

Clarence Darrow

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Clarence Seward Darrow ca. 1922

Born April 18, 1857
Kinsman, Ohio

Died March 13, 1938
Chicago, Illinois

Clarence Seward Darrow (April 18, 1857 Kinsman Township, Trumbull County, Ohio - March 13, 1938 Chicago) was an American lawyer and leading member of the American Civil Liberties Union, best known for defending teenage thrill killers Leopold and Loeb in their trial for murdering 14-year-old Bobby Franks (1924) and

defending John T. Scopes in the so-called "Monkey" Trial (1925), in which he opposed the famous statesman William Jennings Bryan. He remains notable for his wit, compassion, and agnosticism that marked him as one of the most famous American lawyers and civil libertarians.

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Biography

Upbringing

Clarence Darrow was the son of Amirus Darrow and Emily (Eddy) Darrow. Clarence's father was an ardent abolitionist and Emily Darrow an early supporter of female suffrage and a woman's rights advocate. He attended Allegheny College and the University of Michigan Law School and was admitted to the Ohio bar in 1878.

From corporate lawyer to labor lawyer

Darrow began his career as a lawyer in Youngstown, Ohio, where he was first admitted to the profession (Judge Alfred W. Mackey). He subsequently moved to Chicago, Illinois, where he soon became a corporations lawyer for the railroad company. He only went to law school for one year. His next move was to "cross the tracks," when he switched sides to represent Eugene V. Debs, the leader of the American Railway Union in the Pullman Strike of 1894. Darrow had conscientiously resigned his corporate position in order to represent Debs, making a substantial

financial sacrifice in order to do this.

Also in 1894, Darrow took on the first murder case of his career, defending Patrick Eugene Prendergast, the "mentally deranged drifter" who had confessed to murdering Chicago mayor Carter H. Harrison, Sr.[1] Darrow's "insanity defense" failed and Prendergast was executed that same year. Among fifty defenses in murder cases throughout the whole of Darrow's career, the Prendergast case would prove to be the only one resulting in an execution.[2]

His next notable case was the defense of the MacNamara Brothers, who were charged with dynamiting the Los Angeles Times building during the bitter struggle over the open shop in Southern California, resulting in the deaths of 20 employees. Darrow perceived right away that the McNamara brothers were guilty, but he planned to celebrate them as heroes in the struggle of the workers against oppression and have them acquitted by bribed jurors. When Darrow was seen standing on a street corner within view from the place where an associate of his handed over money to one of the jurors of the case, he was forced to convince them to change their plea to guilty and was able to plea bargain prison sentences instead of the death

penalty. After representing the MacNamaras, Darrow was charged with two counts of attempting to bribe jurors, although the brothers' guilty pleas meant that the jurors played no part in the case. After two very lengthy trials - in the first, defended by Earl Rogers, he was acquitted; in the second he struggled, defending himself, for a hung jury - he agreed never to practice law again in California and not be retried. ^[1]

From labor lawyer to criminal lawyer

A further consequence of the bribery charges was that the labor unions dropped Darrow from their list of preferred attorneys. This effectively put Darrow out of business as a labor lawyer, and he switched to acting in criminal cases.

Throughout his career, Darrow devoted himself to opposing the death penalty, which he felt to be in conflict with humanitarian progress. In more than 100 cases, Darrow only lost one murder case in Chicago. He became renowned for moving juries and even judges to tears with his eloquence. Though Darrow's formal education was limited, he did study for one year at the University of Michigan Law School and had a keen intellect

often hidden by his rumpled, unassuming appearance.

A July 23, 1915 article in the Chicago Tribune describes Darrow's effort on behalf of J.H. Fox — an Evanston, Illinois landlord — to have Mary S. Brazelton committed to an insane asylum against the wishes of her family. Fox alleged that Brazelton owed him rent money although other residents of Fox's boarding house testified to her sanity.

Leopold and Loeb

In 1924, Darrow took on the case of Leopold and Loeb, the teenage sons of two wealthy Chicago families, who were accused of kidnapping and killing Bobby Franks, a 14-year-old boy, to see what it would be like to commit the ultimate crime. Darrow convinced them to plead guilty and then argued for his clients to receive life in prison rather than the death penalty.

Darrow based his argument on the claim that his clients weren't completely responsible for their actions, but were the products of the environment they grew up in, and that they could not be held responsible for basing their desire for murder in the

proto-existentialist philosophy of Friedrich Wilhelm Nietzsche. In the end, the judge sentenced Leopold and Loeb to life in prison rather than sending them to be executed. During the Leopold-Loeb trial, when Darrow was believed to have accepted "a million-dollar fee", many ordinary Americans were angered at his apparent betrayal, thinking that he had "sold-out." He issued a public statement stating that there would be no large legal fees and that his fees would be determined by a committee composed of officers from the Chicago Bar Association. After trial, Darrow suggested \$200,000 would be reasonable. After lengthy negotiations with the defendant's families, he ended up getting \$70,000 in gross fees, which, after expenses and taxes, netted Darrow \$30,000. (See A. Weinberg, ed., *Attorney for the Damned*, pp. 17-18, n. 1 (Simon & Schuster, 1957)).

