked the following question by Mr. Joseph P. Savage,
who sits behind me, and if you did not make the fol-
lowing answer, referring to Richard Loeb:

"Q Was there anything about Richard that

impressed you as being peculiar in any way?"

A I answered "Yes".

Q Now, wait a minute, and did not you answer "Never"?

A Yes.

Q Were you not then asked:

"Q Just what would you think of him?"

And did you not make the following answer:

"I thought he was a most manly character"?

A I did.

Q Was not the following question asked you:

"Q You thought he was an ideal young
fellow, is that right"?

And did you not answer "Yes sir"?

A I suppose I did.

Q "Q More of a mannish man than the average
young fellow of his age who is running
around?"

And didn't you answer,

"Yes, sure"?

A I don't remember.

Q Were you not then asked:

"Q He was more of a young man than he was
a boy?"

And didn't you answer:

"Yes, he was very mature in his ideas."

A I don't remember.

Q "Q Very brilliant",
and did you not answer?

"Very brilliant"?

A I did.

Q "Q And a gentleman at all times"?
And did you not answer:

"A A perfect gentleman"?

A I did.

Q Were you not then asked:

"There was nothing, there was never anything
about his actions that would lead you to
believe that he was anything other than a
gentleman"?

A I did.

Q And did you not answer:

"No sir"?

A I did.

Q Were you not then asked:

"Nor was there nothing about his conversation
that would lead you to believe that he was
anything more than a gentleman",

and did you not answer:

"No sir".

A I did.

Q "And his conversations were rational at all times, is that right",
and did you not answer:

"At all times"?

A I don't remember. I suppose I did.

Q Were you not also asked:

"Q He was just the same as any other young fellow that you might be in company with",
and did you not answer:

"Yes"?

A I believe I did.

Q Well, will you state that you did or did not?

A Well, I believe I did. I don't remember exactly every question.

Q Were you not then asked:

"Q His conversations were rational",
and did you not answer,

"Rational"?

A I don't remember.

Q Were you not then asked:

"Q And logical",

and did you not answer:

"Logical"?

A I don't remember.

Q "Q Did he talk on almost any subject",
and did you not answer:

"Yes"?

A I believe I did.

Q Was this question not asked you:

"Q Did you ever hear anyone say anything
that would be detrimental to Richard Loeb"
and did you not answer:

"No"?

A I did.

Q Were you then asked,

"There is nothing that you can think of
now that would change your opinion other
than this happening of May 21st, of
Richard Loeb being other than what you
considered an intelligent youngman",
and did you not answer:

"No"?

A I did.

Q And were you not then asked this question:

"Q Perfectly sane and perfectly normal in
every respect"?

A I did.

Q And did you not answer:

"Perfectly sane"?

A I did.

Q Dick wrote a great many letters to you, didn't he?

A He did.

Q And after the murder his brother called for them and you gave them to him?

A I didn't give them to him; my sister gave them to him.

Q Your sister did. Was this question asked you in the State's Attorney's Office at the time and place and in the presence of the persons heretofore indicated:

"Did he ever express his ideas to you at any time while you were talking to him, Richard?"

"A Dick always held the most idealistic views on life. His ideas of a girl were the most beautiful that anybody would want to know. I don't know of anything that seemed peculiar in any of his ideas?"

A I did.

Q Were you lying in the State's Attorney's office or are you lying now?

MR. DARROW: Object to that question.

THE COURT: Oh yes.

MR. GROVE: All right. That is all.

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REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Do you know whether the stenographer took down all your answers?

A He did not. Mr. Savage would say, "Please omit this", when he wished.

Q Do you remember any particular thing he said to omit?

A When he was trying to convince me of things otherwise than what I believed my statement to be true.

Q Do you remember what the subject of it was?

A No, but he tried to sway me from my opinions many a time.

Q Did you say anything more to him about Dick's mental characteristics?

A No, but my sister did.

Q While you were present?

A Yes, I think she did.

Q How did you get down to the State's Attorney's office?

A By a subpoena for the Grand Jury.

Q And did you go to the State's Attorney's office

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or the Grand Jury?

A I went to the Grand Jury first, and there was no Grand Jury, and so we were told to go to the State's Attorney's office.

Q Who told you to go there?

A Some man that directed us.

Q Was there any Grand Jury in session?

A No.

Q But your subpoena called for you to go to the Grand Jury?

A It did.

Q Do you know who told you to go to the State's Attorney's office?

A Some man in the building we asked where we could see Mr. Smith or one of the Assistant State's Attorneys,

Q How long before you got the subpoena before you went downthere?

Q We got it, I believe, on a Monday, I don't remember the exact date, but I was ill in bed, and my folks called up to have it extended for another day.

Q You were ill in bed at the time?

A I was.

Q And then you went down the next day?

A I did.

Q Who did you find at the State's Attorney's office when you got there?

A Mr. Savage, and then Mr. Sbarbaro came in.

Q You had never thought anything about these questions before you went there, had you?

A No, I had not.

Q Since that time have you gone over the details in your own mind of what happened between you and Richard?

A I have, Mr. Darrow, and the reason I did not go into detail was because I thought those were personal questions, and would pertain to our quarrels, and I did not wish to go into those details.

Q Was there anything said by anyone in their presence, either you or your sister, directly about Dick's mental condition?

A Yes, my sister said --

MR. CROWE: Wait a minute, I object. Put her sister on the stand and let us cross examine her.

MR. DARROW: I am asking her whether anything was said --

MR. CROWE: No, she is starting to tell what her

sister was supposed to have said.

MR. B. C. BACHRACH: If the Court please, I think we are entitled to the whole of the conversation.

MR. CROWE: Oh, the whole of her conversation --

THE COURT: Just wait now.

MR. B. C. BACHRACH: We have called out only parts.

THE COURT: If there is anything more, young lady, you now remember, if there was any question put to you or any answer you gave to the State's Attorney at that time that is not in this record, you can tell us what the question was and the answer you gave thereto.

THE WITNESS: I don't remember, your Honor, because I was quite nervous at the time, and I just came from a sick-bed.

MR. B. C. BACHRACH: The point is this, if your Honor please: the question Mr. Darrow asked was, if in her presence her sister stated something as part of the same conversation.

THE COURT: You can put on her sister and then if there is any attempt to impeach her sister you can put this young lady back again. They may admit what her sister says, if anything.

MR. DARROW: Q Miss Mathan, did the State's Attorney

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read to you all that you said there?

A No, he did not.

MR. DARROW: I would like to see the balance of it,
Mr. Crowe.

MR. CROWE: No, let her state what I did not read.

MR. DARROW: I would like to see the balance of it.
If I can't get it we will have to leave it as it is.
That is all.

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REGROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q Is there anything that you said at that time to the State's Attorney that you haven't told, that you remember?

A I don't remember. I said I was in a nervous state at that time.

Q Who did you talk to during the noon recess?

A To my mother.

Q Who else?

A To Mr. Glassner.

Q Who else?

A And my sister. That is all.

Q Who is Mr. Glassner?

A He is supposed to be a counsel for the defense.

MR. DARROW: Shall I state who he is?

MR. CROWE: Q He is one of the lawyers for the defense, you understand?

MR. DARROW: He is the young man who has been investigating for --

MR. CROWE: Wait. I am asking her, Mr. Darrow.

Q He is one of the lawyers for the defense, you understand, is that right?

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A Yes, I do.

Q Did you talk to the defendant Richard Loeb?

A Yes, I spoke to him.

Q Didn't you tell him, "Dick, I am sticking with you?"

A I did not.

MR. CROWE: All right.

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REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Mr. Glassner is a young man who has been investigating in this matter, as far as we know.

Q Do you know Mr. Glassner?

A I did.

Q Before this time?

A No, I did not.

MR. DARROW: That is all.

(Witness excused)

E D W I N M E I S S,

called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q Will you state your name?

A Edwin Meiss.

Q Where do you live?

A Cincinnati.

Q What is your business or occupation?

A Reporter on the Cincinnati Inquirer.

Q Were you at one time a student at the University
of Michigan at Ann Arbor?

A Yes.

Q When did you graduate from that institution?

A In 1923, June.

Q Do you know Richard Loeb, one of the defendants in
this case?

A Yes.

Q Did you know him at Ann Arbor?

A Yes.

Q When did you first become acquainted with him?

A In October, 1921.

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Q Was he then a student at Ann Arbor?

A He had entered as a student.

Q Did your acquaintanceship with him continue from that time until the time you graduated from Ann Arbor?

A Yes.

Q During that period of time were you a member and officer of the Z.B.T. fraternity?

A I was a member and in my senior year was an officer.

Q What office did you hold in your senior year?

A President.

Q Was Richard Loeb a member of that fraternity during the period of your incumbency of the office of president?

A Yes.

Q Was your friendship with him quite close?

A Quite close.

Q During the time that you knew him at Ann Arbor did you have occasion to observe him at frequent intervals?

A I was with him every day virtually.

Q During that period of time state whether or not you ever saw him faint?

A I saw him faint three times.

Q Will you tell us when was the first time that occurred?

A The first fainting was at a time when a group of boys jumped upon him and bore him to the floor and then they stood up and just as he was about to raise himself up he fainted.

Q Do you know whether or not they inflicted any injury upon him at that time?

A They did not.

Q Will you describe his condition when he fainted as he appeared to you, how did he look?

A Well, he was pale. I don't remember exactly how he looked, his exact condition. I remember he fainted and I was present when he fainted and his face was pallid and then he was carried from the room.

Q Do you know how long he was in that condition approximately?

A Approximately three minutes, I should say.

Q When was the next time he fainted?

A The next time he fainted was during initiation, directly after initiation.

Q What was the character of that initiation?

A That was a physical initiation.

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Q And what was his condition or how did he appear to you at the time he fainted on that occasion?

A Similar to the first time.

Q How long was he unconscious then?

A I am not sure, but I don't think it was any longer than the first time.

Q How long an interval elapsed between the first fainting episode you have described and the second one?

A It was at least a week afterwards.

Q When was the third occasion he fainted?

A At the conclusion of the formal initiation.

Q How long after the second fainting episode you have described?

A Approximately a week.

Q What was the character of the function which took place at that time?

A The function was purely a formal ceremony.

Q By that you mean what, describe it in a general way.

A The reading of the ritual.

Q Was there anything in the way of physical force applied to Richard Loeb at that time?

A There was no force whatever. In fact at that

time he was in a Tuxedo, formal dress.

Q Describe how that thing took place at that time, just what happened?

A Well, it was merely the conclusion of the ceremony and he fainted away.

Q How did he appear at that time?

A Similar to the other two times.

Q Did you notice whether his eyes were opened or closed at that time?

A No, I did not.

Q ~~Exc~~ Do you know how long he was in that condition, in an unconscious condition?

A I am not sure, he was carried upstairs.

Q Can you give me some approximate idea?

A Approximately three minutes, I should say.

Q Do you know who carried him upstairs?

A In that instance, I think Mr. Lewy did.

Q Mr. Leonard Lewy?

A Yes, I am not sure of that, but I think so.

Q And those are the only fainting episodes you can now recall?

A Yes.

Q Will you describe to us any peculiarities that you

may have noticed in his manner of speech?

A He spoke in a jerky fashion. When he spoke, he spoke fast and he would utter his words in a very hasty manner, a jerky manner. He would not speak in a smooth and free manner, which is the usual way with individuals.

Q In his conversation was his talk logical or illogical?

A He would frequently argue on matters which were not relevant. When we were speaking, when we were arguing on a certain subject he would not infrequently take a different aspect of the subject and stick to that with the result that his friends credited him with --

MR. CROWE: Wait a moment. I object to his friends --

THE COURT: Yes, sustained.

MR. BACHRACH: Q You say he would stick to a point when he started out?

A He started out and would insist upon arguing that point.

Q What relation, if any, did that point have to the general subject of discussion?

A It was usually some minor point which did not matter in the main argument.

Q Now did you notice any signs of nervousness in Richard Loeb other than you have already described?

A Yes.

Q Please tell us what they are or were?

A He would always walk hastily. He would pop into the room. In coming upstairs he would take two or three steps at a time and run. He very seldom walked in the manner which is customarily done. Even when he lounged he would flop down in the seat and all of a sudden he would jump up. In smoking he would take what is known as a drag --

MR. CROWE: Wait a minute. Wait till a question has been asked.

MR. BACHRACH: That is a part of the ~~q~~ answer to the question that I put to him.

MR. CROWE: Read the question. All right. Go ahead. I withdraw the objection.

A He was ~~xxxxxxx~~ nervous in smoking in that he took a quick heavy drag and jerked the cigarette from his mouth. When he was arguing he would walk back and

forth, he would walk to the end of the room and sud-

25r

denly jerk around and walk back in the other direction and keep that up. He didn't sit still very much.

MR. BACHRACH: Q During that period of time how did he appear to you as to whether he was childish or adult in his mental operations?

A He appeared childish.

Q Can you give us some incidents to illustrate your answer?

A On occasions when things of importance were to be done, on any occasions where anything was to be done which required cooperative effort upon the part of his friends and himself he would become over-anxious and in his zeal he would become annoying to his friends and to myself in attempting to carry out his share.

Q You had a system of mentorship at that university at that time?

A Yes.

Q That was conducted by the fraternity?

A Yes.

Q Was there such a privilege of mentorship conferred upon members of your fraternity, senior members of your fraternity?

A It was customary that each senior should act as

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a guide or mentor to the activities of a freshman in view of the immaturity of the freshman as he came into the university.

Q Was the privilege of mentorship given to Richard Loeb?

A No sir.

Q Why not?

A Because I appointed the mentors, so I can say that I considered that he was not able to act as a guide to a freshman.

MR. WALTER BACHRACH: Q Why not?

A Because he did not -- his actions were not such as would incur the respect of a freshman.

Q Actions with respect to what? Childishness?

MR. CROWE: Let him tell it.

A To judgment.

MR. WALTER BACHRACH: Q During that time were there occasions when sometimes a senior had two wards, as to mentorship?

A That year several had two and one had three.

Q Do you know whether the executive council during that period of time censured Richard Loeb for acts of a childish character or conduct of a childish

character?

A During a period of time he was --

MR. CROWE: Just a minute. Yes or no.

A Yes sir.

MR. WALTER BACHRACH: Q Now, will you tell us what the occasion was for that action on the part of the executive committee?

A Because of his enjoyment -- because of his wish to conduct himself in this manner, that is, conducting himself as unbecoming an upper classman. At one time his upper class privileges were taken from him, and he was considered for a period of time as an under-class man in the fraternity.

Q Do you remember the occasion of his graduation from the University of Michigan?

A Yes sir.

Q Was he the youngest member in his class at that time? A The records state that he was.

Q Do you know whether or not he cut the commencement exercises?

A No, I do not.

Q You don't know about that?

A No sir.

MR. WALTER BACHRACH: That is all. Cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q Now, Mr. Witness, I understand you to say that Richard Loeb's mouth twisted, and he talked in a slow, jerking way, and not fluently like other people, and you considered that a bad sign?

A I said nothing — I didn't say his face twisted.

Q Or his mouth?

A Or his mouth twisted. I made no statement of that sort.

Q What did twist?

A I made no statement that anything twisted.

Q Well, what was it about his speech?

A I said he spoke fast and jerkily.

Q And you speak slow and jerkily, don't you?

A Perhaps. I never noticed it.

Q Now, the first time, Dick fainted, a crowd of boys jumped on him, is that correct?

A Yes, sir.

Q And Dick was the youngest fellow in his class?

A Yes, sir.

Q So all the boys who jumped on him were older than

2m

A No, sir.

Q Were the majority of them older?

A I am not sure.

Q What year was he in when they jumped on him?

A He was in his junior year.

Q And what class were the boys in that jumped on him?

A Three classes, senior, junior and sophomore years.

Q And Dick graduated there at the age of what? Sixteen?

A I don't know.

Q Well, he was the youngest man in the college to graduate?

A Yes.

Q Now, are you quite certain that instead of fainting, that he was not knocked out at that time?

A Yes, sir.

Q How do you know?

A Of course there is a possibility that that was the case, but a number of other boys —

Q No, no, how do you know? What is the reason?

A That is my observation.

Q You observed a number of boys jumping on this little fellow here sixteen years of age at that time?

A He was the same height.

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Q And as the result of being jumped on, he lost consciousness. Now, you don't know as a matter of fact whether he fainted or whether he was knocked out, do you?

A I did not say, -- I said that he was going to get up when he suddenly fainted.

Q When he was initiated in the fraternity, you say that was a physical initiation?

A Yes.

Q Did they have a goat there?

A I don't know.

Q Well, he was not used --

A In what sense? In what sense?

Q (Continuing) -- very gently, was he?

A He was used no harder than any of the ~~ms~~ other boys who took the initiation.

Q I know, but the initiation was not a gentle affair. It was a physical initiation, administered by a lot of young college boys, was it not?

A Yes, sir. It was supervised --

Q And do you know whether --

MR. DARROW: Let him finish his answer.

MR. CROWE: Q Supervised by who?

4m A It was supervised by several graduate students in college.

Q Oh, yes. Who were members of the fraternity?

A Yes.

Q Fellows who were about twenty-one, or two or three, who happened to be present at the time?

A Two men who were about twenty-four, who were in medical school, were there.

Q Oh, you had a couple of doctors there to see that if they did knock him out, he could be revived again, is that it?

A I don't know. I haven't thought that it was.

Q When you carried him upstairs, was it one of these doctors that carried him up, that you had on hand?

A I don't remember. The doctors were small, and I doubt if they could have carried him.

Q Well, did the doctor attend him?

A I imagine so.

Q Well, you have pretty rough initiations when you have to have a couple of doctors present to see that you don't kill anybody?

A I didn't say that the doctors were present to see that

5m

were living in the fraternity house and were members of the fraternity and were attending the university.

Q All right, now, the next time he fainted was at another initiation at the same fraternity, is that correct?

A Yes, sir. The same initiation, but a different ritual.

Q Describe the initiation so we can find out whether there was anything in that that would cause a boy to feel faint?

A I don't care to do that, sir. I don't feel free to.

Q Was that on the same day?

A A week later.

Q Of course we have got to take your word whether it was a faint or another knock-out. You won't describe the initiation, will you?

A I will describe it to this extent --

Q Will you describe everything that was done.

A I will describe it --

Q No, no, will you describe everything that was done in that initiation?

A No, I will not describe everything.

Q All right. Now, the time Dick was censured, that was for being drunk, wasn't it?

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A There were several occasions on which he was censured.

Q Well, he was censured for being drunk, wasn't he,

A One ~~time~~ time he was censured for being drunk.

Q You don't regard drunkenness as a childish phantasy, do you? Or a childish attainment?

A I don't know. It may be in some cases.

Q Now, before you take a fellow into the fraternity there, you rush him, as you say, for some time, don't you?

A We consider him, yes.

Q And by rushing you mean that you investigate him and observe him very closely to see that he is the kind of a fellow you would like to have in the fraternity?

A Yes sir.

Q You did that in Loeb's case, didn't you?

A Yes sir.

Q You had about twenty-eight members?

A Approximately.

Q And they all investigated?

A Investigation was made, yes, and all the members

became acquainted with him.

Q Yes, he is brought up to the house for dinner, and he is introduced to all of the fellows so that before you take him into the sacred precincts of your fraternity, you are satisfied he is the kind of a fellow you want in there?

A Yes sir.

Q Now, you do not take in your fraternity boys that are mediocre, do you?

A Not if we can help it.

Q You try to get the pick of the college, don't you?

A Yes sir.

Q And you took Dick in after investigating him for a long period of time?

A Three months.

Q And he was unanimously elected as a member?

A He was elected as a member.

Q He was not blackballed by anybody, was he?

A I am not free to say.

Q Well, I will withdraw that. He was elected after three months of investigation by twenty-eight men who wanted to get into that fraternity the pick of the

35r

college, that is true, isn't it?

A He became a member of the fraternity after consideration by those twenty-eight men.

Q Well, he was elected, was he not?

A Yes sir.

Q Now, what year was that?

A His junior year.

Q I know, but what year was it?

A December of 1921.

Q That was three years ago, and he is eighteen years old. He was fifteen years of age then, is that right?

A Yes, I suppose.

Q Now, the average fellow that goes to college after he gets out of high school is eighteen or nineteen years of age, isn't he?

A Yea sir, I think so.

Q Generally. Isn't a reason that you did not put this boy as a mentor over freshman, that he was three or four years younger than any of them? Now, isn't that a fact?

A He wasn't that young when he was a senior.

Q He was sixteen then, is that right?

A Probably, yes.

Q And the boys that he would have to boss would be boys of eighteen or nineteen?

A That fact had not been held against men previously.

Q Well, it was a fact here that if he were a mentor, he would have to have a fellow that was two or three years older than he was to look after?

A The reason he was not appointed --

Q No, that is the fact, isn't it?

MR. DARROW: Just a minute; let him finish his answer.

A The reason he was not appointed a mentor, as I pointed out, --

MR. CROWE: Q No, not the reason, but it is a fact if he was appointed a mentor he would have to be the mentor of some boy two or three years older than he was?

A As I remember at that time, there were boys in the house who were younger than sixteen, or at least younger than eighteen, and I am quite certain that there were some who were sixteen.

Q Who are they? Who was younger than sixteen in your fraternity house at that time?

A Richard Klein.

Q What was he at that time?

A He was a freshman.

Q Freshman? Somebody else had him, didn't they?

A Yes sir, one man who had three, Mr. Schroyer.

Q So this young fellow who was sixteen had a mentor, didn't he?

A Yes sir.

Q And Dick, who was sixteen, did not have a mentor?

A Yes sir, but this man was a freshman, and Dick --

Q Now, wait a minute.

MR. DARROW: One moment, I object.

MR. CROWE: The boy of sixteen had a mentor.

MR. DARROW: I want my point ruled on, that he has a right to finish his answer.

THE COURT: Let him finish his answer.

MR. DARROW: Finish your answer.

THE WITNESS This boy Klein was a freshman just entering college from High School; he had had no experience in college, and that is the reason for which a mentor is supplied, in order to guide him, and Loeb had been four years in college or was in his fourth year in College, and had been through the mill.

MR. CROWE: Q Loeb was a junior when he entered

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into the fraternity and into the college?

A Yes sir.

Q So that was the first year he was in college?

A Yes sir.

Q In Ann Arbor. Schroyer, that was his first year also, wasn't it?

A Schroyer attended the University of Michigan for four years.

Q Oh, Schroyer had four years experience there, and Dick only had one?

A Dick attended the University of Chicago for two years.

Q No, I am talking about Ann Arbor. I am talking about Ann Arbor?

A Yes sir.

Q And in the fraternity?

A Yes sir.

Q And Dick did not have a mentor, and Schroyer did?

A Dick was not a mentor, and Schroyer was.

MR. DARROW: Yes, you are wrong. Dick was not a mentor, and Schroyer was. He had three of them.

MR. CROWE: Q When Dick graduated from college, he was still a member of your fraternity?

A Yes sir.

Q And is yet?

A Yes sir.

Q You say another queer thing was that when he went upstairs, he ran up instead of walking up, taking a couple of steps at a time?

A That was something I remarked, yes sir.

Q That was very unusual in a young boy of sixteen who was extremely athletic and fond of athletics, to run upstairs, taking two stairs at a time? That is quite unusual, isn't it?

A I don't know.

Q Well, it appeared unusual to you, and you remember it all this time?

A That is why I remembered it, sir.

Q Have you ever seen any other young fellows run upstairs?

A I think I have done so once or twice, but not all the time.

Q Well, you did not do it long enough to let it become a phantasy with you or a psychosis?

A I don't know.

MR. WALTER BACHRACH: I object to that question.

THE COURT: Strike it out. Objection sustained.

MR. CROWE: Q You said that when Dick was cooperating with other boys in doing something, he was over-anxious to help, and it appeared to you to be childish?

A Yes sir.

Q Now, just give us a specific instance of something that he did?

A In the preparation -- in preparations for entertaining guests over a week-end, or things that required preparation --

Q Give me a specific instance. Tell me some particular occurrence where in his over-zeal and anxiety to help you, appeared to you to be childish.

A In a football game in the house -- I mean it was held in the yard, but among members of the house he was so anxious to conduct the affairs of the game and to show others how to do it, although he was not overly proficient himself, that he incurred the displeasure of his friends.

Q As a matter of fact, you did not like Dick in school?

A I liked him.

Q Yes. Well, I guess that is all.

MR. WALTER BACHRACH: Is that all, Mr. Crowe?

MR. CROWE: I think so.

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REDIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q Which is the mentor, the one who has charge of another, or the one who is in charge?

A The one who is in charge is the mentor.

Q Are you willing to let us know what is the general character of the initiatory rites which you have referred to, on the occasion of Dick's having fainted?

A Yes sir.

MR. CROWE: Unless he gives it all, your Honor, it is a matter of cross examination. I don't want merely a part of it.

MR. WALTER BACHRACH: We don't want all of their secrets, is all; we don't want all of the secrets of this organization.

MR. CROWE: I want the whole of it, or none of it.

MR. DARROW: Oh no, you don't. That is all it is for, is just to show the general character of it.

THE COURT: Yes, show the general character.

MR. WALTER BACHRACH: Q What is the general character?

A The general character, as I said previously, was purely a ritual ceremony; and it was with the presence of a member of the college who is also an honorary member of the fraternity, and the members were garbed in formal clothes, and nobody was touched during that ceremony.

Q Well, the reason why you hesitated to give us the information in detail about it is because such exercises are secret, is that right?

A Yes sir.

Q And you desire to have them kept so?

A Yes sir.

MR. CROWE: Of course we don't know whether there was something said to him that scared him in those exercises.

MR. DARROW: The State ought to have the benefit of the doubt on that.

THE WITNESS: I think twelve others who were initiated at the same time did not faint.

MR. WALTER BACHRACH: Q He was one of twelve who were being initiated together?

A Yes, one of a large group.

Q At that time was Stanley Lewy a member of the fraternity?

A No sir.

Q Were there any boys members of the fraternity at that time who were younger than sixteen?

A I would have to look that up.

Q You don't recall now. I mean, freshmen or classmen?

A I think as I mentioned, I don't recall exactly.

Q That is all. If a man is a member of the graduating class and he has a freshman under his care, which one of these two is the mentor?

A The mentor is the senior, the one in the graduating class.

MR. WALTER BACHRACH: That is all.

(Witness excused)

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

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Court resumed pursuant to short
recess heretofore taken.

J O H N A B T ,

a witness called on behalf of the Defendants, having been
first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

Q What is your name, please?

A John Abt.

Q Where do you live?

A 5217 Greenwood.

Q You are a student at the University of Chicago?

A Yes sir.

Q At the present time you are studying law?

A Yes sir.

Q Did you graduate from the academic department

last June?

A Last June.

Q Do you know the defendant Nathan Leopold, Jr.?

A Yes sir.

Q How long have you known him?

A For four years.

Q Was he a student at the Chicago University at the same time that you were, when you first knew him?

A Yes sir.

Q And how well did you know him?

A The first year I knew him very slightly. Then he went away to Michigan for a year. When he came back last year I knew him better, quite well.

Q During that period of time did you have occasion to have lunch with him and have discussions with him from time to time?

A Yes, during the last two years.

Q Did you have any discussions with him during that period of time relating to his philosophy of life?

A Yes sir.

Q Will you please tell us the substance of those conversations?

MR. CROWE: I object, your Honor.

MR. WALTER BACHRACH: On what ground?

THE COURT: No. It is competent.

MR. B.C. BACHRACH: We would like to be heard on that, briefly.

MR. CROWE: Ask him what his politics were.

MR. B. C. BACHRACH: We want to show --are you ruling in our favor, your Honor?

THE COURT: Yes. Tell us, young man.

A His main thesis was that pleasure was the sole emblem of all conduct. Whenever he contemplated an act he would weigh the amount of pleasure, balance it up against the amount of pain which he thought he would get out of it. If the pleasure was greater than the pain he would do the act. If not, he would not. That was his sole method of determining what his conduct was.

MR. B. C. BACHRACH: Q When did you have your first conversation with him along this line?

A Last autumn.

Q Did you have more than one conversation of that same general tenor?

A Yes, we had very many.

Q Did you in your conversations with him at any time discuss the Nietzschean philosophy?

A I don't know that we did specifically, but we did refer to it, certainly.

Q Did you ever discuss the superman idea in connec-

tion with Nathan Leopold?

A Yes.

Q Tell us just what Nathan Leopold said about that.

A He was discussing the subject of his relations to his friends, and said that as far as his friends were concerned, they were simply means to ends, and he used them for the amount of pleasure that he got out of them, and as soon as a friend ceased to give him pleasure or provoked him in any way, he would have no remorse in throwing him over, no gratitude in friendship with the one exception of a boy he regarded in the light of a superman, a boy who could do anything, until he got caught, and as soon as he made a mistake and got caught he ceased to be a superman, and returned to the level of ordinary mortals and he would be on the same status with other friends.

Q Did he refer in that connection to Richard Loeb?

A I asked him who the boy was, and he said Dick.

Q Do you know the defendant, Richard Loeb?

A Yes.

Q How long have you known him?

A I have known him for seven or eight years, I think.

Q Have you known him well during that period of

A We were freshmen in high school together, and I knew him very well.

Q Did he on any occasion discuss with you the question of stealing?

A No, he did not discuss it with me.

Q Did he make reference at any time to the ease with which pockets could be picked?

A No, not in words. I remember seeing him on several occasions call my attention to the fact that he was about to take something out of a boy's pocket and then proceed to do it.

Q Some other boy's pocket ?

A Yes.

Q How old was he at that time?

A That was seven years ago.

Q That would make him twelve?

A Yes.

Q On any occasion did you see him steal?

A I remember on one occasion we went to a shop on 55th Street and he went in, and I think made some small purchases, and then -- I did not know it at the time -- but after we got out of the shop he showed me some

small article he had taken, I don't remember whether it was a pencil or what, and I asked him if he expected to take it back, and he said he would some time.

Q Did he at that time take it back?

A Not as far as I know.

Q How old was he then?

A About the same age.

Q Eleven or twelve?

A Yes.

MR. WALTERBACHRACH: That is all.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q Talking about Leopold and his philosophy of life, as he expounded it to you, it indicated he was self-centered and selfish?

A Yes.

Q And egotistical?

A Yes.

Q You regarded him outside of that as a normal person who talked rationally and intelligently?

A Yes.

Q And he discussed this particular philosophy of his with intelligence?

A Very intelligent.

Q The same as if another person were ~~asked~~ discussing the Darwinian theory?

A Yes.

Q There was nothing unusual in his behaviour or his speech?

A Except the radicalness with which he adhered to that doctrine, the radicalness of the doctrine.

Q The same as an anarchist would tell you what his views were?

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A Yes.

Q Outside of that it was a normal, rational discussion?

A Yes.

Q Loeb, when he was eleven or twelve, picked a few boys' pockets?

A Yes.

Q Did he give the stuff back to them?

A I think he usually did, yes.

Q He merely wanted to show you how smart he was, the same as he would do a trick?

A I don't know what his motive was.

Q He just showed you how easy it was to pick a pocket, and then he gave the stuff back to him. Now, I don't suppose when you were a boy you went around with fellows that went barefooted and whose folks were not as well situated financially as your parents? and who used to steal a watermelon occasionally from a wagon or in front of a store?

MR. BACHRACH: I object to the question, if your Honor please.

THE COURT: Let him answer.

A I don't recall ever having.

MR. CROWE: Q Your friends didn't have to steal

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watermelons, if they wanted one their folks bought
it for them?

MR. DARROW: Or pick a pocket, either.

MR. CROWE: I guess that is all.

THE COURT: That is all, young man.

(Witness excused)

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ARNOLD MAREMONT,

was called as a witness on behalf of the Defendants,
having been previously duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q What is your name?

A Arnold Maremont.

Q Where do you live?

A 5216 Ingleside Avenue.

Q And your business?

A Student at the University of Chicago.

Q Are you engaged in anything now during vacation?

A Yes, I am doing some work at the Charity Camp,
boys work.

Q For some charitable society?

A Yes, the Young Men's Jewish Charities.

Q And you were called as a witness by the State a
while ago, several days ago?

A Yes.

Q What department of the university are you in?

A The law school.

Q Do you know Nathan Leopold, Jr.?

A Yes.

Q How long have you known him?

A About four years.

Q And how well have you known him?

A Just intimately for a short time during the last school year.

Q Have you discussed with him his philosophy of life?

A Yes.

Q And you knew his views on that question prior to May 21st last?

A Yes.

Q How often have you discussed them with him?

A Well, in the fall of 1923 and the early part of the winter we had lunch together on an average about once a week for a period of about four or five weeks and after that time we ~~met~~ spent a number of afternoons together, mainly talking philosophy.

Q What were his views of philosophy?

A He had various views, he was mainly an individual hedonist.

Q Tell them what you mean by that term "hedonist"?

A He believed in his own happiness regardless of

anyone else's right, as far as he was concerned, anything that gave him happiness, and that the only wrong he could conceive of was something that did not give him happiness regardless of anyone else.

Q Did you hear him talk about his favorite authors on philosophy, or do you know what school he belonged to as a philosopher or thought he did, rather?

A He belonged to the Hedonist School of Philosophy, as much as I know philosophy.

Q Did you hear him talk about a superman?

A Yes, he believed in a superman, believed in the possibility of a superman.

Q What did you hear him say about the superman?

A He felt that logically men were born with equal intellects, and starting out with the imbecile and the feeble-minded and the man with a very good mind, he thought one must reach where some man would have a remarkably better mind than anyone else, and carrying that to a logical end, there must be one man who perhaps would have a perfect mind, and to approach that stage where he would have that remarkable mind, that would set him off from the rest of the world's

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minds, the minds of the ordinary people.

Q What did he say about the duties of obligations of a superman?

A He felt that the superman should be the law giver, because after all he had the super intellect, he knew more than the other men. Therefore, he would be the one logical man to be in a position to make laws, and therefore he should make laws to suit himself, to satisfy his own needs regardless of man made laws.

