

BIG BLUE BOOK NO. B-29
Edited by E. Haldeman-Julius

Clarence Darrow's Two Great Trials

Reports of the Scopes Anti-Evolution Case and
the Dr. Sweet Negro Trial

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IMPRESSIONS OF THE SCOPES TRIAL

BY MARCET HALDEMAN-JULIUS

IT was just a few minutes of three on the morning of the first day of the trial when we rolled into the trim, neatly-paved little town that nestles at the base of Walden's ridge in the Cumberland mountains. Well-lighted and festively bedecked as it was with many banners, not a soul stirred in the streets; a few hounds in front of stores lay, heads on paws, tails neatly indrawn, eyes closed; for once since he had entered Tennessee the garrulous William Jennings Bryan had ceased to talk. Dayton was sound asleep.

Everywhere signs were posted hit and miss on buildings and fences:

"Read your BIBLE."

"God Is Love."

"Read your BIBLE for a Week."

"You Need God in Your Business."

"Where Will You Spend Eternity?"

Little stands, newly built, with the usual hot-dog and sandwich or soft drinks equipment lined the sidewalks and directly across from the court house stood an anti-evolution book-stand on which large placards announced "Hell and the High Schools," "Mr. Bryan's Books." I felt as if I had stepped by mistake into a Methodist camp-meeting. Evidently the case of the State of Tennessee versus John Thomas Scopes was to be tried in the super-heated, jazzy atmosphere of a Billy Sunday revival.

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At last a lone stray man emerged from a side street and warmly recommended the residence and meals of one Mrs. Blair. The very best people in Dayton, he explained, had, appreciating the importance of the occasion, thrown open their homes. E. H.-J. was for driving there directly, but I suggested that we try the hotel first. The stranger and my honorable husband met this with amused tolerance. "What! hope for rooms there at this hour—this late in the day, not to say night!" But I reminded E. H.-J. that the unbelievable miracle almost invariably occurred for our happy-go-lucky selves. And with the air of generously humoring an illusioned child, he drew up at the door of the freshly painted, scrupulously clean Aqua. Wonder of wonders, we found that two Washington Science Service men had shortly left to go to the Mansion House with Darrow. And presently we found ourselves in a cool, airy room with hot and cold running water, and a capacious bath tub directly across the hall. We have two work tables and a comfortable bed. What more can one ask for or get in the Waldorf or the Alexandria? The meals, served country style in a pleasant, flyless dining room that fairly sparkles with tidiness, are presented to us, in a bewildering array of little dishes, by eagerly obliging colored waiters who also attend to the Victrola which, with its doors shut, pours out the

latest peppy syncopations and now and then a dreamy melody. The biscuits are fluffy, the fritters crisp, the coffee strong, the meat well cooked, the cracked ice, in water and tea, delightfully abundant. Physically we bask in relaxed contentment. We confide to each other, quite solemnly, Manuel and I, that we like Tennessee.

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In and out of the Aqua lobby come and go continually a galaxy of men whose names, in the newspaper and magazine world, are ones with which to conjure. Practically every journal of importance is represented—from those in the neighboring towns of Tennessee, Kentucky and Alabama to the London Daily News, the correspondent of which cables, each afternoon, five hundred words to England. Never but once before—at the Arms Conference in Washington—has there been, in this country, such a concentration of high pressure talent. Even the big prize fights and national conventions have been covered both by a lesser number and by a lesser caliber of writers. All give an impression of having their sleeves rolled up for action. Quite literally, too, many sleeves are rolled to the elbow, light suits of every material predominate, fully two-thirds of the men are coatless, many go without collars, palm leaf fans steadily flutter, handkerchiefs mop, for the bright, lovely tenth of July morning is breezeless and hot.

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And now, with the general scene clearly in your minds, let us drive out—as E. H.-J. and I did immediately after breakfast—to the Mansion House. It is situated about a mile from town and there the Defense is domiciled. An old, faded yellow with brown trim frame house is the Mansion, so-called because it is the largest residence in Rhea (pronounced Ray) County, and has been, in its day, a very proud and hospitable home. In architecture it suggests the early eighties. Set on a little hill, surrounded by the same beautiful mountains that surround Dayton, approached by a gravel driveway and shaded by majestic trees, deserted for all of these ten years past and believed by many of the mountain folks to be “haunted,” it stands, at present, stark empty, without screens, without lights, and with a plumbing system so long disused that it refuses to function.

The Mansion was selected by Scopes and Rappleyea for Darrow's headquarters because it was the one place big enough to accommodate, including expert witnesses, the entire battle line of the Defense, and also because it appeared to offer to them comparative coolness and moderate seclusion. But, as it turned out, on the eve of an epoch-making battle, Darrow, his associates, Dr. John R. Neal and Dudley Field Malone—a gentleman who looks as if he were accustomed to every luxurious nicety, although, for all I know to the contrary, he may quite genuinely enjoy roughing it—Arthur Garfield Hays (the lawyer sent from New York City by the Civil Liberties Union), the Modernist Unitarian minister, Dr. Charles F. Potter and his wife, not to mention others with whose names I am not familiar—one and all had been obliged to retire by the soft but inadequate light of candles, and had been awakened by the friendly tap-tap of woodpeckers to a choir of song birds and water-

less faucets. Shaving and washing were out of the question; food not even remotely on the horizon.

I am bound to state, however, that everybody appeared to be in the best of good spirits, taking the hardships as cheerily as if they were on a camping lark instead of on business to which each profoundly wished to give his undivided attention, unhampered and unannoyed by unnecessary and distracting discomforts. Said I to E. H.-J.: "Scopes isn't married, but has Rappleyea no wife, I wonder. He certainly hasn't consulted her." Only a man in his sublime optimism would have attempted to press into service, at such a time, a long abandoned house. I leave it to any woman, young or old, who reads this Monthly.

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Dr. G. W. Rappleyea, as many people now know, is the young chemical and mining engineer who, impatient and disgusted with the anti-evolution law, arranged with what seems to be his characteristic initiative, for the present trial. He is an untidy little person with rather ill-tended teeth, thirty-one years old, short (not more than five feet six at the most) and in complexion olive to the point of swarthinness. His dark brown eyes, behind horn-rimmed spectacles, are fine and alert, his thick, bushy, jet black hair is liberally sprinkled with grey which, with his youthful face, gives a bizarre and striking note to his appearance. He looks Jewish, but is not. On the contrary he is of French descent, although his people have lived for over three centuries in this country, chiefly in and around New York City, where Rappleyea, when a youngster, was a newsboy. He speaks with the accent of Third Avenue.

In charge of six coal and iron mines with four hundred men under his direction, he is, so all agree, thoroughly equal to his really heavy and detailed responsibilities. In point of fact, I find him considerably more interesting in his job than in his philosophical meanderings. His mind is essentially a scientific one, clear, disciplined; his mental integrity and intrinsic sincerity obvious. Lively and friendly, he trots here, trots there, interested in everything, seeing to everyone, obeying one controlling impulse—to be in effective action; ubiquitous, pugnacious, unusual, likeable. He is the impresario—and inordinately proud of his artists. This is his show.

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After bringing Dr. Potter out to the car and introducing him to me, E. H.-J. had promptly disappeared within the Mansion. Dr. Potter is both genial and courteous. Soon he had gathered around us an interesting group including Mrs. Potter and Dr. Rappleyea.

We had, the latter assured us, no idea, absolutely no idea, of the hide-bound, hell-fire quality of the religion in these parts.

"Just to show you," he went on, "four of my mine people were killed in a railroad accident. One was a boy of six. The poor mother was half-crazed. Her neighbors came to comfort her and while I was there her minister arrived. She kept moaning: 'Oh, if I only knew he was with Jesus! If I only knew that!' And what did the preacher do? Right there, with the dead child lying before him, he said, 'I'll not

lie to you even to bring you peace. The ways of the Lord are His. You know and everybody here knows that this boy had never been baptized. He had never confessed Christ. There can be no doubt but that at this moment, he is in the flames of Hell.”

Rappleyea met our exclamations with an expressive gesture. “I called him outside,” he declared, “and I said to him, ‘What’s eating you, anyway! What’s the big idea, torturing that poor soul?’ He bristled up and said, ‘I’m not a-going to lie for her or you or anybody. It is my duty to preach the word of God.’ I told him, ‘Who wants you to lie! All I want you to do, all common decency ought to tell you to do, is to be still. Quit talking. If your conscience won’t let you think of anything to say that will bring a little comfort to that poor creature—shut up.’”

“But,” finished Rappleyea, “that will show you the state of mind of lots of people down here.”

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We were joined by Judge John R. Neal, the Tennessee lawyer on the Defense. Formerly of the State University at Knoxville, Dr. Neal now conducts in that scenic city his own School of Law. He is a middle-aged man, over medium height, long headed, hazel eyed, with dark hair which grows well back from his high forehead—a Southerner of mellow personal charm and a quiet dignity which makes the title of Judge seem eminently befitting. He has also, we were to discover later, an innate fervor for freedom and justice that, when he pleads before the bench can, upon occasion, leap into a blaze all the more striking because even at its height, it is so well controlled. Invariably simple and gracious in his manner, he can most unexpectedly thrill and set a-quiver the hearts of an entire court room. You would, I think, each one of you, find it quite impossible not to like and respect him.

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Through one of the wide-open windows, Arthur Garfield Hays, in striped pajamas, was to be seen arising. He waved a cordial greeting to the world at large and vanished to dress. A stocky, rather heavysset man of medium height is Mr. Hays, broad shouldered, deep chested, thick necked, brown skinned with a Semitic cast of features. In court, he is clean cut and convincing. My own impression—it may be incorrect—is that he is the one depended upon by Darrow to do the hard digging and to carry generally the brunt of the purely legal drudgery. Certainly he looks as if he would be everlastingly painstaking, thorough and exact. He, too, is very likeable,

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In sharp contrast to the steady, even, ever clear and swift thinking Mr. Hays is the irascible, volatile, sparkling, Paris-New York lawyer, Dudley Field Malone, widely known as one of the most skilful of his profession. He is also, we were to learn on the following Thursday, an eloquent and an impassioned orator, as golden-tongued as Patrick Henry.

Perfectly groomed—even on the hottest, most stifling days!—in his well-cut, correct clothes, Mr. Malone reminds one of the typical “successful business man” of the silver sheet. He is forty-three, well-

built, round headed, prematurely grey, with a clear, fair, almost rosy complexion. His temper is ever ready for use and his barbed tongue speeds its arrows on their stinging way, swiftly and surely, straight to his unfortunate target. At such moments, his grey-blue eyes flash in much the same fashion that blue steel flashes in the sunlight. However deeply annoyed he may be, he never fails to utilize that annoyance to good and deadly effect. A natural-born "fusser," he has an alert, if not interested, eye for all pretty women, whom he flatters most subtly and happily. As for the ladies themselves, from even the Fundamentalist matrons of Dayton, one hears to the point of tedium "Isn't Malone the best looking thing! I'm crazy about him!" He is, indeed, a man to draw attention in any crowd. Brilliant, distinguished, Irish, by temperament, and by rearing a Catholic, a man who, in the last analysis, depends upon intuition and inspiration rather than upon cold logic, who feels rather more than he thinks, he adds just the needed note of color, of dash, to the Defense.

His wife is Doris Stevens, an ardent Lucy Stone Leaguer, for years a leader in the militant suffrage movement and, at present, one of the executives of the National Woman's Party. She arrived yesterday, just in time to hear her husband's magnificent argument. She is, because of her splendid height, her perfect poise and clever frocks, strikingly attractive. Her expressive, really lovely eyes are golden; her light brown hair is worn in a very short, very fashionable and exceedingly becoming shingle bob, her hands, white and strong, move frequently in spirited gestures. A woman, too obviously intellectual to appeal to most men, too obviously their superior to be liked by most women, she, nevertheless, undeniably has great charm. To see Miss Stevens and Mr. Malone together is to have the eye both filled and delighted.

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I never shall forget my first impression of Clarence Darrow. As he and Emanuel emerged from the Mansion and came toward me I thought to myself: Taller than I supposed; a noble head; big, broad, slightly-stooped shoulders; a kindly face with deep-set blue eyes—they twinkle—a face like creased leather, scarred with the lines of a long and exciting lifetime; long-palmed hands with sensitive fingers; rather thin, not too carefully brushed, only slightly grey hair—it was all as swift as that and then he was in the car with us. An average man meeting Darrow, knowing nothing about him, would be hard put to it to place him. And he would not be very wrong; there is in him so much of all kinds of men, such a vast sympathy with them, such a complete understanding of all their needs and problems.

He loves, not mankind nor humanity, but the individual man. His pity is the disillusioned, cynical, profound pity of Anatole France; his wit the pungent, devastating humor of the man who dares, both in word and in thought, to be fearlessly truthful. Above all, he is everlastingly honest.

"I have never," he said to me in his gruff, growly voice, "taken a case in which I did not believe. That is why I don't prosecute. I can't help putting myself in the other fellow's place. I have, of course, taken

cases where I knew the man was guilty, but where I believed he should have a lower sentence."

We were in a drug store, Mr. Darrow, his friend Mr. Thompson, Emanuel and myself, having a cold drink. It was directly after the session in which (on Monday, July 13), Darrow had made his great speech urging the judge to quash the indictment. A speech of which Mencken wrote, "It blew up like a wind and finished with a flourish of bugles." Much of Darrow's pugnacity is expressed in those eloquent shoulders of his. I assure you that in one of his great leisurely shrugs—a shrug in which, thumbs in galluses meanwhile, his whole torso participates—he can put more contempt, more combativeness, more sense of reserve power, than anyone else can express in a dozen gestures. A master of crescendo in argument, he punctuates his theme with short, staccato slaps of his right hand on the palm of his left—a movement which, varying with the intensity and importance of his thought, increases in vigor from a mere wrist movement to a sweeping swing of his arm. With his right hand he expresses his mood and with his index finger emphasizes the high points of his thought. His unction is the unction of a veteran. I can think of only one man who has it to a similar degree—that man is Otis Skinner.

He is not a noisy speaker, Darrow, but he is a forceful one. Beside the white flame of his sincerity, even the eloquence of Malone seems unsubstantial, even a bit theatrical. Never, for instance, would Darrow be betrayed, even by his own eloquence, into saying as did Malone: "There is never a duel with the truth. The truth always wins. The truth does not need the law. The truth does not need the forces of government. The truth is imperishable and immortal and needs no human agency to support it." Never, I submit, even under the greatest pitch of excitement could Darrow be capable of such an obvious misstatement of facts.

He is, to put it squarely, the most debunked person I have ever met. Undoubtedly he has his own illusions. (What human being is entirely free from them?) But, utterly unshackled by superstitions, fears or idle hopes, he stands a giant among mental pygmies.

He is a pessimist in theory—if I understand his position—but if he really were one surely he would not have to come to Dayton to engage in that maddening, discouraging battle against bigotry and ignorance. To my mind only an optimist of sorts could have thought it worth while in the first place, and, in the second, have found the courage to go through with it. Yet Darrow obviously did think it very worth while, and quite as obviously he was neither beaten nor discouraged. He has a vast patience—a patience not unlike that of a wise mother, who knows her children's shortcomings and faults, but also knows the good that is in them. Knows, too, that they must be punished—and how Darrow can punish with words!—but feels for them all the while infinite tenderness. No one spoke in more scathing terms than did Darrow of the ignorance now rampant in Tennessee. Yet no one, I am convinced, understood better than he the reasons for this ignorance or felt a greater pity for the people struggling in its meshes.

To tell you that among the dangerous and slippery footholds of the

law Darrow is as sure-footed as an Alpine mountaineer among the passes with which he is familiar, to tell you that he builds his case with the industry and attention to minutiae that one associates with the ant and the bee, to say that he is as well versed in all the opposition's tricks as are the great fighters of the ring, is to tell you what you already know. There are few in this land who deny Darrow's pre-eminence at the bar.

He was in genial mood that first morning as he sat at breakfast tranquilly and heartily eating while mail poured on him and reporters, like mosquitoes, buzzed around him, getting little for their pains; no one could dream of quite the crassness, the brazenness of the injustice that awaited in the court of Judge Raulston. To Emanuel's, "All this shows how people need to be debunked," Darrow interposed, cheerfully cynical, "If you take the bunk away what do you have left?" And to another's comment on the Little Blue Books, his chuckle prefaced, "You can Fordize literature, but you can't Fordize intelligence." To chatter poured into his ear about the rightness of this case, he gave one of those now familiar hitches to his shoulders. It made all but superfluous his words, "What is Right but Power?"

All said in such a good-humored tone that these pinches of pessimism were like so much salt on unsavored thought. Controlled, patient, unbaffled and unconquerable, even when temporarily beaten, he looms large on any horizon, one of the few really great men in America.

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And what, I hear you asking, is Mrs. Darrow like? Very feminine, very lovely. (Slender and fair, with a soft, smooth skin.) Inclined, perhaps to be just a little aloof, but she may have seemed so merely because she was too busy looking after Darrow himself to wish to explore new personalities. (She has been married to him about twenty years and knows just how to make him comfortable.) It was on Sunday, the third day after the trial opened, that she reached Dayton and, quite as if she had waved a fairy wand, immediately Darrow was where he should have been—in a pleasant home. They rented an entire house and there he had, whenever he so wished, both complete relaxation and seclusion. She is quite one of the most beautifully self-effacing wives imaginable; as flower-like and dainty as Darrow is rough-hewn and rugged.

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Meanwhile in the old Mansion—the Darrows took many of their meals there—the activities of a well-run household actually had been set in motion by the determined Rappleyea. There soon began to gather the scientists who came as witnesses for the Defense and there they were housed during their stay in Dayton. Throughout the entire trial it was the center of all the Defense's movements; there were always to be found interesting and eager groups of the Defense's friends; there, if not in the court room, the tireless Mr. Hays seemed invariably to be at work. After its long sleep the roomy old house presented a warm, livable aspect. It had come to life. Those of us who sat, in the pleasant evenings, on its wide veranda or in the improvised living room

listening to brilliant minds earnestly planning for the protection of thought will not soon forget it.

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This one fact you must understand if you are to grasp the importance of the trial: the ignorance and bigotry against which Darrow and his associates struggled was too real, too armored in widespread public opinion to make the conflict waged in that Dayton court room anything less than high drama. Never, even in its most humorous moments and, fortunately, such moments were many, never was there an element of farce. The convictions involved were too deep-rooted, too passionately held.

Although it probably will stretch your powers of credulity to credit this statement, the majority of men and women in Tennessee think of God as a being who resembles man in appearance. "Doesn't the Bible say," demands the Fundamentalist, "that God created man in his own image? That's plain enough." Furthermore, they are sure, these Southern Baptists, Methodists and Campbellites, that God took up dust from the ground and then and there (apparently much as a boy would roll up a spit-ball) created Adam, from whose rib he presently proceeded to make Eve. They believe it in precisely the same way and with precisely the same "but there can be no argument about it" feeling that you believe the world is round. In such an atmosphere of simple acceptance of the literal word of the Bible was raised the judge before whom this case was tried.

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Perhaps this is as proper a moment as any in which to introduce to you his honor, Judge John T. Raulston. Frankly, I have conceived for him such a thorough dislike that I find it difficult to write calmly about him. He is a large, florid man; always and forever smiling; six feet tall and broad shouldered; about fifty years old, born and raised in this part of Tennessee—as he himself puts it "just a regular mountin'eer Jedge." Taken by and large, I imagine that he is, under ordinary circumstances, a decent enough sort of person. Local report has it that he is a devoted husband and father—he has two daughters in their middle teens—is a pillar of his church and is universally liked in this part of the state where he is Judge of a circuit that includes seven counties. I surmise, too, that in his own way among local cases, he probably succeeds fairly well in being just, although even then he must be sub-consciously influenced by his very reactionary prejudices.

"What are your cases, mostly, Judge?" I asked him during our first conversation.

"Well, I hear damage suits, of course, and mudah cases, and cases of crimes against women—the usual run that come up before a crim'nal Jedge. I've only (with a bland smile) sentenced one man to the death penalty. (Another smile.) His case is now pending in a higher court. I only gave his accomplice (still a third smile) thirty years. For mudah."

It is entirely possible that the man was a dangerous character from whom society needed to be protected, but the complacent, almost

merry tone in which Judge Raulston tossed off the "thirty years" for all the world as if it had been thirty minutes, made me shiver.

"If you have so many counties in your district, prisoners must sometimes have quite a long wait before they can come to trial," I commented.

"Yes," he agreed (with the smile, of course), it's often quite a while. About every four months—I get around. And (smile), now and then, I have to refuse bail and then (smile) I don't doubt but that it seems quite a wait."

He would, I thought angrily, smile and wave a jovial farewell to a man who was walking to the gallows. But, I told myself, I was probably too squeamish. Most judges, like most doctors, were prone to become more or less callous. And Judge Raulston's unflinching courtesy, his natural affability, his quite spontaneous attitude of kindly host to all strangers—taken together—were rather disarming. I distrusted him as I distrust anyone who wears a perennial smile, but I liked his general agreeableness. Moreover, I saw him as a dramatic figure—fiction material.

Had I written to you about him on the evening of that first day of the trial I should have said: Picture to yourselves a man of average caliber, content with his life, considered by his family, neighbors and friends to be a bigger man than his fellows. Realize that he is rounding out the seventh year of an eight-year term of office and is to come up before this section for re-election a year from August. Then conceive of this man, taken as it were by fate and thrust, willy-nilly, into a situation for which, at best, he is too uninformed, too provincial, too small. Try to imagine it—an insignificant circuit judge suddenly comprehending that he is to preside over a court which is to be the cynosure of all eyes; that his opinions will be scrutinized by judges and lawyers throughout the whole country; that before him are to plead an ex-Secretary of State—the Idol of the South—and the man pronounced by unanimous consent to be the King of Criminal Lawyers; above all comprehending—for Judge Raulston is no fool—that the world expects him to view the case in a fair, broad, judicial manner and that, on the other hand, the people of his own community, in whose votes lie his future, expect him to take a partisan, narrow attitude and to show his loyalty to God and the Bible by ruling steadily and consistently upon every possible opportunity, in favor of the Fundamentalists.

