

The American Century Theater Presents
A Passion for Justice

The Clarence Darrow Story

Script by Jack Marshall and Paul Morella
Starring Paul Morella

Originally produced as "I Cry Aloud: The Clarence Darrow Story"



Audience Guide

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Compiled and Edited by Jack Marshall

About The American Century Theater

The American Century Theater was founded in 1994. We are a professional company dedicated to presenting great, important, and neglected American plays of the Twentieth Century... what Henry Luce called "*the American Century.*"

The company's mission is one of rediscovery, enlightenment, and perspective, not nostalgia or preservation. Americans must not lose the extraordinary vision and wisdom of past playwrights, nor can we afford to surrender our moorings to our shared cultural heritage.

Our mission is also driven by a conviction that communities need theater, and theater needs audiences. To those ends, this company is committed to producing plays that challenge and move all Americans, of all ages, origins and points of view. In particular, we strive to create theatrical experiences that entire families can watch, enjoy, and discuss long afterward.

These study guides are part of our effort to enhance the appreciation of these works, so rich in history, content, and grist for debate.



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Channeling: The One-Man Play

By Jack Marshall

One-man shows in the theater have been around for a very long time.

Traditionally they have been the dramatic equivalents of performance turns by singers (Judy Garland at Carnegie Hall), performance artists (Marcel Marceau), entertainers (Danny Kaye at the London Palladium) or specialty acts ("Le Petomaine," who packed houses in the 19th Century with his program of musical farting.) An actor like Ian McKellen will create an evening tailored to his dramatic talents, usually consisting of highlights from multiple plays chosen to emphasize the actor's versatility, as well as to evoke his (or her) greatest hits. These are properly called showcases, and are almost invariably star driven. Periodically, an unusual performer like Anna Devereaux Smith or Spaulding Gray will forge a reputation using the one-man format; though it is hard to believe now, this is how Whoopi Goldberg first became a star.

The historical one-man play started out as something very different. A little known young actor named Hal Holbrook broke the mold when he created an evening with a re-animated Mark Twain, called *Mark Twain Tonight*, in which Holbrook the actor was virtually invisible. It was an uncannily real Twain on the stage, using his own words, telling stories and reading from his works just as the real Twain had in his own popular speaking engagements. Like most of its progeny, *Mark Twain Tonight* was designed as a touring show, playing a handful of dates before moving on to the next city. Surprisingly, it has never run longer than a few weeks on Broadway. And Holbrook kept it as his own: throughout his career, whenever there has been a slow period, he became Mark Twain. Now, of course, Holbrook is in his eighties: as he has ruefully noted, far less make-up is required,

If the one-man historical play could be starless, selling the subject rather than the actor, it was obviously the answer to a producer's prayer. The set requirements were minimal, costuming also, and there was also just one salary to pay. Even more happily, the play could be created out of the

famous subject's own words, which were usually in the public domain, free of fees or copyrights. By the 1970s, it seemed everyone was working on a one-man historical show.

The next big success was the re-creation of humorist Will Rogers' stage appearances, performed by James Whitmore, who was a familiar character actor to movie-goers ("Oklahoma!"), but hardly a household name. The similarity to Holbrook's show was obvious: Rogers was the next great American folk humorist after Twain, and had also made stage appearances. The audience came to see Rogers, not Whitmore. But soon Whitmore's star had risen with the show's popularity, and he became the king of the one-man historical show, starring in *Give 'Em Hell, Harry* as Harry Truman, and *Bully!* as Theodore Roosevelt.

Already, the cracks in the format were beginning to show. While both Twain and Rogers were occasionally performers, making it relatively easy for the audience to believe that they were in the presence of the Great Men themselves, what was Harry Truman doing on stage? Well, he wasn't, but that James Whitmore was doing one heck of a job giving 'em hell. The one-man historical show was returning to its roots: it was becoming a star vehicle again.

But true stars weren't motivated to create their own vehicles. They needed plays, with scripts. Thus we had *The Belle of Amherst* with star Julie Harris playing the famous recluse poet as she sat on stage talking to hundreds of strangers. It was a great showcase for Harris' talents, but other than her voice in her poems, Emily seemed far away.

The best one-man historical shows were those whose subjects were either performers or writers who actually appeared on stage in life: Charles Dickens, Noel Coward, Finley Peter Dunn, Paul Robeson, Oscar Wilde, John Barrymore. Humorist Robert Benchley, both a writer and a comic performer, became a perfect subject for the one-man play created and performed (for The American Century Theater, among others) by his look-alike grandson, actor Nat Benchley. Truman Capote, subject of the most successful of all one-man shows, Robert Morse's *Tru*, was a well-known television personality in addition to his other activities. But *Mr. Lincoln*, even in the capable hands of Britain's Roy Dotrice, whose one-man show on the life of writer John Aubrey won him a New York Drama Critic's Award, was a bust: Lincoln's primary connection with theater, after all, was being shot in one.

Meanwhile, when stars played historical figures, the star's personality usually obliterated the historical figure. This was clearly at work in

Clarence Darrow by David Rintels. Darrow was indeed a performer, both in a courtroom and in speaking engagements. With a lively autobiography and volumes of published oration, he was and is a perfect subject for a one-man historical play. But Henry Fonda, in a late career stage valedictory, was not about to disappear into Darrow, as Holbrook had vanished into Twain. In its final incarnation, after Fonda's priorities had been executed, *Clarence Darrow* became a play about merging Fonda, the Hollywood liberal, with the screen Fonda of *Mr. Roberts* and *Twelve Angry Men*. The real, far more complex Clarence Darrow? He was off playing whist with Emily Dickinson. The show effectively ended the golden age of one actor historical plays, at least in the commercial theater. The one actor historical play couldn't live with stars, and couldn't live without 'em.