Q Did you discuss Nietzsche's philosophy with him?

A I don't know that it was discussed by him. I think that I have attempted as best I can to explain his attitude toward the Nietzsche and superman philosophy.

Q Nietzsche was a superman philosopher, was he not?

A Yes, sir, as much as I know of him.

Q What did he say was the measure of right and wrong for a superman?

A What was right? Do you mean what would be right for the superman or what would be wrong for the superman?

Q Yes.

A Merely what he thought was right and what he thought was wrong.

Q Without regard to any other system of philosophy of morals?

A Yes sir. Of course that would have some limitations, --A superman would have definite ideas I imagine, he said, toward life.

THE COURT: Keep your voice up so we can all hear you please.

THE WITNESS: Yes.

MR. DARROW: Q Were you present in class when he asked questions ~~at~~ of the dean about the superman?

A I imagine I was present, and I just faintly recall the incident.

Q The dean was lecturing on torts.

A The question was asked of Dean Hall. I think the question asked of Dean Hall was whether or not it would be wrong for a superman to commit a super crime, that is whether or not his attitude toward right and wrong should not be taken cognizance of in fixing his punishment or fixing his guilt for committing a certain offense.

Q Did you ever have any discussion with him as to

how much one might do or should ^{do} that would give him

pleasure?

A Yes, I think we discussed that, and he said that one could do anything as long as it gave him pleasure, as long as it would at no time prove a boomerang and give him displeasure. In fact, he made the statement one afternoon that if it gave him pleasure to go out and murder someone it would be perfectly all right in his philosophy to go out and murder a person, provided of course he were not apprehended for the murder and forced to suffer punishment.

Q Do you know how long ago that was?

A It was some time in the fall. I imagine it was in November.

Q Did he ever say anything to you with reference to Richard Loeb and his view of him?

A Yes. On one occasion, regarding his superman philosophy, he said that in his estimation there was one man that he knew that approached the superman stage and that man was Richard Loeb. He said he arrived at that conclusion by finding out what to his mind the certain number of attributes a superman would have, and in taking judgment of any particular individual he simply set down his attributes against

those of a superman and found out how close they came, and he found out that Richard Loeb came nearest to anybody that he ever met or expected to meet.

Q How was Leopold as to being self-centered, egoistic?

A He was very egocentric. Practically all the time that I was with him, in ordinary social conversation, he attempted by any sort of ruse possible to monopolize the conversation. It didn't make any difference what was being said or what was being talked about, he always attempted to get the conversation revolving around him so he could do most of the talking.

Q How was he as to intellect, in a book way?

A Practically a wonder.

Q How was he in the practical affairs of life?

A I never had any regard for his attitudes, his judgment practically at all.

Q You ~~ka~~ knew all about his attainments in an intellectual way, I suppose; you have heard all that?

A Yes sir.

Q And knew something about it?

A Yes sir.

Q Did he tell you anything about what he had done

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in order to get new experience?

A Yes sir. We talked of that. He said he would try anything once to find out how much happiness it gave him, because to carry out his philosophy consistently, one had to try everything to see what gave one the greatest happiness, and when you found what gave you the greatest happiness you wanted to do as much of that as possible.

And along that line I think I recall an incident where he told me of the excitement in attempting to do what they call surf flying in Hawaii when he was over there last summer, and which according to his description of it, was a rather dangerous thing to do, simply to find out what the experience was.

Q Do you know what it was, how it was done?

A As he described it, it was something like getting in a high wave and trying to ride with it or against it on a board. I don't think I could exactly recall.

Q And did he tell you about eating strange dishes or the like of that?

A I think he said he tried -- he was willing to try anything once to see whether or not he enjoyed, and how

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much he enjoyed it.

Q Did he tell you anything about or call your attention specifically to anything happening at 63rd and Cottage Grove?

A I think early in the fall, talking of different experiences, of different foolish things that one did, I think he told me of an incident where he and Dick Loeb got drunk one night and sat down on the corner of 63rd and Cottage Grove begging pennies. Yes, he told me that himself.

Q Did he tell you why?

A Well, at the time I think it was attributed to the fact he was supposed to have been drunk.

Q Well, that is not the way I have got it. You are undoubtedly right.

MR. SMITH: That is not the way he is supposed to say it, you mean?

MR. DARROW; That is not the way I understood it to have been done.

Q How about his drinking?

A I don't think I was ever with him at any time that he was over drunk. I recall an incident last Christ-

mas during the vacation, a couple of nights before vacation, where he made a statement one night that he had come to such a pass that he absolutely had to partake of alcoholic stimulants in order to fall ~~at~~ asleep and in order to keep his mind active during the day. He said he was drinking all the time just to keep going, could not get along without it.

Q Did he say directly anything about his being a superman in connection with that?

A He thought he was at a relative stage -- he thought his mentality was a great deal superior to the ordinary person.

Q That is himself?

A Yes, his mentality. Of course he did not think he was as close to being a superman as Dick did, by his putting him there.

Q Did he tell you anything about the "will to power" and the fundamental desire?

A I don't understand what you mean by that question?

Q Did you get that last question?

A I think I heard it, but I --

Q The will to power; that is a Nietzschean expression,

is it not? If you do not recall, all right.

Q I don't exactly know what you are referring to, by "will to power".

MR. B. C. BACHRACH: I don't hear you.

A I don't exactly understand what Mr. Darrow is asking there. Perhaps he is asking -- no, I don't understand it.

MR. DARROW: Q I am asking in reference to Nietzsche's idea of the "will to power", whether that was discussed.

Q I don't think the term was ever used, that I recall.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q Now, did you give Mr. Darrow all the information he has got in the notes that he has got those questions based on?

A Yes.

Q You did not give him the will to power, did you?

A I don't know whether I did or not. Most likely I did not, otherwise I would have a recollection of it. I did not give him that information in the form of those questions. I talked to Mr. Darrow and the questions he asked me are sections of our conversation.

Q When you talked to Mr. Darrow he asked you much the same questions as he did now?

A No, he didn't ask me any questions.

Q Did you do all the talking?

A Mr. Darrow asked me whether or not I knew anything that Babe Leopold had told me that would have a bearing on this case, and not knowing whether it would or would not, I practically gave Mr. Darrow the information that I have just given in the record.

Q When did you talk to him?

A I talked to Mr. Darrow first two weeks ago, I think.

Q You talked to Milton Smith, an assistant state's attorney, on June 10th, didn't you?

A Yes, sir. That is one of the various times I talked to Mr. Smith.

Q You didn't tell Smith anything about these theories, did you?

A Mr. Smith at no time ever asked me anything pertinent to that.

Q Mr. Darrow didn't ask you anything about it either, did he? He asked you what you knew.

A Mr. Smith asked me a very pointed question at the time I was in the office and I answered the question as best I could.

Q You said the reason you did not tell Smith was that Smith did not ask you about these matters. I understood you also to say that Darrow did not ask you anything at all, except one question, "Tell me what you know that might have a bearing on this case."

A Yes, sir.

Mr. DARROW: Isn't that enough?

MR. OR : Q Then you did tell Mr. Darrow these things and you did not tell Smith?

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A Because Mr. Smith asked me an entirely different question and I answered his question as best I could. Mr. Smith called me ~~me~~ in one morning from the university --

Q Well, you have answered it now. At the time you talked to Smith in the State's Attorney's Office on Tuesday, June 10th, 1924, at ten ten A.M., there was present with Smith and yourself a stenographer?

A Yes sir.

Q Talking about Nathan Leopold, Jr., ^{was} ~~was~~ this question asked you:

"Now, outside of his brilliancy, what you could naturally call his super-education, have you ever had any reason to believe that Leopold was anything else but a perfectly rational, normal young fellow?"

Was that question asked you?

A I don,t exactly recall, but I think the question amounted to about that.

Q And your answer was:

"I have no apparent reason to believe that, no."

A Just exactly.

Q Then you were asked, "Prior to May 21st, 1924,

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"did you have an opinion as to whether he
was sane or insane",

and you said,

"Well, casually knowing him, I would regard
him to be a sane creature":

A I don't think that was exactly my answer.

Q Will you say it was not?

A Yes. I think I would say that there were a few words
that were left out of the answer. May I state my
reason for saying that?

Q No.

MR. DARROW: I will ask ~~xx~~ him about it then.

MR. CROWE: You can go ahead later.

Q Now, this philosophy -- well, you know Loeb also?

A Casually.

Q And he was apparently a very rational, ~~xxx~~ normal
young man also?

A He was apparently rational.

Q Apparently rational and normal?

A Apparently, yes.

Q You regarded him as rational and normal, didn't you?

A I never particularly cared for him.

superman proposition?

A Yes, there are.

Q And in these discussions of the doctrines laid down by these philosophers, Leopold adopted the Nietzschean theory?

A Yes sir.

Q And that is a well-recognized theory of philosophy?

A What do you mean by recognized?

Q Well, it is a well-known theory among students of philosophy?

A Most students of philosophy get to it sooner or later.

Q Yes, I say, it is well known. It is nothing new or novel that originated with Leopold?

A No, his application of it was.

Q It originated with this philosopher?

A His application perhaps was a little different, but the philosophy itself was not new.

Q Now, Leopold could carry on a very intelligent discussion, couldn't he?

A Mostly a monologue.

Q Of course, I will admit that he likes to occupy

the center of the stage most of the time, but while he was talking it was a sensible discussion of that particular subject?

A Yes, as much as I could make of it.

Q As far as you could understand? And all you could gather is that he had adopted a wrong philosophy so far as you were concerned, is that all?

A I never gathered anything from our discussions except what he told me.

Q He did not believe that there was a perfect man?

A Do you mean existing?

Q Yes.

A No, I don't think he ever believed that in this stage there ever was a perfect man existed.

Q And he thought according to evolution where you come up from an idiot and then a person of slow or little mentality and a gradual development.

MR. DARROW: We don't come up from idiocy.

THE WITNESS: I don't think we ever discussed it from that angle at all.

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MR CROWE: Q Well, you did say something about the person of very poor intellect and the man of very superior intellect.

A That was not by the Darwinian theory of evolution.

Q I am not trying to classify it, but I am talking about a discussion you had in which that matter was referred to.

A I don't think you exactly understood what I said before. I said that he attempted to show there must be a superman intellectually and in other ways by saying you started out with one creature who is absolutely nothing, for example, an imbecile, and then you have the man who has more intellect, and then the man who has still more intellect, and where going on up to the top you must have a man with the greatest intellect who must be the greatest man.

Q That is like a Napoleon or Alexander the Great?

A That all depends on what your conception of the superman would be.

Q Would you consider Napoleon, Alexander the great or Shakespere as supermen?

A I don't know, I am not well versed in the super-

man philosophy, and I have never gone as far as putting men in the stage of superman, never thought of it.

Q And then he thought the smartest man, getting down to language which we all understand, -- the smartest man ought to be ruler?

A Smart in the sense of what?

Q Intellect, everything?

A Meaning all-around attributes?

Q Yes.

A Yes, he thought he should be the law-giver.

Q Well, that is a pretty sound doctrine, isn't it? If we picked out the smartest man and the wisest, we ought to let them run us for a while?

A If there was such a possibility I think it would be logical.

Q Certainly. There is nothing wrong in that, is there? ~~is~~ If you were going to pick out a ruler, you would pick the wisest, brightest man in preference to a man of very mediocre attainments?

A I don't know what you mean by wisest; do you mean mentally the smartest?

Q In every way?

MR. SMITH: The perfect man.

THE WITNESS: Well, that philosophy would perhaps be an all right philosophy if it were logically possible or practically possible, but it has no practical end. He admitted there was no such thing as a superman actually.

MR. CROWE: Q Leopold did?

A Yes, that it was not possible.

Q Yes.

A Superman was imaginative.

Q Well, of course we all agree there is not, but if we did have one of those fellows, his theory, that he ought to be the ruler, would not be a bad one, would it?

A If everything else in the universe conformed to that, of course. Of course if he set himself up as a ruler because he thought he had the intellect, of course it wouldn't go so very well.

Q Well, the only difficulty you can find with Leopold's discussion is that he was a little bit over-educated, out at the Chicago University in dangerous doctrines, isn't that about all?

told me.

Q Well, now, isn't that about the situation, that he was over-fed with a lot of dangerous doctrines by professors out at the Chicago University, that aren't practical?

A I don't know whether I would say that because I know other men who say the same thing, and they are not at all in the same predicament that he is in.

Q Oh, you know a number who have the same theory as Leopold, that didn't want to go out and murder people, do you?

A Yes, but they are different types of creatures.

Q Certainly. And the only difference is that they are not murderers, and he is?

A No, they were different entirely. Their makeups were different entirely, they were a different makeup.

Q Certainly. They have a different makeup, otherwise if they had the same makeup as him we would have to try them when we get through with this case, if we ever do? That is all.

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MR. DARROW: Just a question please.

REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Now, you were asked whether you said a certain thing about Leopold in the State's Attorney's office, looking him over casually, as to casually, you would say he was sane? What was it you said there?

MR. CROWE: Apparently.

MR. DARROW: What?

MR. CROWE: Apparently.

MR. DARROW: Apparently or casually.

MR. CROWE: From a casual acquaintance with him.

THE WITNESS: I don't understand the question.

MR. DARROW: This is Leopold I am speaking of now.

THE WITNESS: Yes, I understand that.

MR. DARROW: Q Mr. Crowe asked you whether you made a certain statement, and you said they didn't have you reported correctly?

A ~~Ex~~ No sir. I very distinctly recall the question, the substance of the question, and my answer was, that from a casual acquaintance he was apparently sane.

Q Did you express any opinion yourself as to whether he was sane or insane at that time?

78r

2m A No, sir.

Q And were you asked for any opinion as to whether you thought he was sane or insane, on the day you were there?

A The question was only as --

Q In the states attorney's office.

A Yes. The question was only as Mr. Crowe read it, in substance, whether or not on c acquaintance I thought he was sane, and I said apparently I thought he was sane, meaning of course legal sanity.

MR. CROWE: Who are you talking about?

MR. DARROW: Leopold.

Q You didn't express any opinion as to his abnormality or any of that kind of thing?

A No, sir.

Q Did you ever have one?

A Of a nature.

Q From your acquaintance with him what would you say as to the character of his mind, as to whether he is abnormal?

A Will you repeat that question, if you will? - 1

Q What do you say from your acquaintance with him, if you have an opinion, as to whether he is normal or abnormal at this time?

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A I don't know in what sense you are ~~ak~~ asking that question. Do you mean legally whether or not he can distinguish right from wrong?

Q No, I don't mean legally. I didn't ask you, excepting the question of normality? That is not a legal term at all. If you haven't any opinion, why, answer that way.

A Well, in a sense I have an opinion, yes.

Q What is it?

A I don't think he is perfectly normal in the sense of being, completely, just like all the rest of us. As I said before, here was a fellow, as I knew him, who was intellectually marvelous, intellectually a genius, perhaps; but practically, as far as common horse sense goes, he was nothing, absolutely a nullity, he amounted to nothing. That is not perfectly ordinary.

Q You didn't know Dick Loeb very well, did you?

A Just casually.

Q You had no opinion on — no basis for forming an opinion as to him, had you?

A Nothing except by hearsay.

Q But yourself, I mean, you had none?

A No, sir.

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Q Now, you were somewhat familiar with Nietzsche?

A In a very superficial way.

Q His ideas of the superman, that is Leopold's idea of the superman, involved those who were in the nature of supermen, being a law unto themselves, did they not?

A Yes, sir.

Q And whether it was Nietzscheism, you don't know, or whether it was his conception of it?

A I don't know whether I do or not.

Q And he put himself in the category of those who should do as they pleased, if they could get a sensation out of it?

A Yes, sir.

Q That was his philosophy?

A Yes, sir.

MR. D W: That is all.

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RECROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q You say that intellectually he was a wonder and practically not so good?

A Yes.

Q What do you mean by "practical", do you mean in the practical affairs of life?

A The ordinary passing judgment, any ordinary thing that occurred that does not require book learning. For example, the estimation of people which is simply a matter of experience and good horse sense, what you think of a man whether to trust him or not to trust him.

Q Well now, who did he pass judgment on, that you remember?

A Well, he passed judgment on an innumerable number of people, you realize that we were together a great deal.

Q I know, but name me one that he passed judgment on where he showed he had no horse sense, as you say.

A I cited that --

MR. CROWE: I want to thank you for introducing the English language back into the trial again.

THE WITNESS: I introduced that as a hypothetical instance.

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Q Give me one fellow he passed judgment on that would indicate he had no horse sense.

A I don't think I can, I simply used that as a hypothetical instance.

Q Take a boy going to college who is making the progress that he is making in college who outside of his collegiate work starts in to make money to maintain himself and establish himself as Leopold did -- he had three ornithology classes, didn't he?

A I don't know exactly. I think he had some.

Q Assume he had three and there are approximately thirty-six people and he had four lessons a week I believe, and he got three dollars a piece from each of the thirty-six, that was not such a bad business for a young college fellow.

A I don't think that was a matter of business as far as he was concerned. I don't think he was particularly interested in making money from what he told me.

Q But he kept on collecting the three dollars.

A I don't know whether he did or not.

Q Assume that he collected that, that was pretty good business judgment.

A I don't know. Perhaps the services were worth ten dollars and he was only getting three dollars.

Q And if he did not have a chance to take the class out he had a substitute at one dollar and fifty cents and he got his dollar and a half; that is pretty good business judgment.

A Perhaps his knowledge of his relation to the substitute was ten to one. I don't know anyone who I have talked with about ornithology who says they knew ~~anywhere~~ anywhere what he knew on the subject.

Q I know, but just answer if you can?

A I can't.

Q A man who gets another fellow to do work for half of what he gets isn't a very bad business man, is he?

MR. DARROW: I object.

MR. CROWE: All right, that is all.

THE COURT: If that is all with this witness ^{we} will suspend now until tomorrow morning at 10:30.

Whereupon an adjournment was here
taken to 10:30 o'clock, Friday, August
8th, 1924.

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Friday, August 8th, 1934,

10:30 o'clock A.M.

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

Friday, August 8th, 1934, pursuant to adjournment heretofore taken.

Present, same as before.

THE COURT: I want to say to the members of the press here that from now on none of you will be permitted to come in without the cards that have been given to you. You are not treating the court fairly. I had reports two days ago about your coming in without cards yourselves, and giving your cards to others. Anyone who has not got a card will not get in here, and they will not be given another card, and if you do not stop it I will take up all of the cards that there are and report to your employers, the publishers of the different newspapers, that you folks have imposed upon the court.

There were at least fifty people here yesterday who came in on cards that you boys had given to

them. That is not fair. I should think you men would have honor enough not to do such a thing as that. I have given you every foot of space we have in the courtroom, and I have given you the use of all my rooms on the outside, and still you do not do what is fair.

If I catch anybody doing this any more I am going to call up the publishers of the paper and ask if they want to do something about it; and if they don't stop it, I have a way of stopping it myself. I will put fifty more policemen at the doors and then none of you will get in. It is not fair to do this kind of thing.

Mr. Sheriff, permit no one to remain in the room who has not a card. If anyone has given his card away, that is his fault, and not mine.

THE COURT: You may proceed, gentlemen.

D R. R O B E R T B R U C E A R M S T R O N G,

a witness called on behalf of the Defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q What is your name please?

A Robert Bruce Armstrong.

Q Where do you live?

A Charlevoix, Michigan.

Q What is your profession?

A General practitioner of medicine.

Q How long have you been a practitioner of medicine?

A Thirty years.

Q At Charlevoix?

A At Charlevoix, yes.

Q Where did you graduate?

A University of Michigan.

Q Do you know Richard Loeb?

A I do.

Q How long have you known him?

A Several years.

Q Did you ever have occasion to see him?

A I did.

Q When was that?

A The summer of 1930.

Q Where was it?

A At the Charlevoix Hospital.

Q You are connected with the hospital?

A I am.

Q And that was what summer?

A In 1930.

Q What brought him there?

A As the result
of an accident.

Q Automobile?

A Yes sir.

Q Any special injuries of fractures or anything
like that?

A No.

Q How long was he there in the hospital?

A He was in the hospital several hours.

Q Then he went home?

A He did.

Q You may state what happened as to any fainting
spells he had during that time?

A He had five or six fainting spells that evening.

Q Did you especially remark them or notice them?

A I did.

Q You say he didn't have any injuries?

A No. No perceptible.

Q What did you think as they were normal or abnormal for a person in that situation?

A I thought they were the result of the accident he was in.

MR. DARROW: That is all.

MR. CROWE: That is all, doctor.

(Witness excused)

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L E O N A R D L E W Y,

called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q State your full name, please

A Leonard Lewy.

Q Where do you live?

A Madison Park Hotel.

Q What is your business?

A Manufacturers agent.

Q Do you know the defendant ?

THE COURT: How do you spell your last name?

THE WITNESS: L-e-w-y.

MR. WALTER BACHRACH: Q Do you know the defendant

Richard Loeb?

A Yes sir.

Q How long have you known him?

A Since 1931.

Q You were at one time a student at the University
of Michigan at Ann Arbor?

A Yes sir.

Q Was he a student there at the same time?

A Part of the time, yes sir.

Q Were you both members of the Z.B.T. fraternity?

A Yes sir.

Q Did you during your attendance at that university have occasion to observe him frequently?

A yes sir.

Q As respects his characteristics?

A Yes sir.

Q State whether or not you have ever seen him faint?

A Yes sir, I have seen him faint.

Q When was the first time you saw him faint?

A The first time I saw him faint was at the Chicago Beach Hotel.

Q When?

A On a New Years' Eve two years ago.

Q Will you describe that occasion, please?

A Yes sir, we were in the lobby and Richard seemed to drop on the floor and faint. Another man and I picked him up and put him on a pool table that was right off the lobby and stretched him out. He appeared rigid and seemed to froth at the mouth.

Q Did he froth?

A Yes sir, he did.

Q Did he have any liquor?

A Yes sir, he did.

Q How long was he in that condition?

A About ten minutes is my recollection.

Q Then what occurred?

A Then he came out of the faint and we went into the dining room, and I had quite a little time restraining him from -- well, he was more or less pugnacious; he wanted to beat up a couple of the waiters that were in there.

Q Was that the only time you saw him faint?

A No sir.

Q What other time did you see him faint?

A I saw him faint at the formal initiation at Ann Arbor.

Q How long ago was that?

A In March, 1922.

Q Now will you describe that occasion?

A Richard fainted on the floor, was picked up and was carried upstairs. He became rigid while they were carrying him. I did not follow them upstairs.

Q Did you notice whether his eyes were open or closed?

A Yes sir, his eyes were open.

Q What was the condition of his eyes?

A More or less staring, of a glassy nature.

Q Was there any other occasion on which you saw him faint?

A No sir, I did not.

MR. WALTER BACHRACH: Cross examine.

MR. CROWE: Your fraternity --

MR. DARROW: Wait a minute.

MR. WALTER BACHRACH: Q As a result of your observation of Richard Loeb -- well, I will withdraw that question. How intimately acquainted were you with Loeb?

A As a fraternity brother I was comparatively intimately acquainted with him. I knew him quite well after he got back to Chicago also.

Q How frequently did you see him?

A Quite often. In fact, every day while we were at Ann Arbor and several times while we were in Chicago. In fact, quite often.

Q Did you notice what kind of literature he was reading during that period of time?

A At Ann Arbor?

Q Yes.

A Well, he read detective stories, he read litera-

ture that was highly illustrative.

Q What do you mean by that?

A Well, it was more or less very high narrative. He liked adventure and things of that kind.

Q How did he appear to you as respects being nervous or otherwise?

A He was very nervous.

Q Will you tell us in what way that was manifested?

A Especially in the movement of his hands; twitching of his face. In smoking a cigarette he would jerk it; before taking it out of his mouth he would take long inhalations of the smoke. And he was nervous when he was in the room. In the room he was fidgety, and walked around.

Q

Was there any question about conferring the privilege of mentorship on Richard Loeb at Ann Arbor?

A That was after my time.

Q Were there any other evidences that you observed in regard to his nervous condition, while you were there?

A In his arguments, if you wish to call that an evidence of nervousness, he would fix the pin points in an arguments, and be very vehement in his argument on

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those small points.

Q How was he with regard to being childish or adult in his conduct or judgment?

A I always thought he was more or less childish. Of course, I took it that he was young, and that was my main reason for feeling that he was childish.

Q Was Richard Loeb regarded as a proper subject of responsibility by the other members of the fraternity?

A I cannot say for the others, but for myself, I did not regard him as responsible.

Q For what reason?

A On account of his childishness, more or less.

MR. BACHRACH: That is all.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q His childishness was due to his youth?

A In my estimation.

Q He was one of the youngest fellows up there?

A Yes sir.

Q He entered at fourteen?

A Not Michigan.

Q Well, he entered University at fourteen, and the average is eighteen or nineteen?

A We have men entering Michigan at sixteen.

Q I know, but the average is eighteen or nineteen?

A Yes.

Q And this childishness you attributed to his youth?

A More or less.

Q New Years Eve, when he fainted at the hotel, what time of the night was that?

A Just after twelve o'clock.

Q Did he used to like to drink?

A He did.

Q Did you drink a little yourself?

A Yes.

Q You were having a New Year's celebration?

A Yes.

Q And Dick was drunk, wasn't he?

A He was.

Q Did he pass out on account of being drunk or did he faint?

A That I don't know.

Q And this stuff that came out of his mouth was a drunken vomit or froth?

A Froth.

Q Had he been drinking beer or champagne?

A I don't know. He vomited after he frothed at the mouth.

Q He started to drool first, and then vomited?

A Not immediately afterwards.

Q How long was it between the froth and the vomit?

A I can't say in minutes, but it was a little while.

Q You were drunk yourself that night, were you not?

A No. I had a little in me, but I wasn't drunk.

Q And at that time you attributed Dick's condition to the fact that he drank too much?

A At the time, yes.

Q And if he was not trying to put in some kind of a

fancy mental defense here, you would still think it was a drunken passout instead of a faint, would you not?

A Probably.

Q This formal initiation where he had his tuxedo on; he was drunk that night, too, was he not?

A No.

Q You did not drink up at college, did you?

A Not before the initiation.

Q Afterward?

A Probably.

Q Dick might have put one over and had his before the initiation, might he not?

A I doubt it.

Q Dick drank so much up there that he was censured for being drunk, was he not?

A That was after I was there. I graduated in 1923.

Q You are better versed in drunken conditions than you are in mental conditions? You know more about drunks than you do about mental diseases?

MR. DARROW: I object.

MR. CROWE: That is all.

(Witness excused)

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B E R N A R D K O L B,

called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q What is your name?

A Bernard Kolb.

Q Where do you live?

A 5101 Woodlawn Avenue.

Q What is your business?

A I am in the
clothing business.

Q Whereabouts?

A Harvey & Company, 137 South State Street.

Q Do you know Richard Loeb?

A Yes sir.

Q How long have you known him?

A I have known him for about three years.

Q And where did you know him?

A I knew him at
the University of Michigan mainly.

Q Was most of your acquaintance with him at the Univer-
sity of Michigan?

A Yes sir.

Q Were you in the same fraternity that he was?

A Yes sir.

Q And how often did you see him?

A I saw him every day, several times a day.

Q Did you notice anything in reference to his nervousness?

A Yes sir, I noticed he was quite nervous.

Q What did you notice in that regard?

A I noticed twitchings of the face and nervous movements of the heads, walking.

Q How long a period did that cover?

A It covered all the time I knew him.

Q Did you notice what kind of books he had, if any?

A He read entirely detective magazines, novels.

Q How was he as to responsibility?

A In practical matters he was very irresponsible.

Q Was he allowed or permitted to be mentor of any freshman?

A No sir.

Q You frequently observed him, of course, did you?

A Yes sir.

Q How about drinking?

A He drank at certain times quite heavily.

Q Did you ever see him faint?

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A Yes sir.

Q Was that at the initiation time?

A Yes sir.

Q Did you ever see him faint any other time?

A No sir.

Q How was he as to carrying a subject consecutively in his mind, or going from point to point?

A He usually jumped from one point to another, was rather impulsive, never carried one point of conversation for any length of time.

Q How did you regard him as to responsibility, as to childishness or maturity?

A I regarded him as very childish, very young and immature.

Q Was that entirely on account of his age, or on account of his actions and his mind?

A On account of his actions and processes of thought.

MR. DARROW: You may cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q He was very young, wasn't he?

A Yes sir.

Q You would expect a very young man to act as a very young man if he was normal, wouldn't you?

A Under certain conditions.

Q You expect a boy to act as a boy, don't you?

A You expect a college man to act as a college man?

Q Regardless of his age?

A Well, regardless of his age there were many men in the university as young as he was who acted far older.

Q Now, what do you expect from a boy of fifteen who is in a university? Do you expect him to act like a man of twenty-five or like a kid of fifteen?

A I expect him to act as he is.

Q Certainly. Otherwise he would not be normal, would he?

A That is possible.

Q This time you saw Dick faint, when was that?

Was that at the physical initiation?

A I saw him faint both at the physical and at the formal.

Q At the physical initiation, that was pretty rough, was it not?

A It was an ordinary physical initiation, yes.

Q The ordinary kind of a physical initiation that a lot of college young fellows give another one?

A The same kind that we give to all, yes sir.

Q Did you have a goat there?

A No sir.

Q Did he faint or was he knocked out?

A He fainted.

Q As a result of the treatment he got?

A I could not say what the cause was.

Q That is what you thought it was?

A Not exactly, no. There were --

Q At the time --

MR. DARRON: Wait. Let him finish his answer.

MR. CROWE: No.

Q At the time, what did you think it was due to?

A I could not imagine what it was due to. I thought it was very unusual.

Q Now, at the formal he fainted again, did he?

A yes sir.

Q Was he drunk?

A No sir.

Q How do you know?

A Positive of it. I saw him all day. He had no opportunity to drink.

Q You followed him around all day long?

A I saw him. He was right in the house with me.

Q And he had no chance of taking a drink without you knowing it?

A He might have.

Q What?

A He might have, but I don't think so.

Q He used to like to drink?

A Yes.

Q This was a big night for him?

A Probably was.

Q Don't you think it was a night that a fellow who liked to drink would figure he ought to have a little celebration.

A He might have afterwards, but not before the ceremony.

Q Oh, you had one afterwards, did you?

A No, we did not.

Q At the physical examination they had used him so rough he had passed out; that was a week before, was it not?

A Yes sir.

Q Don't you think that it being a big night in Dick's life and he not wanting to faint the next time, thought he would get a few braces and probably took a couple too many and passed out.

A I think he thoroughly understood there was no physical duress put upon him.

Q Did you notice whether he was rigid?

A No sir, I did not.

Q You could not tell whether he was rigid or stiff?

A No.

MR. CROWE: That is all.

MR. DARROW: That is all.

(Witness excused)

THEODORE SCHIMBERG,
called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

Q What is your name?

A Theodore Schimberg.

Q Where do you live, Mr. Schimberg?

A 4734 Michigan.

Q What is your business?

A Student.

Q Where?

A University of Chicago.

Q Taking an academic course or special course?

A Academic.

Q When do you expect to graduate?

A This coming June.

Q Do you know the defendant Richard Loeb?

A Yes sir.

Q How long have you known him?

A I have known him well in the last year. I have
known him before that for about three years.

Q Were you a student at the University of Chicago at

the time he was a student there?

A This last year, yes sir.

Q Did you get pretty well acquainted with him during that period of time?

A I think I did.

Q During that period of time did you notice his characteristics with respect to his being nervous or otherwise?

A Yes sir.

Q Now, was he nervous?

A I thought he was.

Q What did he do that indicated that he was nervous?

A Well, he seemed to be at a tension constantly.

MR. CROWE: I didn't get that.

A He seemed to be at a tension constantly. He smoked in a very peculiar fashion, and he smoked very much, constantly. He was just -- I don't know how to explain it, but he was to my mind a very nervous individual.

MR. WALTER BACHRACH: Q Was he in the habit of frequenting the fraternity house here?

A Yes.

Q What is the name of the fraternity?

A Zeta Beta Tau.

Q Did you notice anything peculiar in his conduct when he came into the fraternity house?

A Well, I should say it was peculiar. There were many times when we were unable to tell whether Dick was drunk or sober.

Q Why?

A Well, I don't know why. It seemed that his actions most of the time were so childish, and we were in the habit of seeing him drunk a good deal, that there were many times we could not tell whether the boy was drunk or whether he was sober.

Q Were there occasions when you were able to ascertain he was not drunk when he acted in that same way?

A Well, we generally had controversies. We would be sitting in the house playing a game of bridge and Dick would walk in and one or two of us would say he is drunk again and one or two of us would say no he is not. Half of the time it would work out he was drunk. Half of the time it would work out he was sober; he was sober.

Q Did you call at the State's Attorney's office.

A Yes sir, I did.

Q Did you tell the State's Attorney what you thought about the condition of Richard Loeb about his being normal or abnormal?

A I believe I did.

Q What did you tell him?

A I told him I always thought Dick was --

MR. CROWE: Wait a minute, if your Honor please, this is not cross examination.

MR. WALTER BACHRACH: What do you think about it now?

THE COURT: Ask him what he thinks about it.

THE WITNESS: At present?

MR. WALTER BACHRACH: Q Yes.

A What I said in the State's Attorney's office?

MR. CROWE: No, no.

MR. WALTER BACHRACH: Q No, what do you think as to his being normal or abnormal at the present time?

A I think he is abnormal.

Q Did you tell that to the State's Attorney?

MR. CROWE: Wait a minute. I object. This is not

MR. WALTER BACHRACH: That is all.

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* CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q You are a fraternity brother of his?

A Yes sir.

Q You say sometimes Dick used to act peculiar or childish?

A Yes sir.

Q What used he to do? Tell us.

A He used to act like a child.

Q I know, but I know a lot of children that are well behaved and I know others that are not.

A But you can tell they are children by their actions.

Q I know, but what did he do that made you think he was childish?

A Well, just his natural behavior. He didn't act like any of the rest of the fellows.