The Scopes Trial

In 1925, Darrow defended John Scopes in the famous "Monkey Trial."

The Scopes Trial of 1925 pitted against each other lawyers William Jennings Bryan and Clarence Darrow (the latter representing teacher John T.

Scopes) in an American court case that tested a law passed on March 13, 1925, which forbade the teaching, in any state-funded educational establishment in Tennessee, of "any theory that denies the story of the Divine Creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals." This is often interpreted as meaning that the law forbade the teaching of any aspect of the theory of evolution; however, the Butler Act forbade public school teachers in Tennessee to deny the literal biblical account of man's origin and to teach in its place the evolution of man from lower animals. The law did *not* prohibit the teaching of evolution of any other species of plant or animal. It has often been called the "Scopes Monkey Trial".

During the trial, Darrow requested that Bryan be called to the stand as an expert witness on the Bible. Over the other prosecutor's objection, Bryan agreed. Many believe that the following exchange caused the trial to turn against Bryan and for Darrow:

"You have given considerable study to the Bible, haven't you, Mr. Bryan?"

"Yes, sir; I have tried to ... But, of course, I

have studied it more as I have become older than when I was a boy."

"Do you claim then that everything in the Bible should be literally interpreted?"

"I believe that everything in the Bible should be accepted as it is given there; some of the Bible is given illustratively. For instance: "Ye are the salt of the earth." I would not insist that man was actually salt, or that he had flesh of salt, but it is used in the sense of salt as saving God's people."

After about two hours, Judge Raulston cut the questioning short, and on the following morning ordered that the whole session (which in any case the jury had not witnessed) be expunged from the record, ruling



Clarence Darrow and William Jennings Bryan chat in court during the Scopes Trial.

that the testimony had no bearing on whether Scopes was guilty of teaching evolution. Scopes was found guilty and ordered to pay the minimum fine of \$100.

A year later, the Tennessee Supreme Court reversed the decision of the Dayton court on a technicality--not the constitutional grounds as Darrow had hoped. According to the court, the fine should have been set by the jury, not Raulston. Rather than send the case back for further action, however, the Tennessee Supreme Court dismissed the case. The court commented, "Nothing is to be gained by prolonging the life of this bizarre case."

As a side note, Clarence Darrow and the rest of the defense team, who were supposed to defend their client from a law that forbade the teaching of evolution, coached the John Scopes' students to perjure themselves by saying they were taught evolution in the classroom, when in fact he didn't.

The Mecca Temple Debate

In January of 1931 Darrow had a debate with English writer G.K. Chesterton during the latter's second trip to America. This was held at New York City's Mecca Temple. The topic was "Will the

World Return to Religion?". At the end of the debate those in the hall were asked to vote for the man they thought had won the debate. Darrow received 1,022 votes while Chesterton received 2,359 votes. There is no known transcript of what was said except for third party accounts published later on. The earliest of these was that of February 4, 1931, issue of The Nation with an article written by Henry Hazlitt.

Ossian Sweet

A white mob in Detroit attempted to drive a black family out of the home they had purchased in a white neighborhood. In the struggle, a white man was killed, and the eleven blacks in the house were arrested and charged with murder. Dr. Ossian Sweet and three members of his family were brought to trial and after an initial deadlock, Darrow argued to the all-white jury: "I insist that there is nothing but prejudice in this case; that if it was reversed and eleven white men had shot and killed a black while protecting their home and their lives against a mob of blacks, nobody would have dreamed of having them indicted. They would have been given medals instead..." They were found not guilty.

Massie Trial

Aged 68, Darrow had already announced his retirement before he volunteered to take part in the Scopes Trial, apart from the Sweet trial later that same year. After those final trials, Darrow would retire from full-time practice, emerging only occasionally to undertake cases such as the 1932 Massie Trial in Hawaii.

In the Massie Trial, Darrow- devastated by the Great Depression- was hired to come to the defense of Grace Hubbard Fortescue, Edward J. Lord, Deacon Jones and Thomas Massie, Fortescue's son-in-law, accused of murdering Joseph Kahahawai. Kahahawai had been accused, along with four other men, of raping and beating Thalia Massie, Thomas' wife and Fortescue's daughter; the resulting 1931 case ended in a hung jury (though the charges were later dropped and repeated investigation has shown them to be innocent). Enraged, Fortescue and Massie then orchestrated the murder of Kahahawai in order to extract a confession and were caught by police officers while transporting his dead body.

