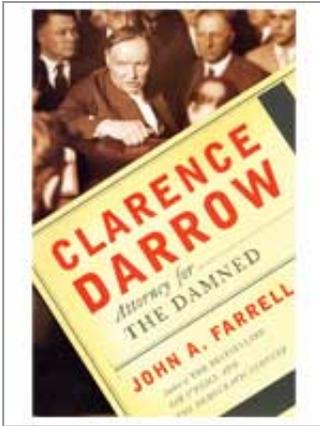


The granddaddy of public interest lawyers

by Alex G. Philipson

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The causes that Clarence Darrow championed in the early 20th century — workers' rights, anti-capital punishment, freedom of speech and anti-religious fanaticism — equally captivate the public in the 21st century. But while legions of advocates have taken up these struggles in anonymity, Darrow achieved the status of a folk hero.

John A. Farrell's expansive biography assembles a wealth of stories that show why Darrow's unique blend of erudition and everyman charm made his name synonymous with his missions.

Farrell transports the reader to an earlier and rougher time when Darrow, a complicated man with serious professional and personal flaws, used means both noble and base to represent such high-profile clients as Eugene Debs, Frank Lloyd Wright, Benjamin Gitlow, Leopold and Loeb, and John Scopes.

Although Darrow was born in Ohio, in 1857, he had New England roots. His maternal ancestors were among the English who settled the Massachusetts Bay Colony in 1630, and his paternal ancestors arrived in Connecticut in the late 1600s.

Darrow followed his father's freethinking example in questioning authority and in starting, but not finishing, law school at the University of Michigan.

Like most lawyers of his time, he learned on the job. After practicing in Ohio for several years, getting married and having a son, he moved, just shy of age 30, to Chicago — according to one local Ohio newspaper, "the wickedest city in the United States."

Before devoting himself to the plight of the injured and wronged, Darrow defended the Chicago and North Western Railway Co., albeit regretfully, against tort claimants maimed in rail accidents.

Later, he worked in the city's department of law and advised Mayor Carter Harrison. In 1893, he resigned from the mayor's office over political differences, only one month before Patrick Prendergast, a delusional 25-year-old newspaper deliveryman, shot Harrison dead in Harrison's home.

In a dramatic turn, Darrow represented his former boss's killer, although he could not save Prendergast from execution.

In the new century, Darrow became the nation's preeminent labor lawyer. But however much he sympathized with workers, he understood their fallibility, noting: "If the underdog got on top he would probably be just as rotten as the upper dog, but in the meantime I am for him."

Darrow, himself no saint, succumbed to the temptations of underhandedness in the service of leveling the playing field. In a spectacular low point, he was indicted for bribing jurors in his defense of unionists charged with bombing the Los Angeles Times offices. One bribery trial ended in Darrow's acquittal, but another ended in a hung jury. Farrell's research disturbingly suggests that Darrow was guilty.

Whatever Darrow's faults, he earned his place in American history. Outside the law, Darrow was active in political and literary realms. He campaigned for candidates seeking high office and ran himself several times, albeit without success.

He also wrote and lectured on literature and philosophy and published two novels. In 1915, he cofounded the Society of Midland Authors, which still exists today. In 1968, the society honored my father, Morris Philipson, for his publication of a book on Leo Tolstoy — an author of some import to

Darrow — titled, “The Count Who Wished He Were a Peasant.”

Darrow was a vocal opponent of the Palmer raids and free-speech infringements that defined the Red Scare. In 1920, he represented Benjamin Gitlow against charges for publishing Marxist and Leninist ideas. In rhetorical flourishes repeated in later political trials of the McCarthy era, Darrow invoked America’s revolutionary and free-speech traditions, citing George Washington, Abraham Lincoln and even Jesus Christ.

In his closing argument in *Gitlow*, Darrow bellowed: “If Lincoln would have been here today, Mr. Palmer, the attorney general of the United States, would send his night-riders to invade his office and the privacy of his home and send him to jail.”

Nearly 30 years later, when leaders of the American Communist Party were tried for conspiracy under the Smith Act, the defense team, led by my maternal grandfather, Harry Sacher, echoed Darrow’s argument in *Gitlow*, telling the jury that the prosecution would have “had Jesus in the dock.”

In 1924, Darrow defended Leopold and Loeb. The rich, spoiled geniuses (they met as 16- and 15-year-old undergraduates at the University of Chicago) were not yet out of their teens when they bludgeoned and strangled a kid from their neighborhood simply because Loeb “wanted to,” and because Leopold sought to show that “superior” people were exempt from society’s rules.

Darrow had the pair plead guilty and threw his energy behind saving them from the noose — which he did. Darrow later said privately that, had he been the judge, he would have put Loeb quietly to eternal sleep, not as punishment but because life “held nothing for him.” Leopold he would have confined but given access to a science laboratory, until he had “saved himself — through work”; Darrow considered Leopold a genius on the order of Darwin.

The following year, the evolutionary biologist would figure in Darrow’s defense of John Scopes in the “Monkey Trial,” which pitted Darrow against Darwin critic William Jennings Bryan.

The prosecution of a high school teacher for teaching evolution in violation of a Tennessee statute was the first trial broadcast over radio, further spreading Darrow’s fame.

The case put modernity itself on trial, and Bryan withered under Darrow’s examination for the multitudes to hear. The trial practically killed Bryan: A few days after it ended, Bryan died in his sleep.

Darrow lived several more years, but never outdid his performance in Tennessee. He almost became involved in the defense of Sacco and Vanzetti, but was shunned by the defense committee that thought Darrow’s personality and Chicago background would breed resentment and hostility.

One cannot help wondering, though, whether the outcome might have been different had the anarchists hired Darrow for their cause.

Alex G. Philipson is founder of the appellate boutique Philipson Legal in Newton Centre.

“Clarence Darrow: Attorney for the Damned”

By John A. Farrell

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