Q No, no, no. What did he do? You are playing bridge, and he comes in. Now, tell me what Dick did that made you conclude that he was childish?

A Oh, he did a lot of things. I can't remember --

Q I know, but tell me one of them?

A The fact that many times he would make off he was drunk when he was sober. To me that was a very childish act.

Q How did you know he was merely making believe? How did you know he was not drunk?

A Because we ascertained it.

Q By what method?

A By finding out that the boy had not been drinking.

Q Now, how did you find that out? I know a lot of women who would like to know some process by which they could find out whether it is true or not.

A In the first place, I --

MR. DARROW: Just a minute, please.

MR. CROWE: Q What did you do to find out that he was not drunk?

MR. DARROW: I suppose the first part of that is not a question, is it?

MR. CROWE: Q Allright. What did you do to find out that he was not drunk when he pretended to be drunk?

A On several occasions --

Q What did you do on any occasion, on any one

occasion, to find out that he was not drunk when he acted as if he were?

A On one particular occasion we ended up in a bridge game, and we were sure Dick wasn't drunk because he played his regular game.

Q Did you ever see a man who was drunk play poker or bridge and win money at it?

A I didn't say he won money; I said he played his regular game.

Q Did you ever see a person who was drunk play cards and play a good game?

A I never have.

Q If he had a few drinks in him --

A He isn't drunk. There is a difference.

Q What is that standard; how many drinks do you have to have before you are drunk?

A It all depends on the person.

Q When would you say a man was drunk?

MR. DARROW: I object. I do not know that he is an expert on the subject, and if he were it would not be competent.

MR. CROWE: He says he can tell when you are fooling and when you are in earnest.

MR. DARROW: In this instance.

MR. CROWE: Q When would you say a man was drunk?

A That is a hard question to answer.

Q What else was there about Dick besides pretending that he was drunk when he was not drunk, that made you think he was childish?

A The fact that he couldn't stick to one subject long enough to follow out an argument. He would talk very disconnectedly, as though he were thinking of something far away, like a child.

Q Give me an illustration of a conversation that you had with him, and tell me how he started it out, and then how he drifted off?

A I don't know whether my memory is that good or not, but I will try. I remember in particular conversing with Dick on an attempted change in the rushing rules at the University of Chicago. He started to talk about that subject, and I was in the middle of a talk, when Dick interrupted me and wanted to know if I were going to the baseball game that afternoon.

Q Maybe Dick wasn't interested in what you were saying, and was getting kind of tired of it?

A That is a possibility, but I don't think so, be-

cause that was one of the things that was nearest to Dick's heart at that time.

Q What else did he say in that conversation besides asking you if you wanted to go to the ballgame?

A I don't recall.

Q Dick couldn't sit down any length of time; he wanted to get up and walk?

A I don't know about that. He was nervous, as I said before. That might have something to do with his nervousness.

Q Did you read his confession in the newspaper?

A Not very much; a part of it.

Q And the part you read he stuck to the subject pretty well, did he not?

A I guess he had to.

Q Otherwise he would have drifted off and asked me whether I wanted to go to the ball game?

A If he knew you were a baseball fan.

MR. CROWE: That is all.

(Witness excused)

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M A X W E S T E R,

called as a witness on behalf of the Defendants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q Your name is Max Wester, and you live at 559 East 50th Street?

A Yes.

Q You are a lawyer in the employ of Newman, Poppenhausen and Stern?

A Yes.

Q You have already been called as a witness by the State's Attorney?

A Yes.

Q You testified you were a tutor of Nathan Leopold, Jr., for about five weeks?

A I was.

Q During the time you were his tutor, did you have occasion to discuss with him his philosophy of life?

A I did not.

Q Did you have any occasion to discuss with him the subject of superman?

A I did not.

Q Do you remember the 21st of May, 1924? the date of the kidnaping of the Franks boy?

A Yes.

Q Did you tutor Nathan Leopold, Jr. on that day?

A The following day.

Q And on the day before?

A Yes.

Q Did you discuss with him any examination questions later on in the week?

A I did.

Q During those several days, did you notice any unusual or heightened emotions in Nathan Leopold, Jr.?

A I did not.

MR. WALTER BACHRACH: That is all.

MR. CROWE: No cross examination.

(No cross examination and witness
excused).

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W A L L A C E B R O C K W A Y,

called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

MR. DARROW: Q Your name and address?

A Wallace Brookway; 333 Latrobe Avenue.

Q What do you do?

A At the present time I am editing some books for
the Government.

Q Have you been a college student?

A Yes, but I never took my degree.

Q What department did you attend?

A Arts and literature.

Q In Chicago University?

A Yes.

Q Do you know Nathan Leopold, Jr.?

A I do.

Q How long have you known him?

A About four years.

Q How well have you known him?

A Not intimately; as well as one acquaintance might
know another; not as a friend.

Q Have you talked with him or he with you on questions of philosophy?

A Frequently.

Q And about supermen?

A Occasionally.

Q What have you heard him say about his philosophy?

A When he spoke I didn't pay particular attention to the importance of what he said, because I knew that it was a customary thing for people to frequently speak of Nietzschean philosophy, so I don't know how serious the things he said were; but I know he speaks with great favor of the philosophy as the sort of thing that would guard one's life, and he expressed admiration for the superman type, and in fact connected himself with it occasionally.

Q Did he say anything about the rules or moral laws, or any other, as to the superman?

A I don't believe they existed for him.

Q He told you they did not exist for the superman?

A They did not.

Q How often did you talk with him about these subjects?

Q Quite frequently, but only on two or three occa-

sions of any importance.

MR. DARROW: That is all, you may cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q When he was discussing the superman, you did not pay any attention to that?

A No.

Q Because you have heard alot of students discussing supermen?

A Frequently.

Q And none of them have committed a murder since those discussions, have they?

A I don't know.

Q You have discusseed it?

A Frequently.

Q You do not regard that as a peculiarity in you?

A I don't take it very seriously.

Q You considered Leopold the finest man you ever came in contact with in the university, did you not?

A One of the best intellects; perhaps not the best, but one of the best.

MR. CROWE: That is all.

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REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Did the boys generally take the discussion of supermen the same way that Leopold did? Did they generally take the discussion of the superman and his obligation, or did you, in the same way Leopold did?

A My views have changed rather since then.

Q Do you know how he took it, as to whether he took it seriously?

A I think he took it very seriously.

Q It was one of his favorite topics, was it not?

A It was.

Q And he expressed it as his own opinion, did he not?

A He did.

MR. DARROW: That is all.

MR. CROWE: That is all.

(Witness excused)

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S T A N L E Y L E W Y,

called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION BY

MR. WALTER BACHRACH.

Q Your name is Stanley Lewy?

A Right.

Q Where do you live?

A Idlewild Country Club, Flossmore, Illinois.

Q What is your business?

A Student.

Q Where?

A Univeristy of Michigan.

Q How old are you?

A Nineteen.

Q Were you a student there at the time Richard Loeb
was a student there?

A I was.

Q Were you a member of the fraternity that he was a
member of?

A I was.

Q Did you get well acquainted with him while he was
there?

A I did.

Q Were you able from your association with him to have the opportunity to observe him very carefully?

A I did.

Q Did you ever see him faint?

A I did.

Q Where?

A It was on a Sunday morning in the parlor of the fraternity house; Dick walked in and for no reason at all apparently, dropped on the floor.

Q When was that?

A 1923. I don't remember the exact date.

Q Was it the spring of the year, the fall of the year, or winter?

A I don't remember.

Q You cannot fix the time any closer than 1923?

A It was probably in the spring but I am not sure.

Q Before the summer recess?

A Yes.

Q How long was he unconscious?

A About a minute.

Q Are you able to describe his fainting condition any more than you have?

A Yes. He was -- well, he fell on the floor and we picked him up and laid him on one of the sofas and he laid there apparently rigid and his eyes were open, I remember very clearly. There was cold sweat on his forehead. His complexion, of course, was very sallow, very pale.

Q What time of day was it?

A About eleven o'clock in the morning.

Q Do you know whether he had been drinking?

A I think not.

Q Was there any evidence of drinking on him?

A No.

Q Any odor of liquor?

A No.

Q Your answer is no?

A No.

Q Did you ever see any signs of nervousness in him?

A I noticed several times -- that is practically all the time, a very nervous twitching of his lips, a nervous quick movement of his fingers, while his laugh, it showed signs of nervousness. It seemed to be artificial. For that reason I took it to be a sign

of nervousness.

Q What do you mean by artificial? Can you give us a little more light on that so we can understand it just a little better?

A Well, it was a hearty laugh, yet it did not seem to be caused from something purely humorous. It was, -- well, just artificial.

Q Hollow?

A Yes.

MR. CROWE: You describe it, Mr. Bachrach. You know it.

MR. WALTER BACHRACH: I wasn't there. I cannot.

MR. CROWE: Well, you know better than the witness. Go ahead and describe it.

MR. WALTER BACHRACH: Q Now were there any other signs of nervousness that you observed?

A No, I don't believe so.

Q You were a freshman while Loeb was a senior, were you not?

A Right.

Q What was your attitude toward his judgment at that time?

A Frankly, I did not respect his judgment as I would an ordinary senior.

Q Why?

A Because of apparent childishness. I was a freshman; Dick was a senior. The usual thing to do was to respect a senior.

THE COURT: Keep your voice up.

THE WITNESS: A freshman generally respects a senior because he is older and because his judgment should be better. I did not consider Dickie's judgment an awful lot better than mine, and for that reason I did not respect his good judgment.

Q Do you know whether or not he was entrusted with the mentorship of any other student?

A No, Dickie was the only senior in the house at that time that was not given the privilege of being a senior.

Q A mentor?

A A mentor.

MR. WALTER BACHRAC: That is all. Cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q You did not think his judgment was an awful lot better than yours?

A That is right.

Q That is right, isn't it?

A Yes.

Q You think your judgment is pretty good?

A No.

Q No? Don't you think your judgment is any good?

A Well, it is fairly good, yes.

Q As good as the average boy of your age?

A Yes.

Q You don't think you have got a psychosis, do you, of a phantasy?

A No.

Q You think you are a normal average boy?

A Average.

Q Average. And you thought that Dick's judgment was not much better than yours?

A Right.

Q And Dick and you are the same age?

A Dick was older in experience.

Q Oh, I know, but he and you were the same age; he was Nineteen and you are nineteen?

A That is right.

Q No, you are a little bit older than Dick. You are older than Dick?

A Right.

Q And the younger man's judgment was just a little bit better than yours? That is correct, is it?

A It should be.

Q And it was?

A His judgment better than mine?

Q Yes, you have just said it was a little bit better than yours?

MR. DARROW: No, I object to this. Let him answer.

MR. CROWE: Q His judgment was a little bit better than yours, wasn't it?

A No, that is the reason that I did not necessarily respect his judgment.

Q Because he was a little bit younger than you and you did not look up to him as you would to a senior who was older than you?

A Right.

Q Now, that is the whole situation, isn't it?

A Yes.

MR. CROWE: I guess that is all.

THE COURT: We will have our usual recess now, gentlemen.

MR. DARROW: Just one question.

THE COURT: All right.

MR. WALTER BACHRACH: Q You did not respect him because he was a senior and you were a freshman, is that right?

A Right.

MR. WALTER BACHRACH: That is all.

MR. CROWE: That is all.

(Witness excused)

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

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Court reconvened pursuant to
short recess heretofore taken.

Mr. CROWE: May I recall for one question the
last witness, Mr. Lewy.

THE COURT: Yes, bring him in.

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S T A N L E Y L E W Y,

resumed the stand for further CROSS EXAMINATION by
MR. CROWE, and testified as follows:

MR. CROWE: Q This Sunday morning at eleven
o'clock or around eleven, when Dick fainted, you
were in the fraternity house, were you?

A Yes.

Q Is that the first time you saw him that morn-
ing?

A Yes sir.

Q And he came in from outside?

A Yes.

Q You don't know whether he was out all Saturday
night and Sunday morning drunk, do you?

A No, I do not.

MR. CROWE: That is all.

(Witness excused)

H A R R Y B O O T H ,

a witness called on behalf of the Defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. W. BACHRACH: Q Where do you live?

A 4920 Vincennes Avenue.

Q You are a law student at the University of Chicago?

A Yes, I am a law student at the University of Chicago.

Q Do you know the defendant, Nathan Leopold, Jr.?

A Yes, I knew him as a classmate during the last year, at the University of Chicago.

Q Were you in the same class in criminal law out there?

A Yes. We were not only in the same class in criminal law. We were in all our classes together, I think practically all of our classes together during the past year.

Q Do you remember a discussion of a murder case in a criminal law class in which Nathan Leopold, Jr. took part?

A Yes, there was a discussion of a murder case, and Nathan Leopold made the remark that an individual who committed a crime -- he meant it in reference to himself-- need not necessarily be held responsible by society; that

he himself felt it was all right to do, and it would be perfectly all right.

Q That he thought it was right, and it would be all right?

A Yes.

Q Did you ever hear him discuss Nietzsche, or the superman idea?

A He discussed Nihilism with me, and said he was a Nihilist, that he felt no restraint at all so far as authority was concerned, and that he believed in destruction merely for the end of destruction.

Q Do you remember any question of Nietzsche and the superman?

A No, we never went into a discussion of Nietzsche and the superman, though I knew that was his philosophy. I had a general idea that he misinterpreted Nietzsche, and that he merely accepted one phase of the Nietzschean philosophy.

Q Did you agree with him in his attitude toward Nietzsche or the Nietzschean philosophy?

A No, I would not accept the Nietzschean philosophy, because the founder of that philosophy was insane during

a good portion of his life. Nietzsche himself died in an insane asylum, and there is a good deal of evidence to the fact that he was insane during the portion of his life in which he wrote a good many of his important works.

MR. W. BACHRACH: That is all. You may cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q Don't you know it is improper for a witness for the defense to use the word "insane"?

A I was not aware of it.

MR. DARROW: Objection.

THE COURT: Sustained.

MR. CROWE: Q All of you young fellows who went out to Chicago University were familiar with this Nietzschean philosophy, were you?

A I don't know whether all of them are.

Q You were?

A To a certain extent.

Q You knew all about Nietzsche, too?

A I know a few outstanding facts, as far as his personal life is concerned, and I have a general idea of the supe idea.

Q And a great of your classmates talked about the Nietzschean philosophy, and the supe ?

A No, I should say that a great many of them do not.

Q How many have talked about it, or studied it, that you know of?

A I doubt whether two per cent of the students of the University of Chicago have spoken about the Nietzschean philosophy.

Q How about your law class?

A Of the law class, I should say that the percentage would not be much greater. There are only a very few students that are familiar with philosophy of any type.

Q Those who have studied philosophy were familiar with the Nietzschean theory?

A I couldn't vouch for that. The Nietzschean theory is just one small phase of the entire field of philosophy. It is not regarded very seriously by the professors of philosophy at the University of Chicago.

Q And yet they teach it?

A I took a course in philosophy at the University of Chicago where Nietzsche was mentioned. I took a course in contemporary thought during the Nineteenth Century, and Nietzsche having lived during that period, his name and his works were mentioned by the professor of philosophy.

Q When was it Leopold was talking about this murder to you?

A I should say during the spring quarter, when we

attended the criminal law class together.

Q In April or May?

A I should say much earlier than that; perhaps March.
It was just a discussion that arose in the law class.

Q Of this year?

A Yes.

Q That was after he had definitely planned and decided he was going to commit a murder?

MR. W. BACHRACH: Objection.

A I don't know.

MR. CROWE: Q Have you followed this case?

A I have.

MR. DARROW: I object. The record is here.

THE COURT: Sustained.

MR. CROWE: Q ~~It~~ His expression was that if he committed a murder, he thought it would be all right for him to do, but not for the rest of you?

A That was the impression I got.

MR. W. BACHRACH: Q In your philosophy class, Nietzschean philosophy is treated merely historical, and not as a correct doctrine?

A It was merely touched upon for perhaps a few moments by the professor,

Q Were all of these discussions before May 21st,
1924?

A Oh, yes.

MR. WALTER BACHRACH: That is all.

MR. CRONE: That is all.

(The witness was excused).

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HERBERT J. WEBER,
a witness called in behalf of the defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Give us your name, please.

A Herbert J. Weber.

Q Where do you live, Mr. Weber?

A Madison Park Hotel.

Q That is in Chicago?

A Yes, sir.

Q South side?

A Yes, sir.

Q How old are you?

A Twenty.

Q What is your business.

A Student.

Q Chicago University?

A No, sir.

Q Where?

A & University.

Q Were you formerly a student at Chicago University?

A No, sir.

Q Do you know Nathan Leopold, Jr.?

A Yes, sir.

Q How long have you known him?

THE COURT: Talk louder, will you please, so we can all hear you.

A Three years.

MR. DARROW: Q How well do you know him?

A We were pretty intimate the first two years we were acquainted, during the summers when I was home.

Q What years were those?

A 1921 and 1922

Q Have you discussed various questions of philosophy and life with him?

A Yes, sir, several times.

Q Were you familiar with his views of the Nietzschean philosophy?

A Yes, sir.

Q What have you heard him say in that regard?

A Why, he has said that he does not think there is any such thing as right or wrong, as far as social obligations are concerned. He believes that the individual's welfare is the sole thing of importance to him.

Q Have you heard him discuss the superman?

A Yes sir

Q What have you heard him say in reference to that?

A He based his whole philosophy of the superman theory on this, that is, that every creature all over the world and through all time has always made a practice of living off the smaller creatures and mankind in the same. The bigger men are able to live off the smaller men.

Q You are familiar with the Nietzschean philosophy are you?

A To some extent.

Q And whether he had it twisted or not, the superman philosophy is the one specially that Nietzsche has written about, isn't it?

A I don't think he has interpreted it correctly, by any means.

Q I beg pardon?

A I don't think he has corrected the Nietzschean philosophy by any means.

Q No, but he was a philosopher of the superman, was he, not?

A Yes sir.

Q And your idea was that Leopold had not interpreted it correctly?

A Yes sir.

Q How much time -- or about how often did you discuss this question with him?

A There were several times; two that stand out most in my mind.

Q How was it as to his seriousness in reference to it?

A Oh, he seemed entirely serious about it.

Q Did he ever speak of himself to you as a superman?

A By inference I inferred from all he said that he thought he himself was one of the top notchers at any rate.

Q Did you ever hear him speak of anyone else as a superman?

A Not literally. He said that Dick Loeb, he thought, was about the most wonderful man in the world.

Q How often did you hear him speak of Dick Loeb?

A Well, this one time in particular, I think.

Q What did he say at that time?

A That was with reference to his going to the University of Michigan from the University of Chicago.

Q Was it his general theme when you were talking

with him, this subject of superman and moral obligation and lack of it?

A Yes sir.

Q How is that?

A Yes sir. We frequently discussed that very thing.

Q How was he as to whether he was egocentric?

A Entirely.

MR. CROWE: I didn't get that.

MR. DARROW: Q Was he egocentric? What would you say about that?

A I think he was entirely egocentric.

Q You had discussed this matter with him somewhat as to the superman and his ideas of him?

A Yes sir.

Q You have stated your views to him, as he did to you?

A To some extent.

Q And argued with him about his interpretation of Nietzsche?

A Yes sir.

Q Is he a boy of positive convictions on that subject?

A Seemed to be very definite about it.

Q As to his correct interpretation of Nietzsche, you

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and he disagreed?

A Yes sir.

Q And as to his correct interpretation of life?

A Yes sir.

MR. DARROW: You may cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q In other words, he struck you as a very conceited, egotistical fellow?

A Yes.

Q A sort of a high-class state of depravity?

A Of what?

Q Depravity, where he had made up his mind as a confirmed criminal, that he had a right to do as he pleased?

A He thought he had a right to do as he pleased.

MR. CROWE: That is all.

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REDIRECT EXAMINATION

BY MR. DARROW.

MR. DARROW: Q Did you regard it as a question of depravity or a question of his philosophical ideas?

A To me of course it always seemed a question of philosophical ideas.

MR. CROWE: Q Since then you think it was a form of depravity?

A I think it was the basis for it, yes sir.

MR. DARROW: Q That is, you think that whatever he did grew out of those philosophical ideas?

A Yes sir, that he could see no moral obligation to his life.

MR. DARROW: That is all.

RECROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q His philosophy is an explanation and an excuse in his mind for what he has done, is that so?

MR. DARROW: To that we object -- well, go on.

A It is more a basis for it. I think he built up his life from his philosophy rather than building his philosophy down to his conduct.

MR. CROWE: Q Certainly. And he excuses his criminal act, on account of his philosophy?

MR. DARROW: I object to that, unless he has talked with him since.

THE COURT: Yes, objection sustained.

MR. CROWE: That is all.

THE COURT: Q Have you talked with him since about it, since this time?

A No sir.

MR. CROWE: All right.

(Witness excused).

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THE COURT: We will shorten matters by suspending
now until two o'clock, and that is what we will do.
We will suspend now until two o'clock.

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Whereupon a recess was here taken to
2:00 o'clock P.M. same day, August
8th, 1924.

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Friday, August 8th, 1924

2:00 o'clock P.M.

Court convened at 2:00 o'clock P.M. Friday,
August 8th, 1924, pursuant to adjournment
heretofore taken.

Present, same as before.

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

called as a witness on behalf of the Defendants, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q You are a physician and
psychiatrist?

A I am.

Q Where do you live?

A I live in Oak Park.

Q Will you please tell us what your education has
been?

A I graduated from the University of Michigan in 1914,
from the department of medicine and surgery.

Q Whathas been your professional experience since that time?

A I took three years post graduate work in nervous and mental diseases at the University of Michigan, was on the faculty at that time. Then I was sent by the Rockefeller Foundation, National Committee of Mental Hygiene, to Tennessee, to make a survey of the care of neuro-psychiatric cases in the Tennessee institutions, including the penitentiaries, county jails, poor farms.

That was interrupted by the war. The first day of the war I entered active service in the navy. For a little over a year I was at Great Lakes. I was the neuro-psychiatrist at the Great Lakes; organized the first psychiatric unit that the navy ever had. We examined some forty-three thousand or forty-nine thousand men as to their mental fitness for naval service.

Then the navy department sent me to sea, and I was on the U. S. S. Leviathan for about a year.

Q In what capacity?

A I was the neuro-psychiatrist on the Leviathan, and my duty was to bring home the neuro-psychiatric

cases from France and England that developed in the army, and altogether I brought home in my wards about three thousand such cases.

After I recovered my health, I was at the Chicago State Hospital for a period of months, and then entered private practice in Chicago, where I am now practicing; practicing also in Aurora, at the Brendecke Clinic.

Q During your professional life have you had occasion to make neuro-psychiatric studies of numerous individuals?

A Many thousands.

Q From that experience are you familiar with the methods employed in determining the mental condition of individuals?

A I am.

Q Did you make an examination of Nathan Leopold, Jr. and Richard Loeb of a neuro-psychiatric nature?

A I did. Monday, June 16th I saw the boys for the first time, and I have seen them twelve times since at the jail, and I have seen them two days here in court.

Q Have those examinations been repeated and extensive?

A They have.

Q Were they made under favorable conditions at the county jail?

A Very favorable for a jail examination.

Q Did you have associated with you in the making of your examinations anybody else?

A I did; Dr. Karl M. Bowman of Boston was with me during this period of twelve examinations, and we worked together on the neuro-psychiatric phase. Dr. E. V. L. Brown of Chicago was with me on the eye examination of the two boys.

Dr. J. J. Moore of Chicago was associated with me in the pathological study, particularly the laboratory phases, and was assisted by Dr. Swan.

Dr. Blaine of Chicago was associated with me, and Dr. Darnell was associated with me in the X-ray examinations which we made.

Q Were any of these men who were associated with you in the making of such examinations other than Dr. Bowman, neuro-psychiatrists?

A They are not.

Q Or Psychiatrists?

A No.

Q Please tell us first in a general way the various examinations that you made of the defendants in this case.

A Can I refer to my notes?

Q Yes.

A The examination consisted primarily of the study of the family history, the personal history, a history of the associates the boys met in their lives, the academic history, their childhood history, their emotional history, a physical and neurological examination, an investigation into their criminal life, particularly the Franks case, and observation and examination of their subsequent behaviour and reaction; a neuro-psychiatric examination.

Q Under the head of physical and neurological examination, will you state generally what tests you made?

A We made a physical examination, an examination of the central nervous system; a special examination

for basal metabolism, blood pressure, the blood sugar test, Wasserman, blood physics, blood chemistry, a urine examination, sugar tolerance test, and X-ray examinations.

Q Under the head of psychiatric examination, what particular subjects did you address yourself to?

A To their intellectual attainments; to their emotional reactions; to their memories; their attitude toward their environment; their attitude toward themselves; their attitude toward each other; their balance; their judgment; their inner mental life; their compulsions, if any; the degree of the balance of their maturity, and the effect of their inheritance or training.

Q Were the results of your examinations of Nathan Leopold, Jr. and Richard Loeb incorporated in reports signed by yourself and Dr. Carl M. Bowman?

A They were.

Q Were those reports submitted to Drs. William A. White, William Hoaly and Dr. Bernard Glueck?

A They were.

Q Who have testified here?

A They were.

Q Now, I will ask you to state just what you did in making your examination of Richard Loeb, defendant in this case.

A We examined or rather interviewed persons who could give us a history on this boy's relatives --

MR. CROWE: Which boy?

MR. WALTER BACHRACH: Richard Loeb, I am addressing myself to, Mr. Crowe.

MR. CROWE: All right.

THE WITNESS: The relatives, the governess, associates, --

MR. WALTER BACHRACH: Q By governess, you mean Miss Struthers?

A Mrs. Bishop, formerly Miss Struthers, yes sir.

Q Mrs. Bishop. That is the same person who has been referred to here as Miss Struthers; and also Michiumpa.

A Michiumpa, Miss Struthers and Mrs. Bishop are the same person.

Then we examined the boy himself as described in these various things I enumerated, physical,

neurological, laboratory and mental, and examined the two boys relations to each other.

Q As a result of your investigation into the family history, what facts did you find, again referring to Richard Loeb, one of the defendants in this case?

A We ascertained the names and ages of the relatives that were living, and those that were dead and what they died of. The only thing of significance that we found that had any neuro-psychiatric importance in the case of the family history of Richard Loeb was the fact that during the pregnancy which terminated in the birth of Richard Loeb the mother was not well. She had several acute infections, particularly streptococcus infection, and frontal sinusitis or inflammation of the accessory air passages of the nose located in the forehead.

MR. CROWE: Doctor, will you repeat that, please? I was talking here and did not catch it.

MR. WALTER BACHRACH: Let us have the reporter read it.

(Whereupon the reporter here read
the answer of the witness).

Q Now, in connection with the personal history of Richard Loeb, what facts of significance did you find?

A A He was a weakly child until he was four and a half years of age, at which time his tonsils and adenoids were removed, and he increased slightly in strength, but at about the age of nine he began to grow strong and hearty.

He has never fully matured. The first body hairs appeared at thirteen. At fourteen they were not well developed.

Q Will you please keep your voice up. They can't hear you around here.

A At eighteen his voice was still changing. He needs to shave about twice a week.

He had whooping cough, measles, mumps and influenza all before he was five years of age. When he was nine years of age he had some eye trouble from which he recovered. He himself has had frequent attacks of frontal sinusitis.

He has had one intestinal operation. That was recently, two years ago.

He fainted during an initiation ceremony while he was at school. He has had several falls, but was not unconscious, except an accident when he was fifteen, in Charlevoix, Michigan, where he was treated by two physicians, Dr. Greensfeldter and Dr. Armstrong, following which he was not well for several days.

At about the age of twelve he stammered some, particularly when he was with other stammerers. He never fully recovered from this stammering.

During the last two or three years he had tremors of the face, which have been increasing, and now these tremors are noticeable.

He has had considerable dental work in straightening the teeth. He still has three of his deciduous or baby teeth, and the adult or middle teeth have not been revealed, as shown by the X-ray, nor have they erupted. He ~~was~~ has always been somewhat cold-blooded.

He wears more clothing and more blankets than the average boy does.

MR. CROWE: Q Doctor, do you mean by cold-blooded

physical cold-blooded or emotional cold-blooded?

A I mean he had a subnormal temperature. In his early life he was rather weak and lacked endurance, but, as I said, about the age of nine he began to be strong enough to play with other boys and compete with them.

MR. WALTER BACHRACH: Q What facts did you ascertain as the result of your investigation as to the governess that he had?

A This governess --

Q By the way, did you see her?

A I did. This governess was a Canadian lady with very strong ideas of discipline and of punishment. She had the conventional ideas of rearing children.

She read a great deal to him, and it was largely due to her tutoring and reading that he advanced so rapidly at school.

He preferred her company to that of boys, and she rather tended to exclude from his life normal contacts with other boys.

The books she read to him were the better class of books which could be read to children. Dickens, Ben Hur, the Rise and Fall of the Dutch Republic, and

some others.

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She was so strict in her punishments that he found to evade punishment for his misdemeanors he must lie and deceive her, so he did acquire the habit of lying to evade punishment, and this habit of lying has grown so great that at times he lies now when there is no advantage to lie.

She did not punish him with corporal punishment, but her punishments were thoroughly severe and prompt.

"I obeyed her to the minute, to the second, her word was law", the boy told me.

She remained as governess and tutor until he was fourteen years of age, or when he entered college, When she left he tended to break loose, he said; he felt her influence no longer bound him and he tried to live the life that other freshmen at college were living, though they were four years older than he was, on an average. .

Q I hand you a photograph, which I ask be marked Defendants' Exhibit 1 of this date, and I ask you to state if the woman on this photograph is a reproduction

of the Mrs. Bishop or Miss Struthers whom you saw and was the nurse or the governess.

MR. CROWE: Just a moment, I object, your Honor, to introducing photographs of people who might be witnesses.

MR. WALTER BACHRACH: A photograph taken years ago, when Richard Loeb was a child, a very small child. Obviously we cannot bring back Miss Struthers who had been the governess, and enable the court to --

THE COURT: Oh well, let it go in. Overrule the objection.

MR. CROWE: It is so ridiculous.

MR. DARROW: I object to the comment.

MR. WALTER BACHRACH: The Court says you may answer.

A It is, yes.

MR. WALTER BACHRACH: We offer this in evidence, if the Court please, at this time.

Q Now, with respect to these facts, of the relations of the governess to the life of Richard Loeb, I will ask you to state whether most of these facts were obtained from Miss Struthers as well as from Richard Loeb, the defendant?

A They were, about equally.

Q What facts did you ascertain with reference to the

academic history of Richard Loeb?

A He was tutored by his governess from the age of four and a half to seven.

He then entered third grade.

He finished seventh grade at twelve, and then entered the University School at Hyde Park, in the neighborhood of his home, and graduated from high school after two years study, at the age of fourteen. He secured extra credits in German and French, and took summer courses in history and also a special Latin course. After graduating from high school at fourteen he entered the University of Chicago.

His first two years at the University of Chicago he took the regular course and lived at home. His governess was still with him during part of the first year in college, and still tutored him.

He entered the University of Michigan as a junior when he was eighteen years old. His credits from the University of Chicago were out, so that it was necessary for him to take some extra courses at Michigan.

He graduated from the University of Michigan

at eighteen and received considerable notoriety as the youngest graduate they ever had. He did not receive scholastic honors.

During the summer at college he played most of the time.

After his first year at the University of Chicago, he started a course in history during the summer, but discontinued it because he lost interest.

The next summer he took several correspondence courses but soon dropped them.

After graduating from the University of Michigan he re-entered the University of Chicago in the graduate department and studied American and European history.

During the last three summers, at the summer home in Charlevoix, he did some studying; for one summer he had a tutor, and he took some correspondence courses. He said he received higher grades in college than he actually did receive.

Actually he was intellectually lazy, and he slid through his studies with as little effort as possible, and with fair grades. He elected courses which

were along the lines of least resistance.

His major work was in history.

He was asked what teachers had the most effect on his life and he named several. The outstanding teacher of them all was Professor Ullrich Phillips, of the University of Michigan, professor of history, who was a southerner, and a very pleasing personality.

The thing that stands out most in his memory was his studying of Clay and Calhoun, and the speech on nullification.

He mentioned many other faculty persons, but they had no pronounced effect on his mental life.

He was asked if any of the historical characters were a pattern for him, that he rather idolized. He said no.

He did admire Roosevelt, and when he was a boy he managed by correspondence to get an autographic signature from Mr. Roosevelt. This was in connection with Richard's magazine, a magazine he and several other little boys had published in their childhood.

The movements in history that particularly

appealed to him were the American Revolution,
and the frontier struggle in America.

He was planning to study law, and he had
considered studying history, making that a life
work, but he was not interested enough.

He had no very definite life plan along
educational lines.

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Q Did you discuss the Franks case with him?

A Yes.

Q Did he tell you who struck the fatal blow?

A He did.

Q Who, did he say?

A That he did.

Q Did you examine him as to the details of the Franks case?

A To some extent.

Q Did you observe his reactions during the course of his telling the details of that matter?

A I did.

Q What did you find as to his reactions, as to whether they were no reactions, or a departure or deviation from the no ?

A He seemed to be quite interested in describing the planning of this crime. In his description of the crime itself, he was extremely indifferent, and in describing the pain that he brought to the families involved, he seemed quite indifferent. He had no remorse; he was interested in the crime as a technical thing, and not as

an emotional thing. He had no adequate emotional reaction to it, after, nor at the time.

Q Did he discuss with you the motives for the crime?

A He did.

Q What did he say about that?

A For years his contemplations had been along criminalistic lines, and there had been gradually developing in him an ambition to perform a perfect crime, one which could never be solved. One where he of all the world would have knowledge of the details and no one else, except possibly his confederate would be aware of the inner mechanism of the crime.

In early childhood he was strongly impressed by a story of kidnaping in a book which he had read, and the crime of kidnaping seemed to him to be the maximum crime, and there had been growing, as I said, an ambition to commit a kidnaping and make it a perfect, mysterious crime; and the carrying out of this ambition which had been fostered in his contemplations was the motive of the crime.

