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INDICTMENT FOR MURDER

(Addition to Return to Writ of Error
Vol. 1—State of Case)

Hunterdon Oyer and Terminer, No. 1441.
September Term, A. D. 1934.

Hunterdon County, ss.:

THE GRAND INQUEST for the State of New Jersey in and for the body of the County of Hunterdon, upon their respective oaths Present that Bruno Richard Hauptmann, on the first day of March in the year of our Lord one thousand nine hundred and thirty-two, with force and arms at the Township of East Amwell, in the County of Hunterdon aforesaid and within the jurisdiction of this Court, did willfully, feloniously and of his malice aforethought, kill and murder Charles A. Lindbergh, Jr., contrary to the form of the statutes in such case made and provided, and against the peace of this State, the government and dignity of the same.

ANTHONY M. HAUCK, Jr.,
Prosecutor of the Pleas.

Endorsed "A True Bill"
GEORGE N. ROBINSON, *Foreman*

CERTIFICATE OF CHANCELLOR

In Chancery of New Jersey.

STATE OF NEW JERSEY, *Defendant in Error,* *vs.* BRUNO RICHARD HAUPTMANN, *Plaintiff in Error.*	Sur Indictment for Murder. Certificate of Chancellor.

This is to certify that application has been made to me for the allowance of a writ of error to be issued out of the New Jersey Supreme Court for review of the judgment of the Hunterdon County Court of Oyer and Terminer in this State, convicting the said Bruno Richard Hauptmann of the crime of murder in the first degree, without exhibiting to me the record of the proceedings in the cause or any part thereof, and without alleging any error in those proceedings, and that I have refused to order a writ of error for the review of said judgment, solely because no cause, arguable or otherwise, is shown for the granting of such writ of error to the Supreme Court.

Dated: February 21, A. D. 1935.

LUTHER A. CAMPBELL,
Chancellor.

WRIT OF ERROR

THE STATE OF NEW JERSEY.

TO THE HONORABLE THOMAS W. TRENCHARD, Judge of the Court
[L. S.] of Oyer and Terminer of the County of Hunterdon, GREETINGS:

Because in the judgment of the Court of Oyer and Terminer of the County of Hunterdon, upon a certain indictment against Bruno Richard Hauptmann, late of the Township of East Amwell in the County of Hunterdon, that he did wilfully maliciously and with malice aforethought kill and murder one Charles A. Lindbergh, Jr., pro ut the said indictment and the several counts therein, whereof before you he hath been indicted and is thereof convicted by a certain jury of the County of Hunterdon taken between the State of New Jersey and the said Bruno Richard Hauptmann, as and from his complaint we have received information; we, being willing in this behalf to correct the error in due manner, if any there shall be, and that speedy justice be done to him, the said Bruno Richard Hauptmann, command you that if judgment be thereon given, then that you distinctly and opening send under your seal, the record and proceedings aforesaid, with all things touching and concerning the same to our Court of Errors and Appeals, in the last resort in all causes at law to be held at Trenton, New Jersey, on the 12th day of March, 1935, and this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon what of right and according to the laws and customs of New Jersey ought to be done.

WITNESS LUTHER A. CAMPBELL, our

Chancellor at Trenton, the twenty-first day of February, 1935.

THOMAS A. MATHIS,
Clerk

FRED'K A. POPE,
Attorney.

LLOYD FISHER,
Attorney.

RETURN

The answer of Thomas W. Trenchard, Esquire, Judge of the Court of Oyer and Terminer holden in and for the County of Hunterdon, and within named, the record and proceedings of the plaint whereof mention is within made that all things touching the same, I send to the Justices of the Court of Errors and Appeals of the last resort in all causes at Trenton, New Jersey, at the day and year within contained in a certain writ to this appeal annexed as within I am commanded.

THOMAS W. TRENCHARD,
Judge of the Court of Oyer and Terminer of the County of Hunterdon.

RECORD

THE STATE OF NEW JERSEY

HUNTERDON COUNTY COURT OF OYER AND TERMINER, holden before The Honorable Thomas W. Trenchard, Justice of the Supreme Court.

DECEMBER TERM, 1934.

THE STATE OF NEW JERSEY, *vs.* BRUNO RICHARD HAUPTMANN.	Sur Indictment for Murder. JUDGMENT RECORD.

Anthony M. Hauck, Jr., Prosecutor of the Pleas and David T. Wilentz, Attorney General for New Jersey, associated by George K. Large, for the STATE.

Edward J. Reilly, Lloyd Fisher, Frederick A. Pope and Egbert Rosecrans for the DEFENDANT.

STATE OF NEW JERSEY, COUNTY OF HUNTERDON, } *To Wit*:

Be it remembered that at a Court of Oyer and Terminer holden at Flemington in and for the County of Hunterdon on the eighth day of October, in the year of Our Lord, One Thousand Nine Hundred and Thirty-four, before the Honorable Thomas W. Trenchard, one of the Justices of the Supreme Court of Judicature of the Said State, presiding Judge of the Hunterdon Oyer and Terminer, according to the form of the statute in such case made and provided by the oaths of George N. Robinson, Foreman, Gerome T. Kostenbader, George H. Hoffman, Arthur Burdette, Thomas Neigh, John E. Biggs, Lewis C. Bird, William E. Corcoran, George N. Boudreau, Emmett R. Wilson, Frank L. Miller, Earl D. H. Pickel, Barclay S. Fuhrmann, Hiram E. Deats, Chester Bellis, Flora A. Pidcock, William J.

Louderdale, John W. Hockenbury, Harry Green, Frances H. Large, Martin Alles, Maude L. Roberts, John Miller, good and lawful men of the said County, duly summoned and then and there sworn and charged to inquire for the State of New Jersey in and for the body of the said County of Hunterdon, it is presented in manner and form following, that is to say:

COPY OF INDICTMENT

which said indictment was, to wit, on the eighth day of October, of the September term, in the year of our Lord, nineteen hundred and thirty-four, at the Court of Oyer and Terminer in and for the County of Hunterdon aforesaid, before Honorable Thomas W. Trenchard, Judge of the said Court of Oyer and Terminer of said County, holden at Flemington, in and for the County of Hunterdon, duly delivered here in Court by the Grand Jurors aforesaid, in due form of law to be tried.

Whereupon the Sheriff of the County of Hunterdon aforesaid is commanded to take the said Bruno Richard Hauptmann if he may be found in his county and him keep safely to answer to the said indictment.

Afterwards, to wit: at the Court of Oyer and Terminer holden at Flemington aforesaid in the County of Hunterdon aforesaid, on the twenty-fourth day of October, in the year of our Lord, one thousand nine hundred and thirty-four, before Honorable Thomas W. Trenchard, one of the Justices of the Supreme Court of the State of New Jersey, presiding Judge of the Hunterdon Oyer and Terminer, in and for the County of Hunterdon, here cometh the said Bruno Richard Hauptmann under the custody of John H. Curtiss, High Sheriff of the said County of Hunterdon aforesaid in whose custody in the jail of the County of Hunterdon aforesaid for the cause aforesaid, he had been committed, and being

brought to the bar herein his proper person by the said Sheriff, to whom he is here also committed, and the said Bruno Richard Hauptmann having heard the indictment read and forthwith being demanded of and concerning the premises in said indictment above specified and charged upon him, how he will acquit himself thereof, he saith he is not guilty thereof, and therefore for good and evil he puts himself upon the country, and Anthony M. Hauck, Jr., prosecutor of the County of Hunterdon, who prosecutes for the State of New Jersey in this behalf, doth the like;

THEREFORE, let a jury thereupon here come before the said Court of Oyer and Terminer of the Term of December, in the year of our Lord, one thousand nine hundred and thirty-four at Flemington, in the County of Hunterdon aforesaid, on the second day of January, in the year of our Lord, one thousand nine hundred and thirty-five, of good and lawful men each of whom shall be a citizen of this State and resident within the County of Hunterdon aforesaid, above the age of twenty-one years and under the age of sixty-five years, by whom the truth of the matter may be known and who are not of kin to the said Bruno Richard Hauptmann to recognize upon their oaths whether the said Bruno Richard Hauptmann be guilty of murder in the indictment aforesaid above specified or not guilty because as well the said Anthony M. Hauck, Jr., who prosecutes for the State of New Jersey, in this behalf, as the said Bruno Richard Hauptmann, have put themselves upon the said Jury at which day, to wit: on Wednesday the second day of January in the year of our Lord, one thousand nine hundred and thirty-five of the term of December in the year of our Lord, one thousand nine hundred and thirty-four, before the Court of Oyer and Terminer at Flemington aforesaid, in the County of Hunterdon aforesaid, held by Thomas W. Trenchard, Justice of the Supreme Court, presiding

Judge of the Hunterdon Oyer and Terminer, here cometh as well the said Anthony M. Hauck, Jr., who prosecutes for the State of New Jersey in this behalf as the said Bruno Richard Hauptmann, in his own proper person, under the custody of John H. Curtiss, Sheriff as aforesaid, accompanied by Edward J. Reilly, Lloyd Fisher, Frederick A. Pope, and Egbert Rosecrans, his Counsel, and the trial of the said indictment being moved against the said Bruno Richard Hauptmann, and Charles Walter, Sr., Foreman, Rosie Pill, Verna Snyder, Charles F. Snyder, Ethel Stockton, Elmer Smith, Robert Cravatt, Philip Hockenbury, George Voorhees, May P. Brelsford, Liscom C. Case, Howard V. Biggs, being called, come who being chosen, tried and sworn in accordance with law, to speak the truth of and concerning the premises, and the trial of said issue having been regularly continued until the 13th day of February, in the year of Our Lord, one thousand nine hundred and thirty-five, before the said Thomas W. Trenchard, Judge as aforesaid and the said Bruno Richard Hauptmann being present in his proper person, thereupon on said last mentioned day the Jurors aforesaid upon their oaths as aforesaid say that the said Bruno Richard Hauptmann is guilty in manner and form as he stands charged under the indictment and is guilty of murder in the first degree, (no recommendation of life imprisonment being by them made). And upon this it is afterwards on the 13th day of February, one thousand nine hundred and thirty-five of the Term of December, in the year of our Lord, one thousand nine hundred and thirty-four, before the said Court of Oyer and Terminer, and the Judge aforesaid, on motion of Anthony M. Hauck, Jr., who prosecutes for the State in this behalf ordered that the defendant, Bruno Richard Hauptmann be placed at the bar for sentence, and he being accordingly set to the bar, whereupon all and singular the premises beein seen and by the

Court here fully understood, it is considered by the Court here and the Court now here doth order and adjudge and the judgment of the Court is that the said Bruno Richard Hauptmann suffer death as the punishment for said crime, at the time and place and in the manner provided by law.

THOMAS W. TRENCHARD,
Presiding Judge of the Hunterdon County Oyer and Terminer Court.

STATE OF NEW JERSEY, }
COUNTY OF HUNTERDON, } *ss.*

I, C. LLOYD FELL, Clerk of the County of Hunterdon and of the Court of Oyer and Terminer in and for the said County, do CERTIFY the foregoing to be a true and correct statement from the MINUTES of the Court made during the trial of

BRUNO RICHARD HAUPTMANN

on the Indictment for Murder as found by the Hunterdon County Grand Jury as held, beginning January 2, 1935, and continuing until the closing of the case, including a copy of the

INDICTMENT

and of the

CAPTION,

accompanying same, copy of the

JUDGMENT RECORD,
the PETITION and
NOTICE OF APPEAL,

all of which are attached to the

WRIT OF ERROR,

the original of which is presented herewith.

SIGNED and sealed this ninth day of March, A. D., nineteen hundred and thirty-five.

C. LLOYD FELL,
County Clerk.

(Seal)

Opening

MR. WILENTZ: May it please your Honor, Mr. Foreman, men and women of the jury:

A Grand Jury that was composed of citizens of this County has returned an indictment charging that Charles A. Lindbergh, Jr., was murdered. It is the law, men and women, as will be pointed out to you by the Court, that where the death of anyone ensues in the commission of a burglary, that killing is murder,—murder in the first degree.

It is also the law, as the Court will point out to you, that if a person in the murder is feloniously stricken in one county, that is, the blow is given in one county, but death ensues in another county, notwithstanding the fact that the death ensues in the other county, it is murder in this county if the felonious striking took place here, or if the death occurs here.

I just point that out to you, not that I expect it will have any particular effect, because we are going to prove that not only the striking but the death took place in Hunterdon County.

Now, on the first day of March, 1932, the State will prove to you that a very distinguished citizen of this country was a resident of Hunterdon County and on that day the household, the Lindbergh household, consisted of Betty Gow, Mr. and Mrs. Whatley, Colonel Charles A. Lindbergh, his wife, and their only and infant son, who was twenty months of age, I think it was, twenty months old or young. The child was a happy, normal, jovial, delightful little tot that age,—blue eyed, curly headed, blond haired. He had been playing around that entire day with the family, and on the night of March 1, 1932, that child was killed; and the State will prove to you jurors that the man who killed and murdered that child sits in this very court room—the gentleman in the custody of the Sheriff's guards right in the rear of the dis-

tinguished members of the Bar who make up the defense counsel.

This crime had been planned for some time. This defendant Hauptmann had conceived this plan and had undertaken it, had plotted it, prepared it, and we will show you that by the fact that he was in and about the vicinity of this Lindbergh home on many occasions before as well as at the time of the crime.

He came there with his ladder, placed it against that house. He broke into and entered at night the Lindbergh home with the intent to commit a battery upon that child and with the intent to steal the child and its clothing. And he did. Not only with the intent, but he actually committed a battery upon the child and did steal it and did steal its clothing. I will refer to its clothing and its stealing a little while later.

Then as he went out that window and down that ladder of his, the ladder broke. He had more weight going down than he had when he was coming up. And down he went with this child. In the commission of that burglary, that child was instantaneously killed when it received that first blow. It received a horrible fracture, the dimensions of which when you hear about it will convince you that death was instantaneous.

Getting down there he took the ladder and about 70 feet away the load was too heavy. In the one hand he had the ladder and in the other he had this bundle, this dead package to him. The ladder was of no particular use to him. He abandoned that. Then he proceeded on his way until he had gotten about a half mile, the child dead. Knowing it was dead, he wasn't a bit concerned about it and there, three thousand or more feet away and still on the Lindbergh estate, he yanked and ripped the sleeping garment of that child off its body.

Though it was cold and raw, he yanked and ripped that sleeping garment off that child, because he didn't need the child, as we will show you, he needed the sleeping garment.

Then, of course, at the very first convenient spot, some few miles away, he scooped up a hastily improvised and shallow grave and put this child in face downwards and on he went on his way to complete the rest of his plans in this horrible criminal endeavor.

Well, pretty soon, about ten o'clock, the Lindberghs found out that their child was missing—and you can, of course, imagine the excitement, you can imagine how hysterical some of the members must have been—and the first thing, as soon as Colonel Lindbergh heard about it, he immediately asked Whatley to call the police, and then he grabbed his rifle and went through the woods, and up and down the roads, while Mrs. Lindbergh and the rest of the family looked through closets, looked here and there, looked through places they knew the child would not be, but just looked, in the hope that springs eternal in the human breast; and then of course the world knew.

Of course, they didn't know their child had been murdered. There was left a note in the room by the defendant, and that note indicated that the person responsible for this crime would get in touch with the Lindberghs again in a few days. And he did.

He wrote Colonel Breckenridge and in a few days after crying to Colonel Breckenridge, the world having become aroused, a very distinguished and aged educator and scholar and teacher in the Bronx, in a desire to serve society and in a desire to serve the Lindberghs inserted an advertisement in the Bronx Home News, and that advertisement Mr. Hauptmann answered. He said,

"We will take you Condon, we will take you as the intermediary."

We will show you that this defendant Hauptmann personally delivered a note to a taxi driver and said, "Take this down to Condon's home, down where Decatur Avenue is." That note was not mailed, that note was delivered and delivered for a purpose, because in that note he gave Condon, I think it was three-quarters of an hour to get to the place to meet him. The aged gentleman went down there to Woodlawn Cemetery and on the inside of the cemetery was Mr. Hauptmann, on the inside of the gates and Condon there on the outside until Hauptmann, becoming alarmed because somebody was coming somewhere in the distance, he scaled and climbed a nine or ten foot cemetery gate and then jumped down, ran across the street to a park there and finally, when he realized he wasn't being followed by police, but only had this aged man to contend with, he stopped and there they talked. They talked for an hour and ten or an hour and twenty minutes, and in that talk this defendant said, "Will I burn if the child dies?"

Oh, he tried to sell Condon the idea to give up Lindbergh's money without seeing the child, and Condon had no authority.

The doctor said, "Please let me see the child; take me as a hostage; don't worry, I can't do anything to you. Just let me see the child so I can tell Mrs. Lindbergh I saw it. You can keep me there until the money is paid, if you want to."

"Oh," he said, "No. 1 would smack me out; No. 1 would smack me out."

And so finally Hauptmann says, "Doesn't Lindbergh know we are the people that kidnaped his child? Doesn't he know we are the right people? Doesn't he see the symbol on the note, the two circles with the big red circle in the center

and the holes? If he doesn't, and that isn't enough, we will send him the baby's sleeping garment. We will send him the baby's sleeping garment."

And it took them two or three days to send it. I suppose he had to have it washed.

And then within a few days, while Colonel Breckenridge was at the Condon home, he had been there every day since the day Condon received the first message, while Colonel Lindbergh was there, that sleeping garment came in the mail from Mr. Hauptmann, with his circles and with his holes, as positive proof that it was him. And then Hauptmann says, "Now, no more terms. The Lindberghs don't see this child until they put up the money; and if you don't take those terms we can wait. Lindy has got to come to us. We can wait; but if he waits until after April 8th the price is $100,000—it is $70,000 now."

And so, finally, here at this Condon home in the Bronx,—all of this thing taking place in the Bronx —right alongside of Hauptmann's back yard, waiting there, finally Jafsie answered for Colonel Lindbergh, "The money is ready, we accept"— "We accept, the money is ready."

And so on Saturday, April 2nd, $50,000 prepared for Colonel Lindbergh was bundled into a box. Oh, I have got to tell you about that box. Why, the carpenter put a picture of the box in his notes. He not only put a picture in it, he gave you the dimensions—six by seven by fourteen—in his own handwriting. He told them how to bundle it up, he measured it, mind you, in his own imagination and there he put this picture, in this note, of this box with the dimensions.

Why, he might just as well have put his picture in there. And so, they prepared a box, put the money in the bundle and then along came an-

other messenger on a Saturday night and said, within three-quarters of an hour you come here or you come there, and of course they did. Well, you can imagine, you can imagine the condition of Colonel Lindbergh then. There he was about to get his child. He only needed the money, and he had that money to give up, it was all prepared. And so, he said, "I will go with you, Dr. Condon," and Colonel Lindbergh drove that little automobile on that night with Condon to follow the directions to a green-house and there they would turn over a stone and under that stone they would get further directions, and they did.

And Condon lifted up that stone or table or whatever it was and there it was, "Cross the street and go to Whittemore Avenue," or something like that.

He showed it to Colonel Lindbergh, and they did that. Right across the street he had picked out another cemetery for his next meeting place. And there was Condon in the middle of the road.

Now don't imagine that that particular section of the Bronx is any more populated than it is right here in Flemington, and particularly in the vicinity of the cemetery.

And there stood Condon waiting to see where Hauptmann was. Finally Hauptmann hollered, "Hey, Doctor, hey Doctor,"—twice.

In the still of the night you could have heard it for two blocks and particularly in the vicinity of the Bronx. So finally Dr. Condon went down, followed him along, he on the inside of this St. Raymond's Cemetery, Condon on the outside, until they got to a hedge. And as they got down to that hedge Condon said, "Won't you please let me see the baby first?"

"Now, no use about that."

Well you know in 1932 times were awfully bad,

even for Colonel Lindbergh. $70,000 was a lot of money. He wanted $70,000 then.

"Won't you please cut it down to $50,000? That is all we ask."

The boss said, "Yes, I will cut it down to fifty."

So Dr. Condon said to him, "Now here, after all it is just you and I. Now give me a receipt, give me the directions where we are going to find the child."

He said, "All right, all right. You go back. Who is over there in the car with you?"

"Colonel Lindbergh."

"Is he there?"

"Yes, Colonel Lindbergh is there. He has got the money."

"You go back to Colonel Lindbergh and you get the money and we will meet here in five minutes and I will give you the directions."

He wasn't worried about being apprehended. He was relying upon the word of honor of Colonel Charles A. Lindbergh, that all he wanted was his child. Not only that but he actually had followed and traced Condon—we will prove it to you—to see that he wasn't being accompanied by detectives. He knew he was taking no chances, that he wanted the child, that was all. So he went back somewhere and he wrote a little note and he came back. And there over that hedge he received that box with $50,000.

What do you think he said? "Wait a minute, doctor, until I see if it is all right. Wait a minute."

Then he dipped his hand into this box and up he looked at Condon and he said, "Your work is perfect." Shakes hands with him. "Your work is perfect."

So within two hours in accordance with instructions given by Hauptmann they looked at

this note and the note directed them to go up to some place in Massachusetts, Bay Head, I think it was.

Colonel Lindbergh, Dr. Condon, Colonel Breckenridge, and a representative of the United States Government got into a plane. And Lindy who could find a speck at the end of the earth couldn't find his child because Hauptmann had murdered it. Up and around the waters he searched and returned. Up again in another plane he searched and he returned, and of course finally back home. Breckenridge still stayed at Condon's home, still stayed there with Condon. Condon began in the papers to advertise for better instructions. But Mr. Hauptmann was no longer interested in Dr. Condon and no better instructions came.

Not only did Colonel Lindbergh with the men who accompanied him as I indicated a minute ago search for this mysterious and mythical boat but the Coast Guard of the United States went out too to try to find it. Of course it wasn't there. When he took that $50,000 across the hedge of that cemetery he took it knowing that that baby was lying face down in that grave in New Jersey. We will prove that.

So back again to New Jersey for Colonel Lindbergh and to the home of sorrow. Then on May 12th, on May 12th, 1932, some colored gentleman, driving along the highway, got off the beaten path of the road and into a woods, to answer the call of nature—or whatever it was—and there he was horrified by the sight of what appeared to him to be the body of an infant; and of course he rushed away, but not until he had told somebody about it; and pretty soon, pretty soon, Colonel Lindbergh and Betty Gow and others had turned the body of that child up, face up. The mois-

ture in the ground had still preserved the face a little bit, so that it was white when it was turned up, and twenty minutes after the air struck it, it had turned black.

The body was horribly decomposed; one leg had been eaten away and carried away, one hand had been taken away, a great part of its body had been eaten away, the rest of it decomposed, the skin, the flesh, rotted away, in that hole, the grave that Hauptmann had placed for it.

But there was that little sleeping shirt that Betty Gow had prepared and that Mrs. Lindbergh had helped her prepare that day; there was the forehead and the brown curls and the curly-headed prominent forehead under the blond hair; there was that typical nose, and there were the toes overlapping, the overlapping toes of the Lindbergh child.

Anybody that knew that child, any member of the family, would know right away that was the "Little Eagle," and so of course they took the child and cremated the body and the ashes were delivered to Colonel Lindbergh.

The Lord moves in a mysterious way his wonders to perform, as you well know, and the first thing you know a little gas station attendant in the Bronx found the man that murdered the Lindbergh child. He came there with a ten dollar bill, he had to get rid of the money. He came there with a ten dollar bill; it was a gold note, and the station attendant who was taking money all day long hadn't seen much of that lately, because the President of the United States had called that gold in and it was against the law to have it and to hoard it. He said to Hauptmann, "What about this, where did you get this?" Oh, then, Hauptmann knew he was in for a little trouble. What do you think he said? He said, "Oh, I have got a

hundred of those," just nonchalantly, "Oh, I have a hundred of those." And off he drove. And so they finally arrested him.

They arrested him, and what do you think he said when they found on his person another Lindbergh bill? "Where did you get this?" they said.

Now, if he had gotten it honestly he would have told them right then. But what did he do? He said, "This is one of three hundred dollars that I have saved up, because I thought gold would be more valuable, and I got it from my friends and from the banks, and I had three hundred, but this is the last;" so they took him to his home and they started a search.

He knew they would not find it in his home. He had prepared for that. They took him to the police station and they pleaded with him and they talked to him. And then what?

Carpenters dug up thirteen thousand some hundred dollars of United States money—Lindbergh money, ransom money. And he was confronted with that and he said, "Yes, I buried that away."

"Where did you get it?" "Why, a partner of mine, an associate of mine, a friend of mine, now dead, gave it to me." "Is that all that you have got?" "Yes, that is all."

And at that very minute, when he was again saying that that was all he had and that the story which he first told about the twenty dollar bill, when he admitted that that was untrue, and then he gave this story, at that very minute the police had more money, but he insisted that was all, and when he finished that statement, District Attorney Samuel Foley said to him, "How about this eight hundred and some dollars?"

And he said, "Yes, I didn't tell you the truth; that is Lindbergh money too;" that is Lind-

bergh money too. And there, right in the house, hidden on an inside closet wall in his own admitted handwriting, there was the address and telephone number of Dr. John F. Condon, in his baby's closet, on the inside. A little closet; you would have to get in on the inside and be—well, you would have to be the type of man of Hauptmann to get in there.

In his own handwriting, and he is asked, "Why did you write Condon's name on there?"

"Why, you know, I had a funny habit, I liked to write telephone numbers or addresses."

He didn't have anything else in the whole house. And in that search, in that search we found the answer to the ladder.

Now, one year about, before Hauptmann was arrested, one year before any of us knew that there was such a person in existence, the United States Government had traced to the Bronx Lumber Yard Company, or the Bronx Lumber Corporation, they had traced some of the lumber, they knew that ladder had been made of lumber, some parts of which came from the Bronx lumber yards.

When Hauptmann was arrested, what do you suppose we find? We find he worked at the Bronx lumber yards, he bought lumber there, but not only that, he has got this ladder right around his neck; he took part of that attic of his and built the ladder with it,—and we will prove that to you beyond any doubt.

One rung of that ladder, one side of that ladder, comes right from his attic, put on there with his tools, and we will prove it to you, no matter how difficult it may sound,—we will prove it to you so that there will be no doubt about it.

Now, of course, this is like most crimes.

There has to be a motive for it, and you probably know it by this time. You can be sure

Charles A. Lindbergh, Jr. did not attack Hauptmann; it was not in self-defense; it was not because of any provocation or anything that he had against Colonel Lindbergh.

He committed this crime, he had planned it for months, because he wanted money—money—money—lots of money he wanted, and he got it. What do you suppose he wanted it for, and what do you suppose he did with it? He wanted that money so he could do as he did: live a life of luxury and ease so he would not have to work.

He quit his job the day he collected the $50,000, the very day; they had to replace him, so that he could do as he did: live a life of luxury and ease. So he could go to Florida, so he could have a boat on Hunter's Island, and other places, so he could have a radio, in the midst of the worst depression of this land, in May 1932. He spends four hundred dollars for a radio.

Not only that; so that he could as he did gamble and speculate with thousands and thousands and thousands of dollars. Why, he poured money into these accounts. In July, 1933 alone what do you suppose this gentleman did? Forty-five hundred dollars in the account of Mrs. Schoenfeld or whatever her name is, the wife, the maiden name, the delightful wife of Mr. Hauptmann; forty-five hundred in the same month, two thousand more in cash in a savings account. That is besides this money found in the garage. He poured those moneys in there to satisfy his desire to gamble and speculate. Why, he used Lindy's money to buy Sweepstake tickets with! What do you think of that?

Now men and women of the jury, if we do not prove these facts to you, why, you acquit him, you acquit him; if we do not prove them to you, you acquit him. But if we do, as we are confident we

will be able to, and as we expect to, let me just tell you, representing the State of New Jersey, that this State will not compromise with murder or murderers. We demand the penalty of murder in the first degree.

MR. REILLY: If your Honor please, I move now for a mistrial on the impassioned appeal of the Attorney General, not being a proper opening, but merely a summation and a desire to inflame the minds of this jury against this defendant before the trial starts.

The Court: The motion is denied.

Mr. Reilly: I ask now most respectfully, sir, that you will charge the jury at this time that the opening of the Attorney General is merely what he intends to prove, that their minds are not to be prejudiced at this time, but they are to keep their minds free and open until the last word of this case.

The Court: I suppose the jury already understands that. Of course, the purpose of an opening is to tell the jury what the evidence will show. Of course the jurors will keep their minds open until the last word has been said in the courtroom.

Mr. Reilly: May I take an exception to your Honor's denial?

The Court: An exception to what?

Mr. Reilly: I move for a mistrial and the withdrawal of a juror and your Honor denied the motion at that time.

The Court: I will give you an exception.

Mr. Wilentz: As I understand it, if your Honor please, learned counsel did not move for the withdrawal of a juror. I don't think he is entitled to an exception to the denial of a request he never made.

Mr. Reilly: May I move now under your prac-

tice for the withdrawal of a juror and a declaration of a mistrial?

The Court: Yes, you may make your motion. And you do make it?

Mr. Reilly: Yes, I make it.

The Court: The motion is denied.

Mr. Reilly: I now ask for an exception.

The Court: Exception granted.

(Exception allowed, and the same is signed and sealed accordingly. Judge.)

(Maps placed on wall at right of jury.)

Mr. Peacock: We are ready, your Honor, to proceed.

The Court: We will proceed now.

Mr. Hauck: Walter E. Roberts.

WALTER E. ROBERTS, sworn as a witness on behalf of the State.

Direct Examination by Mr. Hauck:

Q. Where do you live, Mr. Roberts? A. Flemington, New Jersey.

Q. What is your business? A. Civil engineering and surveying.

Q. Are you licensed by the State of New Jersey? A. Yes, sir.

Q. Up until January 2nd of this year, what also was your official title in this county? A. County Engineer.

Q. Now did you make the maps that are on the wall? A. I made the original tracings from which those are correct duplicates.

Q. Then were they made by you or under your direction? A. Under my direction, partially by myself and partially under my direction.

Q. Where did you attend school, Mr. Roberts? A. Swarthmore College.

Q. How long have you been practicing as an engineer and as a surveyor? A. Twenty-eight years.

Q. How long were you County Engineer of the County of Hunterdon? A. Five years.

Q. Now, Mr. Roberts, I show you a map, which we might designate as S-1 for Identification.

Mr. Fisher: Which one is that; is that the two mile map?

Mr. Hauck: That is the two mile radius.

Q. Will you kindly tell the Court and jury what does that map depict? A. It shows the vicinity of the Lindbergh house to within a radius of approximately two miles, the road, the county line, the lane leading to the Lindbergh house, the wood road which branches off from the lane, and that is—

Q. When was that map made by you? A. It was made in December of this past year.

Q. Now, when that map was made, did it truthfully depict the situation as you saw it? A. Yes, sir.

Q. I would like you to take this pointer and come down and point out to the jury the different markings on the map, explain the map to the Court and jury.

Mr. Fisher: What scale is that?

The Witness: In the first place, I was just going to say the scale is 375 feet to the inch. The reason for the odd scale will develop later.

This mark here represents the north, the corner; north being in this direction—south, east and west (indicating on the map). The line here is the line between Somerset County and Hunterdon County, and from this point is the line between Somerset and Mercer County. This line running east and west represents the line between Hunterdon and Mercer County, with Hopewell Township lying to the south and East Amwell Township to the north. These lines represent various roads, the road to Hopewell, to Stoutsburg, Zion, Wertsville, Lutz Corners, to Hopewell, and to Lyndale and State Highway No. 30. The irregular lines there represent the edge of Woodland, all this territory here being heavily wooded on the top of the mountain. The cleared land, this dark spot and the light area just back of it, represent the Lindbergh house. These lines represent the lanes constructed within fairly recent number of years, and this is the indication of an old wood road, not a very distinct road, but nevertheless an indication that it had been used as a wood road.

The red marks represent two monuments which are set on the county line.

Q. Now, Mr. Roberts, I take it then that all this territory divided between these two lines is Hunterdon County? A. That is right.

Q. And this territory in here is Mercer County? A. That is also right.

Mr. Hauck: I would like to have the map admitted in evidence at this time.

By Mr. Fisher:

Q. Is any part of Somerset on there? A. This part, Mr. Fisher is Somerset, on the east of this line here.

Q. East and north? A. Only to the east. This

whole area on the map to the east of that line is Somerset County as far as I know. I didn't verify that on that chart.

Mr. Fisher: Do you offer the map?

Mr. Hauck: Yes.

Mr. Fisher: We should like first to cross examine on it, your Honor.

The Court: Cross examine.

Mr. Pope: May we cross examine upon all the maps at one time to save time? May the State proceed to prove them all?

Mr. Hauck: We are willing to do that. I thought it might be more convenient to take them one at a time.

The Court: Perhaps it might be well to have this map that you are now talking about marked as Exhibit S-1 for identification.

Mr. Hauck: I would like to have that done.

The Court: Then of course that would be a convenient way to refer to the map.

Mr. Fisher will now cross examine the engineer if he wishes to.

Mr. Fisher: Mr. Pope will do so.

The Court: Yes, Mr. Pope.

By Mr. Pope (voir dire):

Q. Mr. Roberts, referring to map S-1 for Identification, in speaking to the prosecutor you said what this portion here represents. May I ask if you mean by that, so that it may get on the record, that the portion of this lying to the north of the irregularly dotted line and marked "Hunterdon County," on the northerly side of that line, represents the territory of Hunterdon County? A. It does, as far east as this line here, northwestward.

Q. When you say as far east as this line here, you are referring to the irregularly dotted line to the right of the map marked "Somerset County," to the right, and "Hunterdon County" to the left of the line? A. Yes, sir.

Q. Then that portion of the map which lies to the south and toward the bottom, marked "Mercer County" is Mercer County? A. Yes, sir.

Q. Was this map made from an actual survey on the ground? A. Yes, sir.

Q. It was not copied from other county maps? A. No, sir.

Q. In any way, shape or form? A. Not that map.

Q. How did you ascertain the distance between the point marked—the red monument on the Hunterdon County and Mercer County Line to the intersection of Featherbed Lane with the road leading north and south past the Lindbergh place? A. That was done by what is called stadia measurement.

Q. What do you mean by that? A. It is possible with a transit by reading between—there are three cross hairs, horizontal cross hairs on the transit. The distance between the upper and lower cross hairs, the space which that indicates

on a rise—as you know, where the rays from a telescope would diverge as you go further away, and as you move your rod away, those lines cover or intercept a greater length on that rod; and the rod and the transit are so constructed that by reading the transit and sighting on a properly graduated rod, you would have within less than a foot error—you have the distance from your transit to that rod. It is a very quick way of making a map.

Q. And that is the way you obtained those distances? A. That and with the compass.

Q. Not by actual measurements? A. Only the distance on it. The near points here, those are done by actual tape measurements, the points near the house are taken with the tape.

Q. This road marked Van Lews Lane, or Van Lews Corners, to the left of the map, that leads from Hopewell to where? A. To Van Lews Corners in Hunterdon County, that is a point on the road between Ringoes and Wertsville. It finally intersects with this road which runs very much to the north, several miles away from it, from this locality.

Q. Did you make all of the measurements for this map by the process that you have just described? A. No, sir, not the ones—

Q. ——— the use of the transit and the graduated rod? A. Not the measurements near the house, those were made with the tape.

Q. And just what measurements near the house were made with the tape? A. The length and location of this constructed lane running from the main road into the house. The distance from this red monument to the entrance to the lane, the distance from the county line to the house, the distance between these two monuments.

Q. And with those exceptions, all of the other

measurements on the map, then, are really approximate measurements made with the use of the transit and the graduated rod? A. On a larger scale, I would say they were approximate, on a scale of that size, of 375 feet to the inch, the planning of a state measurement and a stadia measurement could not be indicated. The reason for making these with the tape is because it might be important for to know the exact distance.

Q. Then, it would not be possible for us to start, for instance, at this corner here where I am pointing, and by using a 375 scale ruler, measure from there to some other—to this point down here (indicating), and to obtain the exact distance, would it? A. You can, yes, sir, I would say you could within a foot, maybe two feet.

Q. As close as that? A. Yes, sir, I think so, as close as you can read a 375 scale. I think that will answer it exactly, no matter how the measurements were taken.

Mr. Pope: That is all.

Mr. Hauck: I would like to offer the map in evidence at this time.

The Court: Any objection, Mr. Pope?

Mr. Pope: We object to the map because it is not made from an actual survey and measurements, but it was made by using the transit and a graduated scale which does not give exact measurements but only approximate measurements. Therefore we cannot use the map for the purpose of obtaining with a degree of accuracy and certainty the exact distance between two points on the map except the

points that the witness mentioned immediately surrounding the Lindbergh house and from the Lindbergh house to the Hunterdon-Mercer County line.

The Court: Well, as a practical matter, had you expected to set up a map of your own?

Mr. Pope: No.

The Court: Do you not think, Mr. Pope, that this map might well be admitted for the purpose of illustration?

Mr. Pope: Well, your Honor, the difficulty with that is that we may find it necessary during the progress of this trial to ascertain with exactness the distance between two particular points on this map which have not been ascertained by the use of a tape and which would not be accurate. It would only be approximately correct and it might make a very great difference.

The Court: It is always open to you to determine the distance between two points in any fashion that is competent.

Mr. Pope: Well, of course, but the State is offering this map, your Honor, and they are asking us to accept it. And it develops—

The Court: For purposes of illustration, I think.

Mr. Pope: Well, I don't know what they are going to use.

Mr. Peacock: That is it,—for purposes of illustration.

Mr. Pope: If it is only for the purpose of illustration, all right.

The Court: It will be admitted for the purpose of illustration.

(Two-mile radius map marked State's Exhibit S-1 for Identification.)

Mr. Hauck:

Q. Now I would like the stenographer to mark this lower map S-2 for Identification.

Mr. Fisher: What is that one, Tony?

Mr. Hauck: This map.

Mr. Fisher: What is it, I mean?

Mr. Hauck: S-2.

Mr. Fisher: What is it?

Mr. Hauck: I will have the engineer tell what it is, if you don't mind.

By Mr. Hauck:

Q. Mr. Roberts, will you look at the map designated as S-2 for Identification and tell us what it represents? A. The diagram on the right,

which is drawn to a scale of one inch equals four feet is a correct representation of the east elevation of the Lindbergh house. There is no line on there which has not been drawn to a correct measurement.

By Mr. Pope:

Q. Is that one inch? A. One inch equals four feet.

By Mr. Hauck:

Q. What is the diagram on the left of the map? A. The diagram on the left represents a drawing of the Lindbergh plan marked "Nursery." I personally do not know that that was a nursery. I was only told that. The room is the northeast corner room on the second floor of the Lindbergh house.

Mr. Fisher: That should be stricken. He says he was told it was the nursery.

Mr. Hauck: We will connect it up as being a nursery by other witnesses.

The Witness: I would like to withdraw my statement. I didn't want to say an incorrect statement. I made an incorrect statement and tried to correct it, your Honor.

By the Court:

Q. What do you want to say now? A. I want to say that it is a diagram of the southeast corner room on the second floor of the Lindbergh house.

Q. And you know nothing about the nursery part? A. No. It is marked as the nursery, but I do not know that.

By Mr. Hauck:

Q. Well, now, Mr. Roberts, was this map made by you or under your direction? A. Yes, sir.

Q. And is it an accurate map? A. It is.

Q. Made by actual measurements? A. Every line on there is measured except the shading lines which indicate the walls.

By Mr. Fisher:

Q. Is that the same scale, Mr. Hauck? A. That is one inch equals one foot.

By Mr. Hauck:

Q. Mr. Roberts, do those two diagrams on the map truthfully depict the situation as at the time when you made it? A. Yes, sir.

Q. And saw it? A. Yes, sir.

Mr. Hauck: I would like to offer this in evidence as S-2 for the State.

By Mr. Pope (voir dire):

Q. Is this the southeast corner room? A. Southeast corner.

Q. On the second floor? A. On the second floor.

Q. And it is made to scale? A. Yes, sir; one inch to one foot.

Q. And from actual measurements made on the ground? A. Yes, sir.

Q. By whom? A. By my assistant and myself.

Q. You personally supervised? A. I personally supervised the measurements.

Q. Then you know that the measurements are correct? A. Yes, sir.

Q. And that so far as this diagram is concerned we may start at any point and measure to another point and get an exact picture? A. Yes, sir.

Q. Of the room itself as well as the accurate measurements? A. Yes, sir.

Q. I see on what you have marked here the east elevation "Scale one inch equals four feet" lines, irregular lines with figures in them running from the ground up to the top of the window casing if extended. What do they represent? A. They are —they represent the measurements which we found, measuring from the ground to the top of that window.

Q. Well, the first measurement then is what? A. Four feet five inches from the surface of the ground to the window sill of the first floor.

Q. Now was that measurement made from the ground to the center of the window sill or was it made where it is indicated on the map? A. It was made from the ground to the top of the window sill.

Q. To the top of the window sill? A. Yes.

Q. On the first floor? A. Yes.

Q. And then the second measurement, five feet four inches, what does that represent? A. That is the height of the window sill to the window coping.

Q. From the bottom of the sill to the top of the sill? A. From the top of the sill to the bottom of the coping. The coping, in other words.

Q. And the third measurement, four feet six inches represents what? A. That is the wall space between the top of the window on the first floor and the bottom of the window; in other words, the top of the sill on the second floor.

Q. And four feet nine inches, the last measurement up, represents what? A. The height of the window on the second floor, the window opening.

Q. Now to the right of these measurements you have here two lines, broken, and marked in the center "Fourteen feet three inches." That represents what? A. That represents the distance from the ground to the top of the sill of the second floor.

Q. And when you say to the top of the sill of the second floor you mean—. A. The second floor window.

Q. You mean the top of the sill of the second floor window? A. That is right.

Q. And which window is that? A. That is the east window in the room designated on this diagram here which is the window here.

Q. And by the east window, you mean a window which faces towards the east? A. That is right.

Q. Looking through that, you would be looking toward the east? A. Yes, sir.

Q. And that is the same window that is indicated on the diagram to the left of the map by the words "radiator and window"? A. That is right.

Q. And it is in the southeast corner of that diagram, is it? A. Yes, sir.

Q. And these measurements from the ground to the window sill were made by you? A. Yes, sir.

Q. They are absolutely correct? A. Yes, sir.

Q. No question about that? A. Taken with the steel tape held tight.

Q. A tested tape? A. Yes, sir.

Q. Do you know that your tape was accurate? A. A brand new tape, it had never been used before.

Mr. Pope: That is all.

Mr. Hauck: I would like to offer that map in evidence as "S-2" for that State.

The Court: Any objection, Mr. Pope? It is admitted in evidence.

(The map was received in evidence and marked State Exhibit No. 2.)

By Mr. Hauck:

Q. Mr. Roberts, before you go into any of the other maps, I am afraid the jury did not see all the measurements you were showing Mr. Pope. Will you point out these measurements on the east side of the house, explain them to the jury so they can see them. A. Can you see my hand? There are four measurements shown from the ground to the top of the sill. It would be this portion of the window, it is about four feet and five inches. From the top of that part of the sill to the bottom, in other words, the window opening, the clear opening is five feet and four inches; from the bottom of that sill to the top of the window sill on the second floor is four feet and six inches; from the top of the sill of the second floor to the bottom of the upper portion of the window is four feet and nine inches. The distance from the ground to the sill of the second floor window, which represents the southeast, the east room of the southeast corner of the second floor, is fourteen feet and three inches.

Mr. Pope: You mean the east window?

The Witness: Yes.

By Mr. Hauck:

Q. What is this measurement, pointing out the measurements to the left of the diagram, the outside of the house? A. From the edge of the house, the southeast corner of the house on the ground, there is a stone wall. The height of that wall is three feet eleven inches from the ground. The distance from the top of that wall to the eaves of the house, the gutter of the house is sixteen feet and three inches. Those are by actual measurement.

Q. What does the triangle here represent? A. This rectangle here represents a skylight, a glass skylight in the side of the house, in the roof of the house.

Q. Will you pass on to the diagram at the left of the map and explain to the jury the measurements of that room? A. As you will see from the arrow, north is in this direction in that room. This represents the east side and this the south —easterly and southerly, they are not true north and south. There is a window and immediately inside of the window is an encased radiator, then a fire place and then this next window also has a radiator, an encased radiator below the sill. On the south window, which is made up of double windows, I think they are called French windows, in front of that window in the room is a wooden box seat. This door, shown here in the north side of the room leads into the hallway. The first door on the west side of the room leads into a closet; there is a door on the southerly side of the west side that leads into a hall.

Q. What are the dimensions of the room? A. The north and south dimension of the room is 15 feet, the east and west dimension 10 feet 10½ inches.

Q. These are north and south and these are east and west? A. Yes.

Q. Can you tell us on the same diagram which is the front of the house? A. The front of the house is the southerly side, indicated by this arrow.

Mr. Hauck: I would like the stenographer to mark this map as S-3 for identification on behalf of the State.

Mr. Pope: Before you do that may I ask one question? It hasn't been admitted—

Mr. Hauck: I understand it has been admitted.

Mr. Pope: All right. I wanted him to show me the location. Never mind.

Mr. Hauck: Go ahead, Mr. Pope.

Mr. Pope: No. I will wait until you put the other map in.

The Court: Number 2 was admitted.

The Court: Now there has been something said about Number 3?

Mr. Hauck: Number 3 has been marked and I am going to examine—

The Court: Marked for identification.

Mr. Hauck: Yes.

The Court: Mr. Pope wants to cross examine on that.

Mr. Pope: After they get through.

The Court: After they get through.

You may proceed now.

Direct Examination Continued by Mr. Hauck:

Q. Now, Mr. Roberts, will you tell us what the map designated as S-3 represents? A. S-3 represents the outlines of the Lindbergh house as measured on the ground. That is, the ground floor, the outside of the house at the ground or near the ground, and the developments, which were made in the immediate vicinity of the house such as walls, porches, drives, pump house and drainage.

Q. Was that map made by you or under your direction? A. Yes, sir.

Q. And is it accurate? A. Yes, sir.

Q. Does that map truthfully depict the situation at the time you saw it and at the time the map was made? A. Yes, sir.

The Court: Well, Mr. Hauck, I think we will prepare to take a recess at this time.

Mr. Hauck: All right.

The Court: I will ask everybody in the court room to stay right where they are until the jury has retired; right where you are, wherever you are. The jury will retire now; the jury will retire in the custody of their officers and come back at 1:45.

(Recess at 12:30 a. m. to 1:45 p. m.)

After Recess (1:52 p. m.)

The Court: Is the defendant in court?

Mr. Peacock: No, sir.

The Court: The prisoner will be brought in.

(The prisoner entered at 1:53 p. m.)

Mr. Hauck: Now, Mr. Roberts—

The Court: We will poll the jury first.

(The jury was polled and all jurors answered present.)

WALTER ROBERTS resumed the witness stand:

The Court: Counsel may proceed.

Direct Examination (continued) by Mr. Hauck:

Q. Now, Mr. Roberts, will you again come down here by the map. Referring to the map marked S-3 for Identification, is that an accurate map? A. Yes.

Q. Was it made by actual measurements under your supervision? A. Yes, sir.

Q. Will you explain in detail to the jury the different parts of the diagram and the distances. A. The north point showing the directions of the compass. The scale of this map is one inch equals five feet. The shaded area, the strips represent the walls of the house. The places marked "W" are windows in the first floor. These are doors,

French doors, the main entrance door, these other W's are windows. The gratings shown here are cellar ventilation, or windows. The gratings on the ground level. This area here is a paved court or a paved porch, uncovered porch; also here is a flagstone court at the front door. A board fence extends westerly from this corner of the house to the square on the left side of the drawing, which represents a pump house. The dotted lines shown here and here (indicating) represent a loose macadam area, that is broken stone, covered with broken stone; in other words, it is a drive way, used here, I presume, for the parking of cars, or some similar purpose. This is the entrance to the house (indicating). The points marked "C.B." are catch basins to remove surface water underground to some disposal point. The shaded areas shown here, along the edge of this driveway, are trees, small trees. This section at the northwest corner is the garage.

I think that covers what that drawing is supposed to show.

Q. And does that diagram truthfully depict the situation as you saw it when you made the map? A. Yes, sir.

Mr. Hauck: Cross examine, Mr. Pope.

By Mr. Pope:

Q. Is it drawn to scale? A. Yes.

Q. What is the scale? A. One inch to five feet.

Q. Was it made from a survey on the ground? A. Yes, sir.

Q. Are the measurements accurate? A. Yes, sir.

Q. Made with the tape? A. Yes, sir.

Q. Are these trees that you have referred to placed in their exact location? A. Yes, sir, the

center dots on the diagram represent the trunk of each tree.

Q. They were placed there by measurement and by scale on the map? A. Yes, sir. There is one feature, if I may add, that I didn't refer to.

Mr. Hauck: Go ahead.

The Witness: There is a stone wall that is represented by these lines here. I didn't mention that before. The wall is, I presume, three or four feet above the ground.

By Mr. Pope:

Q. You mean three or four feet high? A. Yes.

Mr. Pope: That is all.

Mr. Hauck: Is there any objection to offering this in evidence at this time? I offer it, your Honor, and ask the stenographer to mark it.

The Court: It will be admitted as S-3.

Mr. Pope: Tell me once more what the scale was.

The Witness: One inch to five feet.

(The paper was received in evidence as Exhibit S-3.)

Mr. Hauck: Now, Mr. Stenographer, while you are here will you mark the upper map on the left hand side S-4 for Identifi-

cation. And this lower map, while you are here, is S-5, please, for Identification.

By Mr. Hauck:

Q. Now, Mr. Roberts, will you take the map marked S-4 for Identification and tell us what the upper diagram represents. A. The upper diagram represents the second floor plan of the Lindbergh house.

Q. And what does the lower diagram represent? A. The first floor plan.

Q. Was this map made by you or under your personal supervision? A. Yes, sir.

Q. And is it an accurate map? A. Yes, sir.

Q. Does it truthfully depict, both of these diagrams truthfully depict the situation as it was when you were there? A. Yes, sir.

Q. When you made the maps? A. Yes, sir.

Q. Take the upper diagram and explain to the Court and jury what it represents. Describe it. A. As in the plan, the S-3, the shaded areas represent the walls on this diagram, this upper diagram. The rooms are marked from the evident use. No furniture in them,—many of them,—when I was there. But it was evident their use, and I marked them so on my plan. In other words, this room here, marked a bedroom, corresponds to this room here on S-2—isn't that it?

Q. That is right.

By Mr. Pope:

Q. That is the nursery? A. That is it. And back of that is a bath and back of that is a bathroom. Just to the west of this corner room is a bath, then a bedroom, another bedroom, a long hall, stairs going to the first floor at this point, closets,

an opening to a window, a bath at this point connected with the southwest corner of that floor, a bedroom north and across the hall from the southwest corner, stairs to the lower floor, and two bedrooms and a bath over the garage, on this northwest wing. The north point is shown as on the other drawings, the direction of north is shown on the plan. This north point is not from a compass but is merely for convenience in referring to the sides of the building, which would be the northerly, southerly, or easterly or westerly side, and is not an accurate portrayal of the north on that drawing—it is merely for convenience.

By Mr. Hauck:

Q. Now, Mr. Engineer, will you give us the scale of both of those diagrams, please? A. They are one inch equals five feet.

Q. And they are both the same scale? A. Yes, sir.

Mr. Hauck: You may cross-examine, Mr. Pope.

By Mr. Pope (voir dire):

Q. May we have the engineer mark the room which has been referred to as the nursery with the letter "N" with a red pencil. Any objection to that?

The Court: Any objection to that?

Mr. Hauck: No objection, your Honor.

The Court: It may be done.

(Witness marks map as indicated.)

The Court: Mr. Engineer, what did you say the scale was?

The Witness: One inch equals five feet.

The Court: Proceed.

Q. What is the size of the room marked with the red "N" representing the nursery? A. Fifteen by approximately—13 and 10½, 13, 10½.

Q. I see to the north of the Room marked "N", a north hallway? A. Yes, sir.

Q. Is that the same hallway that you referred to on the other map that the door led out into? A. The door on the north side of this room marked "N", this door in S-2 corresponds with this door in S-4.

Q. And you told us this morning, I think, that the door at the northwest corner of the map on S— A. 2.

Q. —on S-2, no, the door in the southwest corner of S-2 led out into another hallway. Will you show us where that hallway is on that map? A. There is a small hallway between the room marked "N" and the bath, this is the door shown on map No. 2. There are two doors there, here, here, and a door from this bedroom.

Q. Did you locate the library while you were there? A. Yes, sir.

Q. And where is the library? A. The library is on the southeast corner of the first floor shown on the lower diagram at this point.

Q. And with reference to the room marked "Nursery", where is that? A. It is directly underneath the room marked "Nursery".

Q. Did you notice any desk in the library when you were there? A. No, sir.

Q. There was no desk there or you didn't notice it? A. I didn't see any.

Q. Does the window shown in the library and on the southerly wall of the diagram correspond with the window in the upper room, the room immediately above marked "N"? A. Yes, sir.

Q. And is that window directly above the window that looked out from the nursery? A. I didn't understand the question. I am not sure of what you are asking me.

(The question was repeated by the reporter.)

Q. (Question repeated.)

Mr. Pope: Well, I am afraid that is not what I asked him. I will reframe it.

The Reporter: May I read the question before,—it joined in,—I took his interruption.

Mr. Pope: Go ahead.

(Questions and answers repeated by the reporter as follows:

"Q. There was no desk there or you didn't notice it? A. I didn't see any.

"Q. Does the window shown in the library and on the southerly wall of the diagram correspond with the window in the upper room, the room immediately above, marked 'N'? A. Yes, sir.

"Q. And is that window directly above the window that looked out from the

nursery? A. I didn't understand the question.")

A. The window—This is a window in the southerly face, southerly side of the library, and the window in the southerly side of the room marked "N" is directly above the window in the library.

By Mr. Pope:

Q. Did you notice whether those windows are casement windows or whether they are fitted with sashes which slide up and down? A. The windows on the first floor are casement windows, they are practically doors—they are high French windows, they would be called.

Q. We know what you mean by casement windows. A. The windows in the front of the house —I will have to refer to my notes about these particular windows. These are casement windows here, I am quite sure.

Q. The only one that I am interested in is in room marked "N." A. May I refer to my notes?

Q. If you wish.

Mr. Hauck: Yes, refer to your notes.

Mr. Pope: Yes, surely.

A. Mr. Gauss has my notes here. (Papers handed to the witness.) Yes, that is a casement window; this is a casement window here.

Q. Now, you say "this is a casement window here." That does not mean anything on the record. A. All right. That is the one you asked me the question about.

Q. You are pointing to the window on the southerly side of the room marked "nursery,"

right? A. Yes, sir; and that window is a casement window.

Q. That window is a casement window? A. Yes, sir.

By Mr. Pope:

Q. One that the windows open in or open out? A. Open in.

Q. And it does not slide up and down? A. No, sir.

Q. Are there also casement windows on the east side of the house downstairs? A. No, sir.

Q. They are windows that slide up and down? A. Yes, sir.

Q. Are the windows on the east side of the second floor casement windows or windows that slide up and down? A. Double sash windows that slide up and down.

Q. Did you take particular notice of that window on the south side of the nursery? A. Yes, sir.

Q. That was one of the windows that you went there to examine and to locate and to put on your diagrams, wasn't it? A. Yes, they were all—

Q. But I mean that one in particular, wasn't it? A. No.

Q. Now, will you tell the jury how that window was fastened?

Mr. Large: I think it is important, your Honor, to indicate what time he is referring to.

Mr. Pope: At the time the engineer was there, Mr. Large.

Mr. Hauck: Will you point to the point at the time?

The Witness: As far as I remember I don't think the window was fastened when I went in the room.

Q. No, I meant was it equipped with a lock so that it could be fastened? A. I didn't notice that.

Q. You didn't notice whether it was a bolt lock or what? A. No, sir.

Q. Did you notice the method adopted to fasten any of the windows in the house? A. Yes, sir.

Q. And what particular windows did you notice? A. I noticed the window, the south window on the east side because I had to open that window to make my measurement to the ground.

Q. When you say on the southeast side, you mean the southeast side of the nursery, do you? A. The southeast side of the nursery and the building.

By Mr. Pope:

Q. How was that window fastened? A. An ordinary window catch similar to the window catches in this room.

Q. Were they all casement windows on the first floor? A. The windows on the south side were casement windows, yes, sir.

Q. The windows on the other three sides of the house were slide windows? A. Yes, sir.

Q. Did you notice whether all of the windows on the second floor were equipped with locks? A. No, sir.

Q. Did you notice whether they were all equipped with locks on the first floor? A. No, sir.

Q. Will you tell us how many ways there are, how many stairways leading from the first floor to the second floor? A. Two.

Q. Will you point them out on the map for us?

A. On the first floor plan they are marked "Up" as leading to the second floor, there is a stair leading to the right of the entrance in the main hall and a stair just to the south of the garage entrance leading to the second floor.

Q. The one that you are speaking about now, is that from what would be the kitchen wing of the house? A. Yes, sir.

Q. And the other one? A. The stairs correspond on the upper diagram, but they are marked "Down" instead of "Up".

Q. I see. Recurring to the diagram of the lower floor, the stairway leading to the second floor is immediately to the left of the front door or main entrance as you come in the door and then turn? A. There is a closet that you must pass before you start upstairs.

Q. You turn around a small closet? A. Yes.

Q. And then turn to your left? A. Yes, sir.

Q. And go up the stairs? A. Yes, sir.

Q. Do you go north first and then turn? A. That is right.

Q. And then turn east? A. Yes, sir, and south at the top. There is a landing at the top.

Q. Will you show us where the dining room was? A. The southwest corner of the house indicated here (indicating on map).

Q. Have you a scale ruler there? A. Yes, sir.

Q. Will you tell me how far it is from the library from the dining room? A. They are adjoining rooms. A. (continued) Oh, I beg your pardon. At what point do you wish that measured?

Q. Well, from the wall. A. From wall to wall?

Q. Yes, from wall to wall. A. 29 feet.

Q. Can you tell me how far it is from the top of the stairway landing on the second floor to the door leading into the nursery? A. From the

center of the top step, as it arrives at the second floor, to the center of the door leading into the nursery, is five feet and two inches.

Q. Five feet two inches? A. Yes, sir; the door is right here.

Q. Now, can you show the jury how one would get from the kitchen wing up to the nursery? A. From the kitchen wing to the nursery, you could go two ways.

Q. All right; give us one way first, taking the stairway leading from the servants' quarters or from the kitchen. A. I will take the kitchen as being the important section of the kitchen wing. You would go through a door on the west side of the kitchen and walk six or seven feet to a doorway on the north side of a hall, turn immediately to your right and up the stairs, come out at this point, corresponding point on the second floor. Then you would come through, you go a short passage past a closet, turn to the right through the long hall.

Q. No, you turn to the right and then to the left, wouldn't you? A. Continue to the right and then turn to the left here.

Q. That is right. A. Turn to the right here, to the left at this point, follow through that hall, then through these two doors into the nursery, that would be one way.

Q. Now will you tell me— A. That would be one way.

Q. Will you tell me the distance from the center step, from the center of the top step in the upper hall to the door leading into the nursery. A. Well, which stairs, please, Mr. Pope?

Q. The one that you have just described. A. The one I just described?

Q. The stairway leading from the kitchen, the kitchen window. A. I omitted one thing in telling

you, that you have to rise two steps from the kitchen window hall on the second floor to the main level. (The witness scales the map.) 64 feet and 9 inches, by the scale 64 feet and 9 inches.

Q. 64 feet and 9 inches? A. Counting the turns, all turns.

Q. And that is approximately correct? A. Yes, sir, including all the turns.

Q. Including all the turns.

Mr. Pope: I would like to ask the engineer, if your Honor please, to trace on the map with a red pencil for the benefit of the jury the course one would travel in going from the top step in the second hall of the stairway leading from the kitchen wing to the nursery door which he has just described in number of feet. May I have that done?

The Court: Has the State any objection?

Mr. Large: Yes, your Honor please.

Mr. Hauck: The State will object to it on the grounds that it is irrelevant and incompetent as far as we can see.

Mr. Pope: Well, it may be incompetent and irrelevant so far as you can see, but so far as we are able to see this case, we think it is very important.

The Court: It does not appear to the Court at the moment that it is so far relevant as to justify the marking of this map

in that fashion. It may be that later on the proofs will develop that some such marking as that might be advantageous.

Mr. Pope: May we hold our request in abeyance then?

The Court: You certainly may, but we will not mark the map at this time.

Mr. Pope: All right.

By Mr. Pope:

Q. May I ask you this question, sir: Are those two diagrams delineated upon the map which you have just been describing so accurately and so carefully drawn to a scale that the jury can, or we can, any of us, by taking a scale ruler and measuring by any two points that we select obtain the exact distance between those points? A. Yes, sir.

Q. Using a one inch equals five feet scale? A. Yes, sir.

Q. You are quite sure of that, are you? A. Yes, sir.

Q. Was this map drawn by you yourself or by— A. Yes, sir.

Q. (continued) —one of your assistants? A. (Nodding.)

Q. And did you yourself scale all of the diagrams? A. Yes, sir, I measured the distances on the building myself.

Q. Oh, of course. So then you know that the scale is correct and that the diagram is correct? A. It has been checked. After I finished it, it was returned to the building and rechecked to

see that all the lines correspond with the lines in the house.

Mr. Pope: Those are all the questions I have with relation to this map and we have no objection to its admission.

Mr. Hauck: We offer it at this time then, your Honor.

The Court: This is No. 4?

Mr. Hauck: Yes, sir.

(The map was received in evidence and marked State Exhibit No. 4.)

Mr. Pope: May I ask the engineer a question about the first map?

The Court: Surely.

By Mr. Pope:

Q. I believe I asked you this morning, but there seems to be some doubt in counsel's mind: will you give us the exact distance or can you give us the exact distance from the top of the sill of the lower window on the — that is the southwest side — the southwest side of the house as shown on the map marked "east elevation"?

Mr. Hauck: Are you referring, Mr. Pope, to S-2?

Mr. Pope: Yes, I will put that in—to the top of the bottom sill of the window im-

mediately above it as shown on the diagram marked S-2?

Mr. Hauck: Just a minute. I understood Mr. Pope to say the southwest corner.

I believe he means the southeast corner,—do you not?

Mr. Pope: It seems to be the southwest corner. Is the southeast corner? I mean this window sill (indicating on map). Is that the southeast corner?

The Witness: Yes.

Q. So that there may be no mistake about it, then I am referring now to the window of the library downstairs to the window of the nursery upstairs. A. That distance is 9 feet and 10 inches.

Q. Is that marked on the map? A. It is marked—

Q. Or did you scale that? A. No. It is marked by two, two dimensions, which I totalled.

Q. You simply add— A. Yes.

Q. Then by adding these two dimensions we can get that distance? A. Yes, sir.

Q. At any time. A. Yes, sir.

Q. And I believe you told me that the distance from the ground to the top of the sill of that lower window was— A. 4 feet and 5 inches.

Q. 4 feet and 5 inches.

Mr. Fisher: How much from the ground?

Q. In looking at these windows that I have just been talking about—namely, the one in the library

and the one in the nursery upstairs—the map seems to indicate that the downstairs window is a 12 pane window, is that correct? A. Yes, sir.

Q. And the one upstairs is also a 12 pane window. A. Yes, sir.

Q. Are you quite sure that the upstairs window was not a double-sash window? A. I said that it was.

Q. I understood you to say that it was a casement window. A. No.

Q. Now I either misunderstood you or you misspoke yourself. A. I asked you— When you asked me the question I said I wanted to be sure that I was answering about the window that I thought you wanted me to answer. You asked me about this window here (indicating), the south window of that room.

Q. Well, I didn't mean to, I am sorry. I now ask you, then, about the window leading into the nursery shown on the east elevation of the map. A. That is a double-sashed window.

Q. Marked S-2. And it slides up and down? A. Yes, sir.

Q. And how was that fastened? A. It was fastened with a lock similar to the ones in this courtroom, an ordinary window catch.

Q. That is— A. Moved horizontally.

Q. By that, you mean, of course, the record doesn't show what was in this courtroom—you mean by that that there was a catch on the top of one sash which turned around and locked into a lock on the other sash? A. That is right.

Mr. Pope: Now, may I ask the witness at this time something about the terrain of the country over there. I am through with this man.

Mr. Hauck: Well, I have no objection, except I am not through with the direct of this witness yet, your Honor.

Mr. Pope: Oh, that will be all right.

Mr. Hauck: I have another map.

Mr. Pope: All right, go ahead.

By Mr. Hauck:

Q. Mr. Roberts, I would now like you to look at this bottom map which is marked S-5 for Identification. What does that map represent? A. The map marked S-5 is a map prepared, it is an enlargement of a section of the official geodetic map of the State of New Jersey.

Q. Was it prepared by you? A. Yes, sir.

Q. And was it prepared from standard maps? A. Yes, sir.

Q. And what does it represent? A. It represents the countryside, the area in the immediate vicinity of this Lindbergh property, the indication on the map, the house is at a point about the center of the map, and the red line on the right-hand side represents State Highway No. 31; the red line on the westerly, on the lefthand side represents State Highway 30.