Elsewhere, at conventions, in universities, for conferences and before special groups, these plays flourished. Performed by unknown actors in front of audiences already enamored of figures like Jane Pittman, Davy Crocket, George Washington, Gen. James Longstreet, Ernest Hemingway and Eleanor Roosevelt, these often imperfectly acted plays are enthusiastically received, because they do achieve, at some level, the objective of evoking the famous and the great, and giving people a sense of what they may have been like, and a taste of their wisdom, wit, and style. In that, they are the true descendents of *Mark Twain Tonight*, not the star turns that took over the genre. A couple of hours with the remarkable men and women of America's past is time well spent. When actor, subject, words and story align properly, these figures can come to vivid life.

It is harder to achieve this than we once thought. But it is still worth achieving.

Masters on Darrow

Darrow loved poetry, and had a fine poet working in his law office in the 1920s: Edgar Lee Masters, later known for his "Spoon River Anthology." As a young lawyer, Masters idolized Darrow, as many did; later, Darrow's unique sense of practice ethics and callous treatment of subordinates disillusioned him. This is a portion of the poem Masters wrote about his then boss before the halo had vanished:

This is a man with an old face, always old.

There was pathos, in his face, and in his eyes,

And early weariness; and sometimes tears in his eyes,
Which he let slip unconsciously on his cheek,
Or brushed away with an unconcerned hand.
There were tears for human suffering, or for a glance
Into the vast futility of life,
Which he had seen from the first, being old
When he was born.

Clarence Darrow: The Self-Expressed Man

(Adapted from the Introduction to The Essential Words and Writings of Clarence Darrow (Random House, Modern Library, 2007) by Ed Larson and Jack Marshall)

The photographs of Clarence Darrow invariably show a rumpled, hard-wrinkled man with a large head and a half-smile, his most striking feature the lock of oily hair that falls carelessly to his right brow. But Darrow's truest and most revealing image is the one painted in his written and spoken words. There are thousands and thousands of them, for Clarence Darrow was no advocate of the unexpressed thought. They give us a vivid picture of a unique and fascinating American mind; a restless mind, to be sure, and sometimes a mind that was capable of appalling thoughts. But Darrow's was also a mind that explored the mysteries of existence, and one that was capable of profound and provocative observations on human nature. Considering Darrow's own words is to know Darrow. To know Darrow is to know the exhilaration and pleasure of ideas passionately expressed. More than that, it is to become acquainted with one of the most complex and fascinating individuals the American experience has yet produced

He was the son of a mother who turned her family home into a stop on the Underground Railroad, and a father who loved books better than people and who was, in Darrow's words, both "the village infidel" and its

undertaker. From the mother he inherited progressive and humanistic instincts, and from the father a love of history and literature as well as an unrestrained delight in voicing unpopular opinions. And from the undertaker's trade he seems to have contracted a strain of dark fatalism that often waged war with Darrow's soaring aspirations for the human race.

Clarence Darrow got a late start on his epic career. Until the age of 31, he was seemingly content to be country lawyer in Ashtabula, Ohio, where his most exciting case was a dispute over a fifteen dollar harness. But a banker acquaintance in Ashtabula fired Darrow's dormant passion for social reform when he gave him a little book entitled "Our Penal Code and Its Victims" by Judge Peter Altgeld of Chicago. It inspired Darrow to move to Chicago, where he became close friends with its author, soon to become the Governor of Illinois. And it taught him how powerful the written word could be in changing minds and lives.

Darrow became a Chicagoan in 1888, just as the Haymarket bombing signaled that labor unrest was heating to a boil. Very quickly he was thrust into the pot, defending labor leader Eugene V. Debs in the railroad union strike. Darrow's defense failed, but his skill and passion for the cause impressed Debs' allies, and it proved to be the start of Darrow's twenty year run as the labor movement's courtroom champion. The often violent clashes between unions and industry during this period produced many high-profile criminal cases. Darrow became a national figure as he dominated sensational trials in which he was called upon to defend labor organizers charged with conspiracy or worse.

His success in opposing these emotion-charged prosecutions reached its zenith with the Big Bill Hayward murder trial in 1908. Darrow delivered an epic eleven hour closing argument that persuaded a jury to acquit the flamboyant union leader charged with paying an assassin to explode a strike-breaking former governor of Idaho. Almost immediately after the Hayward victory, Darrow's own life exploded. He developed an ear infection requiring life-threatening surgery that incapacitated him for months, and he lost most of his savings in a stock market crash. Worst of all, he met with professional disaster, much of it of his own making, when he took on the defense of another pair of union leaders accused of murder. A dynamite explosion at the resolutely anti-labor *Los Angeles Times* had killed twenty-one men, and the McNamara brothers, leaders of the

printers union, were charged with the sensational crime. As newspapers pronounced the *Times* bombing “The Crime of the Century,” labor icons Eugene V. Debs and Samuel Gompers persuaded Darrow that it was his duty as labor’s advocate to prove the brothers innocent, and thus prevent the public from rejecting the labor movement as the dominion of thugs and criminals. But the evidence against the McNamaras was overwhelming, and when Darrow decided that he could not win acquittals for them, he had no choice but to have them plead guilty.

No choice, that is, after he had been caught attempting to guarantee a deadlocked jury by bribing two jurors.

The labor movement regarded the McNamaras’s guilty plea as a capitulation and betrayal by Darrow, who was never again entrusted with a major union client. But that blow paled compared to Darrow’s travails in escaping Los Angeles with his freedom and his law license. Ultimately, Darrow’s argument against conviction in his two trials for jury tampering amounted to a call for jury nullification, as he rhetorically asked if the world would be a better place with Clarence Darrow in prison or fighting for justice. The strategy worked, and at the age of 55 he found himself free but facing the massive task of rebuilding a shattered career and reputation.