Q Did he tell you how much money he had in the banks

at the time of the Franks crime?

A I think so. I think it was around \$3,000. I am not sure about that.

Q Did he discuss with you the part that the obtaining of the money played in the commission of that act?

A I don't exactly understand you.

Q I am talking about it with respect to its being a motive or otherwise.

A In the planning of the crime which took several months, the kidnaping was the main feature, and most of his thoughts dwelt along that line. Toward the latter part before the crime was committed he considered the idea of a ransom as part of the picture of a perfect crime, because a kidnaping without ransom would not appeal to the average person as a normal crime, if there is such a thing; and he then toward the last developed the idea of a ransom, and the ransom had to be collected in some way which would protect him from identification.

The ransom was not a primary motive in his thinking about the kidnaping, but was one of the later developed motives.

Q Addressing yourself now to the subject matter of his reveries or phantasies, did he tell you what they were?

A He did.

Q Will you go on and tell us the substance of his conversation with respect to his phantasies or reveries or daydreams?

A These phantasies or reveries or day dreams, contemplations, ponderings, call them what you will, usually occurred between the time he retired and the time sleep came over him.

There were three typical reveries which he had in from about the age of ten and which persisted until the present time, which is an abnormally long time for reveries to continue with an individual; usually they are ended much earlier.

He calls these picturizations. The first of these picturizations was of himself in jail, stripped of his clothing, being shoved around and whipped, and there was much self-pity but no feeling of fear. He said, "I was abused, but it was a very pleasant thought. The punishment visited on me in jail was pleasant, I enjoyed

being looked at through the bars because I was a famous criminal."

From this there later developed the idea that he would become a criminal and his reveries turned toward being a master criminal.

A somewhat later phantasy was that of being a frontiersman or cowboy. He actually lived these phantasies out as far as he could. He would huddle up under the bed clothing and imagine himself in a shed whose walls were impregnable to bullets.

The third type of phantasy was that of being an ideal fellow. He pictured himself as being extremely good-looking, rich, athletic, a great football hero, and a member of a college fraternity.

His master mind criminal phantasy was the predominant one in his inner mental life and he carried this thing out in actuality when he could. He played the game of shadowing, watching people on the street. One time he spent several hours watching a beggar woman go in and out along an alley. He shadowed others. He would walk along the street and make gestures with his hands, when he was alone,

imagining himself as the leader of a criminal band, signalling. "This is a good house to rob. Better leave this one alone", and so on.

He concentrated rather in his phantasies on the planning rather than on the execution of the crime.

In his criminal reveries he was always the leader of a small band, he was never alone, he had never any desire to join a large gang of criminals and assume a subordinate position.

The basis of his criminal phantasies was on the literature which he read at a tender age, books which his governess did not know he had possession of. One is surprised in reviewing his reveries and so forth to see how few new ideas he developed, how stereotyped or copper-plate or similar, were the mere repetitions of the various events in his criminal phantasies.

Q Were these phantasies of the normal type of abnormal?

A .Abnormal in two ways. One, the nature of them. Usually phantasies are of a rather noble nature. Second,

they persisted must too long in his life and were so vivid that he was compelled to carry out in action some of his phantasies.

Q Now, Doctor Crowe says that all boys have phantasies. Will you tell us, doctor, the difference between the phantasies that Richard Loeb had and those which Dr. Crowe says the ordinary boy has?

MR. DARROW: Do you mean Lawyer Crowe or Dr. Krohn?

MR. CROWE: Thank you for the compliment. Imitation is the most sincere form of flattery.

THE WITNESS: I have not examined all boys, but all boys that I have examined and taken up this question of phantasy with, I find that it is characteristic of you to indulge in phantasy that is normal, and phantasies usually are given up.

A person during his phantasy realizes that he is day dreaming, and the average person says, "Yes, I have vivid imagination, but I can snap out of it." They do not affect his later conduct. This boy was abnormal in that they did affect his conduct. He was not able to snap out of it, to use the phrase. He tended to carry his phantasies out into actuality,

and actually tried to carry out his phantasy. That was abnormal.

MR. WALTER BACHRACH: Q Was there anything else that would indicate that they were abnormal, that is with respect to the character of them?

A His phantasies are criminalistic. Most phantasies are of noble characteristics, of service to others, winning public approval.

Q In a normal individual what relation to the phantasies bear to the environment?

A Phantasies usually are an escape from the environment, normally.

Q How if at all do they picture environment?

A Under ideal, uncritical, extravagant circumstances.

Q Are they usually of a morbid character in normal individuals?

A Phantasies of worry in all persons usually are, but in young persons phantasies usually are not morbid.

Q Now, will you go ahead and continue to tell us what you were told as to the phantasies, or have you completed that?

A Oh, rather.

Q What did Richard Loeb tell you with respect to his subsequent behaviour and reaction after the 23rd day of May or the 21st of May, 1924?

A After the killing they returned the car at four thirty and went to their own homes, he said. He discussed the case with his family. He got quite a kick out of it, to use his phrase, in discussing this with his family. That his mother should say that the criminal who did this should be tarred and feathered, and she said this to him, and he was the criminal, and she did not know it, "All that tickled my sense of humor, to think that she was saying this to her own son."

He was a little worried about his father's silence. His father was a little quiet; he wondered if his father might suspect anything.

He witnesses a part of the funeral in that he happened to pass by the house at the time the coffin was being brought out to the hearse. He said he did not do it purposely, he just happened to be going by, but he experienced no remorse except when he saw the coffin being brought out by the small,

bright-faced boys, he felt a little bit uncomfortable.

He denied sending flowers.

At no time has he dreamed about this crime, or has his sleep been disturbed in any way.

Following this crime, he continued his ordinary life, meeting his associates as formerly.

After the glasses were found and he felt that he might be suspected, he attempted to build an alibi, and he thought the planning of his alibi was a very interesting thing. He got a great kick — excuse me, he got a tremendous kick from reading the newspaper accounts of the crime and from discussing it with the various members of the community, all of whom were intensely interested, because none of them knew what he knew about it.

In the county jail he seems to be not uncomfortable, although he is a boy from a well-established family.

At the time I first examined him he had a jail bedbug dermatitis, or skin eruption, and it never bothered him. He never even commented on it.

He enjoys the limelight but he speaks no-

destly.

In jail he eats and sleeps well, and from my previous examination and observing him now I don't think he has lost in weight. It was interesting to observe that sometimes he would go to sleep during the psychiatric interview if you were talking to his associate and not himself.

MR. WALTER BACHRACH: Q Is that during his psychiatric interview?

A Yes.

Q Or during the neurological examination?

A Well, during a biophysical or chemical examination of the other boy.

Q Did you make your psychiatric examination of the boys together or separately?

A Sometimes separately and sometimes together, as a matter of saving time.

He took a lively interest in the jail, we observed. He very quickly caught on to jail slang, "I think so and so will get the street", was a phrase of his, and he was rather contemptuous toward his associates for not knowing so much criminal slang.

He was not absolutely frank toward us.

As far as I can determine, he never told us anything which was not true, but he kept back a lot of things, and in that sense he lied.

He felt that his crime was extremely clever. He knew it would make a thrill in the newspapers. He had been quite disappointed previously, he stated, in that some of his minor delinquencies, such as throwing bricks through glass windshields or standing cars had never been published in the newspapers.

He said he had no hatred toward the boy.

Q Toward which boy?

A Robert Franks. That he had not planned on any particular boy. They considered several. They considered one boy in particular, but his father was so tight he would not give up the money if the boy was kidnaped, so they gave that up.

They considered kidnaping their own fathers. They considered kidnaping Loeb's younger brother, Tommy, but gave those up because they were not practical; there would be no one to furnish the ransom money and the whole family would have to congregate

at the time of trouble and it would be impossible to go out and get the ransom money even if it had been produced.

Q Did he ever discuss with you the question of killing his associate, Nathan Leopold, Jr.?

A He did.

Q What did he say about that?

A He had a rather changeable attitude toward his associate, mostly one of affection, but at times less so. He said, "I have always been sort of afraid of him. He knew too much about me, ~~xxx~~ and he knew" -- meaning his associate knew -- that Loeb was not trustworthy entirely. He had often thought of shooting his associate because he was a bad influence upon him. He goes on to explain this by saying, he means that he never could have carried out his crimes alone, but he required an associate to be with him, and therefore his companion, by being his associate, was a bad influence upon him. He was somewhat afraid his associate might betray him. He had thought of pointing a revolver at his associate and shooting him, "But the idea of murdering a

fellow, especially alone -- I don't think I could have done it," he said, "but if I could have snapped my fingers, and made him pass away of a heart attack, I would have done it."

Another reason why he never murdered his associate was that he felt he would be suspected, they having been such close friends. He never made any attempt to dispose of his associate.

He also frequently contemplated suicide. At one time he suggested that the two boys play poker to see which one should commit suicide. If there were some simple and graceful way of committing suicide which would not let people know he had committed suicide, he would have done it, but he would not have done it so people would recognize it, because that would have been a stigma on the family. He has not seriously considered suicide since his arrest. He has not been depressed.

Q Addressing yourself now to the physical and neurological examination: As I understand you, you say you took his blood pressure?

A Yes.

Q Tell us the result of that test?

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A Systolic, 100; Diastolic 65. Blood pressure 35. Pulse rate 88 to 93. I think I have another finding.

Q Did the result of that test in any way indicate a deviation from the normal, as far as blood pressure is concerned?

A It is below normal.

Q Is that the only test you made?

A Another one was; systolic 100 and diastolic 60.

Q Did the result of that test deviate from the normal?

A That is below normal.

Q You said you took a basal metabolism test. State what that is, and its purpose.

A The basal metabolism test is a chemical test to determine the rate at which the body tissues oxidize the food which the body has ingested, and gives us an indication of the vital forces of the body.

The test is done in a technical way by having the patient appear without any breakfast and lie quietly for an hour in loose clothing, breathing into an apparatus which has been clamped to the mouth, the nose having been shut tight, to measure the carbon dioxide of the breath, as thrown off.

The carbon dioxide is absorbed by some of the chemicals in the test.

We must consider a persons age, his weight, his height, his skin area, his temperature, his pulse rate, his respiration.

This has all been carefully tabulated in thousands of cases and charts have been prepared and we are able to contrast the results obtained in any one patient with what would be normal for that patient considering his age, weight, etc.

The metabolism test in the case of Richard Loeb on June 14th, taken under ideal circumstances, was minus seventeen percent, which is abnormally low.

Q What does such an abnormally low basal metabolism result signify in the individual?

A A disorder of the endocrine glands and the sympathetic nervous system. It is one phase of medical evidence to indicate that there is such a disease of the endocrine and sympathetic nervous system.

Q You made a sugar tolerance test, a Wasserman test, a blood physics test, a blood chemistry test, a urinalysis, and a urine after glucose test. I will now ask you

to state generally whether the results of those tests were negative or positive.

A The Wasserman was negative.

The sugar tolerance test was somewhat high, but not abnormally so.

The blood physics showed him to be somewhat anemic, there being 5,570,000 red cells, with a color ^J index of .77.

Q There is no significance to that, is there?

A Some anemia, but not pronounced. The blood chemistry, non-proteid nitrogen in the blood, was only slightly high, 37, the normal being from 35 to 35.

Q You need not give the specific ^{ones} except those that are significant, that show some significance on his personality. If they were normal, just say so.

MR. CROWE: No, give them all to us, because I would like to know whether he is ninety-five percent normal or not.

MR. WALTER BACHRACH: The State's Attorney has asked for them. Go ahead and give them.

A There were fifty-six volumes percent of carbon dioxide in the blood, the normal value being sixty-five

percent. The urine examination showed a specific gravity of 1034, with clear transparency and amber color, acids reaction, no albumin, no sugar, no indican, no casts, but there was mucous present, and a few epithelial cells, -- of no significance.

MR. CROWE: That throws considerable light on this murder does it not?

THE WITNESS: No.

MR. WALTER BACHRACH: I object to counsel interrupting.

Q Did you make an x-ray examination of Richard Loeb?

A We did.

Q Have you the x-ray plates here?

A I have.

MR. CROWE: Did you take them yourself, doctor?

THE WITNESS: Just a moment.

MR. CROWE: What is your answer?

THE WITNESS: I say, just a moment, until I get Loeb's separated from Leopold's.

MR. CROWE: Did you take them yourself? Before we go any farther with the x-rays, did you take them yourself?

36r

MR. WALTER BACHRACH: Just a moment.

MR. CROWE: Wait, now.

MR. WALTER BACHRACH: I will address myself to that question.

Q Were you present when these x-rays were taken?

A I was.

Q Did you look through the fluoroscope into the body and the various parts of the body of Richard Loeb at the time these x-rays were taken?

A I did.

Q Did you see by looking through the fluoroscope into the body and the various parts of the body of Richard Loeb, what you now see in the x-ray plates you now hold before you?

A I did.

MR. CROWE: I object. He has not qualified as an expert in x-ray. The proper way to introduce the photographs is to have the person who took them take the stand and state how they were taken.

MR. WALTER BACHRACH: The supreme court has held it is proper.

MR. CROWE: No, the supreme court has not and you

cannot produce a decision to sustain you.

THE COURT: Q You have taken x-rays yourself, doctor?

A I was present when these were taken. I marked the plates with my own watch chain and they are the same insignia as the x-ray. I carried the films to the laboratory; I was with them while they were developed in the dark room and I recognized on these films at that time the same pathology I had recognized in the man's skull a half an hour or so before.

THE COURT: You may go ahead, doctor.

A We took x-rays of the skull, face, ~~wrists~~ wrists, thorax of this boy.

MR. WALTER BACHRACH: Q Now addressing yourself first to the thorax, which, as I understand it, is the chest cavity --

A It is.

Q ⁺Is there any deviation from the normal on that x-ray shown?

A Very little.

Q Is there any shown by that x-ray?

A Very little. The heart seems to be rather of a tubular type, not broad.

MR. CROWE: Now, if the court please, if we go into those, I would like to submit to your Honor an authority showing an x-ray photograph cannot properly be introduced in evidence with this kind of a foundation.

This witness will probably be on the stand all afternoon and I will present that decision to you in the morning.

THE COURT: All right. If you do, I will strike it out.

MR. CROWE: All right.

THE COURT: You can move to strike it out now or at the close of his testimony.

MR. CROWE: Let it go in subject to my objection and I will present the authority in the morning.

MR. WALTER BACHRACH: I will also state to the court that the best of authorities under this kind of proof will not bear out this contention, and that, secondly, if Mr. Crowe were right, he would bring in the man who actually took them and put him on the witness stand.

MR. CROWE: That is what you should do.

MR. WALTER BACHRACH: He is here in Chicago.

MR. CROWE: Bring him in.

MR. DARROW: What is the use of having to work in hot weather?

MR. CROWE: I don't have to do the work.

THE COURT: The doctor may testify subject to the State's objection.

I will rule in the morning. If you have got the authority to show me, I will be guided by it. Proceed, doctor.

A The x-ray film of the chest shows the heart to be rather tubular in shape. No great significance.

MR. WALTER BACHRACH: Q Address yourself to the x-ray film of the skull.

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

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

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Court reconvened pursuant to short recess heretofore taken.

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

resumed the stand as a witness on behalf of the defendants and being further examined in chief by Mr. Walter Bachrach testified as follows:

MR. CROWE: I withdraw the objection.

THE COURT: The objection of the state's attorney is withdrawn, he says.

MR. WALTER BACHRACH: Q Doctor, will you take the x-ray film again of the skull and tell us what your findings are with respect to that film?

A We took two x-rays of the skull. The sellatursica is normal size.

Q Tell us what the sellatursica is.

MR. CROWE: Do you know?

MR. WALTER BACHRACH: Yes, I know.

MR. CROWE: Well!

A The sellatursica is the bony cradle of the pituitary gland underneath the brain. The x-ray shows a great deal of dental work and reveals the absence of the lower left second bicuspid tooth.

2a

41r

MR. WALTER BACHRACH: Q Is that a baby tooth?

A No, it shows the adult tooth is not there. The smaller x-ray of the face and jaw shows the same condition. Several teeth are missing. It is difficult to determine the presence of the baby or deciduous or milk teeth still persisting, although a clinical examination of the mouth shows the presence of these baby teeth, and that was confirmed by some dental films which had been previously taken and submitted by the family physician a year ago. I cannot testify these are the teeth of this boy, although I was told they were.

The x-ray of the wrist shows no pathology, or, in other words, shows nothing unusual for a boy of his age.

Q Now, have you before you some negatives or positives, rather, of the dental x-ray films?

A No, I have not of the dental.

Q Have you of the skull?

A I have of the sella.

MR. WALTER BACHRACH: I will have these marked defendants' Exhibit 3 of this date.

(Which said document was marked as

3m
42r
Q This picture is made from the x-ray negative which you already identified, is it not?

A It is. I was present when it was made in the dark room and later during the further development, cutting, and so forth. These never left my possession and these are prints of the region of the sellatursica and pineal gland from this film, to make it easier to study.

Q Will you indicate to the court where the sellatursica is and what its relation is to the pineal gland?

A (Exhibiting book to the court.) I have marked in ink on this page, on this half, the sellatursica, so you can see up here --

MR. CROWE: Talk a little louder.

A I have marked on the lower half in ink the region of the sellatursica, so he can tell from the upper here, to interpret it. You will notice there is no pineal shadow. There is no shadow. There is no of the pineal gland in this boy.

MR. WALTER BACHRACH: Q What does the absence of the shadow on this film or this positive taken from the film indicate with respect to the absence of a pineal gland

in Richard Loeb?

A It indicates the pineal gland in Richard Loeb is not calcified.

Q Is that a normal or naturally normal condition in a boy or young man of 18 or 19?

A It should not be calcified at this age, and it is not calcified in this case.

MR. CROWE: Q So it is normal, doctor?

A It should calcify at about 30.

Q So this is normal?

A Yes.

THE COURT: Q Is that of Loeb?

A Yes, sir. It is different of Leopold, a different type of fellow.

MR. WALTER BACHRACH: Q As result of your physical, neurological and psychiatric examination of Richard Loeb--

MR. CROWE: Now wait a moment. Have you told what the neurological examination was?

A No, I have not.

MR. CROWE: Let us have that first, then.

MR. WALTER BACHRACH: All right.

Q Give us your explanation as to what you found or

tell us what your findings were with respect to the neurological examination.

A The physical and neurological examinations were combined.

Q Tell us what you found from those examinations.

A In Richard Loeb we found a well developed, well nourished boy, 69 inches high and 142 pounds in weight, with a slight but muscular distribution of the hair.

The skin warm and moist. There were bandages on the left knee. He had hurt himself recently in an indoor baseball game in jail, and he had "beg-bug" dermatitis on the arms and legs.

There was some curvature of the spine, the tenth dorsal vertebra being curved anteriorally.

The sense of smell was intact.

As to the eye examination, I have done that two times, and I can combine them. Distance vision is not as sharp as it was one or two years ago. Pupils round, even, equal and two and a half millimeters in diameter, and they do react to light and in accommodation. The near point is two inches. The tactile tension is normal. The right vision is better than the left.

45r

Neither is quite up to normal, due to a spasm of the ciliary muscle. The discs are normal. The retinal arterial light streaks are more marked than normal, but the arterioles nick the veins to only a moderate degree. The intra-ocular tension is right 23, left 21.5, the normal being from 15 to 25.

The form field and the red fields are approximately normal in outline.

If you want the figures I can give them to you, or here is a chart.

MR. CROWE: No. In other words, he's a healthy normal boy?

MR. WALTER BACHRACH: I object.

THE WITNESS: I didn't say that. I say his eyes show no abnormality.

MR. CROWE: Go ahead.

THE WITNESS: The extra ocular movements of the eye are normal. One notices in his face a certain degree of movement of the facial muscles. The other cranial nerves are normal, except that there are tremors of the tongue.

The reflexes show no abnormality.

His gait was normal except his limping on his hurt left leg.

Hand grasps normal.

In the neurological examination, nothing unusual was brought out except the inner and front part of both legs, about the middle third, the sense of touch and the sense of heat is somewhat diminished or impaired, but is still intact.

The clinical examination of the mouth showed some deciduous or baby teeth that were spoken of previously.

The heart and lungs were negative.

He had a few enlarged lymph glands.

The thyroid was not palpable.

MR. CROWE: Where were the enlarged glands?

A Inguinal, or in the groin. The thyroid was not palpable; I could not feel it. He did have marked dermatographia.

MR. WALTER BACHRACH: Q Does that complete your neurological examination?

A ~~These~~ Those were the essential findings.

MR. CROWE: You have got your witness saying that

MR. WALTER BACHRACH: Q Did Richard Loeb in the course of your interviews with him discuss with you the means to be employed in the killing of Robert Franks?

A Yes.

Q After the striking of Robert Franks on the head, what means were to be employed by which the death was to be accomplished?

A It was planned to strike the boy on the head from behind with a taped chisel -- being taped to protect the hand of the wielder -- to render him unconscious, then to take him to the culvert, and there to strangle the boy, whoever he might be, each of the two young men holding one end of the strangling rope; then to strip the body of all marks of identification, clothing, to obliterate chemically any other marks of identification, and to place this body in this culvert, where it would remain forever, or until it had disintegrated.

Q Did Richard Loeb tell you whether or not strangulation had occurred?

A He did.

Q Did he tell you whether there was strangulation

by means of a rope?

A He told me that the boy was struck several times with the chisel, and died in the car, and there was no need to strangle the body at the culvert.

Q And as a result of the various examinations made by you and described by you here, are you able to, and have you formed an opinion as to the mental condition of Richard Loeb on the 21st of May, 1934?

MR. CROWE: Wait a moment. Have you finished all of your examinations?

THE WITNESS: No.

MR. CROWE: How about the psychiatric? Give us that, please.

THE WITNESS: A In the inner mental life of this boy there has been a terrific struggle, because of his physical frailness when a small child.

He felt much inferior to the other children with whom he associated, and he could not compete with them in their games on even terms.

This sense of inferiority was very distressing to him. He did not associate much with other children, being largely with the governess, or alone.

He indulged himself in thoughts wherein he was superior to others, and achieved in his inner mental life the superiority which was denied him in actual life. This superiority over others found its greatest outlet in his contemplation about criminalism. As a master criminal, knowing more than anyone else, he was superior to those with whom he would have to associate. This conflict between his inferiority and his superiority remained in his inner mental life, but affected his life in contact with others, causing him to demonstrate wherever he could his superiority in knowing more than others, or over others.

MR. CROWE: Are those all the examinations you made?

A Practically all.

MR. WALTER BACHRACH: Q Have you given practically all of your psychiatric findings?

A Yes.

Q I will ask you whether or not, as a result of these examinations which you have described here, you are able to form and have formed an opinion as to the mental condition of Richard Loeb on May 21st, 1934?

A I have.

Q What is that opinion?

A My opinion is that the man is not normal physically or mentally, and there is a close relation between his physical abnormalities, largely of the endocrine system, and his mental condition; that intellectually he far excels the average boy of his age; that in matters of emotion he is much inferior to the average boy of his age, his emotional reactions being those -- I estimate, because I cannot measure -- of a boy of about nine or ten, certainly less than a boy of puberty; and in matters of judgment he is childish. The discrepancy between his judgment and his emotions on the one hand, and his intellectual attainments on the other hand, is a greater discrepancy than we find in normal persons, and therefore I am forced to conclude that he is mentally diseased.

MR. CROWE: Wait a moment. You have not given any illustration of his judgment at all, except the commission of the crime.

MR. WALTER BACHRACH: I suggest Mr. Crowe postpone his cross examination until I finish.

THE COURT: Yes.

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MR. DARROW: And his argument also.

THE COURT: Let the defense get through with the witness before you cross examine.

MR. WALTER BACHRACH: Q Addressing yourself now to the defendant, Nathan Leopold, Jr., I will ask you to state in a general way whether you made the same kind of examinations as you made of Richard Loeb, as described by you here?

THE COURT: I was going to say, if Mr. Crowe had some specific question with reference to what the doctor has just stated about Loeb, you may answer that question; but your general cross examination should be deferred.

MR. CROWE: I merely wanted him to give me all of the things he based his judgment on.

THE COURT: Do that on cross.

MR. CROWE: But he has given all except in the matter of judgment. Of his judgment he has given merely one illustration, and that is the commission of the crime itself. It is not cross examination. I merely wanted to get the foundation upon which he bases his opinion.

THE COURT: Maybe that one illustration is what he

bases his opinion on. Develop that on cross.

(Whereupon the question was here read
by the court reporter)

A Much the same.

MR. WALTER BACHRACH: Q What significant facts did you find as to Nathan Leopold, Jr. with respect to the family history?

A There are many instances of nephritis, or Brights Disease in the Leopold family, particularly on the mother's side. She had a nephritis herself which was so sever that she spent most of her time in bed during her pregnancies, to prevent a miscarriage. She was particularly observed by the physicians during those pregnancies, for fear eclampsia would develop. Albumen did appear in the urine. Convulsions did not occur. She never recovered from this nephritis, and remained a nephritic the rest of her life, an invalid, and died seventeen years later, without subsequent pregnancy. In his -- well, that is all on the family history that is of any significance.

Q What fact did you find with respect to the personal history of Nathan Leopold, Jr.?

A His precociousness or rapid advance has been marked almost from birth.

He sat up at three months; he laughed when he was four weeks old; he laughed aloud definitely when he was twelve and a half weeks old; he took his first step when he was three months old; said a few words when he was between four and five months old. His first teeth appeared at eight months; when he was one year old he had six teeth. He walked when he was fourteen months old. He started to school when he was less than six years old, and his school record I will take up later under his academic history; but it has also been precocious. As a child he was bright and alert, but not strong or rugged. In childhood as well as in infancy he was frequently sick with gastrointestinal disturbances, which were marked with fever, headaches, and vomiting, so he was on a limited diet most of the time or much of the time.

At nine years of age his tonsils were removed. Previous to that he had lacked energy; he had no desire for outdoor sports. He was inferior to other boys, and he realized it.

Following the removal of his tonsils, there was a marked improvement in his physical condition. He phrased it himself by saying, "Before I had my tonsils out I was a girl. After I became like a little boy." He then had more energy for sports, but he never did acquire much liking for them nor much skill in sports.

He had several minor sicknesses in childhood, whooping cough and measles, mumps. When he was thirteen years old he began to grow unusually rapidly. He had been somewhat undersized before this time. Adolescence or puberty started at thirteen and was fully completed when he was fourteen.

When he was fifteen he became quite overweight and reduced fifteen or twenty pounds by dieting.

As a child he had frequent attacks of nose-bleed. He has always been extremely sensitive to physical pains and he showed instability of his blood vessel control. He has had several attacks of skin rash. He is sensitive as to certain fat foods. He has had an unusually great thirst for water which

has subsided recently. He has had an unusually great appetite, which has subsided in the last few months.

He is quite disposed to headaches and gastrointestinal trouble. Whenever he has a slight fever he has profound headache. He got glasses to see if they would relieve the headaches, but they did not. His teeth have not been good. His sleep is sometimes troubled but not unusually so.

In athletic activities where he could set his own pace, such as taking a long walk or a hike or tramp or in birding, he could do well, but if he had to compete with other boys at the pace they set, he was not strong enough to keep up and never has been.

In 1920 he had several sicknesses in rather close succession. One was identified as chicken pox, but of a peculiar or abnormal form where he had a very pronounced fever, but the rash was very late in coming out and two months later he had a relapse of measles.

He had measles for the second time.

During these sicknesses he had a high fever and he had involvement of the central nervous system;

there were twitchings, there was rigidity of the neck, and the head was thrown stiffly back, things which are suggestive of meningitis.

Within the next two months after that he developed more of the skin diseases, one a case of giant urticaria and one a case where the skin peeled off, exfoliating erythema.

He is particularly sensitive to pain. A slight pain will make him sweat, feel weak and faint. His skin condition was also pronounced when he had scarlet fever in 1921. He has shown vasomotor instability and dermatology skin inferiority.

He has the so-called neuro-circulatory asthenia, or a nervous weakness, associated with weakness of the heart and blood vessels. He has developed a rather morbid fear of physical distress.

MR. CROWE: Doctor, will you give me that last one, I did not quite get it?

A Neuro-circulatory asthenia.

MR. CROWE: No, about the morbid fear.

THE WITNESS: Morbid fear of pain inflicted on himself. For example, when I took some blood from his ear for a blood physics examination the boy almost fainted.

not from the pain but while I was getting ready.

MR. CROWE: He doesn't like the idea of being hanged?

THE WITNESS: That is another question.

MR. CROWE: All right.

THE WITNESS: Both the doctor and the nurse that examined him as well as myself and Dr. Bowman all agree that he is very sensitive to physical pain.

This vasomotor instability, lack of blood vessel tone, has been shown by his recent sicknesses. He has had sinue infection and rhinitis and a very pronounced congestion of the inside of one nostril would appear in a short time and almost suddenly disappear to reappear on the other side. In other words, it would be turbinated congestion first on one side and then on the other..

MR. WALTER BACHRACH: Q Do these things indicate an instability of the nervous system?

A They do, of the sympathetic nervous system.

Q Address yourself now as to the facts you ascertained as to his academic history.

A Yes. The first two years this boy went to school he went to a girls' school. This school has been

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All during the time he was going to school he realized he was not like other children, that his parents were wealthy, they lived in a better neighborhood than most of the children, and that he alone had a nurse who accompanied him to and from school.

He continued in the Harvard School until he was about 15 years of age, in 1920. By taking extra studies and examinations in German, he found he would be eligible for college. While he was at the school, he had a burning desire for Greek, as he expressed it to me, and he took for one year Greek, instead of French, which he should have taken.

He was always at the head of his class. He made very few close friends. He got along pleasantly with the others. One reason why he made few close friends is that he advanced in school more rapidly than his class mates.

In the School Review of 1920, which was the annual student publication, where there were comments on the various members of his class, I read the following in relation to Nathan Leopold, Jr.:

"The present junior class is indeed a good crowd.

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Under the leadership of so and so as class president they have become distinctly a social crowd, not omitting the great Nathan."

In another place this is in quotations:

"Of course, I am the great Nathan, when I open my lips let no dog bark."

And in another place, a poem speaks of the same person:

"And so our list of Juniors has,

At last been briefly told --

With one exception only, it's

The mighty Leopold."

And another place it referred to him as "Nathan Leopold, the crazy 'bird' of the school. The avicular member of the fifth class is forever harping on birds, their advantages, and their twitterings, known in all zoos, bird paradises, and bipedded creature communities. 'Flea' has not found much difficulty in covering his yet un-sprouted wings, and is always up to 'Cimicic' mischief."

"'Flea', to leave the ridiculous, -- is the proud owner of a large museum of birds, bugs, antiquities and late war souvenirs. A favorite remark of this crazed

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genius every other Monday morning: Oh-----! Only Sixteen A's."

After he left the Harvard School he attended the University of Chicago for one year. Then he went to the University of Michigan for one year at Ann Arbor. Following this he returned to the University of Chicago, living at home. Altogether he attended college three and a half years, received a Bachelor of Philosophy degree and Phi Beta Kappa at 19. He then took one term of post graduate work, and this last school year has been studying law at the University of Chicago.

His major work in college has been in the languages; English, German, French, Sanskrit, Russian, Latin, Greek, Modern Greek, Oscan, Umbrian and so on.

MR. W. BACHRACH: Q What did he tell you as to his inner life, his inner mental life, his phantasies, day dreams, reveries?

A His reveries, as he calls it, began at the age of five, when he saw his brother in military uniform. He idolized his older brother. He was greatly impressed with this uniform, and the idea of having a body of men under co d appealed to him immensely, and he began

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men. This phantasy was soon changed to the very marked revery of the king and slave revery. The origin of this revery apparently dates from the story of St. Christopher, which was told him by a governess, when he was about six years of age. About ninety per cent of the time he estimates that he took the role of slave in this king and a slave revery.

MR. CROWE: Mr. Bachrach, if the Court please, I don't like to interrupt, but I would like to get that story now. It is the beginning of this phantasy.

MR. W. BACHRACH: Q Go ahead and give it, doctor.

MR. CROWE: Will you give it, doctor.

A The story of St. Christopher?

MR. CROWE: Yes. That is, as he told it to you.

A It is all mixed up with some other stories the same nurse told him. Let me take that up under "Governess".

MR. OR : All right.

A Robin Redbreast story and other such legends.

MR. CROWE: That is all right.

THE WITNESS: He preferred to play the role of slave

in the king-slave revery. One time he figured that he, as slave, saved the life of the king, and the king was very grateful, and offered him his liberty, but the slave refused it, but the king made his life very comfortable. At one time at a king's banquet he lay at the feet of the king and saved the king's life, and from then on, although the other slaves present were chained heavily, he was chained very lightly with a tiny gold chain which he could easily have broken.

Some times he would be champion for the king. His reveries did not always appeal to his logical mind. For example, in one revery he figured he overpowered a thousand attackers with guns and he had none. He knew that was not logical, so he did not think along that particular line.

In another phantasy he with some others were shipwrecked. He alone could play the piano, so he was made a noble, and the others of the shipwrecked mariners were made slaves, and he was given a slave of his own, and the slave was granted branded with the sign of a crown, or a seal on the inner aspect of the calf of the leg near the front.

This king-slave phantasy continued until he was over eighteen years of age, and he rang in a great many changes on it, and it became the basis of a conscious ambition to become the perfect slave of someone who was superior to him, if he could find such a one in the world, in the line where he himself was most superior, namely, in intellect. Conscious of his own —

MR. CROWE: Doctor, just a minute.

(The attorneys conferred with the Court for a few minutes outside of the hearing of the stenographers.)

MR. W. BACHERACH: We offer in evidence now Defense Exhibits 3 and 4, 3 being the Bo -Hulbert Report as to Richard Loeb; and 4, being the Bo -Hulbert Report as to Na Leopold, Jr.

MR. CROWE: There is no objection.

THE COURT: No objection? All right.