Q. Does that map show which county the Lindbergh home is in? A. Yes, sir.

Q. Which county? A. In Hunterdon County, it is north of the county line at about the center of the map.

Q. And what is the scale of that map? A. That map is a scale, due to the fact that it is an enlargement, is not on an actual scale, I have a scale which actually fits it, but it is approximately 2¾

inches to the mile, due to the fact it is an enlargement. I would not want to say it is exactly 2¾ inches to the mile, but it is very close to that.

Q. And is that map an accurate and true picture of the territory as you saw it when you made the map? A. It is a true reproduction of the official State map.

Mr. Hauck: I offer the map at this time, your Honor.

Mr. Pope: Well, I want to ask the witness some questions before I decide whether to object to it or not.

The Court: You may proceed.

By Mr. Pope (voir dire):

Q. Did you make this entire map that you are now referring to? A. I made the small original tracing, as I say, this is an enlargement, I made a tracing from which this is made. My tracing is made from the original the official map of the State Government.

Q. Well, this official map that you call it, that is a map that you obtained where? A. It is one that I have had for several years, it is issued by the Department of Conservation Development in Trenton, available to the public, anyone can have it.

Q. And, of course, you do not know that that map was made from an actual survey or not, do you? A. No, sir.

Q. You merely assumed that that map was approximately accurate? A. From my knowledge of that country I know it is a good representation

of the road and the general layout of that country for the purposes of—

Q. Well, that is not what I asked you. A. I am telling you what I know about it.

Q. Oh, I see. Now, after you made your tracing from the State map that you refer to, how did you make this enlargement? A. By what is called photostats, enlarging it, then printing from the enlargement it is made, as you will notice, if you look closely, it is made in four sections pasted together, matched together.

By Mr. Pope:

Q. Well, you mean you enlarged it with an enlarging camera? A. Yes. Not I personally, I did not.

Q. Who did that? A. I had that done for me, in Trenton.

Q. Oh, you sent the tracing out to some establishment and had the photographic copy made from that, the photographic enlargement made from the tracing which you made? A. And then I compared this map which I received back with my original, to see if they had properly enlarged it and had shown the features which were on my tracing and found that to be so.

Q. Will you tell me once more what you have determined to be the approximate scale of the map that you are now speaking of. A. Two and three-quarter miles to one inch.

Q. How nearly is that correct? A. That is correct within a quarter of a mile, I would say.

Q. Will you show me between what points on this map you made your check in order to determine the correctness of the map and its distances. A. I made a check—

Q. Here is the pointer down on the floor. A. I

have two points on the county line that you can accurately measure, a monument here at the road and a monument, 1552 feet—I have the exact figure of 1552 feet on a two and three-quarter mile scale; to a fraction of a foot it would be impossible to tell.

Mr. Hauck: Speak out, please.

The Witness: I mentioned that the distance between these two monuments was 1552 feet. I haven't named the fraction because it would be impossible to show any fraction of a foot on a two and three-quarter mile scale. 1552 feet is a little over a quarter of a mile to the inch. It would be a little over a quarter of a mile, less than a third.

Q. Take the measurements from the center of the red dot? A. Yes.

Q. The direct center? A. From the edge of this door, Mr. Pope, the west edge of that black line. It is six-tenths of a mile from the house to the public road which checks also with this scale very closely. Here is a half mile and we are just about another tenth beyond that. That with the actual measurements which I had to check that—it is right in one particular and compares favorably with the known angles and so forth.

Q. Just take your scale ruler and check that with that, and see if that isn't very much more than six-tenths of a mile. A. I can't check it with this ruler, sir.

Q. Can't you calculate it? A. I have already got it on here, on this green sheet. I know it is correct because I have taken the time to calculate that and properly mark it.

Q. And are those the only two points that you checked up on that map? A. No, sir; I also—

Q. What other points did you check? A. I compared—

Q. To test the accuracy of the map. A. I compared the portions shown on S-5 with my S-1 map—P-1.

Mr. Hauck: S-1.

Q. S-1. A. S-1, and find that they are sufficiently similar to consider this map correct. If you ask how many miles it is from the Lindbergh house to State Highway 31, that I could tell you within a quarter of a mile.

Q. But you could not tell us exactly, could you? A. No, sir.

Mr. Pope: We have no objection to the map if it is offered for the purpose of illustration of the general surroundings.

The Court: I take it that that is its manifest purpose.

Mr. Hauck: That is all we are offering it for, your Honor.

The Court: It will be admitted for the purposes of illustration.

(Map of area in immediate vicinity of Lindbergh property received in evidence and marked State Exhibit No. 5.)

By Mr. Hauck:

Q. Now, Mr. Roberts, going back to S-1, will

you again tell us, point again for the jury to the Lindbergh home and the lane, on that map? A. The Lindbergh home is this mark at about the center of the drawing; the double lines, practically parallel lines, which lead first to the north, then to the east, southeast, from there, represent the lane leading to the road.

Mr. Pope: That does not mean a thing on the record and that is very important. We would like to have that on the record, so that the record will be clear.

Mr. Hauck: Well, I will try to get it on the record.

By Mr. Hauck:

Q. You are now referring to the double set of lines going from the Lindbergh—the diagram in the middle of the upper section known as the Lindbergh home, and leading to the road known as the Wertsville-Hopewell Road, is that right? A. I would rather identify that road as the road from Buttonwood Corners to Hopewell. There are other roads leading to Wertsville and Hopewell.

Q. What does the double set of broken lines represent at the south of what you have now designated as the Lindbergh lane? A. An unused wood road, what was evidently a wood road in its former times. There are no wheel tracks in the road now.

Q. Is the entire Lindbergh Lane in the county of Hunterdon? Yes, sir.

Q. And is the wood road in the county of Hunterdon? Yes, sir.

By the Court:

Q. Please point out the Lindbergh Lane. A. The Lindbergh Lane is shown in the solid line leading from this spot in the center of the map which indicates the house. It leads northerly for a short distance and then to the east and then south east until it intersects the road from Buttonwood Corners to Hopewell.

Q. It is between those parallel lines. A. Yes, sir. The length is 3,300 feet.

Q. Where is the wood road? A. The wood road starts approximately 600 feet—that is an estimate from observation at the present time on this map—approximately 600 feet in toward the house from the public road and then runs almost due west, then north and then westerly again and is indicated on the map by a dash line, a broken line, a double broken line.

By Mr. Hauck:

Q. Mr. Roberts, is the Lindbergh home entirely in the county of Hunterdon? A. Yes, sir.

Q. What is the distance from the county line to the wall at the front of the Lindbergh home? A. The distance from the county line to the point, to the lower edge—

Q. Referring now— A. On S-3—to the paved porch it is 870 feet.

Q. Will you take your pointer and go over that line for the jury if you will? A. It is marked here in pencil the distance from the southerly face of the paved porch of the Lindbergh house to the county line is a distance of 870 feet.

Mr. Hauck: Cross examine, Mr. Pope.

CROSS EXAMINATION BY MR. POPE:

Q. May I ask you the last distance that you gave us from the face of the porch wall to the county lane—that is an airline distance? A. Yes, sir.

Q. There is no pathway leading along that point or roadway? A. I didn't measure that myself. My man measured it. It is measured with a horizontal—

Q. Did you scale it yourself? A. Beg pardon?

Q. Did you scale it? A. Yes, sir.

Q. Then you are testifying from scale? A. No, I am testifying from my field notes, which indicate that that is 870 feet and the house is placed on the map 870 feet north of the county line in accordance with the measurements taken.

Q. Yes. But that distance was measured by one of your men, you say? A. Yes, sir.

Q. Now I am asking you does that distance which you have given us and which somebody else made check with the scale on the map? A. Yes, it does.

Q. Do you know that? A. Well, I put it there; it has to check.

Q. Well, will you scale it for me then, scale it on S-1. A. (The witness made a reply that was inaudible.)

Mr. Large: I submit we cannot understand or hear the conversation.

The Witness: I don't think he was asking a formal question.

Mr. Pope: No. Just tell it out loud.

The Court: You are quite right about that, Judge Large.

Mr. Pope: State it out loud. Tell the stenographer what you told me.

The Witness: I say that the distance measured on this scale is 870 feet, about 830. There is a slight amount of shrinkage on that print, I imagine. 30 feet is a very small distance on a scale of 375. It is a tenth of an inch.

By Mr. Pope:

Q. How far is it from the Lindbergh house to the nearest point of the Mercer County Line? A. 870 feet.

Q. Wait a minute. As one would travel by road or using the ordinary passageway leading from the Lindbergh house to the Mercer County line? A. 3515 feet, using the lane and the public road.

Q. I would like to ask the engineer some questions about the general condition of the country there.

Mr. Pope: Now, I would like to ask the gentleman about the general terrain of the country there. In the first place, I observe—

Mr. Hauck: Now, may it please the Court, I do not object, but I do not understand it is the cross examination of the witness at this time.

Mr. Pope: This is cross examination.

By Mr. Pope:

Q. I observe on the map marked S-1 some irregular curling lines, starting at a star in the southwesterly corner of the map and to the right of the road leading from Hopewell to Van Lews Corners and curving upward on an irregular course toward the Mercer County line, then very much enlarged and curving to the south and also upward and crossing the Mercer County line and running around the Lindbergh lane to a point almost at the intersection of the wood road with the Lindbergh lane. Then, those thin out and continue northeasterly and cross the public road leading from Hopewell to Buttonwood Corners and then on over to the road leading to Zion. What does that represent? A. That represents the edge of what I consider a heavily wooded ground.

Q. Then are we to understand that the upper side of these irregular lines is wooded ground? A. Yes, sir.

Q. Heavily wooded ground? A. Yes, sir.

Q. And then the Lindbergh Yard, if we may call it such, was cleared off out of that wooded space? A. Very much cleared in comparison to the area indicated by these lines.

Q. I see. A. There are trees in this other area.

Q. Now how far back toward Wertsville does that wooded country continue? That would be north. A. Oh, about two miles, I should say, possibly three.

Q. Now I want to call your attention to this diagram. I don't see the mark here. A. S-5.

Q. S-5; and I call your attention to the irregular lines about in the center of the map. There are two rows of them. They look like mountains used to look in our school geographies. What does that represent? A. That is what they are intend-

ed to indicate, more or less the outline of what is known as Sourland Mountain.

Mr. Pope: That is all.

Mr. Hauck: That is all, Mr. Roberts. Thank you.

Mr. Wilentz: Mrs. Lindbergh.

ANNE MORROW LINDBERGH, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. Mrs. Lindbergh, you are the wife of Charles A. Lindbergh. A. I am.

Q. And where do you reside, madam? A. My legal residence is in East Amwell Township, Hunterdon County. I have been living in Englewood, New Jersey.

Q. When you say East Amwell Township in Hunterdon County, you mean the home which you occupied in March, 1932. A. I do.

Q. Now specifically referring to March 1, 1932, you were then living in and occupying the home in Hunterdon County, were you not? A. I was.

Q. And will you please tell us on the first day of March, 1932, about the household? A. The occupants of the household?

Q. Yes. A. I was there myself and my son, Charles A. Lindbergh, Jr., Mrs. Elsie Whatley, her husband Oliver Whatley, and later in the afternoon Betty Gow.

Q. So that the household on that date consisted of yourself and also Colonel Lindbergh in the evening? A. In the evening.

Q. And Mr. and Mrs. Whatley and Betty Gow and your infant son? A. Yes.

Q. How old was he? A. Twenty months.

Q. He was born in June, 1931? A. June 22nd, 1930.

Q. 1930. And had you come down to Hunterdon that day or prior to that time from Englewood? A. We came down February 27th—let me see.

Q. It would be a Friday? A. Friday.

Q. Yes, ma'am. And you stayed during the entire week end? A. Yes, stayed during the entire week end.

Q. And I think March 1st, 1932, was a Tuesday, wasn't it? A. It was.

Q. Now, referring specifically to that Tuesday, you were there all day? A. All day; yes, sir.

Q. And your son was there all day? A. Yes, he was.

Q. Did you leave the premises at all that day? A. I left for a short walk in the afternoon, after Miss Betty Gow had arrived from Englewood to take care of the baby.

Q. What time did Miss Gow arrive? A. About 1:30 in the afternoon.

Q. And when she arrived, then you went for a short walk? A. I went for a walk in the middle of the afternoon.

Q. Did you walk alone? A. I went alone.

Q. And about how long were you away? A. Not very long; I could not definitely say, about fifteen, twenty minutes, perhaps half an hour.

Q. And when you returned were Mr. and Mrs. Whatley and Miss Gow at home? A. They were all at home.

Q. And the child? A. And the child.

Q. Now, during that day had you played with Charles, Junior, spent much time with him? A. I had been with him all morning, I put him to sleep for his nap about one; and in the afternoon I played with him after he awoke from his nap.

Q. Now, in connection with the times that you did play with him in the afternoon, was there one occasion while he was up in his nursery and you were downstairs and you played from the downstairs to the window? A. After I returned from my walk, I walked around from the driveway under his window and tried to look for him. I attracted the attention of Miss Betty Gow by throwing a pebble up to the window, and she then held the baby up to the window to let him see me.

Q. When you speak of the window, Mrs. Lindbergh, you are referring to the east window. Would you like to look at the map, the drawing, this being the first floor plan and this being the second floor plan, the arrow pointing to the north, and I take it to my right would be east? You threw the pebble up to the nursery window, did you not? A. I stood under both windows.

Q. Under both windows. And on the side there is just one window, is there? A. There are two—well, yes, there are two windows on that side.

Q. And you stood underneath each? A. No, I stood under this one furthest down.

Q. Would you mind stepping down, Mrs. Lindbergh, please. May I have the pointer. A. I stood first under this window and then under that one.

Q. Pointing first to the easterly window and then to the southerly window. Then you threw the pebble up towards which window? A. I don't remember.

Q. You don't remember. Now you may step back, please. Did you strike the window? A. Yes.

Q. And Miss Gow's attention was then attracted to your presence downstairs? A. Yes.

Q. And you say she then exhibited the baby? A. She held the baby up to the window.

Q. Was the window then open? A. No.

Q. It wasn't? And in that procedure and particularly that time that you were throwing the pebble up and walking along the walk there, do you recall your walking on the wooden walk or did you get off of it? A. I walked from the driveway along by the side of the house where it was quite muddy and then on to the flagstones, flagstoned porch at the back.

Q. Well, with particular reference to the easterly side of this house and particularly with reference to that portion of it underneath or near that portion which would be underneath the east window, you say you did walk in the mud there? A. Yes.

Q. Was the condition of the ground such that when you walked there you left foot prints of your walk? A. It was.

Q. So that in the afternoon, as I understand it while walking around on the east side of that building in the vicinity of that portion of the house which would be immediately underneath the east window, the second floor east window, you left your foot prints. A. I did.

Q. Then too as I understand it there was a little wooden walk there, was there not? A. Yes, there was.

Q. It extended along the east side of the house, did it, Mrs. Lindbergh? A. It did.

Q. You recall about how wide it was and what it was? Give us your best judgment on it. A. As I remember it I should say that it was the width

of two planks, if not wider, I cannot recollect that completely.

Q. A sort of irregularly placed walk I take it? Or quite regular? A. It was not a regular walk placed there.

Q. After that—that was about what time in the afternoon, would you say? A. It was, say, around three-thirty— I cannot give it exactly.

Q. Will you tell us then, if you don't mind, please, what you did for the rest of the afternoon and how you spent your time? A. After my walk, I went up into the baby's bedroom where I found Miss Betty Gow and Mrs. Whatley. Then I went down again, I think, into the sitting room. About five o'clock I had the baby down in the sitting room playing with me. He left me to run into the kitchen. After that I did not see him until I went up into the nursery about 6:15 or after, when he had almost finished his supper. From that time on for about an hour or a little more than that, I was with the baby, helping to dress him and prepare him for bed.

Q. Now, during the afternoon, as I understand it, you stated that you were with the child and the child was playing around. Will you tell us about the child, about his playfulness that day. Was he a normal child? A. He was perfectly normal.

Q. Healthy? A. He was very healthy.

Q. Playful? A. He was a great deal better than he had been the preceding two or three days when he had had a cold, slight cold.

Q. Was he able to talk yet? A. He talked.

Q. To what extent, Mrs. Lindbergh? A. I don't remember any particular conversation on that afternoon. Of course, he called for all the members of the household by name, and he played about the floor with me in the living room.

Q. Did he understand when he was addressed, understand what was being said to him? A. He did.

Q. And did he know the toys by name? And his food, was he able to tell about his cereal and his toys and things of that kind, that took up his immediate life? A. Is that a question?

Q. Yes, ma'am. A. Yes.

Q. Will you tell us, please, what was the color of his hair? A. It was light golden.

Q. Was it curly? A. It was curly.

Q. And the color of his eyes, please? A. Blue.

Q. I show you a picture and ask you if that is a picture of the child? A. It is.

Mr. Wilentz: I offer it in evidence.

Mr. Large: It ought to be marked.

Mr. Wilentz: I offered it in evidence.

The Court: No objection; it will be marked.

(The photograph was received in evidence as State Exhibit S-6.)

Q. Will you please, to the best of your ability and recollection, describe the nursery room for us? A. Do you mean the placing of the windows, or—

Q. Yes, ma'am, and generally about the room as best you can, and the condition in which it was the night of March 1st, 1932. A. As you enter the nursery from the hall you face a large French window. Just below the French window was a window box with two doors below it which opened out, for toys.

Mr. Wilentz: Pardon me just a minute. If your Honor please, can we not have—there seems to be so much noise right in back of me that I just cannot think.

The Court: Everybody will please remain as quiet as possible.

Q. Yes, ma'am, please. A. As you entered the nursery from the hall there were two windows to your left, sash windows. Between them was a fireplace and a mantel. To the left of the door as you entered was a small chiffonier. To the right of the door was a table. On the wall facing the two windows there was a door into a closet. That is to your right. The crib faced the fireplace, running along the length of the wall. Between the crib and the French window was a screen covered with paper of a colored design.

Q. What sort of paper was that that you talked of, of colored design? A. With small figures. Small toy figures on it. The general colors were pink and green.

Q. Pink and green, you say? The general colors were what? A. Pink and green.

Q. Pink and green. Was that screen used to—A. Protect the crib from drafts.

Q. Does this picture correctly portray the screen and the crib? A. It does.

Q. The very ones that were in that room that night. A. Yes.

(Hands photograph to defense counsel.)

Mr. Wilentz: May I proceed while counsel is examining that? I understand there is no objection to it being in evidence.

Mr. Reilly: No, none at all.

Mr. Wilentz: I therefore offer it.

The Court: It will take the usual order.

(The photograph was received in evidence and marked State Exhibit No. 7.)

By Mr. Wilentz:

Q. I exhibit to you another picture, Mrs. Lindbergh. Does that show the east window, the sash window so called? A. Yes.

Q. And also the dresser? A. And the dresser, yes.

Q. And those articles exhibited and shown by this picture, Mrs. Lindbergh, are exactly as they were on March 1st, 1932? I don't mean with reference to the exact position,—but in the room? A. Exactly, as I can remember.

Q. Exactly, as far as you can remember.

Mr. Wilentz: I therefore offer that.

Mr. Reilly: I assume, Mr. Attorney General, they were taken right at the same time, or shortly thereafter?

Mr. Wilentz: She says so. She says it indicates the exact condition at that time. I don't know when they were taken.

(Photograph received in evidence and marked State Exhibit S-8.)

Q. I show you another picture which shows the crib and a little table and other articles of furni-

ture; were those articles of furniture in that room on March 1st, 1932, as they are shown in this picture? A. They were.

Mr. Wilentz: I will offer it first before I refer to it.

Mr. Reilly: No objection.

Mr. Wilentz: I offer it in evidence.

(The photograph was received in evidence as State Exhibit S-9.)

Q. I notice in Exhibit S-9, that is the picture before me, there is a tray with some articles upon it. Were those articles there that night? A. They were.

Q. And what are those articles, if you know? Is it a food tray or a medicine tray? A. It is a tray of articles for the bath of the child.

Q. I see. A. And one container of medicine.

Mr. Wilentz: That has been marked.

If any of the members of the jury are unable to hear either counsel or the witness, I am asking the jury through the Court if they won't please say so.

The Court: Yes; do you apprehend that the jury is not hearing?

Mr. Wilentz: I understood that possibly some of the jurors do not hear.

The Court: If the jurors do not hear

the testimony, let them speak up and we will see to it that they do hear.

Mr. Wilentz: I really can talk much louder, if your Honor please.

Q. Now, Mrs. Lindbergh, does this correctly depict, and is it a correct and accurate picture of the baby's crib as it was in that room on that night of March 1st, 1932? A. It is.

Mr. Wilentz: I offer it in evidence.

(Photograph was received in evidence and marked State Exhibit S-10.)

Q. Will you look at Exhibit S-10, please, and tell me whether or not there are any pins shown by that photograph? A. I do not see them.

Q. All right. I want to show you two more pictures of that room from different views and ask if they correctly indicate the room, a certain portion of the room that night? A. Yes, they do.

Mr. Wilentz: I offer them in evidence.

(Photographs referred to were received in evidence and marked State Exhibit Number S-11 and State Exhibit Number S-12.)

Q. These pictures indicate, I take it, numerous toys in and about the room, Mrs. Lindbergh. Were those toys there? A. They were.

Q. And were they the toys of Charles Lindbergh, Junior? A. They were.

Q. Now, I think you stated a while ago that you were in the room at 6:15? A. Approximately.

Q. Approximately 6:15. And when did you see

the child again? At that time he had already had his dinner? A. He was finishing his dinner.

Q. Finishing his dinner. Where did he have his dinner, by the way, in the nursery? A. In the nursery at the maple table, which is in the center of the room.

Q. By the way, your room is connected with the baby's room? A. Through a bathroom.

Q. Through a bathroom. Who had dinner with the baby that evening? Who was with him while he was eating dinner? A. Miss Gow was with him and I came in at the end of the meal.

Q. I see. Then did you leave the nursery and where did you go? A. I stayed in the nursery until the baby was in his bed. He had been dressed, he had been given medicine, he had been rubbed with some kind of grease,—

Q. Vicks Vapor rub? A. Yes, for his cold and he had been put in his bed.

Q. About what time was that? A. It was a little later than that, about 7:30.

Q. Had he had a cold? A. He had had a cold for three days.

Q. Was he then suffering with a cold? A. He was much better.

Q. Did he still have a little cough or had it disappeared? A. He was a good deal better, breathing easily.

Q. So that you were not particularly alarmed about his cold? A. No.

Q. Notwithstanding that, however, as I understand it, you applied these medical aids. Will you tell us then if you were there when the child was put to bed? A. He was in his bed when I left.

Q. Who dressed him for bed? A. Miss Gow and I.

Q. Will you tell us then about that, please? A. What he wore?

Q. Yes, ma'am. A. He had next to his skin a home-made flannel shirt which Miss Gow cut out and sewed that night out of a flannel petticoat for an infant which I had had since the child was an infant.

Q. Mrs. Lindbergh, I want to exhibit to you a piece of clothing that I have and ask you whether or not you can tell what that is? A. That is the flannel shirt cut out of the flannel petticoat.

Q. Is that the flannel shirt that your child Charles A. Lindbergh, Jr. had on that night in that crib when he was put to bed on March 1st, 1932? A. It is.

Mr. Wilentz: I offer it in evidence.

Mr. Reilly: No objection.

The Court: It will be admitted.

(The garment was received in evidence as State Exhibit S-13.)

Q. Is Exhibit S-13 just introduced in evidence, the shirt which you have just described? A. It is.

Q. I notice a green—I think it is—thread—possibly I am mistaken about the color—is that a green thread on the right side? (Handing Exhibit S-13 to the witness)? A. It is blue.

Q. Blue. Was there a blue thread—I think you said Miss Gow sewed that afternoon. A. I did not sew the garment and I did not get the thread.

Q. Now, will you tell us what else the child had as its bedclothes that night? A. On top of the home made shirt he had a small sleeveless wool shirt, cut very low in front and back.

Q. Will you tell us, please, whether or not you can tell from looking at this piece of clothing what it is? A. It is the sleeveless shirt.

Q. Is this the sleeveless shirt that you just described as having been worn by your child that night, March 1st, 1932? A. It is.

Mr. Wilentz: I offer it in evidence.

(Sleeveless shirt received in evidence and marked State Exhibit No. 14.)

The Court: If there is no objection, it will be admitted.

Q. What else did the child wear that evening as bedclothes? A. He had diapers, fastened to the small shirt, to the second shirt, and on top of that he had a sleeping suit, a wool sleeping suit.

Q. Did you buy that sleeping suit yourself? A. I did.

Q. I show you what purports to be a sleeping suit, No. 2 Dr. Denton, and ask you whether or not you recognize that sleeping suit. A. I do.

Q. What sleeping suit is that, Mrs. Lindbergh? A. It is the sleeping suit that was put on my child the night of March 1st.

Q. 1932? A. 1932.

Q. And it is the sleeping suit then that your son wore that night as he went to bed? A. It is.

Mr. Wilentz: I offer it in evidence.

The Court: If there is no objection it will be admitted.

(Sleeping suit received in evidence and marked State Exhibit No. 15.)

By Mr. Wilentz:

Q. Now you have told us about the sleeping suit and if I may be defensively leading for a minute, did the child have any thumb protectors on? A. Pardon?

Q. Did the child have a thumb protector? A. Yes, he had.

Q. Will you describe that thumb protector and how it was fastened, if it was fastened? A. It is a wire thumb guard which had a piece of tape through the sides of it and was fastened around the wrist of the sleeping suit on the outside.

Q. How was it fastened? A. I did not put it on—

Q. Well, do you know? A. (Continuing.) — myself.

Q. Do you know how it was fastened? Did you see it done that night? A. No, I don't remember seeing it done. I know the thumb guard and I have done it myself.

Q. Do you know whether— A. But that night I did not put it on.

Q. Did you see it on though after it was put on? A. I don't remember seeing it on.

Q. You don't remember. Disregarding this little piece of paper please, Mrs. Lindbergh, will you tell us whether or not you recognize that as being one of the thumb guards the child had on, one of the thumb guards that was used for your child? A. Yes.

Q. And is it one of the thumb guards owned by you and which you used for your child on occasions to affix to the sleeping garment? A. It is, yes.

Mr. Wilentz: I offer it in evidence, ex-

cept the paper. (Showing to counsel for defense.)

There is no objection.

(The thumb guard was received in evidence and marked State's Exhibit S-16.)

By Mr. Wilentz:

Q. How would you fasten this thumb guard, Mrs. Lindbergh? Would you take this string and attach it to the sleeping garment? A. No, the guard is slipped over the thumb and the tape is tied twice around the wrist.

Q. Securely tied? A. Yes.

Q. I suppose the purpose of it is to have it so secured that the child cannot, either playfully or otherwise, remove it during the night? A. Yes, and to have it on top of the sleeper so it will not cut his wrists.

Q. I see. Now, I take it that the last time—I withdraw that. Now, on the night of March 1st, 1932, after you saw your child dressed for sleeping, with these articles, did you then leave the bedroom, the nursery? A. I left the bedroom and went down into the living room.

Q. About what time was that, if you recall? A. About 7:30.

Q. Was Colonel Lindbergh home yet? A. He was not home.

Q. Had you heard from him that afternoon or evening? A. I had heard that he was coming, that he would be late.

Q. That he would be late, he had called you, had he? A. He had called me that evening.

Q. All right; now, at 7:30, when you came down, that was when you left the child's nursery,

what did you do then, Mrs. Lindbergh? A. I sat at the desk in the living room, which is opposite to the door from the hall.

Q. Would you like to point it out, please? A. (Witness indicates on map.)

Q. You are pointing to what is marked on Exhibit S-4 as the living room of the first floor plan. A. I am.

Q. Yes, ma'am. And you say you did what? A. I sat at the desk which is opposite two doors from the hall for approximately an hour.

Q. Were the doors leading to the hall open? A. They were usually open—they were open that evening.

Q. They were open that evening, they were? A. Yes, sir.

Q. And that would take you, you say, to about 8:30? A. To about 8:30, about 8:25.

Q. About 8:25. And then what did you do, Mrs. Lindbergh? A. At 8:25 I heard the horn of my husband's car; he drove into the back court and into the garage. He then came in through the back hall, the kitchen, and the dining room, into the living room. We then went upstairs for about five minutes on my husband's watch; we went down again into the dining room and had supper. I think that we finished supper at approximately nine o'clock, perhaps a little after nine. We went into the living room, sat down by the fire for a very short period—perhaps five minutes. We then went upstairs into my bedroom and we sat for about fifteen or twenty minutes, talking. After that my husband drew a bath, took a bath, and went down again, downstairs into the library, and I got ready to go to bed.

Q. Were you also suffering with a cold that day and that evening? A. I had caught the cold

from the baby. After my husband left I rang the bell for Mrs. Wheatley and when she came, asked her for a hot lemonade to take before going to bed. I then drew a bath for myself.

Q. Did Mrs. Wheatley bring the lemonade? A. She did not bring it, she went down to fix it, and after I had taken my bath, Miss Betty Gow came in to me through the hall door and asked me if I had the baby, and hearing that I did not, asked me if my husband had the baby, and I sent her downstairs. I then went into the baby's room through the connecting passage. This was after ten o'clock, shortly after ten o'clock. I went into the baby's room through the connecting passage, looked hastily at the bed, found it to be empty, came back into my room, where I met my husband and Miss Betty Gow. My husband went into the closet to take out a rifle, and we all three went into the baby's bedroom and searched it. I was still in the baby's bedroom when Mrs. Wheatley came upstairs, and I went with her back into my own bedroom and got dressed and we started to search the house.

Q. By that time I suppose Colonel Lindbergh had notified the police? A. He had spoken to Mr. Wheatley and he had gone outside with Mr. Wheatley to look around the house. I don't know what he did downstairs.

Q. When you left that room at about 7:30 o'clock, did you observe whether or not the east window, that is, the casement window I think it is referred to, was closed? A. All the windows were closed when I left that room at 7:30.

Q. At 7:30. And there were shutters on the outside of the windows, were there not? A. Yes.

Q. Were they drawn and closed? A. Miss Betty Gow and I closed all the shutters on all the windows before I left.

Q. With particular reference to the east window, was it possible to lock it in addition to closing it? A. It was not possible to lock it. We both pulled on it and tried to lock it.

Q. But the window and shutters of the room in that nursery were closed, as I understand it? A. Closed when I left.

Q. You haven't seen that child since the first of March, 1932, have you? A. No.

Q. And when it was revealed that the child was missing, did you join with Colonel Lindbergh in an appeal to the person who had the child for its return? Did you join— A. What do you mean by that?

Q. Did you make a statement asking the person who had your child to return it? A. I joined with my husband—

Q. Colonel Lindbergh, yes. Did you on another occasion soon after the child was found missing make a radio appeal and statement giving the baby's diet? A. I gave out the baby's diet.

Q. Do you recall whether or not you gave it out in the form of a statement or whether you personally spoke over the radio? A. I did not speak over the radio.

Q. You did not. And you gave that diet out in order, I take it, that the child might be better cared for? A. Yes.

Q. On the night when you walked into that room did you observe whether or not the room had been changed, its appearance had been changed at all from the time that you had seen it at 7:30? A. I saw no change in the room at all. I noticed no change.

Q. Did you notice the bedclothes? A. The bed clothes were apparently untouched, as though the child had been taken out. The pins were still fastening the bed clothes to the mattress.

Q. Had you had pins affixed from the bed clothes to the mattress? A. I left the baby before he was completely put in for the night.

Q. I see. But when you did get there, Mrs. Lindbergh, you found the bed clothes affixed to the mattress by pins? A. Yes.

Q. About how large were the pins? A. They were large safety pins.

Q. About four inches? Give us your best judgment. A. I would say about the length of a finger, three inches.

Q. About three inches? A. Yes.

Q. And they were still securely fastened, were they? A. Yes.

Q. How about the windows in the room? Do you recall their condition? A. I did not look at the windows.

Q. You did not? Do you recall seeing any paper note there? A. No.

Q. Now when you went in there who had preceded you in there, do you know? A. As far as I know only Miss Gow.

Q. I see.

Mr. Wilentz: May we have just one minute, if your Honor please?

The Court: What is that?

Mr. Wilentz: May we have just one minute, if your Honor please?

The Court: Certainly.

Mr. Wilentz: Take the witness.

Mr. Reilly: Are you through, Mr. Wilentz?

Mr. Wilentz: Yes, sir.

Mr. Reilly: The defense feels that the grief of Mrs. Lindbergh requires no cross examination.

The Court: Nothing further, Mr. Attorney General?

Mr. Wilentz: That is all, thank you, Mrs. Lindbergh.

Miss Betty Gow, take the stand.

CHARLES A. LINDBERGH, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. Colonel, you are the husband of the lady who was just on the stand? A. I am.

Q. On March 1st, 1932, you and your family resided in Hunterdon County in the Sourland Mountains? A. That is right.

Q. And you would go from there to Englewood occasionally and back again? A. Yes.

Q. Particularly with reference to the week end of March 1st, 1932, you and your family did stay and occupy the Hunterdon County home, did you not? A. During the week end on Saturday and Sunday, yes.

Q. Your household at that time, I take it, consisted of Miss Betty Gow, Mr. and Mrs. Wheatley, Mrs. Lindbergh, yourself and your son? A. That is right.

Q. He was twenty months old approximately, as I understand it? A. Yes.

Mr. Wilentz: Counsel, I hope, do not mind these leading questions.

Mr. Reilly: No.

Q. On that day particularly, March 1st, 1932, I take it you were at business? A. Yes.

Q. What is your occupation—what was it on March 1st, 1932? A. My occupation is aviation. On March 1st, 1932, I had spent the day in New York.

Q. And what time did you return from New York? A. Not during the entire day on aviation, various things.

Q. On March 1st, 1932, what time did you return to your Sourland Mountain home? A. I arrived about 9:25 in the evening.

Q. And when you got home, will you tell us briefly from there until about 10:00 o'clock what happened? A. I came by car, arriving about 8:25.

Q. By the way, did you drive yourself? A. Yes, came alone.

Q. Yes, sir. A. I put the car in the garage at the west end of our house. From there, I went in through the kitchen and joined my wife at supper in the dining room on the west end of the main section of the house on the lower floor. We left supper about approximately 9:00 o'clock, went from there into the room adjoining the dining room, which we call the living room of the house on the lower floor. We sat on a sofa there for about five or ten minutes, approximately. From there, we went upstairs to our room and continued our conversation there.

I then went into the bathroom, took a bath, came downstairs, went into the library, which is on the east end of the main part of the lower floor

of the house, sat down at a desk next to the south east window in that library and began reading.

Q. All right, sir. Now just one moment, please there, Colonel. Would you mind standing up, please, Colonel? A. (Witness steps before the map on the wall.)

Q. The library that you refer to, therefore, is the library shown on Exhibit S-4, the easterly corner of it—that is, the southeasterly corner of the house? A. That is correct.

Q. And the window alongside of which this writing table was placed is the window immediately under the sash window, I think they call it, of the nursery? A. Under the south sash window on the east side.

Q. The south sash window on the east side? A. That is correct.

Q. And that is where you were writing? A. Yes. The desk was placed right here (indicating).

Q. Right about in the southeast corner, is that it? A. Yes, facing south.

Q. All right. Now you were writing there at about what time would you say, and for how long? A. I was reading.

Q. Reading? A. At that desk; reading.

Q. About how long? A. I should say approximately half an hour.

Q. And about what time do you believe it was when you first went to that desk or went to that room to sit down to read and started your half hour reading? A. (No answer.)

Q. I understood you to say that you finished dinner about nine o'clock. A. It would be in the vicinity of 9:30.

Q. And while you were there did you have a clear view of the window that was right alongside of the desk ? A. I was sitting beside the window.

The window was open, or rather the window was closed, but the shutters were open.

Q. The shutters were open? A. The shutters were open and no curtain was drawn.

Q. Was there a curtain on the window? A. There was no curtain on the window.

Q. No curtain on the window? A. No curtain on the window.

Q. So that it was absolutely visible to you? A. Yes, of course.

Q. The window panes were visible to you? A. Yes, of course.

Q. You could see through them so far as the darkness would permit? A. As far as the darkness permitted, yes.

Q. Did you see any objects coming down past that window or in the vicinity of that window that night? A. I did not.

Q. Prior to that time, remembering that that was about 9:30, you had been in the living room, had you not? A. Prior to that time I had been upstairs, and prior to that time in the living room.

Q. Well, some time during that night did you hear some sort of a noise or crash? A. Yes, I did.

Q. About what time was it and where were you? A. Sitting on the sofa in the living room during the ten or fifteen minutes after we had come into the living room from the dining room. At that time I heard a sound which seemed to me, at the time, the impression that entered my mind at the time vaguely was that it was like the top of —well, say, an orange box, the top slats of an orange box falling off a chair, which I assumed to be in the kitchen.

Q. That is, sort of like the falling of a crate, a wooden crate? A. The slats of a crate.

Q. At any rate, what you felt was happening was that some piece of wood, like the slats of a

crate, had fallen in the kitchen? A. That is correct. I did not pay very much attention to it at the time, but enough to remark to my wife the words, "What is that?"

Q. And except for that, it went unnoticed? A. Yes.

Q. About what time was that? A. That would be about 9:10 or 9:15.

Q. Was it the sort of a noise that would come with the falling of a ladder? A. Yes, it was, if the ladder was outside?

Q. Finally, at about ten o'clock in the evening Miss Gow spoke to you about the child, did she not? A. About ten o'clock.

Q. Where were you then? A. I was reading in the library.

Q. What happened, tell us, then? A. Miss Gow called to me in a rather excited voice and asked me if I had the baby.

Q. What happened from then on? A. I immediately went upstairs into the nursery and from the appearance of the room I realized, and from the appearance of the crib I realized that something had gone wrong.

Q. What was the appearance of the room that indicated to you that something had gone wrong, Colonel? A. As I entered the room, of course I at first and immediately looked at the crib. The bed clothing in the crib was in such condition that I felt it was impossible for the baby to have gotten out himself. I knew that neither my wife nor Miss Gow had taken him because Miss Gow had asked me if I had him and my wife was upstairs. The clothing was standing—the bed clothing was standing stiffly enough so that the opening where the baby had been was still there, the clothing had not collapsed.

Q. Was the clothing in that crib still affixed to

the mattress by pins, if you know? A. As I recall, it was.

Q. I see. Did you see a note in the room, a paper or what? A. Yes, I am not at the moment certain whether I saw that note at that time or the next time I entered the room.

Q. I see. A. But, either the first or second time; I came back very shortly.

Q. How much time intervened, would you say, between your first visit into the room and the second that you refer to? A. I should say not over five minutes.

Q. At any rate, on one of those occasions you found the note there? A. I had found a note unopened on the window sill on the southeast corner of the room on the window facing east.

Q. Did you find it or was your attention directed to it by anyone? A. No, I found it.

Q. I see. And I understood you to say on the window sill? A. On the window sill.

Q. Was the window open or closed? A. The window was closed.

Q. And, is this the window shown in Exhibit S-12 alongside of which or near which you found the note? A. It is, on which I found the note.

Q. Will you describe, as you look at this exhibit, just the spot where you found the note? A. The note was in an envelope on top of the grating which forms the window sill and through which heat comes from the radiator.

Q. Will you please step down and just show the jury on that exhibit, the point at which that note was found by you? A. (Witness steps down before the jury.) The note was on this sill.

Q. Indicating the sill underneath the east window, along the east window? A. On this sill (indicating).

Q. I show you an envelope with the initials

F. A. K. on the back of it, and a note with the same initials on the back of it and ask you whether or not that note and that envelope were found by you in that room that night, and whether or not those are the papers you just referred to as being on that window sill. A. These are the papers. The note was in the envelope. The initials F. A. K. were not on at that time.

Q. Who placed those initials on? A. They were placed on, I believe, by Trooper Kelly; but this is the note and this is the envelope which contained the note on the window sill at that time.

Mr. Wilentz: I offer them in evidence.

Mr. Reilly: No objection.

Mr. Fisher: May we look at it first?

Mr. Wilentz: What is the request?

Mr. Fisher: May we look at it while you go on with your examination, for a moment?

Mr. Wilentz: Well, how about the envelope? Do you want to look at that too?

Mr. Fisher: Yes.

Mr. Wilentz: I should prefer, if the Court has no objection, to await the determination of counsel.

Mr. Fisher: Oh, we will only be just a second.

Mr. Reilly: No objection.

Mr. Wilentz: Will you please mark first the envelope S-17.

Mr. Fisher: Will it be marked as one exhibit?

Mr. Wilentz: No, two. And the note—

The Reporter: Do you want to take it out?

The Court: If there is no objection, they will be admitted as S-17 and S-18. Is that the idea?

Mr. Wilentz: Yes, if your Honor please; the envelope is S-17 and the note S-18.

(Envelope received in evidence and marked State Exhibit S-17.)

(Note referred to received in evidence and marked State Exhibit S-18.)

Mr. Wilentz: I desire to ask permission of the Court to read the note.

The Court: You may read it.

Mr. Wilentz: "Dear Sir: Have—"

Mr. Pope: Have you got a copy of the note for us, or anything that we can follow?

Mr. Wilentz: If there is a copy I would like to have counsel give it to Mr. Pope. I did present a complete copy to former

counsel for the defense and it was the only copy I had, but there must be some copy here and we will get it for you.

"Have 50,000 (and the dollar mark after it) dollars ready, 25,000 (and then the dollar mark) in 20 (then dollar mark) bills, 15,000 (dollar mark) in 10 (dollar mark) bills, and 10,000 (in each case the dollar mark is after the numbers and I will just refer to them) dollars in 5 dollar bills. After 2—4 days we will inform you where to deliver the money (m-o-n-y). We warn you making anything (a-n-y-d-i-n-g) public or for notify the police. The child is in gut (g-u-t) care. Instruction (or indication) (I don't know which it is) for the letters are singnature (not signature singnature, s-i-n-g, singnature— I want you please to remember that)". Then you find these two circles and as indicated there, somewhere within them, as you see them better than I can describe it, this red fire ball or blotch and at these distances three holes. Singnature three holes. That is his signature—singnature.

By Mr. Wilentz:

Q. Now, Colonel, of course you found your baby was missing and you found that—did somebody want to see it—the bed clothes in the room and the baby's room had been disturbed. Did you notify the police? A. I—shall I describe it, what happened to it?

Q. Yes, please. A. I immediately went into the closet in our own room adjoining and got a Springfield rifle which I kept there and stood at

the top of the stairs, called to Mr. Wheatley and asked him to call the sheriff at Hopewell. That was the nearest officer of the law that I knew of. As soon as I found that his telephone call went through, so that the wires were not cut, which I had expected, as soon as he received an answer from the sheriff so that I knew that he was coming, I went outside on the road north of the house.

Q. With the rifle? A. With the rifle. It was extremely dark that night, I could see a very little distance, and I walked on that road probably for a hundred yards. I then returned to the house. Before I went on the road—I jumped—

Q. All right. A. I went ahead a little bit. After Mr. Wheatley had made contact with the sheriff at Hopewell, or with the Chief of Police, I then went downstairs—before I went out onto that road—and called the New Jersey State police and Colonel Breckenridge in New York. Then I took the rifle and went out onto the road.

Q. And who is Colonel Breckenridge? A. Col. Breckenridge is my friend and attorney in New York.

Q. Your friend and attorney? A. Yes.

Q. You say you went out with this rifle and then returned? A. Yes.

Q. Then what did you do, if anything? Had police come? A. Very shortly after that, Chief Wolfe arrived. Meanwhile, we had touched nothing in the house, in the nursery room. I left instructions not to touch anything there. I myself had not touched the note. And after Chief Wolfe arrived, we began looking around the house outside.

Q. You are talking of Chief Wolfe of the Hopewell Police? A. Of the Hopewell Police, yes. We went around the side under the nursery win-

dow,—that is, on the east side of the house; and as I recall now, it was Chief Wolfe who, with his flashlight, found, located the ladder lying quite a few feet in approximately a southeast direction from the nursery window.

Q. You mean that by the light of the flashlight you could see the ladder? A. Could see the ladder, yes.

Q. That was either Chief Wolfe or Williamson? A. Yes. I remember clearly seeing the ladder but I am not certain at the moment who was holding the light. We walked through there on the planks which had been laid over the mud on the east side of the house, and we found both footprints and the imprints of the end of the ladder approximately under the southeast window of the nursery; but offset slightly to the north. So that the ladder was actually resting slightly to the north of the window itself.

Q. And you found the imprints of that ladder there? A. Yes.

Q. And you say footprints; did you find Mrs. Lindbergh's footprints there? A. The footprints that I saw at the time were of a man.

Q. I see. Did you see any of her footprints? A. I don't recall seeing any of hers.

Q. You don't recall. All right. Now after that, sir, I take it that State police came and you showed them the note? Oh, pardon me, before that, when Officer Williamson, or Chief—Chief Wolfe, is it? A. Chief Wolfe.

Q. Chief Wolfe? A. And Officer Williamson.

Q. And Officer Williamson; when they came did you take them up to the nursery? A. I believe so.

Q. Well, at any rate, who were the officers, if you remember, Colonel, to whom you first exhibited the note? A. I left instructions, after finding the note, that no one was to touch it, and the

note was not touched until Trooper Wolfe of the New Jersey State Police arrived. He moved the note from the window sill to the mantle over the fire place with a penknife.

Q. Yes, sir. A. And the note itself was not opened until Trooper Kelly arrived with suitable equipment for examining it.

Q. For examining it, you mean, for fingerprints? A. Yes.

Q. Now I want to show you a picture of what, I believe, purports to be the ground right underneath the window in the immediate vicinity of that window, with some impressions or holes in the ground, and ask you whether you recognize those holes as being the place where the ladder stood, or the indentation or the impressions made by the foot of the ladder that you have just referred to? A. Yes, they are.

Q. Do they correctly depict the impression that you saw there that night made by the foot of that ladder? A. By the ladder, yes.

Q. By the ladder— A. But there are other impressions.

Q. There are other impressions, but particularly in reference to that; and that is what I am limiting it to? A. Yes.

Q. And that walk—there seems to be a board there; is that the boardwalk that Mrs. Lindbergh referred to a while ago? A. That either is or is similar to the walk that was lying—that was there that night.

Mr. Wilentz: I offer it in evidence.

Mr. Reilly: We would like to admit this, but, if the Court please, we would like to know when it was taken.

Mr. Wilentz: Yes, sir.

Mr. Reilly: How it was taken and by whom it was taken.

Mr. Wilentz: My information is that—well, let me offer it for identification.

Mr. Reilly: For identification, yes, follow it up tomorrow.

(The photograph was marked State Exhibit S-6 for Identification.)

Q. Well, at any rate, Colonel, there was the note and the ladder, impressions in the ground that you speak about, the child gone, police officers coming— I suppose the press soon came too? A. Yes.

Q. And about how many, would you say, were represented there in Hopewell that night before day break? A. I don't know, I imagine several hundred.

Q. Several hundred. So that, I take it, between the press and the police—and there were police of many organizations, weren't there? A. There were.

Q. I take it that there was considerable confusion and walking in and about the premises, right? A. Well, there was, the greatest confusion was before all of the press arrived and while the press was there, there was a great deal of walking around outside of the house by the press which was absolutely out of control as far as the vicinity was concerned.

Q. I suppose that included the taking of pictures and flashlights and things of that kind? A.

Yes, and walking around the house on the loose ground there.

Q. And during all that time you were doing what, Colonel? A. During the first period I was around the house trying to familiarize the officials with what had happened.

Q. And go ahead, Colonel. A. Later in the evening and during the early hours of the morning I was out on different parts, different places in the vicinity of the house with the group of police officers, visiting other houses.

Q. I want to go back for a minute, please— It is quite disconnected, possibly, but I want to get back to the time in the house, and particularly when you were in the living room. As I remember it, the living room opens into the hallway, isn't that so? A. Yes, yes, in addition to other doors.

Q. But, it does open into the hallway. A. With a double door.

Q. With a double door. And, there are two staircases, one leading to the right and one leading to the left, isn't that so? A. One staircase from the living room.

Q. One staircase from the living room? A. From the living room. The other stair is in the back of the house.

Q. In the back of the house? Well, now, the staircase leading from the living room— Could you see that? You couldn't see it unless the door was open, could you? A. No.

Q. Was the door open that night when you came from dinner and walked into that living room, for 15 minutes or so? A. Yes, sir; the doors were open that evening.

Q. Did anybody— I will withdraw that. They were open that evening as I understand it? A. Yes.

Q. Were the doors open to the library from the living room? A. Yes.

Q. We will get back, then, again to the scene in the home, the confusion. Mrs. Lindbergh, I take it, remained in the house? A. I believe so, yes.

Q. Did you not also have Mr. Wheatley drive the car along the premises, playing his lights on the highway or on the road for a part of the way? A. Mr. Wheatley went outside. At the moment I don't recall just what his actions were. He went outside and was searching outside for a time.

Q. All right, sir. Having received this first note, did you receive another? A. By mail, yes.

Q. To you directly? A. The next one was addressed to me at our home in East Amwell Township.

Q. Note No. 2? A. Yes.

Mr. Wilentz: May I have that note, please?

Mr. Wilentz: Has your Honor any objection to indicating to counsel what time your Honor expects to adjourn so I can regulate my examination accordingly?

The Court: If it would suit the convenience of counsel, I would be willing to adjourn quite speedily. I think the room is quite warm. Does counsel prefer it?

Mr. Wilentz: I would like to get one breath of fresh air within the next half hour, but if there isn't any objection, I should like to just finish with this note and then continue in the morning, if it meets with your Honor's convenience.

The Court: That I think will be satisfactory.

By Mr. Wilentz:

Q. Will you take a look at that envelope, please, Colonel Lindbergh, and this note and see if that isn't the note which you received second? A. This is the envelope which contained the second note and this is the second note contained in the envelope. There are some initials on there that have been put on since.

Mr. Wilentz: All right, I will describe them. I will offer them in evidence.

I am going to ask the Court, please, if you don't mind—I don't want to be offensive either to the Court or counsel or the press, but I would appreciate it, even though this is the last minute of this testimony, if the people in the room would remain here until we get through, so there won't be this apparent confusion that we are meeting with back there.

The Court: Yes, that is an entirely proper request. It won't be long now before we take an adjournment and there is no reason in the wide world why everybody who is in the courtroom now should not remain here until the Court has adjourned. The people will observe that order and keep quiet so we can all hear.

(The envelope referred to above was received in evidence and marked State Exhibit S-19.)

(The note referred to was received in evidence and marked State's Exhibit S-20.)

Mr. Wilentz: Exhibit S-19 then is an envelope addressed to Mr. Colonel Lindbergh, Hopewell, New Jersey, and note No. 2—we will refer to this as Exhibit S-20—

The Court: That has been offered in evidence.

Mr. Wilentz: And marked.

The Court: No objection. It will be admitted.

Mr. Wilentz: Exhibit S-20 reads:

"Dear Sir: We have warned you note," —n-o-t-e—"to make anyding,"—a-n-y-d-i-n-g—"public or notify the police. Now you have to take the consequences. This means we will hold the baby until everything is quiet. We can note, n-o-t-e—"make any appointment just now. We know very well what it means to us. It is really necessary to make a world affair out of this or to get your baby back as soon as possible. To settle this affair in a quiet way will better for both. Don't be afraid about the baby. The lady taking care of it day and night. He also will feed him according to the diet. Singture on all letters with an arrow pointing to the circles and the red dot and the holes. We are interested to send him back in gut"—g-u-t—"Ouer"—o-u-e-r—"ransome was made up for 50,-000"—with the dollar mark afterwards—

"But now we have to take another person to it and probable have to keep the baby for a longer time as we expected."

I want you to watch that point.

"So the amount will be 70,000"—with a dollar mark after it—"20,000 in 50$ bills, 25,000 in 20$ bills, 15,000 in 10$ bills, and 10,000$ in 5$ bills. Don't mark any bills or take them from one serial number. We will inform you later were"—w-e-r-e—"to deliver the money." They—h-t-e—the money—m-o-n-y—"But we will note"—n-o-t-e—"do so until the police is out of this case and the pappers—" p-a-pp-e-r-s—"are quiet. The kidnapping was prepared for weeks so we are prepared for everything."

Mr. Wilentz: May we then at this time adjourn until tomorrow morning?

The Court: The Court will take a recess, but I will ask everybody to remain quiet, standing or sitting where they are until the jury has retired. The jury may now retire. Has the jury retired?

Court Crier Hann: The jury has gone out.

The Court: The prisoner is remanded in the custody of the Sheriff. He may retire.

(Whereupon at 4:13 p. m., the Court adjourned until tomorrow morning, January 4th, 1935, at 10:00 a. m.)

STATE vs. HAUPTMANN

Flemington, N. J., January 4, 1935.

THIRD DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

———

The Court: Is the defendant in court?

Mr. Reilly: Not yet, your Honor.

The Court: Let the Sheriff bring him in. The Clerk may poll the jury.

(The jury is polled and all jurors answer present.)

(The defendant is brought in.)

The Court: I very much regret that I have to speak of a matter this morning which relates to the matter of taking photographs here while the Court is in session. I thought that that was perfectly understood between the Court and photographers and everybody else, that no photographs were to be taken here while the Court is in session. Apparently it was not understood, or, if understood, the order was disobeyed. I say apparently, because some things have been brought to my attention which lead me to think that there were some photographs taken here yesterday while the Court was in session.

Now, that must not occur again. If it does occur again, the Court will be obliged to take such measures as the Court deems expedient in the matter. I hope I will not have to refer to that subject matter again.

Mr. Walter Mullins: May it please your Honor I represent five news-reels, and the idea is this: that there has absolutely been no photographs taken during the trial—

The Court: By you.

Mr. Mullins: By any of the companies.

Mr. Wilentz: Just a minute, if your Honor please. May I just suggest that if the gentleman has anything to say to the Court, he might say it to the Court in Chambers.

The Court: Yes, it would be better. The

statement made by the Court is a perfectly simple statement and ought to convey all the information that any interested party desires and, for the moment, I do not feel like listening to any explanation. You may be seated.

The Court: If counsel are ready they may proceed. Colonel Lindbergh will take the stand.

CHARLES A. LINDBERGH, resumed.

Direct Examination by Mr. Wilentz: (continued)

Q. Now, Colonel, you were telling us about the second note that you received; and getting away from that for the moment and returning to the home again, you said you went into the room, I think on two occasions, after which or between which you went out with your rifle. Now will you tell us about the condition of the room with reference to whether or not there were any foot prints of any kind at all in the room. A. There were prints on the suit case or on top of the suit case which was under the window on the southeast side of the nursery. There was also at least one print on the floor beneath that window and inside of the suit case which was on a small chest and there was also, according to my best recollection, a print on the window sill itself.

Q. What do you mean by a print, Colonel? A. A deposit of yellow clay, I will call it.

Q. Sort of a mud? A. Well, mud carries more of the distinction of blackness, to me; it was a yellowish red clay such as outside of the house beneath that window.

Q. I see. A. The length and approximately

the breadth of a man's foot. The prints were not as distinct as to be able to see the complete outline of a foot, but they were very definitely made by a man's foot.

Q. So that, as I understand it then, there were these—we will call them prints from the window sill in the direction of the crib, towards the crib? A. There was at least one between the window sill, at least one between the chest below the window sill and the crib, in addition to the others.

Q. When you talk about the chest, I show you Exhibit S-11 and ask you whether or not the chest which appears on that exhibit right immediately adjoining the window is the chest that you refer to? A. It is.

(The Exhibit S-11 was shown to the jury.)

Q. Now, as I recall it, Colonel, you stated, too, that some time during the evening through the flashlight of one of the Hopewell officers used, you could see the ladder used in the distance? A. Yes.

Q. Eventually that ladder was brought into your home, was it not, that evening? A. Yes, it was. Whether it was before midnight on that evening or not I am not sure, but during that night it was brought in.

Q. Either before midnight or before daybreak the next morning? A. Yes.

Q. And will you tell us whether or not that ladder was strange to your premises or whether it was a ladder that had been there before. A. It was a ladder I had never seen before.

Q. It was not a part of your household or estate? A. It was not.

Q. Was there also a chisel near the ladder? A. That was reported to me.

Q. Was there a chisel brought into the house? A. There was.

Q. Did you see that chisel? A. I did.

Q. Was that chisel a part of the household effects? A. No, it was not.

Q. Strange to the house? A. Yes.

Q. In addition to the ladder, was there also a dowel pin there? A. There was a dowel pin. I don't recall seeing the dowel pin at the time I looked at the ladder.

Q. Did you see it eventually that evening or early the next morning in your home? A. Yes.

Q. And was that dowel pin a part of the household effects prior to this night? A. It was not.

Q. Strange to you, was it? A. Yes.

Q. Then getting back to the notes: after you had received your second note, Colonel, did you directly by mail receive any further notes? A. Not directly.

Q. I show you these papers and ask you whether you did receive them in some other way. A. This is the envelope and the notes which I received next through Colonel Breckinridge. They were sent to Colonel Breckinridge's Office in New York.

Q. And Colonel Breckinridge is the gentleman to whom you referred yesterday as your friend and legal adviser? A. Yes.

Mr. Wilentz: Is there any objection to them being offered by the State? While you are looking at it, Mr. Reilly, I will proceed.

Mr. Reilly: Go right ahead.

Mr. Reilly: Do you want to mark them?

Mr. Wilentz: I am afraid I ought to.

Mr. Reilly: Do you want to mark them for identification? If you are going to call the Colonel—

Mr. Wilentz: I was going to call him but if we can short-cut it, I will.

Mr. Reilly: Eventually they will be in evidence, I have no objection.

Mr. Wilentz: I offer them in evidence, with the consent of counsel.

The Court: They will be accepted.

Mr. Wilentz: There are three pieces to that, if you don't mind suppose you mark the envelope first, the little paper second—we will have the Colonel here when you want him—And the other one third.

(Envelope was marked State Exhibit S-21 and received in evidence. The note was received in evidence and marked State Exhibit S-22; the other one was received in evidence and marked State Exhibit S-23.)

Mr. Wilentz: Are they marked, Mr. Stenographer?

The Stenographer: Yes, sir.

Q. Following that, did you receive a telephone

call from a gentleman by the name of Dr. Condon? A. Yes,—I did not receive the call myself.

Q. Well, eventually, did you meet Dr. Condon? A. Yes.

Q. At your home? A. Yes.

Q. Do you happen to recall the date? A. I believe it was on the evening of March 9th or the early morning, that is after midnight, the early morning of March 10th, to the best of my recollection at this time.

Q. And through him did you receive these notes that night or the night that you refer to as being the first night that you met him (showing two papers to the witness)? A. Yes. Dr. Condon brought these notes to our home at Hopewell that evening. This coloring has been put on.

Q. The coloring on the envelope has been put on— A. Since.

Q. Since that time.

Mr. Reilly: I would ask that these be marked for identification.

Mr. Wilentz: All right, I offer these for identification.

(Notes referred to marked State's Exhibits S-24, S-25 and S-26 for Identification.)

Q. And after you saw these notes, just marked for identification —

Mr. Wilentz: What numbers are they, Mr. Stenographer?

The Stenographer: 24, 25 and 26 for identification.

Q. (continuing)—S-24, S-25, and S-26 for Identification, which includes the envelope, having seen them, did you then authorize Dr. Condon to continue such negotiations as he was making? A. Yes, I did.

Q. And following that was there exhibited to you by Dr. Condon or somebody for him this note (showing a paper to the witness)? A. Yes.

Mr. Wilentz: That is the one I just showed you, Mr. Reilly. I offer it for identification.

(The note referred to was marked State's Exhibit S-27 for Identification.)

Q. Following that was this paper exhibited to you (showing a paper to the witness)? A. You mean next in sequence?

Q. Well, at any time during the negotiations was it? A. It was.

Mr. Wilentz: And the paper we just referred to is marked S what for identification, Mr. Stenographer?

The Stenographer: S-28 for identification.

(The note referred to was marked State's Exhibit S-28 for Identification.)

Q. Also, Colonel, was this paper exhibited to you some time during those negotiations? A. Yes, it was.

Mr. Wilentz: This paper, also for iden-

tification, is referred to as being marked Exhibit S-29.

(The paper was marked State Exhibit S-29 for Identification.)

Q. Colonel, I show you an envelope—which I will ask the stenographer first please to mark, so that we may refer to it.

(Paper referred to marked State Exhibit S-30 for Identification.)

Q. I will ask you where it was that you were when you first saw this, referring to S-30 for Identification. A. This is part of a piece of wrapping paper. I was in Dr. Condon's residence.

Q. When it was delivered? A. No, when I first saw this.

Q. When you first saw it? A. Yes.

Q. Were you there when that envelope arrived? A. No.

Q. Do you recall by whom it was presented to you? A. It was part of a package, part of the wrapping of a package which Dr. Condon told me he had and which—well, shall I describe it?

Q. What was in the package when you got it? A. It contained the baby's sleeping suit.

Q. The sleeping suit which was exhibited in court yesterday, Colonel? A. I believe so.

Q. Exhibit S-15? A. May I see it?

Q. (Exhibit handed to the witness.) A. Yes.

Q. And together with that exhibit and envelope was there also a note exhibited to you with it? A. There was.

Q. Will you take a look please, and see if this is the note? A. Yes, this was the note.

Q. And this note that you refer to as being

with Exhibit S-30 and with the sleeping suit coming together is Exhibit S-31 for Identification (the note referred to was marked State's Exhibit S-31 for Identification).

I also show you another envelope addressed to Mr. Dr. John Condon, dated March 19th and a note with it and ask whether or not that was eventually presented to you? A. Yes. This was one of the notes.

Mr. Wilentz: I offer it for identification.

(Marked State Exhibit S-32 for Identification.)

(The envelope in which the note was contained was marked S-33 for Identification.)

Q. Then again was there this note presented to you in the course of the negotiations? A. It was.

Q. I notice that at the bottom there is a blurring, was that on at the time? A. The symbol was on but not these—

Q. The lines? A. Not the stripes.

Mr. Wilentz: And now you are referring with reference to the stripes and the symbol to Exhibit S-34. Make it 35 and the envelope 34.

(The note referred to as marked S-35 for Identification and the envelope S-34.)

The Stenographer: Another envelope is S-36 for Identification.

(The envelope referred to was marked State Exhibit S-36 for Identification.)

Mr. Wilentz: And the note, 37.

The Stenographer: And the note is S-37.

(The note referred to was marked State Exhibit S-37 for Identification.)

Q. And, in the course of the negotiations and somewhere in April, either the 1st or 2nd of April, was there exhibited to you this envelope addressed to Dr. John Condon, being marked Exhibit S-36 for Identification containing this note marked S-37 for Identification? A. This was shown to me very shortly before the payment of the money in St. Raymond's Cemetery.

Q. Now, will you take a look at this note—pardon me, I will have it marked first for identification.

Mr. Wilentz: No envelope, just the note.

The Stenographer: The note is S-38 for Identification.

(The note referred to was marked State Exhibit S-38 for Identification.)

Q. Colonel, I show you S-38 for Identification and ask you to look at it, read it and tell us where you were when you saw that note? A. I was in Dr. Condon's home in the Bronx.

Q. Do you remember the day? A. That was on April 2nd, 1932.

Q. And when you were there did that note arrive? A. It did.

Q. By mail or by messenger? A. The door bell rang in the home; Dr. Condon went to the door and returned with this note.

Q. And you read it together? A. We read it approximately the same time, yes.

Q. Who else was there at the time? A. Colonel Breckenridge was there and I believe Mr. Reich was there.

Q. Mr. Reich was a friend of Dr. Condon's? A. Dr. Condon's.

Q. And as a result of that note— A. Mr. Reich was there.

Q. And as a result of that note, referred to as S-38, did you and Dr. Condon then depart in an automobile? A. Yes, we did.

Q. And was there anyone else in the automobile? A. No.

Q. Who was driving? A. I was.

Q. This was on the night of April 2nd, 1932? A. Yes, that is right.

Q. And whose car was it? A. I was informed that it was Mr. Reich's car.

Q. But you were driving? A. Yes.

Q. Nobody else in the car with you? A. Except Dr. Condon.

Q. Did you have any money there with you, any sizable amount? A. Yes, we had $70,000.

Q. And what did you do—in what container was it kept? A. It was wrapped in brown paper and placed in a wooden box.

Q. And you had the box there in the car? A. Yes.

Q. About what time of the night was it when you and Dr. Condon left in that automobile? A. Approximately half past eight.

Q. Did you have any police protection or surveillance? A. Not as far as I know.

Q. You had arranged not to have it, so far as you were able to? A. As far as possible yes.

Q. And you then proceeded along to what point? A. To a point near the intersection of Tremont Avenue and Whittemore Street, I believe it is.

Q. In the Bronx? A. In the Bronx, near to St. Raymond's Cemetery; and we parked opposite a Florist shop on the opposite side from the cemetery.