F. Scott Fitzgerald famously declared that “there are no second acts in American lives.” Darrow proved him wrong, for he authored a boffo second act that virtually erased his McNamara debacle from historical memory. Freed from the demanding unions, he applied his skills to a full spectrum of progressive causes: equal rights, intellectual freedom, abolition of capital punishment, pacifism, free speech, and more. Darrow continued to write and speak, in court and out, about these and his own philosophical convictions until his death in 1938.

Although he is primarily remembered today as a trial lawyer (nearly three quarters of a century after his death, Darrow still routinely tops all surveys and polls as the lawyer most admired by other legal practitioners), he embraced this profession primarily for the opportunities it provided him to do the things he really cared about: arguing, opposing powerful institutions, and pursuing social reform (he didn’t mind the money and fame, either.) He certainly had no love for the law itself, which he looked upon less as the connective tissue of civilization than as a truncheon wielded by the strong and rich to control the weak and poor. Once, when a prosecutor accused Darrow of helping a criminal evade the law, Darrow responded, “The law? To hell with the law! My business is to save this defendant *from* the law!”

Darrow's talents did not extend to financial management, and the dreams of an early retirement that would permit him to devote his full attention to writing never became reality. Nevertheless, many writers would have been satisfied with the number of published works he managed to produce in the moments stolen between speaking engagements, sensational criminal and labor cases, and less glamorous legal work that helped pay the bills, not to mention two marriages and uncounted extra-marital affairs. His output included two novels, numerous short stories, dozens of essays, and biographical sketches of those whose achievements or ideas Darrow admired, such as Tolstoy, Voltaire, and John Brown.

In part because his busy legal career did not permit him to concentrate on the writer's craft, Darrow's prose tended to be instinctive and spontaneous rather than polished, often following a vivid, brilliant, passionate or entertaining passage with a carelessly written one. Sometimes Darrow's writing had the quality of a stream of consciousness that proceeded unedited into published form. This is not surprising. Darrow improvised brilliantly in speech, and possessed the master's confidence in his ability to be articulate, witty and persuasive with a minimum of preparation. Like others with this gift, he tended to write as he spoke, ignoring the fact that a skilled speaker's delivery could significantly improve what might be flawed on the printed page. And, as he was fond of saying, Darrow could be lazy, or at least unwilling to expend the meticulous effort necessary to refine his writings. Oratory was the talent he had the opportunity and the inclination to perfect, and courtroom oratory was truly Darrow's art.

It is a pity that we have no recordings of Darrow delivering his brilliant courtroom orations, because their effectiveness was as much due to performance as content. He enhanced his oratorical skills with those of a natural actor. Many of his closing arguments were delivered with tears streaming down his cheeks, and as every actor knows, tears are contagious. Newspaper accounts of his summations report weeping spectators, weeping juries, even weeping clerks and judges. Still, the content is impressive. The power of Darrow's speeches jumps off the page, and must have been mesmerizing in court.

Much of their effectiveness comes from the authenticity of the passion Darrow packed into them. He employed a wide variety of tools of persuasion: rationality and logic, analysis, invective, ridicule, humor, sarcasm, sentiment, flattery, despair, inspiration, exhortation, poetry, even religion, but the most powerful quality of his arguments is that they

seem genuinely personal and genuinely believed. This is the most treasured quality a trial lawyer can have, the ability to connect with

jurors and convince them that the charismatic, articulate, learned and undeniably wise individual before them is telling the truth.

Darrow *was* telling the truth, at least about the principles he linked so skillfully to every defendant's fate. Indeed, Darrow again and again made the unconventional argument that the principles at issue were more important than that fate. How some of his clients must have flinched in court to hear their lawyer declare that he "didn't care" what happened to them! Darrow's most famous quote, "Hate the sin, never the sinner," could have accurately been paralleled by a sentiment he never stated but often appeared to endorse: "Love the principle, not the person."

His courtroom arguments consistently share the themes of his other writings. Most of these themes had occupied his thoughts for decades, and when he was called upon to expound on them in defense of a client, they emerged fully developed and honed into formidable weapons of advocacy. Of these, the most disturbing to today's readers undoubtedly is Darrow's philosophical embrace of extreme utilitarianism. While telling some juries that he "didn't care" what happened to the defendant, he occasionally added that he "didn't care" whether his client had committed the crime or not "because *his cause was just*." This is consistent with his speech in praise of the radical abolitionist John Brown, whose spree of violence at Harpers Ferry Darrow celebrated as a courageous act necessary to call attention to the evils of slavery. Darrow's own ethical instincts were driven by results, not values; for all his courtroom eloquence, he was also renowned for tactics in court and out that would warrant serious bar discipline today. But Darrow's tactics followed his view that the powerful make the rules to dominate the powerless, and breaking the rules was sometimes a necessary detour on the road to justice. If he were alive today, he would almost certainly have terrorists as clients.

Perhaps the most significant recurring Darrow theme was the inherent injustice of the criminal justice system. He could barely wait to begin exploring the issue in his autobiography, launching into a full fledged discussion of it by page 75. Darrow fervently believed that crime was the product of powerful forces the criminal had no chance to avoid: poverty, upbringing, education, reputation, envy and despair:

Who is to blame? To say that it is the fault of the one who goes the luckless way is a travesty upon logic, common sense, and the first elements of fair

dealing...And yet people who are discerning and humane can reason out no way to prevent crime excepting by inflicting untold misery, degradation, and dire vengeance upon the victims who are plainly the product of our vaunted civilization.

Closely related to this theme was another: Darrow's loathing of capital punishment. It became the dominant theme of his legal career as well, for he defended 102 men facing execution, and not one of them died by the state's hand. His most eloquent and memorable argument against capital punishment was undoubtedly his famous closing plea for mercy in the "thrill murder" trial of Nathan Leopold and Richard Loeb in 1925, but Darrow had always attacked this form of punishment with special vigor. He traced his attitude back to a vivid childhood memory his father had shared with him when he was no more than eight. Forced by his own father to watch the public hanging of a criminal, the elder Darrow said that he had never stopped feeling shame for participating in the death of another human being. In essays, debates, speeches and in court, Darrow established himself as 20th Century America's most prolific and influential opponent of the death penalty.