MR. W. BACHERACH: These are the reports that were submitted to Dr. William Healy, Dr. William White and Dr. Bernard Glueck and which they testified to in their examination as entering into the findings that they made and gave in court here.

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THE COURT: They may go in.

MR. DARROW: Then I will offer a copy of a bank deposit statement, some checks, of the condition of the bank account of Richard Loeb, the defendant Richard Loeb, and have it marked Exhibit 5.

MR. CROWE: Yes, by agreement.

MR. DARROW: And it may be stipulated by agreement that it shall be considered in evidence.

THE COURT: All right, it shall be so ordered.

MR. CROWE: They have another one as to Leopold, and I will agree that that go in the same way.

MR. DARROW: Before you get to that, I also offer an affidavit of the cashier of the Charlevoix County Bank of Michigan, showing the amount of money that Richard Loeb, the defendant, had on deposit on the 12th of May, 1934. That should be the 21st.

THE COURT: If you agree it is the 21st, you can change it.

MR. CROWE: I don't know. Does it show in your bank statement?

MR. D : Let me have that bank statement. This covers it because it says that this balance remains unchanged to date, so that covers it.

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THE COURT: All right, they both may go in.

MR. DARROW: And this shall be marked Exhibit 6 of this date, and it is stipulated that it may be considered in evidence.

MR. CROWE: And the same stipulation will go with the other bank account?

THE COURT: There will be one session to-morrow of two hours, from 10 until 12, instead of from 10:30 to 12:30. One session to-morrow, being Saturday. We will suspend now until to-morrow at 10:00 o'clock.

Whereupon an adjournment was here taken to 10:00 o'clock A.M. August 9th, 1924.

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Saturday, August 9th, 1924.

10:00 o'clock A.M.

Court convened at 10:00 o'clock A.M. Saturday, August 9th, 1924, pursuant to adjournment heretofore taken.

Present, same as before.

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

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

DIRECT EXAMINATION
(Continued)
BY MR. WALTER BACHRACH.

MR. WALTER BACHRACH: Q At the adjournment hour yesterday, Doctor, you were telling us what Nathan Leopold, Jr. told you as to his inner mental life? Now, will you continue your answer, in the giving of which you were interrupted on yesterday by the adjournment.

You were telling us about his king-slave revery or phantasy.

A Yes, I recall that.

Q And that the origin of this revery dated from the story of St. Christopher, which was told to him by a governess when he was about six years of age.

Now, will you continue from that point, please?

A There were many phases of this king-slave phantasy or revery or contemplation. The general theme remained about the same. He was the role of the slave. He was the perfect slave of the most powerful or most perfect king.

He engaged in this phantasy for long or short periods for many years. He continued it up to the age of eighteen.

And this phantasy had set the pattern of his ambition in conscious life to be the perfect slave of the most perfect person, if he could find someone more superior to himself in the line of his own superiority, namely, intellectual.

He found such a superior, he felt, in Richard Loeb, who had graduated from college at an earlier age than he himself had done. He had always been a lonesome individual, never having had close friends,

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always desiring one, and he offered Richard Loeb his friendship and sought Richard Loeb's friendship, because he thought Richard Loeb was his intellectual superior; he wanted to be Loeb's "perfect slave" in any way that Loeb should request, even to the point of kidnaping, murder, or anything else.

His phantasy of "king-slave" made him particularly suggestible to anything which his "elected king" should suggest. He had considered other men in relation to this king-slave phantasy, and had found no one who perfectly filled the bill. He considered some of his teachers, some of the minor officials at business academies where he had been and so on, for the role of this king, but none of them had been satisfactory. Richard Loeb, however, was. That is about all there is on that "king-slave" phantasy.

Q Did he tell you of any other phantasies?

A There were no other important phantasies in his life. There were no criminalistic phantasies. There was the minor phantasy of being a handsome attractive person of the Hart Shaffner & Marx type.

Q Ordinarily what is the effect of phantasies on a person's conduct?

A "The self is fed and fashioned by what we contemplate, admire, love and do", Bishop Spalding said, and no one has ever said it better; and his phantasies, contemplations, admiration of certain things made him very largely what he is, and made him do those things which he has done.

Q Did Nathan Leopold, Jr. discuss with you religion, the development of religion in itself, and his attitude toward religion?

A Yes.

Q Tell us what he told you about that?

A His religious life has been very unusual. Because of his intellectual precocity he was ready for confirmation before he was old enough to be confirmed, and when he was old enough, he did not care to be.

He only had one religious teacher whom he

admired, Rabbi Hirsch, if I recall correctly,

As a child he became interested in the various churches in his neighborhood, and by the age of six or seven he knew all of the churches within a mile radius of his home; he knew their architecture; he knew their theology; he knew their form of worship. He liked to classify churches. When he was about six he had this little nurse Paula who told him of the lives of the saints, and that interested him tremendously. She was interested in his knowledge of churches.

He visited a church in Duluth one time when the family were there, and a stained glass window of the Madonna seemed to be a picture of his mother, and he attempted to identify himself with the older child, there being two children there, probably the Christ child, and St. John the Baptist, his cousin.

He attempted to identify himself with the elder child. There are the two children, probably the Christ Child and St. John the Baptist, his cousin, and he identified himself with the older child and called it Jesus, the older brother.

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There has been confusion in his mind as to the difference between his mother and the Madonna and himself and the Christ. He does not frankly say, "I am Christ" but he does say that he is the superior person of the world.

These religious ideas and perplexities have continued for many years, and I had occasion to observe his college notebooks which he has been keeping for the last two or three years.

Q Notebooks as to what?

A His college course.

Q Any particular course, law, for example?

A Some in law and some others in economics and others in languages, and his notebooks were filled, border and top and blank pages with sketches and a great many of these sketches were of a religious nature, and in the front of one of his notebooks, drawn long before this episode began; is a picture of a man crucified. This man does not resemble himself particularly or resemble Christ. It is a figure of a man. He has drawn many pictures equally indefinite labeled with his own name and there are a great many other pictures in his

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notebooks that it would take too long to recite, mostly birds, people, scenes and objects like bottles, birds, Indians, a numerous list showing even during his school attendance his inner mental life pushed itself through his conscious control and attracted his attention causing him to do those things.

He learned the Lord's Prayer in as many languages as possible, I have seen it in his notebook in four different languages.

Q May I interrupt you there and ask you what resemblance is there if any between these sketches in the notebooks and the phantasy life or day dreams?

A These sketches were not in relation to the classroom subjects. They were inspired by his inner mental life, by his phantasy.

Q That is an expression of his phantasy?

A Yes, they are significant of it, interpretive of it.

Q Go ahead, doctor.

A In his religious studies he was intensely interested in classification, as he was in other things, too, and he finally found fault with God and as far as he was concerned he abolished God because God

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makes mistakes, God made a great mistake when he took his mother, an almost perfect woman and left others not so perfect.

He then became an atheist, and atheism is something that troubled him for some time. This is definitely shown by the fact that he preferred to register at the University on the admission card where he gave his name and address and where religion is given to be filled in he preferred to register "Atheist".

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He finally conceived life existing without any God, just a matter of mechanics, and there being no God there is no right or wrong per se. He is very sincere in his belief because he has acted it out.

MR. CROWE: Keep your voice up, doctor.

MR. BACHRACH: Q Did you ascertain from him what the effect of his mother's death was upon his mental life?

A He said his mother's death changed his entire philosophy of life. He seemed to lose inspiration after her death, and he never did adjust himself normally to the world nor to himself after her death.

Q Did he tell you when she died?

A She died about two years ago, I understand.

Q What did he tell you, if anything, as to the part that languages played in his mental life?

A He was greatly interested in the classification of languages. His interest in classification began before he knew but two languages . He was a bilingualist as a child because he had a German governess, and they talked English in the home. As a child he collected birds, butterflies and bugs, and an older man told him that birds should be classified in species and in families in general. Heretofore they had been to him ordinary things, and this idea of classification impressed him tremendously. He began to classify every thing that he could, and that is why he classified the churches when he was such a little child.

When he began to study languages he found that languages could be classified, words could be classified and this fitted in with his previous strong impulse to classify things and it became his ideal in education to study those things which were non-emotional, such

as various languages, things that could be classified, and he has specialized in languages and has probably a working knowledge of a dozen different languages, and he attained high grades at school in his languages.

9 I know he is competent in languages insofar as I can interpret because I asked him to make a memorandum for me, one which he wrote in French words using Sanskrit characters so that it could not be read by somebody else should he drop it before he had time to give it to me.

MR. WALTER BACHRACH: Q What effect did this tendency to classify have upon his mental life, this tendency being carried out, what effect did that have upon his inner mental life?

A His tendency to classify things led him into a maze of fragments of philosophy from this author and that author.

He has attempted to classify his philosophical knowledge. It does not stand close scrutiny. He thinks it does. The net result is that he has abolished the ordinary classification which most of us accept as to what things are right and wrong,

what things any person should do, what are the respon-

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sibilities on one and what are the duties one should render to others. These have all been sacrificed because of his desire to classify, from this salad of philosophical studies.

Q What did he say to you, if anything, as to his attitude toward friends?

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A He has had no close friends. He was not strong enough to call forth their admiration for his boyish activities, like most boys do. He exceeded his friends educationally. He rapidly outstripped them at school. He has never made a full confidant of his family, any of his family, has had no close friends. He has always desired a friend, but that friend must fit in, he felt, with that king-slave phantasy which had been the keynote of his inner mental life.

Q What, if anything, did he say to you as to his tendency toward seclusiveness?

A He said he wanted to make friends but he found he could not. He was very sensitive to the criticism of others, he could not stand it, so he bore himself in a way which would put him above criticism.

Q What did he say to you as to his moods?

A He preferred to live a non-emotional life, if

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he could. His ideal was a sheer intellectualist. Of course, his makeup made it rather easy for him not to be an emotional person and easy for him to inhibit the further development of those emotions which he had. He does not have swings of mood. He does not have the depressions that Loeb has, for example. He does not have periods of exhilaration. His mood is more or less level, and rather shallow. He has no strongly developed emotions.

11 Q What did he say as to his philosophy?

A His philosophy of life is that of sheer selfishness. He felt that anything which he could do which would bring himself happiness was the proper thing for him to do, that the rules and customs and laws and criticisms which hold ordinary men did not apply to him, because he was so superior to the average person. The only serious mistake he could make would be a mistake of intellect. He tried to bolster this up by quotations from various authors he had read. It was not very impressive, because it did not have the ring of normalcy.

Q Now, addressing yourself as to his criminalistic tendencies, I will ask you to state whether you dis-

cussed with him such tendencies?

A I did to some extent, yes sir.

Q What did he tell you about them?

A As a small child he stole some stamps from his cousin's stamp collection.

MR. CROWE: What?

12 A As a small child he stole some stamps from his cousin's stamp collection while he was sick, this stamp book being loaned to him to entertain him. His governess helped him in this and later when he —

MR. WALTER BACHRACH: Q At that point did he tell you what his reactions to that act were at that time and what they have continued to be since?

A Why, he thought that was all right. He wanted the stamps but his governess threatened to expose him to the family. She rather blackmailed him and that left him more or less ~~my~~ under her influence. About the same time he was collecting cigar bands. He stole one of his brother's neckties, and traded it off for some cigar bands. When his brother found out about it and took him to task, he said, "That's my business." There was no remorse for it, no chagrin, no hurt pride. In childhood his delinquencies

were all petty and minor. I think he told me he stole some fruit from a Greek fruitstand once. The first planned delinquency was when the two boys agreed to work out a signal for cheating at cards, at bridge. His associate proposed it, and he amplified the plan. The boys were not keen enough to work out a good system, and it was not a success, and they lost money by it, so they gave it up. With his associate, they engaged in many delinquencies, such as driving around the city, throwing bricks through windshields of parked automobiles, sending in false fire alarms.

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They stole two automobiles, and set fire to a shack. He had no sense of guilt in relation to this. He was not thrilled by the crime, he was not thrilled by the menace. He merely did this because his associate suggested it, and any suggestion of his associate was practically law to him. There was no emotional reaction to it. He was intellectually aware of the risk of being apprehended, but that did not deter him. He built up no fear in relation to being apprehended.

Q Did he discuss with you the burglarizing of a

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fraternity house at Ann Arbor?

A Yes.

Q What did he say about that?

A The two boys planned to go to Ann Arbor, and rob a fraternity house on the Saturday night after one of the big football games.

Q Were either one of the boys members of that fraternity?

A Yes. They planned to rob two fraternity houses; first, the fraternity house of the fraternity to which Loeb belonged, and then to go over to the fraternity house to which Leopold had belonged. They did rob the fraternity house to which Loeb had belonged, and then Leopold insisted that they rob the second fraternity house, but Loeb had no great interest in that; he had accomplished the part of the plan that was of major interest to him. They attempted to rob the second fraternity house, but were not successful because they hear people snoring there, and thought they might be apprehended.

Q Did he tell you what was taken from the fraternity house of the fraternity of which Loeb was a member?

A Lots of trinkets and minor jewelry, knives,

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watches, eighty-seven dollars in cash, a typewriter and a kodak.

Q Did he tell you when that burglary took place?

A November of last year during the football season.

Q Can you give the exact date?

A I doubt it.

MR. CROWE: During the Marine Corps-Michigan game.

THE WITNESS: I don't know what date that was.

MR. WALTER BACHRACH: Q Did Leopold discuss with you the Franks case?

A He did.

Q Did you go over the various details with him?

A I did.

Q Did he tell you who struck the fatal blow?

A Indirectly, in that he said he couldn't have done it.

Q Did he discuss with you the plan that the boys had as to accomplishing the death of Robert Franks?

A Yes.

Q Was that the same as you have already related with respect to Loeb?

A The same.

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Q What if anything did he tell you as to his subsequent behaviour and reactions? What were his reactions as they appeared to you?

A In jail, in discussing this crime, he took particular pains to be accurate. There was no other emotion of any kind, neither chagrin, remorse nor discomfort at being in jail, and no apprehension as to his future. I asked him what his plans were. He said, "Well, I can't tell what my future will be, but I would prefer to get married and settle down."

Q Did you discuss with him the question of hanging?

A Yes.

Q What did he say?

A He said that the end of life is the end of all, that one might as well hang as not, and that if his family would feel badly about it, they should disown him before he should be hanged.

Q Did he show any emotional disturbance when you discussed the question of hanging with him?

A None that I could see.

Q Did he show any emotional disturbance when you discussed the Franke case with him, or he with you?

A He said that at the time of the murder he was

upset, and said, "My God, this is awful."

Q My question is as to the time of his telling you. Did he then show any signs of emotional disturbance while he was relating his story to you?

A No sir, He was interested in getting the details exact. That was the only emotion he showed of any kind.

Q Did he discuss with you his behaviour subsequent to the homicide?

A Yes.

Q Tell us what he told you about that.

A He resumed his ordinary activities, his classes, his tutoring, his social contacts as before. He was a little bit annoyed by his associate taking such a great interest in the homicide, and talking with others about it. He realized when his glasses had been found that suspicion might point to him, and suggested that nothing be done about it, but to lie low.

At his companion's insistence they worked out an alibi, which has been described, which did not stand up.

He denied any feeling of remorse; stated he had no feeling of having done anything morally

wrong, because he does not feel that there is such a thing as morals in the ordinary sense of the word, and nothing that he could do would be morally wrong, according to his own standard of morals, as applying to himself. He said he was disinclined to commit another such crime, not from a sense of remorse, but because it would be impossible to plan a perfect crime intellectually. He said he had no enjoyment, pleasure, sorrow or grief from the crime.

He does not like to see people suffer; it makes him uncomfortable. It is not sympathy. He has noticed on occasions with very small children, when they were in trouble, almost a function of his lachrymal glands.

MR. CROWE: What does that mean; that he could not cry?

THE WITNESS: Most of us would say that tears would come in our eyes, but he is a verbalist, and talks at great length, and uses rather exact phrases. He said he would almost notice a function of his lachrymal glands.

MR. WALTER BACHRACH: Q That is the term he used?

A That is his own, "I ~~xxx~~ almost noticed."

MR. CROWE: I wanted to get just what that meant.

THE WITNESS: That meant that he almost noticed tears in his eyes.

MR. WALTER BACHRACH: Q What did he tell you was the motive for the Franks homicide and kidnaping?

A It was a desire on the part of Richard Loeb to commit a perfect crime, and a desire on his part to do whatever Richard Loeb wanted him to do.

Q Is that the only motive that he told you?

A There was nothing personal about it, no reason why they selected Robert Franke. There was no motive of spite or revenge. Later on in the planning of the crime there was a desire to get a ransom, because it would be an expected part of any kidnaping, and because they could use the money. "Five thousand dollars is five thousand dollars", he said.

Q Did the obtaining of the money form any primary object in the commission of the kidnaping and the homicide as far as Nathan Leopold, Jr. was concerned?

A It was secondary in point of time in their planning, was one of the reasons for carrying it out, but Leopold had the desire to postpone this kidnaping indefinitely if he could. He was carrying out

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the plan of the other, but when he could delay it a bit, he wanted to, expecting that he was going abroad in June of this year.

Q Did he plan to go abroad in order to get away from the consequences of his crime, or had that plan originated in his mind before?

20 A He wanted to go abroad for the travel, and he thought it would be a good thing for him to be away from this associate whose suggestions were often so morbid. He had planned to go abroad long before he had committed the crime; in fact, he had set no definite date for the crime until a week or so before.

Q Did he say anything about his father having told him that he could have some three thousand dollars ^{with} which to make the trip abroad?

A I don't know. There was something said to me by the boy about wanting to take eighteen months abroad before he studied law, or take a trip abroad after he had finished his law course; and I am not sure how it was decided; but he had the expectancy during last winter of going abroad this June. I don't know about the three thousand dollars for the trip.

Q Did he discuss with you the attitude of his family with respect to letting him have money for his wants?

A He was always well supplied; he felt that the family were very generous with him, but he would like to have a greater amount of money in his own name in the bank. However, he always had more than enough for his own needs.

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Q Did he have any immediate need for any money at the time of the Franks homicide?

A No, he said not.

Q What were your psychiatric observations so far as Nathan Leopold, Jr. was concerned?

A One was first impressed with his intellectual development. He appears to have the intellect of a man thirty years of age who has been a student all his life, and being only twenty years or less of age, his mental development has been extremely precocious. One is next impressed by the disparity between his intellectual development and his emotional life, because there is an emotional poverty compared with an intellectual wealth, and the discrepancy between these two is extreme. One was greatly impressed by the

vividness, the intensity, the duration and the characteristics of his phantasies, contemplations or reveries, and the effect of these phantasies in fashioning his personality was obvious, as soon as we knew their characteristics, namely, the king-slave phantasy, which is his own phantasy. His judgment is that of a child, a rather nice obedient child who will do what he is told when he is directed to. He has many superstitions which he has not outgrown, but it is difficult to determine how much they are assumed, or how real they are to him.

His sense of inferiority, which dates back to his physical inferiority as a child, when he was so frail, and has persisted ever since, and the duel between that and the satisfying sense of superiority which he acquired from his intellectual development, showed an inner mental conflict of pathological importance.

MR. WALTER BACHRACH: Q By pathological do you mean abnormal?

A Yes, the same word. His desire to classify things, to lead a non-emotional life, to be an intellectualist, was greater than we find in the average youth; his religious perplexities and the way he

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solved or tried to solve his religious problems or perplexities which many young persons have, but the normal person does not arrive at any result that he did, because the normal person has more emotion, better judgment and less intellectuality in trying to solve this problem.

23

His final opinion of himself as the Supreme being of the world is definitely abnormal.

It was interesting to observe how his physical constitution colored his thoughts and his actions. His indifference or lack of emotional feeling of any kind toward the crime, his lack of horror at contemplating such a crime, his lack of critique in being led into such a crime when he had no primary desire himself, his lack of emotion subsequent to the crime in relation to the crime, are definite evidences of an abnormal mental state.

His interest in himself is pronounced. The fuss he made about the trifling medical procedure we did in order to get material for our tests was all out of proportion with their importance. The average person does not think so much of himself as to make so much fuss about having a drop of blood

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taken from the ear, for example, or a blood pressure test taken.

MR. CROWE: Doctor, pardon me. While you are on that, will you now enumerate the various medical tests you gave?

A After I finish the psychiatrist opinion, yes.

MR. WALTER BACHRACH: Mental tests?

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MR. CROWE: Medical tests.

MR. WALTER BACHRACH: I would like to take that up as a separate matter.

MR. CROWE: All right. Just go ahead, then.

A His confusion of his mother with the Madonna and himself as the supreme being of the world being above all man-made laws show a lack of discrimination which is surprising in a person of his intellectual alertness and is a definite sign of mental disease.

MR. WALTER BACHRACH: I might suggest that I am coming to a point now where I want to take up the question of the physical examination.

THE COURT: Is the Doctor through with this line?

THE WITNESS: Yes, I answered that.

MR. WALTER BACHRACH: He is through with this particular line now.

THE COURT: All right, you may have a five minute recess.

Whereupon Court and Counsel here took a short recess.

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Court reconvened pursuant to
short recess heretofore taken.

MR. WALTER BACHRACH: Q Before we get to the
neurological examination I will ask you to state
whether Nathan Leopold ever told you of having offered
to sell his share of the ransom money to his companion,
Richard Loeb?

A Not to me, he did not, no, sir.

Q Referring to both the Loeb boy and the Leopold
boy, I will ask you to state what you found with
reference to their complementary relationship.

A These boys grew up --

MR. CROWE: May I interrupt. It is agreed that the
letter from Foreman Brothers National Bank signed by
Harold W. Held, auditor, and the statements, the five
statements for January, February, March, April and May
may be received in evidence by agreement as defendants'
Exhibit 1 of 8/9/24.

MR. WALTER BACHRACH: Proceed, doctor.

A These boys grew up as individuals until approxi-
mately fifteen years of age and had no effect on each

other, and I doubt if they knew each other at all well. The relationship and friendship has been of less than four years duration and still persists. Each boy felt inadequate to carry out the life he most desired unless he had some one else in his life to complement him, to complete him. Leopold on the one hand wanted a superior for a companion. Loeb on the other hand wanted someone to adulate him for a companion. Unless these two boys had the same constitution which they had, unless those boys had had their own individual experiences in life, the present crime could never have been committed.

The psychiatric cause for this is not to be found in either boy alone, but in the inter-play or inter-weaving of their two personalities, their two desires, caused by their two constitutions and experiences. This friendship between the two boys was not altogether a pleasant one to either of them. The ideas that each proposed to the other were repulsive. Their friendship was not based so much on desire as on need, they being what they were.

Loeb did not crave the companionship of Leopold nor did he respect him thoroughly. But he did

3m

feel the need of someone else in his life. Leopold did not like the faults, the criminalism of Loeb, but he did need someone in his life to carry out this king-slave compulsion. Their judgment in both cases was not mature enough to show them the importance of trying to live their own lives and not leading a life with this close friendship.

Their emotions, such as they had, were so diverse that they did not feel attracted to each other for their personality worth, nor did their emotions permit them to repel against each other. They took each other somewhat as a matter of course.

MR. W. BACHRACH: Q Did they discuss with you, both of them, their pathological sex life?

A To a very slight extent.

Q What was disclosed to you as to the reactions of Richard Loeb to that part of their relationship?

A He was disgusted.

Q Now, will you tell us what was the physical and neurological examination that you made. Give us that in detail and give us all your findings as produced and made in those kinds of examinations.

4m

MR. CROWE: Just a minute. Has he finished with Leopold?

MR. BACHRACH: Oh, no. I am addressing myself now to Nathan Leopold, Jr.

A There is to be found in Nathan Leopold, Jr. considerable pathology. He is nineteen, and 7/12ths years old. In June he weighed 131 pounds. The things of importance brought out by the routine physical examination are, first, the condition of his skin. He is very dark and swarthy. He has several large pigmented flat moles on the back, lower back. The skin is dry, harsh.

The hair development is pronounced. The eyebrows are heavy, and meet. The beard is heavy. The body hairs are heavy. The pubic hairs are heavy. The blood pressure was low. On one examination the systolic pressure was 100, and the diastolic 55, with a pulse pressure, or the difference between the two of 45, and a pulse rate of 70.

Q Are those normal or abnormal?

A That is a low blood pressure, 100. The sense of smell was impaired by a head cold which he had at the time. The eye examination showed that his eyes

were somewhat unusual. His eyes are somewhat prominent. One eyelid is lower than the other, so that the two eyes are not exposed equally. The eye-balls move freely in all directions. Pupils are of average size, round, even, equal. They did react to light, and inaccommodation. The near point is four inches.

Tactile tension is normal.

In the reaction the right pupil had a somewhat lesser excursion than the left.

The examination of the fundus of the eye with an ophthalmoscope showed the physiological cups to be somewhat depressed.

The veins in the retina of the eye are unusually large in proportion to the arteries, and they are deeply niched by the arteries on eachside.

The veins are about twice as large as the arteries, in the proportion of four to two, while in the normal person the proportion is about three to two.

His vision is acute.

Checking up the fields of vision, the form field was of practically normal outline, but the field

for red was somewhat contracted, especially on the lower temporal part. They are charted in our report. The rest of the cranial nerves were normal, except that there were some tremors of the tongue.

6m

Reflexes were slightly increased, except the abdominal reflex which was diminished over the appendix.

There was no disorder of the muscles except the tremors noticed above, of the tongue, and some tremors of the hands, particularly the right.

His heart sounds were clear; no disease of the lungs; some curvature of the spine.

He is rather round shouldered.

The abdomen protrudes.

He is flatfooted. There is a tendency to that.

The thyroid gland is palpable, or may be felt.

He has dermatographia or a disorder of the nervous control of the blood vessels.

From all of which it was concluded, bearing the history in mind, that he has neuro-circulatory-asthenia or vasomotor instability.

His face is not the same on the two sides, there being asymmetry.

Q Did you say, instability of the sympathetic ner-

33r

vous system?

A Yes, and its control over the blood vessels. There is an asymetry of the face; an overgrowth of hair, obviously a sympathetic and endocrine condition.

7a His basal metabolism was measured in the same way as described yesterday, and the result was minus five percent, which is low normal, but not below normal.

Blood pressure reading taken before the basal metabolism test gave a blood pressure of 80 systolic and 35 diastolic, which is abnormally low.

He was given the sugar tolerance test.

Q How is that given, doctor?

A On an empty stomach he was given 100 grams of dextrose in a big glass of lemonade.

Q What is dextrose?

A Grape sugar. His urine ~~was~~ was examined at the time he took this, and a specimen of blood was withdrawn from the arm at the same time, and every half hour thereafter a specimen of blood was withdrawn from the arm to determine the amount of sugar in the blood, and a specimen of the urine was taken

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to determine the presence, if any, of sugar, and the amount, if any, of sugar in the urine.

Q What did you find as to the result of your sugar tolerance test?

A His body does not metabolize sugar properly, his blood sugar tolerance was high. It should range from 80 to 100, and in his case it ran up from 100 to 210 milligrams of sugar per one hundred cubic centimeters of blood, which is definitely high.

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Sugar also appeared in his urine after this test, which is abnormal.

A specimen of blood was withdrawn for a Wasserman, and I took it to the laboratory and watched it examined, and it was negative.

In the blood physics I withdrew a drop of blood from his ear and found that he was somewhat anemic, but not abnormally so.

The coagulation at the time of his blood is two minutes, which is approximately normal.

In the non-protein nitrogen blood chemistry test, the result was 44 milligrams per 100 cubic centimeters of blood, which was definitely high, showing a tendency to Bright's Disease which runs in the family. In the blood chemistry test for

carbon dioxide or alkali reserve we find him deficient; he has 52.3 volumes of carbon dioxide and the normal is 65, which shows a tendency to Bright's Disease, but he has no Bright's Disease at the present time there being no oedema and in the urine there is no albumin.

9. In the urine sugar test there was no sugar before the taking of the glucose dextrose. There was none thirty minutes afterwards, but it was present obviously sixty minutes afterwards and a trace of sugar still persisted in his urine two hours after taking. X-ray examinations were made.

Q Before you come to that, doctor, did you give him the adrenal test?

A Yes.

Q Will you tell us what the adrenal test is?

A In certain disorders of the sympathetic nervous system which we know as vagatonia, the clinical proof may be established in one way by giving a hypodermic of adrelanin, which is the external of the adrenal endocrine gland, which is gotten from the adrenal gland of a sheep and is a preparation which we can buy in the market and which is used to check hemorrhage.

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During this test with adrelinin the patient has to lie quietly and he has to be observed for ten minutes, and for five minutes before the hypodermic is given, and he has to be observed every two and a half minutes thereafter for an hour, to see what changes if any take place in the pulse rate, in the blood pressure, systolic and diastolic, sweating, the change in color, such as pallor or flushing of the face, coldness of the extremities, throbbing of the neck vessels, palpitation of the heart, gasping for breath, apprehension, restlessness, and whether the pupils dilate or not, and lastly, if there is any local reaction in the skin where the adrelinin is given.

Q What is the normal response to that test, if there is such a thing?

A There should be no pronounced fluctuation in any of these characteristics, blood pressure, or pulse rate, et cetera,

Q What reaction did you find in Nathan Leopold?

A He did not give a positive reaction to this. I have the figures, I think they are in my report-- no, they are not. His pulse rate ten minutes before the test was 69, went up to 75 five minutes

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before and then went to 80 at the time of the test. Every two and a half minutes thereafter the pulse rate fell as follows; 76, 68, 68, 66, 66, 64, 66, 68, 64, 66, and half an hour after the test he had approximately the same pulse rate that he had at the beginning, 69. The blood pressure did not fluctuate very much. It was 115 to start with, and throughout the test it oscillated from 105 to 115, most of the time being 110. The diastolic blood pressure did not fluctuate much. It was 45 before the test, 60 at the test, and fluctuated between 55 and 60 during the test. We can conclude then, in so far as this test was diastolic, that the sympathetic nervous disorder is not of the form known as vagotonia.

Q Did you make any x-ray examination of Nathan Leopold, Jr.?

A Yes, an x-ray examination was made.

Q What parts of his body did you make an examination of by the x-ray.

A Examinations by the x-ray were made of his thorax, or chest, of his wrist, of the skull and the jaw.

Q Did you look through a fluoroscope at those parts

of his body with a view of determining the condition of those parts of his body?

12a

A I did. I looked through the fluoroscope and saw.

Q Have you compared the things which you saw while looking through the fluoroscope with what you now see on the x-ray films before you?

A They are the same.

Q Now will you take these various x-ray films and explain them to the court as indicating what they reflect so far as the defendant Nathan Leopold, Jr. is concerned?

A The x-ray of the skull revealed the most pathology. The tables of the skull, the bony tables of the skull are of normal thickness, but the union between the various bones of the skull has become firm and ossified at the age of 19.

Q What in normal life is the time at which such ossification takes place?

A It varies, but usually at full maturity, or when a man is in his prime.

Q In term of years when does that usually take place?

A I would say from thirty to forty-five.

Q What do you mean by ossification?

A I mean that the cartilage between the bones of the skull where they join has become bone itself.

The penis pineal gland in this x-ray throws a definite shadow, typical of a calcified pineal gland.

Q What is the pineal gland?

A The pineal gland is one of the endocrine glands, located at the base of the skull, and should not calcify until about the age of thirty, and has already calcified in this man, at what age we cannot tell.

Q What is the function of the pineal gland so far as it is known to science?

A To stimulate muscle control, It tends to retard the mental phase of one's sex life and it stimulates mental development.

Q Can you indicate by pointing to yourself the seat of the pineal gland in the head of skull?

A Approximately, yes. It is about where these two lines would meet. (Witness points to forehead and back of head.)

Q Can you point out to the court on the x-ray

to which you have referred the place where that

x-ray shows a calcification of the pineal gland of Nathan Leopold, Jr.?

A I can.

Q Will you please do so?

A (Witness explains x-ray picture to the court, in an undertone). The x-ray of the skull further showed that the sella turcica is small.

Q That is the cradle of the pituitary?

A That is the bony cradle of the pituitary gland. Do you want to see that, your Honor?

(Witness explains x-ray picture to the court).

Q Have you got some photographs or pictures or reproductions made from these films, indicating the calcification of the pineal gland in Nathan Leopold, Jr., and the ossification of the skull or the part between the bony parts of the skull?

A I have. I took these films myself to Sweet Wallach Company, on Wabash Avenue, the Eastman Kodak people here, went to their dark room, explained to their technician what I wanted done, and had these pictures made in my presence. I then went from the dark room to the trimming room and stayed with these pic-

tures always in my observation until they had dried and were out.

Q Do these correspond exactly to what is shown in the x-ray film?

A They correspond exactly, as any print is almost as good as the original negative.

They show the same pathology and they are in that exhibit that you have.

Q Have you marked on these photographs with pen and ink the pineal gland which is calcified and the sella turcica and the pituitary? Have you done that?

A In one half of them I marked the pineal gland which is calcified or the shadow of it and the shadow of the small sella turcica, and the other half is untouched.

Q That is what I mean. But it is indicated on those photographs so that the court and opposing counsel can see them?

A Yes. The x-ray of the skull further shows numerous streaks downward and laterally, which have no medical significance. They are the streaks from the preparation which he used to keep his hair in order.

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I have never seen them before on an x-ray plate.

I also assisted in taking and had made an x-ray of the thorax.

The x-ray film does not show any shades in the mediastinum or upper thorax of the thymus gland. One only observes the vertebrae and the large blood vessels. There is no additional shadow there of the thymus gland.

Q Show us with reference to yourself where the thymus gland comes.

A (Witness indicates).

Q What is the ~~xxxxxxx~~ course of development ordinarily of the thymus gland?

A The thymus gland usually disappears about the age of six, or gets so small that it does not throw an x-ray shadow except in certain cases of disease, and after the age of six or ten it has no further importance in the life history of the individual.

MR. CROWE: It had disappeared here?

THE WITNESS: It does not show at all.

MR. WALTER BACHRACH: Q What other facts did you find of a pathological character from an examination of the x-ray film of Leopold?