Q. After having parked opposite that florist shop, who got out of the car? A. Dr. Condon.

Q. Did he then proceed directly across the street to the florist shop? A. We were on the same side of the street as the florist shop. Dr. Condon got out of the car, walked across the sidewalk, next to the car, and to a table in front and slightly to the side of the walk to the florist shop. Shall I continue?

Q. Yes. Continue right on. A. And obtained another note from underneath that table.

Q. Did you see him get that note from underneath the table? A. I saw him walk to the table and return with the note; I couldn't see, of course, the note under the table. I understand it was under a rock.

Q. When he came back did he come right back from there? A. He did.

Q. You could see that, could you? A. Yes.

Q. And when he came back, did you recognize this as being the paper that he had then in his possession (handing to witness)? A. Yes, it is.

Mr. Wilentz: I offer this in evidence. Will you please mark it for identification first, as I understand there is an objection

to its going in. I withdraw the offer and submit it for identification, for the time being.

The Court: It is offered for identification?

Mr. Wilentz: Just for identification, your Honor.

(The paper referred to was marked State Exhibit S-39 for Identification.)

Q. After this S-39 was exhibited to you did you still remain in the same place with your car? A. Yes, I did.

Q. How far was that from St. Raymond's Cemetery, diagonally across the street? A. I should say it was about two or three hundred feet.

Q. From the cemetery? A. Approximately.

Q. On the opposite side of the cemetery, or on the same side? A. Diagonally across from the cemetery.

Q. Diagonally across? A. Yes, probably closer to 200, but I don't feel able to estimate that exactly.

Q. Approximately 200 feet anyway? A. Yes.

Q. And what time of the night would you say it was, Colonel? A. That was in the vicinity of nine o'clock.

Q. What was the condition of the weather? I mean was it clear? A. Oh, yes, the visibility was clear. I don't know whether it was overcast or not; I don't recall.

Q. A clear night? A. Clear night as far as visibility was concerned.

Q. And you remained seated in the car? A. Yes, I did.

Q. Alone? A. Yes.

Q. With the $70,000? A. Yes.

Q. And Dr. Condon, then from there, what did he do? A. After Dr. Condon returned to the car with the note, we read the note. Then Dr. Condon walked across Whittemore to the corner of the cemetery.

Q. When you say the corner, I suppose you mean the entrance, the front entrance? Or isn't there an entrance? A. I don't believe there is an entrance there as I recall it now.

Q. At any rate he went to the corner? A. Yes.

Q. And then what happened, Colonel? Proceed with your story. A. Dr. Condon, as I say, went to the corner of the cemetery, he stood there for a few moments, then he turned around and started to walk back across Whittemore, which runs next to the cemetery. When he arrived at about the center of Whittemore, I heard very clearly a voice coming from the cemetery, to the best of my belief calling Dr. Condon.

Q. What were the words? A. In a foreign accent, "Hey, Doctor."

Q. How many times? A. I heard that voice once.

Q. After that, Colonel, what did the doctor do? A. Dr. Condon immediately turned, walked back toward the corner of the cemetery where he had been and before quite reaching the same location he turned and hurriedly walked down Whittemore Street on the cemetery side.

Q. Yes, sir. Then, I suppose he was out of your sight? A. Yes.

Q. Did he return soon thereafter? A. He returned, I should say, in approximately ten minutes. It was very difficult for me at that time to estimate time.

Q. I see, and when he had left you originally you still had the money? A. Yes.

Q. All right. When he came back did you give him the money? A. I gave him part of the money, $50,000 to be exact.

Q. You didn't give him the seventy? A. No.

Q. At whose suggestion, as between you and Dr. Condon, was the $20,000 omitted? A. At Dr. Condon's.

Q. He said all he needed was the fifty? A. Yes.

Q. And so, who took the $20,000 out of the box? A. I did.

Q. And you gave him then the box with the $50,000? A. With the fifty.

Q. Will you please describe as best you can the box in which this money was contained? A. It was a wooden box, hinged at the back with one or two clasps in front, of metal, giving the outside appearance of brass. The box was oblong in shape, not quite large enough in every dimension to hold the money which was put in, and it was slightly cracked, due to forcing the $50,000 into the box.

Q. Fifty or the seventy? A. Well, it was cracked, really, putting the fifty in, because that was in a different package than the additional twenty.

Q. I see. A. The entire seventy was in there originally.

Q. And what were the dimensions, as best you can remember, of the box? A. Why, it was according, it was made according to the dimensions given in one of the notes—I do not recall the exact dimensions. It was about the width, just slightly more than the width of a bill. It was, I should say, twelve or fourteen inches long, maybe sixteen, and probably seven, or eight, or nine inches in height.

Q. And what were the denominations of the

bills that remained and the denominations of the bills that were taken out? A. The bills left in the box were of twenty dollar, ten dollar and five dollar denominations. The ones that were taken out were of fifty.

Q. Fifty dollar? A. Fifty dollar, yes.

Q. Then, of course, the Doctor left with the money, did he not? A. He did.

Q. And how soon did he return? A. I should say again in from ten to fifteen minutes.

Q. And when he returned did he deliver to you this note? A. Yes, he did.

Mr. Wilentz: I offer that for identification, this note being S—

The Stenographer: S-40.

(Note referred to marked State Exhibit S-40 for Identification.)

Q. Of course, when he returned with that note he did not return with the money? A. He did not.

Q. Then I take it you went back to where: The Bronx? A. From there we started back toward Dr. Condon's home.

Q. By the way, he didn't have the box either, did he, if you noticed? A. No.

Q. When he came back? A. No.

Q. The box and the money were not with him then? A. No.

Q. You say you started toward Dr. Condon's home? A. Yes.

Q. All right. Will you proceed, Colonel. A. Before arriving there we stopped long enough to read the note which you have just shown me.

Q. That is, S-40 for Identification? A. Then after arriving at his home, as I recall, I made ar-

rangements to obtain a plane to fly over the area designated in the note. And I left Bridgeport about daybreak.

Q. Bridgeport, Connecticut? A. Yes, about daybreak the following morning.

Q. What time did you leave for Bridgeport from New York and the Bronx, as nearly as you can remember, and how did you go there? A. We went by car.

Q. Who went along? A. As I recall now, we did not leave directly from Dr. Condon's house but stopped in New York City on the way.

Q. From New York? A. Colonel Breckinridge went and Mr. Irey.

Q. Who is Mr. Irey? A. He is chief of the Internal Revenue Department at Washington.

Q. A United States Government employee? A. Yes.

Q. And who else? A. Dr. Condon and myself.

Q. At any rate, next morning about what time did you take off in your plane? A. We left shortly after daybreak in an amphibian from Bridgeport.

Q. How long were you in the air in your plane? A. I believe several hours; I haven't the exact time, but we flew up over the area described in the note, we landed up there and spent a considerable time looking over the sea harbors in that vicinity.

Q. What was the purpose of your mission in the plane? A. We were looking for the boat described in the note which you just showed me, and to see if we could find any location of my son.

Q. And after approximately two hours— A. We were gone, I believe, longer than that, because we landed there, as I recall now, we did not return until after noon.

Q. Did you pilot the plane yourself? A. I did.

Q. And during those hours you searched the

waters in that vicinity for the boat that you hoped had your son on it? A. That is correct.

Q. Your search, of course, was in vain that time? A. It was.

Q. You returned then where? A. I believe we returned to a field, a land field near Hempstead, Long Island, called the Aviation Country Club.

Q. Did you make another effort in a plane to locate the boat that was supposed to be the one that you were looking for? A. I did later.

Q. When: the same day? A. No. It was a day or two forward.

Q. I see. And who went up with you that time? A. At the moment, I don't recall who was in that plane.

Q. Who piloted that plane? A. I did.

Q. You did again? A. Yes.

Q. How long were you up on that occasion? A. I believe for several hours again.

Q. And again that search was in vain? A. Yes.

Q. Then you returned, and where did you go? A. On that occasion I landed at Teterboro Airport in New Jersey.

Q. And from there? A. From there, as I recall, I drove to my home in Hopewell.

Q. And that was some time in April? A. That was in April, during the early part.

Q. On the night of April the 2nd, 1932, when you were in the vicinity of St. Raymond's Cemetery and prior to delivering the money to Dr. Condon and you heard a voice hollering, "Hey, Doctor," in some foreign voice, I think, as you referred to it—since that time have you heard the same voice? A. Yes, I have.

Q. Whose voice was it, Colonel, that you heard in the vicinity of St. Raymond's Cemetery that night, saying, "Hey, Doctor"? A. That was Hauptmann's voice.

Q. You heard it again the second time where? A. At District Attorney Foley's office in New York, in The Bronx.

Q. Now, Colonel, this money that was made up, the $50,000, I suppose you had ordered that from some bank? A. Yes.

Q. You had arranged for that through Morgan & Company? A. I did.

Q. And these moneys were made up in packages? A. Yes, they were.

Q. Do you know whether or not the serial numbers of those bills were taken down by anybody? A. I requested that that be done, and I was informed that it was done.

Q. I see. Now coming back again to Hopewell, after April 2nd, of course Colonel Breckinridge, your adviser and friend, remained at Dr. Condon's home? A. He was at Dr. Condon's home on several occasions after that and I believe quite regularly for some time after April 2nd.

Q. And were you still awaiting word of the whereabouts of your son? A. Yes.

Q. And finally on May 12, 1932, were you called back to Hopewell? A. Yes, I was.

Q. When did you get to Hopewell? A. I believe it was after midnight that night, but during the night of May 12th to May 13th.

Mr. Wilentz: Colonel, if you want a glass of water or something, don't hesitate to ask, please; and I would appreciate it if the Sheriff got the prosecution one of those nice tumblers or glasses.

Mr. Fisher: I had to provide this one for myself, Mr. Wilentz.

The Court: Mr. Crier, won't you get the Attorney General what he wishes?

Court Crier Hann: Yes.

Q. Now Colonel, on that night, somewhere around midnight, you say you returned to Hopewell; and did you visit a morgue in Trenton? A. On the following day I did.

Q. By the way, in March, 1932, when was the last time you saw Charles A. Lindbergh, Jr.? A. On the Sunday evening preceding the 1st of March. That would be in February, 1932.

Q. And from that time on, did you ever see that child alive again? A. I did not.

Q. Did you see the child at all again? A. I saw the child's body.

Q. When? A. On the 13th of May, 1932.

Q. Some time slightly after midnight of May 12th? A. After midnight of May 12th, on May 13th, I believe.

Q. You saw that body in a morgue at Trenton? A. Yes.

Q. And it was your child? A. It was.

Q. And you ordered the body cremated, as I understand it? A. Yes.

Q. And had the ashes sent to you? A. Yes.

Q. They were in your custody? A. They were.

Q. So that you did not get the money back and did not get your child? A. I did not.

Q. By the way, the child was about twenty months of age at the time? A. Yes.

Q. A healthy child? A. Yes, entirely.

Q. Normal? A. Yes—had a slight cold at the time of March 1st—perfectly normal.

Q. Except for a little cold and except for the fact that one of the toes overlapped the other or so the child was perfectly normal? A. Perfectly normal.

Q. Blond hair? A. Yes.

Q. Curly headed? A. Yes.

Q. Did the child play around like other children? A. Yes.

Q. With its toys and you— A. Yes.

Q. And Mrs. Lindbergh? A. Yes.

Q. And the household? A. Yes, it did.

Q. Did it talk? A. Beginning to talk, yes, a number of words.

Q. Did it have any name for you and for Mrs. Lindbergh? A. Yes.

Q. And in every respect, so far as you know, the child was normal? A. Entirely so.

Q. And as active as any other child? A. Entirely.

Q. What was he, a vivacious child, an active child that ran around? A. Yes, I should say active, very active.

Q. Very active. And I take it, of course, Colonel, that the picture which Mrs. Lindbergh presented here yesterday—

Mr. Hauck: S-6.

Q. ——S-6, is the picture of Charles Lindbergh, Junior, at the time? A. Yes, that is correct.

Mr. Wilentz: Except for the fact I want to exhibit to the Colonel the ladder when it comes in, the ladder and the chisel, you may take the witness.

Cross Examination by Mr. Reilly:

Q. Colonel, do you prefer to rest for a moment? A. No.

Q. Or continue right along? A. Thank you very much.

Q. Are you a peace officer of the State? A. Sir?

Q. Are you a peace officer of this State? A. No, I am not.

Q. Are you armed, Colonel?

Mr. Wilentz: Just a minute, if your Honor please. I object to the question. There is no basis for the question. No reason for it; there is no materiality to it.

The Court: What is the question?

Mr. Wilentz: Whether the Colonel is armed.

The Court: I do not see that it is material.

Mr. Reilly: I thought it was. May I have an exception?

The Court: You may have an exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
(*Judge*).

The Witness: I have no objection to answering.

Mr. Wilentz: You have no objection to answering it? Well, it is not material and, as long as you have offered to answer it, you may answer; though the Court—

Mr. Large: No, the Court has sustained the objection.

Mr. Wilentz: I withdraw the objection.

The Court: Well, the Colonel appears to desire to answer the question. He may answer it.

A. No, I am not.

Q. Colonel, may I ask you when it was that you first gathered together the different properties that formed your estate? A. That was in 1930.

Q. And I take it that you had to purchase different portions of the estate from different people? A. Yes.

Q. Do you recall whether or not, Colonel, that there was a road on some of the property you purchased that you had to close off, a wood road? A. Close off? I do not believe we closed any road on the property.

Q. Did the people around there that had access to and fro and across your estate have the same access after you built your place? A. Why, as far as I know they did. I requested in one particular instance that the neighbors have the same access.

Q. Did you ever hear of any hostility to you in that neighborhood prior to the kidnaping? A. No.

Q. When did you first occupy the house, Colonel? A. We first lived there in the fall or early winter of 1931.

Q. The baby had already been born, had it not? A. Oh, yes.

Q. Prior to that you lived at Englewood? A. We had rented a home near Princeton, outside of Princeton, prior to that, and we had also lived at Englewood previously.

Q. And when it came time for you to furnish your house with servants, Colonel, where did you

obtain your butler from? A. Well, we already had obtained a Mr. and Mrs. Whateley when we were living at Princeton or near Princeton, and they moved over to Hopewell when the house was constructed, over to the house in East Amwell.

Q. And from what agency did you get the Whateleys, do you recall?

Mr. Wilentz: I object to that as being not at all material, if your Honor please.

Mr. Reilly: It is very material in this case, the background of everybody in that house that night.

Mr. Wilentz: I don't believe that is the fact at all, if your Honor please.

The Court: Well, I see no objection to answering the immediate question.

Mr. Wilentz: All right, I withdraw the objection.

A. I don't recall the name of the agency. I recall talking to Mr. and Mrs. Whateley at the time, in my office.

Q. Were they engaged before Betty Gow? A. Yes.

Q. Did they come from the same agency that Betty Gow came from? A. I don't believe that Miss Gow came from an agency. She was recommended to us by one of the people at the Morrow home in Englewood who had known her.

Q. What I am getting at, Colonel, is this: What investigation did you make of Whateley before you hired him as your butler to take into your home? A. I talked to him.

Q. Beyond that did you go any further? A. Beyond that I never go any further.

Q. You didn't know anything about his background? A. I think that may have been looked into. Personally I simply talked to Mr. and Mrs. Whateley for half an hour or an hour.

Q. And he is one of the parties that since this kidnaping died? A. Yes, he died.

Q. Is that correct? A. Yes.

Q. How long after the kidnaping did he die? A. The winter of 1932 or '33 he was stricken with peritonitis; he was in the house in East Amwell.

Q. He was taken to a hospital? A. Taken to a hospital in Princeton.

Q. How long did he live before he died? A. Several days.

Q. And of course, I suppose you took Mrs. Whateley along at the same time, employed Mrs. Whateley at the same time you employed Whateley? A. Yes.

Q. You talked to her, too? A. Yes.

Q. She is still employed in some way in the family? A. She is.

Q. The next person in the house on the night of the kidnaping was Miss Gow? A. Yes.

Q. You say you obtained her services from somebody that you knew in the neighborhood? A. She was recommended to us by one of the people who was working at Englewood in the Morrow home.

Q. Did you make any effort to learn her background? A. I don't know. That may have been done. I personally only talked to her. Mrs. Lindbergh may have looked into her background.

Q. But you didn't? A. No, except to talk to her.

Q. Did you know she had two brothers? A. No.

Q. Did you ever know she had two brothers? A. I haven't paid very much attention to that. It seems to me I have heard she had one or two brothers since then.

Q. Since then had you learned that she had a brother who was in trouble in the State of New Jersey? A. No.

Q. Have you learned she has a brother in Canada? A. I am not sure she has a brother at all.

Q. Did you make any effort to find out if she had a brother? A. No.

Q. At the time of this kidnaping, did you not want to find out the antecedents and background of everybody in the house? A. That was thoroughly done by the police.

Q. By you? A. I placed my confidence in the police organizations.

Q. Did you not make any effort as a father to find out the background of the people that were in the house the night your child was snatched away?

Mr. Wilentz: I object. He has already answered the question.

Mr. Reilly: I think this is proper cross examination, sir.

The Court: I think the Colonel has answered the question, but if there is any doubt about it, he may answer it again.

(The question was repeated by the reporter as follows: "Q. Did you not make any effort as a father to find out the background of the people that were in the house the night your child was snatched away?")

A. I placed my entire confidence in the police and followed their suggestions from that time on. I tried to cooperate in every way that I could.

Q. Well, Colonel, as a man of the world, you certainly must have known that some of the police are not infallible, did you not? A. I think we have very good police. (Laughter.)

The Court: Quiet. Don't let it happen again that we are interrupted in that fashion.

Q. You also think that we have first-class Department of Justice agents? A. I think our Federal Departments are good.

Q. Is it not a fact, Colonel, that down to this date not one Federal agent of the United States Government has ever seen these ransom notes? A. Oh, no, I don't believe that is so. No. I know that is not a fact.

Q. Do you remember the Federal men coming to your estate shortly after this kidnaping? A. Yes, very well.

Q. Did you keep them in the garage or did you give them access to the house? A. The heads of the department had complete access to the house and we turned the house over at the request of the police and the Department of Internal Revenue.

Q. Is it not a fact that this investigation from the day it started or the minute it started has been in the hands of the State Police of the State of New Jersey under Colonel Schwarzkopf? A. I believe that is the organization of authority, but the Internal Revenue Department has been in complete knowledge of what went on during the earlier periods, because I attended conference after conference in the home at Hopewell in which

the heads of one to three of the departments were present.

Q. Can you give me the name of any agent who was present the night shortly after the kidnaping? A. What date?

Q. Shortly after the kidnaping, when they arrived. A. Mr. Irey, who is Chief of the Internal Revenue Department, Mr. Madden, who is in charge of the Chicago Division, Mr. Wilson, who I believe is now in charge of the Baltimore Division —whether the Baltimore Division is the actual name I am not sure, but all three of those men were in charge of the organization, or Mr. Irey was in complete charge of the organization.

Q. I think you have testified, Colonel, that some time in the early morning or late at night March 1st the place was surrounded by and covered with police and reporters. Is that correct? A. Yes, that night.

Q. And did the Department of Justice men arrive the next day? A. The Department of Justice —I talked to the Department of Justice men shortly after that, but what day they arrived I am not sure.

Mr. Reilly: Now may I have one of these pointers?

Q. Colonel, will you be good enough to point out to the jury how a person would walk from the nursery to the kitchen without coming down the front stairs? A. Through the doorway into the hall—

Mr. Reilly: Pardon me, Colonel. With your Honor's permission, may we mark it with pencil?

The Court: Well, I suppose it might be traced.

Mr. Wilentz: I am fearful, if your Honor please, that before we get through with the great number of witnesses that are going to be called, such markings would absolutely, instead of being helpful, interfere; and I think we ought to—

Mr. Reilly: It is only my purpose—the only tracing would be the Colonel's.

Mr. Wilentz: Unfortunately, we have the same right then after that. I am fearful that it would not help but would hinder.

The Court: We very frequently allow a witness to make a mark, but to allow a tracing that spreads over a considerable part of a map I rather hesitate to allow that to be done. So that I shall have to deny your application at the moment.

By Mr. Reilly:

Q. Well, then, Colonel, in full view of the jury will you be good enough to trace the course of a person's journey through your home from the nursery to the kitchen, down the servants' staircase? A. This is the nursery. Go through this door into the hall, along the hall, to the back hall, down these stairs, coming out just outside of the kitchen here.

Q. Now, Colonel, was there on that night a door leading from the kitchen out into some yard or

roadway and, if so, will you point to it? A. Not directly. There is no door directly leading.

Q. Well, how would you get from the kitchen out into the back yard or the garage? A. That would be past these stairs, then you could go, then you would go through this door here into the garage and out one of the garage doors.

Q. And that would lead into the rear part of the house? A. That would lead into the—what you might call the parking space outside the garage, that would lead in here.

Q. Now, did you examine that parking space that night for any foot prints? A. No. There would be no use, because that is covered with a loose gravel.

Q. Then, though it was loose gravel did you make any effort to locate any foot prints? A. I walked fairly well around the house that time, but I knew there would be no object in looking in that place for foot prints.

Q. The question is, did you look, Colonel? A. No.

Q. Now, will you be good enough to trace the journeying through your house from the nursery down the front stairway to the front door? A. Lead through this door here of the nursery down these steps, coming out here past the living room door and out through the front door.

Q. Thank you, Colonel, you may resume.

(Witness resumes the witness chair.)

Q. I understood you to say, Colonel, that you last saw your son on a Sunday evening. A. To the best of my recollection, yes, I saw him that Sunday, I believe, in the evening or late afternoon.

Q. Where? A. At our residence in the East Amwell house.

Q. Had you returned from Englewood that afternoon? A. No, I had been there on Sunday.

Q. I understood your wife to say that it was the habit to spend week-ends at Hopewell. Is that correct? A. On and off, not always.

Q. Well, now, had you spent the previous week at Hopewell or at Englewood? A. No, I believe that was at Englewood, it was not at Hopewell.

Q. When did you decide to come back from Englewood that week to Hopewell? A. Well, prior to the week-end or after the week-end.

Q. This particular week-end—let's go back to about the 25th, the 26th, the middle of the week, you were then at Englewood, is that correct? A. In the evening, yes.

Q. Now, do you recall when you decided to go back to Hopewell? A. No, I don't recall the day, what day that was, at the moment.

Q. Did you keep servants in your place at Hopewell while you were at Englewood? A. Mr. and Mrs. Whateley were there.

Q. Would they always know when you were coming back? A. Not always.

Q. Miss Gow was with the baby, is that correct, in Englewood? A. During that week.

Q. During that week I am talking about? A. Yes.

Q. Well, finally you did arrive back at Hopewell, is that correct? A. Yes, we spent that week end at Hopewell.

Q. And the week end ordinarily consisted of Fridays, Saturdays and Sundays? A. Why, at least part of Saturday and Sunday we would consider a week end. I don't recall definitely whether it was Friday or Saturday we arrived.

Q. Well, was it your custom to leave on Sunday afternoon or some time Sunday and return to Englewood? A. We had no fixed custom.

Q. You simply made up your mind to go and

started off: is that it? A. We did that some times.

Q. Now, on this particular week end you decided to stay in Hopewell on Monday; is that correct? A. My wife and my son stayed in Hopewell on Monday and I went to New York

Q. Well, wasn't it unusual for you to stay there on a Monday? A. I went to New York on Monday.

Q. No. I mean the family to stay there. A. They stayed there because the baby had a cold.

Q. Now, how many people knew the baby had a cold and that the baby was going to stay in your house on Monday? A. I doubt that anybody knew that on Monday, because, as I recall, there was some question as to whether my wife might not come to Englewood on Monday. I don't believe that we knew that ourselves Monday morning, as I recall now.

Q. So that if the family followed their usual course that Monday they would have returned to Englewood? A. Well, if you say usual course—we had only been there—the house was newly built and we had been there only a few week ends, so there was no established precedent as to what our movements were.

Q. But your movements were in the knowledge of your butler and your butler's wife and your nursemaid: is that correct? A. Not completely, no. Miss Gow was in Englewood on that Monday and she did not know until my wife called her, I think, I believe Tuesday; that is something that I can't testify to, what date my wife called her. I understand she didn't know what we were going to do until she was called.

Q. You went to New York on Monday: is that correct? A. I went to New York on Monday.

Q. Did you stay over night in New York on Monday? A. At Englewood.

Q. At Englewood Monday night? A. At Englewood.

Q. And the family stayed at Hopewell? A. At Hopewell.

Q. Did anybody know outside of your wife that you were going to stay Monday night in Englewood? A. I didn't know that myself until late that evening, because I had been working late and I had planned on going back to Hopewell; but in order to avoid the distance of the drive and be in New York the next day reasonably early, I stayed in Englewood instead of going to Hopewell, as we often referred to it as our residence.

Q. How did you communicate with your wife that you would not be home Monday night? A. I believe that I called her that evening by phone.

Q. Did you talk to the butler? A. He might have answered the phone, I don't remember that.

Q. But he would know that you were not coming home Monday night after you finished talking to your wife, wouldn't he? A. He probably would. I can't say definitely, but I think probably.

Q. And Mrs. Whateley would very likely know. She was the cook, wasn't she? A. It is quite probable.

Q. But the outside world would not know that you were coming home Monday night, would they? A. Very few people would know that.

Q. Very few people would know that you were going back to New York again on Tuesday, would they, Colonel? A. Very few people know what I do.

Q. Yes. So that a person in the outside world or a gang on the outside world on Tuesday, March the 1st, would have no knowledge as to where you

were? A. Well, that depends upon their organization.

Q. It wouldn't depend on any information you gave, would it? A. Well, not with knowledge.

Q. No. Was it generally known in your neighborhood that you were armed and had a shotgun in the house? A. We didn't have a shotgun in the house. We had—

Q. Was it a rifle? A. I think it was—well, whoever would know about it at all knew that I had arms, because I carried them on long flights.

Q. How about this gun you were speaking about that you picked up and went outside with right after the kidnaping? A. I carried that on various flights, through Central America in 1927—

Q. Was that a rifle? A. That is a rifle, cut down Springfield.

Q. Now will you give us an outline of your movement on Tuesday? A. Tuesday I was in New York during the day.

Q. Where? A. I don't recall in vivid detail where I went. I think I went to the Pan-American Airways offices, probably to the Transcontinental Air Transport offices. I was at the Rockefeller Institute during a part of the day and I believe that I stopped at my dentist's that afternoon late, to the best of my recollection.

Q. When and to whom, Colonel, did you give your first indication that you were going to return that night? A. As I recall, I called my wife, I telephoned my wife.

Q. Did the butler answer? A. Well, it is very likely, but I don't recall that. Very likely he did.

Q. In very well conducted homes the butler answers the phone? A. We never regarded Mr. Whateley as a butler. We needed someone to take care of the place there and it just happened —it would depend on who would be closest to the

phone, but it is quite probable that he answered the phone.

Q. Do you recall what time of the day or evening you phoned Hopewell and said, "I am coming home"? A. Well, it was in the evening or late afternoon, probably not more than two or three hours, I should think, before I started.

Q. And did you arrive at about eight or a little after? A. It was approximately 8:25.

Q. Colonel, did you have any dogs? A. We had one at Englewood at that time.

Q. Now, the dog that you had at Englewood, was that a dog that was attached to your son? A. No, not particularly.

Q. Was it a dog that you had purchased for him? A. The dog was given to me by my mother, we had not purchased it, nor was it given particularly with the baby in view.

Q. Was it given after the baby's birth? A. I am quite sure that it was—yes.

Q. Did it spend any time at Hopewell? A. Did the dog?

Q. Yes. A. Oh, yes, the dog was at Hopewell after we had moved from the house we rented near Princeton.

Q. When did it go back to Englewood? A. Oh, that dog was at Hopewell most of the time, I don't think it went back to Englewood for quite a long time after that.

Q. Well, was there any particular reason why it went back to Englewood just before the kidnaping? A. Oh, it did not.

Q. Was it there at the time of the kidnaping? A. Yes.

Q. Was it in Hopewell? A. It was at Hopewell.

Q. When I refer to Hopewell, I refer to the house. A. Yes, on the ground.

Q. Yes, on the ground. And you had had that

dog for how long? A. Well, I believe we had that dog, I think that that dog was given to us about the summer of 1930, so that is slightly over a year to the best of my recollection.

Q. What kind of a dog was it? A. A little fox terrier.

Q. They are very affectionate dogs, you found this dog to be affectionate, it knew every member of the household? A. Why, reasonably so, a fox terrier, of course, is a very high strung—

Q. Very nervous? A. Very nervous, yes.

Q. A good watch dog? A. I would not say that he particularly was a good watch dog.

Q. He knew every member of the family? A. Oh, yes.

Q. He had been long enough in the family to be acquainted with everybody's habits, as dogs will? A. Any dog will when he is there a year, I think.

Q. Did you see that dog there that night? A. Yes.

Q. In what room? A. I do not recall what room I saw him in that night. I imagine he was running around in the dining room.

Q. At any time that night, between the time you arrived for dinner and the time you discovered your baby was missing, did you hear the dog bark? A. I don't recall hearing the dog bark that night. I understand that he did sometimes, but that was not a regular thing.

Q. Did you see any indication from that dog that there was anybody prowling around the house? A. No. But I would not expect any from that dog.

Mr. Reilly: I move the latter part of the answer be stricken out. I think it is for the jury to say. We are all dog lovers and know dogs and know what dogs will do.

Mr. Wilentz: If your Honor please, I think counsel has gone into the habits of this dog so extensively and particularly as to his familiarity with the family, and he has shown that the dog knew Colonel Lindbergh and everybody well, and I think the Colonel ought to be permitted this explanation about this dog that knew him so well.

The Court: I understand that Mr. Reilly's objection is founded upon the idea that the latter part of the answer is not responsive to his question?

Mr. Reilly: Yes.

The Court: I suppose that technically Mr. Reilly is right regarding that; so the latter part of the answer may be stricken out, and if you desire to amplify the matter on redirect examination you may do so.

By Mr. Reilly:

Q. Anyhow, the dog was around and you have no recollection now that the dog indicated there was anything unusual about the house? A. No, I have not.

Q. Now, of course, Colonel, following the evidence as it has been given by you and by Mrs. Lindbergh, there was some indication that the young son was recovering from a cold: is that correct? A. He had a cold that week end.

Q. You did not visit his nursery when you entered the house, did you? A. On the evening of March 1st I did not.

Q. I am talking about that particular evening.

You first came in and greeted your wife: is that correct? A. Yes.

Q. You came in through the garage entrance, I will call it? A. Yes.

Q. After greeting her, I believe the testimony is, that you went upstairs and washed up: is that correct? A. To the best of my recollection I went upstairs and washed, before sitting down to supper.

Q. Yes. How close was the washroom to the baby's nursery? A. It was adjoining the nursery through a short hall.

Q. Did you see Betty Gow on that floor at that time? A. Not as I recall.

Q. And you did not enter the nursery? A. No.

Q. And you heard no noise from the nursery? A. No.

Q. No suspicious noise? A. No.

Q. That was a little after eight? A. I arrived home about 8:25.

Q. I don't want to tie you down; we will put it in the neighborhood of eight o'clock. Then you went downstairs and, as has been indicated, you entered the dining room? A. Yes.

Q. And the dining room—I think we will keep this pointer handy—from there—will you stand up and point to the dining room? A. This is the dining room here.

Q. And this would be the main staircase in your home (indicating)? A. This is the main staircase here (indicating).

Q. And that led to the baby's nursery? A. It led to the hallway.

Q. The hallway leading into the nursery? A. Past the nursery.

Q. Will you point out, please, in what part of this dining room you sat? A. The table was about in the center of the room.

Q. Was your face to the door or your back? A. Well, which? This door here (indicating)?

Q. The door out of the dining room, the nearest door to the stairs. A. Well, that is the pantry door here (indicating).

Q. That is the pantry? A. I probably sat at this end of the table; I am not sure of that.

Q. Where is the doorway, Colonel? A. This is the doorway to the pantry; this is the doorway to the living room (indicating).

Q. This one here? A. This one here is the doorway to the living room.

Q. Then you passed from the living room into the dining room. Is that correct? A. Yes.

Q. And there is no door out of that room except the pantry? A. And the living room.

Q. And the living room. But there is no doorway from the dining room into the hallway? A. Well, to the pantry. That is all the—there is no hallway there except the pantry.

Q. Now the pantry has a door, like all pantries, hasn't it? A. Three, I believe.

Q. Three doors to the pantry? A. I think so, yes.

Q. Are they small doors that swing back. A. They are normal doors. I think one of them is a swinging, I am not certain of that now.

Q. Maybe I don't understand you, Colonel. Three doors to the pantry? A. There are three doors leading from the pantry, I believe.

Q. Into the dining room? A. Oh, no—one.

Q. That is what I mean. A. I beg your pardon.

Q. Now the door—I have never been in your home—I assume that the door leading from the pantry to your dining room is easily accessible for anybody serving food, and it swings, doesn't it? A. I think it is a swinging door.

Q. It is a swinging door; and it swings back and forward? A. I believe so, yes.

Q. So the way you sat in the dining room you could not see your main hallway, could you? A. No.

Q. Nor could you see any servants' staircase? A. No.

Q. So that you were then at a part—we will put it this way—set apart from the upper part of the house? A. Well, we were in a different room.

Q. Well, you were eating, is that correct? A. To a certain extent.

Q. Yes, I mean, so far as sight went? A. Yes.

Q. Nor did you hear at that time anything suspicious from the nursery? A. No.

Q. Where was Miss Gow? A. I don't know that definitely, I think she was probably in the—between the kitchen and the sitting room in the back.

Q. Colonel, while you were in the dining room, if the front doorway of your home was opened by someone, anyone could have gone up the stairway of your house and taken the baby out of the crib, couldn't they? A. I don't think so.

Q. It would have been physically possible, would it not? A. I think it would be very improbable that that could be done without our hearing it.

Q. Never mind whether it would be improbable or not, would it be physically possible?

Mr. Wilentz: Well, just a minute, never mind the never minds.

The Court: Well, the Colonel is asked whether or not it was possible. Now, the Colonel may express an opinion about that, and I suppose that is what Mr. Reilly wants him to do.

Mr. Reilly: Yes.

The Witness: Can I answer yes or no, your Honor?

The Court: Well, the question is, I believe, would it be possible in your judgment for any person to enter the house from the front doorway,—is it, Mr. Reilly?

Mr. Reilly: Yes.

The Court: And take that baby out in that fashion.

A. I don't think so.

By Mr. Reilly:

Q. Why, because they would have to ring the bell? A. The door did not open easily. There is no door closed between the dining room and the front door of the house. There was no carpet on the stairway. I don't think it could have been possible for anyone to come in through that door without our knowing it.

Q. Then would it be possible for anyone in the house, used to the house, who knew the house, to take the baby out of the crib and bring it down the main stairs? A. Without opening the door?

Q. No. Bring it to the front door. A. And open the door?

Q. Or bring it to a window. A. Answering your question directly, it might have been possible.

Q. Let's take the other course, Colonel: if there was disloyalty in your home, would it be possible for a person acquainted with the home to take the baby out of the crib and descend the servants'

staircase and hand it to someone in the garage yard while you were dining? A. Well, again answering the question directly it would have been possible for someone in the house to take the baby out of the crib, as far as I know.

Q. You do not know, Colonel, nor can you put your finger, nor can anyone else—I will ask you though—you do not know at what exact moment the baby was taken out of the crib? A. By sight, no.

Q. No. You were in the dining room with Mrs. Lindbergh, I should say, an hour? A. Oh, no. No. Probably half an hour; maybe a little less.

Q. When after you left the dining room did you first see Miss Gow? A. The first time I remember seeing her was in the vicinity of ten o'clock when I was reading in the library and she came down and asked me if I had the baby.

Q. So that the message that the baby was missing was brought to you by Miss Gow? A. Yes.

Q. And that was the first time you had seen her that night? A. I think I had seen her before that, that night; but knowing she was there I don't recollect definitely where I saw her, but I think that I saw her and Mr. and Mrs. Whateley as I came into the house. I am quite sure that I did.

Q. You came in the kitchen way. A. Yes.

Q. Were they in the kitchen? A. My recollection is that I saw all three, either in the kitchen or the parlor next to the kitchen, which is marked there "Dining Room," that evening. But, of course, as I said, it is routine.

Q. Is that their dining room? A. Yes.

Q. You saw them in their quarters? A. I am quite sure that I did, all of them.

Q. Now, during the time you were in the din-

ing room you heard no suspicious sounds? A. No.

Q. Then as I recall the evidence, you returned to the library? A. To the living room next to the dining room.

Q. How long did you stay in the living room before you sat down and started to read? A. I should think about roughly ten minutes.

Q. Is that the same room that you were sitting in or did you pass into a library? A. Could I show that on the chart?

Q. Certainly. A. (Referring to chart). We were having dinner in the dining room here. This is the back dining room. We were having dinner in this dining room. After dinner we returned to the living room and sat on a settee that was about in this position.

Q. So that—not interrupting you—Colonel—while you are still there with the pointer, where were you sitting on that settee? You could not see the front entrance hall of your home? A. We could see—we probably did not see it. The only part you could see would be in there.

Q. Yes. But you did not see the front entrance hall? You could not see the front entrance hall? A. You could see this part, from where you sit.

Q. That other part, the main doorway? A. No.

Q. And of course it would be impossible to see the servants' staircase? A. Yes.

Q. How long did you and Mrs. Lindbergh remain on that lounge? A. I should think about ten minutes.

Q. Then where did you go, Colonel? A. Then we went upstairs to our bedroom.

Q. That was adjacent to the nursery, wasn't it? A. The bath between.

Q. And you did not enter the nursery? A. No, I did not.

Q. And you heard nothing suspicious? A. No.

Q. That would bring you in the neighborhood of nine o'clock? A. That would be a little after nine, I believe.

Q. Were all the lights on in the house? A. The house was fairly well lighted. I don't know whether—they couldn't have all been on.

Q. Was it fairly well lighted? A. Yes.

Q. The indication to anybody passing by the house would be that from the light there was somebody there and it was inhabited? A. Oh, yes.

Q. Now, did you at any time go to any of the windows of that house to indicate that you were in that particular room? A. That I was in there?

Q. In any particular room. Did you show yourself at any particular window? A. No, but I think, I think it would have been possible to see in from the outside, because we did not have curtains in the house.

Q. In the course of this investigation that has gone on since then, Colonel, have you ever heard it said that you were to be the one that was to be kidnaped?

Mr. Wilentz: Just a minute, if your Honor please. Of course I object to that.

The Court: I do not think that is within the scope of the original examination, nor do I understand that it is legitimate cross examination.

Mr. Reilly: Well, the Colonel has already testified, if the Court please, that there is no indication to the outside world except to the members of that household that

he was coming home. Now, it may be relevant along the lines as to how anybody in the world would know that he was home or whether or not he was away.

Mr. Wilentz: If your Honor please, may I just suggest that my main purpose in objecting is not so much to this question, but I want it understood that the State is certainly going to object to whether or not the Colonel ever heard any rumors.

Mr. Reilly: Well, I think it is very relevant to what the Colonel heard, because there is not any doubt or question here that we are going to ask the Colonel whether or not at different times during his negotiations there were several members of a gang whom they thought took the child.

Mr. Wilentz: Well, I object.

Mr. Reilly: We might just as well approach the subject now.

Mr. Wilentz: We will meet it when it comes, if your Honor please, if that is the way you want it, but right now, if your Honor please, whether the Colonel ever heard that he was intended to be the victim is so vague and indefinite, aside from being absolutely immaterial to this issue, if your Honor please, that the State objects to it.

The Court: Well, I feel that I am bound to sustain the objection, Mr. Reilly.

Mr. Reilly: May I have an exception?

The Court: You may have your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. I believe the evidence is, Colonel, that after you went upstairs to your bedroom with Mrs. Lindbergh, you stepped into your bathroom and drew a bath, is that correct? A. Yes.

Q. Now, did you take the bath? A. Yes.

Q. That took a few minutes. After taking a bath was it then that you descended and read? A. Yes.

Q. Now in Hopewell that night was it quiet? A. Well, it was a windy night.

Q. A windy night. A. It was a windy night.

Q. And you were surrounded by a great many trees, as the surveyor said yesterday, except in a portion that was cleared off for your home? A. On the north and west the area was quite heavily with it; on the south there were no large trees, but there were quite a few bushes. So that the house stood in somewhat of a clearing in which there were small cedar trees, I should say, and brush, and a few larger trees.

Q. At the time the house was built, Colonel, do you know whether or not your telephone wires were laid underground in piping? A. The telephone wires were brought from approximately a telephone pole's length, maybe a telephone pole and half or two, into the house; so that the wires coming into the house were underground, but for I should say about 75 or 100 yards, something like that.

Q. Did you ever have any indication while you lived in your house that the wires were being tapped? A. No.

Q. As I recall your testimony you found the wire working that night when you called the police? A. Mr. Whateley called the police and the wire was working. I did not call.

Q. Had it rained that day or the day before? A. I am not sure. The ground was wet.

Q. The ground was wet? A. Whether it was thawing or from rain I am not sure.

Q. This being a new house and the earth turned up freshly around the house, was that why you laid the planking there that has been indicated? A. That is undoubtedly why it was laid there.

Q. Colonel, will you now be good enough to point out the window of the nursery you believe your child was taken through? A. The southeast window upstairs (indicating on the diagram).

Q. Colonel, will you now point out on S-2 for the benefit of the jury, if it shows there? A. This window (indicating on the left diagram on S-2).

Q. Does it show on here, Colonel (indicating the right diagram on S-2)? A. This window (indicating).

Q. In relation to this window, Colonel, is that the kind of window it was that slides up and down? A. Yes.

Q. Where was the French casement window in that room? A. That was around—

Q. On this side here (indicating)? A. On the south side, this window (indicating on diagram).

Q. That is not the window that you believe your child was taken through, is that correct? A. That is correct.

Q. You believe it was this window (indicating)? A. Yes.

Q. Did you see the casement window opened at

all that night when you went into the nursery? A. My recollection is that the casement window was open.

Q. Did you see this window you have indicated here on S-2 open that night? A. That window was closed.

Q. Was it underneath the closed window that you say the ladder marks were found? A. It was, slightly offset, about here (indicating on diagram).

Q. Apparently to the right of the window, is that right? A. Yes, as you face that diagram.

Q. Was there any fingerprint that you know of ever taken from this window that you have indicated here showing that a person on the outside of that building had raised the window?

Mr. Wilentz: Will you please face the witness when you are asking him the questions.

A. The window was dusted for fingerprints by Trooper Kelly, I don't know whether by others or not. I was informed that at the time they did not locate any fingerprints. They were smudges.

Q. Colonel, were you informed that any fingerprints were found anywheres around the casement window? A. My understanding is that no fingerprints which showed definitely the marking of a finger were found. That is the information that I have, but that is what I have been told.

Q. Who approached this window, Colonel? It is difficult for me to talk to you with my back turned. Who approached this window here to the best of your recollection, Colonel, the first person after the child was discovered out of the crib? A. Who approached the window? I did.

Q. You did? A. Yes. I did as far as I know.

Q. Was it locked? A. No.

Q. Did Trooper Kelly dust that catch? A. I don't know that.

Q. Did you call attention of the police that that window was open and the catch had been thrown back? A. That window was closed, this window here (indicating on diagram), that was closed.

Q. But closed, Colonel? A. The window was down.

Q. Yes, the window is down, but there is a latch? A. Yes.

Q. An ordinary snap latch? A. Yes, like the one up there.

Q. Yes, indicating a thumb latch. A. That was not locked.

Q. That was not locked? A. No.

Q. Now, did anyone indicate to you in your household that night that they had ever locked that window? A. No, it wasn't the custom to lock windows.

Q. It was not the custom? A. No.

Q. And was it known to Betty Gow that that window was not locked generally? A. I do not know. I suppose so.

Q. And to the two Whateleys? A. I suppose so.

Q. Had any strangers visited your home within the week before the kidnaping? A. Not as far as I know, but I wasn't there except during the week-end.

Q. Had strangers, so far as you know, ever been in your nursery? A. After the house, after we moved in?

Q. After the house was occupied. A. After we moved into the house, not so far as I know—some of our friends had been in there, of course.

Q. Of course, and your relatives—I am talking about strangers? A. Not as far as I know.

Q. In sitting in the library reading and approx-

imately we will say in the neighborhood of nine-thirty and ten o'clock, you heard some sound? A. Between those times, approximately.

Q. You heard a sound? A. No.

Q. You didn't hear any sound at all? A. Not reading in the library.

Q. Well, where was it that you heard these sounds? A. As of falling wood?

Q. Yes. A. That was after we came out of the dining room and were sitting on the settee in the living room, as we call it, about here, and that would be, I should say, shortly after nine o'clock.

Q. Now, did that sound like a book falling off a table, or something like that? Oh, no.

Q. Did it sound like something snapping? A. It was the sound of wood on wood.

Q. It didn't sound like a tree, a branch cracking off? A. Not in the least.

Q. By wood on wood did it sound like striking two pieces of wood together? A. I should say more than two. There is a single sound with two. At the time I didn't pay great attention to it, but it entered my mind at the moment that it was like the boards on a crate falling together off of a stand or a chair.

Q. Well, now, when you moved into this house you had a lot of furniture and stuff delivered there, crated, didn't you? A. No, I think very little crated. It was moved over from Princeton, about 10 or 15 miles away from where I lived at Hopewell.

Q. Did you have anything crated? A. I don't remember anything crated.

Q. Did you have any lumber around the house? A. Well, there was lumber, yes, outside, possibly in the basement, there were boards left from construction.

Q. Was there any lumber in your library? A.

Not that I recall. I don't think there could have been, it doesn't seem to me there could have been because the library was furnished—we had books in the library and desks.

Q. As far as you can recall, do you recall whether or not there was a piece of wood in the library about 12 or 14 inches long? A. I don't recall any.

Q. Were there library shelves? A. Were there? Yes.

Q. Were they built in by the carpenters at the time the house was built? A. They were built-in shelves, yes.

Q. The lumber that was left over, was that put in your cellar or your garage, around the grounds? A. Well, there was some—I think there were a few boards, as I recall, in the cellar; there were a few outside, on the grounds; but I don't believe there was any in the house, particularly in the library —I can't think why there would be any in the library, and don't recall any.

Q. After the usual cleaning up of the house which goes on when a house is built, such as gathering up and sweeping and cleaning, getting it ready for occupancy, did you notice any shavings or nails or stuff like that, that was swept out by the cleaners? Where was that put? A. There was some of that in the back of the house.

Q. Did you have a refuse dump off in the woods somewheres? A. There was a pit where we burned material, a few yards from the house, yes.

Q. Now, did you investigate this sound, Colonel? A. At the time, no.

Q. You knew, of course—A. I did later.

Q. You knew, of course, that the baby had, as we say, this cold? A. Yes.

Q. And it didn't come from the nursery, did it? A. Well, I don't know definitely where it came from.

Q. Well, don't you think, Colonel, that if it did come from the nursery and you heard it, that your first inclination would be to dash upstairs to see how the child was? A. There was nothing in the nursery that would make that.

Q. But, I mean, if it did come from that general direction, don't you think you would have dashed upstairs to see how the child was? A. If I had thought it was in the nursery I would have gone up.

Q. It didn't come from that direction? A. I don't know that you can say it came from the direction, as I recall. I spoke to my wife about it and the words I used to my wife were "What is that?" Then I rather dismissed it from my mind.

Q. Now, at that time you would be—Where was the library here, Colonel? Is this it? A. That is the window to the library, but that is not where I was when I heard the noise.

Q. All right. Does it show on here? Is there any window there that indicates where you were when you heard the noise? A. No.

Q. Well, then, would you be on this side of the house? A. On this side here—This is the east face of the house—on the south.

Q. Would it be the side running down here or the side running down there? A. I can show it on this diagram. This window here corresponds to this window here, upstairs.

Q. Yes. A. And we were about in here, to be exact, right in this position.

Q. Then you would be practically under the nursery? A. No, the nursery was over this way.

Q. I see. Over the library? A. Over the library.

Q. And you only heard one sound? A. I heard a sound. You couldn't call it as one sound. I heard the sound once.

Q. Well, could not it have come from the kitchen? A. You can't tell where it came from or, rather, I couldn't tell at the time where it came from, nor did I think much about it.

Q. You didn't ring for any servant and ask what happened? A. I inquired later whether anything had fallen in the kitchen; not at the moment.

Q. Before you went upstairs? A. No; after.

Q. Now, the first indication then, as we have it, from your testimony that your child was missing was when Miss Gow announced it? A. Yes.

Q. Then you went upstairs and, as you told us, the bedclothing was in the form of a semicircle under which— A. Well, approximately. It held the general contour that it would have had with the baby in the bed, in the crib.

Q. The baby had never been contacted much with strangers, had he? A. No, only friends.

Q. Only friends. You lived more or less of a reserved life, and the child was known to you, of course, and to Mrs. Lindbergh, and to Betty Gow, and to the Whateleys, and possibly to its grandmother and the relatives in Englewood: is that correct? A. Yes. And the people in Englewood and some friends.

Q. Some friends in Englewood that visited the Morrow home: is that correct? A. Various friends, yes.

Q. But the child was not in the habit of being exhibited or allowed to play with strangers: is that correct? A. Well, he went to school with other children.

Q. What school? A. The Little School, in Englewood.

Q. Oh, that was run by your distinguished sister-in-law? A. Yes.

Q. Even there, there was a circumscribed and

small circle of children of that neighborhood? A. And various teachers.

Q. Yes, and various teachers? A. Yes.

Q. But there were no tradesmen handling your child? A. No.

Q. He wasn't getting to the milkman in the morning to play with or the groceryman, or anything like that, so that the child would become accustomed to strangers, is that correct? A. No, he was not.

Q. Now, you heard no cry from the nursery of the child, did you? A. No.

Q. And that child was sick, recovering from a cold: is that correct? A. Recovering from a cold, yes.

Q. Its little breast had been rubbed with Vick's? A. I understand so.

Q. Now, Colonel, was it the child's habit to awaken during the night? A. Well, the baby awakened at times on different occasions, I know, but whether—

Q. Well, was there a feed, there wasn't any feeding now at twenty months, was there? A. A feeding period?

Q. Yes. A. I think he was given something about, around ten o'clock.

Q. But after that, was he a child that woke up maybe two or three o'clock in the morning and whined a litle bit and somebody had to go in and pet him a little bit or give him something to eat? A. Well, we were pretty careful not to do that under ordinary conditions, I believe.

Q. He was being taught to go to sleep and stay asleep? A. I believe so, I cannot answer that as well as my wife could.

Q. He was under control. Now, you heard nothing as it approached ten o'clock from the child, we will say the usual hour that he received

his added refreshment, did you ever hear any indication from the child when you were home before ten o'clock came that it was hungry and summoned Miss Gow by a little cry or a call? A. Well, not that I recall. Undoubtedly that has happened, but I do not recall at that particular period.

Q. Didn't you think it strange, Colonel, that the child would be put to bed suffering from a cold, no matter how slight, after being rubbed with Vicks, at seven o'clock or half past seven, and nobody entering the room or the nursery to look at that child until ten o'clock at night?

Mr. Wilentz: That is not the fact, if your Honor pleases, and therefore I must object to the question.

Mr. Reilly: I think that is the fact.

The Court: I do not recall what the evidence is in that respect.

Mr. Reilly: Well, let's make it eight o'clock. I won't haggle about the minutes, I mean the period—

Mr. Wilentz: Well, that is not—

Mr. Reilly: About two hours, Mr. Attorney General.

Mr. Wilentz: I fear that is not the point, either—

The Court: What is the point of your inquiry, Mr. Reilly?

Mr. Reilly: Didn't he think it strange that between the time it was put to bed, seven or seven-thirty and ten o'clock at the time they went to the room when the alarm was given that nobody had entered the room to look at the child? Now, I believe Mrs. Lindbergh's testimony yesterday was to the effect that she left the child just as the child was being put to bed, she didn't even see the child put into bed, and so far as we know, nobody entered that room. Miss Gow was downstairs in and around with her all during the evening until the Colonel returned to dinner, and she was in the Colonel's company at the time and they both admit that neither one of them were in the nursery.

Mr. Wilentz: Well, if your Honor please, we will prove by a subsequent witness that that witness did go in after 7:30 or 8:00 o'clock. So that at this stage, while counsel for the defense hasn't got the testimony in the record, if they really want to ask the question of the Colonel whether he thinks it is strange or whether he doesn't, I have no objection; but I want it understood that we don't permit the question to go unchallenged, because it is not accurate. Now I withdraw the objection with that explanation.

Mr. Reilly: If we were in a position to have the record in this trial, which we will take up with your Honor during the noon recess, we might be more accurate. If it is embarrassing, I will withdraw the question.

The Witness: Not in the least.

Mr. Wilentz: It is not embarrassing at all. That is not the object of the objection and I do not like the word.

The Court: I think the Attorney General did object, but now he withdraws the objection.

Mr. Reilly: Now he says it is not embarrassing.

The Court: Yes.

A. May I have the question restated, please?

Q. All right, I will try to restate the question: Didn't you think it unusual, Colonel, for the child suffering from a slight cold, to be put to bed before half-past seven or eight o'clock, and nobody entering the nursery to look at the child until the alarm? A. No. As a matter of fact, we made a particular point to try to leave the baby alone as long as he was sleeping well, and unless something woke him up so that there was some sound, it would be our wish, I know, that no one disturb him during that time.

Q. Well, Colonel, had it ever occurred to you that a child at that tender age, wrapped in blankets, with the window partly open, might roll over, especially suffering from a cold, being rubbed with Vicks, might roll over on its face and smother? A. No.

Q. That never occurred to you? A. No, nor do I believe it is probable.

Q. Did it ever occur to you that the child might in some way disarrange, as many children have, disarranged their bedclothes, and either do themselves serious harm or smother to death? A. No, I don't think that could be. In the first place, the

child was very warmly dressed, so that even though the bedclothes did come down slightly, it would still be well protected.

Q. Well, your child rolled from side to side in his sleep, did he not? A. Undoubtedly.

Q. Did you ever see the little child clutch at the bedclothes when they were too warm, even in sleep, clutch at the bedclothes and try to push them away? A. Yes, yes; but as I say, the clothing on the baby was such that he would be well protected with the window open. We liked to have the window open for fresh air.

Q. Supposing it was too warm for the child, would you not think that precaution would cause you to inquire? A. If the baby got very warm, we would hear about it immediately.

Q. He would call out, would he not? A. I believe so.

Q. Of course, Colonel, this was your first child? A. Yes.

Q. I wonder, Colonel, if you can again give me from your recollection the alarm and just what you did when you entered the room? A. I was reading at the desk in the library about ten o'clock.

Q. How close was that desk to a window? A. It was next to the window. Shall I point to it?

Q. Yes. A. The desk was in this corner facing this way (indicating on diagram). This window here is the window on the east elevation (another diagram). I was sitting next to that window.

Q. For how long a period were you sitting there, Colonel? I mean not directly at the window, but inside there? A. I was sitting at the desk for, I should think, twenty minutes or half an hour, probably.

Q. That desk, that window that you pointed out there, is directly under the window, is it not,

through which you say the baby was taken? A. Yes.

Q. And you heard no noise, did you? A. Not at that time.

Q. Did you ever hear a noise while you were seated there? A. No.

Q. Nothing but the howling of the wind blowing through the trees: is that all, the usual night noises? A. No unusual noise.

Q. No unusual noise. Do you know whether Miss Gow that night had been busy in the kitchen making a masquerade costume? A. Not that I know of. That might well be without my knowing it.

Q. Did she enter the library, the room you were in, and ask you whether you had the baby or not? Was that the way the alarm came? A. She came down the stairs and asked me if I had the baby.

Q. The front stairs? A. The main staircase.

Q. Then of course you went right upstairs? A. I asked her if he was not in the crib, and I immediately went upstairs into the nursery.

Q. Does this photograph, State Exhibit 12, indicate the window through which you believe your child was taken? A. Yes.

Q. Let his Honor see it.

The Court: Colonel, you may be seated. I just wanted to see it. That is the window you believe the child was taken from?

The Witness: It is.

By Mr. Reilly:

Q. And were you there, Colonel, when these photographs were taken? A. Well, I saw photo-

graphs taken; I don't know whether those are the photographs or not.

Q. Some were taken? A. I saw photographs taken that night, but whether these were the ones I am not sure.

Q. It indicates here, does it not, a radiator top? A. Yes, that is the top of a radiator.

Q. Colonel, do you recall whether or not on the bottom of this lowest sill of the window there were any marks of any kind? A. To the best of my recollection there was a clay print there on top of the radiator, lattice.

Q. I am talking now about the window itself. A. On the sill outside, or where do you mean?

Q. Inside. A. That is inside.

Q. I mean on the window. There is the radiator. I am talking about this part, the framework of the window. A. I don't recall seeing any.

Q. Were there any marks on the outside of the window at all? A. I did not look.

Q. Did you look the next day? A. No, I did not. The police had covered that the next day.

Q. You did not swing out the window the next day and just examine the window from the outside, by sitting on that radiator top, as you could have, and pull the window down and look it all over, did you? A. I don't think I did the next day. I looked out there later, but I am not sure it was the following day or not.

Q. You did not see any marks? A. No, I do not recall seeing any marks on the window. I think there was a mark beside the window, apparently where the top of the ladder had been.

Q. I am talking about the window itself. A. No, I saw no marks.

Q. As far as you can recall, that window catch was always left off, is that right? A. We did not

make a practice of locking windows, and I don't believe that had ever been locked, as far as I know.

Q. Would anybody in the world, outside of a member of your household, know that it was not your practice to lock that window or to lock your windows? A. I don't know. The shutter on that window, of course, was warped outside, so that we could not lock the shutters on that particular window that night.

Q. Did anybody try to lock them? A. That night? I think my wife tried to lock them that night and found that they were warped.

Q. How long had they been warped? A. I think for quite a few days, but there again I am not certain.

Q. Had any word been sent to a carpenter to come and fix that window? A. No, the house was too new.

Q. Had any indication been given to anybody outside of your household that the shutter was warped? A. Not as far as I know.

Q. Was there any other shutter of your house warped to your knowledge? A. Not as far as I know. There were no others that we attempted to close. There may have been.

Q. Was there any shutter outside of the casement window? A. There was.

Q. Was that closed that night? A. To the best of my recollection, it was.

Q. Where did you get the air from for the room if you closed the shutters? A. The shutters are lattice work.

Q. How are they closed, with a hook inside? A. There is a drop bolt.

Q. More or less of Venetian blinds, so the air could come through? A. Well, the air, I believe

they are called somewhat Venetian blinds. I do not know the technical name.

Q. Well, it is a lattice work? A. Yes, sir, they are thin boards, somewhat at an angle, so the rain doesn't come in and the air can, a normal type shutter.

Q. Were the shutters drawn in by your wife so far as you know that night? A. So far as I know, yes they were, because I believe she tried to close all the shutters in that room and did close and lock all but the one on the east window, the southeast window.

Q. Could the noise you heard be the slamming of that shutter against the house—? A. I don't think so.

Q. —in the wind? A. I don't think so.

Q. Now, assuming that the shutter was drawn in by your wife, and even though it did not catch, a person would have to take hold of that shutter to throw it back to get at this window, wouldn't they? A. I imagine they would have to use some, either hand or instrument to touch it.

Q. Well, if it was loose, you wouldn't need an instrument, you would just take your hand and throw it back? A. You could move it, of course, with an instrument.

Q. Or with your hand? A. Either one.

Q. And you would have to move two parts, wouldn't you? It was a divided shutter, wasn't it? A. It was a divided shutter, yes.

Q. You would have to move it right and left? A. Yes.

Q. How far over on this window, Colonel, would the shutter extend, as indicated on this map? A. Well, it is indicated there; I believe—as far as I can see that is the exact dimension.

Q. Well, do you know the width of the shutter?

A. No, I don't know that. It was half the width of the window, approximately.

Q. Then a person going up a ladder to reach this window, Colonel, if the shutters were closed, would have to have the ladder far enough to the right to swing the shutters open, is that correct? A. I don't know that, whether that would be a correct assumption or not, I don't know.

Q. Well, if he had the righthand side of the ladder up against the shutter, he wouldn't be able to get off the ladder, would he? A. I am not sure; I think that he might.

Q. Did you ever try it? A. No, but I think that I can.

Q. Did you ever try it with a ladder? A. Personally, no.

Q. Did you have any ladders around there? A. Yes, there was a painter's ladder, I think, in the garage, as I remember now, or rather a double ladder—you call it a painter's ladder.

Q. Was it tall enough to reach that window? A. Oh, yes, a double extension ladder.

Q. A double extension ladder? A. Yes.

Q. And was it there that night? A. As I recall, it was in the garage. I am not absolutely certain of that. I think it was in the garage that night.

Q. To the best of your knowledge and belief it was in the garage? A. Yes, but I am rather vague on that.

Q. Well, that is as to the best of your knowledge and belief? A. Yes.

Q. Now, how long had you had that ladder? A. It probably was purchased—well, it may have been purchased for the other house that we had rented, but I think it was purchased the previous summer.

Q. You brought it over there when you moved,

is that the idea? A. It may have been purchased since we got there. I am not certain of that.

Q. Was your garage locked? A. No, I don't think so.

Q. Never locked? A. I don't recall locking it at all.

Q. I mean you were not in the habit of locking your car in the garage? A. No. I think those doors were probably open.

Q. Double doors? A. There were three double doors. It was a two-car garage.

Q. A three-card garage? A. No, there was room for three cars.

Q. What do you mean by three doors, Colonel? A. Well, there are three double doors, room for three cars.

Q. An individual door in each space? A. For each space, two doors to each space.

Q. And of course the butler had access to the garage? A. Oh, yes.

Q. Now, there were other servants who had access to your estate, weren't there, Colonel, some servants from the Morrow estate? A. Well, at the moment I don't recall any of them being there, they may have been.

Q. They had been there at different times, hadn't they? A. Not as far as I recall it, they may have been there, but I don't recall it, except that the chauffeur from the Morrow home had been there.

Q. Was there a chauffeur connected with the Morrow home—did the Morrows employ at that time, at the time of the kidnaping, the Senator had passed away, hadn't he? A. Prior to that time.

Q. Yes. And when I say "Morrows" I simply designate the name of the estate, you understand that? A. (Nodding affirmatively.)

Q. Didn't they have a Danish chauffeur by the name of Ellison? A. Yes.

Q. Was he in the habit of driving over to your place? A. I don't know how many times he had been there, but either he or Mr. Burke had been down there before, I believe.

Q. Ellison is no longer chauffeur on the estate, is he? He is a watchman at the gate, isn't he? A. Recently he has been watching the gate.

Q. Do you know whether or not he is a Scandinavian or of Danish extraction, Colonel? A. No, I don't, but I think that might well be.

Q. Did you ever have any conversation with him about this kidnaping? A. No, no. Of course, at that particular time I asked many people questions, but I certainly had not had any particular conversation with him.

Q. See if I can refresh your recollection, Colonel. Do you remember asking him where he was between ten o'clock and nine o'clock and three A. M. March the 1st and March the 2nd, away from the Morrow estate? A. I don't recall asking him that, but I might well have done it.

Q. You don't recall his answer, do you? A. No, I do not recall that at all.

Q. Well, do you know, Colonel, that on that night he drove from the Morrow Estate with an unknown person to the locality of Hopewell, New Jersey? A. No. I believe he took Miss Gow down that day.

Q. Where? A. To Hopewell.

Q. To Hopewell. And, who was this other man you mentioned, Burke? A. Mr. Burke.

Q. Is he a chauffeur? A. Yes.

Q. Still with them? A. Yes.

Q. What other servants did they have at that time, Colonel, that you can recall? A. I do not think I can name them completely, I am sure.

Q. Did they have Violet Sharpe? A. Yes.

Q. What were her duties there? A. She was a maid in the house.

Q. Did she visit your home? A. I don't think she was there prior to March 1st.

Q. Did you ever know that she was in the habit of going out with Whateley? A. No.

Q. What they did in their off moments, you didn't know much about, you didn't concern yourself with, is that correct? A. I did not know anything about that at all, I do not know.

Q. Do you recall any other servants that the Morrows had? A. Yes, there—would it be proper just to read a list? It would make it very much easier.

Q. I do not know who they were, Colonel, I wish I did. Did they have gardeners? A. Yes.

Q. Did any of their gardeners do your landscape work? A. I don't think they did the original landscape work, they worked, naturally, on the landscaping after it was done; I do not know of their taking part in the original landscape work. I would not know that.

Q. Who would know it, Colonel? A. Well, for instance, Mr. Springer, who was Mr. Morrow's secretary, would have all that information.

Q. Do you remember the names of any of the men who worked on your house when it was being built? A. Mr. Matthews was contractor, of Princeton, and Delano and Aldridge, architects.