Judge Raulston is a vain man; also he is an ambitious one. There is no doubt at all in my mind but that a bitter conflict was waged in his Methodist soul. Anyone who observed him closely the evening after the great speech in which Malone urged that expert witnesses be permitted to testify, anyone who watched him closely could see that he was undecided, torn.

"Isn't it terrible," he said to me, all smilingly, however, be it noted, "to have so much responsibility resting on one poor finite mind?"

"It is," I agreed. Within fifteen minutes, I heard him make exactly the same remark to two other people.

The plain fact was that he sincerely longed to appear before the

world as a great and nobly generous judge. But even more than he wished this, he wanted to be re-elected. As the crude phrase has it, he well knew on which side his bread was buttered. Do not forget, either, that fighting valiantly, side by side, with this ambition, was his own abysmal ignorance and the bigotry which, trained, during long years, into the very essence of his being, has been newly set astir there both by Bryan's flaming words and by Bryan's presence. The Judge would have been in anything but an enviable position had he been moderately unbiased on the question at issue. Add to this, the fact that he saw and heard with friendliness only one side of it and turned instinctively hostile eyes and ears to the other; that he had, moreover, the deep, repressed, but definite feeling that people from "foreign States" were concerning themselves unduly with matters which were, when all was said and done, entirely the affair of Tennessee—conceive this state of mind, if you please, remembering always that the mind with which we are dealing is naturally limited, naturally resistant to new ideas and you will understand much of the travesty of justice that has been carried on this past week in the court room at Dayton.

That first day, I admit, inclined as I am to think the best of every one, I believed that Judge Raulston was going to try to be absolutely fair. And I still think that on the first day this was his firm resolve and full intention. But, being very human, very compact with prejudices and inhibitions, his dislikes and freshly aroused church loyalties grew apace with each day until now Bryan himself might just as well have occupied the judicial chair.

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Needless to say, I studied Bryan with greater interest than any one, except Darrow, connected with the trial. In their attitude toward him, people divided, roughly, into two groups: to the first he was a hero, a man who dared to speak out boldly for Christ while the world scoffed, a man sent by God to rally the scattered forces of the Protestant churches; to the second group he was a mountebank, a hypocrite, an out-and-out fraud.

As he sat there in the court room, day after day, silent, fanning, fanning, his face set, I was appalled by the hardness, the malice in it. No one who has watched the fanatical light in those hard, glittering black eyes of Bryan's, can doubt but that he believes both in a heaven and in a hell. At the same time the cruel lines of his thin, tight-pressed mouth proclaim, it seems to me, that he would stop at nothing to attain his own ends. It is anything but a weak face—Bryan's. But it is a face from which one could expect neither understanding nor pity. My own opinion is that he is sincere enough in his religion. Also that in it is included the doctrine Paul so frankly taught—that a lie told for the glory of God is justified.

I doubt very much if—to use the words of a great cardinal—Bryan ever had *any antecedent difficulty in believing in miracles*. But when with one breath he admits his conviction that Joshua, in order to lengthen the day, commanded the sun to stand still, and in the next agrees, with considerable irritation, that it is the earth which moves around the sun and not the sun around the earth—one wonders. When

he flames into a passion of righteous indignation at scientists' effrontery in classifying man among the mammals—one does more than wonder, one stares open-mouthed. An ex-Secretary of State, a man whom many in this country wished for President, a man, supposed abroad, to be one of our leaders—flying into a flurry of oratory because man is a mammal! I tell you Darrow's jaw literally dropped. Mencken looked as if he were about to crow with impish delight. E. H.-J. at my side shook with inward laughter. The truth leaps at one. Bryan is a muddle-head, incoherent alike in thought and emotion. Those of us who have seen him at Dayton know it.

The man doesn't read. As he himself put it, "I don't think about what I don't think about." (Even so!) The question is what *does* he think about? There are many who answer promptly: himself; and what he can get out of this Fundamentalist movement; how far he can project it into politics and there capitalize it.

Myself, I think that while there is more than a little truth in this judgment, on the whole it is too harsh. Human motives are seldom so clean-cut, so simple. His is the slowly accumulated bitterness, the bleak tragedy of the man who never has quite achieved what he has set out to do. Failure seldom sweetens character. To William Jennings Bryan's it has added gall. He is full of malice toward all who are his superiors. His love for the ignorant man, for the masses is, I am convinced, utterly genuine and as instinctive as is Mencken's admiration for the mental aristocrat. It is the scholar whom Bryan dislikes. He knows only too well how thoroughly intellectual people have come to despise him as, slowly but as inevitably as in one of the old Greek dramas, he has lost prestige until shorn of real leadership, he must content himself with a following limited even within the church. Broken, he is on his way to a last defeat.

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Although, beyond question, Bryan was as truly the moving spirit of the prosecution as Darrow was of the defense, all the legal burden of the case fell on the shoulders of young Attorney-General Stewart. Strictly speaking, he is the district attorney as he prosecutes for the same seven counties over which Raulston presides, but down south, where titles are beloved and even Darrow was given the one of "Colonel," Stewart was invariably addressed as "General." A good-looking, rather quiet sort of a chap (by whispered and perhaps incorrect rumor really an evolutionist) he fought hard and fairly.

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And during it all, with the perfect taste that is innately his, John Thomas Scopes kept himself modestly in the background. He is a charming boy with a fine mind—tall, very blond, rather freckled, self-possessed, delightful in manner.

When he first went into the case, he supposed it would be an entirely local affair; when it began to assume nation-wide proportions he was, frankly, a little abashed. But a talk with his splendid, sensible father convinced him that it was really an exceptional opportunity to be of service. Next year he plans to continue his studies. To meet him is to like him, and in spite of his attitude toward evolution, he is

personally popular in a quiet way with both the young and the old of Dayton.

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One was hard put to it on the tenth of July, in the year of our Lord one thousand nine hundred and twenty-five, to know whether Dayton was holding a camp meeting, a Chautauqua, a street fair, a carnival, or a belated Fourth of July celebration. Literally, it was drunk on religious excitement.

"Be a sweet angel," was the beginning of a long exhortation printed on a large signboard posted at the entrance of the court house door. Evangelists' shouts mingled with those of vendors; the mournful notes of the hymns of a blind singer who accompanied himself on a little portable organ, stentorian tones shouting, "For I say unto you, except ye repent and be baptized," "Ice cream and hot dogs here!"—all poured into one's ears in a conglomerate stream. The entire court-house yard literally was given over to preachers, who peddled their creeds as if they were so many barbecue sandwiches. Against the north wall of the courthouse a platform, surrounded by benches, had been arranged for their greater convenience.

On the second floor of the old brick court house one entered a wide, spacious, freshly-painted court room with a normal seating capacity of about four or five hundred. I felt as if I had stepped into pandemonium. Men and women jostled each other; a battalion of newspaper photographers and movie men literally wrestled for advantageous positions; just outside the bar enclosure muffled telegraph instruments ticked and reporters for the big dailies, Associated Press, and similar services, sat dripping with sweat, writing in pencil or on typewriters as if for their very lives; people stood in aisles and three deep against the back walls; in spite of the big open windows the air was stifling.

To the left of the judge (as we sat in the audience) at a long table were Scopes, Malone, Neal, Darrow, Hays. Opposite them on the right side, were the prosecution, Stewart, the Mackensies, father and son, Hicks, Bryan's son. Bryan had not yet arrived. When he did the audience burst into long applause. We were able to get good seats in the third row of the middle section reserved for the press—seats which we occupied all during the trial.

E. H.-J. pointed out to me various celebrities. Among them was Mencken. I was forced to look twice, so different does that gentleman appear from the pictures and cartoons of him. He looks as if he were in his late thirties—some six or eight years younger than his avowed forty-four. He is at once stockier than I had supposed and much less ponderous in manner. He is affable and friendly. He listened to practically the entire trial standing with several other journalists and a movie man or two, on a table in a corner of the court room. He faced the pleading advocates and incidentally the audience. Mencken's most usual expression when a member of the prosecution spoke was one of delighted incredulity. He has the most amazing china-blue eyes that survey the world with a sort of "Where-did-you-come-from-baby-dear" surprised, ingenuous look, which changes directly he begins to talk.

At this late date there is something both amusing and exasperating in the memory of the tenseness with which, that first day, we watched Darrow's cautious selection of the jury.

I can still hear his kind: "And you think you could be fair?" Invariably the answer was "Yes." "And," Darrow would conclude at last "You *will* be fair?" Inimitable his manner of asking this question. His tone imputed to the would-be juror the highest motives, made of each man a friend. Those he did not wish, he contrived by adroit questioning to show up so clearly that the Judge was forced to excuse them. One hard-headed, lying preacher caused much amusement. Although he had talked steadily against evolution in the pulpit and was known to be bitter against it, he insisted that he could be impartial. Truth to tell the pickings were pretty poor, as Darrow soon realized. In the end, from one hundred men summoned for that purpose twelve had been drawn and accepted. Eleven of them were church members; one "went occasionally." Eleven (ten of whom were farmers and one a shipping clerk) admitted that they did not believe in evolution but declared they were not against being convinced in its favor. A school teacher, with flowing moustache, strongly suspected by them on Monday, but he stood his ground, convinced the Judge of his neutrality, and in the end, went unchallenged.

Not even Darrow could have guessed of how little importance those men were to be. The case was not to be tried before them. It was to be tried only, in effect, before Judge Raulston.

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Many people do not fully comprehend the czar-like power a Judge wields. He alone decides what testimony is and is not admissible.

The Defense sought to prove that evolution did not conflict with the story of Divine creation of man as taught in the Bible. In order to prove this it was necessary to introduce scientists and Bible scholars as witnesses. The Prosecution protested against the admission of any testimony these "experts" might give, on the ground that it was "irrelevant"; the second phrase of the law "to teach *instead* that man has descended from a lower order of animals" making, according to their contention, unnecessary any discussion of the first part of the law.

Even native Tennesseans felt that the Prosecution was "hiding behind a technicality." "Bryan challenged the evolutionists to a duel and then he ran away," was a very frequently heard remark, when, on Friday morning, one week from the day the trial started, Judge Raulston, in a long opinion, ruled that the question was purely one of whether or not Scopes had taught certain passages in Hunter's Biology.

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Of the cleverness with which, although his witnesses' testimony was not admitted, Darrow contrived to get it all into the record, you have, I am sure, read long and detailed accounts in the daily papers. For the first time I learned that *no new* evidence can be submitted to the higher court. The Supreme Court is, strictly speaking, a board of review. It reviews the entire case and, if it so sees fit, reverses

the circuit or district Judge's rulings. Hence Darrow's and Hays' eternal vigilance and concern for "the record." But with Raulston's ruling any hope of a favorable verdict in the lower court collapsed.

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Boiling with the particular rage which only unfairness can arouse in me—in this case an unfairness so flagrant, so brazen, so pleased with itself that even to contemplate it was maddening—I rose from my seat and started, with the surging throng, to leave the court house. Directly in front of me stood a broad-shouldered, six-foot man who had been pointed out to me as "the author of the law"—Mr. Butler.

I knew, of course, that you would want to hear about him, so, drawing a long breath, I took myself in hand, so to speak, smoothed down my ruffled temper, and addressed him: "Are you Mr. Butler?"

"Yes."

"I should like to interview you."

A smile, so good-humored that one could not refuse one in return, broke over his kindly face. Aggravatingly enough, I began to like him. "All right," he agreed, "I suppose you think I ought to be hung."

"I want to know how you came to think of this law in the first place—why you decided it was needed."

"All right. Let's get out in the shade where it is cool and then we can talk easy."

I agreed and followed cheerfully in the wake of his huge form as, in the midst of the press, we leisurely descended the stairs. On the courthouse lawn, under the wide-spreading branches of a hard maple, we sat down. Mr. Butler hailed a passing boy and bought two ice-cold bottles of Coca Cola. And thus, in sociable mood, we began to chat.

He is a type of man with whom I am thoroughly familiar and for whom long experience has taught me to have a genuine regard. I have dozens of farmer neighbors—and so, I am sure, have many of you—cut off precisely the same piece of cloth. As he sat before me, this big Indian-brown six-footer, with his keen grey eyes and good, even teeth, so frequently revealed by his pleasant smile, I felt that the man was sincere and straight-forward through and through.

"Is it true, Mr. Butler, that there are no railroads in your county?"

"Yes, Macon County is like more than one county in Tennessee. We have good highroads though. We don't have any trouble marketing our crops."

"Are you a farmer?"

"Yes. I used to be a school teacher too. Taught school five years. You know the way we do down here—raised my crop in the spring and taught school in the winter."

"What do you raise mostly down here?"

Thus launched on a subject congenial to us both, we found much to say and any possible stiffness vanished as if by magic from our conversation. Mr. Butler was, I found, well informed on farming in general and conditions peculiar to Tennessee. He works 120 acres about 175 miles from Dayton and three miles from a little town of 800 people—La Fayette, Macon's county seat. It was 28 years ago, when he married, that he took possession of this farm which he owns, as

did his father, grandfather, and great grandfather before him. 'There he raises corn and tobacco (of course, in Tennessee!) but also wheat, rye, oats, cow peas, soy beans and clover; Duroc Jersey hogs and chickens; and, of course, a few cows, enough for his own use and to provide skimmed milk for the aforesaid hogs.

I drew our talk back from the farm yard to the topic that has been the cause of one of the greatest battles that the world has known since the day of Galileo.

"What church is it that you belong to, Mr. Butler?" I asked.

"Baptist. Primitive Baptist. I am clerk of the district session and clerk of my own church," he added with pardonable pride.

I thought I had misunderstood. "What kind of Baptist?"

"Primitive," he repeated firmly. Then, seeing my rather puzzled expression, he explained. "There is more than one kind of Baptist, you know."

"I didn't know."

"Yes. There's the Primitive Baptists, the Missionary Baptists—they are the largest group—the Free Will Baptists, and the General Baptists. In 1689, at the time of the London Confession (I think he said—it may have been convention), the Baptists were all one family, but in 1792, two great leaders (he gave their names) agitated the question of whether or not the Heathen would be lost unless they heard the gospel. The Missionary Baptists held they would and the Primitive Baptists held they wouldn't. Now *I* don't believe, and *no* Primitive Baptist believes, that God would condemn a man just because he never heard of the gospel."

I had heard many and various tales of Mr. Butler before I met him and, as I have said, I was in anything but a sympathetic mood when the meeting took place. But as he talked in his pleasant voice with its strong southern accent, I summed him up to myself in something like this fashion: Uncultivated, but very far from illiterate; uneducated in the narrower sense, but in the broader one anything but an ignorant man; simple-hearted, obviously country-bred and provincial, but full of an innate courtesy and kindliness; unsophisticated, but not uncouth.

"You like fair play, I gather," I smiled.

"Yes, I do," he returned firmly. "I used to be a great baseball player—not in any of the big leagues, of course, but in our own part of the country here. Anyone who has played baseball likes to see things done fair. And I think the 'Jedge' should have let those experts testify if Darrow wanted 'em. I am not afraid of expert testimony." (This was said convincingly and without the slightest touch of braggadocio.) "Darrow could have put 'em on and made *his* points and then Bryan could have cross-questioned 'em and brought on expert Bible witnesses too and made *his* points. That would have been fair to *everybody*."

"When did you first think of this law—or did someone suggest it to you?"

"I'll tell you," he said, and this, condensed, is the gist of his story:

About four years ago a preacher who came around once a month to Butler's church alluded, though not by name, to the fact that a young woman whom the community knew had, after a university course, returned believing in evolution and disbelieving in God. This set Butler to thinking. What might happen to his own boys? (He has three; his two daughters are married.) To his neighbor's children? Come to that, they didn't need to go as far away as universities. Evolution was taught in the high schools. It was not right that they should raise up their children to be God-fearing and then have the schools teach them something that took that faith away. Thus Butler meditated long and earnestly upon the preacher's comments.

In 1922 he was urged to run for Representative of his district. There are three counties in it: Macon, Sumner and Trousdale. Sumner County, thanks to a good creamery trade, does dairying and in the lower end of it Southdown sheep are raised, as also in Trousdale County. Butler agreed to run, and in his circulars stated the necessity of a law prohibiting the teaching of evolution in the schools. "Ninety-nine people out of a hundred in my district thought just like I did, too," he explained. "I say ninety-nine out of a hundred because there may be some hold different from what I think they do, but so far as I know there isn't a one in the whole district that thinks evolution—of man, that is—can be the way the scientists tell it."

"Do you mean," I questioned, "that they believe evolution and the Bible conflict?"

"Yes."

"Do you know that lots of good Baptists believe in both—that they think that to God ages are but a day?"

Mr. Butler considered this. "Yes," he answered. "I know they do." Then, after a pause, "I reckon it's a good deal like politics, the way you've been raised." A true word indeed! "I didn't," he continued, "introduce the bill though, and in 1924 when I ran again I made up my own mind that if I was elected this time I sure was going to get that law passed, and the morning I was forty-nine I wrote it out after breakfast at home just like I wanted it. It didn't quite suit me and I wrote it out three or four ways, but I came back to the first draft after all. I had the stenographer up at the Capitol type it for me—and that's the way the law stands now—just the way I first wrote it."

Through my mind echoed the now all too familiar words: "Be it enacted by the General Assembly of the State of Tennessee, That it shall be unlawful for any teacher in any of the universities, normals and all other public schools of the State which are supported in whole or in part by the public school funds of the State, to teach 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."

Can you picture Butler as he sat down in the pleasant, homely living room of the old farm house before the quaint fire-place with its stone jambs—it was built, he tells me, before the days of fire brick—and there, while his wife in the next room cleared away the breakfast

dishes and his boys did the usual winter-morning work around the barnyard, figuring out painstakingly and slowly, all unsuspecting of its far-reaching significance, this law that was to rouse into bitter factions the whole country? It is impossible to conceive of a more glaring, startlingly plain example of the danger of sheer ignorance. Here is a man innately good doing all but irreparable harm. A man who stands for progress in farming and in his community generally, attempting without malice to stop thought.

"I was thinking, 'what'll I do on my birthday,'" he explained, "and I said to myself, 'well, the first thing I'll get that law off my mind.'" As simply as that can dynamite be ignited.

The thought overwhelmed me and we sat silent for a few minutes. "How did the vote stand?" I asked at last.

"Seventy-one to five in the House, without a debate." (Rumor has it that the House merely wished to 'pass the buck' to the Senate. But be that as it may, this is Butler's story.)

"And how in the Senate?"

"Twenty-four to six. Two men, Sims and Evans, they opposed it and the Speaker came down and debated on the floor for the bill. It passed in March this spring. That is, in 1925." (Again, says report, the Senate merely passed, in its turn, responsibility on to the Governor, feeling sure he would use his veto. This he did not do for the reason that he had senatorial ambitions of his own with which he was afraid such an action might interfere.)

"One thing," said Mr. Butler rather tartly, "that people around here are saying isn't true. They say Mr. Bryan's talk made me think of this. Now I never *laid eyes* on him until I saw him in this court room. I made up my own mind in 1922, like I told you."

"Perhaps," I suggested, "he set the minister you spoke of to thinking and perhaps your bill wouldn't have passed if many of the Senators and Representatives hadn't heard him talk."

Butler seemed to doubt this. "Down here," he stated "everybody always has been for a law like that. We all think alike about it. We can't see why it isn't a good law."

"How old are your boys, Mr. Butler?" I asked.

"Nineteen, seventeen and fifteen. I got four grandchildren, and say," he expanded, "those boys certainly think a lot of music. We got the nicest little band up in our county."

The oldest, it seems, plays the slide trombone, the second the tenor horn (whatever that may be—I know little of brass instruments), the youngest beats the big drum. And that isn't all. Mr. Butler's brother plays the base horn and *his* little son the cornet. "You ought to hear them," enthused Butler. "The little fellow can play it too, I tell you. I wouldn't have been ashamed to have our home band play down here in the courthouse yard the other day. Did you hear the band concert?"

I admitted that I hadn't.

"We have great times," he smiled.

Can you visualize him—this big, warm-hearted, capable farmer, high in his church, Representative of three counties, quite truly so because by "raisin'" he reflects naturally the opinions of the com-

munity of which he is so proud. It is easy enough to see why he is well liked. Only too easy to see, too, why his opinions are what they are.

"I never knew until yesterday that the King James version of the Bible wasn't the only Bible there was," he confessed honestly. He holds, it is plain to see, no rancor. My own impression is that, unlike Mr. Bryan and Judge Raulston, whose minds are triple-locked with bigotry, prejudice and self-glory, Mr. Butler and many of his fellow Tennesseans have been proudly interested as well as informed and set quietly thinking by the campaign of education carried on at Dayton by Darrow, Hays, Malone and Neal. Tennessee is unbelievably uninformed; her leaders who are informed have been, as Joseph Wood Krutch so ably pointed out in the *Nation*, unbelievably cowardly. It is the Bible belt and the majority of the people in it are both by temperament and by long habit deeply religious. But, however much this trial has made us feel as if we were living in the sixteenth century, this is, after all, the twentieth. And if the farmer, the miner, and the man on the street in Tennessee is, secretly still, of course, beginning to be only a little curious and is as yet scarcely willing to learn, the boys and girls are of the very spirit of this century and need only half a chance. For that chance Darrow, ever the defender and protector of youth, continues the fight.

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Although on Friday afternoon following Raulston's ruling that the expert testimony was not admissible Mencken had left declaring everything was over except the "bumping off" of Scopes, those of us who remained were to experience more thrills on Monday than on any other day of the trial. In positively breath-taking fashion there followed one after the other (1) the Judge's citing of Darrow for contempt of court; (2) the reading, in condensed form, of the expert testimony; (3) Darrow's apology, which was accepted after a long fundamentalist sermon by Judge Raulston; (4) the moving of the entire court out doors; (5) the taking down, amid loud and exciting protest, of the "Read Your Bible," sign from the courthouse wall; (6) Darrow's cross-examination of Bryan—a most dramatic event.

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To begin with, the court room was crowded as on no other morning. It was almost literally impossible to get through the jam on the stairs. In the hallway I found the policeman firmly blocking the door, his usually smiling face quite taciturn. I ducked under his arm and through the packed aisle saw E. H.-J. valiantly holding my seat. "What's all the excitement?" I demanded. "Why is everybody so nervous?" At that moment the Judge stalked into the court room. There was no smile on his face either. On the contrary, his expression was grim and determined.