Darrow entered the racially charged atmosphere as

the defense lawyer for the murderers. Adopting a strategy developed by the KKK for lynching cases, Darrow reconstructed the case as a justified honor killing. This defense ignored the fact that all investigation showed that Thalia had invented the rape and accused the five non-white men to deflect attention from her own marital and social difficulties.

Considered by the New York Times to be one of Darrow's three most compelling trials (along with the Scopes Monkey Trial and the Leopold and Loeb case); the nation was captivated by the case and most of white America strongly supported the honor killing defense. In fact, the final defense arguments were transmitted to the mainland through a special radio hook-up. In the end the jury came back with a unanimous guilty verdict. (Honolulu Observer. Retrieved on 2007-05-09.) (PBS. Retrieved on 2007-05-09.)

Books by Darrow

A volume of Darrow's boyhood Reminiscences, entitled "Farmington," was published in Chicago in 1903 by McClurg and Company.

Darrow shared offices with Edgar Lee Masters, who achieved more fame for his poetry, in particular the *Spoon River Anthology*, than for his advocacy. Darrow also took Eugene V. Debs as a partner, following his release from prison.

The papers of Clarence Darrow are located at the Library of Congress. The Riesenfeld Rare Books Research Center of the University of Minnesota Law School has the largest collection of letters to and from Darrow, though they remain closed to the public.

List of books

- *Persian Pearl*
- *The Story of My Life*
- *Farmington*
- *Resist Not Evil*

Works about Darrow

After his death, a full-length one man play was created, *Darrow*, featuring Darrow's reminiscences about his career. Originated by Henry Fonda, many actors, including Leslie Nielsen, have since taken on the role of Darrow in this play. The play (later

made into a film) *Inherit the Wind* is often, mistaken for a fictionalized account of the Scopes Monkey Trial. In fact the authors, Jerome Lawrence and Robert E. Lee made it abundantly clear that they had borrowed very little from the original trial, for their play which is actually an attack on the excesses of the McCarthy era. Darrow was nothing like the "tarnish saint" - Henry Drummond - as portrayed by Spenser Tracey in the original film.

Darrow is also mentioned in the musical, *Lil Abner*. In the 1947 film *Miracle on 34th Street*, Kris Kringle tells lawyer Fred Gailey: "I believe you're the greatest lawyer since Darrow".

Darrow was fictionalized as Johnathan Wilk in the 1956 novel *Compulsion*, which was about the Leopold and Loeb case.

The Clarence Darrow Memorial Bridge is located in Chicago, just south of the Museum of Science & Industry.

In the 2004 film *Collateral*, Jamie Foxx's character Max mentions Darrow in his line about lawyers. "...Little bit. There's the dark pin-stripe suit, elegant, not too flashy, that rules out advertising,

plus a top-drawer briefcase that you live out of.
And the purse. A Bottega. Anyway, a man gets in
my cab with a sword, I figure he's a sushi chef.
You: Clarence Darrow," he said.

Darrow is a main character in the fictional Caleb Carr novel *The Angel of Darkness*.

Historical novelist Irving Stone wrote a biography of Darrow entitled *Clarence Darrow For The Defense*.

Kevin Boyle's book, *Arc of Justice* (Owl Books, 2004), looks in depth at the Ossian Sweet trial.

There is also a film, 'Darrow', starring Kevin Spacey and released by American Playhouse in 1991.

Arguably the most penetrating analysis of Darrow, both as a lawyer and as a person, is Geoffrey Cowan's biographical *The People vs. Clarence Darrow*.

Notes

1. ^ see in Adela Rogers St. Johns: *Final Verdict*, (Doubleday, 1962)

References

- Clarence Darrow biography by Judge Alfred W. Mackey
- Clarence Darrow: *The Story of My Life*
- Irving Stone: *Clarence Darrow For The Defense* (Doubleday, Doran & Company, Inc., 1941)
- Adela Rogers St. Johns: *Final Verdict* (Doubleday, 1962; biography of Earl Rogers, relating the events of Darrow's trials for jury bribery)
- Richard Allen Morton: "A Victorian Tragedy: The Strange Deaths of Mayor Carter H. Harrison and Patrick Eugene Pendergast," *Journal of the Illinois State Historical Society*, spring 2003.
http://findarticles.com/p/articles/mi_qa3945/i

External links

- The Clarence Darrow Home Page
- leopoldandloeb.com
- Attorney for the Damned - or just Another Damned Attorney?
- The Trial of Bill Haywood - detailed account of the Bill Haywood murder trial

- Works by Clarence Darrow at Project Gutenberg

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