Q. Well, did they employ any local people? A. I believe they did, yes, quite a few, but the names I would not know.

Q. Did you ever have any difficulty with any of those workmen? A. Not in the least, no, sir.

Q. Did you have any extra help there, Colonel, came by the day? A. I do not think so.

Q. No gardeners that came by the day? A. No.

Q. No laundress, or anything like that? A. No.

Q. That came by the day? A. Not at Hopewell, we had a laundress who came at our residence in, that we rented near Princeton, I believe, I know—

Q. She never came over to Hopewell? A. No, I am quite sure she did not, that is something, again, I am not absolutely positive of, but I am quite certain she did not.

Q. Was your house wired against burglars? A. No.

Q. Now, when you heard the alarm, then, you came out some time afterwards with your rifle, is that correct? A. Some time afterwards, yes.

Q. After Whateley had given word to the police? A. After he had called the Chief of Police at Hopewell, and after I had called the New Jersey State Police and Colonel Breckinridge.

Q. You called Colonel Breckinridge at his home in New Jersey on the wire? A. Yes.

Q. Now, if you will be good enough, Colonel, to take these photographs of the nursery, maybe you can point out different things that I will ask you. I would like to know, Colonel, approximately how many ordinary footsteps with an ordinary person there would be between the bottom of this window, indicated on State's Exhibit 12, to the edge of the baby's crib? A. Well, could I, could I use the map for that?

Q. Yes, or you could tell us from looking at this room and your recollection. A. Well, I would rather, I would rather use my recollection if I could.

Q. All right, anything you prefer to use you may use. A. I should think the minimum of three and probably a maximum of four, the way I would walk.

Q. You take quite a long stride, though, Col-

onel, don't you? A. Probably more than ordinary.

Q. You take a long stride and you are very quick in your movements. Now, will you indicate here, please, if you can—let's assume that where the Marshall is standing in the doorway represents the window, and State's exhibit 12 and through which you say you believe your baby was taken; will you then point out going along this rail in distance about where you say the crib would be? A. The window being there (indicating)?

Q. Yes. A. Well, I should think about here (indicating).

Mr. Wilentz: Indicating a distance of about how many feet? We might just as well have it on the record.

Mr. Reilly: Yes.

The Witness: But that can be scaled right here (indicating map).

Q. All right. A. I haven't the scale.

The Court: Let Colonel Lindbergh be given the ruler that the engineer used here.

Mr. Hauck: I believe the engineer took it with him.

Mr. Wilentz: Is the engineer in the room?

Q. I will waive that for a minute, Colonel. We can take it up after recess. A. That is a scale

of one inch to a foot, I believe. Yes. So we could scale it with an ordinary rule.

Q. Can you recall, Colonel—you say there was a yellow smudge on the radiator top? A. Well, there was some clay there of such a nature, that is with a width and length that would indicate quite definitely a foot print—on the radiator; to the best of my recollection there was on top of the suit case and on the floor below, and I believe on the radiator top.

Q. I see. Now was the foot print directly underneath this suit case, as though somebody had stepped down from the suit case? A. Oh, no as though somebody had stepped down from the suit case; it may not have been directly opposite the center, but it was directly underneath.

Q. This suit case, Colonel, was made of what kind of material? A. I don't know what that is made of.

Q. Fabric of some kind? A. Well, it is covered with probably some type of fabric and whether the inside is ply wood or whether it is some fibre of some kind I am not sure.

Q. Was it filled with anything? A. I don't know.

Q. Did you open it to see? A. I didn't, but I feel sure that that is available. No, I didn't do it.

Q. In your opinion, Colonel, a man weighing your weight, or we will say, anywheres from 175 to 190 pounds, stepping on that suit case—wouldn't he immediately crash through the suit-case? A. I don't think so.

Q. It wasn't made of steel, was it? A. No. But coming down from a window I don't think that he would go through it.

Q. A man stepping in from a window would have to more or less balance himself, wouldn't he? A. Are you asking me that question, sir?

Q. Yes, wouldn't he? A. He would be able to hold on to the window, two parts of the window.

Q. But if he was coming in in a hurry to grab a baby and get out of that window as quickly as possible, he wouldn't be looking where he was stepping, would he? A. I think he would hold on to something getting down there.

Q. Would he hold on until somebody else in the room handed him the baby? A. Of course, I don't know that.

Q. Now, Colonel, this room was gone over very carefully, wasn't it, that night? A. I believe so.

Q. Well, did you see the police officers go over it very carefully? A. I saw police officers, yes, working on it.

Q. Will you tell us just where in that room the footprint on the floor was. A. That was below the suitcase.

Q. Was it quite definite? A. It was definite enough to be a footprint, but not definite enough to get an exact length and width from it.

Q. Did you see any measurements taken of it at all? A. No, but I don't know how that could be measured. It is like stepping—It is like stepping in mud or dust and then on a hard surface, it doesn't give a full imprint of your foot.

Q. Did anybody sift it, any police officer sift it with powder and then photograph it? A. I don't know.

Q. You didn't see that done? A. I was out a large part of the time.

Q. Did you ever hear of the existence of such a photograph? A. Not that I recall.

Q. Of that footprint in that room? A. Not that I recall.

Q. In relation to the crib that you indicated here as a distance of 12 feet—Am I correct?

Mr. Wilentz: I really don't know.

Q. Was it about here that you indicated before? A. Approximately there, yes.

Q. Now, will you be good enough to tell me here, Colonel, if you can, assuming this to be the window, where that first footprint was on the floor, please? A. I probably cannot do that within a foot, say. If the chest was here with the case on top, that foot print would be about here (indicating on the floor).

Q. About here (indicating)? A. Roughly here (indicating).

Q. There were no footprints that you saw between that and the crib? A. Not that I remember now.

Q. Was anything disturbed in the room? A. I left orders for nothing to be disturbed.

Q. As you entered the room did you notice anything unusual about the room? A. Primarily the bed clothes in the crib and either the first or second time I went in, the note on the window.

Q. What was Betty Gow's condition? A. Why, when she called to me and asked me if I had the baby her voice was quite excited.

Q. How did she act in the room? A. Well, that is a very difficult thing, that is a very difficult thing.

Q. Was she hysterical? No.

Q. Was she crying? A. I do not believe so.

Q. And yet from all indications before that, she was greatly attached to the child, and the child attached to her? A. I believe so, yes.

Q. In fact, she was the closest person to the child excluding Mrs. Lindbergh. A. She was with the child more than anyone else.

Q. That is what I mean. A. Yes.

Q. She was with the child and the child was

practically growing up alongside of her and in her companionship. A. Yes.

Q. Colonel where do you say you first saw this note? A. The note was lying on the window sill.

Mr. Reilly: May I have it, please?

Mr. Wilentz: Which note?

Mr. Reilly: The first note.

The Witness: It was largely on the lattice work on the radiator.

By Mr. Reilly:

Q. I now refer to State Exhibit 17 and I ask you, Colonel, to take it out of its cellophane wrapper, please, and put it back as near as you can recollect in the exact condition it was as to the way you first saw it? (Handing Exhibit S-17 to the witness, who withdrew the contents from the cellophane wrapper and re-arranged them).

Q. Was it in an envelope, Colonel? A. Yes, it was.

Q. Is this the envelope? I see it has been split. A. I think it is the envelope. I am quite sure it is the envelope.

Q. I understood you to say, Colonel, that you did not pick up this note. A. I did not.

Q. Why? A. Because I thought there might be finger prints on it.

Q. You were very much alarmed, were you not, at that time? A. Well, I realized what had happened at that time.

Q. Now, with a desire to preserve any finger prints that were on this note, you allowed it to remain there until Kelly of the police arrived, is

that correct? A. Trooper Wolfe first moved that note.

Q. Did he handle it? A. No.

Q. Did you warn him? A. I had warned him and he moved it with the blade of a knife.

Q. So that you did not see any fingerprints of Wolfe on it? A. Oh, he did not touch it with his hand.

Q. And when Trooper Kelly arrived did he sift it for fingerprints? A. He went over it for fingerprints, yes.

Q. Did he find any so far as you know? A. No, there were only smudges.

Q. Well, did he preserve the smudges? A. There was nothing to preserve; there were no marks or lines on it.

Q. There were no marks of any kind? A. No lines.

Q. No lines. A. These lines on your finger or thumb.

Q. The grooves of the finger, there were none of those? A. Just a smudge.

Q. Just a smudge. Who opened the note first, Colonel? A. Kelly.

Q. And then handed it to you to read, is that correct? A. Well, I don't remember the sequence of that. We read it at that time.

Q. Did you read it before you went outside the house? A. The first time? No.

Q. You had been outside and came in, is that correct? A. Yes.

Q. Now when do you say you first discovered these indentations in the soft ground which you connect with the ladder? A. That was when I went around the east side of the house with Chief of Police from Hopewell, Mr. Williamson and Mr. Wolfe, to be exact. They had—one of them had a flashlight which he was throwing around on the

east side and we saw there the ladder and we also saw the identations next to the house where the ends of the ladder had been in the mud.

Q. How far away from the house would you say the ladder had been placed? A. Approximately 50 or 60 feet.

Q. On a driveway or roadway? A. No, no.

Q. In among the bushes? A. No, it was about on the edge of the bushes, near the edge of the bushes, and grass, where a sort of clearing had been made for the house.

Q. Did you at any time balance that ladder or take hold of it, see how much it weighed? A. I think I did some time later; I didn't at that time.

Q. You have a pretty fair idea of weight, have you not, of objects of that kind? A. Well, I don't know how—

Q. I mean you have loaded into your different airplanes various things, haven't you? A. Yes.

Q. You know how many pounds you are allowed to carry under certain conditions, 100 pounds or 150? A. Approximately.

Q. How much would you say this ladder weighed? A. Three sections, I would say, would weigh, very roughly, 35 or 40 pounds, somewhere in there.

Q. An ungainly thing to carry, wasn't it? A. He could carry it under one arm.

Q. One arm? A. He could.

Q. But you would have to disconnect it? A. It was in three sections.

Q. You would have to disconnect it and fold it in three sections to carry it this way, put your arms through the rungs, take it off? A. I do not know how many different ways it could be carried.

Q. You did not see any indication it was dragged along the ground, did you? A. I do not recall

that; I do not remember seeing any drag marks on it.

Q. After it had been examined by Trooper Kelly, the fingerprint man of the police, was it then retained in his possession or yours? A. It remained in the custody of the State Police. I may have seen it again; I may have seen it again, I am not sure whether I read that note after that or not.

Q. Do you recall whether Colonel Schwarzkopf arrived that night? A. Oh, Colonel Schwarzkopf was there that night.

Q. Very shortly after this happened? A. I should say now shortly after, yes.

Q. And he very likely took possession of this note? Or do you recall whether he did or did not? A. What I do recall—that it was in Trooper Kelly's possession when I last saw it on that night.

Q. Did you tell the State Police that you did not want them to investigate this case, but that you wanted to investigate it yourself? A. No.

Q. Did you tell the Department of Justice men to keep out of the case, that you didn't want them to investigate the case? A. No, sir; I did not.

Q. Did you at any time during the day of March the 2nd or March the 3rd or March the 4th, telephone any official in Washington and ask him to have the Federal officers— A. Ask to have the Federal officers?

Q. No. Ask him to lay off the case? A. Oh, no, no. I asked around that time for Federal officers.

Q. Did you render all the aid and assistance you could to the Federal officers? A. Yes, sir.

Q. Do you know whether they saw this note or not? A. They did.

Q. Do you know whether any of the agents saw the note or not? A. Of their agents?

Q. Yes. A. I don't know whether their agents

saw the note or not. I know that the heads of the departments saw it.

Q. How far would you say your garage was from the house? A. Adjoining the house.

Q. Where was this headquarters established: on your estate, Colonel, for newspapermen and the— A. Well, the newspapermen had no headquarters on the estate.

Q. Was there a headquarters established that the State Troopers had? A. They had practically the entire house. We turned the house over.

Q. Wasn't there a guard at the road, a State Trooper on guard at the road? A. On the road, I believe there was at the gate, as I recall.

Q. Did you have a gateway? A. There was a country gate, yes.

Q. How far would that be away from the house? Will you point that out on the map? A. That would be about, I believe, as I recall the measurements, a little over a half mile. Here is the house here and the gateway is here.

Q. So that we can say, with a fair degree of accuracy that the State Police took over the investigation that night? A. There was a conflict of authority that night, until the State Police took it over, and I think it was a day or two before they had control.

Q. Who was the conflict between, Colonel? A. There were three police organizations, I believe, on that night, from Jersey City, I believe, and also from Newark, and of course the New Jersey State Police, and shortly after that there were Federal officers there.

Q. But since that night this case has rested in the hands of the State Police, hasn't it? A. What day the Governor placed the State Police in complete control, whether it was the following day, that is the second or third or— It was about

that time,—but what day they obtained complete control I am not sure. It must have been a day or two of the beginning.

Q. Colonel, on March 4th you received, or was it March 5th that you received the second note?

Q. Colonel, was it March 4th or was it March 5th that you received the second note?

The Court: I think now, we will take a recess. Let the people in the court room remain where they are, let the people that are seated remain seated and let the people who are standing remain standing, and the jury may retire and come back at 1:45.

(The jury retires at 12:30 p. m., court room time.)

The Court: The prisoner is now remanded to the custody of the Sheriff. The Court will take recess until 1:45.

(At 12:31 p. m., court room time, a recess was taken until 1:45 p. m.)

After Recess (1:45 p. m.)

The Court: Mr. Clerk, you may poll the jury.

(The jury is polled and all jurors answer "Present.")

The Court: Is the defendant in court?

Mr. Fisher: He is on his way.

The Court: He will be brought in.

Mr. Fisher: May it please your Honor, before resumption of the witness on the stand, I should like to request your Honor to declare an adjournment at the end of today's session until Monday morning. I appreciate the fact that it is a hardship, perhaps, to the jury, a hardship to your Honor, but I actually have been laboring here under a very difficult handicap thus far in the case—I have been in court the last three days actually, seriously ill.

I believe that with a long week-end I will be able to get back in such a condition that I will be able to continue with the case, and it is for that reason only that I dare request your Honor that you declare a recess over the week-end and have no session on Saturday.

Mr. Wilentz: Of course, if your Honor please, under such circumstances we make no objection.

The Court: The Court had expected to sit every Saturday as well as every other week day until the case is finished, but in circumstances stated, perhaps the Court is justified in taking an adjournment until Monday morning until ten o'clock and that will be the order.

Mr. Fisher: Thank you very much.

CHARLES A. LINDBERGH resumed:

Cross Examination (continued)

By Mr. Reilly:

Mr. Reilly: May we have a little quiet from that rear corner.

The Court: Yes, yes. Please keep quiet in the courtroom.

Q. Colonel, going back for a moment to the first note, so as to keep a continuity here, am I correct in saying that you gave that note into the hands of the State Police? A. I found the note on the window sill in the nursery. It was first moved by Trooper Wolfe with a knife onto the shelf over the fireplace. From there it was taken by Trooper Kelly, dusted for prints and opened.

Q. Now, that was on Wednesday, March 3rd: is that correct? A. That was on Tuesday, March —or Wednesday, March 2nd.

Q. March 2nd. It ran over from Monday—Tuesday night was March 1st, was it? A. That is right.

Q. And it ran into Wednesday, March 2nd, is that correct? A. Yes.

Q. Now, what else did you do in connection with this case on Wednesday? A. On Wednesday? Conferences during the day.

Q. Well, as a result of those conferences did you not express an opinion that it was your belief that it was a gang who had kidnaped your child? A. No, I don't believe so. I have spoken—I have used the word "they" in a group, without any particular reason to at all.

Q. Well, from the general surroundings of the case, was it your impression at that time or shortly afterwards that more than one was involved in it? A. Not for any reason. No, I don't know that I did. I have thought it over very carefully and I can't find any facts.

Q. Have you just changed your mind since

Hauptmann was arrested? A. No. As I say, since that time I have thought it over carefully and I know of no facts that will show or to me indicate definitely there was more than one man.

Q. Didn't you have a belief at one time that it was bootleggers that did this? A. No, I didn't know.

Q. Did you have a belief at one time that it was the Purple Gang of Detroit that did it? A. No.

Q. Then why did you get in contact with Bitz and Spitale and other members of the underworld if you didn't believe that the Purple Gang had taken your child? A. I didn't know what the Purple Gang was at that time. I contacted them because I wanted to exhaust every effort to bring about the return of the child.

Q. Well, in getting in contact with the men who had criminal records—Bitz had a criminal record, did he not—Spitale? A. Spitale? I don't know whether he did or not. That is entirely possible.

Q. Bitz, rather. A. I have heard that. I do not know of my own information.

Q. Who was it suggested to you that you get in contact with these people, I take it you had no former even knowledge of them, did you? A. No.

Q. Well, who suggested that you get in touch with the under-world? A. That, I understand, was a suggestion to Colonel Breckinridge from a friend of his which he carried to me at Hopewell, suggesting that it was possible that through a man named Rosner we might be able to learn through under-world channels what had happened to our son if the under-world knew anything about it.

Q. Did you have any contact with the New York City police prior to March 4th, 1932? A. Representatives of the New York Police were at our home, I think, prior to March 4th, but I am not

sure. During the early days there were some of the representatives there, including, well, at least several of the New York police.

Q. Colonel, in all these ransom notes and among all these ransom notes, did you ever receive a postal card from Newark or some other part of Jersey, that the instruction on the back was printed? A. I do not know, no; there were over 100,000 communications sent in.

Q. Did you receive one March 3rd? A. I do not know; probably received hundreds.

Q. If you received one March 3rd do you know where it is? A. All of that mail is in the custody of the New Jersey State Police.

Q. You kept no independent record, then, of what you received, did you? A. No; as I say, there were over a hundred thousand pieces that year.

Q. Well, did you begin to get mail the very next day after the kidnaping? A. I believe there was some mail that day; of course, it was a day or two before the mail became heavy, the volume heavy.

Q. Now, you will notice, Colonel, referring now to Exhibit S-19, that this envelope addressed to you was mailed March 4th, 9:00 p. m., Brooklyn, N. Y., is that correct? A. Yes.

Q. Did you, upon receipt of this letter, contact the New York City police? A. No, I do not believe that I did; however, I turned that letter over to the New Jersey authorities.

Q. Did the Police Commissioner of New York City, shortly after you received this letter, March 4th, 1932, 9 p. m., Brooklyn, N. Y., offer to you to cover every mail box in the City of New York, with a police officer, to intercept any further letters sent to you from Brooklyn, or from New

York City? A. That may have been done, I do not recall it; and it was not a direct offer.

Q. Did you ever hear of it? A. Not so that I could say, not so that I could say that, not so that I could say that definitely, no.

Q. So that if he did make the offer and if the offer was not accepted it was not through you directly, was it? A. No, I didn't—I didn't refuse any offer.

Q. At that time Colonel Breckinridge was your attorney and friend of many years, is that correct? A. Yes.

Q. And was acting for you? A. He was assisting us, yes.

Q. Well, he was at your home and very active in a friendly way and as a legal adviser in trying to find your son, wasn't he? A. That is correct.

Q. And of great aid to you? A. That is correct.

Q. What did you do, Colonel, upon receipt of this letter (indicating)? A. I contacted the police and—

Q. Well, did you go any place? Did you do anything— A. May I read the letter, please?

Q. Yes, certainly (handing paper to witness).

Mr. Wilentz: What is the number of the exhibit?

Mr. Reilly: The envelope is S-19 and the letter is S-20, I think.

A. Well, about this time, I believe before we received this letter we had made available $50,000; after the receipt of this letter I arranged to have 20,000 more available.

Q. Is that the $50,000 that was prepared in the Morgan Bank? A. It was prepared by the Morgan Bank, yes.

Q. Did you ask them to take the serial numbers or not to take the serial numbers—the bank? A. Originally the serial numbers were not taken. There was so little time that we did not as I recall, think of it at—when the original $50,000 was made ready. Later the serial numbers were taken at my request and at the suggestion of various others.

Q. Without reading this letter, was this the letter that asked for $70,000? A. The one I just had raised, changed from $50,000 to $70,000.

Q. In the meantime, Colonel, had a reward been offered by the state of New Jersey? A. A reward was offered, I am not sure of the date of the offer.

Q. Who offered it? A. I believe the Governor and the Legislature.

Q. $25,000? A. That is my understanding.

Q. Was there any other reward offered that you know of? A. Not that I know of.

Q. Had you offered any personal reward? A. No.

Q. And nobody in your behalf? A. No.

Q. So, so far as you know, the only official reward that was offered was $25,000, is that right? A. I believe so, yes.

Q. Was that generally published in the press to your knowledge? A. I remember reading of that in the press. I am not sure of the date.

Q. Well, was it shortly after negotiations? A. I can't give the date of that except that it was during the spring or early summer of 1932.

Q. Did you go any place to contact or try to contact any of the kidnapers between March 4th and March 7th? A. No, I believe not.

Q. Then on March 7th, Gol. Breckinridge, or about that date, brought you S-22, consisting of three exhibits—S-21, S-22 and very likely S-23

(handing exhibits to witness)? A. That is correct, yes.

Q. Had Col. Breckinridge's address been printed in the newspapers? A. Well, I don't know. I imagine it probably had.

Q. Well now, Col. Breckinridge is an attorney of New York State? A. Yes.

Q. And his practice is more or less of estates and civil litigation, is it not? A. I really would not want to outline what his practice is. He has been my attorney for a number of years.

Q. You have never heard of him appearing for anybody charged with crime, have you? A. No, no.

Q. Now, after he brought you this letter, which in it mentions the Borough Hall of Brooklyn—are you familiar with that line, Colonel? It is right there (handing to witness).

Mr. Peacock: What is the number of it? Get it in the record.

Mr. Hauck: S-23.

Mr. Reilly: S-23.

A. Yes.

Q. Did you get the impression from this letter, S-23, that the kidnaper was operating from Brooklyn? A. No, not particularly. I would be very skeptical about that.

Q. Well, you see, we have the last letter of March 4th mailed from Brooklyn; we have the letter of December 3rd sent to Colonel Breckinridge, mentioning "We put the mail on one of the letter box near Borough Hall, Brooklyn." Did you then contact the New York Police and ask them to make any search in Brooklyn? A.

No, I did not. All of my contacts were through the authority for the place where I was living, the New Jersey State Police.

Q. The New Jersey State Police? A. The New Jersey State Police. That was the organization of authority which I was advised I should keep in contact with, legally.

Q. Did you go any place after receipt of this letter? A. I believe—

Q. Again referring to 23 and 22? A. I believe not, not that I recall. I had been going around to various places, but I mean not due to that letter.

Q. Well, had you any specific place or idea in mind of your own through which you might be able to contact? A. No. At that time we were following every possible lead, but there had been nothing definite except these letters.

Q. Did you have any enemies that you suspected, Colonel? A. No.

Q. You had no enemies that you knew of in the aviation world? A. No, I believe not.

Q. Did you ever know a flier named Anderson? A. Anderson?

Q. A Swede, Anderson, Bennett Field? A. Not to recall by name.

Q. You do not recall ever having any quarrel with a flier named Anderson while you were in the mail service? A. No, I did not.

Q. And you don't recall receiving any threats from any such person? A. No, I do not. I received none.

Q. The next letter which is not in evidence but which has been marked for identification, subject to the connection of Dr. Condon, was that received from Dr. Condon? A. The first letter was left in the nursery; the second came by mail to Hopewell; the third through Colonel Breckin-

ridge; the fourth from Dr. Condon, who brought it to our residence.

Q. Had you ever known Dr. Condon? A. I had not.

Q. Before you saw Dr. Condon did he phone you from New York? A. He phoned our residence. I was not on the phone at the time.

Q. Did you talk to him? A. By phone?

Q. Yes. A. I don't think so.

Q. Before you saw Dr. Condon, isn't it a fact that he told you that he had received a note or, rather—Withdrawn.

Q. Did you ever talk to him on the phone before you saw him? A. I don't believe so, but that is possible.

Q. See if I can refresh your recollection. Did Dr. Condon call you on the phone from New York and say that he had received a note from the kidnapers, and after a conversation with him in which he described the symbol, then you decided that you would see him? A. Yes, but that conversation was not directly with me. I don't believe that even in the latter part of the conversation did I talk to Dr. Condon.

Q. Was it to your home? A. It was to the home, but we had an arrangement for several people to answer the phones and in some cases it was essential that they answer the phone regardless of who was calling. That call was received by one of the people there. As soon as Dr. Condon described the symbol, I was notified, but to the best of my recollection I did not talk to him by phone.

Q. Do you know anything about symbols? A. About symbols?

Q. Yes, symbols such as are attached to these letters? A. Very little.

Q. Well, since you have received these letters have you made any effort to decipher these symbols? A. I have thought about it considerably.

Q. Do you know anything about theosophy? A. Very little.

Q. Do you know that in theosophy, the basis of theosophy is symbols? A. No.

Q. Did you know that when you came in contact with Dr. Condon, that Dr. Condon had taught theosophy? A. I know that Dr. Condon had been an instructor in the Bronx for many years. I didn't know what his subjects were.

Q. Didn't you think it strange that a man from the Bronx that you did not know of should call you up and tell you that he had a note with a symbol on it? A. Not under those conditions, no; something like that had to happen.

Q. You didn't advise Dr. Condon to put the ad in the Bronx news, did you? A. I did not.

Q. Do you recall the ad, the first ad? A. I read the ad since that time; generally speaking, I recall it—that is, I know about what it contained.

Q. Wasn't it a reward of a thousand dollars? A. Yes.

Q. Did it occur to you strange that a man offering a thousand dollars in The Bronx for contact with the kidnapers where the State of New Jersey had offered $25,000 for contact with them was unusual. A. The State of New Jersey had not offered $25,000 for contact with the kidnaper at that time. My recollection is that that $25,000, very definitely, was for apprehension of the kidnaper and not for contact.

Q. Wasn't Dr. Condon's $1,000 for apprehension? A. No, Dr. Condon offered $1,000 in addition to what I would offer, I believe.

Q. Did Dr. Condon, to your knowledge, ever pay anybody a thousand dollars? A. No.

Q. Well, finally Dr. Condon came out to your house and exhibited to you a note, didn't he? A. That is correct.

Mr. Reilly: Now, may I have that note, Mr. Attorney General, and with that I am willing it go into evidence, and exhibit to the Colonel?

Mr. Wilentz: Certainly. Is this the next one? Yes, yes; if you are willing to allow it.

Mr. Reilly: That is the one he handed to him?

Mr. Wilentz: It will be the first one, and I will take it out of the envelope and see. Where is the letter that went with it? They went together, didn't they?

Mr. Peacock: Have you the envelope, Mr. Attorney General?

Mr. Wilentz: Yes, sir. Here it is. This envelope and these two notes in one.

Mr. Reilly: Fine.

Mr. Wilentz: We are going to agree, as I understand it, we are agreeing that this note or these two notes which came in this one envelope are to be admitted in evidence.

Mr. Peacock: Numbering what?

Mr. Reilly: I will see.

The Reporter: 24, 25 and 26.

Mr. Reilly: 24, 25 and 26, heretofore marked for Identification, are now, with the consent of the defense, offered by the Attorney General and, with your Honor's permission, will become part of the evidence and so marked in evidence.

The Court: It will be admitted and so marked.

(State Exhibits S-24, S-25 and S-26 for Identification were received in evidence and so marked.)

Mr. Reilly: Are you familiar with their contents, Colonel?

The Witness: In general, yes.

Mr. Hauck: Let us have them marked first.

Mr. Wilentz: Do they retain the same numbers except for the words "for identification" being withdrawn?

The Reporter: Yes.

(The papers referred to were received in evidence as State Exhibits S-24, S-25 and S-26.)

Mr. Hauck: Which one is the letter?

The Reporter: The envelope is S-24 and the notes are S-25 and S-26.

By Mr. Reilly:

Q. Colonel, after Condon brought this note to you, was it after that that you decided to take Col. Breckinridge's advice and contact Rosner and the people we have mentioned? A. I believe that we got in contact with Rosner for instance, before that time.

Q. When you contacted Rosner did you give him a copy of the symbol? A. No, I didn't. Now, I don't know whether he had one or not. As a matter of fact, my recollection is that he had seen the symbol.

Q. He had seen it? A. That is my recollection at this time.

Q. Had the symbol been printed in the papers? A. No, not to the best of my knowledge.

Q. I see. Who had seen it? A. Up to that time?

Q. Yes. A. Altogether?

Q. Yes. A. Why, members of the New Jersey State Police, some of the members of the Jersey City and Newark Police, I believe. Up to what date is this?

Q. March the 9th. A. Members of the Internal Revenue Department of the United States Government, Col. Breckinridge. As I say, my recollection is that Mr. Rosner saw one of these letters. And myself.

Q. But Condon had never seen this symbol? A. Up to the time he brought the letter?

Q. Up to the time he brought this letter? A. No, as far as I know.

Q. Did you go any place with Condon after he exhibited this letter to you? I mean the next day. A. Condon stayed at our home that night and I believe that the next morning the doctor went back to his home in the Bronx but that I did not go with him. I was at his home later.

Q. Did he say to you under what circumstances he received this letter? A. He told me, I believe, at that time that he had inserted this ad in the paper. He told me that he had been interested in trying to do whatever he could to help. He told me that in the mail he received the note which you just showed to me.

Q. Did he tell you that he went to the Bronx News and offered the suggestion to them that they allow him to put the ad in? A. He did, but I am not certain that he told me at that time; thereabouts he spoke to me about going to the Bronx News, as I recall it.

Q. And the Bronx News was a locality paper? A. That is my understanding, yes.

Q. Did he show you a copy of the ad? A. I don't know; I really couldn't remember. I have seen a copy since.

Q. Of course you knew that the Bronx News, you subsequently learned that the Bronx News was just a local paper? A. Local to the Bronx?

Q. Yes, local to the Bronx. Did it strike you as peculiar that an ad would be watched for and immediately answered by the kidnapers if it came from the Bronx News? A. Well, we considered all of those situations, but we also realized that after this circumstance had originally happened, the sequence of the events would probably be peculiar, not according to the ordinary logic of life.

Q. Did it ever strike you that the master mind might insert an ad in the paper and answer it himself? A. I think that is inconceivable from practically any practical standpoint.

Q. You think it is? A. As a matter of fact, I tried to consider it with every individual who has been connected in any way with this case,

exempting no one, whether there was any connection.

Q. Of course, you considered it from the very interested viewpoint of the father of the lost child? A. That is correct.

Q. And you have never been placed in the position of the neutral man who could stand on the side and view it from the other side? A. That is why I contacted the police.

Q. Every time after that that Condon did anything in this case that was important, he always did it alone, did he not? A. No. Not according to the information that I had.

Q. Your personal contact with him—you drove up in the car with him, the $70,000— A. In that instance there was no one there but myself.

Q. He walked across the street, he bent over a table— A. No, that was on the same side of the street.

Q. Even so, wherever he walked, he bent over a table, he straightened up and came back to the car and he hands you one of the same kind of notes that he handed you in Hopewell? A. Under the table he got a note, yes.

Q. But you did not see him pick it up? A. Oh, I couldn't.

Q. He walked over, bent down and straightened up and came back, and there it is: is that right? A. He had the note and he returned.

Q. He took your $70,000 away? A. Fifty.

Q. Fifty thousand? A. Yes.

Q. He did not take seventy and bring twenty back, did he? A. No, he told me to take out twenty.

Q. He went away and had a conversation with somebody: is that right? A. That is what he told me, yes.

Q. That is what he told you. He comes back

and says fifty thousand is enough, Condon alone? A. Right.

Q. He comes back and he says, "Fifty thousand is enough"; Condon takes the 50,000, goes some place, comes back and says, "I have given it to somebody," correct? A. Well, those are not his words, but in general, that is correct.

Q. No. Alone? A. Yes, he went alone.

Q. How many of these notes did he produce after this one? A. After which?

Q. After the one he delivered from Col Breckinridge to you, if you recall the number? A. I don't think I could say the exact number offhand, I know the sequence and the contents pretty well, but I am not sure of the number.

Q. Now, was it after this, after the receipt of this from Dr. Condon that you received another note, or was there another note before you first went to Dr. Condon's house, or did the note come after you first went to Dr. Condon's house? A. I don't think I can say that definitely. I went to Dr. Condon's house not many days after he had come to Hopewell.

Q. Now did Dr. Condon tell you that he was in contact with a gang or expected to make contact with a group? A. No. He told me the man that he contacted spoke of others.

Q. The man he contacted spoke of others? A. Yes.

Q. And that led you to believe that it was a group? A. It didn't lead me to believe very much but there seemed to be no reason why it shouldn't be.

Q. After your first visit to Dr. Condon or at your first visit to his house, did anything transpire at that time? A. Well, I was there on so many different occasions, with the exception of the time the money was paid, and I drove Dr.

Condon to the cemetery, it is very difficult for me to separate one visit from the other. I know about what happened when I was there, but on which visit, with that exception it is very hard to say.

Q. As I recall your testimony you were in Dr. Condon's house one night and the bell rang. A. That is correct.

Q. He went out of the room and he went to the door. A. Yes.

Q. He came back and he had another one of the notes. A. Yes.

Q. With the symbol? A. Yes.

Q. But there was nobody who saw him receive the note, rather you didn't see him? A. No, I stayed in the back of the house.

Q. That is it. After that, how long after that was the drive with the money? A. How long after did we start?

Q. How long after the receipt of that note? A. We started, I think, within ten minutes probably of the receipt of that note.

Q. That note called for the immediate payment within thirty minutes of $50,000, didn't it? A. That note didn't mention the amount, but at that time the amount was understood to be $70,000.

Q. Within thirty minutes? A. It was within a short time. I am not certain whether it was thirty minutes or forty-five or whether it simply said to go directly to the cemetery, but it was a limitation, a definite limitation as to time. We had to leave at once.

Q. Colonel, did Dr. Condon know you were coming to his house that night? A. I believe he did.

Q. Had he asked you to come that night? A. Well, he asked me to come any time. Whether he

asked that night— I think he would expect me that night. I am pretty sure he would.

Q. He expected you that night, didn't he? A. I am quite sure he did.

Q. And did he expect you to bring the money that night? A. Well, he knew the money was available. We had been told by note to have the money ready. He knew the contents of the notes and he knew that we planned on going, on following the notes, so I think that he probably knew that we would bring the money that night.

Q. You had not advertised to the world that you had drawn $50,000 from the Bank of Morgan, had you? A. Well, I hadn't. I don't know whether anything was carried on it or not.

Q. You had not advertised to the world that the serial numbers were taken, had you? A. No.

Q. You had not advertised to the world that you were going up to Dr. Condon's house that night, had you? A. As far as I could I avoided having my movements known.

Q. Well then, who knew besides Dr. Condon that you were going to be at his house that night? A. Well, members of the police at our residence, members of the Federal Agency.

Q. All Government agencies knew? A. No, I don't say all Government agencies. The Internal Revenue, for instance, knew that; and the Internal Revenue had been assigned by President Hoover to work on this case at that time.

Q. Well, excluding Government agencies, what individual knew, first that you had the $50,000? A. Well, the New Jersey State Police officials.

Q. Outside of them, Colonel. A. Pardon me?

Q. Outside of that group, outside of all officials. A. My wife, Colonel Breckinridge, Dr. Condon and a Mr. Reich undoubtedly by that time.

Q. Who was he? A. A friend of Dr. Condon's.

Q. He is Condon's bodyguard, isn't he? Goes around with him, R-i-c-c-i, isn't it, Ricci? A. No, it is Reich.

Q. Al. Reich, isn't it? A. Yes, that is correct I don't know what—I only know him as a friend of Dr. Condon's. A. There were probably a few other people who knew that.

Q. Were they people you trusted, the other people, without mentioning their names? A. In every instance I know of, yes.

Q. Well, then, the only two strangers outside of your official group and those whom you trusted, who knew anything about the fact that you had $50,000, the serial numbers were taken, and they were available, were Condon and Reich? A. Well, we hardly considered them strangers by that time, but they knew about the money.

Q. They were outsiders to you until this unfortunate occurrence? A. I had not known them until then.

Q. So if you had the $50,000 in the bank of Morgan, in its vaults, already set aside there for safekeeping— A. No, I arranged through Morgan, through the Morgan Bank, to have that $50,000 made up, or the $70,000, and for some time that was in our residence in Hopewell for assignment, I believe it was, in a branch of the Corn Exchange Bank in The Bronx, and on the evening of March 9th I myself took the $50,000 to Dr. Condon's—on the evening of April 2nd, to Dr. Condon's home.

Q. Did he ask you to? A. No, Dr. Condon had always questioned the payment of any money without positive identification.

Q. Did he ask you to bring the money that

night? A. I don't recall his ever asking us to bring money.

Q. What induced you to bring the money to Dr. Condon's house within an hour or so before he received this mysterious note at his doorway? A. The previous note told us to do that.

Q. To be ready that night? A. What?

Q. To be ready that night? A. Yes, yes.

Q. To be ready that night? A. Yes.

Q. And have the money at Condon's? A. That is correct, the previous note requested us to do that.

Q. Of course you didn't take any guards with you at all, did you? A. When I went with Dr. Condon.

Q. That night? A. No.

Q. You had no police around at all? A. No, not as far as I know. I believe not.

Q. Now when you got to Dr. Condon's, did he ask you if you had the money? A. I do not recall his asking that, but we had it in the package there.

Q. You had it in this box? A. No, we put it in the box at his home.

Q. At his home? A. Yes.

Q. Where was the box built? A. Dr. Condon had the box built.

Q. He had it built according to the instructions of the letter that Col. Breckinridge delivered, which— A. I would have to see the letter, the sequence.

Q. It is S-25 (handing the exhibit to witness). I am showing you S-25, Colonel, that is one of the letters Condon delivered to you at Hopewell, is that correct? Am I correct, Mr. Attorney General?

Mr. Wilentz: I think you are right, sir.

A. That is the letter, one of the letters that Dr. Condon showed us at Hopewell.

Q. And that letter contained the directions how to make the box? A. The dimensions of the box, yes.

Q. And Condon left this letter with you, didn't he? A. I am not sure whether he left it that night or took it back.

Q. Took it back with him, you think? A. I am not sure whether he left it or took it back.

Q. If he took it back, did you get it from him again? A. Oh, yes.

Q. Before the payment of the money? A. I am quite sure that we had that letter before the payment of money, if he did not leave it that night.

Q. Did you ask Condon or did he volunteer to build the box? A. Col. Breckinridge was the person in direct contact with Condon. We all knew of the dimensions stated in this letter here. As to the exact sequence of the box being built, I am not sure, except that it was according approximately to the dimensions in the letter.

Q. Colonel Breckinridge was with you the night you went up with the money. Did he stay in Condon's house? A. Col. Breckinridge was in Condon's house when we left the house, yes.

Q. And this money was in packages and was taken out and placed in this box in Condon's house? A. In one large package and one small, $50,000 in the large package and $20,000 in the small.

Q. The 20,000 was not in the box? A. Yes, it was in the box until Dr. Condon told me to take it out at the cemetery.

Q. Now, what time did you leave Dr. Condon's house? A. I should think about approximately a quarter after eight.

Q. Was it at your request that Colonel Breck-

inridge stayed behind? A. I don't believe there was any question of his going, because we tried to carry on our contact with as few men as possible; it was easier to move with fewer people.

Q. Did anybody suggest that Ricci— A. Reich?

Q. Reich, Condon's friend, be left home? A. Well, I suggested that I drive the car that night.

Q. Did Condon know that the bills, the serial numbers, had been taken by that time? A. I don't know.

Q. Well, you were about to make payment; did you ever tell him, did he ever ask you whether the serial numbers were taken? A. Well, he knew that the numbers were taken, but it is practically impossible for me to go back and know the time when he knew that.

Q. I didn't ask you that. Did he know before the payment was made? A. I am not sure whether he knew it before; it may have been after that. I am not sure of that.

Q. Now, where did you stop after you left Dr. Condon? A. We went directly to the spot designated in the letter that he had received that night. I drove on Tremont a little beyond that spot and turned around, making a U-turn and came back and parked opposite the flower shop mentioned in the letter.

Q. And then he walked across down the street and came back with this? A. No, the—as I say, we parked opposite the flower shop, then there was a concrete walk that went from the car across the sidewalk to the door of the flower shop, and at a table under which the instructions were that the note would be was just to the right of that walk, next to the flower shop.

Q. Was that flower shop open? A. No, no, the door at that time, I believe, was closed.

Q. And how close was that to Dr. Condon's

home? A. Well, I think it took us a little over half an hour to drive.

Q. Well, he had a car? A. I don't think so.

Q. Well, who—did Reich drive a car? A. It was Reich's car.

Q. Reich's car. Well, a car was available? A. That I was driving.

Q. —for him?

Q. Well, now, when did you get to the cemetery? A. The cemetery was diagonally across.

Q. Was that St. Raymond's? A. That was St. Raymond's, yes.

Q. Is that the cemetery that had the high iron fence? A. An iron fence on the Tremont side of the cemetery, and that stopped, I think, just about at the corner, as I recall, and there was no high iron fence down the side bordering Whittemore.

Q. You didn't see Dr. Condon enter the cemetery, did you? A. Enter the cemetery? No, I couldn't from where I was.

Q. Well, then, did he cross the street and go to another cemetery that night? A. No. I believe that is all considered one cemetery there.

Q. Was the money passed at the cemetery that night? A. Yes.

Q. Then he came back to the car? A. Yes.

Q. When you flew the next day from Bridgeport how far up did you fly? A. Well, I would like to see a map. We flew to the Elizabeth Islands, generally speaking, and over the area in their vicinity. We flew between Gay Head and Horseneck Beach, and we covered practically all nearby waters.

Q. Is that off the coast of Maine? A. No, that is off the coast of Massachusetts, on the northern end of Long Island Sound, I believe. We followed the coast of Connecticut east to reach that location around the Elizabeth Islands.

Q. Did you ever go with Jafsie to a place called Beckett? A. Dr. Condon?

Q. Dr. Condon, rather. A. Beckett, where is Beckett?

Q. Massachusetts. A. No.

Q. Has your family a summer place somewhere in Massachusetts or Maine? A. There is a home near North Haven, Maine, that belongs to the Morrow family.

Q. Was there anything in the ransom notes that suggested your flying around there at all? A. No.

Q. When did you first come in contact with Curtis? A. Mr. Curtis came to our residence in East Amwell Township either the latter part of March or the first of April, I believe. My recollection now is that the first time he came there was the latter part of March. I am not certain of that.

Q. It was his idea that he should get in contact with the people that had your child by going out on a boat, is that correct? A. That was one of his ideas.

Q. The baby was supposed to be on a schooner or some kind of a boat operated by bootleggers. A. It is very difficult to outline all of the suppositions that he made, it would take a long time; that was one of the ideas that he had.

Q. But he always gave you the impression that he was more or less—that he thought he could get in connection with those people who had your children—your child, rather. A. Gave me the impression that he thought he could?

Q. Yes. A. Well, he said he thought he could.

Q. Yes. And that was your purpose in going out on that boat. A. My purpose in going out on the boat primarily was that I knew that either Mr. Curtiss was lying or he had been in contact with these people who he claimed had shown him ransom bills which he had checked against the list.

Q. Did he have some? A. Oh, no, but I investigated through various people in Norfolk his reputation and they seemed to think that it was good enough so that I couldn't afford to overlook his statement.

Q. Well, what did he say about the ransom bills? That he had seen some? A. Sir?

Q. That he had seen some? A. Among other things he said that he had seen some and that he had checked numbers.

Q. Did he bring you any number that checked against the bank list? A. He brought nothing that was of definite identification.

Q. And he was convicted of withholding information from you, is that correct?

Mr. Wilentz: Just a minute now, if your Honor please, I object to that as not being material to this cause.

Mr. Reilly: I think it is very material.

Mr. Wilentz: Well, I think it is not material.

Mr. Reilly: If some person has been convicted of withholding information from the Colonel as to the identity of the kidnappers, and it is a matter of record in this State and the law of this State in his particular indictment and case—

Mr. Wilentz: If your Honor please—

Mr. Reilly: And he is an emissary of the Colonel's at that time—

Mr. Wilentz: Those facts do not appear, if your Honor please.

Mr. Reilly: Well, the fact does appear that he was convicted in the courts of this State.

Mr. Wilentz: The fact does not appear here at all of any such thing, and it does not appear that he was an emissary of the Colonel either, the Colonel has explained, I thought—

The Court: I suppose that you are entitled to cross-examine Colonel Lindbergh as to his activity with Curtis. That you have been doing, and I have no disposition to interfere with that, but I think the present question is outside of proper cross examination.

Mr. Reilly: May I have my exception?

The Court: Let me have the question read so I may be perfectly sure.

(The reporter repeats question as follows: "Q. And he was convicted of withholding information from you, is that correct?")

Mr. Wilentz: That is not the question.

(The reporter repeats the last two questions and the answers: "Q. Did he bring you any numbers that checked against the bank list? A. He brought nothing that was of definite identification.

"Q. And he was convicted of withholding information from you, is that correct?")

The Court: And that question is objected to by the Attorney General?

Mr. Wilentz: Yes, if your Honor please.

The Court: I shall have to sustain the objection.

Mr. Reilly: May I have an exception?

The Court: You may take your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS TRENCHARD (L. S.)
Judge.)

By Mr. Reilly:

Q. Well, Colonel, is it not a fact that you had a distinct reason for believing Mr. Curtiss had been in contact with the people who kidnaped your child, either directly or indirectly, with the people who had possession of your child? A. To obtain the truth of that situation is a fairly long story. I had no—

Mr. Reilly: May I have the question answered Yes or No?

The Court: What is the question?

(The reporter read the question as follows:

"Question: Well, Colonel, is it not a fact that you had a distinct reason for believing Mr. Curtiss had been in contact with the people who kidnaped your child, either directly or indirectly, with the people who had possession of your child?")

The Court: Well, there seems to be an assumption of fact in that question which the record does not justify, Mr. Reilly. You are assuming that these people that Colonel Lindbergh was contacting with had possession of this child. There is no evidence of that.

Mr. Reilly: No, but it was his belief. You see taking the indictment as we stand here on the statements that have been made by the Attorney General that this defendant is the kidnapper and stands alone as the kidnapper and killer, I believe on cross examination I have a right to find out whether or not Colonel Lindbergh was not of the belief as recently as the Curtiss trial that it was a group of people and that he has only swung around to this belief against the defendant since the apprehension of the defendant.

Mr. Wilentz: If your Honor please, may I just respond to that? Counsel has not asked Colonel Lindbergh's belief at the present time and does not know it.

Mr. Reilly: He has already testified.

Mr. Wilentz: I do not understand that to be the fact.

The Court: You now want to inquire as to Colonel Lindbergh's belief at that time?

Mr. Reilly: Yes.

The Court: Well, is that objected to?

Mr. Wilentz: I don't object to it provided, your Honor please, he will also ask him his belief now.

Mr. Reilly: I think that has been testified to.

Mr. Wilentz: Let him give us both.

Mr. Reilly: He testified that on direct.

The Court: Let Colonel Lindbergh answer it.

Mr. Wilentz: Go ahead, Colonel.

A. May I have the question read, please?

Mr. Wilentz: As I understand it, we want the Colonel's beliefs then and now as to who he thought had the child.

Will you please answer that, Colonel?

The Witness: Pardon me. I was asking for the question to be reread.

Mr. Wilentz: As I understand it, it is modified now so that you give your belief

then and now, what you believed then and what you believe now.

Mr. Reilly: That was the suggestion of his learned Honor.

The Court: Yes.

Q. Colonel, I will ask you, as suggested by the Court, and I assume that your answer will be that the defendant, you believe now, is guilty of the kidnapping; is that correct?

The Witness (to the Court): Shall I answer?

The Court: Yes.

A. I do.

Q. Now, Colonel, at the time of the Curtis trial was it not your belief that a group of persons were responsible for the kidnapping of your child and that Curtis was in contact with them, either directly or indirectly, and didn't you so testify at the Curtis trial?

Mr. Wilentz: If your Honor please, may I ask counsel if he won't ask the question that he seems to be referring to in the manner that it is usually asked?

Mr. Reilly: I can't ask that until he contradicts himself.

Mr. Wilentz: I think Mr. Reilly is probably correct about that.

The Court: What is the question?

Q. (Pending question read by the reporter.)

Mr. Wilentz: As to that part of it, if your Honor please, "And didn't you so testify?" I object. I think if there is going to be any question directed as to his testimony, that the proper and legal way is to ask the Colonel: "Weren't you asked the specific question and wasn't this your answer?"

The Court: I think that is the proper court procedure.

Mr. Reilly: May I withdraw the question until we get this straightened out.

By Mr. Reilly:

Q. Colonel, irrespective of the Curtis trial, did you ever have the belief that Curtis was connected directly or indirectly with the group of persons who had kidnapped your child? A. I did with reservations.

Q. Did you testify at the Curtis trial in answer to this question, page 47:

"Q. Colonel, the last date you mentioned at Norfolk was May 6th. What happened after you came in the last time when you could not make any contact?

"A. The question came up at that time as to what course to pursue. I could offer no distinct reason for believing that Mr. Curtis had not been in contact with these people and according to the information he had given me in my mind, he certainly was either in contact directly or indirectly

with the people who had been in possession of our child. I felt that it was essential to devote every effort to find out who these people were and if possible to bring about a return of the baby, and if not, bring about their apprehension''. A. Yes, but I found out later he was not telling me the truth.

Q. Did you testify that way? A. As you have read there?

Q. Yes. A. Yes.

Q. Now you say, do you not, or do you say that you also believed at some time that the Purple Gang of Detroit were in possession either directly or indirectly of your child? A. No, I never believed that.

Q. Colonel, did you ever have $50,000 placed at or near a plane ready to be sent to Detroit, to contact the Purple Gang? A. No, I had $50,000 available, but I never came anywhere near the point of sending that to Detroit or anywhere else, except where it went.

Q. Was that a second $50,000? A. I am not clear on that. There were two packages at one time for purposes of quick movement which I had arranged to have available. As I say, with the exception of the actual payment, there was no question of sending any anywhere else, that is, no question that came anywhere near to action.

Q. Colonel, were you in the Morrow home shortly before the suicide of Violet Sharpe? A. Yes.

Q. Had she been questioned by the police before that? A. I understand she had.

Q. Did you know that she and the butler had been very friendly? A. No, but being in the home, I suppose that is probably true.

Q. Did you know that they were friendly outside of the home, but I would be surprised if they were.

Q. Did you suspect Violet Sharpe of any connection with this case? A. I did not.

Q. Well, is it not a fact that she had been questioned by the State Police that they subsequently came back to ask her some more questions and that she went upstairs after their presence was announced to her, and committed suicide? A. She committed suicide. I do not know whether it was prior to being questioned or not.

Q. Weren't they in the lower hall and didn't they ask that she be brought downstairs for requestioning, and when that message was sent upstairs to her, didn't she drain a phial of poison? A. Well, she took poison.

Q. Isn't it a fact—

Mr. Wilentz: Just a moment.— Go ahead.

Mr. Reilly: Pardon me. I won't interrupt.

A. She took poison; she had been questioned by others at Englewood and Hopewell by the police, she probably would be questioned again, it may be she was notified she would be questioned again, I am not clear on that.

Q. Well, one of the servants in the Morrow home was known as Johnson? A. No.

Q. And afterward identified as Red Johnson? A. No.

Q. Well, was he a visitor there, so far as you know, in servants' quarters? A. I understand he had visited.

Q. Do you know whether or not he was friendly with Violet Sharpe to the extent of taking her out? A. No, I don't know that.

Q. You do know, however, that he was appre-

hended by the United States authorities, do you not, because he was illegally in this country? A. That is my understanding.

Q. And you know that that warrant was withdrawn, do you not, by orders of Washington, and he was permitted to leave the country voluntarily and he is now in Denmark, or Sweden? A. Well, I understood that he went abroad; I did not know or I do not recall being told that the order for his deportation was ever withdrawn.

Q. Betty Gow was not in this country at the time of the arrest of Hauptmann, was she? A. No.

Q. She has been brought back here. A She has come back.

Q. Do you know of any effort that has been made by the State to bring back Red Johnson? A. As far as I know the question never came up.

Q. Well, do you know of any effort to bring him back? A. No. I have never heard of him before.

Q. His name was mentioned, he was questioned, wasn't he, many times? A. Oh, yes.

Q. In fact, he was questioned about a trip to Bridgeport and about a milk bottle in his car, covering March 1st, isn't that correct? A. As I recall, that is correct.

Q. You have seen the report of his examination where he said he was used to drinking milk at night and that is why the bottle of milk was in the car. A. I have probably read that report. I don't recall that part.

Q. Just a moment, please.

Mr. Reilly: Mr. Attorney General, I have finished with your witness.

Mr. Wilentz: You are finished, sir. Thank you. Just a few questions.

Redirect Examination by Mr. Wilentz:

Q. Referring to almost the last question, particularly as to Red Johnson and your understanding about him —

The Court: Excuse me a moment. One of the jurors has asked to retire for a moment. I think we had better take a recess for five minutes. The jurors may retire.

(The jury retired at 3:00 p. m.)

(At 3:05 p. m., during recess, the following occurred:)

The Court: Is that gentleman up there in the gallery preparing to take a picture? Are you preparing to take a picture here now?

A Voice: During recess; yes, sir.

The Court: I will ask you not to do that. This is practically a session of the court. We will have to get along without pictures during such recesses as these.

Is the jury ready?

(The jury returned to the courtroom at 3:08 p. m.)

The Court: The Clerk may poll the jury.

(The jury was polled and all answered present.)

The Court: Colonel Lindbergh will resume the witness stand.

Mr. Wilentz: If your Honor please, we decided not to further harass the witness and we will ask Officer Williamson to take the stand.

CHARLES E. WILLIAMSON, called as a witness in behalf of the State, being duly sworn, testified as follows:

Direct Examination by Mr. Wilentz:

Q. Mr. Williamson, where do you live? A. Hopewell.

Q. And where did you live on the 1st of March, 1932? A. Hopewell.

Q. Did you serve in any police capacity at all at that time in that county? A. Yes, sir.

Q. By the way, what county is Hopewell in, the Hopewell that you are referring to? A. Hopewell is in Mercer County.

Q. And how far away is it from the Lindbergh home? A. Approximately three and a half miles.

Q. What is it, a township or a borough? A. Hopewell Borough.

Q. Is it the nearest borough that has police officers to the Lindbergh home? A. It is.

Q. And on the night of March 1, 1932, did you receive word from the Lindbergh home that they wanted police? A. I did.

Q. Did you receive it from the home directly or did you get it through Chief Wolf—is Wolf the Chief? A. Yes.

Q. I see. That is of the Hopewell police? A. Yes.

Q. Did you receive it from Wolf or did you get it yourself over the telephone? A. I received it from the Lindbergh home myself at my home.

Q. I see. And having received that telephone call did you communicate with Chief Wolf? A. I did.

Q. And thereupon did both of you go up to the Lindbergh home? A. We did.

Q. And when you got there about what time was it? A. Around 10:25 or 10:30.

Q. As soon as you got to that home, whom did you meet? A. Colonel Lindbergh.

Q. Where was he? A. At the front door of his home.

Q. Did he have a rifle with him at the time? A. He did.

Q. He met you at the door, then, with a rifle? A. He did.

Q. And did he take you up to the room? A. He did.

Q. Who went up to the room, then? A. Colonel Lindbergh, Chief Wolf and myself.

Q. What did you see in that room at that time? A. I saw the crib that was empty. I saw the note in the window. I saw dirt tracks or mud tracks leading from the window towards the crib.

Q. How many impressions of mud or dirt did you see? Well, I will withdraw that. Did they lead right to the crib? A. Yes.

Q. Right from the window sill to the crib, as I understand it? A. Correct.

Q. Can you tell us anything about that mud or dirt? A. Well, it was of a clay substance.

Q. And what do you mean when you say it led from the window sill to the crib? A. Well, it went direct from 'neath the window towards the crib.

Q. About how many impressions of mud or dirt would you say there were, if they were impressions? A. I would say three or four.

Q. Three or four. About what distance, or what was the distance, according to your best recollection, from beyond the window sill, immediately beyond the window sill, to the crib?

10 A. You mean under the window sill to the crib?

Q. Once you got into the house, right beyond the window sill there, immediately adjoining the window sill, and the packages that were there, or the valise, whatever it was, from there to the crib about how many feet? A. I would say around 12 or 14 feet.

Q. 12 or 14. And it is your judgment then that the dirt track or mud track led right from there to the crib: is that it? A. Yes, sir.

20 Q. All right. Now, then, I suppose you left the room? A. Left the room and went downstairs.

Q. Where did you go then? A. Went down in the living room with the Colonel.

Q. And from there what? A. Well, we talked the situation over to find out what we was going to do and I think Colonel Lindbergh called the police.

Q. The State Police, you mean? A. State Police.

30 Q. Yes, and then what did you do, sir? A. We went outside and looked for the evidence.

Q. Well, what did you do when you got outside? A. We walked down on the plank to the window.

Q. By the way, before we get back to that, what have you to say as to whether the windows, as to the condition of the windows and the shutters? A. The shutters was open on the east window, southeast window, and the window was

40 closed.

Q. When you say the southeast window, you mean the southeast window in the baby's nursery? A. Correct.

Q. You know this house, do you not, Officer? A. I do.

Q. Well, will you take a look at this drawing on Exhibit S-2, and when you are referring to the southeast window you are talking about the window on the second floor at the southeast corner and the window to which I am now pointing? A. That is correct.

Q. That is to say this room on the second floor here which is marked "bedroom" and which is the baby's nursery (indicating). A. Yes.

Q. And the window you are referring to now as the south east window is this window here. A. That is correct.

Q. And that is the window that operates, up and down, isn't that so? A. Yes, sir.

Q. And as I understand it then, the window was closed but the shutters were open. A. That is right.

Q. How about the other window, do you remember? A. I didn't notice the other windows.

Q. You didn't notice it. All right. Now you didn't touch the note, did you? A. No, sir.

Q. That was according to instruction from the Colonel? A. That is correct.

Q. But you did go downstairs to look over the territory? A. Yes.

Q. You had a flashlight, I suppose. A. Yes, sir.

Q. What sort of a night was it, Officer? A. Very cold windy night.

Q. Very cold windy night. A. Yes.

Q. In addition to being very cold was it very windy? A. It was very windy, yes.

Q. Very windy. How long have you lived in that vicinity, Officer? A. Forty years.

Q. It is a very desolate place, isn't it? A. Yes, sir.

Q. And this particular house is located on one of the highest spots in the Sourland Mountains, isn't that so? A. That is correct.

Q. Is that how you pronounce it, Sourland? A. Sourland Mountains.

Q. Sourland Mountains. And can you tell us, please, how far away the nearest home, living home, residence, is to the Lindbergh home, according to your best notion and judgment? A. Well, there is a house at the end of the Colonel's private drive, approximately three-quarters of a mile, I would say.

Q. Three-quarters of a mile from the home itself is the first building, is that it? A. That is correct.

Q. And who occupied that at the time? A. No one.

Q. Was that the gate house they call it? A. Yes.

Q. Well, that is part of the Lindbergh estate, is it not? A. Of the estate, correct.

Q. I mean, excepting for that, what was the nearest home, residence, at the time occupied from the Lindbergh home proper? A. I would say the property right across the road, Mr. Hausenbaur's.

Q. I see, across the road, you say? A. Yes.

Q. That is at least three-quarters of a mile away? A. From Lindbergh's mansion?

Q. Yes. A. Yes.

Q. Now, when you got down there did you use your flashlight? A. I did.

Q. All right, did you see the wooden walk along the east side of the house? A. Yes, sir.

Q. A sort of a platform walk, was it? A. Yes.

Q. That is wooden boards? A. Yes.

Q. Wooden planks? A. Yes.

Q. Heavy planks, I suppose? A. Yes.

Q. And, did you, when you did use your flashlight, did you see anything right near or underneath that window in the vicinity of that window? Well, you saw two marks on the ground, didn't you? A. I did, yes.

Q. What were they? A. They were ladder marks.

Q. Ladder marks; and you mean indentations or impressions? A. Yes.

Q. In the ground? A. Yes.

Q. And just about how far away were they from the wooden platform walk that we just discussed? A. Right near.

Q. Right near? A. Within probably six or eight inches of the walk.

Q. So that first you had the house there, then there was some little distance to the wooden walk— A. Yes.

Q. And then about six or eight feet, did you say? A. Inches.

Q. Six or eight inches away from that wooden walk, and away from the house with the impressions that you talk about? A. Yes, sir.

Q. All right, sir.

Mr. Wilentz: Now, may I see that photograph, please? I think, Mr. Reilly, you did not consent to the admission of that until we had the—

Mr. Hauck: That went in.

Mr. Wilentz: Just mark it for identification. All right, we will forget that for a minute.

Q. Now, in addition to that what else did you see in the vicinity of this ladder or at the foot of the ladder? A. I saw footprints leading from the imprints of the ladder toward the ladder.

Q. You saw footprints then leading from the imprints of the ladder in the direction of where the ladder was? A. That is correct.

Q. Where was that ladder? A. I would say fifty or sixty feet from the house.

Q. Were those footprints in the general direction of the place where the ladder was? A. They were.

Q. Could you see the ladder in the glare of the flashlight? A. I could.

Q. So that, officer, if you will please just stand by for a minute.—Which map do you think we might be able to show this on now—? Possibly this one. A. Over here (indicating).

Q. All right. Taking this window, and using the diagram of the house on Exhibit S-2, would the direction of the footprints toward the ladder be toward me from that house? A. Yes.

Q. That is, in an easterly direction then, I take it? A. Yes.

Q. Easterly, directly easterly or south easterly or north easterly? A. Probably a little south easterly.

Q. Have you got a picture of the house there with that ground at all, available?

Now, Officer, finally on May the 12th, 1932, you were still a special officer of Hopewell? A. I was special officer in the township and I was an officer in the Hopewell Borough.

Q. Yes. And was your attention directed to the location of a body somewhere in Mercer County? A. Yes.

Q. Did you go to that spot? A. I did.

Q. Who directed your attention to it? A. A colored gentleman by the name of William Allen.

Q. And when he attracted your attention to the situation, did you again communicate with your Chief? A. I got in touch with him right away, yes.

Q. About what time of the day was it when you and the Chief started for this place, this spot? A. Around 3:30 in the afternoon.

Q. 3:30 in the afternoon? A. Three or 3:30 I couldn't tell you exactly. It was in that neighborhood.

Q. And where did you go? A. We went in a car to get Allen.

Q. Allen. And when you got Allen where did you go? A. We went direct to where the baby was found.

Q. Right where the baby was found? A. Yes.

Q. And you saw the child's body? A. I did.

Q. I want you to take a look at this picture, Exhibit S-6, I think it is.

The Reporter: Exhibit S-6.

Q. Yes, S-6. Do you see Exhibit S-6 now? A. Yes.

Q. Now, with reference to the child whose body you saw there that afternoon of May 12th, 1932, will you tell us whether or not that is the child? A. Yes.

Q. Thank you, Officer. That is all. Oh, just this: did the child still have some clothing on? A. It had an undershirt on, yes.

Q. Can you recall whether or not these pieces of clothing shown by—

The Reporter: S-13 and S-14.

Q. —whether or not these exhibits, S-13 and S-14,—take your time about it if you need it, officer, and tell us whether or not you can tell whether those pieces of clothing were on that child that afternoon. A. Yes, they were.

Q. In other words, these two articles referred to just now, these exhibits, comprise the clothing that was on this child on that afternoon when you saw the body? A. Correct.

Mr. Wilentz: That is all, Officer, and thank you very much. Take the witness, please.

Cross Examination by Mr. Reilly:

Q. Did you ever see the Lindbergh baby in life? A. I saw pictures of it.

Q. No. Did you ever see the baby? A. No, I did not.

Q. Of course, you don't mean to tell this jury that the baby's body that you saw there on the ground looked anything like this picture? A. The face of it did, yes, sir.

Q. Was the face flesh colored or was it brown? A. No, it was dark color, by being in the ground.

Q. Yes. I didn't ask you "by being." I asked you was it brown or not. It was colored, wasn't it? A. It was colored, yes.

Q. Now, let me see if I can refresh your recollection about the poor little baby's body. Wasn't it rather thin and emaciated and wasn't the skin on the face rather drawn and brown? A. It was dark.

Q. Of course you could recognize the light curly hair? A. Yes, sir.

Q. Were you there when the Colonel came later to the morgue? A. I was not.

Q. Of course as a police officer, you are familiar with your duties, are you not? A. I am supposed to be.

Q. You have been forty years in the township and how long a police officer? A. Around 14 or 15 years.

Q. Did you see a man there that night known as a fingerprint expert? A. I did.

Q. His name was Kelly, was it not? A. Yes, sir.

Q. What did you see him do? A. I saw him take fingerprints of the note.

Q. Well, how many fingerprints did he take off the note? A. He took fingerprints of the envelope and also of the note.

Q. Where are those fingerprints? A. He couldn't find them.

Q. Well, how could he take fingerprints off a note and afterwards not find any? A. He tried to get fingerprints.

Q. Which is it? A. He tried to get fingerprints and couldn't find any.

Q. Tell us what he did. Did he sift some white powder on the envelope? A. He put powder on the envelope.

Q. Did he blow it off or brush it off? A. I can't remember about that.

Q. Can you take a fingerprint? A. I never have, no.

Q. The fingerprinting was in charge of a man that apparently was sent there for the purpose of taking fingerprints? A. I suppose so.