"He looks mad," declared E. H.-J. "The rumor is that he is going to cite Darrow for contempt." One could positively feel the tension tighten. Suddenly there was a sputter and smoke rose from one of the electric wires. "Shut off that switch outside," shouted someone. Panic hovered in the air. The thought of what might happen if that throng tried to get through the one door made my tongue feel dry.

The short circuit was soon remedied, however, but the human currents continued. The rap that brought the court to order had a peremptory sound and after a mild prayer by an oldish clergyman, the bailiff, to his usual chant of "Oh yes, oh yes, oh yes, this Honorable Circuit Court is now open pursuant to adjournment," and his equally usual "Set down," now added in a surly tone, "This ain't no circus."

Immediately the Judge began to read in a singsong voice his lengthy reasons for citing Darrow, the first of them being that in his—the Judge's—person, a great and noble state had been insulted. Slowly he intoned the whole conversation that had occurred the preceding Friday between himself and Darrow. The latter, he announced, was to appear before the court on Tuesday morning and meanwhile his bail was fixed at \$5,000. Some expressed their opinion of this absurd amount in a low, derisive ripple of laughter, but returned quickly to a grim silence. Grim was the Judge too, and grim was Darrow. For perhaps the first time the entire atmosphere became hostile; the bar enclosure had become two battle camps when Hays rose to read the statements of Bible and Science experts. Stewart was at once on his feet. "Is this court," he demanded, "to be turned into a Chautauqua, a Summer normal course?" Hays insisted that he might persuade the court to reverse his opinion. "I will sit here," Raulston announced naively enough, "and, of course, I will hear what's read and, of course, I never hesitate to reverse myself. But I have already ruled on this matter."

The battle was hot. Having just cited Darrow, and Hays' reasons being so clearly put and so obviously incontrovertible, Judge Raulston for once ruled in favor of the Defense; also it was quite evident that the deciding straw was the fact that, rather than plow painfully through the statements, he preferred to hear them succinctly summarized.

"I am inclined to hear them," he announced finally, and, turning to Hays, added "I will give you one hour."

Hays, beginning to read rapidly and distinctly, attempted to restore some sort of good humor. Interrupted by Stewart, he asked (with his really charming smile) "Can I have time out?" This brought a sympathetic laugh from the entire court room and the Judge, relaxing a trifle, said, with a flicker of a smile himself, that he could.

Hays read on and on and on until noon. The people, including Butler and many from Dayton and its environs, listened, eager, intent, drinking in every word of the brilliant, clear explanations of such men as Metcalf of Johns Hopkins, Newman of the University of Chicago.

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Exciting as the morning session had been, however, the one in the afternoon was to be more so. Even as we came out of the court room at twelve o'clock people who had been unable to get standing room in the forenoon had eaten early lunches and were now pushing their way to seats. Others, seeing this, decided to go dinnerless and promptly turned back to join those who, foreseeing, had come supplied with sandwiches and thermos bottles. I found the hotel packed as never before, and although I went back directly to hold our seats, the

court house was already jammed. There must have been well over 1,000 people in the room. This time the Judge was convincing in his exhortations. "The floor may give way," he insisted. "The plaster is cracking downstairs. This floor was never intended to hold so many people. I told you that yesterday. When we begin to argue we will go out on the lawn. You better get your seats now." This warning was well timed. The crowd, that had been waiting so patiently for over an hour, arose, and, annoyed and petulant, joined the jubilant incoming one; together they began surging and pushing out of the door.

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Darrow arose and made an apology, simple, complete and convincing. The moment was obviously not one in which to cloud the issue and no one realized this better than Darrow, ever the wise and cautious general. Moreover, his flash of biting truth and his sarcasm, unpremeditated as they had been, had neatly served their purpose. Now, with a master hand, he cleared the deck of trifles as he prepared for the victory that was to be his, literally within the hour. The crowd went out to him.

Majestic was his apology; amusing was the Judge's answer. Here was a man who had been rude and was admitting it in plain language. To him His Honor replied with a long and touching sermon on the beauty of forgiveness. Those of us who stayed to listen lost all hope of a decent seat out of doors, but we counted the ten minutes of his harangue quite worth the ensuing discomfort.

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On the lawn people gathered until over 5,000, sitting on planks or standing, surrounded the high platform enclosure in which Judge, Defense, Prosecution, and a few privileged people hastily adjusted themselves, as did the newspaper men just below them on improvised benches. In the shuffle I lost E. H.-J. completely and found myself in the very center of a block of native Tennesseans, men and women. They waited with obvious impatience while Mr. Hays finished reading the last of the expert testimony, but perked up cheerily when the court said, "Send for the jury." With irritation they listened to the meticulous Mr. Hays, ever concerned for his record, asking if he might have the consent of the other side to fix it later and to see that the statements of the experts were properly marked and introduced. But there was a shocked hush when Darrow asked that, lest it prejudice the jury, the "Read Your Bible" sign be removed from the wall of the courthouse. Followed a veritable melee of words between the lawyers of Defense and Prosecution.

"I have never," flamed one member of the latter, "seen the time in the history of this country when any man should be afraid to be reminded of the fact that he should read his Bible, and if the Defense represents a force that is aligned with the Devil and his satellites—"

To which Mr. Malone, with flashing eyes, stormed: "Your Honor, I object to that kind of language." Adding, with the eloquence that invariably brought him the admiration of all his audiences, "It is all right for the individual members of the prosecution to make up their

minds as to what forces we represent. I have a right to assume I have as much chance of heaven as they have, and my understanding of the Bible and of Christianity is just as good and I will be a pretty poor Christian when I get any Biblical or Christian views from any member of the Prosecution whom I have yet heard from during this trial."

This statement was greeted with a storm of applause that caused the Bailiff, cheerily chewing gum the while, to rap and shout, "Keep quiet down there, I tell you."

Arose Mr. Bryan, in manner suave, persuasive, judicial. "If," he stated, "the Defense's arguments are sound and sincere, that the Bible can be construed so as to recognize evolution, I cannot see why 'Read Your Bible' would necessarily mean partiality toward our side. It seems to me that both of us would want to read the Bible if both of us find in it the basis of our belief. I am going to quote the Bible in defense of our position, and I am going to hold the Bible as safe, though they try to discard it from our walls. Paul said: 'If eating meat maketh my brother to offend, I shall eat no meat while the world lasts.' I would not go that far, that is, I would not say while the world lasts, but if leaving that up there during the trial makes our brother to offend, I would take it down during the trial."

Whereupon, his idol, Mr. Bryan, having spoken, all further parley was lost on Judge Raulston's ears. "I will let the sign come down," he announced. "Let the jury be brought around."

The sign was thereupon removed, but the jury was not destined to appear on that day.

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Instead, Darrow put Bryan on the stand as a witness. In view of the trouncing he was to receive, there was something pathetically humorous in Bryan's easy, almost gleeful acquiescence to the request. Even so has many an unsuspecting child climbed into the dentist's chair to descend from it later sadder and wiser. Not that Bryan realized fully at the time, even as Darrow's questioning progressed quite what was being done to him. The frequent and enthusiastic applause—not to mention fervent amens—from the Tennessee portion of the audience acted as an anesthetic. Perhaps to a cynical eye one of the most deliciously amusing spectacles of the whole Dayton drama was the delighted, purring expression of the Judge as he watched the duel which, in his abysmal ignorance, he, like the other Bryanites, believed their hero was winning.

A duel the meeting of those two men was. Darrow, the apostle of knowledge and tolerance, and Bryan, the arch advocate of ignorance and bigotry, had engaged at last in single-handed combat. This was what the crowd had been hoping for; for this it had patiently waited through long sweltering hours of technical discussions. Now it gave a long sigh of delighted expectation. It was satisfied. And no wonder! Few who witnessed that dramatic moment in the history of this country's thought ever will forget it. Even the physical aspects of the scene carved themselves on one's memory.

Picture to yourself that vast throng. Imagine yourself to be a

part of it. Before you the branches of two great maples, intertwining, form a natural proscenium arch, and behind it, in the ring, the two antagonists meet—Bryan, assured, pompous, his face half turned to the audience which, rather than the Judge, he frankly addresses, and Darrow, standing a few feet away, his eyes on his opponent, his mind concentrated on the task before him, vigilant, relentless.

So easily he began! Almost as if he were questioning a child. And then after Bryan had modestly admitted that he had made a study of the Bible, Darrow showed that his ignorance of it and of religion was almost as profound as his ignorance of general history and of science. Gradually Bryan's good humor changed to a strained indignation. Bright red spots came out on his cheeks. At last he became utterly rattled. He understood thoroughly that the purpose of Darrow's questions was to show that, even to a man who accepted the Bible as literally as Bryan professed to do, there were many passages subject to contradiction and to wide interpretation. Yet, after he had stood pat on the Jonah story, even staunchly declaring that it would have been quite as easy for God, had he so wished, to have made Jonah swallow the whale; after he had stood pat on the Joshua story and declared that he did indeed believe the sun stood still at Joshua's command; after he had stood pat on the Garden of Eden story, and admitted the conviction that Eve's sin there was the cause of all women's pangs at child birth; after he had stood pat on his belief that until the building of the Tower of Babel all humanity spoke one language; and after he had announced his conviction that every living thing, except possibly the fishes, had been wiped out at the time of the flood, and that "whatever human beings, including all the tribes, that inhabited the world, and have inhabited the world, and who run their pedigree straight back, and all the animals, have come onto the earth since the flood—that is, within 4,200 years"; after he had pointedly and angrily exclaimed that he never had "felt a great deal of interest in the effort that had been made to dispute the Bible by the speculations of men or the investigations of men"—after all this he suddenly fell down on—what do you think? The length of the day. In short, he was not sure that the day referred to in the Bible was twenty-four hours long. He was convinced—he stuck to this valiantly—that the sun was created on the fourth day; that for three days there was morning and evening without a sun, *but those days*—Darrow finally wrung from him—*might have been periods*. Even the obtuse Judge realized that Bryan himself had punctured his own case. And although, like Bryan, his Honor had resisted blandly all Stewart's frequent efforts to put a stop to the examination and so save the old gentleman—for toward the end Bryan did indeed seem both old and shaken—Judge Raulston now sharply brought down his gavel "Court," be announced sternly, "is dismissed until nine-thirty tomorrow morning."

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When the morning came he did his best to undo the mischief. Both he and Bryan had been reading the papers—as had Darrow, too. I wish you could have seen that glorious old warrior as, after the testimony, he sat tranquilly on the porch of the Mansion. He looked,

to use a familiar but ever expressive simile, like the full and contented cat that had just eaten the canary! But to return to Raulston—his own errors,—he explained in good plain English, were of the head not of the heart. "Yesterday," he continued, "I made a very grave mistake." Thereupon he ruled that Bryan's entire testimony be expunged from the record.

Promptly and serenely came Darrow's final and masterly stroke. In effect, he said that there was no doubt at all but that Scopes had taught that man had descended from a lower order of animals; that since he had not been permitted to prove that this did not conflict with the story of creation as taught in Genesis, there was nothing to be gained by argument. He therefore asked that the jury be immediately brought in and charged by the Judge.

Stewart, genuinely tired of the whole business, heartily disgusted with the performance of the day before, agreed promptly. The rest was a matter of less than forty-five minutes.

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The jury actually was summoned—for the first time since the second day of the trial. To them Darrow advanced and, arms folded, explained the status of the case. Frankly he said that the only hope to get a decision on the constitutionality of the law was to take it to a higher court. This, he pointed out, could not be done with a hung jury. It was essential that they should agree on their verdict. In nine minutes the twelve men had returned with it: "Guilty." Under the circumstances it was satisfactory to both the Defense and Prosecution.

Scopes, asked if he had anything to say, arose, stood before the Judge, made his first official utterance. The law, he stated, was, in his opinion, unjust. Briefly he gave his reasons. Therefore, he announced, he would continue to break it. Short though his appearance was, he made a pleasant impression.

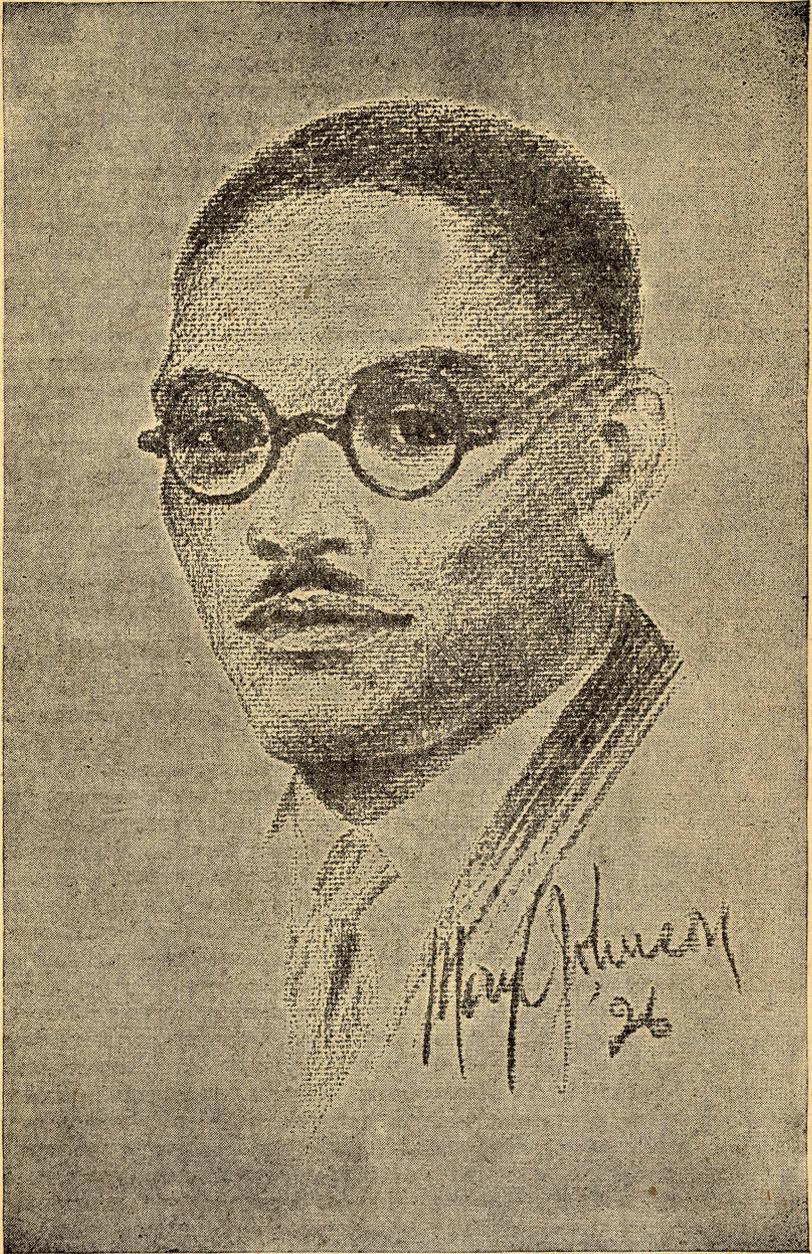
The Judge fixed his fine at \$100 and his bail (to appear before him in court on the first of December) at \$500. Mr Malone stated that *The Baltimore Sun* had wired its wish to act as bondsman and added that its offer had been accepted. The first round of the case of the State of Tennessee vs. John Thomas Scopes was over, with Darrow, apparently defeated, really the victor.

Typically, Malone arose to thank the people of the "great State of Tennessee" for the opportunity to test out this great issue. His speech, gallantly phrased, was greeted with delighted approval. Even as I left the court room I heard the indefatigable, tireless Mr. Hays say pleasantly to the once more smiling Judge, "Your Honor, I should like, for purposes of the record—"

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[Since I have sent the above impressions to Girard, Bryan has died. His death adds an authentic note of tragedy to the great drama enacted at Dayton.]

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Henry Sweet.

THE DEFENDANTS IN THE SWEET MURDER CASE

BY MARCET HALDEMAN-JULIUS

MET the Sweets in their own home. It was a bright Sunday afternoon—the eleventh of April—when with Alice, my eight-year-old daughter, I arrived at the apartment house in which they now live. The Detroit street, in a foreign and colored neighborhood, was none too prepossessing, and had a general appearance of being rather down at the heel, although this particular apartment house evidently had been quite recently built. It was spruce enough, and obviously occupied by people superior to those in the surrounding dilapidated old residences. Inside I found the cramped halls clean with freshly painted yellow walls, and as I climbed two flights of stairs I noticed that these were carpeted with well-swept rubber runners. On the third floor, a door stood open. In it, waiting to greet me, was a young colored man in his early twenties. It was Henry Sweet, the brother of Dr. Ossian H. Sweet.

I liked Henry at once. He is, in fact, an exceptional youth. Just twenty-two, about five feet seven in height, well built, brown in color (with typical Negro hair and a small mustache), African in cast of features, Henry is a student at Wilberforce College—a co-educational college for Negroes in Wilberforce, Ohio. He was just ready to enter his senior year when all this trouble started. Thanks to it, he has been obliged to stay out of college. During eighty-four days, last fall, he was in jail, and after the jury disagreed and (in November) he was admitted to bail under a ten thousand dollar bond, money was too scarce to justify his return to school, so late in the year, especially as the date of the next trial was uncertain. (Ever since the tenth of March it has been impending.) If Darrow is successful in his courageous and brilliant fight for justice and Henry is acquitted of the charge against him—the murder of Leon Breiner—he plans, once again he is free to shape his own life, to take his B. A. degree from Wilberforce, and then go either to Harvard or Columbia for his law course.

Henry is a gentle soul, kindly and courteous, full of the bright, high hopes of youth, and miraculously unembittered by the cruel ordeal through which he has been and is being put. His manner, considered from any point of view, is unimpeachable. Neither shy, nor aggressive, neither servile nor arrogant, he has the quiet poise of a youth, who, through great hardships, already has reached and passed several milestones along the steep upward road he has set himself to travel. Candidly, I got an impression of sterling character rather than of an unusual mind. He seemed to me neither much better nor less well informed than the average run of college boys I meet. I have no doubt that he will make a solid dependable lawyer, for he is the sort to do thoroughly and conscientiously whatever he undertakes. One instinctively has confidence in him. But he is not an intellectual person. Just a nice,

sensible, wide awake, ambitious but decidedly modest and unassuming youth—that is Henry Sweet. He was born in Florida and until three years ago, when he came north to Wilberforce, spent his entire life in that State. His whole background, like his accent and inflection, is Southern. I want you to see him very clearly because he is the storm center of the prosecution's attack.

After ushering us pleasantly into the tiny sitting room, he called his sister-in-law, Mrs. Sweet. Gladys Sweet is a striking woman. Do you remember the fairy tale in which a noble prince opens an orange, out of which flies a golden bird? Sipping from a crystal stream, the golden bird changes into a golden princess. Gladys might have been that princess. Her lovely skin, petal-like in texture, has much less yellow in it than the softest shade of fawn. Creamy tan, in tone it is midway between Houbigant's fragrant brunette powder and a light grain of wheat. When she becomes interested she flushes a delicate pink. Long thick lashes fringe her warm brown eyes which reflect swiftly her every mood. Sometimes there is a hint of dimples in her cheeks. Her wonderful dark hair seems at first glance to be jet black, but in the sunlight it is full of auburn glints. (When loosened, it hangs well below her waist.) Ordinarily she wears it Spanish fashion, parted in the middle, and coiled loosely at the back of her neck. It lies like cloth of velvet against her smooth face. Gladys is not beautiful—there are minor defects which forbid that supreme description. But she is most unusual and interesting looking. Add to this that she is slender, graceful, finely wrought, sensitive, aloof—and you will understand why artists often ask to paint her. As graciously but none too enthusiastically she gave me her slim hand I realized that here was a woman who, for all her appealing youth (she is just twenty-four) and her soft femininity, had been so chilled by the affronts life had offered her that she had quietly and proudly withdrawn into herself.

To understand Gladys Sweet, nee Mitchell, you must understand her background. It is the antithesis of that of Dr. Sweet and his brothers (Henry and Dr. Otis Sweet, a successful dentist in Detroit). The South and the soil of the South are in the veins of the Sweets. As a boy, Dr. Ossian Sweet plowed many a furrow behind scraggly mules, but Gladys' whole life has been spent in the North and in cities. Born in Pittsburgh, Pennsylvania, she was seven when her father brought his family (which consisted of only Gladys and her mother), to Detroit. There, in a well-paid orchestra, he earned a good livelihood. Also he gave piano lessons. The Mitchells were always in comfortable circumstances. They owned a car and a pleasant home. They respected themselves and were respected by their neighbors, all of whom, as it happened, were white. (Some of them testified most valiantly in Gladys' behalf at the first trial.) Not only were the Mitchells the only colored people in the block, but for a good many years Gladys was the only colored child in her grade. When she finished high school in Detroit she went to the Teachers' College in that city and graduated from it. Shortly afterward she met Dr. Sweet, and in about a year (1922) married him. In less than another year they went to France.

On the French liner, they were of course treated courteously.

Their stateroom was between those occupied by white people. In Paris, Dr. Sweet, whose specialty is gynecology, worked under Madame Curie. (He is, as are so many young doctors of the day, particularly interested in the effect of radium on chronic diseases, especially on cancer.) Later he went to Vienna, where he attended the Eiselburg Clinic. The civilized attitude of the French toward Negroes is too well known to make it necessary for me to elaborate upon it. Even so, perhaps, Gladys might have encountered petty insults from fellow countrymen sojourning abroad, but Dr. Sweet, who is considerably older (in his thirties I should judge), was always there as a buffer to protect her and make life easy and happy for her. It was only when her baby was to be born and she was rudely refused admittance to the American Hospital—to which Dr. Sweet, ironically enough, had contributed—that she was made smartingly aware of the fact that she was not white. French friends, fortunately, were not so prejudiced. In spite of this one unhappy incident, those days abroad were happy ones for Gladys, and the trip home (again on a French liner) was wholly pleasant. Moreover, Gladys' whole outlook on life was broadened and modified. Naturally drawn toward all that is finest, quick to assimilate the best, full of temperament and artistic feeling, she began to develop real charm.

Arrived in Detroit, the Sweets went directly to Gladys' parents, with whom they spent a happy winter. In the spring, they decided very naturally that they would buy a home of their own.