He also was its most famous agnostic. Darrow's courtroom oratory was often misleading on this point, for he routinely soothed juries with the name of God and other religious imagery. (This apparently fooled William O. Douglas, who in his introduction to Arthur Weinberg's collection of Darrow courtroom performances writes that "he obviously believed in an infinite God who was the Maker of all humanity.") But Darrow wasn't merely a non-believer; he mercilessly ridiculed the very concept of God, reserving special contempt for those who insisted that the Bible was literal truth. These arguments too were to be useful in court, as he employed them to great effect in his legendary examination of William Jennings Bryan in the Scopes trial.

Darrow's absence of faith is the central feature of the great conflict within him, which becomes vividly apparent with any extensive examination of his writings. An enthusiastic reader of philosophers like Hobbes, Schopenhauer and Nietzsche, Clarence Darrow's reflections on life and mankind were often gloomy to the point of depression. There is no soul, immortality is a myth, mankind is an insignificant speck in a vast unknowable universe and the future is dust sums up the thrust of Darrow's existential musings.

And yet few have been more passionate than he in invoking the triumph of the human spirit. There can be no question that Darrow believed that human existence could and should be made more just, merciful, and

tolerant; that great advancements in science and medicine were on the horizon, and that every person, given a

chance, could accomplish great things. It seems inconceivable that Darrow could fight so long and so effectively for human lives that he thought were insignificant and human aspirations that he believed were futile fantasies. Perhaps Darrow's writings and speeches exude such vigor because he was arguing with the one adversary he couldn't defeat: himself. The courtroom orations extolling the ideals of mercy, tolerance, justice and courage had to be more than a brilliant trial lawyer's crafted persuasion. They may have reflected Darrow's spiritual yearnings that his rational instincts never permitted him to express except on behalf of another. Those copious tears may not have been an actor's trick after all.

Genius at Work: The Sweet Case Summation

[In 1926, the N.A.A.C.P hired Clarence Darrow to defend eleven blacks who were accused of murder. On the second night after Dr. and Mrs. Ossian Sweet and their infant daughter had moved into their new Detroit home, a large mob of several hundred whites gathered outside. Other black families had been forcibly driven out of the same neighborhood by so-called "Improvement Associations," so the Sweets had nine friends and family members as well as ten guns with them in the house. Eight Detroit police were also on the scene, and testified that a deadly gunshot had come from one of the house's windows without provocation and killed Leon Breiner, who was peacefully smoking his pipe. All those in the Sweet's house, including Mrs. Sweet, were arrested and charged with Breiner's murder. The first trial of the eleven ended in a hung jury and a mistrial. In the second, Darrow achieved one of his most remarkable acquittals following a seven hour closing argument, excerpted here. It was delivered on May 18, 1926.]

...I shall begin about where my friend Mr. Moll [*Assistant Wayne County Prosecutor Lester Moll—Ed.*] began yesterday. He says lightly, gentlemen, that this isn't a race question. "This is a murder case. We don't want any prejudice; we don't want the other side to have any. Race and color have nothing to do with this case. This is a case of murder."

...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. I know what I am talking about, and so do you. They would have been given medals instead.

Eleven colored men and one woman are in this indictment, tried by twelve jurors, gentlemen. Every one of you are white, aren't you? At least you all think so. We haven't one colored man on this jury. We couldn't get one. One was called and he was disqualified. You twelve white men are trying a colored man on race prejudice. ...I want to put this square to you, gentlemen. I haven't any doubt but that every one of you are prejudiced against colored people. I want you to guard against it. I want you to do all you can to be fair in this case, and I believe you will.

A number of you people have answered the question that you are acquainted with colored people. ...Some of the rest of you said that you had employed colored people to work for you, are even employing them now. All right...How many of you jurors, gentlemen, have ever had a colored person visit you in your home? How many of you have ever visited in their homes? How many of you have invited them to dinner at your house? Probably not one of you.

Now, why, gentlemen? There isn't one of you men but that know just from the witnesses you have seen in this case that there are colored people who are intellectually the equal of all of you. Am I right? Colored people living right here in the City of Detroit are intellectually the equals and some of them superior to most of us. Is that true? Some of them are people of more character and learning than most of us. I have a picture in my mind of the first witness we put on the stand--Mrs. Spalding: modest, intelligent, beautiful. The beauty in her face doesn't come from powder or paint, or any artificial means, but has to come from within; kindly, human feeling. You couldn't forget her. I couldn't forget her. You seldom have seen anybody of her beauty and her appearance. She has some colored blood in her veins. Compare her with the teacher who for ten years has taught high school on what she called the corner of Garland and "Gote" Street [*Ed: The street's name was "Goethe Street."*]. Compare the two.

Now, why don't you individually, and why don't I and why doesn't every white person whose chances have been greater and whose wealth is larger, associate with them? There is only one reason, and that is prejudice. Can you give any other reason for it? They would be intellectual companions. They have good manners. They are clean; they are all of them clean enough to wait on us. But not clean enough to associate with!

Is there any reason in the world why we don't associate with them excepting prejudice? Still, none of us want to be prejudiced. I think not one man of this jury wants to be prejudiced. It is forced into us almost from our youth until somehow or other we feel we are superior to these people who have black faces.

Now, gentlemen, I say you are prejudiced....You will overcome it, I believe, in the trial of this case. But they tell me there is no race prejudice, and it is plain nonsense, and nothing else. Who are we, anyway? A child is born into this world without any knowledge of any sort. He has a brain which is a piece of putty; he inherits nothing in the way of knowledge or of ideas. If he is white, he knows nothing about color. He has no antipathy to the black.