Q. That was his business? A. Yes.

Q. And you didn't interfere with him? A. I watched him.

Q. You watched him. Did you not consider it just as important to save the footprints as you did the fingerprints? A. How is that?

Q. Did you not consider it just as important to keep the footprints as you did the finger-prints? A. Just as important, did you mean?

Q. Yes. A. Well, it was all very important.

Q. Let's assume now that the foot print was an eight and a half B or a ten B and you arrested a man whose shoe was ten and a half B and you put the shoe down on top of the foot print or photograph of the foot print and it fitted, you would consider that evidence, wouldn't you? A. Not necessarily.

Q. No. What would you call it? A. Well, partly, I suppose.

Q. You suppose. A. There are lots of people got the same size feet, same size shoe.

Q. Well, it is pretty convincing, isn't it, when you arrest a suspect that has the same size shoe, has the same size finger print—

Mr. Wilentz: Just a minute. I object to the question as being argumentative, if your Honor please.

The Court: Well, it is argumentative, and yet perhaps he has a right to test the credibility of the witness. He may proceed within limits.

Q. Now, when you were called to the house and found the Colonel at the door with the rifle, was the house well lighted? A. Yes.

Q. Who else did you see in the house? A. Mrs. Lindbergh.

Q. Who else? A. Betty Gow.

Q. Who else? A. Mr. and Mrs. Whateley.

Q. Who else? A. That is all.

Q. How soon after you arrived did any other

police officials come? A. I would say three-quarters of an hour.

Q. How long did you stay there that night? A. Until about around three o'clock in the morning.

Q. Did you call to the attention of the finger print man the window? A. I did not.

Q. Did the Colonel call to the attention of the finger print man the window? A. The Colonel wasn't in the room when the finger print man come, to my knowledge.

Q. At any time while you were there and while you were in the presence of the finger print man, did the Colonel call to the attention of the finger print man the window? A. Well, the Colonel was in and out of the room, the same as I was.

Q. You were the first officer there, weren't you? A. Wolf and myself, yes, sir.

Q. Both come together? A. Yes.

Q. Did Wolf call attention to the finger print man the window? A. Did he what?

Q. Call to the attention of the finger print man the window. A. Not to my knowledge.

Q. Well, what did you send for the finger print man for? A. I didn't send for no finger print man.

Q. Who did send for him? A. I suppose Colonel Lindbergh or some of the officials.

Q. Colonel Lindbergh had nothing to do with the officials. What official sent for the finger print man, if you know? A. I don't know.

Mr. Wilentz: Just a minute. I move that part be striken out, Colonel Lindbergh having nothing to do with the officials. He had much to do with them that night.

Mr. Reilly: I mean sending for the finger print man.

Q. The sending for a finger print man was within the view and the duty of some official, wasn't it? A. I suppose so, yes.

Q. Well, now, what I want to know is whether you were there all the time Wolf was there? A. Yes, sir, we went together and we come home together.

Q. Fine. Were you in the room at any time, the nursery, that Colonel Lindbergh was in the room? A. I was.

Q. Did you call to Colonel Lindbergh's attention the foot prints on the floor leading from the window to the crib? A. I did not.

Q. Did he call them to your attention? A. He did not.

Q. Did he call them to Wolf's attention? A. I don't know, I couldn't tell you that.

Q. In your presence did he call them? A. He did not, no.

Q. Did he call it to the attention of the foot print or finger print man in your presence? A. Not to my knowledge.

Q. Was there any effort made to preserve the foot prints so far as you know? A. There was not, not so far as I know.

Q. Now, you have told us there were three or four foot prints, you are sure about that? A. Yes, sir.

Q. And it ran from the window to the edge of the crib? A. I didn't say the edge of the crib, I said towards the crib.

Q. All right, I think your answer to the Attorney General was to the edge of the crib? A. No, I did not.

Q. How far away from the crib was the last foot print? A. I would say three or four feet.

Q. How many feet from the window was the crib? A. How is that?

Q. How many feet from the window was the crib? A. I would say 12 or 14 feet.

Q. How many foot prints, then, were between the window and the crib that you saw? A. Possibly two or three.

Q. Were they men or women's foot prints? A. You couldn't hardly tell.

Q. Were they large or small? A. Well, it was a blurred mark, quite large.

Q. What was on the floor? A. There was a rug on the floor.

Q. A rug on the floor? A. Yes, sir.

Q. What color rug? A. I couldn't tell that.

Q. Was it a rug that was a different color from the footprints? A. It was.

Q. Did the footprints stand out so that you could see them? A. They were blurred.

Q. Even if they were blurred could you see them? A. Yes.

Q. Was any effort made to sift them with a light powder? A. I didn't see it done.

Q. Did you see anybody photograph them? A. I did not.

Q. Do you know where they are now? A. (No answer.)

Q. Were they ever preserved? A. Not to my knowledge.

Q. Did you ever hear anybody give any orders not to preserve them? A. No.

Q. Did you ever hear anybody give any orders to preserve them? A. I did not.

Q. Did you see Colonel Schwarzkopf there that night? A. I did.

Q. Did you tell him about the footprints? A. I did not.

Q. How is it you can say there were three footprints between the crib and the window and Colonel Lindbergh said there was only only one?

Mr. Wilentz: Just a minute. That is a comparison.

Mr. Reilly: I will withdraw it.

The Court: Yes.

Q. You still stick to your testimony there was three, do you? A. Two or three, I said.

Q. Two or three. And you saw them? A. I did.

Q. And your eyesight was good? A. Yes, sir.

Q. Did you call it to the attention of Colonel Schwarzkopf, "Here are footprints"? A. Colonel Schwarzkopf wasn't in the room when I was, at no time.

Q. Did he ask you anything about the footprint? A. He did not.

Q. Didn't he ask who was the first officer here? A. I didn't hear him.

Q. Didn't he ask you your name? A. He did not.

Q. He didn't ask you any questions at all? A. No, sir.

Q. Didn't he ask you who lifted the note? Are you the man that lifted the note over with a penknife? A. I did not.

Q. Who did, Wolf? A. What Wolf? There is two Wolfs.

Q. Your chief. A. No, he did not. He didn't touch it. I didn't either.

Q. Where did you see the note? A. In the window.

Q. Whereabouts in the window? A. The window sill.

Q. Just whereabouts? Here is a picture. Is that the window? A. Yes, sir.

Q. Now whereabouts was it? A. right there.

Q. Lying flat on the window sill? A. It was.

Q. Did you examine the outside of the house? A. Afterwards, yes.

Q. You found two prints in the mud, did you? A. Yes, sir.

Q. Was the mud soft? A. Very soft.

Q. Very soft? A. Yes, sir.

Q. Yet it was a very cold, windy night? A. It turned cold, yes.

Q. Yes. And yet the mud stayed soft and didn't freeze, is that what you want us to believe? A. It froze later in the evening.

Q. Oh, after the ladder was put in the ground and you took the photograph, then the mud froze? A. I didn't take no photograph.

Q. Were you there when they were taken? A. No, sir.

Q. Do you know when they were taken? A. I do not.

Q. You went away at three o'clock in the morning and no photograph had been taken up to then? A. I could not tell you; I didn't see.

Q. What time of the night would you say it froze, the ground froze? A. Well, I would say around twelve or one o'clock.

Q. How many footprints did you see in the soft ground leading toward the ladder? A. Three or four.

Q. Were they right in the mud? A. Yes, sir.

Q. Just as soft as the points of the ladder? A. Yes, sir.

Q. Were they men's or women's footprints? A. Men's.

Q. Did you measure those? A. I did not.

Q. Did you see anybody pour plaster of paris into those footprints to preserve the size? A. I did not.

Q. Do you know whether it was ever done? A. I couldn't tell you.

Q. You had a footprint and fingerprint man there, did you not? A. I don't know about the footprint. I know there was a fingerprint.

Q. You know a man that can take fingerprints can take footprints, don't you? A. I suppose so.

Q. You could take it if you had plaster of paris and water? A. Yes.

Q. Did anybody take it? A. I couldn't tell you.

Q. Did anybody ask for flour and water to take it? A. I didn't hear it.

Q. Did you ever see these photographs before? A. Yes, sir.

Q. But you were not there when they were taken? A. No, sir.

Q. Were you back there the next day? A. I was.

Q. What did you do the next day? A. What is that?

Q. What did you do the next day when you came back? A. I run messages up there for two or three days.

Q. Between the garage and the house? A. Between Hopewell and Lindbergh's home.

Q. On a motorcycle? A. Yes, sir.

Q. Is the outside of Colonel Lindbergh's house stucco? A. It was stone.

Q. Stone? A. Yes, sir.

Q. Cobblestone, was it? I have never seen the house. Is it small stones? A. Well, they are gray rock.

Q. Gray rock? A. Yes.

Q. Irregular or regular surface? A. A little irregular. They are painted.

Q. It is not a cobblestone house? A. No, not cobblestone.

Q. It is an irregular rock house, is it? A. Yes.

Q. You say when you went into the room, you have no idea whether the casement window was open or not? A. Beg pardon?

Q. When you went into the room you say you have no idea whether the casement window was open or not? A. It was closed.

Q. That is the French window? A. That is the window where the baby was kidnaped from.

Q. I do not mean that one. Was there any other window in the room? A. Yes, sir.

Q. Did that open outward, two French doors, instead of sliding up and down? A. On the outside of the house?

Q. Yes, in the same room. A. I didn't observe it. I didn't take notice of those windows.

Q. Did you examine the shutters outside what we call the kidnap window? A. I saw the shutters.

Q. Were they closed or open? A. Open.

Q. Open against the house? A. Yes.

Q. Did Kelly try to get any fingerprints from the shutters? A. I didn't see him.

Q. Did he ever tell you he did? A. No, he never told me.

Mr. Reilly: The witness is yours.

Redirect Examination by Mr. Wilentz:

Q. Except as a private citizen, of course, you have no police jurisdiction at Colonel Lindbergh's place? A. I have not. It is in another county.

Q. By the way, what was your salary, what was your pay those days?

Mr. Reilly: I object to it as incompetent, irrelevant and immaterial.

Mr. Wilentz: All right, sir. I withdraw the question.

The Court: The question is withdrawn.

Mr. Wilentz: Thank you, Officer.

Recross Examination by Mr. Reilly:

Q. Even though you have no duty, you were acting as an official at night, were you not? A. Yes.

Q. And not as a citizen? A. No.

Q. You were there as an officer of the law, and the first one called by telephone to that home by Colonel Lindbergh or somebody in his house? A. That is correct.

Q. Correct? A. That is correct.

Redirect Examination by Mr. Wilentz:

Q. You wanted to help and do the best you could, didn't you?

Mr. Reilly: I object to that question.

Mr. Wilentz: Why?

Mr. Reilly: If he wanted to help. He was summoned in his official capacity.

Mr. Wilentz: All right, I will withdraw the question.

That is all. Thank you, sir.

Mrs. Whately, will you take the stand.

ELSIE WHATELY, called as a witness in behalf of the State, being first duly sworn, testified as follows:

Direct Examination by Mr. Wilentz:

The Court: What is the name?

Mr. Hauck: Mrs. Elsie Whately, your Honor.

The Court: Elsie?

Mr. Hauck: Whately.

Mr. Wilentz: If your Honor please, would your Honor mind indicating to us what time your adjournment hour will be?

The Court: Well, I think we ought to at least work until 4:30.

Q. Now Mrs. Whately, where do you reside? A. Englewood, New Jersey.

Q. Will you speak up a little louder particularly so that the jurors may hear you? A. Englewood, New Jersey.

Q. And you are employed by whom? A. Colonel Lindbergh.

Q. Colonel Lindbergh? A. Yes.

Q. And for how long a period have you been employed by the Lindberghs? A. Four years.

Q. When you first procured your employment with Colonel Lindbergh where was the family residing? A. At Englewood, New Jersey.

Q. And was your employment single or did you

and your husband join together at that time? A. Joined together.

Q. At Englewood. A. No.

Q. Where? A. They were at Englewood and we had to wait until they started the home at Princeton. We had to wait two weeks.

Q. You mean then that the first time, or when you started working for the Lindberghs you started at their Princeton home? A. Yes, at the Princeton home.

Q. So that you and your husband never worked at the Englewood home? A. No.

Q. Is that right? A. Yes.

Q. In what capacity were you and your husband employed by the Lindberghs four years ago? A. Well, I was the housekeeper and my husband drove the car and waited on the table and did anything that was needed around the house.

Q. How long had you been married at that time? A. About sixteen years.

Q. Sixteen years? A. Yes.

Q. When you took up your employment with the Lindberghs did you have an agreement as to when you were to have your day or days off? A. Yes, we did.

Q. Did your husband have such an agreement, too? A. Yes, he did.

Q. And what provision or agreement was made with reference to your time off? A. That we should go out together on the same day, or we wouldn't take the position.

Q. You mean then that whatever day it was that you were to have off, your husband was also to have the same day off? A. Yes, together.

Q. Was that agreement adhered to? A. Yes, it was. I would like to state here if I may that my husband was not in the habit of taking Violet Sharpe out. (Laughter.)

Mr. Wilentz: We will get to that in a minute.

The Court: This confusion and laughter is getting to be a kind of nuisance. Unless it is stopped I shall have to have the court house cleared. If people want to remain here and give the Court a reasonable opportunity to reasonably try this case they will have to keep quiet. Otherwise we will have to get along without any spectators. Now, Mr. Reilly, what is it you wanted to say?

Mr. Reilly: There was a voluntary statement on the part of the witness I would like to have expunged from the record and I would like to have her instructed only to answer questions.

The Court: There was such confusion here that I couldn't hear it. Let it be repeated.

(The previous question and response were repeated.)

The Court: Of course that is irresponsive and must be stricken out and the jury is intructed to disregard it.

Q. Now, let's get back again, Mrs. Whateley, please—is that the way you pronounce your name? A. No. Whateley.

Q. Whateley, all right. No, Mrs. Whateley, during the— By the way, when was it that your husband died? A. It was in 1933, May.

Q. '33? A. Yes, in May.

Q. And do you recall the month when you and your husband undertook your employment with the Lindberghs? A. Yes, I do, on the 16th of October, 1930.

Q. 1930? A. Yes.

Q. So that from October 1930 until May 1933, you and your husband both worked at the Lindbergh home, first Princeton, then Hopewell? A. Yes, that is right.

Q. Were you and your husband separate and apart, that is to say, away from each other on any one single night during those years? A. No, only when he took Mrs. Lindbergh to Englewood and then he usually got back about six o'clock at night.

Q. Then he would get back at six o'clock at night? A. Yes.

Q. When you had your day off, would your husband go, would he leave you? A. No.

Q. Or would he spend the day with you? A. Spend the day with me.

Q. Do you mean to say, then, during every day off, so called, during the period from October 1930 to May 1933, to the time of your husband's death, that every day off you had you spent together? A. I do.

Q. Now, on March 1st, 1932, I take it, you and your husband were there at the Lindbergh home in Hopewell? A. Yes.

Q. And I suppose that you— Will you tell us, please, the hour that you started your employment that morning, started your work, rather? A. The morning of that—

Q. Yes. A. I suppose about 7:30 in the morning.

Q. I see. About 7:30? A. Yes.

Q. And— A. I think I got up about six and I went to the baby and gave him some orange

juice and rubbed his chest with Vick's and put him back in the crib.

Q. About six o'clock in the morning? A. Yes.

Q. About six o'clock in the morning, you gave him some orange juice and rubbed his chest with Vick's? A. Yes, I did.

Q. And the household on that day consisted of whom? A. Mrs. Lindbergh, Mr. Whateley, the baby and myself.

Q. And until what hour? A. Until 1:20, when Betty came down from the Morrow home with one of the Morrow chauffeurs.

Q. About 1:30 or— A. No, 1:20.

Q. About 1:20—when you refer to Betty you mean Miss Betty Gow? A. Miss Gow, yes.

Q. That is all right. About 1:20 in the afternoon, I take it, Miss Gow came down chauffeured by one of the Morrow chauffeurs? A. Yes, she did.

Q. Do you recall his name? A. Henry— I don't know his other name; we call him Henry.

Q. Did you know the servants at the Morrow home well at all? A. Well, not well at that time, just to say good morning, but that was all.

Q. Did you remain at Hopewell when the Lindberghs returned to Englewood during the week? A. Yes, we did.

Q. So that you and your husband, as I take it, were employed regularly at Hopewell whether the Lindberghs were there or not, once you had moved there? A. Yes.

Q. And you did not then reside at any time at the Englewood home? A. No.

Q. Miss Violet Sharpe never was employed at the Lindbergh home at Hopewell, was she? A. Never.

Q. Now at 1:20 when Miss Gow came there, had she had her lunch? A. No, she had not.

Q. Did she then have her lunch? A. Yes.

Q. Was the baby awake or asleep at the time? A. I believe he was awake. I am not sure of that.

Q. Did you have lunch with her? A. No, I did not. We had had our lunch.

Q. You had had yours. Then at any rate the afternoon went on as I suppose it usually did around the house? A. Yes.

Q. Finally, who arrived, if anybody else did arrive, some time that day or not? A. Well, in the afternoon, if you want to know, I went up into the nursery about four o'clock and we played with the baby and Mrs. Lindbergh came up and we all played with the baby. About 4:30 I went downstairs and got some tea. Mrs. Lindbergh came down and then Betty came down and brought the baby. The baby went in to Mrs. Lindbergh and stayed with her while we had our tea in the sitting room. Then the baby came in the kitchen and said, "Hello Elsie," and I talked to him and played with him and Betty came in and took him upstairs and that is the last I saw of him.

Q. What did the baby call you? A. Elsie.

Q. That is your name? A. Yes.

Q. Now, was the child a playful child? A. Yes, lovely.

Q. Normal? A. Yes.

Q. Ordinarily healthy except for slight cold? A. Yes.

Mr. Reilly: Oh, I object to this. That has already been testified to by the father and the mother; it is only a repetition.

The Court: You make no question about the health of the child?

Mr. Reilly: It is leading and it is merely suggestive and sympathetic.

Mr. Wilentz: If counsel makes no question about it I shall be delighted to refrain from asking about it.

Q. But the child did have a little cold I think? A. Yes, he had had a cold.

Q. Now I think you took us up to about five o'clock then, is that correct? A. About 5:30.

Q. About 5:30, all right. Now, tell us what happened after that as nearly as you can remember in chronological order. A. Well, when Betty came down as near as I can tell you it was about a quarter of eight and the Colonel hadn't come; so my husband said that he would have his supper first and get it over before the Colonel came. So he went in and he had supper while I was preparing theirs, and—

Q. Your husband? A. Yes.

Q. Your husband you are speaking of? A. Yes. Then I came out and Betty and I decided to have our supper. While we were eating the Colonel came and I got up to attend to them and the Colonel—

Q. About what time was that, Mrs. Whateley? A. Twenty minutes past eight. The Colonel came in and he went through to Mrs. Lindbergh. About five minutes afterwards they came down and they came into the kitchen and they stood talking to my husband and myself a few minutes.

Q. The Colonel and Mrs. Lindbergh? A. Yes.

Q. Came in to the kitchen to talk to your husband? A. Just to speak to us just for a little while. Then they went in and had dinner. We served the dinner, and Betty was still in our sitting room, she was reading; and then we cleared things up, and about nine o'clock Betty and I went upstairs; I wanted to show her something.

Q. What was it that you wanted to show her?

A. Well, I had bought a costume and I wanted her to see it.

Q. A dress you mean? A. Yes.

Q. And you went up to your room then? A. Yes. And Mr. Whateley went into our sitting room; he said he would read and he went in there and he sat reading. We stayed in my room, and we had been there a long time, and Betty looked at her watch and she said "It's ten o'clock, I must go to the baby."

Q. All right. Now, Madam, will you please just pause there for a minute? And would you mind just stepping down with me a little while? Just step up here, please, facing the jury and take this pointer, please? A. (The witness steps before the map, facing the jury.)

Q. This, Madam, is the first floor plan. Do you recognize the drawing? You haven't seen the drawing, have you? A. No.

Q. Well, then, this is the library (indicating)? A. Yes.

Q. You recognize now that this is the front of the house here where it says "The first floor plan". A. Yes, I do.

Q. And this is the library and the living room and the dining room (indicating). A. Yes, I do.

Q. Then will you show us where the kitchen is? A. Well, that must be the kitchen (indicating).

Q. That is the room that is marked kitchen, isn't that the fact? A. Yes.

Q. And you are talking about some living room "our living room". Now which living room do you refer to when you say "We were in our living room"? A. Well, the one to the rear of the house just outside the kitchen.

Q. Well, will you point it out there? Here is the pantry here is the kitchen and here is the

dining room (indicating). A. This is the kitchen (indicating).

The Court: Madam, won't you speak just as distinctly as you can, and slowly? There is no hurry about this.

Q. Let me ask you, as you come from the garage, that is in the rear of the house, isn't it? A. Yes.

Q. On the west side? A. Yes.

Q. You enter into what? A. You come into a hallway, a passageway.

Q. And the hallway leads to what? A. Well, down this hallway was our sitting room, up the hallway.

Q. And is that the sitting room you are referring to? A. That is the one, yes.

Q. And is that then the room earmarked dining room which adjoins the kitchen and the hallway? A. Yes.

Q. Which comes from the garage. A. Yes.

Q. Now then, that sitting room and dining room which we have referred to is separate and apart and a different dining room from the dining room of the Lindberghs. A. Yes.

Q. Isn't that so? A. Yes.

Q. Although it is in the same house. A. Yes.

Q. So that then when you are talking about Betty Gow being in the living room and your husband reading in the living room you are referring to the living room which was provided for the household attendants. A. Yes.

Q. Is that so? A. Yes.

Q. Will you just come back then for a minute? It was from that living room I take it that you walked up to your bedroom? A. Yes.

Q. In order to get up to that bedroom, how did

you proceed? A. I went up the staircase from the hall—

Q. I just faintly heard you say you went up the what? A. Up the stairs from the hall out of the sitting room.

Q. In going up the stairs did you go to the front of the house or the stairs in the back of the house, if there are any? A. The back of the house.

Q. There are stairs in the back of the house? A. Yes.

Q. And that is on the west side, the side opposite from the nursery? A. Yes.

Q. When you went up the steps with Betty Gow you went up to your room? A. Yes.

Q. And your room is the room in the extreme rear on the second floor, is it not? A. Yes.

Q. Will you then please stand right there and take this pointer. Is it the extreme bedroom indicated on this map? A. Yes, the extreme one.

Q. The extreme bedroom at the northwesterly corner? A. Yes.

Q. There is a bedroom immediately adjoining to the south of it. Whose bedroom was that? A. That was Betty's.

Q. Miss Gow's? A. Yes.

Q. Then there is a bathrom, I take it? A. Yes.

Q. And then there is a hallway? A. Yes.

Q. And is it from that hallway that you meet the staircase? A. Yes.

Q. And then downstairs? A. Yes.

Q. Then you say you took Miss Gow up and you exhibited the gown you were interested in? I suppose you sat around and talked? A. Yes.

Q. And that was until ten o'clock? A. Yes.

Q. About how long do you think that took? I mean how much time did you spend in that bedroom of yours? A. As near as I can tell you, it was about an hour, from nine till ten.

Q. About an hour. So that you were with Miss Gow pretty nearly every minute from about a quarter to eight, when she came down from the nursery? A. I was.

Q. Until about ten o'clock when she said she was going back to the baby's room? A. Yes, sir.

Q. Except for very short intervals, your husband was in your presence? A. Yes, he was.

Q. Did he come up to the room at any time? A. No, he did not.

Q. He did not. During the day do you recall the operation in which this baby's shirt was knitted together or sewed together? A. Well, the only thing, Miss Gow came down to me and asked me if I had any white thread.

Q. About what time of the day was that? A. Well, it was during the afternoon some time, but I can't tell you exactly.

Q. Some time in the afternoon? A. I couldn't tell you the time.

Q. Some time in the afternoon? I am sitting back here so you will talk a little louder. A. I am sorry.

Q. She asked you for some white thread? A. Yes. I didn't have white. I did it with blue; I didn't have white.

Q. What sort of a blue thread was it? A. Well, it was blue Silco, I brought it from England.

Q. What you call Silco? A. Yes.

Q. You say you brought it from England? A. Yes, I did.

Q. How long had you had it? A. Well, I must have had it three years.

Q. And, will you take a look at this blue silk, Silco, and tell me whether or not that is a part of the spool of thread— A. It is.

Q. —that you provided for Miss Gow that afternoon? A. Yes, it is.

Q. And was it from that spool, and that Silco that you provided that she sewed the baby's sleeping shirt that day? A. Yes, it was.

Q. Did you see her do it? A. I, no, I didn't see it, but I saw her cutting it out.

Q. You saw her cutting it out? A. Yes, I did.

Q. Mrs. Whateley, I show you a—I am not very good at this sort of thing, but I take it this is the gown that you referred to—is this your gown? A. Yes, it is.

Q. And it was the same sort of blue silk thread, or Silco that you refer to that was given to Miss Gow and also used in this gown? A. Yes, it is.

Q. From the same spool? A. Yes.

Mr. Peacock: Let her point it out, where it was.

The Witness: It is on the seams.

Q. It is on the seams? A. Yes.

Mr. Wilentz: Has counsel any objection if I offer the dress and the thread? I offer it.

Mr. Reilly: No objection.

The Court: It will be admitted.

The Reporter: Two exhibits?

Mr. Wilentz: Well, I think you better mark them separately.

The Reporter: Exhibit S-27 and Exhibit S-28.

(The thread and gown were received in evidence and marked State Exhibits S-27 and S-28.)

The Court: Mr. Attorney General, did you offer the thread, too?

Mr. Wilentz: Yes, if your Honor please, and asked that they be marked separately.

The Court: Yes.

Q. About nine o'clock, I think it was, you said somewhere around there, that you said you went upstairs? A. Yes.

Q. I suppose that is your best judgment at the time? A. Yes.

Q. Now, prior to going upstairs, was there any falling of any crate in the kitchen? A. No.

Q. Did you hear any crate, or did you see any crate fall in the kitchen? A. No.

Q. Did anything at all fall there? A. No.

Q. Now, about ten o'clock when Miss Gow left you, did you leave the room too? A. Yes, I went along to Mrs. Lindbergh's room.

Q. What happened there? A. Well, I spoke to her. Do you want me to tell you what happened?

Q. Yes, please. A. Well, she had a slight cold and she asked me if I would get her some lemon water and take it up to her. So I came out of the bedroom and, as I came out, I met Betty and she asked me if Mrs. Lindbergh was in there and I said yes. And she said, "I wonder if she wants to see the baby. I am just going in." And I said, "Well," I said, "if she wants to, she is going through the other way, because she has gone through that door." So I went downstairs and Betty went back into the baby's nursery. And I

went downstairs and I told Mr. Whateley what I was going to do. And he got up and he put the kettle on, and I got a lemon out and I just—

Q. You were about to make hot lemonade? A. Yes.

Q. Is that what you call lemon water? A. Yes.

Q. All right. A. And just as I was cutting the lemon through, Betty came down.

Q. Yes. A. And asked Mr. Whateley if he would go up to Colonel Lindbergh, he wanted him, as the baby had gone.

Q. What is that? I don't understand you.. A. Betty came down and she asked Mr. Whateley if he would go up to the Colonel, as the baby had gone and he wanted him. So he went upstairs and I asked Betty what she meant, and she said, "Why, Elsie, the baby is gone." And I left her and went up and saw Colonel Lindbergh and my husband standing at the top of the stairs, and I said to the Colonel, "Where is Mrs. Lindbergh?" And he said, "In there," he pointed to the baby's nursery. And I went in and she was standing by the crib, and I stood by her.

Q. When Betty Gow said to you the baby was gone, in what tone of voice or manner of voice was it that she indicated it to you? A. Well, she was terribly upset, of course.

The Court: What was that? I didn't understand.

Q. Terribly what? A. I say she was terribly upset.

Q. Then of course— By the way, you came down finally, I suppose, all of you. What did the women of the household do thereafter? A. Well, Mrs. Lindbergh and I went into her room and I asked her to get dressed and I

helped her to dress, and then Mrs. Lindbergh and I started to search the house and the Colonel and my husband went outside and searched around there. Then finally we came down and went into the living room and sat there.

Q. Who sat there? A. Mrs. Lindbergh, Betty and I.

Q. Alone, the three of you alone? A. The three of us alone.

Q. What did you do there? A. Well, we didn't do anything, just simply sat.

Q. What was Mrs. Lindbergh doing? A. She was just sitting there.

Q. Did you talk? A. Not much.

Q. Quite silent? A. Yes.

Q. Tell us something about it, you see you were there, you will have to help us. A. Well, she didn't say anything in the living room. As I was going around with her, she said, "Oh, God."

The Court: What?

The Witness: "Oh, God."

Q. How many times did she say that?

Mr. Reilly: I object. Of course it is pathetic.

Mr. Wilentz: I will withdraw the question.

Q. What time of the night was that? A. It was about 10:30 o'clock.

Q. It was about 10:30 o'clock. Then did you leave the room? A. We both came downstairs together and also Betty came downstairs, the three of us.

Q. The living room that you occupied during that time, where was that, on the second floor? A. No, it was on the ground floor.

Q. On the ground floor. What time of the night or the next day did you retire? A. I think we went to bed about four o'clock in the morning.

Q. In the morning. Mrs. Lindbergh, too? A. No, she stayed up all night.

Q. She stayed up all night. And Miss Gow? A. She went up with me about four o'clock.

Q. About four o'clock. By the way, some mention or reference was made to a dog in the house. Was there a dog in the house that night? A. Yes, there was.

Q. What sort of a dog was it? A. A terrier, an English terrier.

Q. An English terrier. Was he a barking dog or a quiet dog? A. Well, I always thought he was sharp, if he heard a noise, he would bark, as a rule, but the wind was so bad that night you couldn't hear anything.

Mr. Reilly: I move to strike that out. It is calling for her conclusion.

The Court: The answer seems not to be responsive. Mr. Wilentz may reframe his question.

By Mr. Wilentz:

Q. Did the dog bark that night between the hours of 7:30 and 10 o'clock? A. No, he did not.

Q. What was the condition of the weather? A. It was very, very windy.

Q. Was it so windy that you could hear the wind? A. Yes, you could.

Q. Do you know in what room the dog was during those hours between half past seven and ten o'clock? A. Yes, he was in our sitting room in his basket.

Q. When you are talking about your sitting room, you are still referring to the dining room adjoining the kitchen? A. I am, yes.

Q. That is on the extreme westerly side of the house directly opposite from the extreme easterly side of the nursery? A. Yes.

Q. And downstairs? A. Yes, sir.

Q. That is, the nursery being upstairs? A. Yes.

Q. And your living room or dining room being downstairs? A. Yes.

Q. I think Colonel Lindbergh told us, Madam, that your husband died in May, 1933? A. Yes.

Q. What was the cause of his death, if you know? A. It was a peritonitis.

Q. How long had he been ill? A. Four days.

Q. He spent one day at home and then three days in the hospital, was it? A. Yes.

Q. Who was the doctor who attended him during his last illness? A. Dr. Belford of Princeton.

Q. Dr. Belford of Princeton? A. Yes.

Mr. Wilentz: That is all, Mrs. Whateley, and thank you. Take the witness.

I omitted one question.

Q. Did you hear husband phone the police that night? A. I did.

Q. Immediately it became known the child was

gone? A. Not immediately, not until the Colonel told him.

Q. When the Colonel told him, you heard him call the police? A. Yes, sir.

Mr. Wilentz: That is all.

Cross examination by Mr. Reilly:

Q. There is a distinction, is there not, between the cry of a child in pain and the wind? A. Yes.

Q. From where you sat in your sitting room and where Betty Gow sat with you, could you hear a cry from the nursery? A. Well, I don't know whether you would with a wind like that night.

Q. Wasn't Betty Gow there to take care of the child? A. Yes, she was.

Q. The child's mother was in the house. A. Yes, she was.

Q. And the child's mother was nearer to the nursery than you two women were. A. Yes, she was.

Q. And at no time did you hear the child cry? A. No.

Q. Of course the child was well acquainted with you. A. Yes.

Q. And with Betty. A. Yes.

Q. And its mother. A. yes.

Q. And father. A. Yes.

Q. And your husband. A. Yes.

Q. Is that correct? A. Yes.

Q. And that comprised the household. A. Yes.

Q. Now you are a Britisher, are you? A. Yes.

Q. When did you come to this country? A. We arrived on the 13th of March, 1930.

Q. Had you worked together in England? A. No, I had never done anything in England.

Q. Where was the first place you worked in this country? A. For Mr. Potter, Mendham, New Jersey.

Q. Did you ever work in New Rochelle? A. No, but we stayed there with a Miss Valinsith.

Q. You stayed where? A. At 71 Franklin Avenue.

Q. When? A. What do you mean, when?

Q. When did you stay in New Rochelle? A. When we first came to the country we went there.

Q. What year? A. 1930.

Q. Where did you stay in New Rochelle? A. At Mrs. Valinsitts.

Q. And how long did you stay in New Rochelle? A. We stayed there about a month.

Q. During the summer? A. Yes.

Q. And during the time that you were there, did you go to the beach? A. No.—Well, very rarely. We didn't go much.

Q. Well, did you go to the different islands around New Rochelle? A. No, not around, much, we didn't go.

Q. Well, your husband wasn't with you every minute you were in New Rochelle? A. Yes, he was.

Q. Every minute? A. Yes, always.

Q. Isn't it a fact in New Rochelle your husband became acquainted with Dr. Condon? A. No, indeed, it was not; he did not know Dr. Condon.

Q. Where did he first meet Dr. Condon? A. He never met him. He saw him in the Lindbergh home; I don't know whether he ever spoke to him.

Q. Didn't your husband and you know Dr. Condon in 1931 in New Rochelle? A. No, we did not.

Q. All the servants in the Morrow home were British, were they not? A. I don't know anything

about the Morrow home; only just to visit in the Morrow home.

Q. You were acquainted with Violet Sharpe? A. No. Very, very little, only to say good morning to her.

Q. You knew her? A. Yes, just to say good morning to her.

Q. She was a Britisher? A. I can't help it; I didn't know her.

Q. Was she or was she not? A. As far as I know.

Q. She was? A. Yes.

Q. Now, did you know—if I may refer to my notes—did you know the name of her husband? A. No, I didn't know she had a husband.

Q. Did you ever hear her mention a Mr. George Payne, a Londoner? A. No, I never spoke to her. I never had any conversation with the girl at all.

Q. Did she come to the Hopewell house at any time? A. Yes, she did when the case was on, but we didn't have anything to do with her.

Q. Before that did you ever see her? A. No, never.

Q. Of course you don't know whether your husband knew her or not? A. I do. He did not know her, only to say Good Morning, the same as I did.

Q. Had your husband ever lived in London? A. No, never.

Q. What part of the British Isle did he come from? A. We come from Birmingham in Warwickshire.

Q. I don't suppose as far as you know your husband was ever in London? A. I think he was there. We both had been there, but we didn't live there.

Q. Was he any older than you? A. Well, about six months, I think.

Q. Were you married abroad? A. No.
Q. Married here? A. In England.
Q. In England? A. Yes.
Q. Did you ever hear your husband mention George Payne? A. No, I did not, never.
Q. Did your husband ever work in the Morrow home? A. No, never.
Q. Never? A. No, never.
Q. Never rendered any service to there, at any party or function at all? A. No, never.
Q. Did you take a dislike to Violet Sharpe? A. No, I did not. I thought she was very nice, what I knew of her, just to say Good Morning to her.
Q. On the afternoon of this Monday, was it? A. Of the kidnaping? Tuesday.
Q. Tuesday. Had you expected the Colonel home for dinner? A. Yes, Tuesday night.
Q. He had not been home on Monday? A. No.
Q. Nor on Sunday? A. Oh, yes, he was there on Sunday.
Q. He left on Sunday, didn't he? A. No, he left on Monday morning.
Q. Oh, did he? Did you have any trades people coming there with whom you were acquainted? A. Well, the only people we had there was Werts of Hopewell and that was a general store, you see. We got everything from there. Those were the only people that came.

Mr. Wilentz: What was the name of the general store?

The Witness: Werts.

Mr. Wilentz: Werts?

The Witness: Yes.

Mr. Wilentz: I think the juror in the rear seat cannot hear the witness at all.

The Court: Oh, yes. Well now, madam, we will have to ask you again to speak out loud. There is no reason why you should not talk out loud.

The Witness: Well, I will try to talk loud.

The Court: Just as I talk. Now, you try it and see if you cannot make that gentleman who sits over there amongst these jurors, the last man, hear what you say.

By Mr. Reilly:

Q. Were you ever visited there by an insurance man? A. No, we weren't, no.

Q. No insurance? A. No.

Q. You don't know whether Betty Gow carried any insurance? A. I believe—

Q. Local insurance, I mean? A. No, I don't know.

Q. That was collected by the week or by the month? A. No, I don't.

Q. Did you ever see an insurance man come there? A. No, I did not, no.

Q. You were not insured? A. No.

Q. And your husband, you paid no insurance for him? A. No.

Q. Now, were you upstairs when the little baby's chest was rubbed? A. That night?

Q. That night. A. No; no, I was not.

Q. How long had the baby been ill? A. Well, they came down on Saturday and on Sunday

morning he got a slight cold; he really wasn't ill. It was a bad cold that he had.

Q. Well, it affected him somewhat, did it not? A. Well, it was just a bad cold, just a bit on his chest.

Q. It did make him cross and irritable like all children, when he had a cold? A. No, but he wasn't very sick.

Q. I didn't say he was very sick. He was suffering from a slight cold? A. Yes, that was it.

Q. You were not there when he was put to bed? A. No, I was not.

Q. Now, see if I am correct in asking this question from your former testimony: After your husband had his dinner and stepped into his reading room—or what did you call it? A. Our sitting room, it was called.

Q. Sitting room? A. Yes.

Q. And until then—or rather, you and Betty went upstairs to your room? A. Yes.

Q. He was not in your sight? A. No.

Q. You did not see him again, did you, until Betty came downstairs and said, "The baby is gone"? A. You mean when Betty came downstairs?

Q. Yes. A. I saw him when I came down to get the hot lemon water.

Q. Yes, but a few minutes after Betty followed you down? A. Yes.

Q. How long were you and Betty out of the sight and presence of your husband that night? A. From about nine till ten o'clock; just an hour.

Q. Now, your husband enjoyed good health, did he not? A. Yes.

Q. Before that? A. Yes, he did.

Q. At what part, when was your husband stricken, what month? A. It was in May.

Q. What year? A. In 1933.

Q. About a year after this? A. 1934, I think.

Q. This year? A. No, 1933.

Q. 1933? A. Yes.

Q. A year after this happened? A. Yes.

Q. Where were you living then? A. Well, we were at Hopewell still.

Q. Hopewell? Was the family in residence then? A. No, they were at Englewood.

Q. They were at Englewood? A. Yes.

Q. And how long had they been at Englewood? A. Well, they went there after the baby, everything was settled about the baby.

Q. And left you in control of the house? A. Yes.

Q. As caretaker, is that correct? A. Yes.

Q. Were you visited shortly before your husband was taken ill by Department of Justice men from Washington? A. Well, you see I was away at the time, I was in England, I had been in England three months.

Q. When did you go to England? A. I went, I sailed on March 10th.

Q. March the 10th? A. Yes.

Q. Then, every night, as you have answered the learned Attorney General during your lifetime you have not been with your husband, have you? A. Well, apart from that.

Q. Well, apart from that, well let's hear about that now. When did you sail from England? A. I sailed on the 10th of March and came back on the 23rd of May.

Q. Did you sail with Betty Gow? A. No, I sailed alone.

Q. When she did sail did you take her to the ship? A. Yes, I did.

Q. And when she arrived in this country you were the first one there to meet her, weren't you? A. Yes.

Q. And she is a Britisher too, isn't she? A. Yes.

Q. Did you see her in England while you were there? A. No.

Q. Have any contact with her at all? A. No.

Q. You know she has a sister, don't you? A. No. Oh, yes, her sister is in Scotland.

Q. Yes. Did you see her sister? A. No, I don't know any of them.

Q. Did you meet her sister when you were in London? A. No.

Q. Where did you spend the three months when you were in England? A. At my home in Birmingham.

Q. Where did your husband live during those three months so far as you know? A. At Hopewell.

Q. And you don't know whether he was visited a few days before his sudden attack of peritonitis by Department of Justice men, do you? A. No, I really don't know.

Q. He died while you were abroad? A. When I was coming home, yes.

Q. When you were coming home? And the cause, they told you was peritonitis? A. Yes.

Q. But, before that he had always been a healthy man? A. Yes, he had.

Mr. Reilly: That is all.

Mr. Wilentz: That is all, thank you, Mrs.—

Mr. Reilly: Just a minute.

Mr. Fisher: All right, Mr. Wilentz.

Mr. Wilentz: Counsel suggests to opposing counsel that, it being 4:24, not that we

are not ready, if your Honor please, or anxious to work, but we feel that we would just about get started with the next witness, and it would be an important one, and we would ask your Honor to consent to our agreement that we adjourn at this time.

The Court: Well, perhaps that had better be done.

Ladies and gentlemen of the jury, it has been determined that, all things considered, it is better to adjourn tonight until Monday morning at ten o'clock. One moment. Let the people — one moment. Cannot the people endure this thing now for a minute or two?

So that we will ask you to go in the custody of your officers and return here on Monday morning at ten o'clock. In the meantime, bear in mind that you are not to visit any public assembly where talking is going on, so that you would necessarily hear it. Take plenty of exercise in the open air, as you wish; come back here on Monday morning at ten o'clock.

Now, you may retire, and the people will allow the jury to pass out.

The Court: The prisoner will now be remanded to the custody of the Sheriff and we will take a recess until ten o'clock Monday morning. Court will now be adjourned.

(At 4:27, court room time, the further trial of the case was adjourned until Monday morning next, January 7, 1935, at ten o'clock.)

STATE vs. HAUPTMANN.

FLEMINGTON, N. J., January 7, 1935.

FOURTH DAY.

Present:
Hon. Thomas W. Trenchard.

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

The Court: Mr. Crier, you may open the Oyer and Terminer Court.

(The Crier opens the Oyer and Terminer Court.)

The Court: The Clerk will poll the officers.

Court Clerk Fell: The officers are all here.

The Court: You may now proceed, counsel.

Mr. Wilentz: Miss Betty Gow.

The Court: The Clerk may poll the jury.

(The jury was polled and all jurors answered present.)

The Court: One moment. Judge Robbins has requested me to announce that he will hold an Orphans' Court this morning in the Surrogate's Office, and counsel or parties desiring to address the Orphans' Court will retire and go to the Surrogate's Office.

BESSIE MOWAT GOW, called as a witness in behalf of the State, being first duly sworn, testified as follows:

Direct Examination by Mr. Wilentz:

Q. I think you just stated, Madam, that your name was Bessie—is it Mowat, M-o-w-a-t? A. Yes.

Q. Now residing in Scotland, are you not? A. I am now residing in Englewood, New Jersey.

Q. Well, you are visiting Englewood? A. Yes.

Q. You are living in Scotland? A. Yes.

Q. On March 1, 1932, you were in the employ of whom? A. Col. Charles A. Lindbergh.

Q. And you had been in the Colonel's employ how long? A. Since February 25, 1931.

Q. Now prior to February, 1931, where had you been employed? A. Prior to that I was employed with Mrs. Sullivan, of Glenwood Road, Englewood.

Q. How long had you worked for Mrs. Sullivan in Englewood? A. Six months.

Q. Now prior to that, where were you employed, Miss Gow? A. Prior to that I was in Detroit, Michigan.

Q. And where were you employed there? A. In several places, latterly in the Whittier Hotel.

Q. In what capacity were you employed by the Lindbergh family? A. As nurse maid.

Q. And as I understand it that was in 1931? A. Yes.

Q. What month? A. February.

Q. Had Charles A. Lindbergh, Junior, been born then? A. Oh, yes.

Q. How old was he when you came to work there? A. Eight months, I believe.

Q. What were your duties specifically in the Lindbergh household? A. Taking care of the child and taking care of the nursery and my own room.

Q. As I understand it the Lindberghs would on weekends go to their home in the Sourland Mountains and on those weekends did you accompany them? A. No, I didn't.

Q. It was not the practice to go to the Hopewell home? A. Mrs. Lindbergh took that opportunity of looking after the baby herself.

Q. That is to say that when she did go to the home in Hopewell during the weekends she would sort of be the nurse maid herself, is that it? A. With the help.

Q. And you would remain where, in Englewood? A. In Englewood.

Q. Now, on March 1st, 1932—that was a Tuesday if you remember? A. It was.

Q. The family had been down at Hopewell during that weekend; isn't that so? A. Yes.

Q. Do you recall when they left Englewood? A. I believe it was Saturday.

Q. Well, be that as it may, you did not accompany them? A. I did not.

Q. And Sunday you still remained at Englewood? A. Yes.

Q. And Monday, too? A. Yes.

Q. And you were in Englewood on Tuesday? A. Yes.

Q. You finally did go to Hopewell, did you not? A. I did.

Q. And that was as the result of a telephone call you received? A. Yes.

Q. From the Lindbergh home at Hopewell? A. Yes.

Q. About what time of the day was it that you were notified to go down to Hopewell? A. As I recall, about 11:30.

Q. Now, until 11 o'clock on the morning of March 1st, 1932, you had no expectation of going to Hopewell at all that day? A. Not that day, no.

Q. And finally when the call did come you arranged and did depart for Hopewell? A. I did.

Q. What time did you arrive at Hopewell? A. About 1:20.

Q. And when you got there had you already had your lunch? A. No.

Q. Did you then have your lunch? A. I did.

Q. About what time did you finish with your lunch, Miss Gow? A. Well, I should say about two o'clock.

Q. And after that will you please recount for us just those things that you recollect as having heard so far as you know, for the rest of the day until we get to about ten o'clock? A. About 2:30 I went upstairs to the baby's nursery, Mrs. Lindbergh accompanied me. The baby had awakened. We took him up from his nap and into the bathroom. I started to dress him. His cold seemed to be much better. Mrs. Lindbergh left me dressing him and we played upstairs in his nursery for quite a time.

Q. When you say "we played upstairs in the nursery," you mean you and the baby? A. The baby and I, yes. Mrs. Whately joined us in the nursery after a while, and while we were there my attention was drawn to Mrs. Lindbergh out of doors. She was throwing pebbles up to the window, and as I recall—

Mr. Wilentz: Just a minute, Miss Gow. If your Honor please, do you suppose we would be imposing very much if we attempted to get a little less noise outside? I don't know as the jurisdiction extends to the sidewalk, but we—

The Court: Well, we will try, we will certainly try, Mr. Attorney General.

Mr. Wilentz: It certainly interferes.

The Court: We will try, Mr. Attorney General. I wish the Sheriff would designate some officer to go out there and explain to these people that they are shouting, that we are trying to hold court in here and that they are interfering very much with us, and we would very much appreciate that they would keep quiet. The Sheriff will undertake to do that. Is the Sheriff here?

Mr. Fisher: There is an officer on the way out, your Honor.

The Court: All right.

Court Crier Hann: The officer will relay your message.

Mr. Wilentz: May we have the last question and answer repeated?

(The reporter repeated the last question and answer.)

Q. Now in the meantime, Miss Gow, you will do us the kindness, please, to raise your voice as best you can.

Mr. Wilentz: Will you please read the last question and answer?

(Question and answer read by the reporter as follows: "When you say 'We played upstairs in the nursery' you mean you and the baby? Answer: The baby and I, yes.")

Q. Now that was until about what time that Mrs. Whately came up? A. I imagine about four o'clock

Q. Yes ma'am. Now, at four o'clock, from that time on, will you please recount the events? A. Yes. Mrs. Lindbergh came indoors after her walk, came up to the nursery and said she was going to have tea downstairs; would I bring the baby down. I said, yes, of course, and took the baby downstairs, I imagine about five o'clock, to where she was sitting in the sitting room, and left the baby with her, and joined Mrs. Whately in our sitting room for our tea. About —

Q. That is, you left the baby with Mrs. Lindbergh and you and Mrs. Whately went to have your tea? A. Yes.

Q. While Mrs. Lindbergh had tea and had the baby with her? A. Yes.

Q. Yes, ma'am.

A. About quarter of six, I should say, the baby came running into the kitchen, ran around the table several times and spoke to Elsie. I took his hand then, took him upstairs for supper. I left him in his room for, oh, one minute, not as long as it took me to get his cereal from the kitchen. Came upstairs again; gave him his supper. He hadn't quite finished his supper when Mrs. Lindbergh came into the nursery and she stayed with me then while we got the baby ready for bed. We undressed him and just as he was about ready for bed I decided to

give him some physic. In taking this he spilt some over his nightclothes.

Q. He didn't like the physic? A. No. I undressed him again and decided that I would have time to make him a proper little flannel shirt to put on next his skin. I didn't have sewing materials there, so I asked Mrs. Lindbergh while I went out of the room to get material from Mrs. Whately, whom I thought would have some. Went down to the kitchen where she gave me scissors, and said she would look for thread and bring it to me. I went back up to the nursery. Mrs. Lindbergh played with the baby while I cut this little shirt out. Mrs. Whately came into the room with the thread and I stitched it up very hurriedly and put it on the baby after having rubbed him with Vicks.

Q. Now, Miss Gow, right there, you say you got some material from Mrs. Whately? A. Not material, the thread.

Q. Where did you get the material? A. In the baby's room.

Q. And you then sewed a sort of improvised night shirt? A. Yes.

Q. And that was the part of the clothing that you put next to his skin? A. Next to his skin.

Q. And can you tell from this piece of clothing which I give you whether or not any of this was the garment that you used by looking at it? A. Yes, this is the exact garment that I used.

Mr. Wilentz: I ask that it be marked for identification for the moment.

(Piece of cloth marked S-29 for identification.)

Q. When you say S-29 is the exact garment that

you used, do you mean that that is a part of the cloth that you used? A. Yes.

Q. The rest of it you used for the baby's shirt? A. Yes.

Q. And this remained S-29? A. Yes.

Q. Now I show you Exhibit S-13 and ask you whether or not you have seen this since the finding of the child's body? A. I have.

Q. And what is S-13? A. This is the exact little shirt I made for the baby that night.

Q. The exact little shirt that you made for the baby. And is that the shirt that you placed on the baby as a part of its night clothing? A. Yes.

Q. And was that shirt worn by that child that night when it was taken out of that house? A. It was.

Mr. Wilentz: I want to offer the piece of cloth at this time that heretofore has been marked for identification.

The Court: I suppose there is no objection to that.

Mr. Reilly: No objection.

(The piece of cloth is marked S-29.)

Q. Miss Gow, I show you another piece of cloth and ask you whether or not this piece of cloth has any relationship at all to S-13, which is the baby's shirt that you just referred to. A. Yes, it has.

Q. It has? A. Yes.

Mr. Wilentz: I will offer it and explain it in a minute.

(Piece of cloth referred to received in evidence and marked State Exhibit S-30.)

Q. Now, what relationship is there between S-30, which is the piece of cloth I just exhibited to you, and the baby's shirt, which is Exhibit S-13? A. It has a seam scalloped edging; it fits exactly there, as I cut it out.

Q. It fits exactly in the shirt and that is where you cut it out? A. Exactly.

Q. And it was a part of that cloth? A. Yes.

Q. Would you mind, please, Miss Gow, showing just where that does fit?

Q. (Continuing.) Take your time, please, and will you take this piece of cloth and exhibit to the jury just where it fits. May I help you?

(Witness holds a new piece of cloth alongside the worn garment of the Lindbergh baby under the armpit.)

Q. Now, will you just indicate it to the Court? A. (Witness does the same before the Court.)

Q. You were talking about the thread that Mrs. Whately had given you that day. I show you Exhibit S-28, a blue Silco thread and ask you whether or not that is not the type of thread that was given to you by Mrs. Whately that day and which you used; isn't it the thread that you used in making and sewing the baby's shirt? A. That is the thread.

Q. And is that from the same spool, the same type of thread as is in this baby's shirt, S-13? A. It is.

Q. The same blue? A. Yes.

Q. Now, in addition to that shirt, what else did the baby have that night as you dressed it for bed? Did it wear any overshirt over that, the one you

have just described, S-13? A. Yes, he wore a little woolen shirt over that.

Q. And was that a regular woolen shirt that it had? A. Yes.

Q. I show you Exhibit S-14 and ask you whether that is the woolen shirt. A. That is the shirt.

Q. So that first it had S-13 on, the shirt that you hastily improvised, and then you had S-14, the other shirt? A. Yes.

Q. Did it have over that a sleeping garment or sleeping suit? A. In addition to that he wore diapers, a rubber covering on top of that, then a sleeping suit. And on the sleeping suit a thumb guard in each hand.

Q. Now, did you affix the thumb guard? A. I did.

Q. Will you tell us how you affixed it? A. The metal part over his thumb, the tapes around the wrist of his sleeping suit twice, tied in a knot.

Q. In other words, I suppose that the purpose of tying it around twice and in a knot was to see to it that it was securely fastened? A. Yes.

Q. I show you Exhibit S-16 and ask you whether or not that is one of the thumb guards, the metal thumb guard which you affixed to one of the thumbs of this child on the night of March 1st, 1932? A. It is.

Q. It is. And I notice that it is knotted. Is that the knot in which it was tied that night? A. That is the identical knot.

Q. The identical knot? A. Yes.

Q. It hasn't been untied or unloosened? A. No.

Q. So far as you know? A. So far as I know.

Q. Now when you would affix this metal thumb guard and you would tie it, I take it you would tie it around the sleeping garment? A. Yes.

Q. Quite securely? A. Quite securely.

Q. And was that a process that you followed and

a procedure that you followed every night when you put the child to bed? A. Yes.

Q. I suppose that is for the purpose of preventing the child from sucking its thumb, is that it? A. Yes.

Q. Well, finally the child was ready for bed, I take it, and you left the room? A. Yes, the child was ready for bed, I put him in his bed, Mrs. Lindbergh and I went around the windows, closed the shutters, we closed all the shutters tight except the one at the window, the southeast window; this one we couldn't quite close, it had evidently warped, so we closed it as best we could and left it that way.

Q. When you say you closed it as best you could, I take it that you mean you closed it but it didn't complete? A. No.

Q. So that you could not lock it? A. Couldn't lock it.

Q. But it was drawn against the window? A. Yes.

Q. So that to all intents and purposes as you looked at it it appeared closed? A. Yes.

Q. And it was actually closed but not securely, is that what you mean? A. Yes.

Q. Now, what about that southeast window? Was that closed? A. Yes.

Q. How about the shutters, on the other window, the French window, is it? A. Yes.

Q. Were they closed? A. Surely.

Q. You mean by that, I suppose, that the lock attached? A. Yes.

Q. So that they were not only closed but locked? A. Yes.

Q. So that you distinguished between the shutters on the French windows and the one at the southeast in that one was locked and fastened and the other was closed and not fastened. Is that it? A. Yes.

Q. Now, with reference to the windows, how

about the French window, was that open? A. Not until I had left the room for the last time.

Q. I see. But at that time, the first time you left it was closed? A. Yes.

Q. And the south east window, was that closed? A. Yes.

Q. Now, that was about what time, then, that you left? A. This was about half past seven.

Q. The southeast window was a sliding window, I take it, like the windows in this courtroom? A. Yes.

Q. Slide up and down? A. Yes.

Q. And Exhibit S-12 is the picture of the—or indicates it and shows it, isn't that so? A. Yes.

Q. And the other window that you talk about was French window that opened out away from you; is that it? A. Opened into the room.

Q. Opened in toward you? You say you left there then about half past seven? A. Yes.

Q. Was the baby in its crib? A. Yes.

Q. Had you placed the crib clothing over the child? A. Yes.

Q. I suppose amongst other things it consisted of a blanket? A. Yes.

Q. What did you do with that blanket with reference to securing it to the mattress? A. Well, I secured it firmly to the mattress.

Q. How? A. With large safety pins.

Q. About how large would you say? A. About two and a quarter to two and a half.

Q. Two and a quarter to two and a half inches? A. Yes.

Q. In length? A. Yes, in length.

Q. And I suppose you pinned the blanket and the upper bedclothes to the mattress? A. To the mattress.

Q. Now then, it was about what time that you left the room? A. I left the baby's room for the

last time at about eight o'clock; I remember distinctly looking at my watch.

Q. What made you look at the watch? A. Just to see the time.

The Court: And what time was it?

The Witness: Eight o'clock.

Q. Now, Miss Gow, there are only two rooms; there were only two windows in that room, isn't that so? A. Three windows.

Q. About three? Now, will you tell us about the third? We haven't discussed that at all. A. It was also on the east side of the house.

Q. I see.

Mr. Wilentz: May I have the pointer?

Q. If you don't mind, Miss Gow, will you just turn a little bit around. The window I am pointing at, I take it, is the window you referred to before as the southeast window? A. Yes.

Q. And then around the other side is the French window? A. Yes.

Q. Where I am pointing. (Referring to Exhibit S-2.) What would that be, the south window? A. Yes.

Q. And that you call the southeast? A. Yes.

Q. Then there was another window which was, say, the northeast? A. Yes.

Q. Now what about that window? Was that locked? A. Also closed.

Q. And were the shutters folded and closed? A. Shutters—yes.

Q. Yes, ma'am. You may return to the stand, if you don't mind. All right, now eight o'clock and you are coming downstairs. Was that the first time

or the second? A. I hadn't left the upper floor before that time.

Q. All right, and you had come downstairs? A. Yes.

Q. What happened downstairs while you were down? A. On my way to the kitchen I passed through the living room—

The Court: Mr. Attorney General, are you having any difficulty hearing the witness?

Mr. Wilentz: Well I really am not having so much difficulty with the witness, except that the noise is leaving me in an absolute fog, if your Honor please. I am just bewildered with it.

The Court: I think these noises, the shouting that is going on under these open windows is very detrimental to the conduct of this trial. There ought to be some way for the local authorities here to control this situation.

Mr. Wilentz: May I suggest, if your Honor has no objection and the defense has no objection, that we ask Colonel Schwarzkopf to have some of his men help us?

The Court: I think that ought to be done. We will wait here and see if conditions can't be improved.

Mr. Wilentz: Now, your Honor, may we proceed?

The Court: Yes, you may proceed.

Q. Now, Miss Gow, I think we said eight o'clock

was about the time that you left the upper floor? A. Yes.

Q. I suppose you put the light out in the baby's room? A. I did.

Q. And then where did you go, Miss Gow? A. On my way to the kitchen I passed through the living room, spoke to Mrs. Lindbergh, told her that I had left the baby sleeping peacefully and breathing very easily and that I felt quite content that he was comfortably settled for the night. I went on to the kitchen and to our sitting room, where supper was waiting for me.

Q. When you say "our sitting room" you mean the sitting room of the household attendants? A. Yes.

Q. And by the way, Miss Gow, that was the household attendants' kitchen? A. Yes.

Q. That is on the extreme opposite side of the nursery, is it not, on the first floor? A. That is on the west wing, yes.

Q. West wing? A. Yes.

Q. Yes, ma'am. All right. Did you and Mrs. Whately have supper together? A. We had supper together. We—

Q. Where was Mr. Whately at the time? A. Mr. Whately was in the pantry, I believe.

Q. Immediately adjoining the kitchen and the living room? A. Yes.

Q. Did you see him from time to time? A. As I recall, I did.

Q. And did he serve you or did you folks serve yourselves? A. Oh, we served ourselves.

Q. I see. And that was about until what time? A. That would be about half past eight. We heard Colonel Lindbergh's car coming in; he passed through the kitchen and spoke to me in passing. I told the condition of the baby; and then Mrs. Whately joined me again, I believe. At that time

I received a telephone call from a friend of mine.

Q. What was the name of the friend that called you, Miss Gow? A. Mr. Henry Johnson.

Q. And then what? A. On completing that I came back to our living room.

Q. Did you finish your dining? A. I finished. Then I put the radio on and looked at a magazine.

Q. And how long did you remain in the dining room? A. I imagine about twenty minutes to half an hour.

Q. Now, during that time was Mrs. Whately within your sight? A. She was.

Q. And from time to time how about Mr. Whately? A. I saw him also.

Q. Coming in and out of the room? A. Yes, in the kitchen; yes.

Q. And what time did you finally leave the downstairs quarters, the kitchen and the living room? A. I believe about nine o'clock.

Q. Where did you go? A. Upstairs to Mrs. Whately's room.

Q. By the way, before we get upstairs, when you were downstairs, did you see the dog? A. I did.

Q. Where was it? A. He was with me, in our sitting room.

Q. And was he there when you left? A. Yes, as I recall he was.

Q. So that he was there during the entire period that you were there that hour or so? A. Yes.

Q. And your best recollection is that he was still there when you went upstairs? A. Yes.

Q. Now, will you tell us, please, before you get upstairs, about the physical situation downstairs with reference to the doors leading out into the hallway; do you remember whether or not those doors were open? A. As I recall, the double doors to the hall from the sitting room were open.

Q. When you talk about the sitting room I take

it you are referring to the dining room or the living room used by Colonel and Mrs. Lindbergh and the family? A. Yes.

Q. And that is as distinguished from the living room that you and Mrs. Whately would sit in and did sit in that night; is that so? A. Yes.

Q. And that living room, there are French doors opening right into this main hall, isn't that so? A. Yes.

Q. And directly opposite the living room is the front entrance? A. Not directly opposite the front entrance.

Q. At an angle? A. Yes.

Q. Your recollection is then that the French doors of that living room were open? A. Yes.

Q. Now then, you got upstairs as I take it. You went up to Mrs. Whately's room, isn't that the fact? A. Yes.

Q. And Mrs. Whately and you went there for what purpose? A. To look at a dress Mrs. Whately had bought.

Q. To look at a dress Mrs. Whately had bought? A. Yes.

Q. Did you and Mrs. Whately look at it? A. Yes.

Q. Did you spend some time up their gossiping? A. Yes.

Q. How long did you remain up there? A. Until a few minutes before ten o'clock.

Q. And then what happened? A. I looked at my watch and saw that it was almost ten o'clock. I said, "I must go to the baby," to Mrs. Lindbergh—to Mrs. Whately. I immediately got up and walked along the upper hall passage to the baby's bathroom.

Q. Now, will you please indicate the course which it was necessary for you to pursue and which you did pursue in going from the room in which you were to the—will you just step around here, if you will,

please?— Will you take this pointer, please?— have you seen this drawing at all, Miss Gow? A. No. (Referring to Exhibit S-4.)

Q. You have not? May I explain it to you, then? This is the second floor, and this indicates the nursery. A. Yes.

Q. And the east wing? A. Yes.

Q. And I take it, then, on the west wing, the most extreme, or the extreme room, the bedroom was on the west wing? Back here. That was Mrs. Whately's, was it? A. Yes.

Q. Now, will you just follow with your pointer the course in which you walked from that room into the baby's nursery? A. Yes.

Q. Indicating from the bedroom there? A. Yes.

Q. Mrs. Whately's bedroom? A. Yes.

Q. Down the hallway— A. Yes.

Q. —straight down. A. Yes.

Q. Then, I take it, you turned to the left? A. Right down here (indicating.)

Q. Then to the left. Then where did you go? (Witness indicates with pointer.)

Q. Proceeded along the hallway? A. To the steps.

Q. To some steps? A. Yes.

Q. Then down the steps? A. No, up the steps.

Q. About how many steps? A. Two.

Q. Two steps. Along another passageway and then to your right, I take it, and along another passageway or hallway and the entrance to the bathroom, is it? A. Yes.

Q. And that is the bathroom that adjoins and did adjoin Mrs. Lindbergh's bedroom and the child's nursery? A. No.

Q. Did not? A. No.

Q. What bathroom is that? A. It is a bathroom between the two rooms in the east wing.

Q. Between Mrs. Lindbergh's room— A. No.

Q. Between whose room? A. Between another bedroom and the baby's—

Q. I see. A. (continuing)—room.

Q. Well, you went into that bathroom and from there into the child's nursery? A. Yes.

Q. I see. In proceeding along that course, Miss Gow, did you meet anyone? A. No.

Q. So that you finally got into the bedroom? A. Into the bathroom.

Q. Into the bathroom and then the bedroom? A. Yes.

Q. The nursery. When you got in there, what did you find? A. I found things exactly— I didn't put any light up, but let the door of the room open so that the light from the hall would come in.