Now Gladys tells me—and I absolutely believe her—that when she went house hunting, she had in mind only two things—first to find a house that was in itself desirable, and by that I mean an attractive one that would meet the needs of their household, and second, to find a house that would be within their pocketbook. She wanted (what woman doesn't?) a pretty home, and it made no difference to her whether it was in a colored neighborhood or in a white neighborhood. Had she found this same little brick house—bungalow she calls it—in a colored neighborhood, she would have been just as pleased with it and just as eager to buy it. Again let me remind you that for seven years her family had been the only colored one in their block.

“But could you have found such a house in a colored neighborhood?” I asked.

“No,” she answered, “that's just it—I couldn't.”

Let me assure you that the neighborhood—not even a middle-class one—in which they did buy isn't one over which to become enthusiastic. The Sweets' house on the corner is the only really attractive one in it. Next to it on the left is a frame cottage owned by a piano-tuner. Across from them is a whole row of two-flat houses. Most of the people in them have Polish, Swedish and German sounding names, although many of them, I understand, have been born in this country and some of the others have become naturalized citizens. Directly across (Garland Avenue) from the Sweets is a grocery store. Diagonally across is a public school. Opposite them on Charlevoix is an apartment house.

“An apartment house!” I can fairly hear you exclaim.

Yes, just so, and as you can imagine, the people in it, who owned no property, were among those to proclaim most loudly that the Sweets' presence would depreciate property. They did, in fact—the renters and apartment house occupants—much to fan the flame. But while they talked and the storm brewed, Gladys thought only of where rugs and pictures should go, what furniture would be needed, and of the gay little flower garden in her pretty backyard.

"Wasn't your new home rather far from your husband's work?" I asked.

"Why should he be close to his work?" she returned. "He doesn't have his office at home and he makes calls all over the city. We were looking for something comfortable. Above all, I wanted a place where the baby could be out doors and have plenty of good fresh air."

"Of course," I commented mildly, "if I were to buy into a neighborhood, one of the very first things that would interest me would be the kind of people in it. I should want to feel pretty sure that my neighbors would be congenial."

"I took it for granted," explained Gladys, "that whoever they were I should have practically nothing to do with them."

She has, you see, a point of view not uncommon among city bred people. Moreover, Gladys is not a sociable sort of person. An introvert to begin with, she has not found many congenial friends in her own race and is not the sort to make advances toward people who feel themselves superior. She is indeed a lonely soul, who, while friendly and courteous to everyone with whom she has any dealings, does not stoop to petty alliances. Capable of deep feeling and deep loyalties, devoted to her husband, baby and home, but by no means wholly absorbed by them, interested in literature and in life, she has not yet quite found herself.

Frankly, I have come to know Gladys Sweet very well indeed, and the more I see of her, the more worth while I find her. I have been out there to dinner twice. We have been to see George Arliss together (in Galsworthy's very appealingly human but slight play, *Old English*.) I went with both the doctor and Gladys to hear Roland Hayes, and I was Gladys' guest at Eve Le Gallienne's production of Ibsen's *Master Builder*. We discussed the drama from all angles for at least a solid hour afterward. I have had her here to tea with me in my room at the Book-Cadillac (which is to Detroit what the Bellevue-Stratford is to Philadelphia, the New Willard to Washington). Hers is, I realize, a finely tempered and courageous spirit. For one so young, still so decidedly in the making, she has not a little real vision. I have found her a thoroughly delightful companion.

That first evening, as dinner time approached and Dr. Sweet had not yet arrived, she asked me very simply and cordially if I would stay for dinner. I said that I should be very glad to do so, and she invited me into the kitchen so that we could chat while she prepared the meal. By this time, little Iva, a curly-ringed brown baby, considerably darker than her mother, had waked up. She is just at that cunning age, not quite two, when she can produce single words and make very short sentences. She was bewitched with Alice, who showed her a picture book and borrowed from me some lovely carved amber

beads over which Iva's little fingers closed gently and delightedly. She is a dear wide-awake little girl, and Gladys, who is a very capable young mother, keeps her so daintily fresh that it is a pleasure to frolic with her. The whole household worships her and she is remarkably unspoiled. I felt a queer clutch at my heart when I thought of all that it might mean to her and to her mother if Darrow were not successful in his fight for justice.

And now while we wait, as I did, for Dr. Sweet himself to come, suppose while Gladys with Henry's genial help gets the appetizing supper and Alice entertains the baby—suppose I tell you the story, as I got it from the Sweets, of what happened on that tragic Wednesday night of last September.

It was on Tuesday, the eighth of September, 1925, that the Sweets moved into their new home. Now I want you to realize that this house (for which they paid eighteen thousand five hundred dollars) was purchased under no false pretenses. Dr. Sweet himself, who is a decidedly dark Negro, made all the negotiations. Both he and Gladys were out to see the property not once, but several times. Dr. Sweet sat on the porch and many of the neighbors saw him there. They knew who he was and what sort of a Negro he was, and they knew that he had purchased the house and purchased it not to rent, but for a home. I stress this point because I've been asked so frequently if the purchase was made through Gladys. It was not. The Doctor attended himself to the whole deal. They paid three thousand dollars down in cash and agreed to pay one hundred and fifty a month besides an extra one thousand a year. Through all the trouble that has ensued, they have kept up their payments. The Doctor has a large and successful practice. He is, moreover, by all accounts, capable and straightforward in business.

Six people went over, on that morning of September eighth, to the corner of Charlevoix and Garland. They were Dr. Sweet, Gladys, Joe Mack (who drove the Doctor's car, a Buick) Henry Sweet, Dr. Otis Sweet (a practicing dentist, whom I have mentioned before), his friend, William E. Davis (a graduate pharmacist and at that time a prohibition agent), and Henry's chum, John Latting. Both Henry and John expected to leave within a week for Wilberforce College, where Latting also is a student. School was to open on the fifteenth of September. Dr. Otis Sweet and Davis intended to room with the Sweet family for the winter. It was, including little Iva, to be a household of five.

The younger people that Tuesday morning were in a happy mood, as one usually is when moving into a new home, especially if the move has been long looked forward to and eagerly anticipated, but underneath the high spirits was grim anxiety. Dr. Sweet himself was full of anxious forebodings, for ominous rumors had reached him—rumors so sinister that although he had bought the house in June he had already delayed for three months his actual moving into it. You see, a wave of race prejudice, which for several years had been gathering volume, had at last burst with virulent violence over the whole length and breadth of Detroit.

"If I had known," Dr. Sweet later said to me earnestly, "if I had known how bitter that neighborhood was going to be, I wouldn't have

taken that house as a gift. But after I had bought it, I felt that I could never again respect myself if I allowed a gang of hoodlums to keep me out of it."

Much has been made of the fact that the Sweets did not take much furniture to the new home. This was obviously because they had been living with the Mitchells and had not as yet acquired very many belongings. The truck brought over, however, a bedroom set, odds and ends, besides trunks and food, and some kitchen equipment. Gladys' chief object on that first day was, as any housewife can easily understand, to get things clean. There was a hired man there to help line up things expeditiously. He also—Norris Murray is his name—is one of the defendants. It was by pure chance that he, as well as Joseph Mack, Dr. Sweet's chauffeur, was involved in the riot. Pawns, both of them are, caught in the cruel mesh of circumstances.

In spite of her solicitude over the outcome, Gladys—who is a very feminine type—felt serene in her confidence in Dr. Sweet's ability to meet emergencies, and more or less contentedly she set the college boys—Henry and Latting—and the hired man to work while Dr. Otis Sweet and Mr. Davis attended to straightening out some of their own various possessions and gave plenty of advice. Dr. Sweet, seeing that all was going well, departed for his office. They had a makeshift lunch, and, in the afternoon, Dr. Carter (a friend of the Sweets) gaily brought out the newly purchased dishes. In the late afternoon—after five o'clock it was—Edna Butler (an expert needlewoman who works for the Woman's Exchange) and Serena Rochelle (employed by a well known decorating firm in Detroit) came out to help Gladys decide positively what furniture would best fit the various spaces so that she could be as expeditious as possible when she and Dr. Sweet went down the next morning to make the actual purchases. The girls were enthusiastic and gave themselves up to happy planning. All you young housewives, who are just about to get again into your own homes after sojourning with even the most delightful of parents, can imagine how Gladys felt.

She was shaken rudely enough into a different attitude when one of the men noticed that people were coming along the street in more than ordinary numbers and pausing to look at the house. They passed—these strangers—repassed, passed again (Gladys watched one woman go back and forth no less than sixteen times). For on that first evening, the police did not, at the beginning, permit any one person to linger unduly long. They made some effort—or at least the appearance of an effort—to keep the people moving.

In spite of this, the crowd gathered so steadily that the two young women—Miss Butler and Miss Rochelle—felt timid about going through it and decided to spend the night with the Sweets. The exact size of the crowd is one of the big points of argument in the case, but it is certain that it was large enough to cause very real concern to the group of people whom it was so curiously and hostilely watching. Midnight came, and there were still from five to eight hundred people there. From time to time, groups of them (the Sweets heard later) gathered in little knots in the confectionery store on Charlevoix, next

to the corner grocery. It was about three o'clock in the morning before the ghoulish crowd dispersed. By daybreak all had scattered.

Now while this whole experience was unutterably disagreeable to Gladys, she was not exactly—on that first night—frightened by it. She had lived peacefully for so many years in Detroit that in spite of the outrages perpetrated against other Negroes, it just did not seem real to her that she, herself, could be in actual danger. This state of mind, however, was a very different one from that of the Negroes who had been raised in the South. And for very good reasons, as I shall presently explain to you.

Down in Florida, for several years Henry Sweet daily passed a wide-spreading tree. At first glance it was beautiful enough but it was laden, that tree, with lead from the guns that had riddled a Negro's body with bullets. With his own eyes, he saw the ashes (while they were still smoking hot) from which the charred remains of a lynched Negro (in Polk County, Florida), had within the hour been removed. Going down a dusty road one day (near Bartow, Florida, on Peace River) Dr. Ossian Sweet, then a boy, saw a crowd of some five thousand white people driving along a Negro youth. Fred Rochelle was his name. He saw them pour kerosene over him and set fire to the living flesh. With his own ears he heard the poor wretch's shrieks and groans. Hidden and terrified, he watched the crowd turn the whole occasion into a Roman holiday and, their victim dead, get gloriously drunk. He saw the morbid laughingly take pictures of the frightful scene, and then by the dozen pick off pieces of the burned bones and flesh to take home as souvenirs of their participation in the sadistic orgy. It is ghastly enough to hear about, I can assure you. (I have in common kindness spared you the more gruesome details.) I leave you to imagine what it must have been to see and what a profound impression it must have made on the mind and heart of a sensitive boy. Indeed, from their own first-hand knowledge of outrages perpetrated against Negroes, the Sweets had every reason to fear physical violence from that passing, re-passing, muttering crowd.

In the morning, however, as I have told you, the street apparently wore its normal aspect. Gladys' two girl friends left for their work, and presently Dr. Otis Sweet and Dr. Davis also left for theirs. About noon, Dr. and Mrs. Sweet themselves went downtown to purchase their furniture—a walnut dining-room set, two bedroom sets (they already had one) and some overstuffed chairs and a walnut table for the living room. Joe Mack, as usual, drove the doctor's car and Henry and John Latting with Murray, again hired for the day, had promised to have all spick and span by the time Gladys and Dr. Sweet returned in the evening. This they did just about the time people were going home from work. They were tired from their busy day of shopping, it was warm and Gladys sat down on the porch to rest for a little and glance through a magazine.

Three men (Leonard G. Morse, Charles B. Washington, and Hewett Watson), all from the Liberty Life Insurance office, stopped on their way home to see Dr. Sweet about some further details connected with a life insurance policy which he had recently taken out with them. As he is an examiner for that company he knew the men rather

well—although they are by no means intimate friends—and as Gladys was just starting to get dinner, Dr. Sweet invited them to take pot-luck. They accepted and three of them—the Doctor, Washington and Morse—presently started a quiet game of cards. Mr. Watson picked up a magazine and began to read an article on South America.

Washington, this is perhaps as good a moment as any to tell you, is a short, very dark, rather homely, wistful little man, of about thirty-five or so, a graduate of Howard University (in Washington, D. C.). He is an emotional type. His loyalty both to his race and to the Sweets is genuine and deep. Watson, also fine, whole hearted and intelligent, is very thin and angular, considerably lighter than Washington and just as tall as Washington is short. Together they inevitably remind one, by the amusing difference in their stature, of Mutt and Jeff. It was, of course, but accident that involved them in this tragedy. Morse is a nervous man. Not quite light enough to be called a mulatto, he is almost bald, of medium height, and is somewhere in his late thirties or early forties. When arrested, he became badly rattled and made statements which resulted in his becoming one of the three chief defendants. He is not a very stable character. He has moments of vision, of course, and a fundamental race loyalty, but you see it was not his home that was involved, nor are the Sweets, as I have pointed out before, particular friends of his. They are merely acquaintances. Therefore it is not to be wondered at if, as I surmise, he is chiefly concerned with seeing himself safely out of the whole bitter business. They remained—these three insurance men—after events began to shape themselves so dramatically, for two reasons: because on the whole it seemed quite as dangerous to go as to stay; and because they felt that only cowards could desert anyone under such circumstances as those in which the Sweets found themselves.

These three, then, with the two boys Henry and Latting (like Henry himself, a thoroughly likable, splendid young fellow), Gladys, Joe Mack and Murray were in the house as Gladys, with the help of Henry and Latting, got the dinner. There were, you see, in all nine people there and she knew that Davis and Dr. Otis Sweet would soon be home. Little Iva, I am glad to state, was safely with the Mitchells. Who, when there is an adoring grandmother available, takes a baby into the confusion of an unsettled house? Lucky enough for the tiny tot that she wasn't there. As Arthur Garfield Hays bitinglly commented in court, the fact that she was not with her parents was probably the only reason she wasn't arrested.

And now, before I describe to you the events of the next few terrible hours, you must meet Dr. Sweet, himself. In appearance, he is a well set up, broad-shouldered, quiet, firm-jawed, dignified man, with tired eyes, so dark that beside them his brown face seems considerably lighter than it really is. He has a small, black mustache, full, firm but not thick lips, nice teeth, and a good forehead. His whole head is well shaped and his face keen and alert in expression. One would, I think, surmise almost at first glance that he was a professional man. Also, even in a crowd, a careful observer would perceive that he was, in all probability, a college-bred man. In a quiet unostentatious way, he is well groomed.

Naturally an extravert, born with a gift for getting on with people, a natural leader, hospitable, and sociably inclined, he has been so hampered in his profession simply because of his color, has been so often insulted on the one hand and on the other condescended to, has been so lied to, deceived, robbed and humiliated merely because of his race that he has become a profoundly cynical man. Where Gladys thinks of herself simply as a human being—you can take my word for it that she is scarcely more conscious of the fact that she is a Negro than I am conscious of the fact that I am white—Dr. Sweet never really forgets his race. He bleeds with every Negro who is mistreated and triumphs with every Negro who achieves. He is keenly and shrewdly aware of all the weaknesses and shortcomings of his people. In spite of them, he has infinite faith in the ultimate future of his race. With him, race loyalty amounts almost to a passion. Meanwhile, wisely or foolishly, he makes many compromises. Quite debunked along religious lines, he does not, as does Gladys, frankly call himself an agnostic. For one thing, his father is a Methodist preacher (he owns a little place in Bartow, Florida, on which along with other things he raises a few oranges). Then, too, nearly all of Dr. Sweet's patients are church members. Moreover, they take their religion seriously. Very seriously indeed, and the Doctor, to put it plainly, does not like to antagonize them. A materialist, he comprehends thoroughly (perhaps almost a little too thoroughly), the value of money. To rise in his profession and to amass a substantial fortune—those are the two goals that early in life he set for himself. Never, for a moment, has he lost sight of them. He is, I may add, the sort of man who, white or colored, is destined to be successful.

He was only twelve when, grimly determined to make something of himself, he left home. He has been a bellhop, a waiter—in hotels and on board steamships—a pullman porter and a jack-of-all trades. The oldest of ten children, it is he, you see, who has blazed the trail for his younger brothers. For while he, himself, had neither financial help nor encouragement, he has been generous with both Dr. Otis Sweet and Henry. Not that these young men haven't had to work hard for their education. Even after Dr. Otis Sweet graduated from his dental course, he had to work a year, on the Wabash Railroad, as a waiter, to earn enough to equip his office, but Dr. Sweet was always there, as it were, in the background. At a pinch, he could be borrowed from, and there is for both the boys the stimulating thought that what he has done they too can do.

To digress a moment from Dr. Ossian Sweet, let me say that I first met Dr. Otis Sweet in his own office. Gladys took me there and we talked while he was giving her a dental treatment. With six people waiting in his reception room, I had not the conscience otherwise to take up his time. He is a young man of twenty-seven, and has been practicing for two years. Everything in his office was spick and span and sparkingly clean. Unlike his brothers, he was educated entirely in the South—at Florida State College, Tallahassee, and then at Meharry University (a Medical, Dental, Pharmaceutical college). He had in his office a quite imposing array of Little Blue Books. But although, as I watched him work, I saw that he was extremely skilful in the use of

his hands, he certainly impressed me as a happy-go-lucky sort of chap, who would much rather go to a dance than sit down for a quiet evening of reading. He has a merry face, and a general care-free manner. He belongs to the Acirema Club, a colored men's club, the 160 members of which meet for good times. He is a great baseball fan, a Methodist and lodge member, and Gladys says he is a very good mixer, but I found him, agreeable as he was, quite inarticulate. "The difference," Dr. Ossian Sweet explained to me later, "between Henry and Otis, is the difference between a Negro who has been educated in the North and one who has been educated in the South."

Of the three brothers, Dr. Sweet has decidedly the best mind. He, himself, was graduated at Wilberforce, Ohio, and from there went to Howard University, where he took his M. D. degree. During the war he was in the Reserve Officers Training Camp. The obstacles a colored doctor must face surely are so obvious that they need mere mentioning to be comprehended. Take, for instance, to cite only one of them, the difficulty of securing a desirable internship in a hospital where the best surgeons operate. The foremost hospitals say very virtuously and self-righteously (and indeed often quite truly): "We have no objection to colored internes, but our patients—."

"If I want to take a case to the City Hospital here in Detroit," Dr. Sweet explained, "I must practically turn my patient over to someone whose work perhaps I feel is inferior to my own. If I wish to give an hour's time weekly at any good clinic, my services are not wanted."

He does not, understand me, say these things vindictively. Rather he speaks with bitter patience. Surging through his thoughts is justified resentment. He is a capable surgeon. Moreover, without being in the least conceited or arrogant, he knows his own worth. (I have visited his well-equipped office and Dunbar Hospital where he operates, and I have discussed him at some length with various doctors, white and colored.) He is, in short, a proud, self-respecting man of brains, with few illusions, who intends, without minimizing the obstacles in his path, to succeed in spite of them.

He was, I very much suspect, in danger of settling down to becoming just a successful doctor and nothing more. Then this trouble started. It brought him—his trial, with all its implications—in contact with intellectual people. Heretofore the doctor's interests had run almost exclusively along scientific and racial lines. Now he met many literary folk and people who had delved into economics. He realized how many sincere broad-minded white people, as well as colored people, were interested in the race problem. Immediately after Christmas, he and Gladys went to New York, Washington, Baltimore and Chicago, in all of which towns (besides several others) the doctor spoke. (I am told he has a very pleasant platform personality.) His speeches were all made in an effort to help the National Association for the Advancement of Colored People raise a defense fund of fifty thousand dollars. This fund is to be used not only to help win the Sweet trial, but for the protection of other Negroes whose cases are now being fought by the National Association for the Advancement of Colored People.

From the moment I began to talk with Dr. Sweet about the events

that led up to the riot, I began to get an entirely new set of impressions. He is the head of the family, and, as such, feels responsible for the lives and happiness of these younger people, whose confidence in his judgment is so implicit as to amount almost to hero worship. This being true, and the situation in Detroit being what it was, it is no wonder he had grave misgivings.

"What I don't understand," I exclaimed, the first evening I met him, "is why the people in that particular neighborhood should have been so intense in their prejudices. There are plenty of other neighborhoods I am told, in which colored families live."

"Yes," interrupted Mr. Perry, the colored lawyer on the case, who happened to be with us (more about him later). "My wife and I have been living, until recently, in a house (a two-story flat) in which we, on the upper floor and a cousin's family on the lower floor, were the only colored people in the block. When we moved, another colored family took our apartment. In fact, my wife's aunt owns it. It is still the only house occupied by Negroes in the entire block."

"When Mrs. Stark bought her house," commented Dr. Sweet dryly, "a quarter of a million white people and something like seventy-five thousand Negroes hadn't come up to Detroit from the South. Those who were here, both white and colored, had the Northern point of view. They went their own ways and respected each other."

Vividly, sometimes rapidly, often dramatically, and always interestingly in clear, well chosen, well enunciated English, Dr. Sweet explained to me the race situation in Detroit. Later I talked with others on the same subject. Among those who seemed particularly well informed was Mr. Paul Dennie, of the Constitutional League, which was organized as a counter movement to the Ku Klux Klan. It was Mr. Dennie who told me that, at an executive board meeting of the Constitutional League last summer, it was the consensus of opinion that Detroit was more ridden with race hatred toward Negroes than any spot north of the Mason and Dixon line. Both Mr. Dennie and Dr. Sweet agreed that the Klan is the acute cause of the racial problem in Detroit. But the underlying causes of it go deep.

Since 1915, when Ford started paying five dollars a day, all sorts of scissor-bills and illiterate white people (besides some very fine types) have come north to take advantage of what seemed to them high wages. Most of them were already, when they arrived, filled to the brim with race prejudices. When the war came, and many young men were drafted, Police Commissioner Inches (an alleged Klansman) actually advertised extensively in southern papers offering inducements to men there to join the Police Department in Detroit. Each prejudiced man was careful to instil his own attitude into his friends. Slowly but surely the poison spread. A feeling of infinite superiority toward Negroes percolated through practically the entire police force. It percolated too through the men who worked side by side with Negroes in industry. (Be it said to Ford's credit that he has consistently employed Negroes in proportion to their number in Detroit).