The black and the white both will live together and play together, but as soon as the baby is born we begin giving him ideas. We begin planting seeds in his mind. We begin telling him he must do this and he must not do that. We tell him about race and social equality and the thousands of things that men talk about until he grows up. It has been trained into us, and you, gentlemen, bring that feeling into this jury box, and that feeling which is a part of your life long training.

You need not tell me you are not prejudiced. I know better. We are not very much but a bundle of prejudices anyhow. We are prejudiced against other peoples' color. Prejudiced against other men's religion; prejudiced against other peoples' politics. Prejudiced against peoples' looks. Prejudiced about the way they dress. We are full of prejudices. You can teach a man anything beginning with the child; you can make anything out of him, and we are not responsible for it. Here and there some of us haven't any prejudices on some questions, but if you look deep enough you will find them; and we all know it.

All I hope for, gentlemen of the jury, is this: That you are strong enough, and honest enough, and decent enough to lay it aside in this case and decide it as you ought to. And I say, there is no man in Detroit that doesn't know that these defendants, everyone of them, did right. There isn't a man in Detroit who doesn't know that the defendant did his duty, and that this case is an attempt to send him and his companions to prison because they defended their constitutional rights. It is a wicked attempt, and you are asked to be a party to it. You know it. I don't need to talk to this jury about the facts in this case. There is no man who can read or can understand that does not know the facts. Is there prejudice in it?

Now, let's see. I don't want to lean very much on your intelligence. I don't need much. I just need a little. Would this case be in this court if these defendants were not black? Would we be standing in front of you if these defendants were not black? Would anybody be asking you to send a boy to prison for life for defending his brother's home and protecting his own life, if his face wasn't black? ...

Gentlemen, it is a reflection upon anybody's intelligence to say that everyone did not know why this mob was there. You know! Every one of you knows why. ...Gentlemen, that mob was bent not only on making an assault upon the rights of the owners of that house, not only making an assault upon their persons and their property, but they were making an assault on the constitution and the laws of the nation, and the state under which they live. They were like Samson in the temple, seeking to tear down the pillars of the structure, so that blind prejudices and their bitter hate would rule supreme in the City of Detroit. Now, that was the case.

Gentlemen, does anybody need to argue to you as to why those people were there? Was my friend Moll even intelligent when he told you that this was a "neighborly" crowd? I wonder if he knows you better than I do. I hope not. A neighborly crowd? A man who comes to your home and puts a razor across your windpipe, or who meets you on the street and puts a dagger through your heart is as much a neighbor as these conspirators and rioters were who drove these black people from their home. ...Gentlemen, --neighbors? They were neighbors in the same sense that a nest of rattlesnakes are neighbors when you accidentally put your foot upon them. They are neighbors in the sense that a viper is a neighbor when you warm it in your bosom and it bites you. And every man who knows anything, about this case knows it. You know what the purpose was...

There isn't one of you who does not know that they tried to drive those people out and now are trying to send them to the penitentiary so that they can't move back; all in violation of the law, and are trying to get you to do the job. Are they worse than other people? I don't know as they are. How much do you know about prejudice? Race prejudice. Religious prejudice. These feelings that have divided men and caused them to do the most terrible things. Prejudices have burned men at the stake, broken them on the rack, torn every joint apart, destroyed people by the million. Men have done this on account of some terrible prejudice which even now is reaching out to undermine this republic of ours and to destroy the freedom that has been the most cherished part of our institutions.

[*The prosecution's*] witnesses honestly believe that they are better than blacks. I do not. They honestly believe that it is their duty to keep colored people out. They honestly believe that the blacks are an inferior race and yet [when] they look at themselves, I don't know how they can. If they had one colored family up there, some of the neighbors might learn how to pronounce "Goethe." It would be too bad to spread a little culture in that vicinity. They might die. They are possessed with that idea and that fanaticism, and when people are possessed with that they are terribly cruel. They don't stand alone. Others have done the same thing. Others will do the same thing so long as this weary old world shall last. They may do it again, but, gentlemen, they ought not to ask you to do it for them. That is a pretty dirty job to turn over to a jury, and they ought not to expect you to do it...

I want to talk to you a little more about who was around that house, and why, and what they were doing, and how many there were. You may remember a man named Miller. This man Miller expressed it pretty well. I suppose I prodded him quite a bit. I asked--what was the organization for? "Oh, we want to protect the place." Against what? "Oh, well, generally." You can't make it more definite? "Yes, against undesirables." Who do you mean by "undesirables?" "Oh, people we don't want," and so on and so forth. Finally, he said, "against Negroes." I said: Anybody else? He thought awhile, and he said: "Well, against Eye-talians." He didn't say 'Italians.' He hadn't got that far along yet, but he said 'Eye-talians.'

...Well, now, gentlemen, just by the way of passing, words are great things, you know. You hear some fellow who wants more money than you want, and he calls himself a one-hundred percent American. Probably he doesn't know what the word American means. But he knows what he wants. You hear some fellow who wants something else talking about Americanism. I don't know where Miller came from; about how early or how late an arrival he is in America. The only real Americans that I know about are the Indians, and we killed most of them and pensioned the rest. I guess that the ancestors of my clients got here long before Miller's did. They have been here for more than three hundred years; before the Pilgrims landed, the slave ships landed, gentlemen. They are Americans and have given life and blood on a thousand different kinds of fields for America and have given their labor for nothing, for America. They are Americans. Mr. Miller doesn't know it. He thinks he is the only kind of American. The Negroes and Eye-talians don't count. Of course, he doesn't like them. Mr. Miller doesn't know that it was an Eye-talian that discovered this land of ours. Christopher Columbus was an 'Eye-talian,' but he isn't good enough to associate with Miller...