Q. Why didn't you put the light on? A. It wasn't my habit to.

Q. I suppose you— A. I didn't want to startle the baby.

Q. (continuing)—you didn't want to disturb the child if it was there? A. Yes.

Q. Go ahead. A. I crossed to the window and closed it.

Q. Which window is that, the French? A. Facing the door, yes, the French window.

Q. The French window you speak of? A. Yes, closed that window, plugged in the electric heater and stood for about one minute waiting for the room to lose its chill. I then crossed to the cot and bent over with my hands on the rail and discovered I couldn't hear the baby breathe. I bent down, felt all over for him and discovered he wasn't there. I thought that Mrs. Lindbergh may have him. I went out of the baby's room into the hallway and into Mrs. Lindbergh's room. I met her or saw her coming out of the bathroom and asked her if she had the baby. She looked surprised and said,

no, she didn't. I said, "Well, where is the Colonel, he may have him." I said, "Where is her?" She said, "Downstairs in the library." I turned quickly and ran downstairs to the library where I saw the Colonel sitting at his desk reading. I said, "Colonel, do you have the baby?" He said, "No. Isn't he in his crib?" I said, "No." He ran past me upstairs and into the baby's room. I followed him and from there entered Mrs. Lindbergh's room. He didn't say anything. He ran into his closet, came out again with a rifle and all three of us went into the baby's room. He said, "Anne, they have stolen our baby."

Q. Who said that? A. The Colonel did.

Q. The Colonel said, "Anne, they have stolen our baby." And you were then in the baby's room? A. Yes.

Mr. Wilentz: Would you like to have a glass of water, Miss Gow?

Q. Now, Miss Gow, after that what did the Colonel do or anybody in the room? A. I called the Colonel to the top of the stair. He stood undecided just what to do and then he said—

Mr. Reilly: Now, I object to what he said.

Q. Well, at any rate as the result of what he said, Miss Gow, did Mr. Whately go to the telephone? A. Oh, he sent me downstairs to get Whately, Mr. Whately. I ran down to the kitchen and told him what happened.

Mr. Reilly: I object to what she told him.

Q. Told him what had happened and then what? A. Told him what had happened and he ran upstairs to the Colonel.

Q. Mr. Whately did? A. Yes. Mrs. Whately and I followed him, and then we started to search the house for the baby.

Q. When you say "we started to search the house," who do you mean by "we"? A. Well, the Colonel and Mr. Whately went downstairs, Mr. Whately and Elsie— Mrs. Whately and Mrs. Lindbergh were together, and I went around the rooms upstairs, looked in closets, opened doors, looked everywhere I thought we might find him.

Q. Did Mr. Whately, as the result of something said to him, go to the telephone? A. He did.

Q. And where did the Colonel finally go? A. I don't remember the Colonel's movements after that.

Q. Did you see him with the rifle? A. I did.

Q. As he was leaving the house? A. Yes.

Q. And as the result of the telephone call, or for whatever reason it was, after Mr. Whately's telephone call, were you at home when the officers arrived, Officers Wolfe and Williamson of the Hopewell police? A. Yes.

Q. Now, I am a little bit confused about the French window and the southeast window. I understood you to say that when you came upstairs the second time, or whatever time it was, that you closed the French window and put the electric heater plug in to get the chill out of the room. Did you mean, then, that when you left that room originally, the window had been opened? A. Yes, the window.

Q. The south window? A. Yes.

Q. I see. But, the shutter was closed? A. Yes.

Q. Locked? A. Yes.

Q. All right. Now, Madam, then Officers Wolf and Williamson came in and what did you and the other, the ladies of the household do, while the officers were there? A. We sat in the sitting room downstairs.

Q. Who sat in the sitting room? A. Mrs. Lindbergh, Mrs. Whately and myself.

Q. Doing what? A. Well, I guess we were all praying for the safe return of the baby.

Q. Well, was there anything said, or— A. We didn't speak.

Q. Sat there in silence? A. Yes.

Q. And for how long a period did that continue? A. Until the arrival of Mrs. Lindbergh's friends.

Q. When you say that you were seated there praying for the safe return of the baby, that is your opinion of what was happening, without anything being said, you said? A. Yes.

Q. Until the arrival of whom? A. I believe Mrs. Breckinridge.

Q. Mrs. Breckinridge? A. And some friends of Mrs. Lindbergh.

Q. I suppose that took at least an hour or so? A. Yes, until they came from New York.

Q. And during all that time you mean that you ladies sat there in that room in silence? A. Certainly. I can't remember exactly.

Q. Of course when the police came you finally returned to the room, didn't you? A. When the police came.

Q. When did you return to the room after it was ascertained that the baby had gone? A. When I was called upstairs by Colonel Lindbergh to secure a knife, I believe it was.

Q. To procure what? A. A knife.

Q. And when you got up to that room who was there? A. I can only recall seeing Colonel Lindbergh that I knew of and several other police.

Q. Men whom you didn't know? A. No.

Q. Did you get the knife? A. As I remember I did.

Q. What did you see in the room that you hadn't seen when you had left the firt time? A. I saw

an envelope on the sill of the southeast window.

Q. An envelope? A. Yes.

Q. Did it look like Exhibit S-17, an envelope of that size? A. It looked like that.

Q. Yes. Were you there when the envelope was opened? A. No, I wasn't.

Q. Where did you say you saw that envelope? A. On the sill of the southeast window.

Q. The window sill of the southeast window? A. (Nodding affirmatively.)

Q. And what else did you observe about the room that was different from the time when you had left it when the child had been in the room? A. The only thing I plainly recall seeing was a dirty smudge on the bed clothes, the sheet of the baby's crib.

Q. When you say a dirty smudge on the sheet, that is, that sheet was clean when you placed the baby in the crib, you mean? A. Yes.

Q. And when you saw it at that time it had a dirty smudge on it? A. Yes.

Q. Was the impression or the smudge of such a nature as it indicate what it was? A. A brownish muddy color.

Q. A brownish muddy color. But the impression wasn't any definite impression, was it? A. No.

Q. I mean so that you could tell what it was? A. No.

Q. Except that it was dirt? A. Yes.

Q. Of some kind. Now, did you see what use was made of the knife that you were asked to get, or don't you recall that? A. No, I don't recall.

Q. Well, at any rate, I suppose during the evening everybody in the house was questioned by the police? A. As I recall it, yes.

Q. And from that time on there were a great number of police officers and newspapermen and photographers and others in and about the premises; isn't that so? A. Yes.

Q. That was during the period while the search for the child was on? A. Yes.

Q. And during one of those days, Miss Gow, did you find Exhibit S-16 (showing to the witness)? A. I did.

Q. The thumb guard. With whom were you when you found the thumb guard, S-16? A. With Mrs. Whately.

Q. Will you please tell us the circumstances of that discovery.

The Court: Will the witness give us the date?

Mr. Wilentz: Yes.

Q. Tell us the circumstances and the date? A. I believe it was May the 12th—Oh, no, it was not—about one month after the baby had been stolen.

Q. That would be somewhere in the neighborhood of April the 1st? A. Yes, it would be.

Q. And tell us about it, please, how you happened to find it? A. It would be in the afternoon after lunch, Mrs. Whately and I were in the habit of taking walks down the driveway.

Q. On the premises? A. On the premises. We walked down to the gate where the police were stationed, talked to them for a little while and on the way back I should say about one hundred yards from the gate we both noticed this object on the road. I recognized it immediately and picked it up.

Q. Who picked it up? A. I did; went right up to the house, found Colonel Lindbergh, and gave it to him, told him how I had found it.

Q. Was it then in the same condition as it is today in this courtroom? A. Exactly that condition.

Q. Still knotted? A. Still knotted.

Q. About what time of the day was it? A. Between three and four, I should say.

Q. In the afternoon? A. In the afternoon.

Q. Now from March the 1st, the date of this crime, until April the 1st, the date that you found this, I take it it was your custom to take an afternoon walk? A. Yes, it was.

Q. Did you at any time during that month leave the Lindbergh estate at all? A. Never.

Q. Never went off the estate? A. No.

Q. Then the extent of your walks was upon the estate property, isn't that so? A. Yes.

Q. And when you say that—how many hours did you stay away from the gate house on the estate before you found this thumb guard? A. I should say about a hundred yards.

Q. And when you say a hundred yards, you mean towards the homestead towards the building from the gate. A. A hundred yards from the gate.

Q. From the gate in the direction towards the homestead? A. In the direction of the homestead.

Q. Now, let's see if we can find on one of these maps this gate house we are talking about.

Mr. Large: The upper one on the right.

Mr. Wilentz: Referring to Exhibit—

Mr. Hauck: S-1.

Mr. Wilentz: S-1.

Q. I think this is intended to indicate to the Lindbergh homestead. Now, what direction— When you talk about the gate house, was that up along the public highway? A. Yes.

Q. Near the public highway, so I take it, that is that little step up here, somewhere? A. Yes.

Q. Is that so? A. Yes.

Q. Will you then point out in what direction from that gate house it was that you found this thumb guard? (Witness points it out.)

Q. Now, will you please take this pencil and mark an "X" at the point at which you think it was in that roadway where you found this thumb guard? You will have to step up. Witness steps on chair and marks Exhibit S-1 with an "X" as indicated.)

Q. Now, X, as you have indicated it on that map, indicates the point which you believe to be a hundred yards this side of the gate house on the Lindbergh estate and the point at which you found in the road the thumb guard which is marked in evidence as Exhibit S-16, is that it? A. Yes.

Q. And that is your idea, incidentally, of a hundred yards; is that it? A. Yes.

Q. Well, finally, after April 1st we get to May, and on the 12th day of May, 1932, Miss Gow, I take it, you were still in the employ of Colonel and Mrs. Lindbergh and a member of the household? A. Yes.

Q. And while there, as the result of information given to you, did you go to some place to see the child? A. Yes.

Q. Where did you go and with whom? A. I went to Trenton, I believe with, as I recall it, Detectives Coar and Leon.

Q. Detective Coar of the Jersey City Police? A. I believe so.

Q. And Mr. Leon is connected with the State Police? A. I believe so.

Q. And when you got to Trenton did you go to the morgue? A. I did.

Q. Who was there that you knew besides these officers? A. No one else I knew.

Q. Did you see a body there? A. I did.

Q. Whose body was it? A. Charles Lindbergh, Jr.'s.

Mr. Wilentz: As I understand it, Friday, I think it was, counsel stated he would make no point of the child; I don't want to go into the child's playfulness and all that sort of thing if it is admitted that the child was normal and healthy and a playful child.

Mr. Reilly: That is correct.

Mr. Wilentz: No question about that at all.

Mr. Reilly: That is correct.

Q. Now just for a moment, to see if I have omitted something, Miss Gow, please, from the Court. Except for this, Miss Gow: About how much did the baby weigh, if you will remember, about that time? A. As I recall, about twenty-six and a half pounds.

Q. Twenty-six and a half pounds? A. I believe so, yes.

Q. And about how tall, the length of the child? A. I should say about thirty-three inches.

Q. That is as to his weight and size about the 1st day of March, 1932? A. Yes.

Q. Thank you, Miss Gow, and that is all, except for the question that you came here from Scotland to testify, did you not? A. I did.

Mr. Wilentz: Take the witness.

Cross-Examination by Mr. Reilly:

Mr. Reilly: Miss Gow, do you prefer to rest a minute?

The Witness: No, I am all right.

Q. May I inquire how old you are? A. I am thirty years old.

Q. When did you first enter employment of any kind? A. At the age of fourteen.

Q. Where? A. With the firm—it was a coöperative society in Glasgow.

Q. Did you ever work in London? A. No.

Q. When did you first come to this country? A. On May 4th, 1929.

Q. On a quota? A. Yes.

Q. Under what name did you enter? A. Bessie Mowat Goway.

Q. On what steamer did you come over? A. On the Cameronia.

Q. Landing in the Port of New York? A. Yes.

Q. Now, you say that you worked in Detroit; is that correct? A. I did.

Q. Where? A. In several places.

Q. Just tell me the places, please. A. As I recall the first position I had was with a Mrs. Ross of the Parkstone Apartment.

Q. About how long did you live in Detroit? A. Six months.

Q. You were single at that time? A. I was.

Q. And you are single now? A. Yes.

Q. Did you associate with any young men in Detroit? A. I did.

Q. Can you give me some of the names?

Mr. Wilentz: Oh, I object to that, if your Honor, please.

Mr. Reilly: Cross-examination.

Mr. Wilentz: It is not cross-examination to find out whom a person associated with all

his life unless there is some definite knowledge in the questioner's mind as to a particular individual for the purpose of this case. In which case, I take it, he points out the person. Now, I don't believe, if your Honor, please, that an ordinary fishing expedition into the life of a witness, just because the lady is a witness, is material, and because it is not material, I object to it.

The Court: It seems rather remote and immaterial from what I know of the case at this time. It may develop later that you may delve into these matters, but for the moment I think I will overrule the question.

Mr. Reilly: May I have an exception?

The Court: You may take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Did you keep up any acquaintanceship after you left Detroit with any of the young men, without giving their names at this time, that you knew in Detroit? A. I did not.

Q. Have you ever communicated with anybody in Detroit since you left?

Mr. Wilentz: Just a minute.

The Witness: I have.

Mr. Wilentz: All right.

Q. Did you communicate with young men? A. No, I didn't.

Q. After leaving Detroit, where did you work? A. I worked with Mrs. Sullivan of Glenwood Road, Englewood.

Q. At the time you secured employment at the home of the Morrows, was it first, or the Lindberghs? A. With the Lindberghs.

Q. Did you secure that position through an agency? A. No.

Q. Did you ever apply for positions through the agency of a Miss Alaire? A. No.

Q. Did you in 1929, or 1930, go to the office of Miss Alaire in Hackensack, New Jersey, and make an application for a position? A. I did make an application in Hackensack, New Jersey, but I don't recall the name of the person.

Q. You did what? A. I don't recall the name of the agency.

Q. At that time you were in no position, or you were unable, to supply any references to anybody in this country?

Mr. Wilentz: Just a minute. I object to the question, if your Honor, please, as not being at all material whether at that time she was able to supply one or a thousand references.

Mr. Reilly: I think we have a perfect right—

Mr. Wilentz: Whether or not she did supply references may be and may not be material, but certainly not whether she was able to.

Mr. Reilly: I think we have a right to go into the credibility of this witness. She said she was employed in Detroit for six months and

she came to New York to secure a position. Now I ask her the question whether or not, when she applied in a Hackensack, New Jersey, agency, after working in Detroit, she was able to give a reference.

Mr. Wilentz: And I say, if your Honor, please, that whether she was able or whether she was not is, in the first place, a conclusion on her part and, in the second place, it is not at all material to this case whether she was able to or not. This woman is not on trial, not yet.

Mr. Reilly: No, but her credibility is.

Mr. Wilentz: Let's see.

The Court: I do not understand the materiality of the question. If you wish to ask her whether or not she did, as a matter of fact, give a reference, you may do that; but the present question, I think, I will overrule.

Mr. Reilly: I ask for an exception and I will follow your Honor's suggestion.

(Exception allowed and signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Did you give a reference to Miss Alaire? A. In the first place, it was not after I had been in Detroit I applied to that agency.

Q. You went there first, did you? A. I did.

Q. Well, as a matter of fact, despite the fact that—withdrawn. Did you give Miss Alaire any reference? A. I don't recall.

Q. Well, then, did you, immediately after registering with Miss Alaire, secure a position with a lady named Mrs. Franzenfeld of Hackensack? A. No, I did not.

Q. Did you secure a position from Miss Gibbs through that agency? A. It was while working for Mrs. Gibbs that I applied to that agency.

Q. You only worked for Mrs. Gibbs about a month, is that correct? A. Oh, no, I worked for Mrs. Gibbs—I was in the Gibbs family for one year.

Q. Did you ever work in the Morrow home? A. No, I never have, with the Morrows.

Q. Did you secure a position with Colonel Lindbergh through a Lindquist Agency? A. No, I did not.

Q. How did you secure the position with Colonel Lindbergh's family? A. Through the recommendation of a lady's maid in the employ of Mrs. Morrow.

Q. What was her name? A. Mary Beattie, then.

Q. Did she have any other name? A. She is now Mrs. Owen Grant.

Q. How many brothers have you, Miss Gow? A. I have two brothers.

Q. What are their names? A. Alexander and James.

Q. Where is Alexander now? A. In Glasgow, Scotland.

Q. And James? A. In Glasgow, Scotland.

Q. When did they return to Scotland? A. They have never been out of Scotland.

Q. Never been in this country at all? A. No.

Q. You say that you secured this position in Colonel Lindbergh's home when the child was about eight months old? A. Yes.

Q. Had you been a baby's nurse before? A. I had not taken care of small children, that is, I had taken care of a child two and a half years old.

Q. Where did you first meet this Mr. Johnson? A. In Maine, North Haven.

Q. North Haven? A. Yes.

Q. Was he known as "Red" Johnson? A. His name was Henry Johnson. I believe his friends did call him "Red" Johnson.

Q. Did you meet him at some Morrow's estates in Maine, was it? A. No, I met him at a dance in the village. I was introduced to him by the Morrow chauffeur, Mr. Burke.

Q. Burke? A. Yes.

Q. Morrows also had a second chauffeur, didn't they, Ellison? A. Not at that time.

Q. Subsequently did they have one? A. Yes.

Q. Then, you and this Mr. Johnson started to go around quite a lot, didn't you? A. Yes, we did.

Q. Now, in the course of your evening's entertainment, did you visit different places in and around Englewood? A. Yes.

Q. Met many people? A. No, very few people.

Q. Where would you go when you would go out with Mr. Johnson? A. As I recall, to the movies.

Q. Did you ever go to a roadhouse? A. No. As a matter of fact, I don't remember. We would stop in a little cafe for coffee. We went skating.

Q. Did you ever go to Palisades Park with him? A. I believe once.

Q. Was there any difficulty there that night? A. No. I don't recall anything, no.

Q. Recall any conversation with any police officer the night you were there in Palisades with Red Johnson? A. At Palisades Amusement Park?

Q. Yes. A. No.

Q. Do you recall any roadhouse you ever visited in and around Englewood with Red Johnson? A. With Mr. Johnson, you mean?

Q. Yes. A. No, I don't recall.

Q. Is it possible that you ever went to a roadhouse and that you have forgotten it? A. I did go to a roadhouse on the New Year of 1932 with Mr.

Johnson; I do recall that.

Q. Meet many people? A. As a matter of fact, we had other two in our party.

Q. Who were they? A. I just don't recall their names right now.

Q. Did they come from New York? A. They both live in Alpine, New Jersey.

Q. And what makes you recall where they live? A. Because we went home with them that night.

Q. See them again? A. I haven't seen them again.

Q. Have you heard from them? A. Yes, I have.

Q. Did you ever go to Hartford, Connecticut, with Red Johnson? A. Yes; I have been there with Mr. Johnson.

Q. You visited his home there, didn't you? A. The home of his brother.

Q. How long did you stay? A. About three hours.

Q. Did you ever know Johnson to have an apartment in and around Englewood? A. Mr. Johnson boarded in Englewood.

Q. Did he ever have an apartment anywhere else that you knew? A. Not that I knew of.

Q. Where did he board in Englewood? A. I believe the name of the street is West Street, with Mrs. Sherman, I recall.

Q. What was his business? A. He was employed on the yacht of Mr. Thomas Lamont.

Q. He was a partner of Mr. Morrow's? A. Yes.

Q. Do you know where Red Johnson is now? A. Mr. Johnson is now in Norway.

Q. Have you communicated with him? A. Not recently.

Q. How recently? A. About six months ago.

Q. By the way, how did you come back to this trial? Who paid your expenses? A. I came back here to aid justice.

Mr. Reilly: I move to strike that out as not responsive.

Mr. Wilentz: If your Honor please, I think it is a partial answer.

Mr. Reilly: It is a voluntary explanation on the part of this witness.

The Court: Just read it to me, please.

(Last question and answer read by reporter.)

The Court: Well, you see, it is a matter that is volunteered and not responsive to counsel's question, and I suppose that technically he has a right to have it stricken out, and that will be the order.

Mr. Wilentz: I consent.

Mr. Wilentz: All right, if your Honor please.

Q. Now, Miss Gow, you have gone over this—

Mr. Wilentz: No. Please answer the question first, if you don't mind, Mr. Reilly?

Q. Who paid your expenses? A. The State of New Jersey paid my expenses.

Q. Amounting to how much? A. Altogether $650.

Q. Are they paying your expenses now, while you are here? A. I received that sum before I left.

Q. You expect them to pay your expenses back? A. It has been paid back.

Q. How much have you been paid a week here while you remain here? A. I am not being paid by the week.

Q. How much are you being paid a day? A. I

received a sum of $650 including my fare, return ticket to Scotland.

Q. When did you determine that your visit to this country and your return and your services here would be worth $650? A. I had always intended to come back here.

Q. When did you determine the amount of your passage here and back and your visit here and your services here were worth $650?

Mr. Wilentz: I move the services be stricken out, because the lady is not being paid for any services.

Mr. Reilly: Now, she is testifying, Mr. Attorney General and not you.

Mr. Wilentz: I know, but I am objecting because the word "services" is included, because I happen to be the party—

Mr. Reilly: Now, I object to this argument, he is not testifying.

Mr. Wilentz: I know what I am paying for.

Mr. Reilly: We will determine what you are paying for.

The Court: Just read the question.

(Reporter reads last question: "When did you determine the amount of your passage here and back and your visit here and your services here were worth $650?")

The Court: Well I think she can answer

that question. You may answer that, if you can, Madam.

The Witness: If I can.

A. I decided that when it was decided that I would get that amount,—that that amount—

Q. Who decided it? A. I did.

Q. When? A. Before I left Scotland.

Q. Where,—in Scotland you decided this? A. In Scotland, yes.

Q. After corresponding with the Attorney General's office? A. After corresponding with Col. Schwarzkopf.

Q. After corresponding with Col. Schwarzkopf the head of the State police? A. Yes.

Q. Had he written to you and asked you what your price would be to come to this country and testify and go home. A. He did not.

Q. Well how did you and the Colonel arrive at the sum of $650? A. Because I cabled the Colonel I could not stand the expense on my own, that I was losing employment on the other side through this; that I couldn't see my way to come unless my expenses were made good.

Q. What employment were you engaged in on the other side when you received the letter from Col. Schwarzkopf? A. I was not engaged, I had been offered an engagement.

Q. Isn't it a fact that you haven't worked one day since you went back to Scotland? A. That is a fact.

Q. Yes. And isn't it a fact that you have no intention of working again? A. Oh, yes, I have.

Q. Who paid your expenses back to Scotland? A. You mean the first time?

Q. The last time you went home. A. I did.

Q. When was that? A. I left this country on August 29th, I believe, or August 28th, I am not quite sure.

Mr. Wilentz: What year?

The Witness: Of this year.

Q. This year. And since August of this year down to date you haven't worked a day, have you? A. I have not.

Q. How have you supported yourself? A. I have supported myself.

Q. How? A. With my savings.

Q. What savings? A. The savings I earned in this country.

Q. How much did you take back to Scotland? A. I took about—my entire capital including my fare was about $800.

Q. Let me see if I have this correct, Miss Gow. You came to this country what year? A. 1929.

Q. For the purpose of securing employment in this country, correct? A. Yes.

Q. Did you take out first citizenship papers? A. I did not.

Q. Did you ever have an intention of becoming a citizen of the country where you were making your living?

Mr. Wilentz: I object to the question, if your Honor please, as not being material.

The Court: Mr. Reilly, that seems to be going a long way. I don't see how it is material.

Mr. Reilly: I will try to connect it. For the present I must bow and ask for an exception.

The Court: You may have an exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Well then, the fact does remain that you never applied for citizenship, is that correct? A. That is correct.

Q. And you remained here from 1929 to 1934, August, is that correct? A. Yes, that is correct.

Q. When you returned to your native country? A. That is correct.

Q. With the proceeds of the money that you had saved from your employment in this country, is that correct? A. That is right.

Q. About $800? A. Yes.

Q. And you haven't worked a day since? A. No.

Q. And then when Col. Schwarzkopf wrote to you you said you would come back to this country and testify if you received $650, is that correct? A. Enough money, yes, to cover my expenses and what I had lost through loss of employment.

Q. Well, you had not lost anything; you were not employed, were you? A. I was offered employment.

Q. When? A. At the beginning of October.

Q. Beginning of October. By whom? A. But on account of the publicity of this case the people could not take me on.

Q. Well, there was nothing to prevent your coming back to this country and getting a position, was there? A. No, there was not; there never has been.

Q. What person offered you employment in October? A. My previous employers.

Q. Who. A. In Glasgow, A. L. Scott & Son.

Q. What kind of employment? A. Shoe store.

Q. At how much a week? A. I was offered a wage of about two pounds ten.

Q. What is that in American money, $12 a week? A. I imagine at the exchange it is.

Q. Yes. And you were living home with your folks, were you not? A. I was.

Q. How much was your fare to this country this time? A. Altogether about $250.

Q. You came tourist, didn't you? A. I did.

Q. On a slow Cunard liner? What did you come on? A. On the Acquitania.

Q. On the Acquitania. That is the fast one. Were you in the tourist's class? A. I was.

Q. Have you a return ticket? A. I have.

Q. Yes; on the same line? A. Yes.

Q. Same ship? A. Yes.

Q. Now that is $250. How long would it take you in Scotland at the rate of $12 a week to make the other $400?

Mr. Wilentz: If your Honor please, I think that is a matter of calculation and therefore I don't think we need the services of the lady—that is not material.

Mr. Reilly: Question withdrawn.

Q. Since this case adjourned last week-end, who had you talked with concerning this case? A. Various friends, nothing concerning the case.

Q. Have you been conference with anybody since last adjournment Friday afternoon concerning your testimony in this case—with anyone? A. No. I spoke a few words with the prosecutor this morning.

Q. Well, let me see if I can refresh your recollection. Didn't you on Friday evening talk to some of the State police? A. No.

Q. Didn't you talk to some of the State police as

you left this building here in one of these rooms before you went home? A. I believe so, yes.

Q. And you sat in this courtroom and you heard the Colonel testify? A. I did.

Q. And you heard Mrs. Lindbergh testify? A. Yes.

Q. And you heard Mrs. Whately testify? A. I did.

Q. Now, how many times since you came back to this country have you gone over your testimony that you were to give in this trial? A. I haven't gone over my complete testimony with anyone except one night once with the State Police.

Q. Now, let me see if I am correct in saying that the person that met you at the dock was Mrs. Whately: is that correct? A. That is correct, yes.

Q. And the person who saw you off was Mrs. Whately? A. Yes.

Q. Did she visit you when she was in London. A. I was not in London when Mrs. Whately was in London.

Q. Did she have any conversation or correspondence with you? A. Yes, I believe I wrote her once.

Q. When did she go back? A. She left—I am not quite sure now—

Q. Before you? A. Mrs. Whately left here about March, I believe.

Q. 1933 or 1934? A. 1933.

Q. And remained until the end of the Summer: is that correct, as far as you know? A. Until—I am not quite sure now.

Q. After the death of her husband? A. Yes, until after the death of her husband.

Q. She is not an American citizen, is she? A. No.

Q. Neither was he? A. Pardon?

Q. Neither was he? A. Neither was he, no.

Q. Is that your photograph, Miss Gow? A. That is.

Mr. Wilentz: Take a look at it, please, Miss Gow.

The Witness: Yes, that is my photograph.

Mr. Reilly: Offer it in evidence.

Mr. Wilentz: May I see it, please?

The Court: Offered in evidence? What—

Mr. Reilly: Offer it for identification.

The Court: Well, for identification it may be marked for identification. Ordinarily it would have to come in as part of your case, Mr. Reilly.

(Photograph referred to was marked Defendant's Exhibit D-1 for identification.)

Q. This, Miss Gow, is also another copy of a picture of you? A. That is not my picture.
Q. It is not? A. No.

Mr. Reilly: May I have it marked for identification?

(Photograph referred to was marked Defendant's Exhibit D-2 for identification.)

Q. Now, look at them, please, and compare them. See if one isn't a front view of you and one a side view of you. A. That is not my picture.

Mr. Wilentz: Referring to D-2 for identification.

Q. The picture you have identified as your picture has the same kind of a hat as the picture you say is not yours? A. I don't agree it is the same hat.

Q. You don't agree that it is? A. No.

Q. The girl has the same smile, only a different pose, hasn't she?

Mr. Wilentz: If your Honor please, I didn't want to object to this before, but it is not proper cross examination anyway. They aren't our pictures. We haven't offered them. I don't see that he can ask on a new—

Mr. Reilly: You have offered this young lady from Scotland for your—

Mr. Wilentz: I withdraw the objection. Go ahead about the pose. I think she said it wasn't the same pose.

By Mr. Reilly:

Q. Hasn't the young lady in the picture you do not identify the same smile as the lady in the picture you do identify? A. I can't see that.

Q. You can't see it at all? Were you warned before you took the stand this morning that you should identify one picture and not the other. A. I was not.

Q. Now, let me get again, please, Miss Gow, the background of the Colonel's home—if I may have one of those pointers. When you went to work for the Colonel were they in residence at Sourland Mountains? A. No.

Q. Where were they in residence? A. At Princeton, New Jersey.

Q. Was Whately the butler then? A. He was employed then.

Q. And Mrs. Whately was? A. Yes.

Q. Cook and housekeeper? A. Yes.

Q. Then the entire household moved over from Princeton to Sourland Mountains; is that correct. A. Yes.

Q. And about how long were you occupying—that is, when I say "you" I mean the entire group in the house—that house at the time of the kidnapping? How long had they been in residence? A. They had never been in residence. They had never been in residence at Hopewell.

Q. They had never been? A. No.

Q. But they visited Hopewell? A. Yes.

Q. Well, how long would you say the house was open? A. I should say about five months.

Q. Well now, you say they never were in residence. Where were they residing? A. With Mrs. Morrow in Englewood, New Jersey.

Q. So that it was generally known, was it, by Colonel Lindbergh's friends that he lived with his family on the Morrow estate? A. I believe so.

Q. Then these little jaunts to Hopewell were only week ends, is that correct? A. That is correct.

Q. And that was generally known to his friends. A. Yes, I believe so.

Q. That he occupied Hopewell only on week ends. A. I believe so.

Q. And it was known to the help in the house that the Colonel and his family would occupy for the present at that time Hopewell on week ends. A. Yes.

Q. Is that correct? A. That is correct.

Q. So that the actual living of Colonel Lindbergh, his wife and his child from,—what shall we

say,—Sunday evenings to the following Saturday morning would be on the Morrow estate. A. Yes.

Q. On the Morrow estate, Miss Gow, where was the nursery? A. At that time on the third floor of the house.

Q. How many in help as you recall it now did the Morrows have? A. Altogether I believe between nine and ten.

Q. Mostly British? A. No, there were a few British.

Q. Some Scandinavians? A. Finnish people I believe.

Q. Ellison was a Dane or a Finn? A. I couldn't say.

Q. A Scandinavian? A. Of that extraction, yes.

Q. Now, on the previous week end had the Colonel and Mrs. Lindbergh spent the week end at Hopewell? A. Previous to what.

Q. Previous to the kidnapping? A. Not that I recall.

Q. That would be the last, we will say the last week end of February? A. I do believe so.

Q. Where did they spend that week end? A. In the Morrow home, with the baby.

Q. Correct. A. Yes.

Q. Now, of course, it is a fact, as Colonel Lindbergh testified to here last week, that very few people knew very little about his movements, is that correct? A. I believe so.

Q. And there was no advertising by you or by anybody that you might know of that you could tell us of as to what the movements of the Colonel and Mrs. Lindbergh would be, is that correct? A. That is correct.

Q. Now, in the different flights that the Colonel took with Mrs. Lindbergh, the baby remained home with you, is that correct? A. That is correct.

Q. Not only at Hopewell, but, I think, some-

wheres in Maine, is that correct? A. That is correct.

Q. When was it decided that—or was it decided to your knowledge, that the Colonel and Mrs. Lindbergh would spend the week end prior to March 1st in Hopewell? A. I suppose I would know about Friday.

Q. Who gave you notice that the Colonel and Mrs. Lindbergh were going to spend the week end in Hopewell. A. Mrs. Lindbergh.

Q. And at that time you had the baby on the Morrow estate, is that correct? A. That is correct.

Q. Then, when the Colonel and Mrs. Lindbergh left for their week end at Hopewell they didn't take the baby, is that correct? A. They did take the baby.

Q. They did take the baby? A. Yes.

Q. And Mrs. Whately? A. No, Mrs. Whately was in Hopewell.

Q. She was in Hopewell? A. With her husband.

Q. They were keeping the house open the entire five months? A. Yes, they were.

Q. They did not go back to the Morrow estate? A. No.

Q. There was another butler there named Banks, am I correct? A. I believe so.

Q. Was there a member of the Morrow establishment known as Violet Sharpe? A. There was.

Q. Did you know her? A. I did.

Q. Very well? A. No, only in the capacity of meeting her in the house.

Q. Was she a Britisher? A. Yes.

Q. Had you ever been out with her? A. No.

Q. How old a girl was she? A. I couldn't say.

Q. Late twenties, early thirties? A. Late twenties, I should say.

Q. What was she, a parlor maid? A. I believe she was a waitress.

Q. Now, then, we have it established that on the last week end of February, 1932, Colonel Lindbergh and Mrs. Lindbergh and the child and the two Whatelys were in residence at Hopewell and you were at Morrows. A. That is correct.

Q. Now, why did you stay at Morrows, and why didn't you come over and take care of the child? A. Because it was Mrs. Lindbergh's habit to take the child off on week ends herself.

Q. And not take you with her? A. And not take me.

Q. Then you were not in the habit of living in the Lindbergh home at Hopewell over week ends? A. No, I was not.

Q. By the way, Miss Gow, did you ever see a flashlight in and around Colonel Lindbergh's home in Hopewell? A. I can't recall.

Q. Didn't you have a pocket flashlight that you used to go in and look at the baby at night? A. No, I didn't.

Q. You never owned a flashlight? A. No.

Q. Did you ever see Whately have a flashlight? A. I can't recall.

Q. Were you summoned to come to Hopewell March 1st? A. Yes, by Mrs. Lindbergh.

Q. Did you expect Colonel Lindbergh and Mrs. Lindbergh and the baby to come back Sunday night, February 28th? A. I didn't expect—I can't recall.

Q. Did you give any thought to it at all? A. Yes, I expected them to be back Monday.

Q. Monday? A. Yes.

Q. What was their usual hour of returning Monday morning? A. Mrs. Lindbergh and the baby would usually arrive in time for the baby's lunch.

Q. And how would they be driven over, by one of the Morrow chauffeurs? A. Usually Mr. Whately brought them up from Hopewell.

Q. In whose car, the Colonel's? A. Yes, as I recall.

Q. Did they have two cars? A. Yes, at that time.

Q. One car the Colonel used in his trips back and forth to New York, the other was a family car, is that it? A. Yes.

Q. Well now, when the baby did not return Monday morning, February 29th, did you think that was unusual? A. I had a call from Mrs. Lindbergh, she told me.

Q. Was there anyone in the Morrow establishment that knew to your knowledge whether Mrs. Lindbergh and her baby were not going to return to the Morrow estate Monday, February 29th? A. They knew they would return—Mrs. Morrow.

Q. That knew they would not return? A. Mrs. Morrow would.

Q. I am talking now about the help. A. I don't know about that.

Q. Is it correct, then, that the first message to the Morrow estate from Mrs. Lindbergh to anybody was to you that she would not return? A. As I know it, yes.

Q. Did you tell any of the help she was not coming back? A. Probably I did.

Q. Now what members of the establishment did you tell that Mrs. Lindbergh was not returning with her baby? A. I cannot recall now.

Q. Did you tell Red Johnson? A. I believe so.

Q. Why did you tell Red Johnson, Mrs. Lindbergh and the baby were not returning? A. I cannot recall exactly telling them, but I probably would in conversation.

Q. Well, he didn't work on the estate, did he? A. But I saw him that night, that evening.

Q. You saw him Monday evening? A. Yes.

Q. Were you out with him Monday evening? A. Yes.

Q. Where did you go with him? A. I just don't

recall; riding, I believe.

Q. When Mrs. Lindbergh called you up did she ask you to come over Monday night or ask you to come over Tuesday? A. Mrs. Lindbergh, you mean? Mrs. Lindbergh called me Monday and said she thought they would stay down there.

Q. How long? A. All of Monday, that the baby had a slight cold.

Q. Did she say that she would like to have you come over Tuesday? A. Not at that time.

Q. Did she say when she was coming home? A. I don't remember.

Q. Then from the conversation you had with her you gathered that she was going to stay some little time in Hopewell, is that correct, because of the baby's cold? A. For another day at least.

Q. Did you volunteer to go down and take care of the baby because it had a cold? A. No.

Q. Did the baby have a cold when it left you at Englewood? A. No.

Q. Then the cold was acquired during the week end, is that correct? A. Yes, yes.

Q. You were supposed to be very fond of the baby, weren't you? A. I was, very fond of the baby.

Q. Did you volunteer to go down and take care of the baby on Monday? A. Mrs. Lindbergh—it was her habit to take care of him and she didn't ask me.

Q. And because she didn't ask you you didn't volunteer? A. No.

Q. But you went out Monday night with Mr. Johnson? A. I did.

Q. And you told Mr. Johnson that the Lindberghs were not coming back Monday night; is that correct? A. I just don't recall if I told Mr. Johnson that.

Q. Did you tell anybody else that? A. I prob-

ably did.

Q. Why? A. For no reason. In the house, I mean, I suppose it was a natural thing for anyone to ask me why the baby wasn't coming back and I would reply that he had a slight cold and that Mrs. Lindbergh was bringing him back.

Q. But you told no tradespeople, did you? A. No.

Q. And you told no outsiders? A. No.

Q. And you told no strangers? A. No.

Q. And you did not tell this defendant, did you? A. I did not.

Q. No. Then there was no one but you that knew Mrs. Lindbergh was going to stay except Mrs. Lindbergh and the Colonel and the Whatelys—that Mrs. Lindbergh was going to stay over on Monday night—was there? A. Oh, I can't say that for sure. There are other ways of knowing.

Q. Other ways of knowing? A. Well, the telephone comes in the house.

Q. You didn't suspect the telephone of being tapped, did you? A. Oh, no, of course not.

Q. There was no occasion for it, was there? A. No.

Q. On Tuesday, March 1st, the fateful day, you drove back to Hopewell and you were driven back by Red Johnson, weren't you? A. I was not.

Q. Who drove you back? A. Mr. Ellison.

Q. That is the Finn that you have spoken of, the Scandinavian, the second chauffeur? A. That is Mrs. Morrow's chauffeur.

Q. He is not the chauffeur any more, is he? He is the gatekeeper, isn't he? A. I believe so.

Q. Yes. Now, what time did Ellison drive you back? A. He drove me to Hopewell. I left the Morrow home about 12 o'clock, arrived in Hopewell at 1:20, I believe.

Q. Were you summoned by Mrs. Lindbergh?

A. I had been that morning.

Q. She asked you to come over and take care of the baby? A. She said she thought it better, yes.

Q. Did she say then how long she anticipated staying? A. She did not, that I recall.

Q. Did she say "we will stay overnight"? A. I don't recall just what she said.

Q. Didn't she say "The Colonel is going to be detained in New York, making a speech at the Lotus Club"? A. She did not mention the Colonel to me.

Q. Did she say the Colonel might be home late, that he had engagements in New York? A. No.

Q. Well, when you did arrive in the afternoon the Colonel was not there, is that correct? A. He was not, correct.

Q. And yet was it before or after the Colonel arrived for dinner that you and Red Johnson held this telephone communication that night? A. Mr. Johnson and I held a telephone communication after the Colonel arrived.

Q. Was the Colonel at dinner when you talked to Johnson? A. As I recall, yes.

Q. In the dining room? A. Yes.

Q. The baby had been put to bed? A. Yes.

Q. The Whatelys were down in the wing? A. Yes, in the kitchen.

Q. There was nobody on the second floor, as far as you know, but that child? A. No.

Q. Where was the telephone call from? A. The telephone call was from Englewood.

Q. Did you trace it? A. No, but I understood at that time.

Q. What number in Englewood? A. I do not know.

Q. Don't you know it was from Hopewell? A. No.

Mr. Wilentz: Just a minute.

The Witness: No, I don't know that.

Mr. Wilentz: I object to the question, because it is predicated upon a statement which is not the fact. That is to say, when counsel says "don't you know it was from Hopewell," that question presumes that it was from Hopewell and that my adversary is going to show it now. Now I know that is not the fact.

Mr. Reilly: I must object to his testifying first.

Mr. Wilentz: Well, that is true, I suppose.

Mr. Reilly: It is a very clever chance to stop the witness at a very important question. I am testing her credibility. She doesn't know where the telephone call came from and I am trying to test her credibility, if she can remember where it came from, that is, the station. I think I am entitled to it.

The Court: The witness may answer.

By Mr. Reilly:

Q. Now, you certainly knew, did you not, that when Mrs. Lindbergh recalled you to the Hopewell home to take care of the sick child, that you would not be able to keep any engagements that night with Red Johnson, didn't you? A. I did know that.

Q. He was available at Englewood? A. He was.

Q. When you left the home why didn't you phone? A. He wasn't.

Q. Why didn't you phone him then? A. I did call the house; he wasn't home. I left a message

where he would find me, that I had gone down to Hopewell.

Q. You had been out with him the night before. What was the great importance of the second night?

Mr. Wilentz: Oh, well, now, I object.

Mr. Reilly: Question withdrawn.

Q. Was there any importance to the second night? A. Yes; he was going to leave for Hartford the following morning.

Q. Going to leave for Hartford Wednesday morning? A. Yes.

Q. He told you that? A. Yes, he had planned to do that.

Q. I suppose you wanted to say good bye to him? A. Yes.

Q. On Tuesday night, is that it? A. Yes, that is correct.

Q. Monday night's ride wouldn't suffice, would it?

Mr. Wilentz: Well, I object to that, if your Honor please.

Q. It didn't suffice.

The Court: That seems rather immaterial, Mr. Reilly.

Q. Now just what was the exact time that Red Johnson phoned you? A. Mr. Johnson phoned me about, I should say, about 8:30.

Q. How long did you talk to him? A. Oh, not more than five minutes.

Q. Then you went back in the wing? A. Yes, in the wing.

Q. When you arrived in the afternoon of March 1st was the child suffering from a cold? A. When I saw him in the afternoon he seemed to have gotten over it pretty well.

Q. Well, you didn't see the beginning of it? A. No.

Q. So that is your mere conclusion? A. That was my conclusion.

Q. There were evidences of a cold there, weren't there? A. There were.

Q. Yes. The child was 20 months of age, correct? A. Yes

Q. Sufficient for you to make an extra shirt for it that night, is that right? A. Yes, as a precaution.

Q. Sufficient for you to rub the little chest with Vicks? A. That is correct.

Q. And sufficient for you to give that child a physic about half past seven that night? A. Yes.

Q. And yet you, supposed to be devoted as you told us to this child, put the child into the crib after rubbing it, after putting on the extra shirt, after putting on the Vicks, after giving it a physic, put it in there shortly after eight o'clock and never visited that child again until ten, is that correct? A. That is correct.

Q. That is what you did? A. That is what I did.

Q. Most of the time you spent up in Mrs. Whately's room, is this correct up here (indicating on map)? A. Yes, that is correct.

Q. Mrs. Whately's windows—were they open? A. I believe so.

Q. No need of closing any shutters over there, was there? A. No.

Q. Her windows, faced in the same direction did they not as the windows of the nursery, out on the fields? A. Yes.

Q. At any time while you were in that room with Mrs. Whately that night was an electric light in the

room put on and off? A. Yes.

Q. It was put on and off? A. In Mrs. Whately's room, yes.

Q. So that anybody out in the fields knowing something about the house would know that was Mr. and Mrs. Whately's room? A. If they had studied it, yes.

Q. Well, in all the time that you visited this house weekends and other times, you never saw any strangers roaming through the house, did you? A. I did not.

Q. Just what time would you say the child was finally put to bed? A. Eight o'clock.

Q. Then, did you descend to your dining room? A. Yes.

Q. You had dinner with Mr. Whately? A. Yes.

Q. Whately was there? A. Yes.

Q. Mrs. Lindbergh, I take it, was in the library or somewheres? A. Yes.

Q. So, the entire second floor was vacant of any person except the child? A. I believe so.

Q. The entire third floor—is there a third floor? A. No.

Q. The wings of the second floor—nobody in those wings? A. No.

Q. Except the child, is that correct? A. That is correct.

Q. Now, what time did you and Mrs. Whately think it so important to go upstairs to her room to look at a dress?

Mr. Wilentz: I move that "so important" be stricken out.

Mr. Reilly: All right, I will take that out.

Q. What time did you go upstairs to look at the dress? A. About nine o'clock.

Q. Did you pass the nursery? A. No.

Q. Did you go up the back stairs? A. Yes.

Q. At nine o'clock, you left Whately on the ground floor? A. Yes.

Q. In the wing? A. Yes.

Q. And that is the last you saw of him? A. Yes.

Q. Until after you discovered the child was gone? A. That is correct.

Q. Is that correct? A. Yes.

Q. You were—did you ever know the Whatelys in England? A. I did not.

Q. You never knew anything about them until you took this position and happened to be thrown—by reason of your position in this country, is that correct? A. That is correct.

Q. You know nothing about their antecedents, or — A. No.

Q. Or anything about them, do you? A. No.

Q. How old was Whately, about? A. I should say about forty something.

Q. Now, in the room that he was in when you last left him, how near was that to the servants' staircase leading up to the nursery floor—and I wonder could you point it out on this first chart here (referring to Exhibit S-4)? This, we will state, is the dining room for the help, correct? A. Yes.

Q. Here is the kitchen? A. Yes.

Q. Now, is this the stairs that goes up? A. Upstairs.

Q. Upstairs, and that would lead, come out about here? A. That is correct.

Q. I see. Then, walk along to the nursery, is that correct? A. That is correct.

Q. The child was well acquainted with Mr. Whately, wasn't he? A. Yes, I believe so.

Q. He played in the kitchen? A. Yes.

Q. In fact, he had a pet name for him, didn't he? A. I don't recall that.

Q. Well, he called Mrs. Whately "Elsie"? A. Yes.

Q. What did he call you? A. Betty.

Q. The child was not accustomed to strangers, was it? A. No, not strangers.

Q. Never came in contact with strangers? A. No.

Q. This child was carefully reared in a little select circle, if I may be correct in saying it, of his lovely mother, his distinguished father, yourself, the Whatelys, and maybe his grandmother and his aunt? A. Yes, members of the family.

Q. And practically that is about all, is that correct? Except— A. He went to school.

Q. Yes, he went to school. A. Yes.

Q. With the other children of neighbors and friends of the late Miss— A. Elizabeth Morrow.

Q. —Elizabeth Morrow; correct? A. That is correct.

Q. So this child was being raised in very quiet surroundings, is that correct? A. That is correct.

Q. Now, after leaving the ground floor at nine o'clock you did not see, as you testified, Whately until after this whole thing was over? A. (No answer.)

Q. Did you spend an entire hour upstairs in Mrs. Whately's living room? A. I believe so.

Q. On your way upstairs did you see either the Colonel or Mrs. Lindbergh on the second floor? A. No.

Q. So as far as you know the second floor again was free of everyone except the sleeping child? A. Well, I knew that Colonel and Mrs. Lindbergh were in the house and they would be in that part of the house.

Q. Yes, you knew they were in the house and moving around? A. Yes.

Q. But you at no time saw them on the second

floor? A. No.

Q. And you knew that the Colonel was dining? A. At nine o'clock I believed him to be finished.

Q. Yes; between eight and nine he was dining. A. Yes, yes.

Q. And it was his custom to go into the living room or the library? A. Yes.

Q. And sit and chat with Mrs. Lindbergh after dinner? A. Yes.

Q. Is that correct? A. Yes, I believe so.

Q. And you had a right to assume and did assume they were on the ground floor, didn't you? A. Yes, or up in their room.

Q. Now how well was the house lighted? Was the ground floor lighted? A. Yes, it was as I recall.

Q. Now is there a fan light in the front door, which is here (indicating on map)? A. I don't recall that.

Q. Well, there is a large main hall, isn't there? A. Yes.

Q. Here it is here; is this the main hall (indicating)? A. That is the main hall.

Q. Is that the doorway (indicating)? A. Yes.

Q. Now there are glass panels alongside of the doorway, or is it solid wood? A. Solid, as I remember it.

Q. Is there any glass over it? A. I could not tell you.

Q. Now is this the pantry right to the right of the main door as you walk in (indicating)? A. That is correct.

Q. Is that correct? Is there a window in the pantry? A. Yes.

Q. Naturally while serving Colonel Lindbergh's dinner there would be need for the use of the pantry, wouldn't there? A. Yes.

Q. So that the pantry would be lighted? A. Yes.

Q. Is that correct? A. Yes.

Q. And so would the kitchen? A. Yes.

Q. And how about this room here (indicating) what room is this, the living room? A. No, that is a bedroom.

Q. A bedroom on the first floor? A. Yes.

Q. Well, over here is the living room (indicating), would that be lighted? A. Yes, that would be lighted.

Q. Was it lighted? A. Yes, I believe so.

Q. The dining room was lighted? A. Yes.

Q. The library was lighted? A. I don't know about the library.

Q. What kind of windows on the first floor? A. French windows.

Q. Shades on them or drapes? A. No, no shades or drapes.

Q. Just French windows, nothing over them at all? A. No.

Q. Any shutters on the outside? A. I believe so.

Q. They wouldn't be drawn in at nine o'clock at night? A. No.

Q. So that to a person passing by the house there would be every indication that the house was inhabited and people were home by the lights; is that correct? A. That would be correct.

Q. Now, can you recall the lights on the second floor? A. No, I know that there were no lights on the east wing when I left it.

Q. The east wing is the nursery wing? A. Yes.

Q. Now, the French windows you have spoken about, did they open in? A. In the baby's nursery?

Q. Yes. A. Yes.

Q. And outside were shutters? A. Yes.

Q. Those shutters were closed? A. Yes.

Q. And lock dropped in; is that correct, a bar lock; is that correct? A. That is correct.

Q. And the window was half closed or slightly open in order to give ventilation? A. Yes, the

south window was.

Q. Now, had you tried those windows, the windows that went up and down at any time? A. Tried them, you mean?

Q. Yes, that day or the day before, Monday or Tuesday—you weren't there Monday—Tuesday, I mean. Did you try the windows? A. I don't recall.

Q. Well, they were new windows, weren't they? A. Yes.

Q. Were they rather stiff? A. I don't recall.

Q. Well, it is a fact that in order to get into this room you would have to raise that window up from the outside? A. That is correct.

Q. Now, the shutter was drawn in, both shutters were drawn in, as I understand it; you drew them in? A. Yes.

Q. As far as they would go? A. Yes.

Q. But with the exception of a little warp, which made it impossible to throw the bar lock; is that correct? A. Yes.

Q. But with the exception of that little warp and that little crack that was left, the two shutters were drawn in; is that correct? A. Yes.

Q. You had never given any indication to any person in the world that that room was the nursery, had you? A. No.

Q. Nobody had ever questioned you about where the nursery was or where the crib was or where the baby slept, had they? A. They have not

Q. It wasn't generally known where the baby slept, was it? A. No.

Q. It wasn't generally known where the nursery was, was it? A. No.

Q. Now, did you have any fear at all that possibly because of the shirt and the overshirt and the sleeping garment and the blankets, that the baby might perspire too freely and catch a fresh cold be-

tween eight and ten o'clock? A. No, I did not. I felt absolutely content in my own mind that he was comfortably settled for the night.

Q. Had you ever studied the care of babies, I mean along medical lines? A. No, I had not.

Q. As far as you know, no doctor had been sent for to treat the baby? A. No.

Q. You thought household remedies were sufficient? A. Yes.

Q. It was just a slight cold? A. Very slight.

Q. But you were afraid of a greater development; is that right? A. That is correct.

Q. Now, in addition to the little shirt, then I think you said there was an overshirt and the sleeping suit; what blanket did you have over the baby? A. I had a double blanket and a quilt with a sheet.

Q. And then the pins? A. And then the pins.

Mr. Reilly: Now, may I have the sleeping garment.

Mr. Wilentz: May we have a recess?

The Court: A five-minute recess?

Mr. Wilentz: Yes.

The Court: We will have a five-minute recess. During that time any member of the jury who desires to retire, may do so in the custody of the officers.

(A five-minute recess was here taken.)

(The court reconvened at 12:08 P. M.)

The Court: Let the jury be polled.

(The jury was polled and all jurors answered present.)

Mr. Wilentz: Miss Gow, will you please take the stand.

BETTY GOW, resumes the stand.

By Mr. Reilly:

Q. Now, Miss Gow, to get back to the Whately room upstairs about ten o'clock, you told us that you decided that you ought to see the baby, is that right? A. Yes.

Q. You came downstairs as you have indicated and into the nursery, but you did not turn on the light, because a light from the bathroom shone into the nursery and that was sufficient light for you, is that correct? A. Yes, that is correct.

Q. Now, you did tell us that you closed a French window, is that correct? A. Yes.

Q. And turned on the heat? A. Yes.

Q. To take the chill out of the room, is that correct? A. That is correct.

Q. Now, did you then turn on the light in the room? A. I did not.

Q. When you discovered the baby was gone, did you turn on the light? A. No, I didn't.

Q. Then who was the first person to turn on the light, if you know? A. Colonel Lindbergh, I believe.

Q. Where was the button, right by the door, the switch? A. By the door, yes.

Q. Were there two switches, one by the bathroom door and one by the other door? A. There was one by Mrs. Lindbergh's bathroom door and one by the other door.

Q. You went downstairs and asked the Colonel

and then you came upstairs right with the Colonel, did you? A. Right after him, yes.

Q. And you saw Mrs. Lindbergh on the second floor then? A. I saw her in her room.

Q. Well, when the light was turned on so that you were able to see in the room, how long would you say that was after you discovered there was no form in the crib? A. About five minutes.

Q. And as you looked around the room did you see anything in the room that was different from when you left it? A. I didn't look around the room. I just knew the baby wasn't there.

Q. Well, you were familiar with the room? A. Yes.

Q. Was there anything that stood out as different? A. Nothing.

Q. Did you go over to the crib? A. I did.

Q. And how were the bedclothes; arranged or disarranged? A. They were very slightly disarranged, still had the baby's shape of his body there.

Q. Was this a cold night? A. It was a very windy night, as I remember.

Q. Where was the dog? A. The dog was downstairs in the west wing.

Q. What kind of a dog was it? A. A smooth-haired terrier.

Q. What they call a fox terrier in this country? A. I believe so, yes.

Q. Were the markings black and white? A. Yes.

Q. It wasn't a police dog? A. No.

Q. And how long had the dog been there to your knowledge? A. In the Hopewell home?

Q. Yes. A. It came there with the Whatelys.

Q. Did they bring the dog? A. Yes; as I know, they did.

Q. Do you know where the Whatelys brought

the dog from? A. From Princeton.

Q. So that the dog was very well acquainted with the Butler Whately, wasn't he? A. Yes, he was.

Q. Had Whately trained the dog? A. With Mrs. Whately, yes.

Q. Had they taught him any tricks? A. No, not that I recall.

Q. Did they look upon the dog as their property? A. No, they did not.

Q. Did they keep the dog in their quarters? A. Yes, I believe so.

Q. That particular night that dog was kept in the kitchen where Whateley was, wasn't it? A. Yes, he was there.

Q. In a basket? A. I don't recall just where he was.

Q. But he was in the room with Whateley? A. As I know it, yes.

Q. Whateley was the dog's master, wasn't he? A. No, he wasn't.

Q. Well, they brought him there? A. They did for the Colonel.

Q. And they fed him? A. Yes.

Q. And they took care of him? A. Yes.

Q. And the dog was constantly around him? A. He was.

Q. So that anything Mr. Whateley did or Mrs. Whateley did around the house would not excite any suspicion on the part of the dog, would it? A. No, I wouldn't think so.

Q. You didn't hear the dog bark once that night, did you? A. No, I did not.

Q. Did you ever hear the dog bark? A. Yes.

Q. When strangers came to the door you heard the dog bark, didn't you? A. Yes, as I remember he did.

Q. Well you have the same kind of dogs in England, haven't you? A. Yes.

Q. All terriers, Scottish and Selingham are sort of peppy dogs, aren't they? A. Yes.

Q. Did you ever visit that room again that night? A. The baby's room?

Q. I will put it this way: When was your second visit to the room? A. After I discovered he was gone?

Q. Yes. A. When they asked me to bring up a knife.

Q. Now when you went up with a knife that was the time you say you saw an envelope? A. Yes.

Q. Where? A. On the sill of the east window.

Q. Did anybody in particular call your attention to that? A. No.

Q. Was it affixed to the window by a thumb-tack? A. No.

Q. It was just lying flat on the window? A. As I remember it, yes.

Q. Well now, that was the window that goes up and down and the window that had the warped shutters? A. Yes.

Q. Did you go to the window then, that window? A. I did not, no.

Q. Did you ever go to that window? A. No.

Q. Did you ever look out that window after you pulled the shutters together? A. No.

Q. Did you see the Colonel go to that window? A. No.

Q. Did you see anybody go to that window? A. No.

Q. Wasn't all their attention directed to the French window? A. No, I don't recall that.

Q. The French window was the only window in the room that had been left open even though the shutters were closed? A. That is correct.

Q. You say there were three windows in that room? A. Yes.

Q. Now, am I indicating correctly when I point

out these two windows as the windows of the nursery? A. Yes.

Q. Were the shutters on the window that I am pointing to on S-2, was that window—were the shutters closed? A. Yes.

Q. Were they locked? A. Yes.

Q. Did you ever tell anybody that the shutters on the nursery window were warped and could not be closed? A. I didn't know it until I came to close it.

Q. You didn't know it then until Tuesday night, March 1st? A. That is correct.

Q. That shutter was warped? A. Yes.

Q. How many times had you put the baby to bed in that room before that? A. I had put him to bed one week end before.

Q. Did the shutter work then? A. I don't recall that.

Q. Well, see if you can't recall it: did the shutter work and was it locked that previous week end? A. As a matter of fact, I don't believe we closed the shutters at all the previous week end.

Q. None of the shutters? A. I don't believe so; it was because of the wind we closed it that night.

Q. Then to your knowledge is it the first night the shutters were ever shut in that nursery? A. To my own knowledge, I believe, yes.

Q. That is the first night even the French shutters were closed? A. To my—well, now, they were closed before, the previous week end; I used to close them for the baby's afternoon nap, to shut the light out.

Q. Were they closed when the baby went to bed at night, the French shutters? A. I don't recall.

Q. How many week ends had the baby spent there in five months? Every week end? A. No, not every; I imagine about five.

Q. In any of your conversation with the Whateleys that night when you were having dinner did

they say how long Mrs. Lindbergh had decided to stay at Hopewell? A. I don't remember discussing it.

Q. They didn't say they intended to go back to the Morrows the next day did they? A. I don't remember.

Q. More supplies were needed for the home when the Colonel was in residence and you and the baby were there than would be required when the Whateleys were there alone? A. Naturally.

Q. Did you deal with just one tradesman or many tradesmen in Hopewell? A. I don't know that.

Q. That would be the Whateleys' knowledge? A. Yes.

Q. Well, now, have you any accurate recollection that that shutter was ever warped before that night, as far as you know? A. No, I have not.

Q. Was there any handyman around there who took care of repairs? A. Mr. Whateley did all the small things about the house.

Q. Whateley was able to do repairing, wasn't he? A. I believe so.

Q. He was well able to and could remedy a warped shutter? A. I don't know that.

Q. But did you call it to his attention that night, that the shutter was warped? A. It was too late then to do anything about it.

Q. But when you went downstairs for dinner and knew this shutter wouldn't lock did you call it to his attention then? A. I don't remember.

Q. Did you ask him to fix it the next day? A. I cannot remember that.

Q. But you have no recollection it was warped before that night? A. No, I have not.

Q. How long did you remain in and around the estate after the kidnapping? A. I believe until the end of May.

Q. Am I correct in saying that shortly after this

alarm was given, that many police came, many officials? A. Yes.

Q. And in time they were more or less confined to the gate house: is that correct—or is there a gate house down here? A. There is a house at the gate, yes.

Q. Was that the headquarters of the investigators after a while? A. No.

Q. Well, weren't there reporters and people down at this gate house? A. There were a few State Police there.

Q. Well, wasn't there a guard there? A. They formed a guard, yes.

Q. Yes. Now, a great many people, of course, had access up to as far as the garage: is that correct? A. Yes; only people who could pass the State Police.

Q. I mean the state reporters, State Troopers, people that you considered were officials investigating the case? A. Yes; they were so considered.

Q. Within the next couple of days there were about a hundred there maybe, more or less, is that correct? A. I am sure there were.

Q. And Colonel Lindbergh's estate consisted of a main road running from it, where the pointer is here up to the house, is that it? A. Yes.

Q. And were there any other roads or was it so-called Woodland around there? A. All woodland, to my knowledge.

Q. Then, there was just one main road, is that correct, from here to the Colonel's home? A. That is correct.

Q. Well, now, was there a branch road that ran around there or a branch areaway that ran around to the garage here, in here? Is this the main road? A. Yes, that is it.

Q. Well, now, does the main road—here is a flagstone court? A. Yes.

Q. Would this be the front of the house? A.

That is the front of the house.

Q. That is the front of the house, yes. (Referring to Exhibit S-3.)

Q. And as you bear to the right you come around here to the garage, is that it? A. That is correct.

Q. So that this is just a little branch path? A. That is right.

Q. There is only one road. Now, the next morning when—it was a clear day the next day? A. As I recollect it, it was.

Q. And you saw many investigators, did you, in and around the garage and the front door and through here (indicating)? A. Yes, many.

Q. And, I assume that only the important officials were permitted to come inside the house to converse with the Colonel, is that correct? A. That is correct.

Q. But there was a horde of people outside there, back and forth, is that correct? A. Yes.

Q. Now, how long did that condition continue, two or three days until they got things under control? A. I couldn't give you any time on that.

Q. Eventually, though, they were limited, except for the important officials, to the gate house? A. That is correct.

Q. Correct? A. Yes.

Q. When—we are just about to adjourn, I was just about to ask you something about the garment, Miss Gow. What do you call this, Miss Gow? A. That is a sleeping suit.

Q. And made by Dr. Denton, is that it? A. That is correct.

Q. Where was it purchased? A. I don't know, Mrs. Lindbergh purchased it.

Q. How many sleeping suits do you recall the baby had? A. I imagine about four or five.

Q. How many sleeping suits did the baby have in that house that night? A. I don't recall the exact

number.

Q. Where were they laundered? A. I laundered them.

Q. You laundered all the baby's things, did you? A. His underwear, yes.

Q. Yes. And where was the baby's underwear kept? A. Over week ends, as a rule, the underwear was not unpacked from the suitcase. Mrs. Lindbergh brought it down there.

Q. Well, were the baby's suits kept at the Morrow estate? A. Well, there were some there.

Q. And some in Hopewell? A. Yes.

Q. How many would you say were in the Morrow estate the night of the kidnapping? A. Probably one or probably none. I cannot just tell you that now.

Q. Have you ever seen the sleeping suit that was left in the Morrow estate before the kidnapping, since then? A. Yes, I believe I have.

Q. Where did you see it? A. Among the baby's things.

Q. Who had them? A. Well, I did while I had care of the baby.

Q. No, this is after the kidnapping. A. Yes, I mean after the kidnapping, when I was taking care of the second baby.

Q. Using the same suits? A. No, not using them.

Q. How many suits did you have in Hopewell of this kind and description before the kidnapping, I mean that day? A. There would be two at least, I don't know the number.

Q. Two at least? A. Yes.

Q. Where are they now? A. I do not know.

Q. When did you last see them? A. I don't recall just where.

Q. Did you ever see them after the child was kidnapped? A. Yes.

Q. Where? A. I packed them myself in a suit-

case to go back to Englewood.

Q. Where did you put the suitcase after you packed it? A. Well, I didn't see it after that. It was sent up to Englewood.

Q. You don't know whether it left the Hopewell estate in the same condition as you packed it or not, do you? A. I don't know that.

Q. You have never seen them since, have you? A. No, I don't think so.

Q. In other words, there were four or five of these babies' suits in and around Hopewell and at the Morrow estate on the night of the kidnapping? A. Yes.

Q. Correct. Now, of course, this suit was not on the baby when you went to the morgue (exhibiting article to the witness)? A. No.

Q. Now, about these thumb guards; how many did you have for the child? A. I had two.

Q. Didn't you have a set over in Englewood? A. No.

Q. You had only two? A. Yes.

Q. Where were they purchased? A. Mrs. Lindbergh purchased those.

Mr. Reilly: May I have one, Mr. Hauck, please?

(Mr. Hauck produced the thumb guard.)

By Mr. Reilly:

Q. Did you ever buy any of these yourself? A. No, I didn't.

Q. You can buy them in any drug store, can't you? A. I believe you could.

Q. No springs or anything on this to hurt the baby's thumb, is there? A. No.

Q. Well, without disturbing this knot, would you

slip it over your thumb and show if you can how it is put on? A. That is not the condition it was in. It was flattened.

Q. Oh, this is supposed to be opened, is that it? A. Oh, yes.

Q. I see. This is supposed to be opened and the thumb goes through? A. From below.

Q. From below, this way, is that it? A. That is correct.

Q. Goes through here and how far does the guard extend, over the nail? A. Oh, yes, all the way down to the base of the thumb.