About 1917, the Klan began to get in its deadly work. And while it is true that the Klan is not quite as active as it was, still you can judge for yourselves of its present importance in Detroit when I tell you that

four members of that city's present common council were, at the last election, endorsed by the Klan. (One of these members had been a former cyclops.) The campaign for mayor was distinctly a Klan and Anti-Klan fight. When in the winter of 1924-1925, the office of mayor became unexpectedly vacant the campaign was a straight Klan-Anti-Klan issue. Moreover, constantly the members of the Klan (and their wives) unofficially tried to impress upon the people in Detroit that their property would decrease in value if Negroes moved near it. (Even those who no longer care a snap for the Klan as an organization retain, today, the prejudices acquired while they were active in it.)

Meanwhile, the shortage of housing facilities in the so-called Negro quarters, is so overwhelming that colored people absolutely must scatter if they wish to own any homes. It is a vicious circle: race prejudice is fanned by the genuine fear of property holders that their own homes—often bought with great difficulty—will decrease in value, and this economic fear is played upon and draws its life from race prejudice toward the Negroes. Naturally, politicians take advantage of this racial economic situation and play it up for all it is worth. It is significant, I think, that it was shortly after that Klan-Anti-Klan campaign for mayor in the winter of 1924-1925 that this violent attack of anti-Negro hysteria struck Detroit. From early in March of that year (1925) one outrage against Negroes followed swiftly upon the heels of another.

It was in March that the house of a woman with a three-weeks-old baby was stoned and when she attempted to defend herself she was taken down to the police station. Less than a month later, a vicious crowd routed out a colored family from a block that bordered on a Negro neighborhood. Even colored families that had lived for years in one place were now intimidated and forced to move. Usually this was done by quiet means—they merely received threatening letters and vigorous warnings. Then came the case of Dr. Turner.

Like Dr. Sweet, Dr. Turner is a colored physician and surgeon. He had bought a house in a neighborhood, almost twenty miles from the one in which Dr. Sweet's home is. When he moved in, a crowd gathered, broke every one of his windows, tore many of the tiles off his roof, and ripped the lamps down from his ceilings. More, they backed a van up to his door, pitched his furniture into it, and at the point of a gun made him sign away his interest in the property. His wife, more spirited, refused to sign. The angry crowd took to stones, literally tore up his Lincoln car and the Turners barely escaped with their lives.

"Turner," commented Dr. Sweet, fine irony in his tone, "always had the greatest confidence in the word of white people; he felt that they belonged to a race superior to his own. Consequently, when they wanted to enter his house, to rob him, it wasn't necessary to break down the door. It was far simpler to deceive him. One of the leaders simply knocked, and when Dr. Turner came to the door said, 'Open Turner, I'm your friend.' Turner believed him and opened the door. The next moment he was dough in the hands of the mob."

Now Dr. Sweet had bought his home before this Turner episode occurred. Less than two weeks afterwards, V. A. Bristol, a colored undertaker, was forcibly prevented from occupying his property.

Bristol, it seems, had bought his lot years ago before Sweet had even finished his medical course. As time rolled by, and land increased in value, Bristol decided to build a house—to rent to white people. The two white families that occupied it in succession took advantage of the fact that their landlord was a Negro, and would not pay their rent. As he could neither afford to lose this money nor bring a steady succession of lawsuits, Bristol at last made up his mind to rent to colored people. But every time a colored tenant was ready to move in, the neighborhood intimidated him. There was the house—empty. His money was tied up in house and lot. He concluded that there was only one solution for him—to move into the house himself. In this particular case, it was the women, presumably wives of Klansmen, who were most on the rampage. One woman went so far as to stand on a box and shout hysterically, "If you call yourselves men and are afraid to move these niggers out, we women will move them out, you cowards!"

Other cases followed, but I will tell you of only one more, that of Fletcher, a waiter. The man next door to the house into which he moved had just had two tons of coal delivered. Not a piece of it was left, by the time the crowd had finished its demonstration. Terrified, Fletcher shot and wounded one of his tormentors in the leg. But as it chanced, he had friends high in power and never was indicted. *It is significant, that since the Sweet trouble, no colored family has been molested.*

What was happening was that little so-called Neighborhood Improvement Associations were springing up all over Detroit. Their avowed purpose was, of course, to further and support neighborhood improvement in general, but their real reason for being was to keep their vicinities free from Negroes. The man who lectured at the organization of the Improvement Association in Turner's neighborhood was the very man, Dr. Sweet said, who came over to lecture at the organization of the Improvement Association in the Sweet's neighborhood, near Waterworks Park. He spoke at the Howe School, diagonally across from the home Sweet had bought in June. He spoke moreover to an overflow meeting. In fact, it was such a large meeting that they were compelled to move into the schoolyard itself. Unobserved, many white Negroes were purposely in the audience, but when the trial came up, it was not necessary to call any of them as witnesses for the reason that the State's witnesses admitted that one of the chief purposes of the Waterworks Park Improvement Association was to keep out Negroes from that neighborhood.

As I understand it, these people, some of whom are foreigners, were not particularly hostile to Negroes until they were all stirred up by this meeting, which many of them had attended in the first instance merely out of curiosity. But by the time they had been made to feel their own infinite superiority to a quiet law-abiding American family (for three generations—since slavery at least—the Sweets and Mitchells have lived in this country); by the time these noble nordics had been made to realize what a terrible thing it would be for them and their property (if they had any), if a well-bred, well-educated, well-off family of darker color than their own moved into their neighborhood, they were all ready to start trouble. Such movements, it is scarcely neces-

sary to remind you, like revivals, go in waves. Fundamentally, people are like sheep. Evidently, the people in Detroit are no exception. The bitterest man in the neighborhood, it may interest you to know, was an Assyrian.

Now perhaps you have a pretty clear idea of the general state of Dr. Sweet's mind as he sat that hot September evening playing cards with his acquaintances, while Gladys with the boys' help got supper, Mack looked after the car, and Murray did those last bits of cleaning that round up a day's work, intending as soon as he had his supper, to go home. I want you, if you can, to put yourself in the Doctor's place, for I have yet to mention the case casually to a Detroiter that I do not hear the same comment given in a hard tone: "He was warned, he knew what he was getting into, and he went right ahead and invited trouble." Apparently, it does not strike them that to warn a man not to enter his own home is the very height of lawlessness. I want to impress upon you this: that Dr. Sweet has not only race consciousness, but a race conscience. He felt keenly that each Negro who allowed himself to be driven from his home made it that much harder for the next Negro to own desirable property. It was high time for someone to have more firmness and courage than had been shown heretofore by any of the intimidated Negroes. It was time, too, for someone to have more faith in the rights of an American citizen. It is those rights, let me remind you, not merely the Sweets themselves, that are now on trial, and for which Clarence Darrow fights.

Gladys was having roast pork—fresh ham they call it up here—baked sweet potatoes, mustard greens, and had beaten up a cake, which, with ice cream and coffee, was to be dessert. From time to time she noticed the men as they played, because as her dining-room table had not yet arrived, she wanted, as soon as they finished their game, to use the card table for their dinner. It was a dinner that was never to be eaten.

Suddenly she and Henry heard an exclamation, "My God, look at the people!"

Gradually they had been gathering as they came from work. Looking through the windows and screen door, the Sweets and their friends saw a crowd that even as they watched grew from instant to instant. Already the schoolyard was full! So was the space around the grocery store! People were in the alley, on the porches of the two-flat houses opposite! Cars were coming and parking—two deep—and people were no longer moving. They were a seething, staring, shouting mob. Stones began to fly, and to add to all the tension, the air grew heavier and hotter. With Turner's and Bristol's experiences vividly before them, all the lynchings of which the surrounded Negroes had heard and which with their own eyes they had seen, surged into their minds. Fear gripped them.

The temper of the crowd can be judged from the fact that three Negroes on their way home were attacked as they passed, in their car, on the outskirts of the mob. The police, some of them property owners in that very neighborhood, either could not, or at least did not, make any effort to disperse the gathering which was rapidly taking on the intensity of feeling and hysteria that ends in a riot. In the midst of the ten-

sion, a taxi chugged up and out stepped Davis and Dr. Otis Sweet. They had not known, until they approached the vicinity, what was transpiring. Naturally, their first impulse was to rally to the Sweets, who were only too obviously in grave danger. The two young men fled into the house under a literal barrage of stones, coal, rocks and brick bats of every kind and description.

"Niggers! Niggers!" the crowd shouted "they're niggers—*Get 'em!* GET THE DAMN NIGGERS!"

In the turgid atmosphere, the hot, tired crowd that for more than an hour (it was now about eight o'clock) expectantly had been waiting for something exciting to happen, eagerly took up the cry. It was a match to dynamite.

It was this cry that Dr. Sweet heard as he courageously opened the door for his brother and Davis. "When I opened that door," he said, "to let them in, I realized that for the first time in my life I stood face to face with that same mob that has haunted my people throughout its entire history. I knew that my back was against the wall, that I was black, and that because I was black and had found the courage to buy a home, they were ready to wreak their vengeance upon me. The whole thing," he added with a quiet, dramatic intensity that even now gives me the shivers, "the whole situation filled me with an appalling fear—a fear that no one could comprehend but a Negro, and that Negro one who knew the history behind his people." Henry expressed the same thought more simply: "It looked like death if we tried to hide, and it looked like death if we tried to get out. We didn't know what to do."

What they did do was to pull down the blinds and simply wait, hoping against hope, panic-stricken in the half dark. Up to this point the mob had been merely vicious and noisy. A window had been broken and the stones had been falling. It was enough to strike terror to the bravest heart, but from the time Otis and Davis went in, it became a riot. The little group within the house felt desperate. When shots rang out and they thought that they were actually being fired upon by that angry, excitement-hungry mob, they scattered wildly to different parts of the house. Crowded to the wall, attacked, they were in danger of their very lives. Shots were fired now from within as well as from without. Pandemonium reigned.

In the midst of it a group of policemen entered the house. With the mob still outside, they flung up all the shades, turned on all the lights, recklessly exposing every Negro in the house to full view, and arrested them all. Roughly—with the notable exception of one policeman, Mr. Hays, of whom the Sweets speak most gratefully—the officers hustled the men into a hastily summoned patrol wagon which took them to police headquarters. The crowd was now handled peremptorily enough. Soon Mrs. Sweet was taken, by way of the front door, to a Ford car. As she stepped into it the people jeered and applauded. She, also, was driven to the station.

It was there that she and the others learned for the first time that a man had been killed, and a boy wounded. They asked to be allowed to use the telephone to call a lawyer, but this request was refused. Instead they were taken separately and questioned one after another

from ten o'clock until between three and four in the morning, at which time, they were told they were all charged with murder. Late Thursday afternoon, they were formally indicted for the murder of Leon Breiner and for assault (with intent to kill) upon Eric Houghberg.

By this time, Mrs. Mitchell, Gladys' mother, had secured the services of three colored lawyers, Julian Perry, Cecil Rollette, and Charles Mahonay—but they were not allowed to see their clients. Accordingly they secured a writ of habeas corpus compelling the State to produce them in court Friday morning. Writ or no writ, when Friday morning came, the Sweets and their friends were not there. In explanation, the assistant prosecutor asserted that the feeling was so intense that he dared not bring them. Instead he produced the warrants. Perry and his associates thereupon proceeded to go over the assistant prosecutor's head, and finally saw Dr. Sweet and the others between three-thirty and four o'clock on Friday afternoon. They had been arrested, remember, Wednesday evening! Saturday they were arraigned.

Things looked pretty gloomy. Dr. Sweet was attempting to secure the services of Thomas F. Chawke (generally conceded to be one of the most brilliant lawyers in Michigan) when the National Association for the Advancement of Colored People, realizing that there was far more involved in the case than the safety of the Sweets and their friends, sent Walter White, their assistant secretary, to Detroit to find out the exact facts. He investigated them thoroughly, and went back at once to New York, where at the home of Arthur Garfield Hays, he interviewed—Clarence Darrow. Darrow, always instinctively and irrevocably on the side of justice and the oppressed, became at once interested and so did the Civil Liberties Union. Darrow came to Detroit on the twelfth of October to get an adjournment until the thirtieth of that month, while he lined up for battle.

All this time, the whole group of Negroes (accused of murder), including Mrs. Sweet, were in jail. During the thirty days Gladys spent there, she was in a cell with three other young colored women. One was charged with murder, one for breaking a prohibitory law, and one for jumping her bond. Gladys told me that she never felt quite real during her stay there. It never seemed to her that she, Gladys Sweet, really could be behind bars, involved even indirectly with so terrible a charge as murder. It was all a hideous dream, from which she must surely awaken. Some things just simply don't happen to one! That a quiet, reserved, law-abiding woman like herself should have been there at all, was incredible enough. That she should be there, charged with murder, was fantastic, and that all this ghastly farrago should have been brought about merely because she wished to move into a pretty little house in a modest working-class neighborhood made her feel as if she were living in a world gone suddenly mad. After thirty days, in spite of the protests of the prosecution, Judge Murphy had the good sense and the courage to grant Darrow's demand that she be admitted to bail. But the rest involved in the case were held until the end of the trial. Then, the jury disagreeing, all were released under \$5,500 bonds each, with the exception of Dr. Ossian Sweet, himself, Henry Sweet and Leonard Morse. These three were each put under \$10,500 bonds. The State, in order to win its

case, was obliged to prove either that there was a conspiracy to shoot to kill, or they had to prove that one particular person fired the fatal shot. Many people think Breiner was shot by a policeman or even by one of the members of the crowd itself. He was, you must understand clearly, a part of it. The current story that he was sitting on the steps of his own home, is pure fiction. He did, however, live in the neighborhood. When the jury, after forty-six hours, returned to the court room to deliver its verdict, they reported a disagreement of seven to five. It is generally believed that the seven were for acquittal, the five for conviction.

Now, with all these facts clearly in your mind, you will, if you please, join me again in the Sweets' tiny apartment. It is furnished with some of the pretty new things purchased the day of the riot. Most of them are still in the house, now padlocked against vandalism. There is, in the flat, a small living room, a dining room, a kitchen, and two bedrooms. In spite of the fact that the Sweets feel that they are, so to speak, camping there, it is quite pleasant. Naturally, with her own pretty house waiting, Gladys can't feel exactly enthusiastic about this little temporary home. There is no place there for her baby to play unless she takes her down two flights to the very unattractive street (a street which like most of those in foreign and colored quarters is none too carefully looked after by the city fathers). And although their windows face west and there is plenty of sunshine in the afternoon so that the rooms are by no means gloomy, it is trying to think of the pleasant quarters and nice little yard, which must remain unused.

I liked the easy way in which Gladys accepted my presence that first evening. She made me feel entirely welcome, and quite obviously was not—as so many women would have been—in the least disconcerted by two unexpected guests. And when presently John Latting, Henry's friend, arrived from Wilberforce, she asked him just as easily if he too would stay for dinner. He accepted and when presently still another young chap came in, she invited him also. He was, I learned, also a Wilberforce boy, but this year he is working. Next year, he will go again to college. That is his method—work a year, go to college a year, work, college, and so on. Quite as a matter of fact he expects to take eight instead of four years for his education. She put the three young men to making ice cream, and chatted along easily and interestingly as she worked. Just before dinner was ready, she went into the bedroom and returned in a lovely dress of pompeian red. It made her look exotic.

With nice dignity she seated us at the table and took her place at its head until Dr. Sweet should arrive, which he did very shortly. Then Gladys arose at once and sat at the opposite end. What kind of a table did they have? Exactly such a table as the big majority of you have in your own homes. Everything at the Sweets is pleasant and well ordered, but there is not the slightest effort to be pretentious. At dinner the tablecloth and napkins are fresh and snowy white. For lunch, Gladys uses the blue Japanese cloth that at present is so popular. The dishes are pretty but not exceptional. The Doctor himself served the meat and the vegetables, which were placed beside

him at the beginning of the meal. They are good substantial folk. There were eight of us at the table, including little Iva, who sat in a high chair by her father. She was, I thought, a remarkably well-behaved baby. In due time, Gladys cleared the table, and brought in dessert—the ice cream the young men had made and the cake she had baked as she talked with me. It was, I can assure you, a delicious dinner. I enjoyed it and enjoyed even more my host and hostess. You may take my word for it, my friends, that the Sweets are thoroughly likeable, charming people.

CLARENCE DARROW'S DEFENSE OF A NEGRO

BY MARCET HALDEMAN-JULIUS

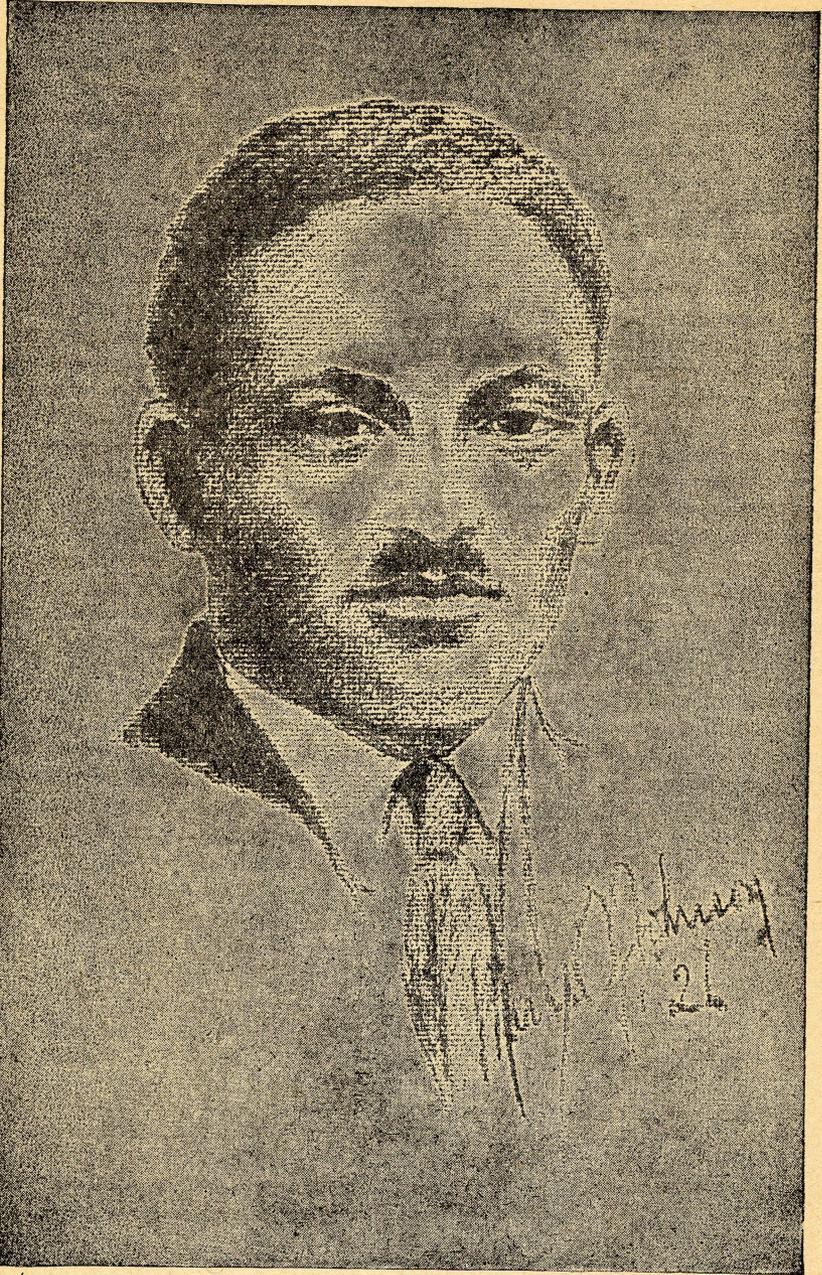


ON the twelfth day of July, 1925, the *Detroit Free Press* carried on its front page two big-headlined columns. One related details of the brilliant and now world-famous battle which Clarence Darrow was then waging with the bigoted Fundamentalists of Tennessee. The other, by a dramatic coincidence, chronicled the very events which were soon to bring him to Detroit. It told of recent race riots there; of a gathering at which 10,000 people had been addressed by a man who, "standing," so that second article ran, "on a platform illuminated with the red glare of fiery crosses, advocated a law to compel Negroes to live only in certain quarters of the city." It printed in full the statement of the Mayor of Detroit (a solemn warning to the people of that city to stop rioting) and ended with the announcement that a meeting would be held in the Howe School (at the corner of Garland and Charlevoix) which all people in the neighborhood of Waterworks Park had been urged to attend "in self-defense." (The quotation marks are the newspaper's.) It was this meeting (diagonally across from Dr. Sweet's recently purchased pretty brick home) that precipitated all that followed and plunged Clarence Darrow into a fight quite as far-reaching and important as the one in Dayton.

For at this meeting, attended by some six or seven hundred people, a so-called Improvement Association was organized. (How I wish you could have heard Darrow tear from equivocating state's witnesses the reluctant confession that its real object was to drive out the Sweets!) Two months later its members and adherents formed the nucleus of the mob which, on September eighth and ninth, assailed Dr. Sweet's household. During the riot, Leon Breiner—one of the hostile crowd—was shot and killed. Immediately all of the eleven people in the house were charged with murder. In defending the attacked group of people Darrow took up the cudgels for all unjustly persecuted Negroes. (There were times in this trial, just concluded, when Henry Sweet sat almost as much forgotten in the larger issues involved as was Scopes in those of the evolution trial.) For to everyone in that tense courtroom packed full of people—from the jury itself to the humblest spectator—Clarence Darrow brought home the realization that to convict this steady, conscientious young colored man simply because he had done his share in defending his brother's home and the lives of the little group within it, would be—to quote Darrow's own majestic words—"to make an attack upon the Constitution itself and to become like blind Samson in the temple seeking to tear down the very pillars that protect us all."