A I examined his wrists to see if there was any

fault in the skeletal bony development, and there seems

to be none.

Q Did you make any other x-ray examination than you have described?

Q The fluoroscope, and these films, and then the photographic prints.

Q You have now given us all of the pathological findings disclosed by these films?

A Yes.

Q Did you find any endocrine disturbances other than you have already enumerated?

A From the history, and not from the examination, it seems that his adolescence or puberty came on early, and was very pronounced, coming on at thirteen, and well developed at fourteen, and those characteristics have been strongly pronounced in his life. An examination would not show that.

Q Give us in full the endocrine findings as to Leopold.

A From my examination and study of this and similar cases I believe that the thymus gland involuted unusually early, for the following reasons: His sexual maturity came on early; he had a very low resistance to infections, those in 1920 and 1921 being very

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severe to him, although in most persons they would be mild.

There is a tendency to acidosis, which is confirmed by the blood chemistry test, low carbon dioxide; by his early permanent teeth, by his early secondary hair, his short body, stock frame, rather vigorous at periods, but not consistently so; and by the normalcy of the size and shape of his genitalia. I have concluded from my examination of this and other cases that the pineal gland has involuted early, because of the x-ray showing that it has already calcified at the age of nineteen, whereas it normally should not calcify until about the age of thirty; by the muscular fatigue, his mental precocity, the disorder in his blood, the sugar disturbance, in the blood sugar tolerance test.

From my examination and study of this and other cases I conclude that the thyroid gland has been definitely diseased; that it has been an over-active thyroid; that the over-activity has now subsided, because of the definite history of a rapid pulse, at one time observed to be 120 without any exercise; by the condition of his skin, which is thick and dry,

with coarse hair; by his large teeth and their poor condition; by his slow pulse now, tending to prove that the thyroid function has subsided; by his low temperature, low blood pressure, low metabolism rate -- although not abnormally low; by his mild anemia, his early sex development, both primary and secondary, the secondary including the growth of hair, the voice changing, etc.; by his skin reactions, dermographia, by his sugar intolerance, by the increase of urica in his urine.

From my study of this and similar cases I have come to the conclusion that he has a disorder of the adrenal glands, medullary insufficiency. In other words, the medular part of the adrenal glands is not functioning up to normal, and I conclude that because he has a low blood pressure, at one time as low as 80, with quick changes in his blood pressure, with a low systolic pressure, with a slow pulse; because he is not resistant to disease infection, his tendency to skin eruptions, hives, urticaria; the low carbon dioxide in the blood; and by the clinical finding of neuro-circulatory asthenia, from a study of this and similar cases I conclude that the

pituitary gland is over-functioning, because the x-ray shows the sella turcica to be somewhat small and crowding, probably congesting it; by his sexual development and activity, his sugar intolerance, his teeth and hair development; and although it is not conclusive, the field of vision observed suggests but does not prove pituitary involvement.

From a study of this and other cases I have come to the conclusion that his sex glands are over functioning, because of his short stocky build, his early and complete sexual development in both primary and secondary characteristics, and the strong sex urge.

Q What relation is there between the abnormal functioning of his endocrine glands and his mental condition?

A The effect of the endocrine glands on the mental condition is definitely established in the minds of medical men in certain points and is still a matter of dispute in others. But from my observations of this and similar cases, and my studies thereof, I would say that his endocrine disorder is responsible

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for the following mental findings; His precocious mental development, his rapid advance through school, his ease of learning, are of endocrine origin. The fact that the cruel instincts show but little inhibition, is of endocrine origin.

He is far advanced for his years, while young intellectually.

The fact that his mental habits are fixed early in life, is of endocrine origin.

That his mind and body are everlastingly busy, not only with the present problems, but anticipating tomorrow's as well, knowing no rest or relaxation, is of endocrine origin.

That he fatigues if he over-exerts himself and is non-aggressive, the prey of hidden fears, neurotic and unmoral, and at the same time keen and witty, is of endocrine origin.

The early development and strength of his sex urge is obviously of endocrine origin.

His shallow mood and his good bearing, are of endocrine origin, and particularly his mental activity and early mental development are of endocrine origin.

Q Now, you refer to intellectual precocity taking

place at a very early age, and a drive forward of that tendency.

A Yes.

Q What would be the effect of that upon him, where there was not a corresponding maturity of his emotional life and his judgment?

A The effect of the intellectual drive of endocrine origin, judgment, immaturity, and emotional shallowness, is that he now has mentally a decided degree of discrepancy a diseased discrepancy between his judgment and emotions on the one hand and his intellect on the other hand.

THE COURT: We will resume this hearing until next Monday morning at ten thirty, gentlemen.

Whereupon an adjournment was here taken to Monday, August 11th, 1934, at the hour of 10:30 o'clock A.M.

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Monday, August 11th, 1924.

10:30 o'clock A.M.

Court convened at 10:30 o'clock A.M. Monday, August 11th, 1924, pursuant to adjournment heretofore taken.

Present: Same as before.

DR. H. S. HULBERT,

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

MR. WALTER BACHRACH: Q Doctor, from the various neuro-psychiatric and endocrine examinations that you have made of the defendant, Nathan Leopold, Jr., and which you have described here on the witness stand, have you an opinion as to the mental condition of Nathan Leopold, Jr. on May 31st, 1924?

A I have.

Q What is that opinion?

A My opinion is that at that time due to his consti-

tution and experiences in life, that he is not normal mentally because intellectually he was abnormally highly developed.

In judgment he was definitely immature; in constitution his body was not well balanced nor in a healthy state, and this disorder of constitution had a direct relation on his mental condition.

That his emotions were so slight in relation to ordinary things of life, that they, in relation to his judgment, permitted him to act in an abnormal way.

Q In your opinion was Nathan Leopold, Jr. on the 21st day of May, 1924, mentally diseased or mentally healthy?

A Mentally diseased.

Q What if any effect did the diseased mental condition of Leopold on May 21st, 1924 have in connection with the Franks kidnaping and homicide?

A A very great deal. His mental disease at that time caused him to be suggestible, responsive to any suggestion proper or otherwise from his associate; caused him to cooperate with his associate in carrying out any of these suggestions.

His mental condition or disease at that time would not primarily have caused him alone to have carried out any such kidnaping or homicide. It caused him to ignore the ordinary restraint which individuals impose upon themselves because of their consciousness of their duties they owe to society; it caused him to react in the non-emotional way he did at that time and subsequently; caused him to justify his own actions to himself, so that he is uncritical of them; and his mental condition at that time is one of the predominating factors in this homicide and kidnaping.

Q Would Leopold on May 21st, 1924 have been able to commit the Franks kidnaping and homicide but for the presence of such mental disease?

A He could not have done it.

Q State whether the diseased mental condition of Richard Loeb on May 21st, 1924, entered into the Franks homicide and kidnaping?

A It did.

Q Will you tell us how?

A The mental condition of Richard Loeb on that

date was a direct factor in this kidnaping and homicide in that largely he was impelled by motives which had been nourished in his subconscious mind, his judgment was childish and uncritical and did not restrain him.

His education, speaking now of his college formal education, was not a factor in this, but his education acquired from his extraneous readings, especially in tender years of childhood, was a factor.

His emotions are definitely immature and childish, and he had only an academic realization of what he owed to society, his feeling on the matter being too slight to bind him or modify his conduct and his mentally diseased condition at that time based on his experiences and based on his constitution was a definite factor in this kidnaping and homicide.

Q Could Richard Loeb but for the existence of the mental disease existing in him on the 21st of May, 1924, and which you have described in your testimony, had committed the Franks kidnaping and homicide?

A He could not.

Q Have you those x-ray films there that you have identified in connection with your testimony?

A I have.

(Whereupon the X-ray films were then marked as Exhibits 1, 2, 3, 4, 5, 6 and 7 of August 11th, 1934).

MR. WALTER BACHRACH: I will offer them in evidence as such exhibits, by their numbers.

Will you mark them, Mr. Snyder, please.

THE WITNESS: This is the lateral skull of Leopold, and a lateral view of the skull of Loeb,

The thorax of Leopold and the thorax of Loeb;

The wrists of Leopold; the wrists of Loeb;

The face and jaw of Loeb, showing his baby teeth had not been replaced by adult teeth; and then I have the general films taken by Dr. Eisendrath, which I did not take, but which he submitted to me -- taken about a year ago.

MR. WALTER BACHRACH: Q You have the x-ray here for

these?

A Well, these are more distinct than the originals.
Do you want this envelope, Mr. Snyder, to put those in?

MR. WALTER BACHRACH: We offer in evidence, if
the Court please, Defendants' Exhibits 1 to 7 of August
11th.

THE COURT: If there is no objection, they may go in.

MR. WALTER BACHRACH: You may cross examine.

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CROSS EXAMINATION

BY MR. CROWE.

MR. CROWE: Q You might give those to me now, Doctor, repeatedly through your testimony you have said in referring to the examination of these defendants, in this examination, as in many similar examinations I have made. What other murderers did you ever examine in the manner you have examined these two defendants?

MR. DARROW: I object to that question, as to what other murderer. He might inquire as to what other people he examined.

MR. CROWE: No, what other murderers did you ever examine.

THE COURT: You might change the form of that question, and put the question: what other persons have you examined who have been charged with murder.

MR. WALTER BACHRACH: If your Honor please, that is not the point. When the witness was on the stand he said in some cases. He means endocrine cases.

MR. CROWE: Wait a minute. I don't know what he means.

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MR. WALTER BACHRACH: That is perfectly obvious because in other cases where they had endocrine troubles he made endocrine examinations. Not with respect to --

MR. CROWE: He is trying to make us believe that on account of these conditions the crime can be explained. I want to know what other criminals he has examined to see whether he knows anything about criminals or not.

MR. DARROW: There is no objection to that particular question, but there is objection to the words in this question.

THE COURT: All right.

MR. CROWE: Q What other criminals or murderers have you examined in the manner that you have examined these defendants?

A I have examined a great many criminals by the neuro-psychiatric method.

Q In what institution?

A Several here. Eight since the war, the most prominent being Gene Geary.

Q And who else?

A It is difficult to recall the names of them all.

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I have examined several cases, Mr. DeStepheno was defending, Italian people.

Q Did you use the same methods of those cases that you used in this case?

A I made a neuro-psychiatric examination if that was indicated.

Q No, that isn't the question. Did you use the same method with Gene Geary and in the Italian cases as you did in this case?

MR. WALTER BACHRACH: I object to the question as ambiguous. If he means, did he use all of the same methods that is one thing; if he means similar to the method used here, that is another thing.

MR. CROWE: Q No, did you use the methods in this case that you used in the other cases that you referred to?

A Some of the same methods.

Q How many of them, what ones?

A I made such examination as seemed indicated in these cases. No two cases are exactly the same.

Q No, no, what methods did you use and enumerate them in those other cases?

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A Neurological, physical and such laboratory examinations as seemed indicated and the opportunity afforded.

Q What were they?

A What were the physical examinations, is that what you mean?

Q No, such laboratory as you said you used?

A Well, there is some difference; in one case, for instance, in Gene Geary's case I did a lumbar puncture for spinal fluid examination which I did not do here because it was not indicated in this case.

Q Enumerate the various laboratory tests that you made in these other cases?

A Laboratory tests, blood, urine and x-ray when I thought I suspected some pathology in the skull.

Q Did you ever examine any criminal or person charged with crime where you made as elaborate an examination as you have in this case?

A In which case?

Q The case we are now trying?

A No sir.

Q And you have never known any other -- well, I will withdraw that. Now, you say that these defendants

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are abnormal. What is a normal person?

A I never heard it defined but it is an intangible thing. We all have some general idea of a normal person.

Q What is your idea or definition of it?

A I never defined it, and I could not now.

Q It is intangible?

A Yes.

Q There is not any perfectly normal person?

A I wouldn't say that.

Q Do you know of any?

A I don't know all persons.

Q Do you know of any absolutely normal person among your friends or acquaintances?

A I imagine most of them are normal.

Q What are they; describe that?

A There is a proper balance between their intellectual development; their judgment; a proper condition of bodily health supporting the functions of the mind and brain; the instincts and sentiments, complex emotions, well balanced, making them harmonious with themselves and their environment.

Q It is a comparative term, is it not?

A It is more or less a standard for comparison.

Q What is normal in one part of the country would not be normal in another part necessarily?

A I don't understand.

Q A normal course of conduct in one class of people would not be normal in another class of people?

A That is too vague.

Q The method of living in China, it is normal for a Chinaman to live that way, isn't it?

MR. WALTER BACHRACH: We object. We are not interested in the way the people live in China.

MR. CROWE: I want to test his knowledge as to what constitutes normal and abnormal.

MR. WALTER BACHRACH: He has not qualified as an expert on conditions in China. He has testified as to what he found here and his service with the Government during the war.

MR. CROWE: He says he does not know what normal means.

MR. WALTER BACHRACH: Do you?

THE COURT: You may answer, doctor.

THE WITNESS: Will you repeat the question ?

(Whereupon the question
was here read by the Court Reporter)

A I assume they are, those that are successful
Chinamen.

MR. CROWE: Q And it would not be considered
normal if a person, a Caucasian or white person in
Chicago lived in the same method as a Chinamen,
would it?

MR. WALTER BACHRACH: I object to what it would be
considered. We are not going into any question
about other people than the two defendants here.

THE COURT: He may answer if he can.

THE WITNESS: Where?

MR. CROWE: Q A person in Chicago, a white per-
son who copied the method of living of a Chinaman in
China would not be considered a normal person in Chi-
cago, would he?

A I assume not.

Q These tests, these physical tests you made, inde-
pendent of anything else, just the physical examina-
tion of Leopold, would that indicate to any doctor

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that to you?

A It would depend on the doctor.

Q Just divorce everything else but the physical examination of Leopold, is there anything in that which indicates he is abnormal mentally or that he has criminal tendencies?

A Just a moment, please. (Witness refers to book).

Q Cannot you answer that without looking at your book?

A I think I can.

Q Why don't you?

A I might do it better with my book.

Q Let us try it without your book first.

A As you will.

Q Can you answer that question?

A There is nothing in the physical examination of a person that would indicate he is a criminal except the fact that the examination was conducted in jail.

Q Was there anything in the physical examination of Loeb that you could point out that would indicate he was abnormal mentally or a criminal?

A Physical examinations do not prove mental abnormality.

Q Will you answer that question? Is there anything

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in your physical examination of Loeb that indicates that he is a criminal or abnormal?

A Yes.

Q What is it?

A The fact that he injured his knee in a baseball game in jail, that would indicate he is a criminal.

Q That is your only conclusion, is it?

MR. WALTER BACHRACH: What do you mean by physical examination, Mr. Crowe?

MR. CROWE: Q Don't you know what I mean when I am talking about a physical examination?

A If you would let me answer the way I wanted to, I would answer it as simply as I could.

Q Don't you know what I have in mind when I say physical examination, examination of his body?

MR. WALTER BACHRACH: External or internal or what?

MR. CROWE: Wait a minute. If the doctor doesn't understand --

MR. BACHRACH: I submit we have a right to have the question put so it can be understood by anybody.

THE COURT: If he says he cannot understand it, we will have it repeated.

MR. CROWE: Q You know what I have in mind when I

say "physical examination of Loeb"?

A Yes.

Q Is there anything in the physical examination of Loeb by which you would come to the conclusion that he was a criminal or abnormal mentally?

A Nothing in his physical examination that would indicate he is a criminal other than what I mentioned, physical examination --

Q Or abnormal mentally?

A Physical examination would not show mental abnormalities, no.

Q So as a matter of fact, you have come to the conclusions you have from what these boys and their friends have told you?

A No.

Q What have you added to it?

A All the data I could get from all sources physical or otherwise.

Q You have just stated that there was nothing in the physical examination that would indicate to you that they were criminals or abnormal mentally. Now, what else -- leaving out the physical examination -- is there upon which you can base your opinion beyond

what they or their friends have told you?

A Yes --

Q Nothing else, is there?

A Yes, there is.

Q What else?

A Laboratory examinations.

Q Of what?

A Of the two boys.

Q Isn't that a part of the physical examination?

A If that is what you meant, I did not understand you. I presumed you meant the physical examination of the body, such as a physician ordinarily makes.

Q Laboratory examination --

A Those are very helpful in understanding the boys.

Q What laboratory examinations did you make?

A Urine examination.

Q Now take the urine examination of Leopold, what is there in that, the result of that examination to indicate that he is either abnormal mentally or has criminalistic tendencies?

A The main thing significant in his urine examin-

ation bearing on this point is his intolerance to sugar in the sugar tolerance test, showing that that part of his brain, the pituitary gland does not function normally.

Q Outside of laying a foundation for the attorneys calling him a sweet young man, does the sugar in his urine indicate that he has criminalistic tendencies?

MR. WALTER BACHRACH: I object to the form of the question.

THE COURT: Strike out the sweet young man and he may answer the question.

MR. CROWE: Q Now, doctor, who made these different laboratory tests?

A I did, in part, and had others with me. I supervised what was being done.

Q Which one did you do yourself personally?

A We were all working together.

Q Which one did you personally do if any?

A Unassisted?

Q Unassisted, yes.

A The fluoroscope of the brain, thorax and wrists I did alone.

Q The fluoroscope, by that you mean you looked through the fluoroscope and saw that what you saw corresponded to what the picture later showed?

A Yes.

Q You do not consider that a laboratory test, do you, looking through the fluoroscope?

A Yes, in a general way, because the plates have to be developed later in the laboratory.

Q As a matter of fact, you did not take these pictures?

A ~~Not~~^{No} one person took the pictures, a group of us took them.

Q Did you make the test for sugar tolerance?

A Not entirely, myself, no.

Q Who assisted you?

A The laboratory technicians in the National Pathological Laboratory in my office building.

Q Who are they?

A I don't know, they are on the staff of J. J. Moore, Dr. Moore.

Q Who examined the blood for sugar?

A The same people.

Q You don't know who they were?

A I don't know the names.

Q Who examined the urine, for sugar, or anything?

A We did; Dr. J. J. Moore, pathologist in charge of the laboratory, and his staff.

Q Did he examine the urine?

A I don't know which one of us examined the urine.

Q Did you?

A Not alone.

Q Do you know who did?

A One of the staff, or all of us.

Q Give us the names?

A I don't know their names.

Q Who made the Wasserman test?

A Dr. Swan.

Q You did not?

A No.

Q Who made the chemical urinalysis?

A The same technicians, and Dr. Moore, and I think there is a man technician in the laboratory, too. It was the group of us.

Q You do not know which one made that particular test?

A No.

Q How many persons made a test of the urine?

A Three or four of us working together.

Q Don't you know?

A My problem was to see that it was a proper specimen or urine, take it to the laboratory and see that it was examined.

Q I am trying to find out who made the test.

A The staff of the National Pathologic Laboratory and myself.

Q Who made the blood chemistry test?

A The same group of us.

Q Give us the names of the individuals?

A I don't know the names.

THE COURT: He said he could not give you all the names.

MR. CROWE: Q Who made the basal metabolism test?

A Dr. Moore, Dr. Bowman and myself.

Q You remember that one test?

A I remember it.

Q Did you make more than one?

A Yes, one on each boy, and repeated on one of them. There was an outside noise. The patrol wagon came into the jail, and we all began to talk, and the room was no longer quiet, so we repeated the test in a few

Q As a matter of fact, you made just one complete test, and the reason you repeated was on account of being disturbed?

A Yes, and we took the average of the two as a final result.

Q Which defendant did you make the two tests on?

A On Leopold we repeated the test three times, and took the average of the three, and on Loeb we took the test twice, and took the average of the two. Those tests were continued one right after the other.

Q Don't you know you have no machine in Chicago that can accurately make this test?

A I was quite satisfied with the machine we use.

Q What kind was it?

A A jones.

Q Is it not a fact that there is no machine that can accurately take this test, but they take a great many and average them in order to arrive at some conclusion?

A I don't know whether there is a perfect machine or not. Now, this machine was good enough.

Q If it was not perfect, then the result would not

be perfect?

A It might or might not, depending on whether the imperfections balanced each other.

Q If it is not a good reliable test, it is not of any use, is it?

A I would not use an unreliable test.

Q The patient can cheat you while you are taking the test, if he wants to?

A I don't know.

Q You do not know that a person if he wants to can breath fast or slow at a given time?

A Do you mean these boys?

Q Yes. When you were examining these boys, if they wanted to cheat you in that test they could?

A No, because I am brighter than they are.

Q That is the only reason?

A That is enough.

Q Are you brighter intellectually or emotionally?

A Both.

Q That goes for Leopold, too?

A I assume so.

Q If you did not make all these tests yourself, how do you know ~~why~~ they are properly made?

A Dr. Moore is one of the very best pathologists in

America, and probably the best paid. His reputation among pathologists is unquestioned, and his personal reputation is unquestioned. The combination of the two makes me believe these tests to be absolutely trustworthy.

Q He would be in a better position to testify as to the test being properly made than you?

A He might.

Q And if the test did not show what you told the court it showed, he would not say so, would he?

MR. WALTER BACHRACH: Objection.

THE COURT: He cannot say what Dr. Moore would testify. I will have him brought in if you want him, gentlemen.

MR. WALTER BACHRACH: I suggest there is no use wasting time with this matter.

THE COURT: Time cuts no figure here.

MR. WALTER BACHRACH: We will produce these persons, if there is any question as to the correctness of these tests.

MR. CROWE: Q In the blood chemistry test were the reagents and the apparatus both reliable, to your knowledge?

A Not to my own knowledge.

Q You relied on others to tell you the results and give you the normal figures in most of these tests?

A We worked together.

Q Is it not a fact that you relied on others, whose names you do not know, to tell you the results and give you the normal figures?

A In some of these tests.

Q Describe the X-ray apparatus and the technique by which these x-ray pictures were taken?

A No.

Q Why not?

A Because that is not a branch of medicine in which I am a specialist.

Q You do not know anything about it?

A That is not so.

Q Tell us what you know about the apparatus that you use and the technique.

MR. WALTER BACHRACH: Objection.

THE COURT: Let him answer.

A The apparatus we used was a portable machine furnished by the Victor X-ray people, one of the largest x-ray manufacturers in America, brought to the jail by Dr. Blaine, of the National Pathologic Laboratory, former radiologist at Cook County Hospital for a

number of years, and by Dr. Darnell, research pathologist of the Victor Company, with their various assistants. We procured for this test a new x-ray tube. The films were furnished in part by the Victor people, and by the National Pathologic Laboratory. Triplicate films were taken in all cases. The parts of the body pictures were studied by me through the fleuroscope for the purpose of identification, and the films were identified with my Veterans of Foreign Wars insignia, which I wear, so that there would be no doubt as to their identity. The pictures were carried to the laboratory by the technicians in the same taxi with me; they were never out of my sight. I went into the dark room at the time they were developed, and stayed there talking with Dr. Blaine while they were being developed.

MR. CROWE: Just a moment.

THE COURT: Let him answer.

MR. CROWE: He is now telling what he did, and not describing the apparatus or technique.

THE COURT: Let him finish.

A (Continuing) And these films here are the films taken at that time.

MR. CROWE: Q Do you know the name of the machine you used?

A A Victor portable.

Q What kind of a current, direct or alternating?

A I don't know.

Q What kind of a tube?

A All I know is, it was a new tube suitable for the portable machine, a Victor tube.

Q What transformer was used?

A I don't know.

Q Where was the transformer located on the machine?

MR. WALTER BACHRACH: Objection.

THE COURT: Let him tell.

A I only know we brought enough apparatus for this test, and it took three taxis to bring it out.

MR. CROWE: Q Where was the transform located?

A I don't know.

Q Is it possible to see a calcified pineal gland through a fleuroscope?

A It may be.

Q Did you see it?

A I did not.

Q Did you ever see one through a fleuroscope?

A I don't think so.

Q If the person developing the x-ray happened to

put his finger on the right spot on the wet film, one of those glands would be immediately developed, would it not?

A No. The gland develops in the individual.

Q In the picture, there would be a photographic development?

A Not necessarily.

Q In some instances?

A I will take your word for it.

Q You don't know much about it?

A Fingers on wet x-ray films? No.

Q Or what would result?

A No.

Q Can you see the sella turcica through the fleuro-scope?

A Yes sir.

Q Did you?

A I did.

Q Did you use cassettes in taking these films?

A I beg pardon?

Q Did you use cassettes in taking these films?

A I don't know what you mean?

Q If you don't know what I mean then you would not

know who furnished them, would you?

A If I don't know what you mean I don't know what you are talking about.

Q What screens were used, do you know?

A I don't know, sir.

Q Was the Buckey diaphragm used?

A I am not a radiologist.

Q I guess that is all. How did you estimate the emotional age of Leopold?

A The emotional age of Leopold was estimated to be less than that --

Q No, no, how did you estimate it?

A I may finish my answer, may I not?

THE COURT: Yes, finish it in your own way.

A The emotional age of Leopold was estimated to be less than that of the average boy of puberty or adolescence, about twelve, because the character and degree of his emotional reactions were similar to that of the average boy of less than puberty within my acquaintance.

Q Now give us one of his emotional reactions that you used as the standard of comparison.

A One that we have spoken of before was his morbid fear of physical pain when I was about to take

a drop of blood from his ear.

Q You sometimes find that in men, don't you?

A You often find it in persons of mature years, yes.

Q In other words, it is a question of courage regardless of age; if a person is a coward why they show fear, if they are not a coward, they don't.

A No sir, there were many brave men in the war in my experience that were afraid, that continued their duty. They were not cowards.

Q Well, that is very common, it is common among people of all ages, that same fear, isn't it? It is not confined to children alone?

A It is more marked in children.

Q What other standards did you use?

A The emotions or sentiment of awe and reverence in his case particularly toward things ordinarily regarded as divine were shallow, showing that these emotions have not matured.

Q That is true of all atheists, isn't it?

A I don't know all atheists.

Q If a man hasn't any belief in God, in heaven or in the ~~xxxx~~ hereafter, you would not expect him to

show awe when you are talking about divine things, would you?

A Not always, some do; usually not.

Q Ordinarily you would expect a man holding those views to ridicule divine things?

A Ridicule is childish or else a sign of deterioration.

Q So the belief that there is no God or no hereafter was responsible for that, and not his childishness?

A I don't agree with that.

Q You don't. Well, what else? What other standards? Can't you answer that without a book, doctor?

A I suppose I can. I can answer much better from my notes. This was a very complex case, particularly because there were two persons involved.

Q All right. Go ahead and tell us.

A Another example of this boy nineteen years of age is his very narrow emotional life of the fashion known usually as the love life. He has had no love affairs, not with any appreciable degree of intensity of emotional feeling, and in that way he is definitely childish or has not matured like the average boy of his age.

Q Now you got that from him, did you?

A In part.

Q Did you talk to any of the girls that he was running around with?

A No sir, there was no psychiatric importance.

Q Don't you think that they would be in a better position to tell you whether he had a loving nature than his father would or his brother?

A I did not need them.

Q Why not?

A Well, my experience in the last six years has been with so many thousands of young men in the army and navy that I am quite able to make a psychiatric opinion without talking to their various sweethearts or alleged sweethearts.

Q But if he had a lot of sweethearts then your conclusion is wrong there, isn't it?

A No sir, my conclusion is right.

Q Regardless of what the fact is?

A No sir, based on the facts.

Q What other standard did you use?

A Another example of his emotional inferiority was his reaction with his family.

Q Give us an illustration of that or several illustrations.

A He had a very childlike, uncritical adoration of his mother, who has since died, and then for his aunt, her closest sister, who tended to assume the role of importance in the Leopold household after the mother's death; and a childish attitude toward his father.

Q In what way?

A As a person too distant to be regarded as a confidante, but whose word and wishes were practically domestic law within the household. He never made a pal of his father or of his older brothers. He remained toward them all in a rather childlike attitude as far as his emotions toward them were concerned.

Q Do you regard it as childish for a boy to have an uncritical love for his dead mother?

A I didn't say just that, or if I did, I did not express myself as I wished. While his mother was alive he had a very childlike attitude toward her, and subsequent to her death he had the same attitude toward his aunt.

Q Now, doctor, you say that after his mother died he lost faith in God and began to confuse himself with God, and his mother was a Madonna.

A He confused his mother's picture -- or no, he confused a picture of the Madonna with his mother. This confusion has not been as well worked out as is frequently found in some cases more mentally diseased than he.

MR. CROWE: May we take a recess now?

THE COURT: Recess for five minutes, gentlemen.

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

resumed the stand as a witness on behalf of the defendants,
and being further cross examined by Mr. Crowe, testified
as follows:

MR. W. BACHRACH: Have you finished, Mr. Crowe?

MR. CROWE: No, not for some time yet.

Q Doctor, you do not agree with Dr. Healy when he
states that the emotional age cannot be estimated or
measured?

A I agree it cannot be measured. I think we estimated
it individually ourselves.

Q Did you see this nurse, Miss Struthers?

A Yes, Mrs. Bishop.

Q She is a pretty intelligent woman, isn't she?

A Yes, she is more intelligent than the average.

Q She knows young Richard Loeb about as intimately as
any other person on earth, doesn't she?

A Yes, I think so. I think she misinterprets some

2m of the things she observed in him, that is part of knowledge --

MR. CROWE: I ask that that be stricken out. Doctor, will you answer my questions as responsively as you did Mr. Bachrach's or endeavor to do so.

THE WITNESS: Yes, I will try to.

MR. CROWE: Q She knows Richard Loeb as intimately as any other person on earth that you know of?

A That answer must be qualified. She had more opportunities than others, probably, to observe him. But I think she misinterpreted some things she observed that warped her knowledge of him.

Q She was an educated lady?

A She had a high school education, so I am told.

Q Did you read the letter that she wrote to Loeb, that was introduced in evidence, which I think one of the doctors designated in a very distinguishing manner. Do you know the letter I am talking about?

A No.

Q You did not see that letter at all?

A I don't know which letter --

Q The letter she wrote Richard Loeb in reference

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to his love affairs?

A I don't know --

Q There was only one letter she wrote Loeb which was read in evidence. Were you here?

A No, I did not hear it.

Q Did you see or read any letters that she wrote Loeb?

A I don't think so.

Q Assume for the purpose of the question that in this letter she states, "Indeed, my dear Dickie, you are in love, it is true, for your nature is rich and responsive, and your temperament highly developed by your advanced intelligence." Would that be describing an infantile emotion in Loeb?

A I don't know. May I see that?

Q I will read it over to you. As that she says in this letter, "Indeed, my dear Dickie, you are in love, it is true, for your nature is rich and responsive, and your temperament highly developed by your advanced intelligence." Would that be a description of an infantile emotion in Richard Loeb?

A I don't know. What age was he when that letter was received.

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Q What difference would that make?

A Infantilism is always relative. If a child is an infant, anyhow, of course you would not regard his condition as abnormal.

Q If he was six when he got that, you would say that he had infantile emotions, and if he was Eighteen, that he had the emotions of a boy of Eighteen.

A Not necessarily.

Q Then what difference does the age make?

A It is relative.

Q Assume that the letter was written to him in 1922. Would that description by his nurse be the description of an infantile emotion, or infantile emotional nature in him?

A More or less. If a boy of Seventeen or Eighteen years gets a note from his nurse saying, "Dear M Dickie," there is a childish reaction between the two.

Q So you assume or state that that sentence is a description of an infantile emotional nature?

A Let us say, immature.

Q You base that on the "Dear Dickie"?

A In part.

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Q Supposing she had said, "My dear Richard," and had said the same things about his love, and his rich and responsive nature. Would your answer be different?

A Surely.

Q Supposing she did not address him at all, but merely described his nature as rich and responsive, and his temperament as highly developed by his advanced intelligence. What would your answer be?

A I think I should smile and say she was in error, because intellectual development does not necessarily mean a parallel emotional development.

Q You do not think that she has confused his intelligence with his emotions, do you?

A Apparently she thinks they develop in a parallel way.

Q I will read you the sentence again, leaving out the "Dear Dickie" because that bothers you. "Indeed, you are in love, it is true, for your nature is rich and responsive". That is describing emotions entirely, is it not?

A I guess so. One's nature of course is a layman's term.

Q Are you guess, or do you know at all what you are talking about?

A I only know what data you give me to talk about. I would like to see the letter, and get its context.

Q "Indeed, you are in love, it is true, for your nature is rich and responsive." Is she talking about his emotional nature, or his intellectual development?

A I don't know. She is talking about his nature.

Q When she says, "Your temperament highly developed by your advanced intelligence," what is she talking about there, intellect or emotion?

A I take it, apparently she thinks they both develop equally, that intellectual development will cause a parallel emotional development, which is not the fact in this case, as we scientific men see it.

MR. WALTER BACHRACH: I object to any examination about what Miss Struthers thinks.

MR. CROWE: But even her picture has been introduced as a mitigating circumstance in this case.

MR. WALTER BACHRACH: That does not warrant this cross examination.

THE COURT: I think he ought to be permitted to see the letter. It would only be fair to let the doctor read the whole letter, and then you may ask him about any sentence. But you may cross examine as you see fit.

MR. CROWE: Q When and where was the report known as the Hulbert-Bowman report written?

A Parts of it were written at several different times. From my little notebook I find that on Saturday, June 21st, Dr. Bowman and I conferred on writing a report; and the report was finished and signed by both Dr. Bowman and myself on June 24th. The report was written largely at Mr. Bachrach's office, and partly written at my office at 5 South Wabash.

Q What is puberty?

A Adolescence.

Q Are they the same thing?

A I used them synonymously here.

Q What do they mean?

A The change from a child's physical and mental makeup to that of a more mature adult individual.

Q How do you know when that change is complete?

A By a physical examination of the body, for one thing.

Q What do you find there that tells you whether it is or is not complete, that change, in the physical examination?