Q. Down to the base of the thumb? A. Yes.

Q. And then you tie it around the wrist? A. That is correct.

Q. Well, now, would that leave any of the thumb exposed above the guard? A. Just the very tip of his finger.

Q. Just the tip. So that the child's teeth would come in contact with this instead of the thumb, is that it? A. That is correct.

Q. And that is to break the habit of sucking thumbs, is that correct? A. That is correct.

Q. Now there isn't any doubt but what you are correct in your testimony that this thumb guard is in the same condition as you say you picked it up on or about April 1st, 1932, is that correct? A. That is correct.

Q. On this path, the end of which is here, the beginning of which is here? A. That is right.

Q. One hundred yards in from the gate house, correct? A. That is correct.

Q. The gate house controlled, occupied and guarded by State Police, correct? A. Yes, correct.

Q. The road is how wide? A. About five yards, I should say.

Q. Fifteen feet wide. Was this in the center of the road or on the edge of the road? A. It was

in the center of the road.

Q. In the center of the road, here, fifteen feet wide, in broad daylight? A. Yes.

Q. At what time in the afternoon? A. About three, between three and four.

Q. One month after the baby was kidnapped; is that right? A. That is correct.

Q. And you found it on your way back, didn't you? A. We did.

Q. Did you drop it on your way down? A. I did not.

Q. Sure about that? A. Positive about that.

Q. And yet with all these policemen and with all the inclement weather for the month, and with everybody passing and searching those grounds day after day and night after night, you would have this jury believe that you could pick up in broad daylight on that road this bright, shiny thumb guard in the same condition it is—

Mr. Wilentz: Just a minute. It is not right, if your Honor, please. Therefore, I object to the question. It is not shiny; therefore, I object to the question.

Mr. Reilly: I will leave it to the jury whether it is bright and shiny.

Mr. Wilentz: No, you needn't leave it to the jury. It is not bright and shiny; that is my view.

Mr. Reilly: And it isn't muddy, and it isn't rusty.

Mr. Wilentz: I object to the question for the reason that it anticipates and presupposes things that are not the fact.

Mr. Reilly: It is the fact from her testimony, it was there a month.

Mr. Wilentz: No, about the shiny, and not about the other things.

The Court: I think it will satisfy the Attorney General if you will eliminate the brightness.

Mr. Reilly: I will eliminate the brightness.

The Court: Suppose you do that, Mr. Reilly.

Mr. Reilly: I will eliminate the brightness and, while I am questioning this witness on this, may the jury have it?

The Court: It is already in evidence, yes. Certainly the jury may have it.

Q. Have you examined it? A. I have.

Q. When did you see it last? A. I saw it last at the end of March.

Q. Nobody cleaned it as far as you know? A. It was in a much muddier condition when I picked it up than that.

Q. Who changed this condition? A. It has not been changed, but it was more dull I should say, I brushed off the dust.

Q. What do you mean by saying it was in a much muddier condition when you told the Attorney General this morning that it is in the same condition and just the same as it was when you picked it up? A. It can't possibly be in the same condition when it has been handled by people.

Q. Now you are a very bright young lady, Miss Gow, aren't you? A. I am. (Laughter and applause.)

Q. Yes. And you know—

The Court: Now that demonstration must not be repeated again. I have already had occasion to warn people that they must not applaud and they must not laugh in such fashion. Perhaps those who now indulge have not heard of my warning before, but I can tell you now that if you persist, if the spectators here persist in this sort of interruption, I am going to clear the court room. You may proceed.

Mr. Reilly: May I at this point ask for the luncheon recess, because I will be much longer with the young lady.

The Court: The people who are in the court room will remain standing, those who are seated will remain seated. The jury may retire and come back here at 1:45 P. M. The prisoner is now remanded in the custody of the Sheriff and the Court will take a recess until 1:45 P. M.

(At 12:34 P. M. the Court recessed until 1:45 P. M.)

(1:46 P. M.)

The Court: The Clerk may poll the jury.

(The jury is polled and all jurors answer present.)

The Court: Is the defendant in court?

Court Clerk Fell: There he is.

The Court: Now, let us see if we can not have order.

BETTY GOW resumed the stand:

Mr. Reilly: May we proceed?

The Court: Yes.

Cross-Examination (continued) by Mr. Reilly:

Q. Miss Gow, when you were in Detroit did you ever visit Canada? A. I did, on one occasion.

Q. How long were you in Canada? A. Oh, for about two hours.

Q. It was not an extended visit that required your reëntry into the United States, was it? A. No.

Q. Cross by the way of Windsor? A. I don't remember.

Q. From Detroit? A. On the bridge from Detroit.

Q. Do you recall, Miss Gow, a girl coming over on the steamer with you to this country the first time you came over by the name of Nellie O'Connell? A. No, I don't.

Q. Do you recall a girl going to Miss Alaire's Agency about the same time that you did, a girl that came over on the steamer with you and applied for a job? A. No, I went there alone.

Q. Miss Gow, do you recognize the original of this photograph (showing the witness)? A. I do.

Q. Who is it, or was it, rather? A. Violet Sharpe.

Mr. Reilly: May I have it marked for identification.

(Photograph marked Exhibit D-3 for identification.)

Q. I take it, Miss Gow, that this also is a picture of you (showing the witness.) A. That is, yes.

Mr. Reilly: I offer it for identification.

(The photograph is marked D-4 for identification.)

Q. Miss Gow, I show you a photograph and ask you whether or not you knew the original of that? A. No, I have never seen that before.

Mr. Reilly: May I have it marked for identification?

(The photograph was marked D-5 for identification.)

Q. I show you this picture, Miss Gow, folding up the bottom of it, and ask you whether you know this gentleman? A. I have seen him, yes.
Q. Do you know what his name is? A. Yes.
Q. What is it? A. Dr. Condon.

Mr. Reilly: I offer the picture for identification.

Mr. Wilentz: No objection.

(The photograph was marked D-6 for identification.)

Mr. Reilly: Does your Honor wish to see these?

The Court: Oh, I think not, until, perhaps, later on, they are offered in evidence.

By Mr. Reilly:

Q. Miss Gow, have you ever been to City Island? A. City Island? No.

Q. Or any of the waters adjacent to City Island? A. No.

Q. Ever been to Hunters Island? A. No.

Q. Or in the waters adjacent to Hunters Island? A. No.

Q. Did you ever do any boating at all in your different trips, your pleasure trips with Mr. Johnson? A. In North Haven.

Q. None off the Englewood shore? A. Just off the house at North Haven.

Q. Did you ever know two girls known as Paulette and Louise Deboise? A. No.

Q. When you were in Detroit for a period of six months—am I correct? A. Yes.

Q. During what year? A. That would be 1930.

Q. 1930? A. Yes.

Q. Did you ever know a man there named Abe Wagner? A. No, I didn't.

Q. It occurred to me during lunch time I would like to inquire a little more fully as to this nursery. Was there anything in the room that you recall besides the crib? A. Oh, yes.

Q. Wasn't there a table in the center of the room? A. There was.

Mr. Reilly: I wonder if we couldn't get an enlarged chart?

Mr. Wilentz: An enlarged chart?

Mr. Reilly: Or picture.

Mr. Wilentz: Oh, sure, we will get it for you.

Mr. Reilly: Have you got a photograph of the whole nursery?

Mr. Hauck: Not all together.

(Mr. Hauck gives Mr. Reilly some photographs.)

Q. I am now showing you, Miss Gow, Exhibit S-8 and I ask you whether or not that is the other window of the nursery? By other window I mean the one that the shutters were latched on? A. Yes.

Q. And I now show you S-12; that shows the unlatched shutter window? A. Correct; that is correct.

Q. Now, then, these two photographs, Miss Gow, if you will be kind enough to turn a little bit, would correspond to these two windows, is that correct (indicating on map)? A. Yes, that is correct.

Q. This first picture is this window and this window here is this second window (indicating); is that correct? A. That is correct.

Q. So that between those two windows we had this furniture, did we? What is this, a chifferobe? A. There is a fireplace between the two windows.

Q. There was a fireplace between the two windows? A. Yes. You will have to turn this the other way (rearranging photographs.)

Q. Oh, it was the other way? A. Yes.

Q. This was the table then? A. That was the table, in the center of the room.

Q. In the center of the room there was a table. About how large, if you can point out something here in the courtroom? A. Yes.

Q. As large as this table here? A. As large as this (indicating.)

Q. And these large chairs placed that way, one on each side? A. Yes, one on each side.

Q. Now, was that table between the window and the crib? A. It was.

Q. And the chairs were between the window and the crib? A. One chair at least. I don't remember the other.

Q. Now, isn't it a fact that scattered around on the floor there were toys and a kiddie car in the room? A. There were no toys on the floor.

Q. Well, there was this large screen, wasn't there, indicated on S-7? A. The screen around the bed, yes.

Q. Assuming that this corner of the jury box here is the crib and this pointer, we will say, indicates the screen, did the screen entirely shut off the crib? A. No, only one end.

Q. And how far down on the crib would you say the screen extended? A. About one-quarter of the length.

Q. One-quarter of the length? A. Yes.

Q. That was the end of the screen nearest to the window, is that correct? A. Yes, that is correct.

Q. Was that nearest to the French window? A. To avert the air, yes.

Q. Well, then, was the screen at the head of the bed? A. The head of the bed.

Q. Was it a heavy screen? A. Yes, solid wood screen.

Q. Was it in the same position when you came back to the empty crib as it was when you went downstairs, or rather, when you left the room and left the baby to sleep? A. Yes, to all appearances it was.

Q. Then it is your deduction, is it, that whoever approached the crib came around the edge of the screen? A. It is.

Q. Now, approaching the crib in that direction toward the foot of the crib and the unexposed part away from the screen was that bottom of the crib anywhere near the door in that room? A. The crib was in the exact center of the room.

Q. The crib? A. Yes, the exact center of one wall.

Q. But the far wall? A. Yes.

Q. Am I correct in assuming that if this was the window it was unlatched, and that the jury railing was the far wall of the room? A. Yes.

Q. The crib was up against the far wall of the room? A. That is correct.

Q. Correct. Then it was the length of the room from the window, or the width? A. The width.

Q. The width of the room? The width of the room from the window and how wide a room was that; have you any idea, Miss Gow? A. I couldn't say.

Mr. Reilly: I am afraid I will have to appeal to Mr. Pope on maps. Mr. Pope, have you the dimensions of the width of the nursery?

Mr. Pope: It is on the map there.

Mr. Hauck: That bottom map is the nursery, left side.

Mr. Reilly: Is that it? Oh, this is it.

Mr. Wilentz: S-2.

Mr. Reilly: It is stipulated by the attorneys that the chart S-2 shows the width of the

room to be thirteen feet—

Mr. Wilentz: Ten and a half inches.

Mr. Reilly: Ten and a half inches.

Q. And Miss Gow, this crib was about how wide, a single crib? A. Yes.

Q. A foot and a half or two feet? A. Wide?

Q. Wide. A. About two and a half feet, I should say.

Q. Well, now, I notice here, showing you Exhibit 9, a door at what appears to be foot of the crib, am I correct? A. That is correct.

Q. And that door leads into what room? A. That door is a closet.

Q. That is a closet? A. Yes.

Q. Now I also notice a door behind the chair on S-9 of the nursery. A. Yes.

Q. Where did that door lead to? A. Leading to the hall and the baby's bathroom.

Q. And that was about, well, just the distance indicated on this paper? A. Yes.

Q. Was the baby's bathroom door open? A. I can't recall that.

Q. The other side of the baby's bathroom led to Mrs. Lindbergh's bedroom, did it? A. To Mrs. Lindbergh's bathroom.

Q. Bathroom? A. Yes.

Q. And at some time during that night you know that Mrs. Lindbergh was in her room? A. Yes.

Q. After you had put the baby to sleep? A. Yes.

Q. Now were there any other doors in that room? A. (No answer.)

Q. Wasn't there a door that led out into a hallway? A. There were three doors altogether, a closet door—

Q. The photographs do not show them. This is

the closet we were just referring to (indicating on map), is that correct? A. Yes, that is correct.

Q. And the crib was along here (indicating)? A. That is correct.

Q. Now the head of the crib and the screen was up here, wasn't it (indicating)? A. That is correct.

Q. And right here at the head of the bed was a door that led into the hallway? A. No, that led into Mrs. Lindbergh's bathroom.

Q. Is this the door to Mrs. Lindbergh's bathroom (indicating)? A. Yes. There was about two feet of hallway there, just a passage.

Q. An alcove? A. Yes, into her bathroom.

Q. Well, was this two feet wide enough for anybody to walk—is there a hallway to walk along? A. Oh, no, no.

Q. Just sort of a foyer? A. Yes.

Q. That led outside this door into the bathroom. All right. Now this door I am pointing to on S-2 leads into the hallway, is that correct? A. Yes, that is correct.

Q. That would be this hallway here (indicating on another map.) A. No.

Q. Here (indicating.) A. That is right, there.

Q. And directly opposite another bedroom? A. That is correct.

Q. Who occupied that bedroom? A. I was to occupy that room that night.

Q. Were your clothes and things in there? A. I had a small suitcase in there.

Q. Did any of the windows in that room face in the same direction as the unlatched window? A. Yes.

Q. This window here did, didn't it (indicating)? A. Yes.

Q. And this door at the head of the crib, or the foot of the crib— A. Foot of the crib.

Q. —Foot of the crib, the unexposed part of the

crib, led right into the hallway; is that correct? A. That is correct.

Q. And at the head of the stairs leading to the attendants' quarters, or to the main part of the house? A. Yes.

Q. Which? A. The main part of the house.

Q. These stairs led down to the main part of the house? A. Yes.

Q. Were the French windows of that room latched in any way or just closed to? A. You mean the baby's room?

Q. Yes. Was there any chain across or anything to hold them in place? A. No.

Q. They were just almost closed; is that it? A. Almost closed.

Q. Now, you have testified that you think from the time you put the baby to bed there was no light in the room, as far as you know? A. That is correct.

Q. You left the baby in complete darkness, correct? A. Yes.

Q. And that you at no time heard anybody enter that room, falling over the chair, falling over the table, or knock the screen down, or anything like that, did you? A. No.

Q. And you saw no screen disturbed, no table disturbed, no chair disturbed? A. Yes.

Q. Nothing unusual? A. Nothing unusual.

Q. Miss Gow, do you know a Mr. V. J. Cotter of City Island? A. I do not.

Q. Or, do you know Mrs. Cotter? A. No.

Q. And you say definitely that you were—I withdraw that. Did you ever go boating in and around New Rochelle? A. No, never.

Q. Where did the Morrow yacht, or rather the yacht for whom Johnson worked, where did it lie off? Did it ever lie off Englewood? A. I believe it lay off Alpine, New York.

Q. Mr. Lamont's, wasn't it? A. Yes.

Q. Mr. Lamont's yacht, wasn't it? A. Mr. Lamont's yacht.

Q. Well, now, do you ever recall visiting Lamont's yacht when it was off the Columbia Yacht Club at 125th Street or 130th Street at the North River? A. I never did, no.

Q. Was the Morrow home adjacent to the Hudson River? A. No, it isn't.

Q. It wasn't more than a mile and a half in, was it? A. It is a good mile in, I am sure.

Q. A mile in? A. Yes.

Q. You know there is a landing at Englewood? A. Pardon?

Q. You know there are landings at Englewood? A. I believe—

Q. There is a dock there. A. There may be, I don't know.

Q. You are quite sure you never visited at any time the Lamont yacht when it was lying off the Englewood dock? A. No, I didn't.

Q. And that is the yacht that Johnson was employed on? A. Mr. Johnson was employed on that yacht.

Q. Did you ever visit New Rochelle? A. Never.

Q. Did you ever go out with Violet Sharpe socially? A. No.

Q. And so you say that you have never visited with Violet Sharpe any yacht or boat that was owned by Dr. Condon? A. No, I didn't.

Mr. Reilly: The witness is yours.

Re-direct Examination by Mr. Wilentz:

Q. So that before March 1, 1932, you did not know Dr. Condon, did you? A. I did not.

Q. Did you know Mr. Hauck before March 1,

1932? A. No.

Q. Or did you know Mr. Reilly before March 1, 1932? A. No.

Q. So that you did not know Mr. Condon or Mr. Reilly or Mr. Hauck before March 1, 1932? A. I did not.

Q. Now the Morrow estate that we talked about was owned by the late United States Senator Dwight Morrow, isn't that so? A. That is so.

Q. And that is the Morrow you speak of? A. That is so.

Q. And the Senator and Mrs. Morrow were the grandparents of this child, is that it? A. They were.

Q. Now this home, this home of the Lindberghs at Hopewell, was a comparatively new home, wasn't it? A. It was a new home.

Q. A new home. That is, it had just been constructed within some few months before? A. That is correct.

Q. At least within a year of this crime? A. Yes.

Q. Is that so? A. Yes.

Q. And, of course, in a new home the warping of a shutter wasn't anything unusual to you, was it?

Mr. Reilly: I object to it.

Mr. Wilentz: I withdraw the question.

Q. When did Senator Morrow die, if you remember?

Mr. Reilly: I object as incompetent, irrelevant and immaterial, sad, but incompetent.

Mr. Wilentz: Why, if your Honor, please, there is testimony with reference to people who are dead; it has been so profuse in this case I

thought I would be pardoned if I suggested the name of somebody who really has something to do with it who is dead.

Mr. Reilly: I don't think it is proper rebuttal and I don't think by any stretch of the imagination should the name of the distinguished Senator be tied up with the names of the people who have been mentioned that are dead.

Mr. Wilentz: He is a gentleman, part of this household; we are talking about yachts and the location of the home and the place where she worked.

The Court: I think I will allow the question.

Mr. Wilentz: Will you repeat the question? (Pending question read as follows: "Q. When did the Senator, when did Senator Morrow die, if you remember?")

A. I am not sure—it was—

Q. When did you go to work? A. October.
Q. In October, 1931? A. The same year, I believe, nineteen—
Q. That is the October before the March; is that it? A. That is correct, yes.
Q. That would be October, 1931? A. Yes.
Q. Mr. Lamont referred to—do you know whether or not Mr. Lamont was connected in business with Senator Morrow? A. I had heard that.
Q. You judged that? A. I had heard of it.
Q. You heard that?

Mr. Reilly: I object. She already testified he was a partner of Senator Morrow's.

Mr. Wilentz: I didn't know that she had.

The Court: I will allow it to stand.

Q. So that Mr. Johnson, to whom reference has been made, was employed by the Lamonts, and you by the Lindberghs at the Morrow home? A. That is correct.

Q. You were quite fond, I take it, of Mr. Johnson? A. I was.

Q. He is a young man? A. Yes.

Q. You are now, I understand, in answer to your question to Mr. Reilly, I understood you to say you are now thirty? A. That is correct.

Q. I take it at that time, being about three years ago, you were twenty-seven? A. (Nodding affirmatively.)

Q. You had made no agreement with the Lindberghs that you wouldn't go out with any young men, had you? A. No.

Q. And you did from time to time keep company with Mr. Johnson, who is now abroad? A. That is right.

Q. He was a young man, too, wasn't he? A. Yes.

Q. A very nice young man, wasn't he? A. He was.

Mr. Wilentz: Miss Gow, I am very much obliged to you and I wish you would stay until the end of the trial.

The Witness: Thank you.

Mr. Wilentz: We will call Trooper Wolf, as the next witness.

JOSEPH WOLF was called as a witness on behalf of the State, being duly sworn, testified as follows:

Direct Examination by Mr. Wilentz:

Q. In what capacity are you employed with the State Police of the State of New Jersey? A. As a trooper.

Q. And were you so employed on the 1st day of March, 1932? A. I was.

Q. And prior thereto for how long? A. Four years.

Q. Where did you reside then? A. I was stationed at Lambertville, New Jersey.

Q. Stationed at Lambertville? A. Yes, sir.

Q. Where are you stationed now? A. I am stationed at Trenton, West Trenton.

Q. Lambertville, where you were stationed, is in the County of Hunterdon, is it not? A. It is.

Q. Now, in connection with your duties as a State trooper, stationed at Lambertville, in Hunterdon County, the 1st day of March, 1932, were you—

Mr. Reilly: May I interrupt you, please, General?

Mr. Wilentz: Yes, sir.

Mr. Reilly: Step up here, please.

Mr. Wilentz: Pardon me.

Mr. Reilly: May we consult with you, Judge?

(Counsel step forward to side bar.)

Q. In connection with your duties as a State Police officer, stationed at Lambertville on March 1st, 1932, did you have occasion to go to the Lindbergh home? A. I did.

Q. And that, I take it, was as a result of a call? A. It was.

Q. And who was the call from, if you remember? A. The call was received from my station.

Q. From your station? A. Yes, sir.

Q. Were you at the station at the time or were you patrolling? A. I was patrolling at the time.

Q. I take it the State Troopers patrol the roads in and about Lambertville? A. They do, yes, sir.

Q. And as a result of that you went to the home at Hopewell? A. I did.

Q. I think the correct name is East Amwell Township, isn't it? A. Yes, sir, East Amwell Township.

Q. I see. How did you find it there when you got to the house? A. When I arrived there I found Colonel Lindbergh and Officer Wolfe and Williamson of Hopewell.

Q. The last two officers are the two local men from Hopewell, New Jersey: is that it? A. They are.

Q. What did you do when you arrived there? A. I spoke to Colonel Lindbergh and then went to the nursery on the second floor of the home.

Q. So that as a result of the conversation you had with the Colonel, you and the Colonel went upstairs to the Nursery: is that right? A. Yes, sir.

Q. What did you see there when got up there?

A. When I arrived in the room I saw an envelope lying on the south window of the east wall.

Q. South window of the east wall? A. On the sill of the window.

Q. I take it that that is the window that is indicated on Exhibit S-2 as being the first one to the left of the east elevation. A. Yes, sir, that is.

Q. As I face it. A. That's it.

Mr. Wilentz: May I have the pointer, Mr. Constable?

Q. Just to make certain about it so that it will be your testimony and not mine will you just point it out? A. This is the window here.

Q. That is the south east window I think we have been calling it as distinguished from the north east window. All right. You say you saw an envelope on the window sill there. A. I did.

Q. And have you the exhibit there of that note and may I have the picture of that window and the wall there. And did you see a sort of a suit case near that window? A. Directly under the window I saw a suit case.

Q. Did you see anything on that suit case that seemed a little unusual to you? A. There was a trace of mud.

Q. On the suitcase? A. There was, yes, sir.

Q. I show you Exhibit S-17 with the initials on the back of that envelope "F.A.K." What have you to say as to whether or not that is the envelope? A. That is.

Q. How do you know it is the envelope? A. I saw these initials put on this envelope.

Q. Who put them on? A. Trooper Kelly.

Q. Frank A. Kelly? A. Frank A. Kelly.

Q. Did you see the note that night, the ransom note? A. I did.

Q. Will you take a look at this, Exhibit S-18, and see if there is any sign on there that identifies it as being the note you saw that night? A. That is.

Q. How can you tell that? A. The initials of Frank A. Kelly on the back of the paper.

Q. You saw them marked that night? A. I did.

Q. Now, of course, when you got there, Trooper, that note was still in its envelope? A. It was.

Q. And tell us about the process leading to the opening of the note and the marking of the initials on there. A. When Trooper Kelly arrived and went to the nursery, he put on a pair gloves and he picked this note up and brought it to a table in the center of the room and there he used material, fingerprint material, to check this envelope for fingerprints.

Q. Did he find any fingerprints? A. No, sir; he did not.

Q. Were you there when he checked it? A. Yes, sir.

Q. And then did he put his initials on it? A. He did.

Q. And those are the initials that appear today on each, F. A. K., is that so? A. The same.

Q. You were talking before about the suitcase with reference to the window, and I show you Exhibit S-12, and ask you if that isn't the window and the suitcase as it appeared to you at that time. A. It is.

Q. With the exception of the fact that at the time you looked at it you also saw the note heretofore referred to on the window sill: is that so? A. Yes.

Q. I take it that is S-13, Exhibit S-13, which is a picture of the fireplace and the window and a suitcase, showing the same window, the same suitcase, but from a different point? A. It is.

Q. That is to say, it includes the entire fireplace? A. It does.

Q. So that in that very nursery there was this southeast window, then there was the fireplace, then there was the northeast window, then in the center of the table, and between the table or, rather, on the other side of the table, the table being between the window and the crib: is that it? A. Yes, sir.

Q. All right, officer. What did you do then? A. I then went downstairs and I made—

Q. Pardon me. Did you notice whether or not the blankets were still pinned to the mattress? A. In looking at the crib I noticed that the upper end of the blankets at the head of the bed were still pinned.

Q. I see. A. Through to the—either the mattress or the sheet, the lower sheet.

Q. All right. Now then, you came downstairs, did you? A. I did.

Q. And waited for the detectives? A. No, sir; I made one phone call to my headquarters.

Q. I see. A. To see that every one had been notified and on information received from Colonel Lindbergh I went around to the east side of the house.

Q. I see. A. And—

Q. What did you see there? A. Under the southeast window I noticed two indentations in the mud.

Q. What sore of indentations were they? A. They appeared to have been made by boards; the end of the boards stuck into the mud.

Q. Like indentations that would be made if a ladder were stuck in there? A. Yes, sir; the same.

Q. What else did you see? A. Out from the two indentations I saw a foot print, man's foot print.

Q. What sized shoe do you wear, Officer? A. Nine.

Q. With reference to the size of your shoe what have you to say as to this foot print? A. This foot print was a large foot print.

Q. Was it as large as your shoe? A. It was, if not larger.

Q. All right. Now then, did you return to—you looked around, I suppose. A. I looked around further.

Q. With the aid of a flashlight? A. Yes, sir.

Q. At any time in connection with that— I withdraw that. What happened then? A. After looking around the ground at that time other cars started to arrive and I left the east side of the house to go and see who was coming in.

Q. Yes. Who did come in? A. The first arrivals were Detectives Bornmann, De Gaetano.

Q. All right then, what else did you do? A. I gave Detective Bornmann and Detective De Gaetano a general outline of what I had found and another car arrived at that time and Detective Bornmann and De Gaetano then went up to the nursery. They had been—

Q. Now, Officer, in the course of your visit around the east side of the house, did you have occasion to use the flashlight and play it around on the grounds? A. I did.

Q. And in the course of that examination, did anything appear in it, within the rays of that flashlight, like a ladder? A. There was.

Q. Where did you see it? A. That was about, I should judge 60 or 70 feet in a southeasterly direction from the corner of the house.

Q. I see. So that particularly we will know the direction—the map is not very helpful—it would be out, say, towards the east, you say? Is that what you said? A. Yes, sir, southeastwardly.

Q. And if that is the nursery (indicating), it would be to the right side as I face it here? A. As

we face it here it would be to the right.

Q. To the right, yes; to the right and to the east? A. Yes, sir.

Q. And down here from the library the same way (indicating)? A. Yes, sir.

Q. To the right and to the east. And here (indicating on another map), right towards me it would be in this direction? A. It would be towards you looking at this diagram.

Q. If you were looking out of that window, in order to look in the direction of that ladder, you would have to look in the direction in which I am standing? A. Yes, sir.

Q. Is that so. About how many feet would you say, giving your best judgment, away from the house? A. To my best judgment I should say 60 or 70 feet.

By the Court:

Q. From the southeast corner of the house? A. In a line from the window, which is almost to the corner.

Q. But measuring from the southeast corner it would be your judgment that it was 60 or 70 feet, is that the idea? A. Yes, sir.

Mr. Wilentz: Now if your Honor please, with reference to these Troopers, my examination with them and other officers would be limited so far as it is possible so that the testimony may come in in what I consider to be the logical order. They also participated in some matters relating to this case at the late stages; and so I suggest and request of counsel that I may be permitted in connection with all these officers, particularly those who participated in the later stages—that I may be able to recall them

on other matters. As to the events of that night, I rest with this witness.

Mr. Reilly: Certainly, no objection.

Mr. Wilentz: And you may take the witness, sir.

Cross-Examination by Mr. Reilly:

Q. Trooper Wolf, is it? A. Yes, sir.

Q. What did you do to preserve the footprint? A. I assigned a man to see that no one went around that side of the house.

Q. What was the condition of the soil? A. At the point where I was standing on this boardwalk extending along the east side of the house it was soft. I didn't step on it. It appeared to be soft.

Q. Did you see anyone preserve the measurements of the footprint? A. I did not, no.

Q. Did you see anyone pour plaster of paris or anything else into that footprint so it would be preserved? A. Not to my knowledge.

Q. Did you see anyone photograph it? A. I didn't see him photograph it, I understand it was done.

Q. Did you see anything done that night to preserve that footprint? A. I did.

Q. What? A. Keeping persons from going around to that side of the house.

Q. You knew, did you not, as a trained trooper that that was a very material piece of evidence? A. I did.

Q. That sometime would have to be spoken of in court before a jury? A. That is right.

Q. And yet, you saw no one preserve the measurement or the identical outline of the foot print in

any plaster of paris or any flour or anything that could be preserved as a cast, did you? A. I did not.

Q. Do you know if there is one in existence today? A. I do not.

Q. The cast of that foot print? A. I do not.

Q. And how many foot prints did you see? A. I saw one.

Q. Of a right or left foot? A. I couldn't say.

Q. Can't you tell by looking at a foot print which shoe it was? A. Hardly in soft mud.

Q. Well, it was there the next morning, wasn't it? A. I wasn't there the next morning.

Q. Well, did your superiors call you back at any time to point out the foot print? A. Not to me, no, sir.

Q. The next time you did arrive was when? A. Arrived where.

Q. At the Lindbergh home. A. I worked from that point on different details.

Q. Did you ever come back to the point of the foot print? A. Not that night.

Q. Or the next day? A. I don't believe so.

Q. Did you ever see it again? A. I did not.

Q. Never went looking for it, did you? A. No, sir.

Q. Did you point it out to the detectives? A. I informed him where it was.

Q. Did you take them over and say, "Here is a footprint; preserve it,"—did you? A. I informed him where the foot print was.

Q. But did you take him over and show him? A. I went with him to the east side of the house.

Q. Did you show him the footprint? A. I told him where it was.

Q. Did you show him the footprint? A. I didn't walk all the way with him. There was only one man able to walk on this walk at a time.

Q. Now, as a matter of fact, you know there was no footprint there. A. There was a footprint there.

Q. Was it a man or a woman? A. It was a man's print.

Q. Did you show it to Colonel Schwarzkopf? A. I did not.

Q. Did you show it to anybody from the Federal Government, any investigator? A. I didn't know any of the Federal people there.

Q. Did you show it to Colonel Lindbergh? A. He showed it to me.

Q. He showed it to you? A. He did.

Q. Did you see him give any orders to preserve it? A. I gave orders to preserve it.

Q. You know, don't you, that there are many sizes of men's shoes: correct? A. I do.

Q. Length and width? A. Yes.

Q. And many kinds of heels? A. Yes.

Q. Two kinds, at least: leather and rubber heels? A. That's right.

Q. And that a rubber heel will make a different indentation than leather heels: correct? A. That is right.

Q. Now, did you look in the footprint, did you pay any attention to it at all? A. When I went out to the east side of the house, in the time that I was out there, I did everything possible to note the conditions. I was unable to go any further, due to the arrival of numerous cars coming, other officers arriving.

Q. Well, certainly some detective who arrived or some chief or somebody asked you something about the footprint, didn't they? A. I informed the first arrivals.

Q. Now, there wasn't any ladder leading up to the house, was there? A. No, sir; there was not.

Q. And the only thing you had were two holes in the ground that made you think something had

been stuck in there, two pieces of board as the General says, which might have indicated the ends of a ladder: correct? A. That's right.

Q. Now, how far down in the ground did the two indentations of what you call board holes extend? A. They were deep, but I didn't measure them.

Q. Did anybody measure them? A. I don't know.

Q. Did anybody take the ladder found 70 feet away in the woods and take it back in your presence and fit it into the holes in the mud? A. Not in my presence, no.

Q. No. And you were there all that night? A. Not at that side of the house.

Q. Well, you were there on the grounds? A. I was in the vicinity.

Q. And you were the first trooper? A. That is right.

Q. And that is all you found on the outside of the house, two holes that looked like ladder holes and one footprint, correct? A. And also a woman's print.

Q. A woman's what? A. A woman's footprint, the footprint of a woman's shoe.

Q. Where? A. That was further to the south between the boardwalk and the house itself.

Q. All right, let's have that. You are sure the other was a man's footprint? A. Positive.

Q. Now let's put the man's footprint somewhere where it belongs. You may have my pointer. You can point it out on here, if you please. This is the kidnap window as we call it, the Colonel's library. This is the boardwalk, I assume, along here. A. The boardwalk extended on this side of the house. The man's footprint was about here.

Q. About how many inches beyond? Can you see (addressing the jury)?

Mr. Wilentz: What is the question?

Mr. Reilly: I was asking if they could see. I thought possibly the jury couldn't see, that I might be in the way.

By Mr. Reilly:

Q. Let us assume now that this is the boardwalk, this shadowy part here, along this elevation of the house, is that correct? A. That is correct.

Q. And let us assume, let us not assume. Will you on this pointer indicate in your opinion the width of the boardwalk? A. A distance of about—

Q. Point it out. A. (continuing)—I should judge about eight inches.

Q. Single board? A. A line of boards.

Q. Thin boards, extending along, you mean? A. Yes, sir.

Q. Single boards but not joined together, just laid there? A. Just laid there.

Q. And those boards were about eight inches wide? A. To the best of my knowledge, yes.

Q. And about how far away from the edge of the building? A. I couldn't say exactly.

Q. Well, they weren't right up against the edge. It was a footwalk, wasn't it? A. No. It was a foot walk.

Q. Between the boards and the edge of the building, I suppose was the same kind of muddy ground? A. About the same.

Q. Then came this eight-inch board that was stretched along, when one board ended another one was thrown down, correct? A. Yes.

Q. They were nailed together, just put together, as a catwalk? A. Yes, sir.

Q. And on the side of the board came more mud, is that right? A. Right.

Q. Now then, the far side of the board—well, say I am correct—if this is the window up here and the catwalk is here, on the far side further out was the footprint? A. Between the boardwalk and the house.

Q. Oh, the footprint was between the boardwalk and the house, is that correct? A. That is the woman's print.

Q. The man I am talking about, the man? A. The man's foot print was outside of the board walk.

Q. I am talking now about the man's foot print, and you understood me now to be talking about the man's foot print. I don't want to confuse you. The man's foot print, is that correct? A. The man's foot print.

Q. That you say was larger than your shoe? A. I should think so.

Q. And you wear a size nine. A. Nine.

Q. What width? A. Narrow; I wear a narrow shoe.

Q. Now, then, that would be in the space approximately between the wall and the cat walk of about —can you point it out here, approximately? A. Approximately—

Q. You did not measure it, of course. A. I would say it might have been twenty inches.

Q. Twenty inches? A. It may have been more, it may have been less.

Q. Now, did that foot print—which way did the foot print point? A. Still the man's foot print?

Q. Yes, always the man's foot print. A. The foot print faced the house, the toe pointing in toward the house.

Q. The toe pointing toward the wall, correct? A. Yes, sir.

Q. Now, was there any mud, water or slime of any kind on the board walk, the cat walk? A. I believe the boards were damp.

Q. Did the marks of the boards that you have spoken about—were they between the cat walk and the house or were they outside the cat walk? A. Outside of the cat walk.

Q. And extended how far out? A. A short distance from the cat walk.

Q. And extended how far out? A. A short distance from the catwalk.

Q. About how many—? A. I never measured it; I can't say.

Q. Approximately? A. Might have been a distance of six inches; may have been less.

Q. So that we have 20 inches between the wall and the cat walk, approximately; is that correct? A. That is right.

Q. Eight inches catwalk, 28 inches? A. That is right.

Q. And about 6 inches more, the prongs or the marks of two boards: correct? A. That is right.

Q. 34 inches? A. Approximately.

Q. Well, approximately in the neighborhood of three feet? A. That is right.

Q. From the edge of the wall; correct? A. That is right.

Q. And we have the foot print in a space of 20 inches between the catwalk and the wall: is that correct? A. The woman's print?

Q. The man's print. I am talking about now—don't—I don't want—. A. The man's print is not between the walk and the wall.

Q. Where was the man's print? A. The man's print is outside of the walk.

Q. All right; we will go back. A. Away from the house.

Q. All right. Now, go back; I am going to direct your attention, please, to the man's footprint and the man's footprint only. A. Yes.

Q. Because I don't want it said I confused you and I didn't understand the testimony? A. I understand.

Q. Now, the man's footprint only? A. Yes.

Q. There was 20 inches between the wall and the catwalk: correct? A. Approximately.

Q. Approximately. Eight inches, approximately, catwalk? A. That is right.

Q. Correct? Right? A. That is right.

Q. Six inches prongs,—correct? A. That is right.

Mr. Reilly: Now, may I have your pointer for a second?

Mr. Wilentz: Yes, sir.

Q. Let us assume, here is the house here, let us assume here is the house: tell me when to stop.—Will those jurors who cannot see tell me when,—stop me when I get, please, to the edge of the catwalk. (Indicates, using two pointers, hold at an angle against the wall, and drawing away). A. I should say something about in that neighborhood.

Q. Stop me when I get, please, to the edge of the cat walk. (Counsel draws sticks back from the wall slowly.) That marks the beginning of the cat walk, can you see it? Right? A. Approximately.

Q. I am not tying you down to inches. A. I want to make sure.

Q. Your best recollection. A. That's right.

Q. Now you understand it so far? A. I do.

Q. Correct. Now we will say that the cat walk extends from this mark to here (indicating.) A. I believe that is approximately correct.

Q. So that then we come now to the cat walk, that is the end of the cat walk furthest away from the house. A. This is approximately the end of the

cat walk here.

Q. All right. This is the begining of it as you come out from the house. A. The end is about here (indicating.)

Q. This is the edge of the house (indicating joining of wall and floor.) Here is mud. A. That's right.

Q. We are coming out now to about here as you said where the cat walk begins, the width of it. A. Begins.

Q. Yes, the width. A. Yes.

Q. The planking, do you understand what I mean? A. Yes, I understand what you mean.

Q. Now is it fair to say that the width of the cat walk was as wide as from here to here (indicating)? A. I believe that is over eight feet.

Q. All right. I will put it back there. Is that approximately it? A. Approximately.

Q. Then if I move this up here (indicating) I have the distance between the house plus the width of the cat walk, haven't I? A. You have.

Q. You understand me? A. I do.

Q. Now that is the end of the cat walk. Now we have the mud. Where was the man's foot print?

Mr. Wilentz: Walk out here and show it, please.

Q. These are the two sticks in the ground.

Mr. Wilentz: No, just a minute, please. The sticks, as I understand it, are supposed to indicate the end of the cat walk. Where was the ladder?

Q. Well, now, all right. Give me the foot prints.

Mr. Wilentz: Pardon me. I should not interrupt.

A. This is the end of the cat walk (indicating.)

Q. Right. A. About within the distance of six inches at which place the indentations were in the ground.

Q. Now, have you the stick marks, is that correct? A. That is correct.

Q. Then that brings us over here. Is that correct? Those are the stick marks which the General calls the ladder marks. You understand it up to now, do you? A. I do, very well.

Q. Now let's put them over like this as though it was a ladder and I will hold it and you stand back there, please, and show me where the man's foot print was? A. Approximately—

Q. Yes. A. Approximately about here (indicating.)

Mr. Wilentz: Indicating about six inches away from the foot of the ladder, facing the ladder and the house.

Q. A larger size than yours? A. It appeared to be, yes.

Q. And you were, for the purposes of the record, nine what? A. Nine.

Q. Nine, and what width? A. Narrow width.

Q. Narrow width. Well, you haven't any narrower foot than mine, have you? A. Mine is a narrow foot, and I wear a narrow shoe, what is supposed to be a narrow last.

Q. All right. Now I think that is established. In connection with what now appears to be the bottom of the ladder or the sticks, the holes in the mud —because you saw no ladder, did you? A. I did.

Q. Not in those sticks, you didn't? A. Not in those sticks.

Q. In those holes? A. No.

Q. You just saw two holes that indicated something to you. Now in relation to the two holes that indicated something to you and in relation to the man's footprint, where was the woman's footprint? A. The woman's footprint was further to the south between the boardwalk and the house.

Q. Between the boardwalk and the house, you mean the mud between the catwalk and the house? A. That is right.

Q. And in relation to this window, where was it? A. Approximately here (indicating.)

Mr. Wilentz: Indicating a point slightly to the south.

Q. Indicating a point, we will say, that is almost the corner of the building, is that correct?

Mr. Wilentz: That is right.

A. Somewhere about there.

Q. Now Trooper, what does this mean, do you know (indicating)? Is that an areaway or something? A. This is the entrance to the terrace, an open terrace, extending along the front of the house.

Q. Is this the terrace (indicating on another map)? A. (No answer.)

Q. Is this the terrace here? A. This is the terrace.

Q. This is the stone terrace? A. That is right.

Q. And that runs along that side of the house there, doesn't it? A. The front of the house, the south side.

Q. The front of the house. No part of those

broken stones extend around here at all (indicating)? A. No.

Q. Now did the woman's footprint point toward the terrace? A. It did.

Q. Were there one or two woman's footprints? A. One.

Q. And Colonel Lindbergh and you were the first persons at that scene of the footprints, correct? A. I don't believe so. There were others there before—

Q. Did you see the Colonel with his gun? A. I did not.

Q. He did not have any rifle? A. He did not.

Q. Where was he standing when you saw him? A. On my arrival at the scene, at the home?

Q. Yes. A. He come out of the front door.

Q. Where was Miss Gow when you got there? A. I didn't see Miss Gow.

Q. Where was Mrs. Lindbergh? A. I couldn't tell you.

Q. Where was Mrs. Whately? A. I couldn't tell you that.

Q. Where was Whately? A. I couldn't tell you that.

Q. What other police officer was there before you? A. Officers Wolfe and Williamson of Hopewell, special officers, I believe.

Q. Where did you see them? A. They were standing out in the front.

Q. On the terrace? A. The front terrace? No.

Q. What do you mean by out front? A. Of the front door.

Q. Yes. A. Yes.

Q. Well now, I want, and it is quite important to know, just what time you arrived. A. I can tell you, approximately five minutes of eleven.

Q. How long after you received your call? A. I received the call about 10:30 and I was—

Q. You were the third officer to arrive? A. I was.

Q. Wolfe and—what is the other gentleman's name? A. Williamson.

Q. Williamson. Both local officers of that neighborhood; is that correct? A. Of Hopewell.

Q. Yes, but not connected with the State Police? A. No.

Q. And for the purpose of the record, they are both men: right? A. You are right.

Q. You were the third officer on the scene? A. I was.

Q. Correct. You saw no members of the household roaming around the ground? You saw Colonel Lindbergh come out the front door, didn't you? A. I did.

Q. You did not see Mrs. Lindbergh, Miss Gow or Mrs. Whately, did you? A. I did not.

Q. And you did not see the male butler, did you? A. I did not.

Mr. Reilly: That is all.

Re-Direct Examination by Mr. Wilentz:

Q. I want to show you a picture of what purports to be a print and ask you whether or not you recognize that as indicating about what you saw when you say you saw a man's footprint. A. That is it.

Mr. Wilentz: I will ask that it be offered for identification. That is all, Officer.

(Photograph referred to marked State Exhibit S-31 for Identification.)

Mr. Wilentz: Referring to what number for identification?

The Reporter: S-31.

Mr. Wilentz: Mr. Bornmann, will you please be sworn?

LEWIS J. BORNMANN, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. And, March 1st, 1932, I take it, you were connected with the State Police of New Jersey? A. Yes, sir.

Q. And how long had you been connected up to that time? A. About six years.

Q. Now, where did you reside then? A. I was assigned to special duty at the training school at Wilbertha.

Q. What part of the state did you originally come from? A. At that time I was living in Wildwood, New Jersey.

Q. Wildwood, New Jersey? A. Yes.

Q. But you were assigned to the State Police Training School at Wilbertha? A. Yes, sir.

Q. Wilbertha is stationed in Mercer County, isn't it? A. Yes.

Q. Somewhere near Trenton? A. Near West Trenton.

Q. Near West Trenton. And, it was while you were there, was it, that you received a call to come to the Lindbergh home? A. While I was there, I was detailed to go to the Lindbergh home.

Q. And did you go there? A. I did.

Q. When you got there, who did you meet? A. I met Trooper Wolfe.

Q. That is the gentleman who was just on the stand? A. Yes, sir.

Q. Who else? A. And Colonel Lindbergh.

Q. And, did you see Officers Wolfe and Williamson of the Wilbertha Station? A. Not then—

Q. When you got there, I take it that Colonel Lindbergh spoke to you and told you briefly what had happened? A. He did, and Trooper Wolfe gave me a brief summary.

Q. And then did you go up to the nursery, and if you did, with whom? A. I went to the nursery with Colonel Lindbergh, that is, I followed him up to the nursery and Detective De Gaetano, who had accompanied me to the home, followed me.

Q. That is to say that when you got there, you came with Detective De Gaetano? A. Yes, sir.

Q. And the three of you then, Lindbergh, De Gaetano and yourself went up to this nursery? A. That is correct.

Q. Now, when you got there, what did you see? By the way, what time did you get there? A. Approximately 11:15.

Q. What did you see when you got there, to the nursery? A. I saw the usual nursery, a number of children's play toys, crib and so forth, and on the southeast window ledge was a plain blank envelope which Colonel Lindbergh pointed out and says, "I think that is a note of some kind."

Q. I see. What else did you see? A. I looked around the room, I saw a crib, the covers appeared to be almost undisturbed, pinned down with two safety pins, one on the right and one on the left at the head. I then went toward the window and directly under the window was a small chest of drawers with a black suit case. On the right hand side top of this suit case was a smudge of yellow mud. Directly under the suit case on the floor was another smudge of mud. I looked around the room further and near the center of the room, just about the center was another smudge. I made a brief sketch of the room and asked Colonel Lindbergh about the windows and he said he wasn't quite sure

how the windows had been, but he would call Betty Gow.

Q. Then, you spoke to the various people in the home? A. I did.

Q. Now, were you there when this note was tested? A. I was.

Q. And who was it— And by whom— Who were the testers? A. It was tested for finger prints by Trooper Kelly of the Identification Bureau.

Q. You referred to the note with the blank envelope on the window sill that you saw in the nursery that night? A. Yes, sir.

Q. And I show you Exhibit E—or, rather, Exhibit S-17 with the initialling "F-A-K" on the back of it and ask you if that is the envelope? A. Yes, sir; it appears to be.

Q. How do you know that is the envelope? A. Trooper Kelly initialled it in my presence.

Q. I also show you note, and ask you if that was contained in the envelope referring to Exhibit S-18? A. Yes, that is the note.

Q. After the tests there didn't appear to be any fingerprints, did there, as far as you know? A. No, sir; there did not. We also fingerprinted the window ledge and around the window, but there appeared to be none at all.

Q. That is, you attempted to get some tracings of fingerprints around the window ledge and so forth. Why did you test the window ledge? A. Well, it was thought possibly that there might be a print on the window.

Q. That is the southeast window? A. Yes.

Q. Now I suppose you came out of that room? A. Yes, I did, I came downstairs.

Q. When you came down did you use your flashlight around the building? A. Not immediately. I spoke to other members of the household, and when I was through, Trooper Kelly had arrived at that

time; we went back in the nursery. That is when we examined the note and after processing several fingerprints, I then went outside to look at footprints which Trooper Wolf had told me were out there. While I was in the nursery, Colonel Lindbergh told me that a ladder laid out beyond the house where I also wanted to see that.

Q. Did you see the ladder through your flashlight, through the rays of your flashlight? A. I came around the house and followed a number of, walked on a number of boards laying there, and when I got up to where Trooper Wolf had described these footprints would be, I flashed the light; but almost immediately I flashed the light further on to look at the ladder—I heard a noise out there and I saw a number of men standing around out there who I took to be reporters who were arriving at that time. I followed the walk on around and made a circle and picked this ladder up.

Q. Is that the ladder you picked up (exhibiting)? A. Yes, sir; it is.

Q. Three sections? A. Three sections. Two sections were lying together, and one section about ten foot further on.

Q. You say two sections lying together and one section about ten feet away? A. Yes, sir.

Q. Now, the two sections that were lying together, were they connected or disconnected? A. They were connected to a certain extent.

Q. And I suppose that means disconnected to a certain extent? A. Yes, sir.

Q. Tell us the extent. A. One section had split. The two upright pieces had split, allowing the sections to separate. They had been connected with a dowel pin.

Mr. Wilentz: Is the dowel pin here?

Mr. Hauck: It is on the ladder, yes.

Q. You were talking about a dowel pin. I take it that is what you mean by a dowel pin (indicating)? A. Yes, sir.

Mr. Wilentz: First, may I offer the ladder so when we refer to it—

Mr. Reilly: I object.

The Court: Do you object to its introduction?

Mr. Reilly: I do object to it most strenuously upon the ground that there is no evidence that this ladder was used at that house that night or that it is in the same condition now that it was in then. It is incompetent, irrelevant, immaterial at this time.

The Court: Well, Mr. Attorney General, it would seem that you ought to show that the ladder is now in substantially the same condition—

Mr. Wilentz: I will.

The Court: (Continuing)—as it was when it was found that night, and then you might offer it. Then we will listen to any objection that is made to it.

By Mr. Wilentz:

Q. Officer, is this ladder substantially in the same condition as it was that night when you found it? A. Yes, sir; it is.

Q. This white board, however, wasn't on it, was it? A. No, that has been put on it since.

Q. Will you tell us in what other manner it is different now than it was then? For instance, I see a number here, No. 2, with F. K. on there; do you know what that is? A. Yes, that is Trooper Kelly's initials placed on there that night immediately after—

Q. The writing is his writing? A. Yes, sir.

Q. And these numbers alongside of the nails, they have been— A. The nails were removed for the purpose of analysis.

Q. For the purpose of analysis. And they are put back now with those—at any rate these little clips were not on at the time? A. No, sir; they were not, nor were those white—

Q. Those white numbers, these identifying marks that you are speaking of now were not on at the time? A. No, sir.

Q. On this piece of board I notice a cut. That cut was not there at the time? A. No, sir; it was not.

Q. Except for that, those changes that I have indicated to you which I take it were made for the purpose of making tests— A. They were.

Q. (Continuing.) Is it the same ladder? A. Yes.

Mr. Wilentz: I now offer it.

Mr. Reilly: Pope will argue it.

Mr. Wilentz: Is there any objection?

Mr. Reilly: Yes, sir.

Mr. Wilentz: I offer it in evidence.

Mr. Pope: Wait a minute.

Mr. Wilentz: I still offer it.

Mr. Pope: We should like to cross-examine upon this ladder before it is offered in evidence.

The Court: You may do so.

By Mr. Pope (voir dire):

Q. Did you take the ladder away from the Lindbergh home? A. Take it away?
Q. Yes, you yourself? A. To where?
Q. Anywhere, I don't know. A. Not immediately, no.
Q. Did you take it when it was taken away? A. Some months later, yes.
Q. And what was done with it after you picked it up? A. I turned it over to Trooper Kelly.
Q. And what did he do with it? A. He processed it for fingerprints.
Q. You say that after the ladder came into the possession of the State Police it was taken apart, the nails drawn out and it was taken apart? A. Yes, sir; it was.
Q. And were all the nails drawn out? A. Not all them; no, sir.
Q. How many of them were? A. All except three, I believe.
Q. And were the cross rungs taken off? A. Yes, sir; they were.
Q. And then they were put back? A. Yes, sir; they were.
Q. I understood you to say that the light-colored piece of wood which shows on the righthand side of the ladder as I look at it from here was not on the ladder that night? A. No, sir; it was not.

Q. That has then been put on there since you found the ladder? A. It has.

Q. And it was not a part of the ladder at the time it was found? A. No, sir; it was not.

Mr. Pope: We object to the introduction of the ladder at this time; several reasons. In the first place, its custody has not been traced, down to the present time. We don't know who has had an opportunity to play with this ladder, toy with the ladder or to change it or alter it. And, in the second place, it definitely appears from the testimony of this witness that in several respects the ladder is not now in the same condition that it was at the time it was found, namely, that some of the rounds have been removed from the ladder, that it has been taken apart, that nails have been drawn out of it. In addition to that, they also tell us that there is now attached to the ladder a piece of light wood which was not on the ladder at the time it was found and was not a part of the original ladder. We insist that before this ladder is evidential, if it is ever to be admitted in evidence, that its custody and possession must be traced carefully through every hand that had possession of it from the moment that it was found on the Lindbergh Estate down to its production in court today.

We have a further objection to the admission of the ladder at this time. There is no evidence here at this time to show, nor is there any circumstance in evidence which tends to show, that this ladder was used for the purpose of entering the Lindbergh house that night.

The Court: (Stepping to the ladder) Mr. Pope—

Mr. Pope: Yes, I am coming.

The Court: Mr. Pope, is that the piece of wood that you have been talking about that was not on the ladder but now is (indicating)?

Mr. Pope: That is what the witness says.

The Court: Yes.

Mr. Wilentz: He has explained the reasons for it, if your Honor please.

The Court: Yes, I understand that.

Mr. Wilentz: All right.

The Court: I understand that.

Mr. Pope: I also notice that there are, if your Honor please, several tags with numbers on them on the ladder.

Mr. Wilentz: That has been called to the attention and explained, if your Honor please.

Mr. Pope: And that there has been a piece sawed out here (indicating).

Mr. Wilentz: That is the one referred to and explained.

The Court: If counsel is finished—

Mr. Pope: And that there is apparently a

piece of wood missing from the bottom of one of the three sections.

I also observe that the ladder is bound on the side with pieces of white string, and that it is also tied up near the top, or that there is tied to it a dowel pin, which is not shown to have been its condition at the time it was found.

The Court: It may well be that it is desirable before this ladder be actually offered in evidence that it be made to appear, so far as counsel are able to make it appear, in whose custody this ladder has been, and what has been done with it. I am not saying now that such proof is absolutely essential to the admission of the ladder in evidence; I am merely indicating to counsel that it might be desirable to present such proof as counsel are able to present upon those aspects. But in order that that may be done, I think the ladder should be marked for identification, so that it will be subject to the examination of such witnesses as counsel see fit to call and call it to their attention.

Mr. Wilentz: Then, if your Honor please, I offer it for identification.

The Court: It may be marked for identification.

Mr. Pope: May we have the number, please?

The Reporter: S-32 for identification.

Mr. Wilentz:

Q. Three sections of the ladder will be marked as one exhibit for identification, is that it?

Q. Now, officer, did you also find a dowel pin there? A. There was a dowel pin in the ladder which has been connected.

Q. Connected with— A. With another section.

Q. That is, two sections of the ladder were some way connected with a dowel pin? A. Yes, sir.

Q. Is that what you mean? A. They had been.

Q. They had been and you also brought in the dowel pin, didn't you? A. Yes, sir; it is in the ladder.

Q. You brought the ladder to which you refer and the dowel pin into the Lindbergh home, didn't you? A. I did.

Q. When you talk about a dowel pin, you talk about a connecting rod, isn't that it, between, in about there, where one section joins another section of the ladder? A. That is correct.

Q. That makes two sections when they are joined? A. Yes, sir.

Q. Then, if there is another section to be joined by a dowel pin, that is at the other end of the section, is that so? A. Correct.

Q. Then, of course, when a dowel pin connects this one section with the other, it folds in together, then, doesn't it, if it is built that way? A. Yes, sir; they suspend, make an extension.

Q. Now, you turned over the ladder and the dowel pin which you found out there that night to Trooper Kelly for processing? A. Yes, sir; I did.

Mr. Wilentz: All right, I will offer this dowel pin for identification.

The Reporter: Exhibit S-33 for identification.

(The dowel pin is marked S-33 for identification.)

Q. You also found a chisel there that night, did you not? A. I did.

Mr. Pope: We object to the leading questions. Ask him what he found, Mr. Attorney General.

Mr. Wilentz: Thank you, Mr. Pope.

Q. As I understand it, you have also testified that you found a ladder and a dowel pin. What else did you find? A. I found a three-quarter inch wood chisel.

Q. And what did you do with it? A. I also turned it over to Trooper Kelly.

Q. Is this the chisel which you found? A. Yes, sir; it is.

Q. And this chisel you turned over to Trooper Kelly, too? A. I did.

Mr. Wilentz: I offer this chisel which the witness says is the chisel that he found there for identification.

(The chisel was marked S-34 for identification.)

Q. And S-34 you also turned over to Kelly, is that it? A. Yes, sir.

The Court: Is there no objection to the chisel?

Mr. Wilentz: It is just for identification. I have not offered it.

Q. I show you a picture of what purport to be some bushes and some woods and ask you whether you recognize that at all? A. Yes, sir; I do.

Q. What does that show? A. That shows a spot very closely to where the ladder was laying.

Q. Does that show the grounds upon which the ladder was lying when you got it? A. Yes, sir; it does.

Q. The ladder, the chisel and the dowel pin? A. Yes, sir.

Q. Does it include that spot where the third section of the ladder was lying? A. It does.

Q. So that this is a part of the Lindbergh Estate as I understand it and particularly that part where you found the ladders and the chisel? A. Yes, sir.

Q. And it correctly shows that part of the estate, is that it? A. It does.

Mr. Wilentz: That I offer in evidence.

Q. While counsel is looking at this picture, will you tell us how far away from the house that bush is that you see there, the nearest bush as you face the picture?

Mr. Pope: No objections to the picture, but we object to the caption marked on the bottom of it. If it is obliterated, we have no objection.

Mr. Wilentz: We will have the gentleman on in a few minutes, if you don't mind, who took it, to explain it. If you want it mutilated, however, I have no objection.

Mr. Reilly: No, let it go.

The Court: If there is no objection, it will go in and be marked as an exhibit.

(Photograph is received in evidence and marked Exhibit S-35.)

Q. How far away I think I was asking you, how far away from the southeasterly corner of that house is that bush? A. Approximately 70 feet.

Q. That is the bush known as Exhibit S-35, the nearest one to the house?

Mr. Pope: S-35? What was S-34, the chisel?

Mr. Wilentz: Yes.

Q. And the S-35 which is in evidence, the exhibit, as you look at it and as the jury would look at it, presents the same view a person would have if he looked from the house towards the bush, isn't that right? A. Exactly.

Q. Though it doesn't show the house there. A. No, it doesn't. It is looking away from the house.

Q. In other words, right from the picture toward the house is about how far? A. About seventy feet.

Q. Yes, sir.

Mr. Wilentz: You may have the witness, sir.

Mr. Reilly: Will you be agreeable to a five minute recess to get some fresh air in here?

Mr. Wilentz: Yes, sir.

The Court: Yes. And I wish to speak with counsel.

The Court will take a recess for five minutes and the jury may retire if they wish to.

(Five minute recess taken at 3:14 o'clock.)

(After a short recess.)

The Court: The Clerk will poll the jury.

(The jury was polled and all jurors answered present.)

The Court: Now, gentlemen, you may proceed, when you are ready.

Mr. Peacock: The Attorney General will be here in a moment, your Honor.

The Court: Well, no haste, no haste at all.

Cross-Examination by Mr. Reilly:

Q. What time did you get— Detective, is it, a detective? A. Yes, sir.

Q. What time did you get there? A. Approximately 11:15.

Mr. Reilly: I will suspend a moment until the jury look at that photograph.

Mr. Wilentz: What is that?

Mr. Reilly: They are looking at the photograph.

The Court: I do not understand.

Mr. Reilly: The jury is looking at a photograph.

The Court: Oh, yes.

Q. And when you arrived there did you enter by the front door? A. I did.

Q. Who did you see? A. Colonel Lindbergh and Trooper Wolf.

Q. Where were they? A. Standing just inside the door.

Q. Did the Colonel have his rifle with him then? A. He did not.

Q. Did you see any of the ladies of the household? A. Not just then, no.

Q. Did you see the butler? A. Not at that time.

Q. From the entrance hall where did you go? A. I went right up the stairs to the nursery.

Q. Were the lights on in the nursery? A. They were.

Q. Now, is it correct in saying and will you so testify that in the nursery there was a crib; is that correct? A. That is correct.

Q. A table in the center of the room? A. Correct.

Q. Chairs near that table? A. One chair.

Q. One chair. Where were the other chairs? A. There were several other chairs scattered around in different parts of the room.

Q. In the room? A. Yes.

Q. They were not all up against the wall or out in the room? A. No. There was a parlor chair at one end of the crib and there was another chair near the other window.

Q. The room was well furnished? A. To a certain extent, yes.

Q. A rug on the floor? A. Yes.

Q. A screen around the crib? A. Around the head.

Q. Yes. And you say eventually you found a smudge on the window? A. I did.

Q. And on the radiator top? A. Not on the window—no.

Q. Where? A. Just below the window on a black suitcase, just a scrape.

Q. Did you preserve the suit case? A. Not at that time.

Q. When did you next see the suit case? A. I have seen the suit case several times since then. I don't just recall, the next day some time.

Q. Where was it the next day? A. Still in the same position.

Q. Who took it away? A. That I can't say.

Q. When did you next see it? A. Oh, I saw it often then during the time I stayed there.

Q. Have you seen it lately? A. Not recently, no.

Q. Where did you last see it? A. In the nursery.

Q. And since it has been removed from the nursery you have never seen it. A. No, I haven't.

Q. Now, you say there was a smudge on the floor. A. Yes.

Q. How far away from the window? A. Just below the suit case on the floor. The rug did not extend that far and the first smudge was on the wooden floor.

Q. Were you there when some photographs were taken? A. No, I was not.

Q. Did you point out that smudge to anyone? A. It was called to the attention of Trooper Kelly in my presence.

Q. By whom? A. By Trooper Wolf.

Q. Was that the only smudge in the room? A. No, there was another smudge.

Q. Where? A. About midway of the rug, midway between the window and the crib on the rug.

Q. Was that called to anyone's attention? A. Yes, it was the same all at once.

Q. Was Colonel Lindbergh in the room at the time it was called to the attention of Trooper Kelly? A. Yes, he was.

Q. Did you see Kelly take fingerprints from the ladder? A. I did.

Q. Did you see him take any fingerprints or try to take any from the crib? A. No, I didn't. I understood it was taken later.

Q. By whom? A. By Trooper Kelly.

Q. Did he take or try to take fingerprints from anything in the room except the window sill and the ladder? A. I understand everything in the room was printed.

Q. Everything in the room was tested for fingerprints? A. It was.

Q. By Kelly? A. It was.

Q. Correct? A. That's correct to the best of my knowledge.

Q. Did you examine the windows? A. I did.

Q. What was the condition of the French window? A. All the windows were closed, the French window, the shutters were locked.

Q. How about the window itself? A. That was closed.

Q. Locked? A. No, it was not locked.

Q. Closed? A. Closed.

Q. Does it lock on the inside? A. It does.

Q. What kind of a lock, a bar lock? A. Lock similar to these windows.

Q. A throw lock? A. Yes.

Q. Throw over? A. Just swing it around.

Q. The other two windows in the room were open as far as the catch was concerned? A. As far as the catch was concerned, yes.

Q. Did you examine them? A. Just glancing over.

Q. Did Kelly make any effort to take any fingerprint from the catch, the thumb catch of either one of those windows? A. Yes, he did.

Q. Did he get anything from it? A. No; there was just a smudge there, but no distinct print.

Q. A smudge on what? A. Just near the latch on the glass.

Q. Inside or outside? A. It was outside.

Q. A smudge on the glass outside? A. Yes,

Q. Did you preserve the glass? A. It was not necessary; there was no—

Q. No, I didn't ask if it was necessary or not. Did you preserve it? A. It is still there, so far as I know.

Q. It was not taken out and preserved for evidence? A. No, there was no necessity for it.

Mr. Reilly: I move to strike that out as a voluntary conversation.

The Court: I didn't get it, Mr. Reilly. Let the stenographer repeat it.

(Last question and answer read, as follows:

"Q. It was not taken out and preserved for evidence? A. No, there was no necessity for it.")

The Court: Strike out "there was no necessity for it," as not responsive to the question.

By Mr. Reilly:

Q. How long did you remain in the nursery the first time? A. Long enough to talk to Colonel Lindbergh and Miss Gow.

Q. About how many minutes? A. I should say anywhere up to 20 minutes or a half hour.

Q. Where was Miss Gow, do you know where she was in the house when they sent to her to come to the nursery? A. I believe she was in the living room, with Mrs. Lindbergh and Mrs. Whateley.

Q. Downstairs? A. Downstairs.

Q. Did you see the butler there? A. After I had gone downstairs, yes.

Q. You didn't see him when he came in? A. No, I saw no one but Colonel Lindbergh.

Q. What size shoe did the butler wear? A. I never questioned him as to that.

Q. Wasn't everybody in the house that night, with the exception of the Colonel and his wife, under suspicion?

Mr. Wilentz: I object to the question if, your Honor please.

Mr. Reilly: I think it is perfectly proper cross examination.

The Court: Well—

Mr. Reilly: Here is the footprint in the mud and people around the building.