IN THE COURTROOM

Picture to yourselves an impressively simple, gray and ivory room some sixty feet long and fifty feet wide. Marble-floored and mar-



*Dr. Ossian H. Sweet, Whose Home Was Attacked by a White Mob
in Detroit.*



Gladys Sweet, Who, With Her Husband, Dr. Ossian H. Sweet, Was the Victim of Race Hatred in Detroit.

ble-wainscoted, mahogany-furnished and well but softly lighted by three large shaded windows, it is divided straight across its width into unequal parts, the smaller of which is for spectators. The larger portion is the well of the court. In it, at the far end of the room on a raised platform, facing the spectators, is the judge's long bench and inset into one end of that is the witness box in which some sixty-odd men and women grimly, cautiously, and deliberately misrepresented the truth. Just below the judge, their backs to him, the clerk of the court and one of the four officers who helped to maintain order sat at a long desk. To their right and left were small tables—the one for an extra officer upon occasion, the other, just in front of the witness box, for the court stenographer

Along the wall, to the spectators' left, was the prisoner's bench. During the first trial this was occupied by Henry and the other nine men who were his co-defendants. (Gladys Sweet was out on bond.) At the end of the trial, when the jury disagreed, Judge Murphy had the courage to admit them all to bail. Having failed to get a conviction when he tried the eleven, including Mrs. Sweet, all together, Prosecutor Toms determined to pursue another method and try each singly. As Henry had admitted both that he had been armed with a rifle and that he had shot it (none of the others had confessed to firing), he was the logical one to be selected first.

Against the south wall were the double rows of jury chairs. In the very center of the enclosure were two long tables. The one was for representatives (colored and white) of the press; the second, with only the stenographer between it and the witness box, was for counsel. At it sat eight men. On the side next to the jury were Robert M. Toms, prosecuting attorney for Wayne County, his assistant, Lester S. Moll, and Lieutenants Johnson and Hoffman, the two detectives of the homicide squad who, summoned immediately after the Sweets were taken to Police Headquarters, helped the prosecutor secure all his evidence and develop the case against them. On the other side were Julian Perry (the one colored lawyer retained for this second trial), Henry himself, Thomas F. Chawke, and Clarence Darrow.

Robert M. Toms is a tall, pleasant and round-faced, blue-eyed, fair-haired, affable man about forty who makes friends easily and wants all people to like him. His manner toward Darrow, whom he warmly admires, was courteous, even deferential. Darrow, always inclined to be paternal and friendly in his attitude toward younger men, especially toward those whose minds seem to be partially open, consistently alluded to him as "a nice fellow." It was a phrase into which he fitted snugly and one frequently applied to him.

Yet it is a fact, not to be ignored, that although during the last twenty-two months fifty-five Negroes in Detroit (some of them taken on the flimsiest suspicion) have been murdered in cold blood by arresting officers (and this in a state which does not believe in capital punishment) not one of these policemen has had to face trial. (One poor creature, Sims, was shot while complying with the officer's demand that he raise his hands!) And had the Sweets been white instead of colored, and their persecutors Negroes, it is not likely that Toms ever

would have permitted the attacked group to be indicted. Moreover, everyone alleges that if he does not actually belong to the Klan he is entirely in sympathy with it. Certain it is, that during the last six months he has appointed three assistants of whom two (one of them a son of the local Cyclops) belongs to the order. And while he does not fail to emphasize that he also has appointed one Negro assistant, this man was at once put on the assignment desk and has never plead a case in court. A pleasant, kindly, gregarious, ambitious, but not unduly strong character, is Toms; in short, an A No. 1 second-rater.

Lester S. Moll has been in the prosecutor's office as an assistant for some years. Tall, very dark, good looking, arrogant, he is inclined, in court at least, to be somewhat surly and belligerent in manner. For reasons which I was not able to ascertain he showed in many unmistakable ways that he felt himself vastly superior to Negroes. Quite obviously he entertained for Dr. Sweet (whom he slurringly referred to as "quasi-intelligent") a definite, although by no means vindictive, personal dislike. It is a dislike which the colored people of Detroit thoroughly reciprocate. (I didn't hear a single Negro say a good word for Moll.) Tight-minded is the word that most accurately describes him. He belongs to the vast army of those who "have nothing against Negroes but believe that they should keep in their place"—which rubberstamp should immediately enable you to comprehend his entire attitude. Not a mean man, mind you, nor a cruel one, nor one to take an unfair advantage. On the contrary. But he is saturated with deep prejudices and quite convinced that had the Sweets not "shot too soon" the officers could, and would, have protected them. On the whole, I really think the case to him was chiefly one of routine business.

Lieutenant Johnson, even taller than Moll, who is taller than Chawke, who is taller than Darrow, who is a tall man, is very blond and a true Nordic both in appearance and in temperament. He and Hoffman were the High Keepers of all the photographs, guns, bullets, rocks, and records in the case. It was Johnson who very kindly took my little daughter Alice and myself through the Sweets' pretty, roomy house which, you must know, has been padlocked ever since the tragic night of the ninth of September. (But although unable to occupy it and therefore forced to rent an apartment, Dr. Sweet has, with infinite confidence in Darrow and ultimate justice, continued to make the monthly payments of \$150 and the two semi-annual ones of \$500 called for by his contract with the man from whom he purchased the property.)

"What're they goin' to do with this place?" the officer on guard asked us.

"I suppose the Sweets will live in it when they are all acquitted, don't you?" I suggested mildly. The look he gave me was droll in its utter incredulity.

Lieutenant Johnson only smiled in a non-committal, genial sort of way—I found him a likable sort—and pointed to the telephone. "There it was," he explained to me, "all connected up on the night of the shooting. Now, if they were as frightened as they claim to have been, why didn't they call up Headquarters and ask for more protection?"

More protection, indeed! When there were already eight policemen

and three officers outside, not one of whom was stirring a finger to disperse the steadily gathering crowd! A crowd which, by the way, the prosecution tried valiantly, but in vain, to convince the jury never existed.

Julian Perry, Henry's friend and lawyer, is a light mulatto. (I wish I had the space to tell you of his quaintly charming wife, Prudence, whose name just fits her. A graduate of Ann Arbor, she teaches colored and foreign children in the Detroit public schools.) Mr. Perry hails from North Carolina. In 1919 he graduated from Howard University and was admitted first to the District of Columbia bar and, later settling in Detroit, to the Michigan bar. He is a lively executive type of man with a natural interest in affairs. Politics is his avocation and he has run for the Republican nomination for State legislature. "Not that I expected to get it," he added with a quite engaging frankness, "but I thought it would set our people to thinking." Much of the grind of the trial fell to Perry's share. He was always on the job, attending to innumerable details. But because of the particular nature of the case and the fear that he might antagonize the jury he did no pleading. That was left entirely to Chawke and Darrow.

Thomas F. Chawke is a big man. (Positively I felt in that Detroit courtroom as if I had arrived suddenly in a land of giants!) Well proportioned, with a splendid, rather long and always sleek dark head, he has keen, clear gray-blue eyes which swiftly and surely appraise every witness. As watchful of details as Arthur Garfield Hays, he has, it seems to me, considerably more fire. He showed witness after witness for the prosecution to be lying. There was a cannonading force in the way he flung out many of his battering questions. One could quite believe the often heard statement that he was "the best criminal lawyer in Michigan." And while one could not call him exactly a social-minded man, he certainly has the capacity to identify himself to a rare degree with his clients. Like Darrow he gives them not only his best services but also his entire sympathy and understanding. Thus it fell out that, while he never has been a particular champion of Negroes and (I feel quite sure) this case was to him at the beginning simply a plain murder case into which he entered in much the same spirit that he had entered dozens of other interesting lawsuits, he became, once he got into it, more and more deeply interested in all its implications; more and more concerned for the issues involved in it. His final summing up was both brilliant and dramatic. Listening to him one felt as if marching to the martial music of a band. His vigor, his activity (he takes stage freely, moves about a great deal, always stands when he is cross-examining and speaks in a full, strong, ringing voice) brought out in sharp contrast, enhancing it, the quietness and extreme simplicity of Darrow's own more subtle method. The very headlongness of Chawke's vitality emphasized all the ripe repose of the older man. They made—as results were to prove—a glorious and invincible team.

But always the dominating figure, throughout the entire trial, was Clarence Darrow. Tall, rugged, with broad, slightly stooped shoulders,

there is about him the quality of a great, majestic ship, or some mighty oak, that has weathered many a storm. I know of no one else in whose face are so blended ironical wisdom, warm kindness and austere strength. His is a magnificent forehead that proclaims a mind compact with thought, the aggressive nose of a fighter, the deep-set blue eyes of a man born to dream greatly, the firm square chin of one tenacious of his convictions. Together they have made inevitable the lines which are the scars of his many long, successful battles. Never has Clarence Darrow prosecuted a man for murder. Never has a man defended by him been hanged. He is a born protector of the misunderstood, the persecuted, and the oppressed. There are moments when his whole combative face fills with beautiful benignity.

In Detroit he was in more formal mood than when at Dayton. The famous galluses were safely hidden under well-pressed vest and coat. No one caught even so much as a hint of them. Almost invariably his gray hair was neatly brushed. I never before saw him look quite so trim. He was rasped and ruffled by the persistent quibbling prevarications of prosecution witnesses—and worried constantly by the consciousness that however brilliantly he might plead for Henry there lay ever between that young man and his liberty the unalterable fact of his color, but through it all he contrived to remain his own gruff, good-humored self. I was not the only one who marveled at his patience. To a comment on his ability to sit on the sidelines and laugh he returned. "A man would go crazy if he didn't." The day on which he made his final argument, he spoke for seven solid hours! There was literally not a spare inch in the courtroom. Chairs were carried into the court enclosure and then still more chairs were brought. Except for their elevation, it was hard to tell where the jury began and ended. People all but swarmed up to the judge's bench. Everyone who could get in was determined "to hear Darrow." And what a plea it was! It lifted all who heard it to his own high peak of vision. By its flaming earnestness it tore our hearts.

Meanwhile, every day the courtroom was full. At the afternoon sessions the spectators' section often was tightly packed. There were, you see, just two rows of four long benches, each of which accommodated eight. Within the court enclosure there were three more of the same length. Chairs seated about ten, so that only one hundred or so could be comfortable. All the rest of the three to five hundred people that could be squeezed in stood. Others were turned away.

At least two-thirds of the spectators were Negroes. From folk so dark that one could scarcely tell where the skin ended and black kinky hair began, they ranged in color through every shade of brown, champagne, and ivory to fair-haired blue-eyed people with skins of pearl in whom their race was imperceptible. If I had not been told the truth I can assure you that I never should have guessed it. The variety in type was quite as striking. There were toil-bent people and successful-looking business men; artists stamped with modernity, and a wistful, wrinkled little woman whom Judge Murphy thoughtfully decreed always should be admitted and safely seated. But however they varied, those faces in the spectators' section, there was in them all the same vigilant anxiety. Patient in their suspense, all hung on Dar-

row's every word and marked well Judge Murphy's every ruling. Only occasionally allowing themselves a low contemptuous laugh at some too flagrant prevarication or an approving murmur at a quick and just retort, they listened for the most part silently, scarcely seeming to move through the long days as minutes spun into hours while one race sat in judgment upon another. They knew only too well, those intent colored folk, that the real question being fought out there was not one of whether or not the Sweets had been justified in shooting. No disinterested person could doubt it. The question was one which went to the very roots of the Negro's future in this country. Was or was not a colored man a citizen with a citizen's rights?

Inside the enclosure were Negroes whose achievements have won them national recognition. There was the towering portly figure of Dr. Joseph L. Johnson (he is six feet one), United States minister to Liberia during the trying and troublesome years of the World War and the last man appointed by Wilson to be called home by Harding; reticent James Weldon Johnson, the poet, whose fine bearing makes him a distinguished figure in any assemblage; delightful, brown-haired, gray-eyed Walter White, the novelist, who mingles, equally welcomed by both, with white and colored folk. Others, not colored, came and went. We often saw Ann Harding (best known for her fine work in *Tarnish*, now in Detroit for a season of summer stock), flaxen-haired and cameo-faced, a wind flower among pines. Sometimes she was accompanied by Rollo Peters, undoubtedly one of the best of our younger actors. When Jeanne Eagles arrived in town with *Rain*, she too came to court. The whole splendid spirit of her glowed in her eyes as she listened, intent and deeply sympathetic. With her and Mrs. Darrow was Anita Loos, in Detroit for a week while she whipped into shape the newest comedy by John Emerson and herself, *Gentlemen Prefer Blondes*. And I shall never forget Charles Edward Russell. As Mr. Toms was trying, in vain, to confuse Edna Butler, a young colored woman, Mr. Russell (who happened to be sitting next to me) whispered, a flash of scorn in his fine expressive face, "I'd rather be a collector of garbage than a lawyer. It's the lowest occupation known to man." At least once a week there were both white and Negro students from Ann Arbor. Mrs. Louis Gomon, secretary of the Rationalist Society in Detroit, scarcely missed a session. Nor did Mrs. William M. McGraw, always to be found in the vanguard of every fight for justice. Indeed, the list of broadminded Detroit people who attended the trial is a long one. Many of them conventional and conservative, interested at first only because of Mr. Darrow's connection with it, said frankly that it all had been to them an education—never again would they have their old indifferent, uninformed attitude toward Negroes.

But in spite of the intensity of feeling which often stirred the people in the courtroom (and make no mistake about it, the tension often held one breathless), few cases of such importance have been tried more quietly. There never was any rude jangling between lawyers, never any noisy demonstrations from the spectators, never anything but courtesy from sergeants keeping order. It took its tone, the atmosphere of that courtroom, from the man who presided over it—Judge Murphy.

Frank Murphy was elected two years ago on a non-partisan ticket by one of the largest majorities ever cast for a judge in Detroit. Recently appointed to the national commission for the study of crime and its correction, he is, at thirty-three, the youngest jurist in a court of record in Michigan. He comes from a long line of Irish idealists. His father, when a lad, was imprisoned and all but put to death for the cause in which he believed, and his grandfather lost his life in one of the Irish revolutions. The judge's mother, Irish too, a woman of rare tact and feeling, implanted in her sons her own tenderness and tolerance for all humanity. Brought up in the little town of Harbor Beach, but always surrounded by people of broad sympathies, Murphy was educated in turn at Ann Arbor, Harvard, Lincoln's Inn (London), and Trinity College (Dublin), where he was an open sympathizer with the Sinn Feiners. A week after this country entered the World War he enlisted and soon became a captain. Followed the inevitable disillusionment. While still abroad he was appointed chief assistant district attorney and came home to fill that office. It was in this capacity (in which he never lost a case) that he secured the conviction of Grant Hugh Brown and his associates in the \$30,000,000 war graft in which they were involved. Also, he has been a teacher in the Law College of Detroit. It is an open secret that he turned down a most tempting offer as counsel for one of the largest motor car corporations in Detroit in order to accept this judgeship with its much more modest salary but wider opportunities.

In appearance he is tall, very good looking, inclined toward slenderness, with a long beautifully modeled head, thick curly auburn hair and contemplative blue eyes. Irish eyes they are, full of dreams. For brilliant as his rise in his chosen profession has been, Frank Murphy has the brooding, imaginative temperament of an artist. And although his excellent features and splendid physique unquestionably convey an impression of strength, it is none the less of his finely tempered sensibility that one is most conscious. His voice is so low, even in ordinary conversation, that if it were not exceptionally well placed it sometimes would be difficult to hear him. In the midst of the most strained arguments between counsel he scarcely raised it. Yet every word he spoke carried to the farthest corner of the crowded courtroom. And I was told by more than one person that when he addressed an audience of 7,000 people he could be heard just as distinctly. He has both quality and presence. Dignity is an integral part of his nature and upon occasion he can be stern enough, but his most usual mood is one of tranquil thoughtfulness. When he smiles his face has the sparkle of a quiet river in the sunlight.

Almost the first question he asked me when I met him was if I knew where he could get a copy of the British Labor Party's platform. And as he discussed the new Alien Registration bill now before Congress, and commented upon the opportunities it offered for further encroachment upon the personal liberties of an already oppressed group in our country, his tone was packed with smoldering indignation. By temperament and training his resentment of intolerance is both deep and spontaneous. Moreover he has, this young judge, real courage. Daily he received letters upbraiding him for his open-minded attitude

in this trial, warning him of what it might do to his political future, but imperturbably he ignored them. It is significant that never was any question raised as to the soundness of his rulings. His fairness was unimpeachable. It was a common occurrence to see all four men—Darrow, Chawke, Toms and Moll—nod their heads as he stated why a motion was “denied,” “objection sustained,” or counsel might “have an answer.”

And although it must surely have cost him an effort to do so, both in the first and second trial, he denied the defense's motion for a directed verdict. He is, in short, a great-hearted, able man of rare understanding. Few people in Detroit are held in more affectionate esteem by all sorts and classes. Next to Darrow he was easily the most forceful and interesting character in the courtroom.

THE TRIAL

The trial of Henry Sweet opened on April 19, and one hundred and sixty-five men were summoned and dismissed (only twenty of them peremptorily) before Darrow was satisfied that he had selected twelve who were at least comparatively free from active prejudice against Negroes. The process took one solid week. With infinite patience and insight he studied and sifted them.

“Well,” he would say, “you've heard of this case, I suppose?” (He practically always questioned jurors and most witnesses sitting, and in a very colloquial not to say intimate tone.) “Read about it? Talked about it? Formed an opinion? Got it yet? And it would take evidence to change it? Well, I s'pose you're right. Challenge for cause.”

By his mere assumption that a man would give him only honesty, Darrow often called forth that very quality. He would say: “Ever had any association with any colored people? No? Understand, Dr. Sweet's a colored man—bought a house in a neighborhood where there were no colored people. Well, that's/the background. My client is a colored man. He was in the house at the time of the shooting. One of eleven. Now you wouldn't want not to be fair. You just tell me yourself whether any views you have or surroundings you have would handicap my client or the state.” And very often the man would do that very little thing—just for Mr. Darrow. But, on the other hand, sometimes the probing was as searching as if he were cross-examining a witness. This was when—as happened more than once—a prejudiced man was deliberately trying to sit on the panel. He was patient too with those who, unwilling to spare the time, said instantly that they had already formed an opinion which it would take evidence to change. “I don't want to coax you,” he'd say, reluctant to accept what was evidently a subterfuge. “If you feel that way we'll have to excuse you. Challenge for cause.” And all the time he was quietly but surely, by his very questions, educating those already selected. (Judge Murphy gave both state and defense to understand that there was no need to hurry. Haste is unknown in that courtroom.) At last, on Saturday, the twelve were chosen, sworn in and locked up. They had pleasant quarters in that very building.

Beginning with the back row, from right to left, they were: Charles Thorne, steamship steward retired after fifty years of service with the Detroit and Cleveland Navigation Company, eighty-two, white-haired, white-mustached, dignified; William B. Brunswick, locomotive engineer for the Michigan Central Railroad, a middle-aged man, clear-eyed, heavy of build and of face, who looked as if he would have "to be shown"; Edward W. Bernie, a pleasant young pharmacist of twenty-four who got quite a kick out of this first experience of his as a juror, typical young America as you find him today in hundreds of corner drugstores; John M. Allen, a machinist, short, spare, partly bald and thin-lipped, with keen rather peering blue eyes that looked through large glasses, a meticulous sort of person; James S. Spencer, an electrician, dark, quiet, middle-aged, whose expression was consistently skeptical; Charles Phillips, an electroplater, mobile of face, kindly, prematurely gray. Mr. Phillips and Mr. Thorne sat, one on each side of the back row, two white-capped pillars, the little thin-lipped man was noticeable between the tall, dark younger ones, while the heavy engineer stood out in sharp contrast to all the others in the row.

The tops of the heads of the second line of jurors were practically on a level with the chins of the first six men. Again from right to left let me introduce: Charles L. Dann, the capable looking district manager of the C. F. Smith Grocery stores, decidedly one of the strongest characters in the group; Ralph Fuelling, eleven years in the regular army, now a water board employe, who nodded and dozed much of the time the witnesses were testifying ("No. 8 is asleep again," was a whispered comment often heard), but wide-awake enough to suit anyone during the final arguments; George C. Small, whom not a word nor expression escaped, young, alert, well-groomed, dark-haired, pleasant-faced, the Detroit manager of the Cunard Anchor Lines, later foreman of the jury; Richard Adams, a retired lumberman whose gray eyes looked as if they were just going to twinkle but never quite did, a shrewd old gentleman, at peace with life, entertained by it; William John Simpson, an electrical engineer and contractor, bald except for the lower part of his head, long-nosed, with cool and calculating eyes that never warmed nor smiled; Lewis J. Sutton, the gentle-looking, lovable, old watchman at the Sacred Heart Seminary, who quaintly said that "all his life he had tried to love his neighbor as himself."

They ranged, you see, from twenty-four to eighty-two. Four were white-haired and beyond sixty, three between thirty-five and their late fifties. Five were decidedly young men. Tall and short, thickset and thin, mustached and clean-shaven, their physical disparities were no greater than their mental ones. But if there was not one intellectual face among the twelve neither was there a stupid one. If none of them seemed especially sensitive or fine-grained neither were any of them mean or callous. The fact that they were in no way exceptional but apparently just straightforward, average men, and that, being precisely this, they voted for Henry's acquittal, should make you realize more than anything else how brilliantly and convincingly Clarence Darrow plead the cause of the Negro he was defending.

The prologue over, Toms and Darrow made their opening statements.

The state's theory was briefly: that either Henry Sweet fired the shot which killed Leon Breiner or that he aided and abetted the man who did. That if he did aid and abet some one or more of the persons in the house who caused the death of Breiner, his act would be their act and their act would be his.

They stressed the facts that at the moment Breiner was shot he stood about six feet from the Dove's steps talking, pipe in mouth, to a man on that porch and that the bullet which killed him was not the only one fired. One went through the eaves of the Dove's house, another wounded Houghberg on the steps of the porch, two others passed through the steps, one embedded itself in a small tree on the lawn and another cut through the glass door leading up to the second floor flat inside the house. (Whether or not all these bullets came from the Sweets is another question. Policeman Gill insisted that he fired only one shot, but in view of all the tall and barefaced lying the men of the Detroit police force did throughout the trial, it is asking a good deal of one's credulity to believe him.) Much was made of the fact that there were never, either on Charlevoix or Garland, many people on the Sweet's side of those streets; that the yard was untrampled, the hedge unhurt and (as Mr. Toms, waxing a bit sentimental, exclaimed) "even the rose bush was left blooming." Of course the point was stressed that Houghberg was a roomer at the Dove's and therefore, so to speak, on his own porch. He himself testified later that he was shaving when he first heard the shots and ran down stairs to see what was going on. (Darrow brought out that, like the others, he didn't intend to miss the show which he knew had been scheduled for that evening.)