Gentlemen, lawyers are very intemperate in their statements. My friend, Moll, said that my client here was a coward...Who are the cowards in this case? Cowards, gentlemen! Eleven people with black skins, eleven people, gentlemen, whose ancestors did not come to America because they wanted to, but were brought here in slave ships, to toil for nothing, for the whites--whose lives have been taken in nearly every state in the Union,--they have been victims of riots all over this land of the free. They have had to take what is left after everybody else has grabbed what he wanted. The only place where he has been put in front is on the battle field. When we are fighting we give him a chance to die, and the best chance. But, everywhere else, he has been food for the flames, and the ropes, and the knives, and the guns and hate of the white, regardless of law and liberty, and the common sentiments of justice that should move men. Were they cowards? No, gentlemen...They may have tried to murder, but they were not cowards.

Eleven people, knowing what it meant, with the history of the race behind them...with the knowledge of shootings and killings and insult and injury without end, eleven of them go into a house, gentlemen, with no police protection, in the face of a mob, and the hatred of a community, and take guns and ammunition and fight for their rights, and for your rights and for mine, and for the rights of every being that lives. They went in and faced a mob seeking to tear them to bits... And then my clients are called cowards! All right, gentlemen, call them something else. These blacks have been called many names along down through the ages, but there have been those through the sad years who believed in justice and mercy and charity and love and kindness, and there have been those who believed that a black man should have some rights, even in a country where he was brought in chains. There are those even crazy enough to hope and to dream that sometime he will come from under this cloud and take his place amongst the people of the world. If he does, it will be through his courage and his culture. It will be by his intelligence and his scholarship and his effort, and I say, gentlemen of the jury, no honest, right feeling man, whether on a jury, or anywhere else, would place anything in his way in this great struggle behind him and before him.

No, perhaps some of you gentlemen do not believe in colored men moving into white neighborhoods. Let me talk about that a minute, gentlemen. I don't want to leave any question untouched that might be important in this case, and I fancy that some of you do not believe as I believe on this question.

Let us be honest about it. There are people who buy themselves a

little home and think the value of it would go down if colored people come. Perhaps it would... I don't know. Suppose it does? What of it? I am sorry for anybody whose home depreciates in value. Still, you can not keep up a government for the purpose of making people's homes valuable. Noise will depreciate the value of a house, and sometimes a streetcar line will do it. A public school will do it. People do not like a lot of children around their house; that is one reason why they send them to school. You can not get as much for your property. Livery stables used to do it; garages do it now. Any kind of noise will do it. No man can buy a house and be sure that somebody will not depreciate its value. Something may enhance its value, of course. We are always willing to take the profit, but not willing to take the loss. Those are incidents of civilization. We get that because we refuse to live with our fellow man, that's all.

...What are you, gentlemen? And what am I? I don't know. I can only go a little way toward the source of my own being. I know my father and I know my mother. I knew my great-grandmothers and my grandfathers on both sides, but I didn't know my great grandfathers and great grandmothers on either side, and I don't know who they were. All that a man can do in this direction is but little. He can only slightly raise the veil that hangs over all the past. He can peer into the darkness just a little way and that is all. I know that somewhere around 1600, as the record goes, some of my ancestors came from England. Some of them. I don't know where all of them came from, and I don't think any human being knows where all his ancestors came from. But back of that, I can say nothing. What do you know of yours?

I will tell you what I know, or what I think I know, gentlemen. I will try to speak as modestly as I can; knowing the uncertainty of human knowledge, because it is uncertain. The best I can do is to go a little way back. I know that in back of us all and each of us is the blood of all the world. I know that it courses in your veins and in mine. It has all come out of the infinite past, and I can't pick out mine and you can't pick out yours, and it is only the ignorant who know, and I believe that in back of that—in back of that—is what we call the lower order of life; in back of that there lurks the instinct of the distant serpent, of the carnivorous tiger. All the elements have been gathered together to make the mixture that is you and I and all the race, and nobody knows anything about his own.

Gentlemen, I wonder who we are anyhow, to be so proud about our ancestry? We had better try to do something to be proud of ourselves; we had better try to do something kindly, something humane, to some human being, than to brag about our ancestry, of which none of us know anything.

...The Police Department went up there on the morning of the 8th, in the City of Detroit, in the State of Michigan, U. S. A., to see that a family [was] permitted to move into a home that they owned without getting their throats cut by the noble Nordics who inhabit that jungle. Fine, isn't it? No race question in this? Oh, no, this is a murder case, and yet, in the forenoon of the 8th, they sent four policemen there, to protect a man and his wife with two little truckloads of household furniture who were moving into that place.

Pretty tough, isn't it? Aren't you glad you are not black? You deserve a lot of credit for it, don't you, because you didn't choose black ancestry. People ought to be killed who chose black ancestry. The policemen went there to protect the lives and the small belongings of these humble folk who moved into their home. What are these black people to do?

...We are willing to have them in our houses to take care of the children and do the rough work that we shun ourselves. They are not offensive, either. We invited them; pretty nearly all the colored population has come to Detroit in the last fifteen years; most of them, anyhow. They have always had a corner on the meanest jobs. The city must grow, or you couldn't brag about it.

The colored people must live somewhere. Everybody is willing to have them live somewhere else. ...Are you going to kill them? Are you going to say that they can work, but they can't get a place to sleep? They can toil in the mill, but can't eat their dinner at home? We want them to build automobiles for us, don't we? We even let them become our chauffeurs. Oh, gentlemen, what is the use! You know it is wrong. Every one of you knows it is wrong! You know that no man in conscience could blame a Negro for almost anything. Can you think of these people without shouldering your own responsibility? Don't make it harder for them, I beg you.