A The physical examination of the body where one observes that there is no longer any growth in height, where the weight curve becomes rather, stabilized, where the secondary sexual characteristics such as body hair and body form and as he develops dermataria are in adult form, where all the functions of the body have assumed the normal adult role such as when menstruation is well established in the female, when the voice has ceased to change, and mentally when the individual has grown beyond the point of view where they regard themselves individually as all important, and where they have attained a point of view acquired by education and experience in life and realize that they are definitely members of society and owe society certain obligations as society owes them certain obligations. I regard the maturity of the social viewpoint as one of the definite signs of completion of puberty.

Q. Is normal sexual activity evidence of completion of puberty?

A No sir, because normal sexual activity is only found in those that are married and are trying to

raise a normal family.

Q Oh, then a man who is not married never completes his puberty?

A I didn't say that.

Q Well, unless a man is married, there is no normal sexual activity?

A That is my viewpoint, yes sir. That is unless he is married and desires to raise a family naturally.

Q And these disciples of birth control, -- why, he doesn't get in?

A He is not normal in his sexual life, no sir.

Q When is the average age of puberty in boys?

A Depending on the race and locality, but hereabouts between twelve and fourteen puberty starts; in some cases much earlier.

Q Did you take into consideration in passing on the puberty of Loeb the fact that he had gonorrhea when he was fifteen?

A No sir.

Q You did not take that into consideration. You say you only discussed the sex life of these defendants with them but slightly?

A Yes sir.

Q Well now, what do you regard as slightly?

A That is a relevant term, too.

Q I know, but tell us the discussion you had?

A That has been taken up in court with previous witnesses, Dr. Healy and others, and I covered to some extent, not so much, the same ground, and I agree with them that material is not presented best in open court.

Q No, I am talking about slightly; you say you discussed it slightly, and I am asking you what your discussion with these two defendants consisted of?

MR. WATER BACHRACH: I object, if the Court please.

MR. DARROW: I want to object, your Honor.

THE COURT: We will adopt the same ruling in the examination of this witness as we did with Mr. Drs. Healy, White and Glueck. You may come forward and discuss it, gentlemen, here, so it will be in the record.

MR. CROWE: Q As a matter of fact, your report contains two pages devoted to the sex life of Loeb, doesn't it? I think you will find that on page 89, or, I beg your pardon, that is another reference,-- 45 and 46.

A Yes sir.

Q And Leopold from 51 to 62, eleven pages?

THE COURT: Those are the pages of Loeb and Leopold?

MR. CROWE: Yes, Leopold 51 to page 62.

THE COURT: Yes, I have them here. That is in the report of Hulbert-Bowman.

THE WITNESS: Yes.

MR. CROWE: Q Do you consider a discussion which covers eleven pages a slight discussion?

A Yes sir, it might be.

Q Well, is it?

A Yes, in this case, yes sir.

Q What is dermatographia?

A Skin writing.

Q What is it related to?

A Vaso-motor instability.

Q Is it evidence of mental disorders?

A Often associated with it.

Q No, is it evidence of a mental disorder?

MR. WATER BACHRACH: I submit that is an answer, if the Court please.

MR. CROWE: No, I submit it is not.

MR. WALTERBACHRACH: He says it is often associated

THE COURT: In itself.

THE WITNESS: Oh, no one thing is evidence of mental disorder in itself so far as the physical body is concerned.

MR. CROWE: Now, if your Honor please, I would like to have my question answered, is it, dermatographia, evidence or any evidence of mental disorder?

THE WITNESS: Well, if you mean any evidence, has it any significance, yes sir.

MR. CROWE: Q No, I am talking of evidence, not significance. Is it, dermatographia, evidence of mental disorder?

MR. WALTER BACHRACH: Then I submit, if the Court please, that counsel be required to say what he means by evidence. To all of us, or ordinarily, the word "significance" is thoroughly synonymous with evidence.

THE COURT: Let the doctor explain it. You may answer it, doctor, and give an explanation of your answer, if you see fit.

MR. CROWE: Q What is your answer, doctor?

A Dermatographia has some significance in mental disorder because it is a deliberate test to provoke

the same reaction largely that we find in blushing, changes in pallor, and reflection of the face, and so forth, which we know are related to the mental phase of one's emotional life.

Q Does it occur in people who have no mental trouble or disorder?

A Oh, yes.

Q It does?

A Yes.

Q Just like red ~~haze~~ hair. You find that sometimes on insane people and sometimes on people perfectly sane?

A Yes sir.

Q And it has about the same significance as blushing, about in the same way?

A I didn't hear you.

Q And blushing also?

A Yes.

Q People who are disordered mentally sometimes blush, and a great many people who are not mentally disordered sometimes blush, isn't that true?

A Yes, other than that blushing does indicate an

emotional change in the individual, and not necessarily a mental disorder.

Q No, that is not the point. I am asking you whether or not people who are mentally sound do not blush.

A Some do.

Q So dermatographia has as much to do with mental disorder as red hair?

A I didn't say that.

MR. WALTER BACHRACH: I object to counsel's statement.

MR. DARROW: Well, he has answered that.

THE COURT: Yes, the doctor has answered it.

MR. CROWE: Q Does the low carbon dioxide coefficient in Loeb mean the same thing in Loeb as it does in Leopold?

A That necessarily must be qualified by saying that the low carbon dioxide tension --

Q No, is it necessary, if you know, and if you cannot answer say you cannot, and then qualify it.

Q That in a qualified way --

Q No, can you answer Yes or No.?

MR. WALTER BACHRACH: I submit he is answering the

question.

MR. CROWE: I am entitled to know whether he can answer yes or no. Does it mean the same in Loeb as it does in Leopold?

A Yes and no.

Q Well, now, qualify it.

A The low carbon dioxide tension in the one, in the one, in order to understand its meaning, must be taken into consideration with the other findings in the same individual.

Q But it of itself does not mean anything?

A Yes.

Q Well, what does it mean? That is, does it mean the same thing in Loeb as it does in Leopold?

A I object to that on the ground it has been answered.

MR. CROWE: No, it has not.

THE WITNESS: That question does not permit of a yes or no answer.

MR. CROWE: He says taken in connection with a great many other things, it means something.

THE COURT: Read what the doctor just said. Read the text of his answer.

(Whereupon the question was read by the Reporter).

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MR. CROWE: Q Why does it indicate acidosis in one and not in the other?

A A low carbon dioxide tension indicates a low alkali reserve in the individual, which of course is a tendency toward acidosis, but the diagnosis of acidosis must be based, if it exists, on other things besides just this alone.

Q But in your testimony you said that it indicates acidosis in one and not in the other. Now, I am asking why it does.

A The low carbon dioxide in Leopold, with a family history of Bright's Disease, and with a high non-protein nitrogen in the blood is of significance as showing a tendency toward acidosis. In the case of Loeb the low carbon dioxide not having other confirmatory findings has no important significance.

Q So you are in error, doctor, when you say that the low carbon dioxide indicates acidosis in one and not in the other?

A No.

MR. WALTER BACHRACH: I object to counsel's comment.

THE COURT Objection sustained.

MR. CROWE: Q Doctor, taking all these things, they

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in themselves you say do not mean anything except as you would associate them with family histories and conversations and various things. That is like a humpback, if you found one of the defendants was humpback and the other was not humpbacked, why, it would not indicate anything until you go back to the story of the crime and a lot of things that they and their friends told you?

MR. W. BACHRAOH: Is that a question or a statement?

MR. CROWE: Yes, that is a question.

Q Isn't that a fact?

A No.

Q Now, will you point out any one physical defect that either one of these defendants has which in itself accounts for this crime?

A No, sir.

Q What is the function of the pineal gland?

A Stimulation of mental development and in a sense a regulation or balance of the other endocrine glands.

Q Is that all?

A That is enough.

Q Well, is that all?

A I will stand on that.

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Q You will stand on that. Now how do you know when it is calcified?

A By the x-ray.

Q How do you know when it should calcify?

A By my studies.

Q Can you make it any clearer than that, doctor?

A Yes, the men in medicine who have a non-elastic mind have devoted a great deal of time the last few years to endocrinology and several men have distinguished themselves in America as leaders and teachers whose statements are credible, and among the authors that I have read and the persons that I have met I have gathered the idea that the pineal gland should calcify at about the age of Thirty and the x-ray in this case seems to indicate that it has calcified prematurely.

Q Doctor, you do not know of your own knowledge that it should calcify at any certain age in either one of these defendants?

A I don't know how that question could be answered.

Q Do you or don't know?

MR. WALTER BACHRACH: Do you know what the question means, doctor?

THE WITNESS: Do I know of my own knowledge?

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MR. CROWE: Q Do you know when this gland should calcify, at what age it should calcify in either one of these defendants?

A Yes, I think I do.

Q At what age ought it to calcify in Leopold?

MR. WALTER BACHRACH: In a normal individual --

MR. CROWE: I am talking about Leopold.

THE WITNESS: What age should it calcify?

MR. WALTER BACHRACH: If normal or abnormal?

MR. CROWE: I am talking about Leopold. He says he can tell. He has examined Leopold and I want to know from him what is the age at which it should calcify in Leopold.

MR. WALTER BACHRACH: Counsel's question --

MR. CROWE: Oh, no --

THE COURT: Can that question be answered?

THE WITNESS: No.

MR. CROWE: Q You don't know when it should calcify in Leopold?

MR. WALTER BACHRACH: I object to counsel's statement.

MR. CROWE: Q Do you know when it should calcify?

THE COURT: He said ~~no~~ no.

MR. CROWE: If your Honor please, he stated he knew of his own knowledge when it should calcify in a person and I am asking him --

THE COURT: Did he say that or did he say from his reading and from his experience --

MR. CROWE: After he told about talking to doctors --

THE COURT: Read it.

MR. CROWE: Q Do you know of your own knowledge when it should calcify -- well I will go ahead with something else and I will come back to that. Is it not a fact that medical men know practically nothing of the function of this gland?

A Some of them know practically nothing.

Q Medical men as a group?

A No, some of them know a great deal.

Q Is it not a fact that there is even a question as to whether it is a gland at all?

A It is in some persons' minds.

Q What do you mean by emotion, doctor?

A The feeling, the tone that accompanies an idea.

Q If a person has no emotions, how does he strive to suppress them?

A If a person has none, he could not suppress them.

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naturally.

Q When talking about Leopold --

A I have not finished my answer.

THE COURT: Finish, Doctor.

THE WITNESS: -- unless he suppresses their development.

MR. CROWE: Q He has to have emotions to suppress them?

A Not necessarily. He might have a start of them and repress the start, repress the development of them.

Q If he has not any he wont have to suppress them, will he?

A No, he wont have to suppress them as is but would have to suppress them as they might be,

Q How can a man suppress a development in himself?

A That is the basis of self discipline to a very large extent.

Q Well, how is it done?

A By resolution, bearing on some future time that he will be as unemotional as he possibly can be at that time as far as he foresees the situation at that future time.

Q Is not resolution an emotion itself?

A Not necessarily.

Q What is it?

A It is an idea. It may be with a great deal of emotion and firm resolution or with slight emotion.

Q Then if a firm resolution it is highly emotional.

A The emotion would be in proportion to the firmness, yes.

Q And if it is not so firm, then the emotion is not so highly developed?

A That emotion, yes.

Q Answer the question, as to whether resolution in itself is not an emotion?

A It is not. It is an idea, accompanied by an emotion.

Q Had you consulted with lawyers as to what use the report was to be put?

A Yes, Mr. Benjamin Bachrach and Mr. Walter Bachrach.

Q Before you wrote the report?

A Before I even made the examination.

Q You knew that it was to be used as a basis for and in connection with the defense here?

A No. I knew it was to be used to advise the

families as to how to evaluate these boys of theirs, who were in deep trouble.

Q But your conversation as to the use it was to be put to was with the lawyers and not the families?

A Yes.

Q And you had not any idea of their going to use it as a basis of their defense?

A Of course not, until it was written, and we saw the findings we found in the boys -- whether it would be used for a defense or not.

Q And that did not enter into the makeup of the report at all?

A I don't say that. We considered everything in relation to the report.

Q Did you not consider the plan of defense in making up your report?

A The plan of defense was no affair of mine. They asked me what was the condition of these boys, and I worked it out and told them.

Q Have you included in your testimony here all the essential points contained in the report?

A I think so, unless we have overlooked a a trifle

Q I am talking about the essential points.

A I think so.

Q Are you quite sure you have included in your testimony here all the essential matters in your report?

A I am, for the reason that this report which you refer to as the Hulbert-Bowman report was prepared by Dr. Bowman and myself to cover the ground in a preliminary way for further studies, if any, were necessary, by Drs. Healy, White and Clueck, and so we put in the things which would be of interest to them.

Q And all the essential points you have testified to?

A You mean, when the report went int?

Q In your testimony now, and since you have been on the witness stand, have you told us all the essential matters contained in your report?

A I think so.

Q You have not suppressed any?

A No. I have tried to answer everybody's questions as best I could.

Q You have not added to your testimony anything that is not contained in that report?

A Oh, yes; any observations I have made of the boys since the 24th, or whenever it was we signed that. Let us get those dates right. June 30, 1924, we signed the report on Leopold, and June 24th on Loeb.

Any observations I have made of the boys since then I have felt free to testify about, of course.

Q The report on Leopold contains no record of tests for adrenalin, atrophine, or pilo-carpin?

A It does not, because we only made one of those three tests, although I had planned to make them all. The case came on so suddenly we did not make the others. The test was made on June 23rd.

Q Why did you not make these tests?

A We did not have time.

Q In your report you have left a space to fill in for the result of the test on those three things, if you had made them?

A Yes.

Q Do you think it was more important to make the eye examination than a test for those drugs?

A Slightly, although I wish I had time for them all.

Q Do you think it was more important to examine their

urine than to ascertain the use of drugs?

A What do you mean, their reaction to certain tests for drugs.

Q Yes.

A Yes, indeed.

Q The report also contains nothing on the special eye examination of Leopold.

A Then you do not have a complete report. I have in my notes in front of me an eye examination of Leopold.

MR. WALTER BACHRACH: Mr. Crowe has our copy.

MR. CROWE: Is ~~this~~ this a complete copy?

THE WITNESS: If it has this picture (indicating) in it. If it has not, I will be very glad to lend you mine.

MR. CROWE: Q Is that the only thing that is left out of the report that we have got?

A I don't know what report you have.

Q The one that has been introduced in evidence. Is that your complete report there?

A This is my complete report.

Q Have you any objections to our looking at it during the lunch hour?

A No. Anybody can read anything they want that bears

on the case. That is what I am here for.

THE COURT: The doctor says you may have it.

THE WITNESS: You will find that on page 74-A, an insert.

THE COURT: Look at page 74-A and let me see it.

THE WITNESS: There is another report here, and that is the anthropological, or measurement of the skull diameters. It is here, but not inserted in there.

MR. CROWE: If you will just let us take your notes--

THE WITNESS: Surely.

MR. CROWE: We would like to run through the report.

May we adjourn now?

THE COURT: That is 74-A, in addition to this, so the doctor says. We will suspend at this time until two o'clock.

Whereupon an adjournment was taken

until two o'clock P.M. August 11, 1924.

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Monday, August 11th, 1924.

2:00 o'clock P.M.

Court convened at 2:00 o'clock P.M. Monday, August 11th, 1924, 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 duly sworn, resumed the stand for further cross examination by Mr. Crowe, and testified as follows:

MR. CROWE: Q Now, doctor, the conclusions you came to as to the mental state of these two defendants was based principally upon the stories they told you, was it not?

A That was one large factor, yes.

Q One large factor. You assumed in arriving at your conclusion that the things they told you was the truth?

Q Do you think they lied to you?

A To some extent.

Q Well, to what extent?

A By keeping back certain facts which I asked for, and they said they had no knowledge of.

Q And their purpose in lying to you was to lead you to the conclusion you ultimately came to, was it not?

A I don't know what their purpose was.

Q They had talked to their lawyers before they talked to you?

A I think so.

Q And they had talked to other alienists?

A No.

Q Are you sure of that?

A I am pretty sure.

Q You are sure they had not talked to Dr. Hall?

A No, on that I don't know how often Dr. Hall saw them. I understood that Dr. Bowman and I were the first to see him, that was my impression.

Q Do you know if Dr. Hall had seen them before you did or not?

A My impression was he had not.

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Q Now, did Dr. Hall first see them?

A I don't know.

Q And you saw them when?

A Friday, June 13th.

Q Well, that was nearly two weeks after they had secured counsel. Now there are two ways of lying; either they could suppress and hold back certain facts which if you knew them might lead you to a different conclusion, that is one, isn't it?

A Yes.

Q And you are inclined to believe that they held back certain facts?

A Yes.

Q How important those facts are, you don't know, and they might be such facts that they would lead you to an entirely different conclusion?

A It depends on what they were, of course.

Q Well, I say it is possible they might lead you to an entirely different conclusion?

A Yes.

Q And it is very probably in holding back these facts they did it for the purpose of preparing a defense?

A It is possible. I don't know.

Q Now another way of lying to you would be to say something that was not true?

A Yes.

Q In other words, this king and slave phantasy, do you know of any other person that ever knew about this king and slave phantasy that Leopold told you about prior to the time he confessed to the murder?

A No, I don't know of anyone that he told it to.

Q Supposing some smart lawyer or some smart doctor told him that if he was being examined by you and other alienists and he told them that he had a king and slave phantasy, he has sufficient intelligence and memory to remember the details of it and later repeat it to you, hasn't he?

A No sir, because of the wealth of it. On that point there is no doubt in my mind the boy was absolutely speaking truly because he gave such a very, very extensive account, which has all the earmarks to an experienced person of sincerity. The variations, the changes he rang in the variety and the way the phantasy modified his conduct, the origin of it, the duration, and so forth, is all too

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natural to be attempted in any attempt to mislead a person like myself.

Q They both have good memories?

A Yes.

Q They are both well educated?

A Yes.

Q Leopold has an exceptionally good memory?

A He has.

Q If you give him twenty-five words he can repeat them backward or forward, and then you can take any one of the twenty-five and he can tell you the words preceding and following it?

A So he says, and so Dr. Healy told me, yes. I didn't do that test with him.

Q It is possible that some of these things he told you upon which you based your opinion, and Loeb also, had been told to them, and they had been instructed and drilled in preparing their defense, and they started out to fool you?

A No, there were no earmarks of malingering in that part of their story to me.

Q In your report on Loeb, page 66, you say, "During this examination, in his recitation of his crimin-

al career, he was not altogether frank. Without any indication, facial or otherwise, he would lie or suppress certain instances unless he imagined that the examiner was previously aware of those instances.

When questioned about this later, he said he failed to mention certain things because he either thought it advisable not to mention them or because he had been advised not to mention them."

Is that a true statement?

A Yes, if it is in my report.

Q It is apparent from that, then, that he was working on a defense, and he had been advised as to what to tell you, and what not to tell you?

A To some extent, yes.

Q Let me read again your report:

"When questioned about this later", that is, withholding stuff from you, he said that he failed to mention certain things because either he thought it advisable not to mention them or because he had been advised not to mention them."

Is that a correct statement of your conversation with

him?

A Yes, and that was --

Q Then you go on --

MR. WALTER BACHRACH: Let him finish.

THE WITNESS : A (Continuing) -- and that was in relation to having set fire to a shack. I asked him if he had committed any other delinquencies, and he said no.

MR. CROWE: Wait a moment.

MR. WALTER BACHRACH: Let him finish.

THE COURT: Let him finish his answer.

MR. CROWE: When I ask him a question, he ought to answer it, and not make a speech.

THE WITNESS: I had not finished.

THE COURT: Go ahead.

A I asked him if he had committed any other delinquencies, and he told me no. The next day I asked him if he had set fire to any shack, and he said, "I beg your pardon. Didn't I tell you about that yesterday? I meant to." He lied to me, I believe, when he said he had meant to tell me that; it was my impression that he had deliberately refrained from mentioning setting fire to a shack in a vacant yard the

previous day.

MR. CROWE: Q Did he lie when he told you that he had been advised not to mention certain things to you?

A I don't know.

Q You don't think Mr. Bachrach or anybody connected with the defense would advise him not to tell you about setting fire to a shack, do you?

A I don't know.

Q You wrote this report after you had your conversation with him?

A About the shack, yes.

Q You begin the paragraph by saying, "During this examination in his recitation of his criminal career he was not altogether frank." Without any indication, facial or otherwise, he would lie or repress certain instances unless he imagined the examiner was previously aware of those instances. When questioned about this later, he said that he failed to mention certain thing because he thought it advisable not to mention them or because he had been advised not to mention them?" You do not state anything in there about the burning of the shack?

A No, but it was on that episode that I made that

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comment.

Q All right. Then don't you go on, on page 67?

"So obviously there are gaps in his story of the development of the crime"?

A Yes, I said that.

Q What are those gaps?

A I don't know.

Q There are things he has not told you up to date?

A Yes.

Q And he might have been advised not to tell you those things?

A He might have.

Q Then don't you go on, "His oldest brother, Allen, does not know of these untold stories, but the patient says he will not tell them unless Allen advises him to do so."

A Yes, that is just what I wrote.

Q And that is true?

A Yes.

Q So just how important those matters are that he had been advised not to tell you, you don't know?

A No, I don't know.

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Q And you don't know what effect they would have upon your conclusions if you did know them?

A I don't know.

Q Then you go on and say, "On the other hand, there is a certain legal advantage in minimizing the broadcasting of his episodes".

When you use the expression "There is a certain legal advantage", you are thinking about his defense, are you not?

A Yes.

Q In other words, importing matters of mitigation to Judge Caverly here, it is to the advantage of the defendants to have withheld certain information from you so that the conclusion you now have arrived at wont be disturbed, is that true?

A I was interested in this crime, the Franks ~~xxxx~~ crime.

Q And don't you further state, "Even keeping them secret from his attorney, examiners or relatives, consequently no great effort should be made to bring forth details which he wilfully repressed."

A That is the way I felt about it.

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Q Now, doctor, do you think an opinion based upon a partial statement of the fact when that opinion might be changed by your knowing all the facts, don't you think that is a mighty unsafe guide for the court to go on?

A No, I think the essential facts in relation to this particular crime are brought out.

Q You say you don't know what the facts are that he withheld or how important they might be?

A No.

Q And they might be important enough to lead you to a different conclusion?

A They might.

Q Now, doctor, on pages 93 and 94, I don't know which page that is, -- Dr. Healy, Dr. White and Dr. Glueck testified that in making up their minds in this matter they had taken into consideration your report -- answer that.

THE WITNESS: What is the question?

Q Do you know that Dr. Healy, Dr. White and Dr. Glueck testified that in coming to their conclusion they had considered your report?

A Yes, they told me so.

Q Now, you say he denied being implicated in the so-called gland robbery of Mr. Rean, denied having been in Geneva in the case of the ragged stranger who was found with his hands and face mutilated, which crime is usually attributed to Warren Lincoln, and he denied having participated in any other delinquency but later referred to four episodes where the letters A, B, C and D were suggested. Have you anything else in your report about these A, B, C and D episodes?

A No.

Q Well, that would not be very illuminating to the other doctors to read about withholding information and later telling you about four episodes which you refer to as A, B, C and D, would it?

A Not very illuminating.

Q Then you add, "It was found forencically inadvisable to question him about these." Now, by "forencically", you mean what, legally, don't you?

A Just a pressure of time. We were concentrating on this case to get our report in before these doctors came from the East.

Q What does "forensic" mean?

A From the forum.

Q It means legal?

A Yes, legal or pulpit.

Q So this might have read, "It was found legal" and the only thing the lawyers are thinking about is the trial of this case in this connection?

A Yes.

Q It was found legal or in reference to this particular trial inadvisable to question him about these?

A Yes, we had so much to get out in relation to this trial we did not go into anything else.

Q Oh, no, you didn't say you didn't have time. Just get this; it was found forensically --

A Yes, that was the reason.

Q Not that you didn't have time, but forensically it was found?

A That is the forensic reason.

Q And legally it was found?

A That is the forensic reason.

Q Yes, but legally it was found inadvisable to question him about these. Now, just what did you mean by that, that it would not help his case

any if you went into it?

A No, to get the report through by the 31st if we could possibly do it.

Q And you want us to understand that that is the meaning of those words, that you did not have time to go into these matters?

A I did not have time.

Q Why didn't you say that? As to these matters, didn't have time to develop them; why didn't you say that?

A That is the way I felt about it.

Q You thought it would sound nicer to say it was found legally inadvisable to question him about them?

MR. WALTER BACHRACH: I object to the form of the question.

THE COURT: Let him answer.

MR. CROWE: Q Is that true?

A Oh, approximately.

Q And you thought the court and the rest of us would understand that by that sentence you meant you did not have time to go into these matters?

A Absolutely not, for this reason; this report

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was not prepared for you, it was prepared for other physicians who were coming on from the East. I had no idea this report would be submitted to the public or to you. It is a medical report.

Q Now, doctor, directing your attention to Nathan Leopold, you testified on your direct examination that as a boy he was getting too fat and he reduced by dieting?

A Yes.

Q He reduced by diet?

A That is what he told me.

Q Look on page 9 of your report, in the middle.

"In 1920 when fifteen years of age he was somewhat overweight, weighing 142 pounds. By hard exercise he reduced his weight fifteen or twenty pounds."

That is correct, isn't it?

A Yes.

Q So your report and your testimony do not agree?

A Not at all, they do agree. A person reducing their weight usually diets as well as exercises.

Q Not what they usually do; it is what you said.

A They are not mutually exclusive, those two.

Q Now, in your direct examination you said by the muscular fatigue and disorder in his blood, sugar disturbances, and you draw certain conclusions, that is true, isn't it?

A Well, in relation to what?

Q Some disturbance, endocrine disturbance?

A Well, I answer yes. Everything I have said is true, but I don't know what you are speaking about in particular there.

Q Well, you were talking about a disturbance in the pineal gland and about other things that you found in him, and you attribute it you say to the muscular fatigue, disorder in his blood, sugar disturbance and the blood sugar tolerance tests, and from my examination and study of these and other cases I concluded the thyroid gland had been definitely diseased."

MR. WALTER BACHRACH: Of which defendant are you now speaking?

MR. CROWE: We are now speaking of Nathan Leopold.

THE WITNESS: Which gland, pineal or thyroid gland?

MR. CROWE: Q Thyroid. But you took into consideration his muscular fatigue, did you not?

A Just a moment. Not in relation to the thyroid.

I think you have that misquoted.

Q Well, in reference to any of them, I don't care which.

A Yes, all right.

Q Now, in your report on page 11, about Leopold --

A Yes.

Q -- didn't you make the following statement, "With regard to physical endurance generally he feels that in taking long tramps or mountain climbing or going without sleep he is better than the average individual"?

A That is part of the sentence.

Q Yes.

Q "But in other respects he has less than the ordinary amount of physical endurance".

Q Yes, let me finish, please.

Now, he can take long tramps, climb mountains and go without sleep better than the average individual?

A He says he can.

Q You believe him, didn't you?

A I do.

Q Then on page 50 you say: "But at the same time" -- well, wait, I will read a little more, or you can read any-

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Idon't read. I will start at the point I want to get at:

"But at the same time he can hike and run and camp very well. Whatever he attempts to do he did well"?

A Yes, I said that.

MR. CROWE: I beg your pardon, your Honor, I have got two documents that I have to refer back and forth to, and it takes a little time for that reason.

THE COURT: All right, plenty of time.

MR. CROWE: Q Now, doctor, in your testimony on direct examination you stated, did you not, that Leopold told you that he had gotten glasses to see if they would relieve the headache, but they did not?

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A Yes, sir.

Q In your report you refer to the glasses in the following language on page 10: "He thinks headaches may have been due somewhat to eyestrain, and he has had glasses prescribed for his eye condition. He smiled sardonically while mentioning ~~the~~ this and said, 'I wish I hadn't gotten them.'"

A Yes, that is in the report.

Q Assume that it is also in evidence that the only time the defendant had headaches, according to his own statement, was last fall, that he attributed the headaches to eyestrain, that he had glasses prescribed, and ~~were~~ wore them for several months, and the headaches disappeared, and he quit wearing them because he no longer had need for them or had headaches. Assume that that is in the testimony as a statement made by Leopold himself in the state's attorney's office. He either lied to you or lied to the state's attorney, did he not, about his violent headaches, that continue to the present time?

A Not necessarily lied, but it is difficult to assume ~~them,~~ when I have knowledge from other sources, even his

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nurse, that he has been having headaches, especially when he was sick, or had intestinal trouble or fever.

Q What was the reason that he gave you for leaving the public school, without looking at your notes.

MR. DARROW: He may look at his notes if he wants to.

MR. CROWE: I withdraw the question.

Q Did you not testify day before yesterday in your direct examination that after two years in this school, referring to the Spaid School, he was tried out in a public school, but he did not get along well, and the family put him back in the girls' school for the rest of the school year.

A Yes,

Q So the reason he left the public school was, he didn't get along well in school?

A No, he hardly got in. He was put in on trial, and went back.

Q He did not get along well, is that not correct?

A Only in a far fetched sense. He did not leave it because he had not really entered it. He entered as an experiment and he was doing better in the private school, so he went back.

Q On page 23 of your report did you not assign as a reason for his getting out of the public school, not that he was merely experimenting and did not get along well, but the following reason:

"At the end of the first year he was entered in the Douglas Public School, but left in a few days to return to Miss Spaid's School. The patient" --

that is Leopold,

--"feels that the reason for this was, his mother did not want him to associate with the negroes and tough boys who were in this school."

Which is correct?

A They are both correct; they are not inconsistent.

Q You stated that he told you at one time his pulse ran 130?

A Yes.

Q And that was about the time he took the physical examination and entered college?

A No, at the time he took the physical examination at Ann Arbor, to enter the junior year there, or a special course of study there. All incoming students, freshmen and special students are given a physical

examination there in the big gymnasium the first

week of school.

Q My question was whether the time his pulse ran 120 was at the time he took the physical examination to enter college?

A No, not to enter college, but to enter the other school, the University of Michigan.

Q It was a physical examination given for the purpose of finding out whether he was physically fit to go along.

A Yes.

Q He passed that examination?

A Yes. Several commented on his pulse rate at that time, he said.

Q The only comment that you make in your report on that is,

"He immediately went over for a physical examination, and was told he had a pulse rate of 120. However, he was passed on his physical examination. This was September 25, 1921".

A Yes.

Q You used that pulse rate of 120 as a basis to show that he had an overactive thyroid, did you not?

A At that time, yes.

Q Emotion is interest, is it not?

A You have it the wrong way around.

Q Interest is an emotion?

A Yes, curiosity or interest are emotions.

Q Leopold, you state, has suppressed all his emotions?

A No.

Q Or attempted to suppress them?

A Yes.

Q He took quite an interest in this case, did he not?

A In the preparation of this report?

Q No, I am talking about the Franks case generally.

A Be a bit more specific. In the trial or in the crime? or what?

Q Well, the trial, the crime, everything?

A Yes, he took some interest in it.

Q He is taking interest in it now?

A Variably so, yes.

Q You have seen him frequently lean over and talk to his attorneys?

A Yes.

Q Offering suggestions, and so on?

A Yes.

Q He is also interested in knowing what is going to happen to him, isn't he?

A He has speculated on it.

Q And he is interested?

A Yes.

Q Do you remember in your report on page 33 at the bottom, referring to Leopold, it said:

"the newspapers have stated that he questioned some of his law professors about points of law which now seem to have a direct bearing on his delinquency."

By delinquency you mean the Franks murder?

A I do.

Q "And he decided that he had discovered an imperfection in the Illinois law, namely, that the penalty for kidnaping was death and the penalty for murder was ~~death~~ death, and therefore there was no extra penalty for murdering a kidnaped person."

That is evidence of interest or emotion, isn't it?

A No, that is evidence of what the newspapers said about him. That is from the newspapers.

I don't know about that.

Q Didn't you ask him whether he had discussed this matter with his law professor?

A No, I wrote this so that the other doctors would not have to read all the stuff in the newspapers. I took out what I thought should be brought to their attention later and put it in there.

Q A great deal of this then is idle gossip?

A Not any of it.

Q Or newspaper gossip?

A I don't know that news is gossip.

Q Assume that Professor Puttkammer testified that after the murder, the professor in criminal law testified that Leopold had discussed penalties in connection with this crime, that would show interest, would it not?

A Assume the professor discussed it?

Q Assume that the Professor Puttkammer testified on the stand in this trial that after the murder Leopold questioned him in regard to the various penalties, that might be imposed in this case. That would show interest, wouldn't it?

A Yes.

Q Now, doctor, in reference to the picture of the

Madonna you testified on your direct examination,
did you not:

"He visited a church in Duluth" --

I am not concerned about the name of the town --

"one time when the family was there, and
a stained glass window of the Madonna
seemed to be a picture of his mother,
and he attempted to identify himself with
the older child, there being two children
there, probably the Christ Child and
St. John, the Baptist, his cousin, and he
attempted to identify himself with the
elder child and he identified himself
with the older child and called it Jesus,
the elder brother? "

A No, Jesus is the elder brother, I meant to say.

Q Well, that may be a mistake of the stenographer.

"There has been confusion in his mind as to
the difference between his mother and the
Madonna and himself and Christ. He does not
frankly say 'I am Christ', but he does say
that he is the superior person of the world."

Now, that is substantially what you testified to in

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reference to his confusing the Madonna and his mother?

A Yes.

Q And himself with the Christ?

A Yes.

Q Now, will you turn to page 34 of your report, and isn't this the account you have given?

"When he was six years old he was visiting in Joliet at that time" --

A No, in my notes ~~by~~ you will find that is crossed out and Duluth is written in.

Q Well, I don't care about the town.

"He was much impressed by a stained glass window, possibly of the Madonna, certainly of a young lady seated, the upper part of whose body was visible above some cloud.

There was some similarity in the appearance between this religious personage and his aunt, Birdie, and his mother."

Is that correct?

A Yes.

Q He does not confuse his mother in your notes with the Madonna, does he?

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A That is the point I had in mind that there was a similarity of appearance. That is what I said, between this religious personage and the mother, I said that he seemed to confuse the identity of the two, his mother, the Madonna, and his aunt, Birdie.