Other points were that, when Dr. Sweet moved, he took with him a substantial supply of groceries (which he did), ten guns (two rifles, a shot gun, seven revolvers and pistols) and three hundred and ninety-one rounds of ammunition; that the amount of furniture taken in was very meager (after their return from Europe, where Dr. Sweet had worked under Madame Curie in Paris and attended the Eiselberg Clinic in Vienna, they had been living with Mrs. Sweet's parents); that precautionary measures had been taken by the police department and an extra force placed around the Sweet house.

In concluding, Mr. Toms painted a quiet, neighborly, rather thickly settled modest street on which the people were for the most part sitting contentedly on their porches discussing the warmth of the peaceful evening. On the sidewalks "a few" people (among them Mr. Breiner), on their way to and from the grocery store, had paused to greet a friend, and here and there a "little group," meeting quite by accident, had stopped for a casual chat. Some twenty or so lolled on the schoolhouse yard. (Disinterested witnesses testified there were not less than five hundred!) Now and then "a few" boys, in purely mischievous spirit, threw a stone or two at the Sweets' house. It was into these placid, unoffending people, the prosecution contended, that the Sweets, suddenly and without any provocation shot. (After you know more of the facts you will be better able to appreciate the grim humor of this picture.)

Clarence Darrow rose, and going straight to the jury, in quiet, colloquial, almost intimate fashion, set before them the personalities and background of Dr. Sweet and his brother Henry. He sketched for them the necessity that faces colored folk in Detroit of moving into new territory, explained how gradually the colored district was extended: "Sometimes leaping over a few doors, sometimes a few blocks—whenever it is extended, meeting with resistance, as people don't want the colored man too near them."

"Well," he continued, in his apparently rambling fashion, "Dr. Sweet looked around for a house and finally determined to go here. I think that the nearest residence occupied by colored people to this house was about three blocks away. In that I am not quite certain, are you?" And he turned to Mr. Toms who nodded and replied, "Yes, three." (It is a way Darrow has of turning informally to the prosecution—for correction or corroboration on matters of fact not debatable. A little thing, but it helps to create an atmosphere of good feeling and sincerity.)

He went into some detail about the neighborhood of "average people." "Not any more than average," he commented with a chuckle and a hunch of his big shoulders. "You'll see," he promised, "when they testify." (They were, indeed, taken in the mass, as they appeared in court, uneducated and narrow-minded.) He explained how they began to prepare for the reception of Dr. Sweet and his family by organizing the Waterworks Improvement Association. He related the harrowing experiences of Bristol, Turner and Fletcher, colored men who, with their families, had been ejected from their homes by mobs. (I wrote about them in some detail last month.) He told of the Sweets' moving in on the morning of the eighth, of the large crowd that gathered and hung around the doctor's house all night until the early hours of the ninth. He explained how Dr. Sweet had helped Henry in his effort to get an education. (He was just ready for his senior year at Wilberforce College when the riot occurred.) He made very real the young man's natural feeling of loyalty and obligation toward his brother and his family.

Then quite suddenly, after this half hour or so of quiet, interesting narrative, Darrow sharply raised that flexible voice of his and not noisily but emphatically declared: "So when Dr. Sweet moved, Henry went along with him, and he knew why he went. We don't propose to dodge any issue in this case. He went to help defend his brother's home, if need be, with his life. I don't know just how much of an agreement was made—but they proposed to die defending their home if necessary. The guns (the revolvers, I believe, were in a valise and the ammunition in satchels) were with them and were not shown to the police." One felt rather than heard the little gasp from everyone as Darrow tranquilly made this admission. It was the touch of a master of his craft, sure of the justness of his case.

Graphically but simply he described the events of the ninth of September, made vivid "the large crowd around the Sweets that had been gathering from the four corners of the city." Still with his hands upon the jury rail, talking in that direct man-to-man fashion, he reminded them that half an hour before the shooting the policemen

upon the corner were sending out cries for aid and diverting traffic so that one could not get to the Sweets except by parking on one of the side streets and walking up to the corner of Garland and Charlevoix, on which the doctor's property was located. "You gentlemen," he commented dryly at this point, "may be able to guess why all this was going on—if the evidence isn't plain."

Lastly he reminded them that five minutes before the shooting two policemen were hastily sent up to the roof of the apartment house across the street (in order that they might look down and see who were the ring-leaders of the disturbance). He pictured the Sweets and their friends "huddled together," agitated, going from time to time to a window to look out. "And then," he went on sternly, "the crowd began throwing stones against the house. The doctor and his friends were ready. They were scared, but they were ready. Other stones came down on the house. Probably nobody would be able to tell you how many. You will have to guess at it. The crowd increased, stones came through the window and they shot." A dramatic pause. When he went on it was to conclude very quietly: "I don't know any more than Mr. Toms does, how many shots were fired. I don't know who killed Breiner. Perhaps it was Henry Sweet. I can't tell, and he can't."

You see from the very first moment that Darrow began to talk to the jury to the last moving words of that unforgettable summing up of his, nearly three weeks later, he was inspiring in those twelve men confidence in his own integrity and the righteousness of his cause. They felt, those men—I know they did—as you would feel, if meeting Clarence Darrow he were to sit down with you quietly and explain to you for your own particular personal benefit all the inside facts of the case. He never quibbled. Never once did he take refuge behind a technicality.

"If Henry Sweet went there," he elucidated to the jurors, "or agreed after he got there to kill somebody upon a slight provocation, then he would be guilty of murder regardless of who fired the shot. But if he went there, as we claim, for the purpose of defending his brother's home and family as it was not only his right, but his duty to do, or if he went there for that purpose and made a mistake and shot when in fact it wasn't necessary to kill, but he thought it was—he is innocent."

The state produced seventy-one eye-witnesses to prove that only "a few" were present at Charlevoix and Garland just before the shooting from the Sweets' house. These witnesses were of three sorts: policemen, half-grown boys, and neighbors (most of them members of the Waterworks Improvement Association). I want you to see and hear for yourself one or two of each class.

Darrow himself cross-examined Inspector Schucknecht. A big, burly, heavy-jawed policeman was the inspector, with ears set well down on a square head almost flat on top and straight up and down in the back. Thick-bodied, thick-necked, and double-chinned, he had a regular bulldog face and a habit of pulling down a corner of his heavy mouth as he squinted up one eye. Not at all a pleasant person to contemplate, I can assure you. He has, moreover, for twenty-five years been on the police force and suffers from anything but an inferiority

complex. As he sat in the witness box he rested one arm on the chair and let his hand, adorned by a huge ring on the fourth finger, swing loosely. His tone when he was questioned by Darrow, was a miracle of patronizing patience. His whole manner, crafty and cautious, indicated that he intended to conceal the truth and not be trapped, either, in the doing of it. Bear in mind that his own sister and her husband (who was with Schucknecht at the corner of Garland and Charlevoix on the night of the shooting) belong to the neighborhood and are saturated with its attitude. This, if you please, and not kind Lieutenant Hays or even Inspector McPherson, known to be fairly decent toward Negroes, was the man to whom the Sweets were entrusted by a department that according to its officers' own story feared and was all prepared for a riot.

To Darrow's question, "Did you hear any unusual noise or shouting before the shooting?" the inspector answered bluntly: "I did not." "Humph," said Darrow dryly as he shrugged his shoulders and looked at the jury.

"Notice any automobiles?"

"Yes," Schucknecht admitted with wary condescension. "Traffic was heavy. We had two men to divert it." (From this quiet, tranquil neighborly street, mind you!)

But that traffic was heavy was about all that he would admit. For he testified that he didn't even see any taxi stop in front of the Sweet house. (It was when Otis Sweet and Davis, a colored United States narcotic officer, who were to live with the Sweets, came home from work that the crowd, shouting "Niggers!" started the barrage of stones that precipitated the shooting.) But Schucknecht swore, on his oath, that he didn't see any of this; that he *didn't see any stones thrown prior to the shooting*; that according to his knowledge there weren't any stones thrown, although he did find "one stone in the house and two holes afterward." He maintained that all the people (including those on the porches) within a radius of a block each way from Dr. Sweet's house, would not number more than 150; that all of these were quietly attending to their ordinary concerns; that without the slightest warning a volley of shots came out of the Sweets' house.

Yet, as Darrow adroitly brought out, he went alone to these terrible gunmen. The fact was, he knew very well that they were firing only in sheer desperation, defending themselves, and that at the merest hint of real protection they were only too glad to stop. The help the noble inspector gave them was to handcuff them all, turn on the lights, throw up the blinds. Arriving, after a hasty summons, Lieutenant Hays (whose work is among colored people) sharply ordered the doctor released and the blinds pulled down "for their protection and ours"—so his testimony ran. It was he who discovered that in all the excitement the patrol wagon had not yet been summoned. Taken in it to Headquarters (the Sweets did not yet know anyone had been killed) the first thing they heard was: "Why the hell did you want to move into a neighborhood where you knew you weren't wanted?" Doggedly, persistently Darrow made it clear by his cross-examination

of Schucknecht that, whatever the Inspector's words might be, and however stoutly he might deny the presence of more than "a few" that evening, every action of his and of the rest of the police had indicated that there was a crowd and that crowd a large one.

The next witness, Lieutenant Paul Shellenberger, a much younger man, well set up, at first glance straightforward enough looking, proved upon examination to be just as stubbornly evasive, unopen and hostile as his chief had been. Shellenberger, too, testified that he "suddenly" heard fifteen or twenty shots and saw flashes. Whereupon, he ran to the telephone and called for reserves. "What!" exclaimed Chawke (whose turn it was to cross-examine—he and Mr. Darrow alternated), "While the shots rained you were running? Why didn't you go with Schucknecht to the Sweets?" "Why should I?" demanded the Lieutenant. "Do you mean to say you let your superior officer go alone?" "Why, certainly;" was the answer. It brought from the courtroom its first low but hearty laughter. This followed:

Q. Did you see an unusual number of automobiles in that district while you were there that night? (They were speaking of the ninth, the night of the shooting.)

A. (Firmly.) *I should say not.*

Q. Were you present when Deputy Superintendent Sprott instructed Schucknecht to direct the traffic off of Garland Avenue?

A. I was.

Q. Did you participate in the discussion about the number of machines which were coming into that immediate neighborhood?

A. I did not.

Q. Do you know where the automobiles went after leaving Garland Avenue?

A. I do not.

Q. Do you know how many automobiles were parked just before this shooting off any of the side streets east and west of Garland Avenue?

A. I do not.

Q. Or where the occupants of those cars went?

A. I do not.

Q. You do not know whether they came back, walked back to the corner of Charlevoix and Garland, do you?

A. I do not.

Q. Isn't it true now, officer, that it was because there were so many machines coming into Charlevoix and Garland, that you officers determined you would divert the traffic off of Garland so as to keep them from coming up there?

A. No, sir.

Q. Then why did you not stop the traffic from coming up St. Clair and Bewick? (The streets to the right and left of Garland and parallel to it.)

A. Because it was not necessary.

Q. *Why* wasn't it necessary?

A. I think the streets are wider and can accommodate more cars.

Q. (Dryly.) Tell us how many feet wider Bewick Avenue is than Garland Avenue.

A. (Obviously embarrassed.) I couldn't tell you. I don't think there is any difference in the width at all.

Q. How many feet wider is St. Clair than Garland?

A. (By this time flushing a dull red.) I don't think there is any difference in the width at all.

Q. Then, why didn't you stop the automobiles from going up St. Clair and Bewick?

A. Why should I?

Q. Well, you did at Garland, did you not?

A. Yes.

Q. Why did you do that at Garland?

A. Because we did not want any cars in the vicinity, only what really belonged there.

Q. Were there any persons coming into that vicinity in automobiles who did not belong in that neighborhood?

A. Not after the traffic was diverted.

Q. Were there before?

A. Yes.

Q. Who were they?

A. I do not know.

Q. Was traffic getting heavy?

A. It appeared to me that people were getting curious, more so than anything else, and there was an unusual amount of traffic.

Q. Then there was an unusual amount of automobile traffic there, wasn't there?

A. (And Shellenberger, realizing that, thoroughly cornered, he had contradicted himself, with a quick look at Toms, made a firm announcement for the edification of all listeners.) There were.

I have given you this portion of one testimony in so much detail because it was typical of the testimony of all the police to whom we listened. With the single exception of Lieutenant Hays there was not one of the force in whom the wish to conceal, to quibble, to misrepresent was not as obvious as in Lieutenant Shellenberger. Make of it what you will. I confess I often could not quite credit my own ears.

Moreover it was only by such persistent, wearing diligence that Mr. Darrow and Mr. Chawke were able to prove to the jury the fact that there was a crowd at Garland and Charlevoix on September ninth. But prove it they did in the above fashion by not only one but by many of the state's own witnesses who took the stand determined no one should drag the truth out of them.

It was Shellenberger, let me add, to whom Lieutenant Hays, who had been detailed to investigate the conditions in the Sweet and several other neighborhoods, reported the fact that the Sweets were not going to be permitted to move in; that they were not, in all probability, going to be permitted even to unload their van. Hays testified that he asked Shellenberger if he were prepared to protect the Sweets; that as he went on to explain the situation to him, Shellenberger "cut him off short with 'It'll be taken care of.'" "And," said Hays simply, "it was all the satisfaction he would give me."

It was during the questioning of the police that Darrow brought out that for several days the department had been expecting the disturbance; had even brought in men from another precinct; had kept the flier manned by eight or nine officers in readiness; and Walter Doran, a plain-clothes detective, with his partner, stationed for three days at Garland and Charlevoix to watch for any stones that might be thrown from automobiles. Doran, by the way, was another who

colly testified that there was not a great number of automobiles on the night of the ninth. A gay and lively evening of it that young man must have spent! According to his own testimony, at eight o'clock (the shooting started at eight twenty-five) he was hastily dispatched to the station to get two other officers. As soon as he got back, engine still chugging, he was told "hurry up and get six more"—which, with the four men who had been there all day, and the four extra ones by which, on the late afternoon, they had been augmented, not to mention Deputy Superintendent Sprott, Lieutenant Shellenberger, Inspector Schucknecht, and Doran himself made exactly twenty officers who were fussing around that corner. And yet it was at this moment, when they apparently most needed men, that two officers were sent up to the apartment house roof. (These brave fellows admitted that when the shooting began they dropped hastily to their stomachs and did nothing.) Gill (raised in Tennessee) seems to have been the only officer moved to action. When the riot occurred, by his own testimony, he rushed into the yard and—deliberately fired at the very people whom he had been detailed to guard.

Darrow also brought out, by cross-examination, that during the whole two days these extra policemen were around the Sweet house, not one of them went up to the doctor—as they would have done to any white man under similar circumstances to say humanly and sincerely: "We're here. You can count on us." No. Nothing like that. They just, as they themselves put it, "stood around and observed conditions." (Almost all of them lived in that district.) Not one of them heard any disturbance, saw any crowd, heard any stones thrown and only one or two of the lot admitted that they saw even the taxi drive up and stop.

"Gentlemen," Darrow declared in his summing up to the jury, "you could have loaded that house on trucks and moved it away—the police never would have known it!"

Having established, and that through the state's own witnesses, first that there was a crowd and next that since the police were expecting that the Sweets would be attacked, the doctor and his family were justified in making the same assumption, Darrow proceeded to prove that the crowd came intending to use violent measures in ejecting the Sweets. This he did through the people of the neighborhood.

The people who owned the house next to the Sweets were as typical as any. Mr. Getke, a piano-tuner, was a mole-like little person, who blinked frequently and complained that "his memory always had been just naturally short." Like most of the others who followed him he couldn't remember anything definitely, *thought* he had seen this and that, *might* have been doing so and so. He "surmised," but didn't know, that the crowd on the eighth (he admitted there was a crowd on the eighth) might have had something to do with the Sweets' arrival; he *might* have seen a few extra cars around there on the ninth. Mr. Toms, instantly alert upon his admission that he had seen a crowd on the eighth, asked him, "What do you mean when you say you saw the crowd there—are you sure you saw a crowd?" To which, after

blinking rapidly for a few minutes, the little fellow replied naively enough: "I just surmised I saw it." It was a remark which as you can well imagine brought a low amused murmur. In an instant Chawke was on his feet. "Why don't you tell the truth!" he blazed. "Was there or was there not a crowd in front of Dr. Sweet's?" "No," said the little mole firmly. "You 'surmised,' didn't you," demanded Chawke dryly, "that Mr. Toms wanted you to say no? You saw between five hundred and a thousand people there, didn't you?" "No." "What did you see?" There was a pause and then came this answer—"Three policemen." "That's all?" "Yes." At which Mr. Chawke, with wrathfully sardonic eyes and a look at the jury, dismissed him.

But I can assure you that he was frankness itself compared with his wife. When she came in and took the stand she looked attractive enough in her dark serge suit trimmed in red, and her becoming red hat. But as soon as she began to testify her face took on a hard, shut look. Like most of the witnesses from that neighborhood she spoke ungrammatically. "Far as I could see," she testified, "there was just people on their porches. Perhaps there was some on the sidewalk. I don't know." (As Darrow brought out from the different witnesses, there were at least fifty people in her direct line of vision.) She admitted she had heard that the Sweets were coming, but didn't know from whom she had heard it, or when. She didn't know when she had joined the Waterworks Improvement Association, or why. Cornered by Darrow, she said, eyes partly closed, hostility pouring from her: "I joined because my husband did." Darrow at last, usually patience personified, was exasperated almost beyond endurance and exclaimed, "Remember you are under oath!" She retorted in a hard tone, "I am well aware of that." Not if she could help it were the Sweets ever going to move into that house just fifteen feet from hers! She insisted that she had no idea of the purpose of the Association and didn't know one person who belonged to it. "Is there," drawled out Darrow, "anything you do know?"

The gist of all the testimony was strikingly the same. They "didn't know," had "seen only policemen," had noticed "only a few people," no more than just "the usual number" of little groups chatting here and there. Mr. Dove testified that ten or fifteen people were on the lawn when Breiner was standing there in front of his house. Mrs. Dove said cautiously "there might have been some people—but she didn't see any." (The Doves were a young couple—in their late twenties, I should judge. They would have been likable enough, too, in their own way, had not their resentment and injustice toward the Sweets, people infinitely their superiors, made them seem as absurd as they were vindictive.)

Well, so it went. Try as they would, for a week, neither Darrow nor Chawke could either surprise or patiently dig out of anyone the admission that violence toward the Sweets ever had been discussed, much less advocated.

And presently we found ourselves listening to some boys. One testified that there were seven of them on the Dove lawn—across from

the Sweets—that three of them were throwing stones at the Sweets' house and no one tried to stop them. Another, Willard (I didn't catch his last name), testified that there were "just a few loose people" on the schoolhouse yard. Having caught the tone of his elders he couldn't even remember the names of any of the boys with whom he had played baseball that evening. "But there must have been eight of us," he volunteered. "We were just playing scrub." Darrow wisely discussed the national game with him and he became quite suddenly natural and so human that when Darrow asked casually, "Why didn't you go down to St. Clair that evening instead of over to Garland?" he answered readily enough, "Oh, there wasn't any people there and over at Garland the people were all—" Suddenly he stopped, embarrassed, realizing what he had done. Darrow asked him why he didn't go on. He flushed and said quite simply: "I got mixed up." "Because," said Darrow very gently, "you've been told by everybody you know not to say there were more than 'a few.'" The boy continued to look very uncomfortable. "Is there any reason," Darrow continued in the same kind tone, "why you don't want to tell the truth?" Even as he spoke he turned to the record of the last trial and read the boy's own testimony at that time: "I saw people gathered over there [Garland and Charlevoix] and so I went over." Having made the one slip nothing more was to be got out of him. Like the others he hadn't seen anybody he knew, didn't remember anybody he had seen, saw no one throw any stones, saw no glass break, saw no one drive up to the Sweets' house in a taxi, and so, of course, saw no one get out. "And if there had been any stones thrown, you'd have seen them," said Darrow suavely. "Yes." "Couldn't have been any thrown without your knowing it?" "No, sir." With one of his rare grins Darrow announced mildly, "Well, I guess we'll have to give up the stones." Everybody smiled.

A fat, pudgy, self-contained man, who ran a billiard hall and lived one block west of the Sweets, couldn't even remember the name of the neighbor (although he had lived close to him eleven years) who asked him to join the Waterworks Park Association. In fact he couldn't even remember whether he had joined before or after the shooting and had no idea why the meeting at the Howe school (he did admit attending it) had adjourned to the outside. (It was because the crowd was so large and there wasn't space in any of the rooms.) "They may have gone out to cool off," suggested Moll in an aside. Darrow gave him a disgusted look. Angrily he snorted: "They gathered out there to heat up!"

Yet it was from this man that he got one of his first admissions so necessary to convince the jury that the attitude of the neighborhood was defiantly hostile. For by brilliant and patient cross-examination, he ferreted out the confession that this Miller did want to keep colored people out of the district. But, he insisted, only by "legal measures."

And then on Saturday one Mr. Andrews was called to the stand. It was the end of the week and Darrow was tired and worn out with

the constant evading and almost unbroken effort to misrepresent. Moreover, he had a bad cold. He looked that morning like a cross, rumpled lion. Not for the world would I have stood in Mr. Andrews' shoes as Darrow grimly surveyed him.

Now Andrews was somewhat different from his predecessors. Prejudiced against Negroes he might be and was; and hostile to the Sweets. He didn't want them in his neighborhood. But he was neither a coward nor an arrant liar. Even at that Darrow had anything but an easy job to pry out of him the facts. Finally he admitted that the man who talked at the Howe School meeting was from the Tireman Avenue Improvement Association. (In driving out Dr. Turner, a colored man, from their district the people of this association literally tore off his roof.) Followed a long and searching cross-examination in which Andrews admitted that the speaker "had called a spade a spade when he talked." "Why can't you do it?" Darrow demanded. "Now can't you put it just the way he did?" "This man was an outsider. I can't recall his name now." "Certainly not," Darrow agreed dryly, "but what did he say?" And at last after digging and worrying at Andrews and much hedging on the latter's part we actually heard this: "*He said that they—he offered the support of the Tireman Avenue Improvement Association to the Waterworks Improvement Association to handle the problem that it was up against.*" More wearing cross-examination—patient, detailed, adroit, on Darrow's part; cautious, reluctant, but not dishonest on Andrews', and then, from Darrow: "Did he say they—the organization—made the Turners leave the house?" "Yes, he did." Andrews admitted further that the speaker had said "they didn't want colored people in the neighborhood and proposed to keep them out." He was, he added, "very outspoken in his statements." He admitted that he himself had applauded this speech. To Darrow's question "that is just the way you felt then and the way you feel now?" Andrews answered, "Yes, I haven't changed." "You felt just the same as the speaker about not letting them out there?" "If by legal means we could restrict them."