...Gentlemen, nature works in a queer way. I don't know how this question of color will ever be solved, or whether it will be solved. Nature has a way of doing things...She makes a man. She tries endless experiments before the man is done. She wants to make a race and it takes an infinite mixture to make it. She wants to give us some conception of human rights, and some kindness and charity and she makes pain and suffering and sorrow and death. It all counts. That is a rough way, but it is the only way. It all counts in the great, long broad scheme of things. I look on a trial like this with a feeling of disgust and shame. I can't help it now. It will be after we have learned in the terrible and expensive

school of human experience that we will be willing to find each other and understand each other...

Now, let us get to the bare facts in this case... There was a mob assembled there. The Court will tell you what a mob is. I don't need to tell you. He will tell you that three or more people gathered together with a hostile intent is a mob; there were five hundred; they were plotting against the persons of these people and their lives, perhaps, as well. Did any policeman try to disperse it? Did they raise their hands or their voices, or do one single thing? Did they step up to any man and say: "Why are you here?" Never! They stood around there or sat around there like bumps on a log, while the mob was violating the Constitution and the laws of the State, and offending every instinct of justice and mercy and humanity...

Suppose a crowd gathers around your house; a crowd which doesn't want you there; a hostile crowd, for a part of two days and two nights, until the police force of the city is called in to protect you. How long, tell me, are you going to live in that condition with a mob surrounding your house and the police force standing in front of it? How long should these men have waited? I can imagine why they waited as long as they did. You wouldn't have waited. Counsel says they had just as good reason to shoot on the 8th as on the 9th. [I] concede it. They did not shoot. They waited and hoped and prayed that in some way this crowd would pass them by and grant them the right to live.

The mob came back the next night and the colored people waited while they were gathering; they waited while they [*Ed: the mob*] were coming from every street and every corner, and while the officers were supine and helpless and doing nothing. And they waited until dozens of stones were thrown against the house on the roof, probably—don't know how many. Nobody knows how many. They waited until the windows were broken before they shot. Why did they wait so long? I think I know. How much chance had these people for their life after they shot, surrounded by a crowd as they were? They would never take a chance unless they thought it was necessary to take the chance. Eleven black people penned up in the face of a mob. What chance did they have?

Dr. Sweet scraped together his small earnings by his industry and put himself through college, and he scraped together his small earnings of three thousand dollars to buy that home —because he wanted to kill somebody? It is silly to talk about it; he bought that home just as you buy

yours, because he wanted a home to live in, to take his wife and to raise his family. There is no difference between the love of a black man for his offspring and the love of a white. He and his wife had the same feeling of fatherly and motherly affection for their child that you gentlemen have for yours, and that your father and mother had for you. They bought that home for that purpose; not to kill somebody.

They might have feared trouble, as they probably did, and as the evidence shows that every man with a black face fears it, when he moved into a home that is fit for a dog to live in. It is part of the curse that, for some inscrutable reason, has followed the race—if you call it a race—and which curse, let us hope, sometime the world will be wise enough and decent enough and human enough to wipe out.

They went there to live. They knew the dangers. Why do you suppose they took these guns and this ammunition and these men there? Because they wanted to kill somebody? It is utterly absurd and crazy! They took them there because they thought it might be necessary to defend their home with their lives, and they were determined to do it. They took guns there that in case of need they might fight, fight even to death for their home, and for each other, for their people, for their race, for their rights under the Constitution and the laws under which all of us live; and unless men and women will do that, we will soon be a race of slaves, whether we are black or white. "Eternal vigilance is the price of liberty," and it has always been so and always will be. Do you suppose they were in there for any other purpose? Gentlemen, there isn't a chance that they took arms there for anything else.

...Instead of being here under indictment, for murder, they should be honored for the brave stand they made, for their rights and ours. Some day, both white and black, irrespective of color, will honor the memory of these men, whether they are inside prison walls or outside, and will recognize that they fought not only for themselves, but for every man who wishes to be free.

Did they shoot too quick? Tell me, just how long a man needs wait for a mob? The Court, I know, will instruct you on that. ...How long do you suppose ten white men would be waiting? Would they have waited as long? I will tell you how long they needed to wait. I will tell you what the law is, and the Court will confirm me, I am sure. Every man may act upon appearances as they seem to him. Every man may protect his own life. Every man has the right to protect his own property. Every man is bound under the law to disperse a mob even to the extent of taking life.

...Now, let me tell you when a man has the right to shoot in self-defense, and in defense of his home: not when these vital things in life are in danger, but when he thinks they are. These despised blacks did not need to wait until the house was beaten down above their heads. They didn't need to wait until every window was broken. They didn't need to wait longer for that mob to grow more inflamed. There is nothing so dangerous as ignorance and bigotry when it is unleashed, as it was here. The Court will tell you that these inmates of this house had the right to decide upon appearances, and if they did, even though they were mistaken, they are not guilty. I don't know but they could safely have stayed a little longer. I don't know but it would have been well enough to let this mob break a few more window-panes. I don't know but it would have been better and been safe to have let them batter down the house before they shot. I don't know.

...The first instinct a man has is to save his life. He doesn't need to experiment. He hasn't time to experiment. When he thinks it is time to save his life, he has the right to act. There isn't any question about it. It has been the law of every English speaking country so long as we have had law. Every man's home is his castle, which even the King may not enter. Every man has a right to kill to defend himself or his family, or others, either in the defense of the home or in the defense of themselves...

Now, let us look at these fellows. Here were eleven colored men, penned up in the house. Put yourselves in their place. Make yourselves colored for a little while. It won't hurt, you can wash it off. They can't, but you can; just make yourself black men for a little while; long enough, gentlemen, to judge them, and before any of you would want to be judged, you would want your juror to put himself in your place. That is all I ask in this case, gentlemen. They were black, and they knew the history of the black.

... I should imagine that the only thing that two or three colored people talk of when they get together is race. I imagine that they can't rub color off their face or rub it out of their minds. I imagine that it is with them always. I imagine that the stories of lynchings, the stories of murders, the stories of oppression are a topic of constant conversation. I imagine that everything that appears in the newspapers on this subject is carried from one to another until every man knows what others know, upon the topic which is the most important of all to their lives.