Q (Reading): "He remembered seeing some pictures in the family Bible at home, one of which is a picture of the Christ and Mary and Joseph and an older brother of Christ".

A Yes, that is what he told me.

Q "In this picture Christ has a baby and his brother was about two years old. In the profane and sacred history" -- I don't think it will serve any purpose to read the rest of it -- you have not any note here where he confuses himself with the Christ, have you, and if you have will you read it?

A This note brings to mind the fact he told me that it seemed to him in studying these --

Q What note is that?

A The one you were just reading. It brings to my mind what he told me when he said that looking at these pictures he seemed to recognize himself in

the older brother of Christ.

Q There is not any statement to that effect here.

A Just what you read.

Q That he seemed to think that he was Christ?

A I did not say that. He seemed to confuse himself --

Q Where have you a note that says he confuses himself with Christ, outside of your spoken testimony?

A That is sufficient.

Q That is sufficient?

A These notes are used to refresh my memory.

Q If that were important, and you made a note that Dr. Healy and Dr. White could read, that would be important to them, would it not?

A Why, yes.

Q And you made no such note?

A Just these notes here that you are reading now, page 35.

Q Who mentioned Leopold as the supreme being of the world?

A He regards himself as such.

Q Will you show me in your report there ~~is~~ where you have a statement to that effect.

A It may or may not be in here.

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Q Well, you know it is not, don't you?

A I say, it may or may not be in here.

Q Do you know whether it is or not?

THE COURT: Wait, wait, let him see.

A Some reference to it may be found on page 134 of this report which you have in which it says he emphasized his own mental superiority in every possible way.

MR. CROWE: Q Emphasized his own mental superiority in every possible way?

A Yes.

Q Is that equivalent in your judgment to saying his final opinion of himself as the supreme being of the world is definitely normal?

A I don't understand your question.

(Whereupon the question was here read by the Reporter)

Q Not exactly the same. I am testifying orally from my whole knowledge of the boy, and in part from the report you have there in front of you.

Q You stated in your testimony that he confused his mother with the Madonna and himself as the supreme being of the world, being above all man-made laws, etc.?

A Yes.

Q You have no note to that effect, have you?

A No, my testimony is not limited by my report. It is limited by my knowledge of the boy.

Q You amplify your report considerably?

A Yes, of course.

Q And you add to it?

A From further data, yes.

Q Did he ever allude to himself as Christ?

A No.

Q The only person who has alluded to him as the Christ is yourself?

A I don't know about that. It was significant along that line that he paid so much attention to the crucifixion and even decorated his notebooks with drawings of the crucifixion. This is particularly abnormal when one considers his race and the fact that he would not ordinarily be expected to believe in the crucifixion.

Q As a matter of fact, he does not, does he, he is an atheist?

A He says he is an atheist.

Q Is he telling the truth when he says he is an

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atheist, or is he lying?

A You must remember at nineteen years of age his philosophy had been developed over a number of years --

Q You don't think he is lying when he says he is an atheist, and doesn't believe in a God or hereafter. You believe that, don't you, when he tells you?

A I believe in his sincerity.

Q Did he tell you that he has a feeling of being ill-treated by others?

A Yes, of course.

Q Did he ever tell you he was suspicious?

A I don't know about that.

Q That he thought that other people were trying to harm him?

A No, they did not try to harm him.

Q Are you sure?

A That is as I recall it.

Q You said they did not try to harm him, is there some qualification there?

A I don't recall the incident you are describing.

Q Did you ask him that question?

MR. WALTER BACHRACH: He says he does not recall it.

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MR. CROWE: Wait a minute.

THE WITNESS: I don't recall it.

MR. CROWE: Q Did you ask him whether he ever thought that people were trying to harm him?

A I might have, I don't recall.

Q Do you know what his answer was?

MR. WALTER BACHRACH: I object to that question. The witness says he does not recall.

MR. CROWE: Q That would be a delusion and maybe that is important.

THE COURT. Go ahead.

THE WITNESS: I cannot answer a question I don't recall having been asked.

MR. CROWE: Q You don't recall any answer having been made?

A If I cannot recall a question, I cannot recall the answer.

Q Did you ever ask him if he was in fear of being poisoned?

A No, I don't recall this reference that you had in mind.

Q Now, if he had a fear that people were going to

mistreat him or poison him or do bodily injury to him, that would be a delusion and abnormal?

A It would depend whether it was based on fact, or what?

Q Assume that it was not based on fact, you don't think anybody wanted to poison him, from what you had learned of him, I mean, prior to the murder, of course?

A No, I don't imagine anybody wanted to poison him.

Q Prior to that time ~~was~~ nobody wanted to injure him in any way?

A No marked way, no, of course.

Q On page 132 of your report didn't you say, that he had no feeling that persons are against him or that he is being treated unfairly. He never had any idea that poison was being placed in his food or that persons were plotting to injure him.

A Yes, that is here.

Q Why didn't you testify to that? Those are all normal feelings, aren't they in his case?

A Oh, that is not the reason; I did not testify to it because I did not recall it. This is a most complex case.

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Q You had your books before you, didn't you, and you had your notes all during your testimony, didn't you?

A Yes, most of it.

Q And this would tend to show that he was normal and you did not tell the court about it?

A I was not asked about it but that is not why I did not tell the court.

Q No . Were you not asked to tell us everything you know about this case?

A Not Leopold's, no, because after I had gone a ways you remember the whole report was introduced in evidence at your request.

Q But you had your original report with you all the time?

A Yes, but we did not go through all the details after that time.

Q And you were asked to give his inner mental life, were you not?

A I don't know just where we stopped, but I know we did not go into the details of Leopold like we did of Loeb, because the report was submitted. I am not trying to keep this out, Mr. Crowe. I don't

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recall certain things.

Q All right. Now, if a person has a phantasy that he can dismiss like that (snapping fingers), it is not a very dangerous phantasy, is it?

A Not if he does dismiss it.

Q Well, if he can, it ought not to be a dangerous phantasy, ought it?

A If he can and does, his phantasy would not be dangerous. If he can and did not --

Q Now listen, if a man can and don't then he ought to be held responsible, oughtn't he?

MR. WALTER BACHRACH: I object to the question as to whether he ought to be held responsible. That is not pertinent to this cross examination.

MR. CROWE: He is testifying about his responsibility.

THE COURT: Let him answer.

MR. CROWE: If a man can dismiss a phantasy and does not do it and acts under the influence of that phantasy, he ought to be held responsible, oughtn't he?

MR. WALTER BACHRACH: I object to that question.

THE COURT: Whether he ought to be held responsible

is not for the doctor to say. He may tell us --

MR. CROWE: What is your judgment of it?

MR. WALTER BACHRACH: I object to what his judgment is.

MR. CROWE: Well, is he responsible.

MR. WALTER BACHRACH: I object to that question.

THE COURT: No, he may answer.

MR. CROWE: Is he responsible if he can dismiss it and does not dismiss it? is he responsible?

MR. WALTER BACHRACH: Do you mean mentally responsible?

MR. CROWE: Yes, sir.

THE WITNESS: The mere fact he does not probably shows he cannot. I place ~~little~~ little credence in --

MR. CROWE: Q Well, a little while ago you said if he could and did it was one thing.

A Yes.

Q Can a man dismiss a phantasy at all?

A Some do, yes, often. Most of us do.

Q And if he can dismiss it and does not dismiss it, he is responsible, isn't he?

MR. WALTER BACHRACH: Do you mean mentally

responsible?

MR. CROWE: Certainly.

MR. DARROW: He has answered that.

MR. CROWE: No, he has not. He has evaded it.

MR. DARROW: I say he has.

THE COURT: No, I would not say he evaded it. Let him answer.

THE WITNESS: I don't see how I can because it would depend on the intensity of the phantasy, its repetition and so on.

MR. CROWE: Can we have a short adjournment, your Honor?

THE COURT: Yes. We will have a short recess now, 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 . H A R O L D S . H U L B E R T
resumed the stand as a witness on behalf of the
defendants, and being further cross examined by
Mr. Crowe, testified as follows:

MR. CROWE: Q Doctor, in your testimony you said
that he became an atheist after his mother died.

A Definitely he did, yes. He had been formulating
this idea of --

MR. CROWE: Wait.

MR. DARROW: I object. Let him finish his answer.

MR. CROWE: I will read all he said.

MR. D O W: He started to answer.

MR. CROWE: He is giving an explanation.

THE COURT: Let him explain his answer. I will give
you all the time you want on cross examination.

MR. CROWE: I would like to have him make his explana-
tion later. They will have a chance to reexamine him,
and after I get through with any one particular subject,
if he wants to make an explanation, let him do it then.

I do not want to stop him from explaining, but

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I think he ought to do it at the proper time.

THE COURT: No, I think it only fair for the doctor to explain his answer. You may explain, doctor.

A He had been formulating his religious ideas for several years, and by the time his mother had died he had new data of religious importance to put into his whole religious picture, and he had definitely become an atheist by that time, and definitely called himself an atheist, because God had made too serious a mistake in taking his mother for any perfect God to do.

Q You testified as follows, did you not: "In his religious studies he was intensely interested in classification, as he was in other things, and he finally found fault with God, and as far as he was concerned, he abolished God, because God made mistakes; God a great mistake when he took his mother, an almost perfect woman, and left others not so perfect. He then became an atheist, and atheism is something that troubled him for some time."

A Yes.

Q Now, when did his mother die?

A About two years ago.

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Q That was before he registered at the university or after.

A Why, he was attending after because he was attending school at Ann Arbor and came home several times during that fall to see her and was home in her last sickness and for her funeral.

MR. WALTER BACHRACH: Which university do you mean, Mr. Crowe, Chicago University or Ann Arbor, University of Michigan?

MR. CROWE: Q Which one do you mean in your report, doctor?

A Well, his mother died while he was at Ann Arbor.

Q When you speak about the registration at college, do you speak about Ann Arbor or do you speak about the Chicago University?

A Oh, yes. As I recall it, he was registered in a post graduate term at the University of Chicago at the time this question came up how he should fill in the blank on religion. He took one post graduate course, I believe, one term, before he started his law course.

Q Now, as a matter of fact, doctor, this registration that you speak of was before his mother died.

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Q Wasn't it?

A I don't know. I don't have it that way in my memory.

Q Let me read from your report on page 49:

"He often discussed religion with his parents and friends."

A Yes.

Q And he never agreed — and they never could agree with him. For example he had to fill out a certain part of a blank form for registration at college in the space left for religion, and he wanted to write "atheist".

A Yes.

Q From that you would infer that his mother was still alive.

A Oh, because of the plural of the word "parent"?

Q Yes.

A That does not agree exactly with my memory of the whole thing. I say he discussed it with his father and make no mention of having discussed it with his mother.

Q As a matter of fact, doctor, it is in evidence

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which he states to be Eleven years, he was an atheist from that time on.

A It is in evidence, you say?

Q Yes. Now assuming that that is in evidence and assuming that when he made that statement he was speaking the truth, his mother's death at the age of Seventeen did not make an atheist out of him.

A That is the same point I was trying to make, that it definitely confirmed this attitude of his toward religious matters.

Q Now, as I understand, doctor, from your testimony, the initiative in the planning of the crime was taken by Loeb?

A Yes.

Q And that Leopold, while he apparently went along with it, didn't want to, he was hoping that he would get in Europe before the crime was committed?

A Yes.

Q Referring to page 95 of your report, doctor, which was the inception of this crime, when he stole the typewriter, speaking of Loeb, didn't you say as follows:-- or Leopold rather: "In November, 1923, the patient's

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companion" -- and by companion you mean Loeb.

A I do.

Q -- "Suggested they rob the companion's fraternity house at Ann Arbor. The patient demurred at first but finally agreed to it on condition that they rob a second fraternity house with which he was especially familiar."

A Yes.

Q "The plans were elaborately worked out and every contingency was provided for. They worked out plausible excuses to the family for being away and planned the robbery for late Saturday night following the football game because they figured there would be visitors at the fraternity house and they would thus be less liable to be detected and also they would be able to secure more as the visitors might easily have considerable sums of money. They carried with them two flashlights, two loaded revolvers, and a rope to tie up anybody who might interfere. The patient's companion carried a chisel wrapped with tape with which to hit anybody on the head who discovered them. The patient carried one of the loaded revolvers. He said if anybody had recognized them he would have shot to kill.

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"The robbery of his companion's fraternity house went off successfully. They took everything they could find of value and a number of things of no especial value merely to make it more unpleasant for the fraternity boys. The patient picked up a typewriter and brought it along. He had no specific purpose for taking it but seeing it there he simply picked it up and brought it along."

Now, doctor, on the second robbery there the initiative was taken by Leopold, wasn't it?

MR. BENJAMIN BACHRACH: One moment. If the court please, I object upon the ground that the first part of the question in a very low tone of voice there was put into the question,

"At the beginning of this crime, which was the getting of the typewriter".

MR. CROWE: No, you are mistaken.

MR. BENJAMIN BACHRACH: The reporter can read it.

MR. CROWE: You are mistaken. The statement about the typewriter is not a part of the question but a part of his statement.

MR. BENJAMIN BACHRACH: I know that.

MR. CROWE: "The patient picked up a typewriter and brought it along."

MR. B. C. BACHRACH: Yes.

MR. CROWE: "He had no specific purpose for taking it but seeing it there he simply picked it up and brought it along."

Now will you read the question?

MR. B. C. BACHRACH: From the beginning.

MR. CROWE: No, I am talking about the last question.

MR. B. C. BACHRACH: That is the very beginning of it.

MR. DARROW: You said "At the inception of this crime."

MR. CROWE: Well, read the question.

(Whereupon the question was here read by the reporter).

MR. B. C. BACHRACH: That is what I am objecting to, that part of it.

THE COURT: Just strike that part of it, the inception of this crime, out. Now go on, Mr. Crowe, and ask your question.

MR. CROWE: Q The second burglary there was at the suggestion of Leopold?

A Yes sir, so I understand it.

Q When he was telling you about picking up the typewriter and he had no purpose for taking it, you believed him, didn't you?

A Yes, sir, I did. I said they also picked up a kodak in that same write up, didn't I?

Q I see, but you say about the typewriter:

"He picked up a typewriter and brought it along. He had no specific purpose for taking it, but seeing it there he simply picked it up and brought it along."

A Yes, that is what he told me.

Q Now, doctor, would you change your opinion as to whether the patient was telling you the truth if you knew that the reason they stole the typewriter was so that they could write the ransom letters on it, and the letters could not be traced back to that typewriter.

A Why, I suppose I would change my opinion, yet I believed him when he said this to me.

Q Now, doctor, it was right at that time that they began to plan this crime, the Franks murder, wasn't it?

A That evening I think they started or the next

Q In your report you state on that:

"While the patient and his companion were driving home from the robbery of the fraternity house they had one of their worst quarrels. They had been drinking at the time. They made various accusations against each other. For a time it appeared their friendship would break down."

And then you go on and state that they began to plan the big crime.

A Yes.

Q And the crime that they were planning at that time was the kidnaping of the boy and securing ransom?

A Yes.

Q Now Leopold had been stiffling his feelings and emotions for some time, or attempting to?

A Yes.

Q And had succeeded pretty well?

A He thought he had.

Q I direct your attention to page 102 of your report on Leopold.

A Yes.

Q "The patient described in detail the carrying out of the kidnaping and the murder. Told how the victim was lured in the automobile, hit over the head with a taped chisel and knocked unconscious. It was necessary to hit the victim over the head and he bled some. This upset the patient a great deal."

This upset the patient a great deal; that was during the recital of the details of the murder to you that referred to, wasn't it ?

A No, he said that the striking of the boy upset him a great deal.

Q Well, during the commission of the crime he was upset a great deal?

A Yes, that is what I meant.

Q That is giving away to his emotions, isn't it?

A Yes sir.

Q And he said to his companion, "My God. This is awful"?

A And then in another place here my notes read --

Q No, that is giving away to his emotions, isn't it?

A And then in another place he said, "My God,

This is terrible."

Q I know, but look at page 102.

A Yes, I am looking at it.

Q That is an indication of emotion when he says, "My God, this is awful".

A Yes, it is.

Q "He experienced a sinking feeling in the pit of his stomach."

That is an indication of emotion?

A Yes.

Q "His hands trembled." That is an indication of intense emotion?

A Indication of emotion, yes.

Q And he lost some of his self control?

A Yes.

Q That is an indication of emotion?

A Yes sir.

Q And Leopold told you those things that you have detailed here?

A Well, I don't know whether he did or the other boy did.

Q Now, who do you think told you? When you are

writing up Leopold's inner mental life who are you getting the facts from Leopold or Loeb?

A Mostly Leopold. This is not the inner mental life.

Q Now when you were telling the court, doctor, about the Leopold lack of emotions and attempting to suppress them, why didn't you tell him about this that I have just read to you?

A This is a very excellent example of what I had in mind. That is why --

Q That is the reason you did not --

MR. WALTER BACHRACH: Let him answer.

A (Continuing) -- because within a few minutes after this crime he was quite himself again, and that shows, although he was emotional at that time, he actually is not as emotional as most persons, because he became quiet so very quickly.

MR. CROWE: Q That is the reason you did not give that excellent example to the court, because it was an excellent example, is that it?

MR. WALTER BACHRACH: I object to his arguing with the witness.

MR. CROWE: Q As further dealing with Leopold's

feelings and emotions, I will direct your attention to your report on pages 107 and 108, beginning on page 107:

"He does not think he is insane. He states that he knew what he was doing at the time. He knows what the law says in regard to it. Asked whether he would commit another such crime if he were certain that he could escape detection, he replied, 'I would not commit another such crime because I realize that no one can ever be sure of escaping detection'".

"He feels that this would be the only reason that would keep him from another such attempt, that there would be no question of remorse or guilt enter into the thing."

Then you go on at the bottom of the page and state,

"He is rather fond of small children; he has always wanted to take a crying child in his arms and comfort it!"

That is emotion, is it not?

A You left out two other parts related to those that you read.

Q The desire to ~~xxx~~ take a small, crying child into his arms and comfort it, that is emotion, is it not?

~~At~~ A That is the emotion of tenderness.

Q And sympathy?

A No, sympathy is sentiment.

Q It is highly developed, isn't it?

A It is in ~~in~~most of us, based on the emotion of tenderness, parental instinct.

Q The desire on the part of the young man to take a child in his arms and comfort it and almost noticing the functioning of the lachrymal glands, would show that his tenderness is highly developed?

A No, not because it shows an intensity of tenderness present. If we make a comparison it was very poorly developed because he says that he almost noticed the functioning of the lachrymal glands, tears in his eyes, whereas most people picking up a child to comfort it would feel tenderly, and if the child is distressed tears would come to the normal person's eyes. The fact that he almost noticed tears in his eyes would show a shallow degree

of tenderness.

Q And does away with the feeling he had that he wanted to pick up a child and comfort it because he merely noticed and did not actually blubber out?

A No, blubber is not mentioned.

Q Now, continuing:

"While in the jail the patient has clearly been under considerable emotional tension?"

A Yes.

Q That is emotion, isn't it?

A Why, of course.

Q "And is rather irritable at times" --

is that like the tears or near tears, did that irritability kill the emotion he was under?

A That question is not phrased so that I can answer it.

Q "The newspapers report that he is a cold-blooded scientist with no emotion and entirely unconcerned, is completely wrong".

That is ⁱⁿ your report.

A That is in my report.

Q "The patient" -- referring to Leopold --

"ordinarily is able to make a calm and self-

"possessed appearance and before reporters and visitors seems perfectly self-possessed and unconcerned. On the other hand, when he does not feel the need for doing this and when he is talking frankly with people and no longer posing, he shows a great deal of irritability and nervous tension".

A A good deal.

Q In other words, when he is not posing, when that super-intellect is not in command of the guard and he is talking frankly to people he has considerable emotion?

A He has more emotion.

Q Isn't that a fact?

A The boy has more emotion in him than he himself acknowledges exists, and his emotions have been kept in check so much all the time that a great deal of his life is non-emotional.

Q Yes, since he has been preparing this fancy mental defense, he has kept his emotions more completely in check than he ever did before, isn't that true?

MR. WALTER BACHRACH: I object to the question, if

the Court please, assuming that this is a fancy defense which is being prepared by him or by anybody.

I submit that this is a highly improper question, and Mr. Crowe knows it.

MR. CROWE: What is the ruling?

THE COURT: Strike it out.

MR. CROWE: Q Leopold was doing considerable posing in jail, wasn't ~~was~~ he, while you were examining him?

A Yes and no. Leopold has so long assumed a certain attitude towards the world that it has become a very part of him, and this shows itself in jail as well as outside. The reason he shows this pose, if you wish to use that phrase, is because it is a magnification of his own defects.

Q Now, the ransom did not mean anything to Leopold, did it?

A I suppose it meant five thousand dollars, but it was not a determining factor in this.

Q Did the ransom of five thousand dollars mean anything to Leopold in connection with this crime? He wanted to get that five thousand dollars and was

not that one of the controlling features?

A No, it was not a controlling feature, it was an afterthought.

Q Now, doctor, I direct your attention to your report, page 97, this is the time away back in November, when they are stealing the typewriter. Didn't they tell you and didn't you record in your report that on this return trip from Ann Arbor the patient's companion first broached the question of kidnaping a boy and securing the ransom?

A Yes, that was mentioned.

Q The ransom was talked about as soon as the crime itself was talked about, isn't that true?

A But not necessarily equally as I understand it --

Q Now, why --

MR. WALTER BACHRACH: Let him finish his answer.

MR. CROWE: He can make his explanations later.

THE WITNESS: The answer is no, if I cannot qualify it.

MR. CROWE: Q Now, doctor, the crime originated, you say, in Loeb's mind?

A Yes, he was the first one to speak of it.

Q On page 100 of your report, speaking of Leopold, don't you say, "The patient suggested that they secure a girl instead of a boy and that he rape her before he killed her. When asked why he suggested this, he said it was the thing to do, and this would also bring up his phantasy of a French girl being attacked by German soldiers, and hence he would derive a great deal of pleasure from it. The patient's companion objected to this idea ^{so} ~~as~~ it was discarded."

A Yes, I have that in my notes.

Q Th at is true, is it?

A He told me so.

Q Now, this is a phantasy that you did not tell us about on Leopold's part?

A I tried to explain to you before that my examination of Leopold was not as complete as Loeb, because my whole report went in--

Q But you ~~did~~ did tell about his phantasy about the king and the slave?

A Yes.

Q Why didn't you tell us about his phantasy about the German soldier raping the French girl, and that was why he wanted to first get a little girl and rape her, and then murder her?

A Because I didn't have an opportunity, and because it was in my report.

Q Who stopped you talking since you have been on the stand?

A You did.

Q Haven't I been asking you right along, to tell the story and give us all the details?

A You interrupted and asked to have the report put in.

Q I asked you a number of times about the story of St. Christopher, did I not, and you promised before you got through to tell it to me.

A Once, I think.

Q Tell it now and what effect it had upon making these two men commit this murder. Tell the connection with this case, if any, in your mind.

A The story of St. Christopher was told to the boy by his little Irish nurse maid when he was very young. It is the old story of an O'Ferro who wanted to serve the strongest person in the world, if he could

find such a one, and to be a perfect slave to that person. So he did serve a king until the king became very powerful, but when he found the king was afraid of the devil, he left the king to enter the service of the devil, and served him for many years unquestioning in many mischievous ways, desiring only to be the perfect slave of this most supreme master. When he found the devil was afraid of Christ, and shied from the crucifix, then he left the devil's service and wanted to find Christ so he could serve him. He was directed to a life of service by a monk, helping people, and at one time carried a child across the river, and this turned out to be the Christ child, whereupon he was given the name of 'Christ-O'Ferro', or Christopher, or the Christ carrier. That is the story, and of all the stories of the saints, this one probably had the greatest influence on the boy's life, giving him a pattern, that of being a perfect slave to a most superior master.

Q As to the servant girl who told him this story of St. Christopher, that phantasy or story did not unbalance her, to the extent that she murdered anybody, did it?

did it?

A As far as I know, she didn't murder anybody.

Q Going back to the question of ransom again, on page 116 of your report on Loeb, in the middle of the page, did you not state the following:

"He ~~it~~ had no hatred toward the boy (the Franks boy); as the hate of his first planned victim disappeared, the excitement of the planning grew, and the money developed as an afterthought. Neither he nor his associate would have done it without the money. That extra five thousand dollars would have been security, and 'five thousand dollars is five thousand'".

That is correct, is it not?

A Yes.

Q Did you not also state that the ~~xxx~~ ^{reason} they were not going to ~~xxx~~ kill their parents was, if they did they couldn't get the money?

A Yes sir.

Q Mr. Ransom was working pretty busily at that time, was he not?

MR. WALTER BACHRACH: Objection.

MR. CROWE: Q The thought of ransom was strong at that time when they excluded their parents from participating in this thrill, because if they did kill them they would have difficulty in getting the money. That is what they told you, is it not?

A Yes sir, just that.

Q On page 118 of your report on Loeb, quoting Loeb directly, did you not say, "We anticipated especially the money' with a facial expression of interest."

The words, "facial expression of interest" are in parenthesis and are your words showing that he meant what he said.

A Yes.

Q That is emotion?

A Yes.

Q "We anticipated especially the money, we thought we had it all so cleverly worked out we felt certain of not being caught, or we would not have gone into it. I had considered the possibility of being caught, and I was afraid my father, a sick man, could not stand the shock; but I felt so certain

"of not being caught that we went on with it."

That shows he was interested in the ransom, does it not?

A Not the second part; the first part does.

Q And the second part shows that he was concerned in his father's welfare, and afraid if he was caught, it might have a bad effect upon his sick father; that is emotion, is it not?

A All I can say is, it is a very childish amount of emotion, or character of emotion.

Q Well, concern for his sick father is sympathy and emotion?

A It is an emotion.

Q And we do not lose our concern for our parents when we get old, because that concern is a childish emotion, do we?

A No. Usually as we get older our attitude toward our parents becomes more mature in certain characteristics.

Q You gathered from what he told you as referred to there, that the ~~xxx~~ reason they persisted in this crime was, they thought they would not be caught?

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A No, it was like this: The planning of the crime was the most important thing itself, and the ransom was an afterthought. But at the time they were contemplating the ransom, it for the moment was the most important part.

Q They felt secure at this particular part of their conversation when they said, "We thought we had it all so cleverly worked out, and we felt certain of not being caught, or we would not have gone into it"?

The feeling of security is what brought them into it, is it not?

A No.

Q Loeb has told you if this report is correct:

"We felt certain of not being caught, or we would not have gone into it".

A That does not mean the security attracted them to it. The cleverness of planning is what attracted them first. The sense of security permitted them to indulge themselves in it.

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Q Do you think, doctor, from your conversations with Loeb, as you have recorded them here, that if they thought they were sure to be caught they would have gone ahead with this job?

A No, if they had been sure they would be caught, they would not have gone ahead with it.

Q So they had the power to back out any time they wanted to?

A They thought they had.

Q Well, you thought they had, did you not, and you think they had?

A That is an impossible question. It seems to me as though the driving force towards this crime was so enormous as compared to their judgment, that it is a matter of question whether or not they could have withdrawn themselves from it.

Q Now, reading: "He expressed remorse at being caught. When asked if he would go through with this crime again if he felt certain he would not be discovered, he replied, 'I believe I would if I could get the money' ".

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He was thinking of the ransom then, was he not?

A Yes.

Q And he was also thinking of the chances of not being caught, was he not?

A Why, yes, -- if he should have repeated it, yes.

Q Now, when they were telling you the things that you recorded as follows, on page 121, was not the question of ransom an important question with them in the commission of this crime, -- and I will read:

"He had proposed and with his association (that is Leopold) had contemplated using Dick Rubel, a very close friend of the patient and his associate, towards whom neither the patient nor his associate had any ill feeling or grudge, as a victim. The patient (Loeb) stated that he enjoyed this idea immensely, because since he was a close and trusted friend of the family he would undoubtedly be asked to be a pall bearer at the funeral, and 'This gave me a tremendous kick.' The plan of kidnaping Rubel was given up because Dick Rubel's father was so tight we might not get any money from him."

Did they have ransom in mind then?

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Q And the tremendous kick that he was going to get out of this, which you thought was the driving force, was not sufficient to make him go ahead and kill his most intimate friend, because he thought his father was too tight to come across with the \$10,000?

A He explained to me that unless he could collect a ransom, it would not be a perfect crime, and if Mr. Rubel would not pay the ransom money, that ruled out Dick as a victim.

Q Now, another thing that kept him out of this tremendous kick in killing Dick Rubel was not only the fact that they did not think they could get the money, but they were afraid they might be apprehended, was it not? Directing your attention to page 122 --

A Yes, I am looking at it.

Q "Also, they felt that since he was such a close friend they might be supervised, and be expected to be around, and therefore could not carry out the plan successfully. Furthermore, they might be suspected because they were such close friends and associated so much with him. Therefore, they

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would be sure to be questioned if Dick Rubel disappeared."

In other words, did they not impress you with the fact that in picking a victim here, first they wanted somebody that they could get the Ten Thousand Dollars from, and second, they didn't want to be caught and suffer the consequences of their crime.

A No, that is not my understanding. My understanding is they wanted to make a perfect plan. That was the primary cause.

Q Now, were not the two elements of the perfect crime-- or the three elements, as you have it, the kick, the ransom, and not being caught?

A Those were all elements, yes.

Q Now, weren't they the three big elements in this?

A No. The biggest one is the having superior knowledge of a crime which no one else in the world might have knowledge of except themselves. That was so large it overshadowed the others, both in development of thought and the amount of thought given to it. The other two, however, are considerable, the security and the ransom.

5m Q Now, in the examination of Nathan Leopold, Jr., on the witness stand you testified as follows:

"There is to be found in Nathan Leopold, Jr. considerable pathology; he is nineteen and seven-twelfths years old."

How much pathology is there in his age?

MR. W. BACHRACH: I object to the question.

MR. CROWE: Q Well, is there any?

MR. W. BACHRACH: Just a moment. The objection to the question is, that it is silly.

MR. CROWE: Q Is there any pathology in it?

A The question does not permit of a yes or no answer.

Q Now, I am reading your testimony?

A Yes.

Q You are talking about Nathan Leopold and finding pathology in him?

MR. DARROW: Have you got the date?

MR. CROWE: Now, wait a minute. I will come to that.

Q "THE WITNESS: There is to be found in Nathan Leopold, Jr. considerable pathology; he is Nineteen and Seven-twelfths years old." Is there any pathology in his age?

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MR. W. BACHRACH: I object to that, unless he gives what follows.

THE COURT: Oh, yes.

MR. CROWE: I am going to give it all.

MR. W. BACHRACH: Give the first.

THE COURT: No. He said he lives at 5431 Ellis Avenue. You don't consider that?

MR. CROWE: I know, but, your Honor, he is now talking about pathology.

THE COURT: I know.

MR. CROWE: He is not talking about where he lived at all.

THE COURT: I know he didn't. He is giving his age, and he has got something else following there.

MR. CROWE: Let me read it.

THE COURT: Yes, read it, and that will be all right.

MR. CROWE: Q "In June he weighed 131 pounds." There is not any pathology in that, is there?

MR. W. BACHRACH: I object to the question of pathology until he reads something.

MR. CROWE: Q "The things of importance brought out by the original physical examination are, first, the

7m condition of his skin, he was very dark and swarthy."

Is there any pathology in that?

A It all depends on what would be normal for him, judged by his family.

Q This is what you are giving as pathology?

MR. W. BACHRACH: I object to counsel stating that the witness has given it a_s pathology.

MR. CROWE: Well, now, wait, I will read it.

MR. W. BACHRACH: Give the whole answer.

MR. CROWE: Wait a minute.

Q Now the question you are answering is as follows:

"Now, will you tell us what was the physical and neurological examination that you made, give us that in detail, give us all of your findings as produced and made in these kind of examinations?"

Then you answered as follows: as I read, saying that there is considerable pathology, then you state: "The things of importance brought out by the original physical examination are, first, the condition of his skin, he is very dark and swarthy." Is that pathology?

A I have answered that before by saying it depends on how dark his is and how swarthy he is, compared with

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Q Well, do you regard it as pathology?

A His skin condition, yes.

Q From what you know -- what?

A His skin condition, yes.

Q Have you compared his color with the other members of his family?

A I have looked at his brother's.

Q And you think that is -- pathology is a sign of disease, isn't it?

A It usually is, yes.

Q Well, isn't it? ~~What~~ What is pathology?

A A sign of disease.

Q A sign of disease.

A Yes.

Q And in Leopold's case, the fact that he is dark and swarthy is the sign of disease, is it?

A I didn't say that. He has not a healthy skin. I have mentioned it in my report.

Q All right. "He has several large, pigmented, flat moles on the back, lower back." Is that pathology?

A It is a part of his skin condition.

Q Is it pathology?

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A As a part of his skin condition, it is.

Q Is it a sign of disease?

A As a part of his skin condition, it is.

Q "The skin is dry and harsh; the hair development is pronounced." Is that pathology?

A It is.

Q "The eyebrows are heavy and meet." Is that pathology?

A As part of his general skin condition. All the parts of it are pathology. The condition is, yes.

Q "The beard is heavy." Is that a sign of pathology or disease?

A As a part of his general skin condition, yes.

Q Well, is it a sign of disease in him, to have a heavy beard?

A As a part of his general skin condition, yes.

Q And in Loeb it is a sign of disease because he only has to ~~xxx~~ shave twice a week?

A As a part of his secondary sexual characteristic of immaturity, it is, yes.

Q It is a pretty convenient theory of medicine which makes it a sign of disease to have one thing, and a sign

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of disease for the other defendant not to have it,
isn't that true?

MR. W. BACHRACH: I object to that as highly improper,
and as argument with the witness.

MR. CROWE: May we suspend at this time?

THE COURT: We will suspend until tomorrow morning
at 10:30 o'clock.

Whereupon an adjournment was here

taken until 10:30 o'clock A.M.

Tuesday, August 13th, 1934.

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