Now by this time the phrase "legal means" was just one little phrase that Clarence Darrow was heartily tired of hearing. He shoved his hands way down into his pockets, let his face fill with withering scorn, hunched his shoulders. He was in full cry after his quarry:

- Q. Did the speaker talk about "legal means"?
- A. I admitted to you that this man was radical.
- Q. Answer my question. Did he talk about legal means?
- A. No.
- Q. He talked about driving them out, didn't he?
- A. Yes, he was radical—I admit that.
- Q. You say you approved of what he said and applauded it, didn't you?
- A. Part of his speech.
- Q. In what way was he radical?
- A. Well, I don't—I myself do not believe in violence.
- Q. I didn't ask you what you believed in. I said in what way was he radical? Anything more you want to say about what you mean by radical, that he advocated?

A. No, I don't want to say any more.

Q. You did not rise in that meeting and say, "I myself don't believe in violence," did you?

A. No; I'd had a fine chance with 600 people there!

Q. What? You would have caught it, yourself, wouldn't you? You wouldn't have dared to do it at that meeting?

Before he could reply Toms exclaimed in much excitement, "Don't answer it!" adding, as he turned to the judge, "I object to it as very, very improper," to which Judge Murphy returned in that calming voice of his: "The objection is sustained."

Darrow (knowing very well just how neatly Toms' interruption had underscored the moment) continued again:

Q. What did you mean by saying you had a fine chance?

Toms—obviously nervous—again interrupted: "Wait a minute. Did you get the Court's ruling?"

Q. What did you mean by that?

A. You imagine I would have made myself heard with 600 people there? I wasn't on the platform.

Q. What did you mean by saying you would have had a fine chance in that meeting where 600 people were present—to make the statement that you said?

A. I object to violence.

Q. Did anybody—did *anybody* in that audience of 600 people protest against advocating violence against colored people who moved into the neighborhood?

A. I don't know.

Q. You didn't hear any protest?

A. No.

Q. You only heard applause?

A. There was—as I stated—this meeting was in the schoolyard—

Q. You heard nobody utter any protest, and all the manifestation you heard was applause at what he said?

A. Yes, that is all.

Perturbed, Mr. Toms took him at once for redirect examination. "Did he *advocate* violence?" he demanded. The cue was obvious, but Andrews had gone much too far to retract and knew it. "I said this man was radical," he returned stiffly. "I know you did," persisted Toms. "Did he advocate violence?" There was a pause—then: "Yes," said Andrews.

This was one of the high points of the trial. And rounding as it did the second week of it, the jury had something over which to ponder until the following Monday. It was in fact the end of the first act of this stirring drama.

By the time that the state rested its case on the following Wednesday, to all intents and purposes the neighborhood into which the Sweets moved had been tried and found guilty. It is difficult to make you realize just how patiently, surely, and brilliantly Mr. Darrow, with Mr. Chawke's most able assistance, refuted the state's case by the very wit-

nesses brought to prove it. On Thursday of the third week, the Defense began to present its own.

Its witnesses fell also into groups—white and colored. Of the colored folk none had seen the actual shooting, but Mr. and Mrs. Spaulding had driven by in their car just before the streets that led to the Sweets' corner were blocked off. Mrs. Spaulding, who for some years has been a social service worker with the Detroit branch of the Urban League, and who was not personally acquainted with the Sweets, testified that she thought at first the people must be going to some kind of meeting, but the expression on their faces made her realize that something serious was happening. Then she saw the crowd in the school house yard. "There were about twice as many as there are in this room," she said explicitly, in her pleasant, cultivated voice. Her thought was, naturally enough, that there must have been an accident. Her husband told her what he conjectured might be the true cause. For although he had not known that the Sweets had moved into the house, he did know that it belonged to them, and that they had dreaded and put off attempting to occupy it. He himself (an Ann Arbor man) testified as to the crowd that stretched down Charlevoix to St. Clair a block beyond Garland. There is a filling station at that point and at least a hundred and fifty people had gathered around it. Both Mr. and Mrs. Spaulding, very light mulattos, well dressed and courteous in their manner, spoke perfect English. They made a striking contrast to the ill-bred, ill-mannered, arrogant and pert white men and women who had preceded them, all of whom, much to Darrow's amusement, consistently pronounced Goethe Street as if it were spelled Go-thie.

James Smith, a very dark young man, testified that as he and his uncle (neither of whom had ever heard of the Sweets or their trouble) were driving home from an errand, they saw, when they reached St. Clair, between five hundred and a thousand people on Charlevoix between them and Garland. There were two solid lines of cars and a policeman explained to him that he would "better step on it and get out of there." He tried to take the advice, but the crowd was so thick that he could make but little progress.

The testimony of Robert Smith (James Smith's uncle) had to be read, for he had died since the other trial. He must have been a colorful soul, for ungrammatical as much that he said was, his testimony, as read in a monotone by Mr. Chawke, set before us a character simple, truthful, proud of itself and independent. "I goes where I goes, and pays as I goes," was one of the answers he made to repeated interrogations as to why, why, *why* he had happened to be on Charlevoix that evening. "I was goin' to dinner," he said, "and when I wants to eat anywhere I goes by any street I pleases." There was something eerie in the thought of this voice speaking so firmly from the grave. For even if he made us smile a little every few lines, he told a story that carried weight. With his nephew and himself had been a friend and as the car crawled along the crowd began stoning it, shouting: "There's niggers now! Get 'em! They're going to the

Sweets'." "Who was these Sweets, that's what I wanted to know," the testimony ran. As the people surged around the car the man with the Smiths stepped to the running board, put his hand to his hip pocket (in which there was no revolver) and threatened to shoot the first man who touched them. The ruse worked. You may believe they were glad when they could once more draw a free breath.

Besides the character witnesses, which included Dr. Jones, the president of Wilberforce College, a man of real achievement, educated largely in German universities, there were Serena Rochelle and Edna Butler, both of whom testified as to the crowd on the night of the eighth. Going out that evening to help Mrs. Sweet decide about draperies, they had been afraid to go home and had stayed until the next morning.

There was also the real estate agent who had made the sale between Dr. Sweet and the Smiths who owned the property before him. Interestingly enough this Mr. Smith, who also testified, was himself a colored man, but his race was so nearly imperceptible that the foreign people in the neighborhood, quite a number of whom were in point of fact considerably darker than he, were never quite sure whether or not the rumor that he was a Negro was true. He himself took it for granted that they knew that he was and one of the reasons Dr. Sweet felt reassured about purchasing the property was that Mr. Smith himself had never been molested. You see, at that time there was no Waterworks Improvement Association.

Last of the colored witnesses came John C. Dancy, a graduate of the University of Pennsylvania, dark, poised, charming, head of the Detroit branch of the Urban League. He gave facts and statistics about the growth of the colored population, the expansion of the Negro district and housing problems in such an interesting, convincing manner that he quite held the whole courtroom spellbound. Even Mr. Toms said in all sincerity, "It's so interesting, I hate to leave it." You can get some idea of the Negro problem when you realize that in 1910 there were only 6,000 of them in Detroit; in 1920 over 42,000, and in 1926, 81,000. He added that 1922 was the year in which the largest group of Negroes came up from the South. "By group," rumbled Darrow, "I suppose you mean 'a few'." Needless to say even the members of the prosecution joined in the general smile.

Young Dancy brought out one interesting point and that was that the common acceptance of the theory that Negroes in a neighborhood depreciate property is not entirely substantiated by the facts. A small four-room house, we learned, which would ordinarily rent for forty dollars a month would, if rented to colored people, bring forty-five dollars. A man with property to sell invariably received more if the purchaser were a Negro. Many houses sold to white people in a block in which there were one or two colored families have netted approximately the same amount as a similar house in a comparable neighborhood which was all white.

Now, of course, just as the state's witnesses, because of their eager-

ness to keep the Sweets from returning to their own home, were obviously prejudiced, so one could say that all these colored people could not help being influenced by the fact that they, too, were Negroes. But the defense produced three white witnesses whose testimony was wholly disinterested.

The first of these was a rather slow-thinking but honest youth, Ray Lorenze, who worked in the tire shop where Shellenberger ran to telephone for the reserves. He was, in fact, a most reluctant witness and came only when he was subpoenaed. He testified that there were at least 500 people in the schoolyard.

Philip Adler, for eight years general reporter and special feature writer for papers in various large cities, now on the *Detroit News* and a lecturer in the University of Detroit, told a convincing story. Together with his wife and little girl he was out riding in their car when, coming down St. Clair to Charlevoix, he noticed the extraordinary gathering of people all along the block. Like Mrs. Spaulding, he thought there must have been an accident at Garland and Charlevoix. As by this time traffic was being diverted, policemen would not allow him to turn into Charlevoix so he kept straight on, circled around and cut through an alley to Garland, where he parked his car and, having a nose for news, went down toward the Sweet house. He testified that the people on Garland seemed to be mostly men in their shirt sleeves with a general air of belonging in that vicinity, quite different from the five hundred or so at the Charlevoix side of the corner. "It was," he explained succinctly, "a riotous crowd. It was not a quiet crowd." As he neared the Dove house he "experienced difficulty of movement." Wondering what it could all be about he inquired of the people through whom he was elbowing his way, and was told that "*some nigger family had moved in there and the people were trying to get rid of them.*"

About this time he heard stones hitting the house. "I have," he stated clearly to a courtroom worn out with conflicting testimonies, "I have a very vivid impression about the stones in my mind, because I heard a popping sound, a pelting sound like that," and he illustrated it by hitting the fist of one hand smartly in the palm of the other at short intervals, making a veritable rat-a-tat-tat. "I couldn't figure out just what it was at first," he continued, explaining further that, as he had his little girl with him when the shots rang out, he thought it best to take her home.

He was followed by a German woman (Mrs. Hintiez) whose goodness fairly shone from her face. For years she and her husband have owned a home that backs on the same alley that the Sweet property does. She testified that on the evening of the ninth she started to the grocery store to get her little dog some milk. But seeing the crowd at the corner of Garland and Charlevoix she did not like to go through it and returned home, where she hung out some washing. "And then," she said, "I stepped me by the alley door." Standing there she saw policemen run through the alley into the Sweet yard and in a moment heard three shots. There was a short interval and then came a whole volley. (This bears

out exactly the story to which Henry Sweet has always stuck—that shots were fired first from without the house, and that the Sweets thought they were aimed at them. But you can imagine, perhaps, in view of all the difficulty Darrow had to prove even the crowd, how impossible it would have been to show—if Henry is right—exactly when and by whom these shots were fired.) No better educated than her neighbors, with whom she lived peacefully, there was this difference between them and Mrs. Hintiez—in her heart there was no hatred.

Remained one witness as powerful in its impression as any in the flesh. It was the July 12th issue of the *Detroit Free Press*. Every word of the article, from which I have already quoted, was read into the record. One could almost see it register with the jury.

Mr. Darrow and Mr. Chawke did not feel it necessary to put Henry himself on the stand. But they did call Dr. Sweet. He testified that when they were arrested, "knowing themselves to be in a hostile camp," among enemies who might try to use anything they said to incriminate them, they had, in order not to involve each other (each of the eleven was questioned separately), denied everything and been as non-committal as was humanly possible. Henry, not as adroit, had both admitted more of the truth than the others and at the same time made more mis-statements. Darrow dealt with the situation in his summing up in a manner that left no doubt in anyone's mind that, denied a lawyer as they were, refused even the privilege of telephoning one, they acted as any sensible person under similar circumstances, whether guilty or innocent, should have acted. None of the statements, Darrow pointed out, were given under oath nor given voluntarily. All Friday afternoon and Saturday morning the doctor was on the stand. The reason was obvious. It was for him and because of his danger that Henry had fired. There was nothing dramatic about his cross-examination. Toms was determined to lead him into some contradictory statement. Dr. Sweet, mindful that Henry's future might be wrecked by a careless word, was on his guard. Much of the time it reminded one of a duel with swords. The doctor neither weakened nor strengthened the case. The fact was that every point had already been clearly made by Darrow. Sweet's testimony closed the third week and the second act of the trial.

There was a buzzing, a humming, on the morning of Darrow's final argument. Expectancy filled the crowd. As quietly as when he made his opening statement, Darrow went over to the jury.

"Mr. Moll has told you," he began, "that this is a case of murder. That there is no prejudice in it. I haven't a doubt but what all of you are prejudiced against colored men—maybe one or two of you are not. We don't want to be prejudiced, but we are. I fancy everyone of you is, otherwise you'd have some companions in that race. I believe you've tried to rise above it, but to say there is no prejudice in this case is nonsense. You gentlemen, bring these feelings into the jury box—they are part of your lifelong training. You needn't tell me you're not prejudiced. All I hope for is that you're strong enough, honest enough, decent enough to lay prejudice aside in this case. Would that mob have been standing

in front of that house if the people there weren't black? Would anybody be asking you to send this boy to prison for life if he were not black? Is Mr. Moll right when he says prejudice has nothing to do with this case?" Scorn dripped from his tone. "Take the hatred out of this case and you have nothing left."

He took up Moll's statement that the state held a brief for Breiner. "Since he has talked about Breiner, I'm going to talk about him," he declared. "Henry Sweet never knew such a man lived as Breiner. Somebody shot into the crowd and Breiner got it. I'll tell you who he was—he was a conspirator in as foul a conspiracy as ever was hatched—to drive from their home a little group of black people and to stab the Constitution under which they lived. He had already been down to the corner two or three times that night and had come back to the Dove's steps where the crowd had collected. If Breiner was innocent, then every man there was innocent. *There were no innocent people there.* They had gathered as the Roman populace gathered at the Coliseum to see the slaves fed to the lions. He sat there while boys came and stoned these black people's home. Did he raise his hand to stop them? No. He was there for a circus and the circus hadn't begun. They had come early (those people at the Dove house) to take their places at the ring side."

Scathingly he showed the absurdity of Moll's characterization of them as a "neighborly crowd." "Neighbors! Bringing the Sweets greetings and good cheer! Where did he get that fool word anyhow! Neighbors in the sense an undertaker is when he comes to carry out a corpse—but it was the wrong corpse."

He emphasized that for nearly a year the Sweets had not been able to occupy their home, that for three months last fall they were kept in jail. "Where," he demanded, "do we live? Are we human! Moll said no one disputed their right to live in that house. Yet the people met to drive them out. These same people have lied and lied and lied to send them to prison so they won't come back."

"I want to be fair"—he drawled, adding in that candid way of his—"and if I did not, I think it would pay me to be. Are the people in this neighborhood worse than other people? They've lied and are trying to get you in on the job, but are they any worse than other people? I don't think they are. What do you know about prejudice? Those people honestly believe they are better than the blacks. I don't. They honestly believe colored people are an inferior race. They are obsessed with fanaticism. And when people are obsessed with fanaticism they become cruel. But gentlemen, they oughtn't to ask you to be cruel for them. It's a pretty dirty job to turn over to a jury."

And then succinctly, accurately, he began to tear to pieces, shred by shred, the testimony the state had offered. He brought out both all the conflicting points and all the significant similarities of phrasing. Apparently not a word had escaped him. Moll had spoken of facts and suddenly under Darrow's sure hand they peppered forth like well-aimed shots from a gatling gun. It was a masterly proceeding, that swift,

unerring, sifting analysis of testimony. It kept us on the jump just following it. And as Clarence Darrow knows only too well that not for long can the average man hold his mind to its highest level, he let light and shade flicker through all his utterance. At one moment lumps were in our throats. At another we were smiling. It was in this mood that we listened to his review of the mothers looking for their children, "gathering the chickens before the storm"—if indeed they were speaking the truth and were not intent merely upon joining the crowd of fathers who, also grown suddenly dutiful, were quite as diligently searching for their sons. Yet even in such moments Darrow's scorn simmered. Never were we allowed, by some subtle magic of his own, to forget that before Henry loomed imprisonment.

Presently under the lash of Darrow's tongue came, one by one, the people who had testified that there were only forty or fifty at the Howe School meeting: "Andrews was the only man who remembered who spoke at that meeting or what the speaker said. Did the others lie? Yes, they lied. They lied because they knew that the speaker had urged men to return to the primitive beasts that roamed the jungle and with their bare hands or clubs drive out these black people from their home. And there were detectives there! (Schuknecht had admitted this.) They had heard a man make a speech that would have sent any colored man or political crusader to jail. Advocating violence! Why wasn't he arrested? A man haranguing a crowd to violence and crime in the presence of officers! And the crowd applauded this mad and criminal speech." I can assure you that he left no doubt in the jurors' minds of the animus of the crowd that (made up of these self-same people) a few weeks later "gathered there with the backing of the law; who let children go in front of them and throw stones—like a band of coyotes baying a victim to death."

And then he came back to the economic side of it. He pointed out that the Negroes in Detroit had to live somewhere. In Jovian fashion he dealt squarely with the depreciation-of-property fear offered by the neighborhood as a justification. He pointed out that buying property always had been a gamble—that in olden days it was a livery stable that people used to dread. Now a garage or even a filling station, could bring property values down over night. Yet citizens would not consider themselves privileged, because of this fact, to mob the owners.

He reminded the jury that the Police Department of Detroit had felt it necessary "to detail four policemen to see that a family could move into a house they owned without getting their throats cut." "No race problem in this!" he exclaimed. "Oh, no, this is a plain murder case." Then after a pause, "Pretty tough, isn't it? Aren't you glad you aren't black! You deserve a lot of credit for it."

Quietly, abruptly, he turned from all the data with which, as with bits of a puzzle, he had been building a picture of the truth and reflectively, in scholarly fashion, he began to teach. "Nature," he explained, "has her own way. She has plenty of time. She sends a glacier across a continent and it takes fifty thousand years before the land is fit to plow again. . . . She wants to make a race and it takes an

infinite mixture to do it . . . sometime we'll look back on a trial like this with a feeling of shame and disgust. If a colored man hasn't a right to live somewhere—"it was a mellow Darrow speaking at this point—"you'd better take him out and kill him." Then sharply, "Did the Sweets have a right to be afraid? These people had come over to drive them out. Henry knew it. The people knew it. The Sweets were confronted with the mob. They were menaced. Their house was stormed. They shot."

I have barely skimmed a few of the points that Darrow made in that beautiful, long plea, given in the moving, majestic fashion that is possible only because of the wealth of his own nature. It would take an article far longer than this is in its entirety to review it properly. "You have," he said to the jurors, as he neared the end of his argument, "a chance to pass upon a real case that will mean something to the race. Your verdict means something more than a verdict for this boy. It is a milestone."

Turning to Henry he cried, tone and gesture charged with tragic import, "What's this boy done? Am I standing in a court of justice where twelve men are asked to take away his liberty? Maybe Dr. Sweet ought not to have gone there. Maybe they erred in judgment. Maybe Henry shot too quick, but Dr. Sweet was his brother, he loved him, he had taken him into his home, he was helping him get his education to take his place in the world. Henry went to help defend his brother. Do you think more or less of him for it? The president of his college, his teachers, his bishop, have testified that he is kind, well-disposed—as decent and human as any of you twelve men. Do you think he should be taken out of school, and put into the penitentiary?"

Twice he almost concluded, and then, as if some deep instinct warned him that he had not yet said quite all—that perhaps he had left uncovered in the minds of those men before him some tiny point upon which might hinge that kind, splendid young colored chap's whole future—he would go on. Few of us will ever forget the picture of him as he stood, worn after the long day of intense, if for the most part quiet, pleading. With arm uplifted, on a level with his breast, hand out-spread in that typical gesture of his when he wants his listeners to concentrate, his eyes searching the very hearts of the men before him, he spoke once more of the long road ahead of the Negro, of the sorrows, the tribulations, that confronted him, urged the jury not to put anything further in his way; impressed upon them the desperate need both white and colored folk had for sanity and courage. "I ask you, gentlemen," he said, "in behalf of the progress and understanding of the human race that you return a verdict of 'Not Guilty.'" To many of us he seemed like one of the prophets of old come to speak a word of warning and of guidance. That plea was a mighty climax which made inevitable the final curtain.

The last act of this drama opened the next day with Mr. Toms' rebuttal. It was not such a poor summing up, either, but somehow it reminded one of the clatter of folding chairs after a symphony concert. Wednesday, Judge Murphy, in a masterly and fearless charge, set

forth the law. He left little doubt of the jury's duty. All afternoon these twelve men deliberated. Once they sent out for further instructions and loud wrangling issued as the door opened. The judge refused, saying that he had covered everything in his charge. People were scattered all through the building. Newspapermen kept their eyes on the clock, thoughts of the last edition in their minds. Only Gladys Sweet and a few of her friends waited inside the enclosure.

Suddenly, at one minute to five, came a loud knocking on the jury door. There was an inpouring from the halls. In the excitement no one could locate that engaging, ever sociable person, Frank Nolan, the clerk. Judge Murphy, in a voice raised for him, put his head into the courtroom and said sternly: "Don't bring that jury in until we are ready for them." People continued to gather swiftly until the room was more crowded than on any day of the trial. A wait, while throats tightened. In desperation, another clerk was secured. Henry Sweet, his hands pressed together, stood for a moment, his face to the wall. His chin quivered. At last—the jury door was unlocked, and the men, in single file, marched in, headed by the foreman. The regular question was put: "Have you gentlemen in the course of your deliberations reached a verdict in the case of Henry Sweet? And if so who will answer for you?" And then (from the Cunard Anchor Lines man): "We have and I will." Stillness that pressed and hurt. With an effort, Small cleared his throat. "Not Guilty," he said, and his voice broke. ?

Toms, incredulous, asked to have the verdict repeated. And then, in the emotional relief, there were sobs, laughs, warm congratulations. Few eyes were dry. Even that cool, unemotional man, Mr. Chawke, was unable for a moment to speak. Tears rolled down the cheeks of Clarence Darrow and of Henry Sweet.