What do you think about it? Suppose you were black. Do you think you would forget it, even in your dreams? Or would you have black dreams? Suppose you had to watch every point of contact with your neighbor and remember your color, and you knew your children were

growing up under this handicap. Do you suppose you would think of anything else?

...The jury isn't supposed to be entirely ignorant. They are supposed to know something. These black people were in the house with the black man's psychology, and with the black man's fear, based on what they had heard and what they had read and what they knew. I don't need to go far. I don't need to travel to Florida. I don't even need to talk about the Chicago riots. The testimony showed that in Chicago a colored boy on a raft had been washed to a white bathing beach, and men and boys of my race stoned him to death. A riot began, and some hundred and twenty were killed.

I don't need to go to Washington or to St. Louis... I don't need to go far either in space or time. Let us take this city. Now, gentlemen, I am not saying that the white people of Detroit are different from the white people of any other city. I know what has been done in Chicago. I know what prejudice growing out of race and religion has done the world over, and all through time. I am not blaming Detroit. I am stating what has happened, that is all. And I appeal to you, gentlemen, to do your part to save the honor of this city, to save its reputation, to save yours, to save its name, and to save the poor colored people who can not save themselves.

... Gentlemen, it is only right to consider Dr. Sweet and his family. He has a little child. He has a wife. They must live somewhere. If they could not, it would be better to take them out and kill them, and kill them decently and quickly. Had he any right to be free?

... I shall not talk to you much longer. I am sorry I have talked so long. But this case is close to my heart. ...Gentlemen, these black men shot. Whether any bullets from their guns hit Breiner, I do not care. I will not discuss it...There are bigger issues in this case than that. The right to defend your home, the right to defend your person, is as sacred a right as any human being could fight for, and as sacred a cause as any jury could sustain. That issue not only involves the defendants in this case, but it involves every man who wants to live, every man who wants freedom to work and to breathe; it is an issue worth fighting for, and worth dying for, it is an issue worth the attention of this jury, who have a chance that is given to few juries to pass upon a real case that will mean something in the history of a race...

We come now and lay this man's case in the hands of a jury of our peers—the first defense and the last defense is the protection of home and life as

provided by our law. We are willing to leave it here. I feel, as I look at you, that we will be treated fairly and decently, even understandingly and kindly. You know what this case is. You know why it is. You know that if white men had been fighting their way against colored men, nobody would ever have dreamed of a prosecution. And you know that, from the beginning of this case to the end, up to the time you write your verdict, the prosecution is based on race prejudice and nothing else.

Gentlemen, I feel deeply on this subject; I cannot help it. Let us take a little glance at the history of the Negro race. It only needs a minute. It seems to me that the story would melt hearts of stone.

... Some other men, reading about this land of freedom that we brag about on the 4th of July, came voluntarily to America. These men, the defendants, are here because they could not help it. Their ancestors were captured in the jungles and on the plains of Africa, captured as you capture wild beasts, torn from their homes and their kindred; loaded into slave ships, packed like sardines in a box, half of them dying on the ocean passage; some jumping into the sea in their frenzy, when they had a chance to choose death in place of slavery. They were captured and brought here. They could not help it. They were bought and sold as slaves, to work without pay, because they were black.

They were subjected to all of this for generations, until finally they were given their liberty, so far as the law goes—and that is only a little way, because, after all, every human being's life in this world is inevitably mixed with every other life and, no matter what laws we pass, no matter what precautions we take, unless the people we meet are kindly and decent and human and liberty-loving, then there is no liberty. Freedom comes from human beings, rather than from laws and institutions.

Now, that is their history. These people are the children of slavery. If the race that we belong to owes anything to any human being, or to any power in this universe, they owe it to these black men. Above all other men, they owe an obligation and a duty to these black men which can never be repaid. I never see one of them, that I do not feel I ought to pay part of the debt of my race, and if you gentlemen feel as you should feel in this case, your emotions will be like mine.

...It is not often that a case is submitted to twelve men where the decision may mean a milestone in the progress of the human race. But this case does. And, I hope and I trust that you have a feeling of responsibility that

will make you take it and do your duty as citizens of a great nation, and, as members of the human family, which is better still.

Now, gentlemen, just one more word, and I am through with this case...I am the last one to come here to stir up race hatred, or any other hatred. I do not believe in the law of hate. I may not be true to my ideals always, but I believe in the law of love, and I believe you can do nothing with hatred. I would like to see a time when man loves his fellow man, and forgets his color or his creed. We will never be civilized until that time comes.

I know the Negro race has a long road to go. I believe the life of the Negro race has been a life of tragedy, of injustice, of oppression. The law has made him equal, but man has not. And, after all, the last analysis is "What has man done?" and not "What has the law done?" I know there is a long road ahead of him before he can take the place which I believe he should take. I know that before him there is suffering, sorrow, tribulation and death among the blacks, and perhaps the whites. I am sorry. I would do what I could to avert it. I would advise patience. I would advise toleration. I would advise understanding. I would advise all of those things which are necessary for men who live together.

Gentlemen, what do you think is your duty in this case? I have watched, day after day, these black, tense faces that have crowded this court. These black faces that now are looking to you twelve whites, feeling that the hopes and fears of a race are in your keeping.

This case is about to end, gentlemen. To them, it is life. Not one of their color sits on this jury. Their fate is in the hands of twelve whites. Their eyes are fixed on you, their hearts go out to you, and their hopes hang on your verdict.

This is all. I ask you, on behalf of this defendant, on behalf of these helpless ones who turn to you, and more than that on behalf of this great state, and this great city which must face this problem, and face it fairly—I ask you, in the name of progress and of the human race, to return a verdict of not guilty in this case!