Mr. Wilentz: That is not the question, whether there was a footprint in the mud or people around the building; the question is whether or not anybody and everybody around there wasn't under suspicion. Now, if your Honor please, I think that necessarily reflects upon a limited number of people. I should say—

Mr. Reilly: Well, there isn't any doubt but what it reflects upon a limited number of people. We had justification for it. Here is a footprint—

Mr. Wilentz: Well, just a minute now. My distinguished adversary—I disagree with my distinguished adversary; I say he has no justification for it and that is just the purpose of the objection, and I say up to this time there is no cause or warrant for that sort of a question. I think if the question was intended to show that if these officers should have questioned everybody in sight, that is all right, but to say that there was suspicion upon everybody, if your Honor please, is stating something that is not warranted.

Mr. Reilly: I say that in a case of such monumental importance as it occurred that night this officer knew the minute he arrived, as a trained detective, and as every detective knows, that excluding the father and mother of that child everybody that night should have been under suspicion; and I ask him now whether or not he knows the size of Mr. Whateley's shoe. Because it is quite possible cross examination may develop that this might have been the size of Whateley's shoe.

Mr. Wilentz: I have no objection to that, the size of Mr. Whateley's shoe. That is different than what was asked about suspicion.

Mr. Reilly: I am driving up to that.

Mr. Wilentz: Pardon me.

The Court: How can this witness possibly know whether anybody in that house was under suspicion or not?

Mr. Reilly: From a police viewpoint.

Q. Well, take off the word "suspicion". Subject to questioning, am I correct about that? Everybody in that house was subject to questioning, am I correct? A. Naturally they were.

Q. You didn't know this English butler, did you? A. No.

Q. And you didn't know his English wife, did you? A. No.

Q. And you didn't know the English nurse maid, did you? A. No.

Q. And you had no reason to believe in their integrity until you investigated them, is that correct? A. That is correct.

Q. And you were there to put everybody under investigation except the Colonel and his wife, weren't you? A. To a certain extent, yes.

Q. To a certain extent. And you found a foot print, didn't you? A. I did.

Q. And you knew it wasn't the Colonel's footprint, didn't you? A. And I knew it wasn't the butler's foot print.

Q. Did you take him out and measure it? A. I questioned him.

Q. Never mind about questioning him. Did you take his shoe off and try to fit it in there? Did you? A. No, I did not.

Q. Because you asked a man what size shoe he wore you came to the conclusion that was not his foot print, is that it? A. I knew he hadn't been out there.

Q. Did you see this house before you were sent for? A. No.

Q. How did you know he wasn't out there? A. I had his word for it.

Q. Oh, you took his word for it? You took the word of the man who has since died that he hadn't

gone outside the house, is that it? A. That is correct.

Q. When you saw the woman's footprints, did you take anybody's word for it as to who was outside? A. Yes.

Q. Who? A. Mrs. Lindbergh's.

Q. Did you take Betty Gow's word? A. She hadn't been out.

Q. You don't mean to say you asked Mrs. Lindbergh whether she was outside the house in the mud? A. I did.

Q. You wouldn't accuse Mrs. Lindbergh of anything?

Mr. Wilentz: He is not accusing of Mrs. Lindbergh of anything and the question is unwarranted. He says Mrs. Lindbergh told him about the footprint not being hers.

Mr. Reilly: He said nothing of the kind.

Mr. Wilentz: I so understood.

The Court: There seems to be nothing before the Court. You may proceed.

Q. You came to the conclusion, didn't you, as a detective that something had stood in the ground where there were two holes? A. I did.

Q. How long have you been a detective? A. I have been an officer about nine and a half years.

Q. How long a detective? A. About three and a half—four years.

Q. You came to the conclusion that something stood in the mud? A. Naturally, yes.

Q. Sticks or something? A. Correct.

Q. You saw a footprint right near it? A. I did.

Q. You wanted to know whose footprint it was?

A. Naturally.

Q. You knew it wasn't the Colonel's, didn't you? A. I knew it was none of the men that was found there that night.

Q. But you didn't measure the butler's footprint, did you? A. I had his and the Colonel's word that he hadn't been outside.

Q. Why, did you know that the butler was alone in that house on the ground floor for two hours while his wife and Betty Gow were upstairs? Did you know that?

Mr. Wilentz: Just a minute. I object to the question because it is not a fact that he on the first floor alone for two hours. The testimony in fact is to the contrary, that during the time that he was down on the first floor when these maids were upstairs Mrs. Lindbergh and the Colonel were both on the first floor. That is the testimony.

Mr. Reilly: I am talking about servants and you know I am talking about servants.

Mr. Wilentz: Oh, no.

Mr. Reilly: And you know I am excluding the Colonel and his wife.

Mr. Wilentz: Oh, no.

Mr. Reilly: All right, if I am ambiguous, let us go back. Let us get back to the servants in the house.

Q. Did you know that night that this child was for two hours from eight o'clock until ten, as far as any servants were concerned, absolutely alone; did

you know that? A. As to the questions of servants, yes.

Q. Well my goodness, you don't believe everybody that you question when you are sent out to investigate a crime, do you? A. I take a statement from them then investigate.

Q. And if you like the statement, you believe it, is that it? A. No.

Q. Well did you subsequently find out that Whateley the butler, for two hours was down in the kitchen or the reading room out of sight of Colonel Lindbergh and Mrs. Lindbergh, his wife, and Betty Gow, did you?

Mr. Wilentz: Now just a minute. That does not appear to be so.

Mr. Reilly: That is the evidence.

Mr. Wilentz: If your Honor please, that is why I object to it, because it does not appear to be so. It is an unfair question. There is no evidence he was out of the sight of Colonel and Mrs. Lindbergh for those two hours or one hour. The testimony is, in fact, that Miss Gow and Mrs. Whateley went upstairs at nine. They were there at ten. At that time Whateley was downstairs. Whether he was at that time out of sight of Mrs. Lindbergh and Col. Lindbergh I don't recall what the testimony is, except I know there is no testimony that says he was out of their sight all during that time.

Mr. Reilly: Well the evidence, as I recall it, was that the Colonel and his wife were having dinner; they were waited upon by Mrs. Whateley. They were out of sight of the kitchen. They were out of sight of the servants' quar-

ters. After dinner they went in the library, sat in the lounge. After a while she went upstairs. The Colonel went to draw a bath and Whateley was as far as we know in the servants' quarters reading his book in their reading room.

The Court: Now what is your question?

(Question repeated by the reporter as follows: "Q. Well did you subsequently find out that Whateley, the butler, for two hours was down in the kitchen or the reading room out of sight of Colonel Lindbergh and Mrs. Lindbergh, his wife, and Betty Gow, did you?")

Mr. Wilentz: May I just add the further thing, if your Honor please, to indicate how conclusively wrong that is, that if there is any testimony at all about Whateley, Whateley is the man that served the dinner to the Colonel and Mrs. Lindbergh.

The Court: The question seems to be as to whether or no this witness knew certain things.

Mr. Wilentz: Whether he knew?

The Court: Yes.

Mr. Wilentz: That is different. I withdraw that then. Did he know that?

The Court: And I suppose that it is competent for him to say whether he knew it or didn't know it.

Mr. Wilentz: I withdraw the objection then.

By Mr. Reilly:

Q. Will you answer the question? A. What is the question?

Q. Did you know that Whateley was out of sight for some portion of time during that evening from eight to ten, out of sight of his wife and out of sight of Betty Gow and out of sight of Colonel and Mrs. Lindbergh? A. He was out of sight to a certain extent. He was reading in his sitting room.

Q. Well, did you ask him what he was reading? A. He was reading a magazine, the Saturday Evening Post, if I recall.

Q. You don't absolve people because they give you some answers to questions, do you? A. No. But I found all his statements to be correct.

Mr. Reilly: I move to strike that out as not responsive and voluntary.

The Court: Strike it out.

Q. Now, will you answer the questions only. You have been testifying for how many years? A. As long as I have been an officer.

Q. Yes. Nine years. And you have been trained to give answers with a little added to it, haven't you? A. No, I have been trained to tell the truth, that is all.

Q. Will you please answer the questions, and just the questions. Let's get that. When you came out on the ground did you walk around the catwalk? A. I did.

Q. And you had a flashlight? A. I did.

Q. And then you say off on the side you found this ladder that you have described as finding there? A. It had been more or less pointed out to me by Colonel Lindbergh from the nursery window.

Q. Colonel Lindbergh pointed something out to you from the nursery window? A. He said, "A ladder lays out there a ways."

Q. He didn't go downstairs and show you the ladder? A. No. Trooper Wolf also told me he had seen it.

Q. Have you handled this ladder? A. I have.

Q. What does it weigh? A. Approximately forty pounds.

Q. Forty pounds. And you say you found it in two sections, partly joined together, and one section some distance away? A. That is correct.

Q. Did you pick it up? A. I did.

Q. Where did you take it? A. I took it in the living room, two sections, and then went back and got the third section.

Q. Carry anything else besides the two sections when you first carried them in? A. No, I did not.

Q. Then you went out and brought in the third section? A. I did.

Q. Well, now, how long did you remain around there that night? A. I was there—I left there about 3:25 I guess, or 3:20, somewheres around there.

Mr. Reilly: Now, General, you intend to call Kelly?

Mr. Wilentz: Yes, sure.

Mr. Reilly: So that I shall not go on longer with him.

Mr. Wilentz: Certainly.

Mr. Reilly: That is all.

Mr. Wilentz: Oh, just one question.

Re-Direct Examination by Mr. Wilentz:

Q. Did Colonel Lindbergh tell you who served dinner to them that evening, whether it was Mr. Whateley or Mrs.Whateley in your investigation? A. The Colonel did.

Q. Who was it that served him? A. Ollie Whateley.

(Witness excused.)

Mr. Wilentz: Trooper Kelly.

FRANK A. KELLY, sworn as a witness on behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Young man, you are connected with the State Police of New Jersey, are you not? A. Yes, sir.

Q. And you live in the City of Perth Amboy? A. Yes, sir.

Q. You have been connected with the State Police how long? A. It will be eight years the 15th of this coming August.

Q. How many years did you do plain trooper duty? A. Practically a year and a half.

Q. And as a result of some injury that you received, then you went to this work that you are doing now: isn't it? A. Identification work, yes sir.

Q. Identification. Now, you have made a study of that particular field of endeavor, I take it? A. Yes, sir.

Q. And in that connection you take photographs? A. Yes, sir.

Q. Fingerprints and things of that kind? A. Yes, sir.

Q. All forms of identification? A. Yes, sir.

Q. You have attempted to school yourself and learn as much as you could about it: is that so? And you have been doing that work for the State Police for how many years now? A. About six years.

Q. About six years. And in that capacity did you come to the Lindbergh home on the night of March 1st, 1932? A. On the morning of March 2nd.

Q. About what time? A. Five minutes after twelve.

Q. And when you got there, where did you go and what did you do, sir? A. Upon my arrival I was met at the front entrance of the Lindbergh home by Corporal Wolfe, and Colonel Lindbergh, who directed me to the nursery on the second floor of the home.

Q. When you got to the nursery on the second floor of the Lindbergh home did you see a note there? A. Yes, sir; I did.

Q. And did you take that note and test it for fingerprints? A. Yes, sir; I did.

Q. And this envelope, S-17, and the note, S-18, both of which bear your initials on them somewhere, are those the papers that you tested that night? A. They are.

Q. Was the note in the envelope? A. It was.

Q. Did you take it out? A. I did.

Q. And did you find any fingerprints there on? A. I did not.

Q. Did you use such appliances as to you or such methods as were known to you that night to the best of your ability, to try to find fingerprints? A. I did.

Mr. Pope: We object to that question; we are entitled to know what methods he used; then we will determine whether they are the best methods or not.

Mr. Wilentz: Who is going to determine that?

The Court: Well, you have the full right of cross examination in respect to that. I apprehend that the Attorney General thinks that he has qualified this officer as a fingerprint expert. Do you deny that, Mr. Pope?

Mr. Reilly: I think we will handle it under cross examination.

The Court: Very well.

Q. Those two things just referred to, you tested so far as those fingerprints are concerned? A. Yes, sir.

Q. What else did you do, sir? A. I made a general observation of the nursery, the conditions therein, noticed the crib and processed the rest of the room for fingerprints, noticed the dirt marks described by Trooper Wolf on the floor and on the leather bag directly under the window. My duties consisted of trying to take fingerprints on various parts of the articles in the nursery, photographs on the interior of the same and processing the ladder that was brought in by Trooper Bornmann for prints.

Q. With reference to your efforts in the room, did you attempt to get any fingerprint evidence in the room aside from the note? A. Yes, sir; I did.

Q. What did you process besides the note and the envelope? A. I processed the window sill, the window, inside and out, the crib, the screen, the light in back of the screen, the French windows, the window on the north side of the nursery, that is the north window on the east side of the nursery, the bureau drawers, a little chair that was at the foot

of the crib, everything in the room that it was possible to obtain a fingerprint from.

Q. Did you find any fingerprints upon those articles? A. No, sir; I did not.

Q. Now, what else then did you do later? A. I later was called down into the hall by Bornmann, who had brought that ladder in to me.

Q. When you got down to the hall, did Bornmann give you a ladder? A. He gave me two sections of a ladder. And later he brought in another section of the ladder and a chisel.

Q. And was the dowel pin in there with it? A. It was.

Q. The two that he brought in together, were they somewhat connected, the two sections of the ladder? A. Somewhat connected and somewhat disconnected.

Q. I see. Just a minute. I show you S-32 and ask you whether that is the ladder, the three sections, that Bornmann gave you that night? A. May I examine that, please?

Q. You certainly may. A. (The witness steps from the witness stand and examines ladder) Yes, sir, it is.

Q. Did you place any marks upon that ladder which lead you to the conclusion that it is the same ladder? A. Yes, I did.

Q. Tell us what marks you put on there. Point them out to us, please. A. On this wrung here I marked it No. 1 with my initial, F.K.; on this wrung here I marked No. 2 with my initial F.K.

Q. Yes, sir. A. On this wrung here I marked No. 3 with my initial F.K.

Q. So that upon each section of S-32 for identification you marked in your writing a number on one, No. 1, on another one No. 2, and on another one No. 3, and underneath that number you marked your initials? A. That is correct.

Q. And your initials are F.K.? A. That is correct.

Q. And you also marked, did you not, the date March 2, 1932? A. I did.

Q. On each section? A. Yes, sir.

Q. So that at least to the extent of the boards that you marked, they are the boards that were there that night and that you saw and that were given to you by Bornmann? A. Yes, sir.

Q. And are these sections the identical sections that you got from Bornmann? A. Yes, sir.

Q. And what did you do with these sections, S-32 for identification? A. I had them in my possession except when they were taken out by investigators.

Q. Well, now I want to know about it, about the "except" and the "investigators" and who they were. How long did you have them under your direct charge? A. Under my direct charge until around June, 1932.

Q. Now from March the 1st, 1932, to June, 1932, then you had them under your direct charge and sole custody? A. That is right.

Q. And when it was taken to Washington to be processed or whatever they did with it and tested, did you take it there? A. I did.

Q. And when this operation wasn't finished at night what did you do with it when you were in Washington? A. Locked up in a safe.

Q. And in the morning did you come and see that it was gotten out of that safe? A. I did.

Q. And is this the same, the genuine same thing that you had that night March the 1st, 1932, and carted with you to Washington and brought back? A. It is.

Mr. Reilly: Now you are leading, Mr. Attorney General.

Mr. Fisher: Let the witness testify.

Mr. Wilentz: If counsel has an objection I take it that Mr. Pope knows where to direct it.

Q. Not having brought it back until June, what did you do with the ladder then? A. I brought it to the training school.

Q. And there you surrendered it to whom? A. Captain Lamb.

Q. And has it been in his custody so far as you know? A. Yes, sir.

Q. And under his charge? A. Yes, sir.

Q. All right, sir.

The Court: Surrendered it to Captain Lamb?

Mr. Wilentz: Yes, sir.

Q. Now, just one other thing before we get away from S-32 for identification. Will you tell us so far as you know, so far as you remember and recollect, any differences in this ladder as you see it now from the time that you first saw it when Bornmann gave it to you? A. Those numbers were not on there.

Q. Which numbers, these little white— A. These little white numbers, these tags.

Q. The little white clips in each rung? A. That's right and these aluminum tags.

Q. These aluminum tags with the numbers? A. Nor the board on the side.

Q. The white board as distinguished from the dark and used boards. A. That's right. Nor this split.

Q. A split there which seems to be the reason for putting this white there to attach one part—

Mr. Pope: We object to that question.

A. That's right.

The Court: Perhaps it is a little leading.

Mr. Pope: Terribly leading.

A. (Continuing) And the saw cut.

Q. And the saw cut. Now where is the saw cut that you are talking about? A. On this rung.

Q. The saw cut in rung A, where there is tag Number 2 on Section 1.

Q. The cut on one of the rungs where there is a white tag Number 2 on Section 1, is that the cut you are talking about? A. Yes, sir.

Q. Now I notice a couple of holes on top; were they there? A. Yes, sir.

Q. I notice the top rung as we look at it now is separate from the sides of the ladder. Tell me whether that presented that appearance, the nails being out. A. As far as I recall, yes, it does.

Q. Now, sir, I notice these little white— what are they, thumb—some sort of— A. Some sort of a thumb tack.

Q. Thumb tack on Number 2 with your initials on? A. Yes, sir.

Q. It is Number 2 section of the exhibit we are referring to and I ask you whether those thumb tacks were there? A. No, sir; they were not.

Q. Now, what else besides that and these metal clips? A. These ropes.

Q. The metal clips and the ropes were not on. How about the indentations, other indentations? A.

Other than the rope and thumb tacks and aluminum tags the ladder was as I have stated.

Q. Well, as you have stated, you mean the same as you found it? A. The same.

Q. How about these holes on top? A. They were in there.

Q. Now, get to the next section, Section 3 as you have it marked with your initials "F. K." I notice that the same sort of white thumb tacks were on there. Were they there that night, the white thumb tacks? A. No, sir.

Q. Who put them on? A. They were put on at Washington when I brought the ladder there.

Q. And these little clips, were they on? A. No, sir, they were not.

Q. What else besides the metal clips and thumb tacks do you see on this section that were not there that night? A. The rope.

Q. The rope, piece of cord. How about this dowel pin? A. That dowel pin was in the ladder.

Q. One of the dowel pins was in the ladder? A. Yes, sir.

Q. How about the other dowel pin? A. The other dowel pin was outside in the yard.

Q. Outside in the yard so that one dowel pin was in the ladder and the other was outside. Now except for that is there anything about that section that is different than the morning of March 2d, 1932, when it was given to you by the police officer that you referred to a minute ago? A. No, sir; there was not.

Q. Is it the same ladder? A. It is.

Q. It is. All right, sir. Then you came down, I take it, you processed this ladder? A. Yes, sir.

Q. And found no fingerprints on it? A. I did not.

Q. What did you do then? A. I returned to the nursery to continue my investigation there.

Q. All right. What did you do? Tell us about it, please? A. I continued with my fingerprint work there in the nursery and taking photographs in the nursery.

Q. Yes, sir; and having done that, what did you do then? A. I noticed during this investigation that there was a leather case on top of a wooden chest directly under this window, the southeast window. There was a marking of dirt—

Q. Yes. A. On, facing the leather case on the lefthand side, apparently a slide—

Mr. Reilly: I object to the apparently.

The Witness: It was my opinion at that time—

Mr. Reilly: I object to your opinion.

The Court: Well, just tell us what you found.

The Witness: This dirt mark on the leather case. Directly under that on the floor there was another dirt mark.

By Mr. Wilentz:

Q. Just wait one minute. We will identify the leather case which you are talking about, which I think has already been done. I show you Exhibit S-11. You notice a leather case there right near the southeast window? A. Yes, sir.

Q. Is that the leather case you are referring to? A. It is.

Q. It is the very nearest to the window sill? A. Yes, sir.

Q. You say you saw some dirt smudge— Is that what you said? A. Yes, sir.

Q. All right. Now, on what part of the leather case was the dirt smudged? A. Facing the leather case it was on the lefthand corner.

Q. And as you look from the window was it the far corner? A. Looking from the window with my back to the case?

Q. Well, was it the nearest side of the case to the window or the farthest side? A. The farthest side.

Q. The farthest side? A. Nearest to the crib.

Q. Yes, sir. All right. Then what did you do, sir? What else did you see, rather? A. I noticed on the floor directly under that there was a dirt smudge.

Q. Yes. A. And in the middle of the floor, going in a direction to the crib from the window there was another dirt marking on the floor.

Q. Did you test those? Did you make any test at all with reference to those dirt smudges? A. They were similar to the substance that was in the yard.

Q. Well, did you make any test with reference to them of any kind at all? A. Other than noticing the color of the dirt in the yard and the color on the floor, that was the only test that I made.

Q. Now, then, what did you do, sir? A. I continued my investigation the following morning, as soon as it got light outside.

Q. Yes. A. And made photographs of outside conditions.

Q. As the result of some notice that was directed to you did you take this picture (showing to witness)? A. Yes, sir; I did.

Q. What date? A. The morning of March 2d.

Q. 1932? A. Yes, sir.

Q. And that is a picture of part of that ground

and what is supposed to show as it did show on March 2d, 1932? A. Yes, sir.

Q. Referring to S-31 for identification. Now, referring to S-6 for identification, did you also take this picture of the board walk? A. I did.

Q. And that is a true picture of conditions as you saw them on March 2d, 1932, early in the morning? A. It is.

Q. With reference to the board walk and on the east side? A. Yes, sir.

Mr. Wilentz: I offer S-6 in evidence.

Mr. Hauck: I understand there is no objection to that. Have it marked.

Mr. Wilentz: I offer S-31, while counsel is looking at the other, S-31 for identification in evidence. I understand there is no objection.

The Reporter: S-36 in evidence.

The Court: S-31 is admitted, there being no objection.

Mr. Wilentz: Yes, sir.

(State Exhibit S-31 for identification is now received in evidence and marked State Exhibit S-36 in evidence.)

The Court: How about the other?

Mr. Wilentz: It is offered without objection.

The Court: The exhibit will be admitted.

The Reporter: S-37 now.

Mr. Wilentz: S-36 and S-37.

(The photograph referred to was received in evidence and marked S-37.)

Q. Now, did you— I notice that S-36 is the picture of a footprint. Did you do anything about encasing it? A. No, sir, I did not.

Q. Did you do anything about preserving it? A. It was preserved when it was pointed out to me.

Q. In what fashion? A. Under the supervision of Lieutenant Lang.

Q. In what fashion? A. Lieutenant Lang was in custody of it to see that nobody destroyed it or tampered with it in any way.

Q. In other words, you mean that somebody was guarding it so far as you know? A. That is it.

Q. I see, but you did nothing of your own account to test it, measure it, preserve it, encase it, or anything else? A. No, sir.

Q. So that, so far as this exhibit is concerned, you know nothing about it except what this picture shows? A. That is it.

Q. With reference to the dowel pin attached to one of the sections—

Mr. Wilentz: May we consider that, for the purpose of identification, as part of the section?

Mr. Reilly: Yes.

Mr. Wilentz: Rather than offer it again?

Mr. Reilly: Yes.

The Court: John, let me see that photograph there about the footprints?

(The exhibit was shown to the Court.)

Q. Now, did you also see Exhibit S-34 for identification, the chisel—I understood you to say you did see it—did you test it for fingerprints? A. Yes, sir; I did.

Q. Found none on that? A. No, sir; I did not.

Q. Did you test the dowel pins, the one attached to the ladder a part of the exhibit for identification there, and also this identification, Exhibit S-33 for identification, for fingerprints? A. Yes, sir; I did.

Q. Now, was the ladder which Lieutenant Bornmann gave to you on the premises assembled together in three sections? A. No, sir; it was not.

Q. I mean eventually was it put together? A. Oh, yes.

Q. Was it put together in your presence, the very ladder that was there? A. Yes, sir.

Q. And was it placed against the house? A. It was.

Q. Now, when it was placed against the house, the three sections together, on the east side of that house— A. Yes, sir.

Q. At the point where that ladder touched the house were there any marks at all, the top section? A. Yes, there was.

Q. On the third section? A. On the second section.

Q. Well, first time taking you with the three sections? A. No.

Q. The third section, when placed up at the top of the house—were there any marks there? A. No, sir.

Q. Anywhere within the vicinity of that area? A. No, sir.

Q. Now, then, did you take the ladder with the first two sections, put it together, place it against the wall near that window, and did it show—

Mr. Reilly: I object to that. That is very leading.

Mr. Wilentz: I will withdraw it if it is leading.

The Court: He is going to reframe his question.

Q. I will reframe it. What did you observe when you did that? A. I observed that at the top section, that is, the top of the second section, where the ladder had rested against the wall of the house, that there were markings, that is the width of the ladder about an inch and a half to two inches above that top section of the second ladder.

Q. I don't understand about that inch and a half that you are just talking about. A. Placing the ladder—

Q. First when you placed the ladder did you place the ladder in the indentation shown near the board walk in Exhibit S-37? A. I did.

Q. That is where you rested the ladder? A. Exactly.

Q. All right. Now, were the two sections of the ladder and were the foot of the ladder there in those two holes— By the way, did they fit? A. Exactly.

Q. All right, sir. Then since it did fit you put it against the house at that point? A. I did.

Mr. Reilly: Again you are leading. I am sorry, but my brothers of the Bar are so nervous from your leading I must object.

Mr. Wilentz: I think maybe you are right, but sometimes in our enthusiasm— we forget.

Q. Did you take a picture of the ladder as you placed it at that time? A. I did.

Q. Is this the picture of the ladder as you placed it with the two pieces of wood in those holes shown in Exhibit S-37? A. It is.

Q. Does that correctly portray the ladder placed against the east side of the house, the bottom part of the ladder in the indentations shown in S-33? A. It does.

Mr. Wilentz: I offer it in evidence.

Q. And is it incidentally a picture of these two sections? A. It is.

Mr. Reilly: We object to it.

The Court: Object?

Mr. Reilly: We do.

The Court: On what grounds?

Mr. Reilly: On the ground that it does not conform to the testimony heretofore given. It shows a window of a third floor, apparently the nursery, with the shutters off, window open, the general condition not as heretofore testified to.

The Court: Well, it purports to be a photograph of an experiment. Do you put your objection upon that ground?

Mr. Reilly: Yes, sir. Also upon the ground

that it portrays and might portray and convey to the jury a wrong impression. It does not conform to the evidence as given heretofore, the physical condition of the outside of that house.

Mr. Wilentz: If your Honor please, it is offered for the purpose of illustration. It is intended to be helpful to the Court and to the jury, and there is nothing about that except the open windows— It is the same ladder, it is the same house— and there is nothing about that picture that the Court cannot instruct the jury about if it so happens that it should escape their memory, the fact that the windows we claim were closed at the time. But I think that it will be helpful and I don't see why there should be objection if it is going to be helpful.

Mr. Reilly: Whether it is helpful or not we are relying upon the strict rules of evidence. I think there we are perfectly within our rights.

The Court: I suppose the true rule is that either side has a right to make an experiment under substantially the conditions which are of interest to the case and to prove the result of that experiment. That is the rule; but this proposition seems to be rather an extension of the rule and I would think that at the moment I ought to sustain this objection.

Mr. Wilentz: Well, if your Honor pleases, before there is anything like that, let me state very respectfully, that I cannot see how it is anything but a simple experiment and not an extension of the rule; because we have not only the same house, but we have not brought a

strange ladder on the theory that someone may have brought one to fit; we have the very same ladder, the very indentations there, the same house, everything identical, except for the physical fact that a window may have been closed or opened, which is a minor matter after all; and with those very things— we are not taking a strange object and bringing it in, if your Honor pleases, not one single strange foreign object, for the experiment, which is a very unusual thing for an experiment, but the very objects there on the ground. Now, if we are permitted to make any experiment at all, if your Honor please, for the purpose of helping the jury and for the purpose of your Honor's help, we have certainly used only those things that are there, without a foreign object.

Mr. Reilly: Well, of course, it is not our purpose to keep anything from the jury or to prevent the Court, who needs no assistance, from getting assistance, but I say this: If I may look at the photograph, there is no evidence in this case, either direct or, to my mind, circumstantial to this case, that that child was passed out that window and down any ladder or down this ladder, and I contend that this is merely an experiment with a ladder found seventy-five feet away, brought to the house and place in some holes; the shutters are taken off the house, off the window; the window is left open, to convey to this jury an improper idea that by the window being open and the shutters out of the way and the ladder placed the way it is here in this imperfect experiment, it would be possible to go up the ladder only once, go up the ladder, put the ladder against the shutters, open the shutters with the ladder

leaning against them, come down, then with your window open go up the ladder again without moving the ladder, go in a window, take the child out and come down the ladder again, and still shut the shutters after you, and leave a note, your visiting card, on the radiator.

Mr. Wilentz: If your Honor please, may I suggest to my delightful adversary's summation that this ladder when placed in the manner that we are attempting to show it with the two sections, and I don't want my adversary to get impatient, because we will show it, placed roughly—

Mr. Reilly: I am not getting impatient.

Mr. Wilentz: —placed right up against that building, is placed in such a way that it never approaches the shutters and the shutters have got nothing to do with it. Underneath the window it falls, when you place the ladder in the two holes, indentations, the shutters are no obstruction at all, having nothing to do with this case. Here is this building and that is the more reason I think this experiment is necessary instead of being a matter of argument here is an experiment, an illustration. Let him take that ladder and take that view and situation as an experiment and let him explain it away.

Mr. Reilly: Now it seems to be the contention of the General that he brings in a ladder of three sections of which only two were used.

Mr. Wilentz: That's right; we will prove that.

Mr. Reilly: That is entirely different from his opening.

Mr. Wilentz: No, it is not.

Mr. Reilly: Oh, yes, it is. "I will bring in a ladder of three sections" up which you say this kidnapper went. Now you are trying to hedge and say he went up two.

Mr. Wilentz: No. Counsel does not need to hedge. We will prove that this ladder as I said in my opening was used. We have it in the court room and the defense is hollering about keeping it out, not the State.

Mr. Reilly: That is very unfair.

Mr. Wilentz: No. You say we are hedging. I want to show you there is no hedging, the very ladder and we will show that that was used in the kidnapping and the murder.

The Court: Well, I am inclined to think at this moment that the State should be confined to proof by the witnesses who can speak concerning what sort of an experiment was made, and he may state the result of that experiment subject to the Court's ruling, and after all that is done, then if there seems to be any necessity for the picture of this experiment, then we will rule on the picture.

Mr. Wilentz: Thank you, sir, and I withdraw the offer.

Q. And, Kelly, tell us then, please, just exactly what you did in this experiment? A. In this experiment, I placed the ladder with two sections, with the lower part of it resting in these two marks that were found.

Q. The marks are the marks referred to in this exhibit that is in evidence, S-37? A. Yes, sir.

Q. All right. A. And found that after the bottom section was placed in those marks and the top part of the ladder rested against the house.

Q. Yes. A. Upon examination I found that where this ladder, the top section of the ladder rested against the house, that directly over the top two rungs, or the braces on the side, there were two marks about an inch and a half to two and half inches long that could in my opinion be cause—

Mr. Reilly: I object to your opinion.

Q. Not in your opinion, what did they do with them right with the ladder? A. They were right with the ladder; yes, sir.

Q. On the house? A. On the house.

Q. Are you talking about marks on the wall of the house? A. I am talking about marks on the wall of the house; yes, sir.

Q. Yes, sir. What kind of marks were they? A. Ladder marks.

Mr. Reilly: I move to strike that out as calling for a conclusion, unless the ladder in his experiment made the marks.

The Court: I decline to strike it out.

Mr. Reilly: May I have an exception?

The Court: You may have an exception.

(Exception allowed and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. And, now, did you also make an experiment with three sections, the three sections that you found there? A. Yes, sir.

Q. And what did you find when the ladder with three sections was placed against the building? A. It went up above the window.

Q. And, when it went up above the building, were there any marks on the wall there? A. No, sir.

Q. None at all? A. No, sir.

Q. All right, sir; now, when you got up to this second— with the ladder, the two sections, did you take a look at the shutter? A. Yes, I did.

Q. What kind of material was on the side of this house, what was it built of on the east side? A. stone.

Q. What color was the stone? A. White.

Q. What sort of white was it? A. I would say whitewash, it was painted with a whitewash or white paint.

Q. Were the marks that you speak of, that you saw when you placed the two sections of the ladder up against the house the marks that you referred to before as ladder marks, were they plain? A. Very.

Q. Tell us with reference to color what color it left with reference to the white? A. A scraping mark in the white paint.

Q. Well, having had these scraping marks, did it leave white there or a different color? A. The gray of the stone showed through jut a little bit, but the—

Q. The gray? A. The gray of the stone house.
Q. The gray, and when you say gray, that is as distinguished from the rest of the wall, which is white, is that what you mean? A. That is right.
Q. Now, just about what part—

Mr. Wilentz: Let me have an exhibit, please, of— have you got a picture of the outside of the house in evidence?

The Reporter: No.

Mr. Hauck: Not in evidence.

Q. Will you come down, please, Mr. Kelly, to Exhibit S-2, and will you with this pencil mark just about the point with relation to that southeast window that those ladder marks that you say you saw underneath the window—

Mr. Reilly: Now, just a moment, I object to him marking those exhibits. We asked the right to mark an exhibit before and you objected to it.

Mr. Wilentz: No, I objected to tracing all the way around the map, not the marking.

The Court: It was a tracing, Mr. Reilly. It is common enough practice to allow a witness to point out a spot from a map where certain things are justified and material, and they may make a mark there which is different from a tracing, and we do not feel like denying the State the right to make such a mark, nor the defense to make such a mark.

Q. Will you take this pencil— it is a little sharper—just mark an X where you—

(Witness marks State Exhibit S-2 as indicated.)

Q. All right. Will you just return to the stand a minute? Now the X's you placed underneath the or in the vicinity of the southeast window on the second floor, are intended by you to indicate the point on the wall where you say these ladder marks were, is that so? A. That is right.

Q. I want to show you a picture of what purports to be the Lindbergh home and particularly the east side of it. (Witness examines picture.)

Mr. Wilentz: Is there any objection to the picture of the home?

Q. Did you take it, Kelly? A. I did.

Q. Some time around the time of the crime? A. March 2d.

Mr. Wilentz: Just the picture.

Q. What date, do you know? A. March 2d, 1932.

Q. March 2d, 1932.

Mr. Wilentz: I only intended to use it as the picture of the home, gentlemen.

Mr. Reilly: I know, that is the picture of the man's home, there is no objection to it.

Mr. Wilentz: All right. We offer it in evidence, Exhibit S-38.

(Photograph was received in evidence and marked Exhibit S-38.)

Mr. Wilentz: If there is anything else on there we make no use of it.

Q. Now, can you also— I don't know whether this material is permitted— but can you with a pencil give us your notion of where those marks were, on this picture. A. I could. (Marks on picture.)

Q. Have you got that— Incidentally, that is my pencil, isn't it? All right. Will you mark it, please, the best you can? Have you marked it, sir? A. Yes, sir; I have.

Q. The X's then on Exhibit S-38 are intended to give your idea of the point at which those ladder marks were shown? A. Yes, sir.

Q. And those marks were on there, as I understand it from you, before you put the ladder up? A. Yes, sir.

Q. And when you put the ladder up is it a correct understanding to understand that they fit with the ladder the top section of the ladder? A. Yes, sir.

Q. Exactly? A. Yes, sir.

Q. Now, with reference to that particular top section of the ladder, did you notice whether there were any marks on the top of that ladder? A. When the ladder was brought in to me by Bornmann to be processed for fingerprints, I noticed on the top inside section of No. 2 that rested against the top that we are referring to now there were two white marks.

Q. That is to say then you have these in three sections, as I understand it. This S something for identification, S-32, you have these various sections? A. Yes.

Q. As I understand it, one section fits in another, isn't that it? A. Yes, sir.

Q. And you referred to them as 1, 2 and 3, is that it? A. That is right.

Q. I take it that it fits like that (illustrating)? A. Yes, sir.

Q. Then you take the other one and you fit it in, is that it? A. Yes, sir.

Q. So that one section is wider than the other? A. Yes, sir.

Q. Well, that is a common thing with a section ladder, isn't it? A. A ladder built that way?

Q. A section ladder has that sort of a pecularity? A. Yes.

Q. That is, one section is wider than the other? A. Yes, sir.

Q. And a section ladder, the wide part, is down on the ground, isn't that so? A. Yes, sir.

Q. And then as it goes up, the sections become narrower, isn't that so? A. Yes, sir.

Q. Now I suppose when you took these ladders, these sections for an experiment, you took the wide part and put it in the hole? A. Yes, sir.

Q. And then being connected—

Mr. Reilly: Will you let him testify, please?

Mr. Wilentz: Yes, sir.

Q. Did you connect it with a dowel pin? A. I did.

Q. And the second sections was connected then by dowel pin? A. Yes, sir.

Mr. Reilly: Again I must ask you to let him testify, please.

Mr. Wilentz: All right, sir.

Q. So that when you talk to us about the white marks, where were the white marks, on what section? A. On the top part of No. 2 section.

Q. On the top part of No. 2 section. What sort of white marks were they? A. That is on the side of the house?

Q. On the top of Section No. 2. A. On the top of Section No. 2 they were white marks that could have been made by paint—

Mr. Reilly: I object to that.

Q. Not what they could have been made by—what were they, according to your observation? You saw them there? A. I would say paint.

Mr. Reilly: I move to strike out he would say paint.

Q. Is that what you saw?

Mr. Reilly: Wait a minute.

The Court: Just one minute. If it is important I would have to have the question read and the answer read.

(Questions and answers read by the Reporter as follows: "Q. What sort of white marks were they? A. That is on the side of the house?

"Q. On the top of Section No. 2. A. On the top of Section No. 2 they were white marks that could have been made by paint.

"Mr. Reilly: I object to that.

"Q. Not what they could have been made by— what were they, according to your observation? You saw them there? A. I would say paint.")

Mr. Reilly: It is merely a conclusion on his part.

The Court: I think I will decline to strike it out.

Mr. Reilly: Exception.

(Exception allowed and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Mr. Wilentz: Now, if your Honor please, it is just about the closing hour and it is still quite stuffy here. Would your Honor mind, then, if we could steal these two minutes and adjourn at this time before we go into another subject?

The Court: The Court will ask everybody to remain where they are until the jury has retired. Now, please, do the people in this court room understand English?

The jury may retire and may come in tomorrow morning at ten o'clock.

The prisoner is remanded to the custody of the Sheriff.

We will take a recess until ten o'clock tomorrow morning. The audience may now retire.

(At 4:30 P. M. an adjournment was taken until tomorrow morning, Tuesday, January 8, 1935, at ten o'clock.)

STATE vs. HAUPTMANN.

FLEMINGTON, N. J., January 8, 1935.

FIFTH DAY.

Present:
Hon. Thomas W. Trenchard.

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(The jury is polled and all jurors answer present.)

Mr. Wilentz: Mr. Kelly, will you please take the stand.

FRANK A. KELLY resumed the stand.

Direct Examination (continued).

By Mr. Wilentz:

Q. Officer, you remember this nursery room, do you not? A. I do.

Q. I think there has been testimony that somewhere in the center of that room, or somewhere in the room, at least, there was a table and a chair? A. Yes sir.

Q. Was that table approximately in the center of the room, or where was it? A. It was directly in front of the fireplace and the crib; between the fireplace and the crib.

Q. Between the fireplace and the crib. Well, as I understand it there was a southeast window? A. Yes, sir.

Q. A fireplace and a northeast window; is that right? A. Yes, sir.

Q. So that the fireplace would be between the two windows and approximately in the center of the room? A. Yes, sir.

Q. And then in direct line with that, do you mean that there was a table? A. Yes, sir.

Q. And then beyond that a crib? A. Yes, sir.

Q. As you saw the crib, was it against the wall? A. Yes, sir.

Q. So that to the right and to the left of the fireplace there were windows? A. Yes, sir.

Q. What have you to say as to whether or not the table was in direct line between the southeast window and the crib? A. That is, between the window and the crib?

Q. Yes; what have you to say as to the course from the southeast window to the crib? A. You could have walked a direct line from the window to the crib with no obstruction.

Q. That is to say that the table was not an obstruction in that course. A. No, sir.

Q. I see. Now while this experiment was made with the ladder which has been referred to in this case as Exhibit S-32 for identification there was another ladder used, was there? A. Yes, sir.

Q. What ladder was that? A. It was an extension ladder that was in the garage of Colonel Lindbergh at the home.

Q. It was the Colonel's ladder, is that what you mean? A. Yes, sir.

Q. And just one other question. Did you measure the indentations in the ground, the impressions in the ground which you and others have referred to as the holes or impressions made by the ladder? A. No, sir, I didn't measure it.

Q. Did you take a photograph of the paint—I think you said there was paint or white-wash that was on top of the second rung of the ladder. A. No, sir, I did not.

Q. Why not? A. In the process of testing the ladder for finger prints that dusted off.

Q. As I understand yesterday, you stated in taking, attempting to take fingerprints in that baby's nursery, that you found none? A. That is correct.

Q. You have been in court for several days, have you not? A. Yes, sir.

Q. You heard Mrs. Lindbergh's testimony and Miss Gow's that they had been in the room? A. Yes, sir.

Q. You mean then that you found no fingerprints of anybody's? A. I mean this ——

Q. Just answer the question. A. No, sir; nobody's at all.

Q. Nobody's at all? A. No, sir.

Mr. Wilentz: Mr. Reilly, take the witness.

Cross-Examination by Mr. Reilly:

Q. Mr. Kelly, how much experience have you had in taking fingerprints? A. Six years.

Q. Where did you study? A. While I have been in the department.

Q. Under whom did you study? A. I studied this under Sergeant Jastrom, and I studied myself in various books that I have picked up.

Q. Did you ever study the Bertillon system? A. No, sir, I did not.

Q. And, are you the, what is known as the expert of the Police Department, the State Police? A. No, sir, I am not.

Q. Well, who takes the Bertillon measurements? A. It is not used, it is obsolete.

Mr. Reilly: I move the latter part be stricken out as a conclusion, "It is obsolete."

The Court: Strike it out.

Q. The Bertillon system is a system of measuring by height, breadth and general dimensions, is that correct? A. That is.

Q. Yes, it has been used for over 100 years in foreign countries and in America, hasn't it? A. I couldn't say.

Q. Did you ever study under the late Inspector Farout of New York, the late fingerprint expert? A. I did not.

Q. Did you bring with you the paraphernalia this morning for taking fingerprints? A. No, sir, I did not.

Mr. Reilly: I understood from the table here, the prosecution would have them this morning.

Mr. Wilentz: Well, if counsel wants them I will certainly get them for him some time today.

Mr. Reilly: All right.

Q. Do you think you would be able to take finger prints and give the jury an observation? A. I would.

Q. Yes. Now you want us to believe, do you, that although Mrs. Lindbergh had been in the nursery that evening, Miss Gow had been over to the medicine cabinet and the medicine table and given the child, I believe, cough mixture and had rubbed the child's chest with a jar of Vicks and had been around the medicine table, shown in the State's exhibit S-9, you could find no finger prints? A. Of value.

Q. Of anybody you testified here, of anybody; is that correct? A. That is correct.

Q. Yes. Now you know, do you not, that there are no two finger prints in the world alike. A. Yes, sir.

Q. That we each have our own individual photograph on our finger prints. A. Yes, sir.

Q. Does that also apply to the feet? A. Yes, sir.

Q. Now, when you arrived at this house I think you said it was around eleven o'clock. A. No, sir.

Q. How late? A. Five minutes after twelve in the morning of March 2nd.

Q. Five minutes after twelve. I see. And who did you see in the nursery? A. When I went to the nursery it was empty.

Q. Did anybody accompany you to the nursery? A. They did.

Q. Who? A. Colonel Lindbergh and Corporal Wolf.

Q. Was the nursery lighted or was it in darkness? A. As I recall, it was lighted.

Q. What was the first object you attempted to photograph or take fingerprints from? A. The note.

Q. Now, when you received the note it was in the envelope? A. That's right.

Q. Was it sealed? A. Yes.

Q. And how did you open the envelope? A. With a fingernail file.

Q. Now, what did you do to this envelope to try and find fingerprints from it? A. I at that time used a camel hair brush that is used by fingerprint operators and a black powder which is manufactured by Flaacke, standard fingerprint powder, dusted the surface of the note with the powder and the brush.

Q. First you take the powder and sift it on, don't you? A. First I dip my brush into the bottle and sift the powder on and then brush over the surface of it.

Q. Very lightly? A. Yes, sir.

Q. Is it not the proper way to take a fingerprint to sift the powder from the bottle over the paper and then blow it off and the powder remains where the fingerprints are? A. No, sir, it is not.

Q. Do you not know that the brushing of your brush destroys the fingerprints? A. I know in blowing it off you blow moisture on it and destroy the fingerprint.

Q. You see me handle this paper? A. Yes, sir.

Q. And counsel at the table are going to handle it now. We are going to leave it right here with the clerk until you bring your apparatus.

That is what you did with the note, too, I assume, you brushed it with the brush? A. That is correct.

Q. Dipped in the powder? A. Yes, sir.

Q. Did it leave any marks at all? A. It did not.

Q. Was anybody present when you tried to take the fingerprints? A. Yes, sir.

Q. Who? A. Colonel Lindbergh.

Q. Anybody from the department that knew any-

thing about fingerprinting? A. It depends on what you mean, Mr. Reilly, knowing anything about fingerprints.

Q. Any police officer? A. Police officers, yes, sir.

Q. Do they generally know anything about fingerprints? A. They know a fingerprint when they see one.

Q. Do they know how to take one? A. I don't know. I couldn't answer that question.

Q. How long were you working on the note before you gave it up as hopeless as far as fingerprints went? A. Possibly about half an hour.

Q. Always in the nursery? A. Yes, sir.

Q. Then what did you do with the note? A. I kept it on my person until the arrival of my troop commander and turned it over to him.

Q. After the note, what was the next place? A. The nursery.

Q. That you went to try and get some fingerprints? A. The nursery.

Q. You were in the nursery? A. That is correct.

Q. With the note? A. Yes, sir.

Q. Now you are through with the note? A. Right.

Q. Where did you go then to try and get fingerprints? A. I believe my next attempt was the window, and the window sill.

Q. Now the window—what part of the window did you look for fingerprints? A. All of it.

Q. When you arrived at the window, you found the window closed, is that correct? A. That is correct.

Q. Did you find the latch opened or closed? A. Open.

Q. Did you do anything to the latch? A. Processed it for fingerprints.

Q. You found none on it? A. No sir.

Q. Did you take the bottom of the window and process it for fingerprints, this sash? A. Do you mean inside the bottom window?

Q. Inside and outside. A. Yes, I did.

Q. Did you take this upper part of the window that you would have to shove up with the finger? A. The frame that holds it to it?

Q. Yes. A. I did.

Q. The outside? A. Yes.

Q. You found no fingerprints? A. Yes.

Q. What was the condition of the inside of the window? Did you try to get fingerprints from that? A. I did.

Q. Couldn't get any? A. No, sir.

Q. Finally you got over to the crib, didn't you? A. I did.

Q. Now, did you hear Miss Gow testify that she came into the crib and she leaned over the crib, she couldn't hear the child breathing, and that she started to feel among the coverlets? Did you hear her testify to that yesterday? A. Yes, sir.

Q. And leaning over the crib—did you try to get Miss Gow's fingerprints or anybody's fingerprints off the edge of the crib? A. I tried to get any print that was in that room.

Q. Well, you heard Miss Gow testify that at least an hour before, or two hours before, maybe three hours before you arrived, she had been at that crib and leaning over it and handling it: is that correct? A. That is correct.

Q. And you want us to believe that you couldn't even get her fingerprints from that crib where she was looking for the baby? A. If she leaned over.

Q. She touched the crib and she leaned in the crib and she looked for the baby and she felt the crib, all around the crib. You say there were no fingerprints of hers? A. Exactly.

Q. Nobody's? A. No, sir.

Q. And a fingerprint in your opinion will last how many days, if any? A. It depends on atmospheric conditions, general conditions in the room or outside conditions.

Q. What atmospheric conditions in the nursery room would cause any fingerprint to disappear within two days? A. I didn't say it was atmospheric conditions that caused it.

Q. What condition of any kind that you could imagine and know of could cause a fingerprint to disappear in that nursery room within two days? A. General handling conditions.

Q. If anyone went near the crib wouldn't the fingerprint remain there for at least two days? A. No, I wouldn't say it would.

Q. Would it remain there one day? A. I wouldn't say it would.

Q. Would it remain there twelve hours? A. I wouldn't say it would last five minutes.

Q. What authority did you ever study for fingerprinting? A. I studied the Henry System.

Q. Who was Henry, the Chief of Police in Canada that wrote the book? A. No, sir, I do not know that.

Q. Well, who is Henry? A. He is the man that the Henry System of classification of fingerprints and I studied that.

Q. Where did he come from, what city? A. I believe he came from England.

Q. When was the book written? A. I do not know.

Q. When did you study it last? A. For the past six years. I go over it occasionally.

Q. When did you see it last? A. About two months ago.

Q. And a man named Henry in England wrote a book? A. As far as I recall.

Q. As far as you recall. You have never studied any American system at all, have you? A. That is the American system that has been used by police departments in the United States.

Q. Don't you know the system used in the United States is a system devised by ex-Inspector Forrot of the Police Department of New York? A. No, I didn't.

Q. You didn't know that he was in charge of the New York Police Department on finger-printing for twenty-five years. A. I don't know what New York does. I am in Jersey.

Q. You didn't know he gave lectures to all the fingerprint men in the United States at least once a month? A. I never heard tell of the man.

Q. You never heard tell of the man. Have you any authority in Jersey that you can rely upon as a fingerprint expert? A. What do you mean?

Q. Anybody that ever wrote a book, anybody that ever gave a lecture on finger-printing in this state that you attended? A. We have men in our department that give lectures on finger-printing.

Q. Who are they? A. Lieutenant Jostron gives lectures on finger-printing.

Q. How long has he been giving lectures? A. As long as I have known him.

Q. Did you study under him? A. I did.

Q. You did, correct, did you study under him? A. Pardon?

Q. Did you study under him? A. Yes.

Q. Now, what has been your experience in preserving foot-prints? A. Will you be more definite on that, please?

Q. Yes. Assuming that a man stepped into a muddy hole and left behind him a foot-print as has been photographed here. Outside of photography how would you preserve the foot-print? A. How would I preserve it?

Q. Yes. A. If I was the only investigator, I would preserve it by measuring it, making a mould of it.

Q. Well, what would prevent you in an important case like this of not measuring it? A. If it had been done by somebody else.

Q. Who measured it, so far as you know? A. I believe Detective DeGaetano did.

Q. Before you arrived? A. Yes, sir.

Q. Did you check up on his measurements? A. No, sir, I did not.

Q. Did he take a mould of it? A. I couldn't say.

Q. Did you ask him? A. No, sir.

Q. Did you check up on it? A. No, sir.

Q. Did you take a mould? A. No, sir.

Q. Now, as to the ladder, do you know it has been reported that one man took over 800 fingerprints from this ladder?

Mr. Wilentz: I object to the question, if your Honor please. I think ——

Mr. Reilly: All right, I am ahead of myself. I will withdraw it.

The Court: All right.

Q. Did you get any fingerprints from the ladder? A. No, sir, I did not.

Q. How soon after you were finished with the ladder was it examined by Government men? A. Do you mean a police conference, Mr. Reilly?

Q. No, I will put it this way: I don't want to do anything to confuse you. The ladder was brought into the Lindbergh home in two sections, correct? A. The first two sections.

Q. Yes, the first two sections were brought in and later on a third section brought in: am I correct about that? A. That is correct.

Q. The first two sections that were brought in were joined together and were not joined together, half and half? A. That is right.

Q. They were loosely joined, I will put it that way; is that correct? A. Correct.

Q. Yes. And where was it put, the first portion of the ladder, when it was brought in? Left in the library or somewhere? A. I received the ladder in the hallway.

Q. Hallway. You had finished, had you, with your experiments up in the nursery? A. Oh, no.

Q. Hadn't started them yet? A. I had started them.

Q. All right. Then what did you do with the ladder when you finally determined you should look for fingerprints? A. What did I do with it?

Q. Take it to some room and examine it? A. I worked on it right there in the hall.

Q. Right in the hall. That is what I want to know. And you went over all three sections? A. I did.

Q. What condition was the ladder in? Was it dry or wet? A. It was dry.

Q. Wasn't it covered with frost? A. No, sir.

Q. No moisture on it at all? A. No, sir.

Q. Sure about that? A. Yes, sir.

Q. Cold night, wasn't it? A. Yes, sir.

Q. There wasn't any moisture on it at all? A. No, sir.

Q. Is that right? A. That is right.

Q. You looked the ladder all over carefully? A. Yes, sir.

Q. It was dry, the entire three sections? A. Yes, sir.

Q. Well now, I want to know a little more about this section ladder from the Colonel's garage. That was a section ladder too, was it not? A. That was an extension ladder.

Q. That was an extension ladder. What do you mean by that? A. I mean a ladder that is wider at the bottom and it has a pulley effect with a rope on it that you can pull the top section up.

Q. Something like the ladders they used to prune trees with, it has a rope on it? A. It has.

Q. And you can pull it up? A. Yes.

Q. And it clicks as it goes up with a catch? A. Yes, on the side, yes.

Q. How high was that ladder when it was pulled to its full length? A. I don't know. I don't believe it was pulled to its full length.

Q. Did you not try? A. Not to its full length, no, sir.

Q. Why not? A. There was no necessity for it.

Q. You were there to investigate something, were you not? A. Yes, sir.

Q. You never saw any ladder up against the Colonel's window, did you? A. No, sir.

Q. You were in possession of two ladders, correct? A. I was in possession of three sections of one ladder, one complete ladder.

Q. And you were in possession of another ladder, the extension ladder? A. That is right.

Q. What I want to know and the jury wants to know is how high the extension ladder would go if you pulled the string? A. I suppose if you pull it all the way ——

Q. Not suppose—don't you know? A. No, I do not.

Q. Where is that ladder? A. The last time I saw it, it was in Colonel Lindbergh's home in Hopewell.

Q. How long ago? A. That was last June, I believe, was the last time I was there.

Q. Yet with all your investigation, you mean to tell us, and that is what you were there for, that you never pulled that string to see how high the extension ladder would go? A. There was no need for it.

Q. I did not ask you if there was any need for it. I ask you if you did it. A. No.

Q. The jury will pass on the need for it. Now, did you see Colonel Lindbergh's garage that evening and do you agree with him that the garage was always open?

Mr. Wilentz: Of course, the witness would not know that.

Q. Did you go to the garage and see the doors open? A. No.

Q. Who brought you or directed your attention to Colonel Lindbergh's ladder—I will withdraw that. I don't want to put Colonel Lindbergh in this at all. The ladder belonging to the Lindbergh home. A. Repeat the question, please.

Q. The ladder belonging to the Lindbergh home? A. Will you repeat the question, please.

Q. Who directed your attention to the ladder belonging to the Lindbergh home? A. I believe, as I recall it, I asked about a ladder, I asked Ollie Whateley, and he told me there was a ladder in the garage.

Q. He was the butler? A. Yes, sir.

Q. He was the man whose word you took that he—you didn't, it was some other officer. The ladder was brought in to you or did you go up to the garage? A. I went to the garage.

Q. When? A. As soon as I asked about it.

Q. Well, when—I don't know when that was, that day, or the next day, or when? A. That day.

Q. That day. I suppose you stayed right on the job, did you, right through until about noon the next day: is that right? A. Oh, no. I didn't leave the premises; I was right there.

Q. Until how long? A. Until June.

Q. Couple of days—You lived right on the premises, did you? A. Yes, I did.

Q. Well, some time the next day you asked about a ladder and the butler told you there was one in the garage: is that correct? A. That is right.

Q. What did you do about sifting that for fingerprints? A. Sifting what for fingerprints?

Q. The ladder in the garage. A. What do you mean, sifting the ladder, Mr. Reilly?

Q. Well, I mean trying to process it, as you call it. A. I didn't do anything about it.

Q. You never even looked at that ladder or gave it a processing to see if there was any fingerprint on it: is that right? A. That is right.

Q. You just took it for granted that this makeshift affair they brought in was the ladder somebody might have put up against the house: is that correct? A. I took it for granted for what?

Q. This makeshift ladder was the ladder that was put up against the house, if any ladder was put up against the house: is that correct? A. That is correct.

Q. Now, you knew, did you not, that you were there for the purpose of preserving the evidence for any trial that might ever come up: is that correct? A. Correct.

The Court: Mr. Reilly, just excuse me one moment. I am sorry, but I am very sensitive to drafts and I am feeling a draft from that window. Thank you very much.

Q. Now are you the photographer, too? A. I

work at that, yes.

Q. Did you photograph the foot print? A. I did.

Q. Was that photographed at night? A. Daytime.

Q. Daytime? What time? Noon time? A. The following morning around eight o'clock or so.

Q. Did you photograph the outside, this other picture? A. What other picture?

Mr. Hauck: They are all here, Mr. Reilly; all the photographs (indicating).

Mr. Reilly: Thank you.

Q. This one that shows the bush; did you photograph that, Exhibit S-35 (showing the witness)? A. Yes, sir.

Q. Well, now is this, snow? A. No, it is not.

Q. What is it, mud? A. Mud.

Q. Then the white portion of the photograph indicates mud? A. Indicates the earth there.

Q. Yes. Well, was it soft, mushy? A. In some parts.

Q. Frozen in others? A. Yes, sir.

Q. And this footprint (showing another photograph to the witness) was that more or less frozen in this photograph in the mud the next day? A. No, sir.

Q. It hadn't been disturbed? A. No, sir.

Q. There had been a State Trooper put there to protect it, hadn't there? A. That is right.

Mr. Reilly: With the understanding that this witness is to be recalled when he comes back with his paraphernalia, I am through for the present.

Re-Direct Examination by Mr. Wilentz:

Q. Just one question, Mr. Reilly: do you remember about what hour it was that you processed this ladder? A. Between one and one-thirty.

Mr. Wilentz: All right, sir. Thank you. That is all.

NUNCIO DE GAETANO, sworn as a witness for the State:

Direct Examination by Mr. Wilentz:

Q. How long have you been connected with the State Police, officer? A. Since March 15th, 1929; almost six years.

Q. Where did you reside prior to your connection with the State Police? A. In Newark, New Jersey.

Q. And on the 1st day of March, 1932, you were affiliated with the Department? A. Yes, sir.

Q. In what capacity? A. As a Trooper.

Q. Where were you stationed? A. In Morristown.

Q. Were you assigned to the Lindbergh home some time about the time of the crime? A. Yes, sir.

Q. What day was it that you came down? A. March 1st, 1932.

Q. What time? A. At about 11:15, approximately.

Q. Did you get there before Kelly, the gentleman who was just on the stand? A. Yes, sir.

Q. And who did you meet when you got there? A. Colonel Lindbergh and Trooper Wolf.

Q. Did you go up to the nursery? A. Yes, sir.

Q. What did you see when you got there? What did you observe, rather? A. The envelope on the sill, suitcase on top of the chest directly underneath the window.

Q. What window was that? A. That was on the southeast corner of the room. Three blotches of dirt, that is, of yellow clay I would call it. One was large, which was in the center of the room, approximately the width of my hand. Of course it was rather blurred.

Q. Your hand is quite large, is it not? A. Well, I would say about, I would say approximately four inches by three or four inches, something like that. Then there was a smaller blotch of dirt that was on the bare floor between the chest and the rug, directly underneath and alongside the chest and the suitcase. Then on the suitcase at the edge of the suitcase was a smeared blotch of dirt of the same color.

Q. Now, do you remember the, do you remember the table in the center of the room? A. Yes, sir.

Q. Do you remember the position of that table with reference to the position of the southeast window and the position of the crib? A. Why, as I recall that, the crib was up against the west wall of the nursery and in between the south and the north wall and directly opposite the crib was the fire place and in between the fire place and the crib was this table, a small table.

Q. And this southeast window, I suppose, was to, what direction was it, to the side or right in line? A. To the side.

Q. In other words, what I want to know is if a person came through that window, that southeast window and was to approach the crib, would the table be in the direct path of it? A. No, sir.

Q. It would not? A. No, sir.

Q. That is, you could walk from the table to the crib without having the table interfere with your progress? A. Correct.

Q. All right, sir; now, you saw those things in that room, as I understand it. What next, did you do, sir? A. I went downstairs in the yard and investigated in the vicinity underneath the window, the nursery window.

Q. Pardon me—would you be able to tell that suitcase—I didn't know it was here—would you be able to tell the suitcase, if you saw it now? (Exhibiting suitcase to the witness.) A. I wouldn't say —it looks like it.

Mr. Wilentz: Well, I will mark it for identification for the time being.

Q. The suitcase I am showing you now looks like the suitcase that was in the room and I am referring to? A. Yes, sir.

Mr. Wilentz: I will offer it for identification.)

The Reporter (S-39) for identification.

(Suitcase was marked S-39 for identification.)

Q. And S-39 for identification is the suitcase that you are referring to that was near this, adjoining, rather, this southeast window sill? A. Yes, sir.

Q. Over, located on some other object? A. I would call it a chest.

Q. A chest or a trunk, I suppose? A. Yes, sir.

Q. All right. Now you may come back, if you will, please, and tell us about coming downstairs. A. I went downstairs and there was a boardwalk

there, walked along this boardwalk, and the first thing that I observed was a footprint. The next thing that I observed was an indentation that—I couldn't exactly say it was a footprint, but it was an indentation of some kind. This particular indentation had ridges on the inside of it. The next thing I observed was two holes or two indentations. They were longer than they were wide, almost up against this particular boardwalk. Then the next thing I noticed was a lady's footprint almost—between the house and this boardwalk, what I would call the entrance to the porch. While I was investigating that I was informed by Chief ——

Mr. Reilly: I object to that.

Q. Yes, don't tell us what you were informed, please, officer. Just tell us what you saw. A. Well, that is what I saw.

Q. I see. Unless there is something else you saw. A. I then saw the ladder approximately 65 to 70 feet away, that is east of the wall, the house.

Q. Did you see the ladder that night? A. Yes, sir.

Q. I show you S-32 for identification and ask you whether that is the ladder with the exception of these various clips and little marks there, substantially is that the same ladder? A. Yes, sir.

Q. Were you there when Trooper Kelly put any marks on it? A. No, sir.

Q. You were not. All right. After seeing the ladder on the ground, did you see it in the house? A. No, sir.

Q. You did not. Now what about this footprint you talk about; did you measure it? A. Yes, sir.

Q. What did it measure? A. It measured 12⅛ inches approximately, between 12 and 12⅛ inches.

Q. You mean in length? A. In length, and approximately four to four and one-quarter inches in width.

Q. What about this ridge that you talk about; you saw another impression you said that indicated to you some ridges? A. Yes, sir.

Q. Will you, to the best of your ability tell us something about those ridges and that impression? A. I have seen ridges of that kind made by either a heavy woolen stocking or a sweater.

Mr. Reilly: I object to this, his opinion.

The Court: Well, he had better for the present be confined to describing just what he saw.

Mr. Wilentz: That is what I want.

Q. Can you describe the ridge any more than you can by just saying they were ridges? A. This particular indentation was deeper in one end than it was at the other. The part where it was deep was somewhat narrower than where it was uphill and then the inside of this indentation was ridges, about all I can say was ridges.

Q. All right. Now let me see, maybe I can help you. I suppose you recall seeing a gray checked suit with blocks of checks? A. Yes, sir.

Q. Would you call those ridges if you saw an impression of that on the ground?

Mr. Reilly: I object.

A. No, sir.

Q. You would not?

Mr. Reilly: I object. There is no testimony that he ever saw such an impression.

Mr. Wilentz: I withdraw it, sir. You may never have seen a gray check suit.

Mr. Reilly: I have, but never on the ground.

Q. Let me ask you this, Officer. You said ridges. What was the proximity, will you say, if you know, of one ridge to another? A. These particular ridges were narrow and one ridge was up and then there was an indentation, then another one was up.

Q. Well, I guess that is about the best you can do. A. That is the best I can do.

Q. Let us get back to the ladder. Now you have told us that between the boardwalk and the house you saw some woman's footprint. A. Yes, sir.

Q. And then you saw some indentations, as I remember you saying, away from the house—about how far away: two holes, you call it? A. Right alongside on the outside of the boardwalk.

Q. On the outside of the boardwalk? A. Away from the house.

Q. Away from the house? A. Yes, sir.

Q. That would be east of the house? A. Yes, sir.

Q. How far would you say, according to your best judgment; away from the wall, was it? A. Oh, I would say about two feet.

Q. Two feet? A. Yes, sir

Q. So that first you saw between the house and this boardwalk a woman's footprints, and then you saw the boardwalk—By the way, how wide was that walk? A. Certain boards were 12 inches, to approximately—

Q. Right about at that point? A. About six inches.

Q. The boardwalk about six inches? A. Just about.

Q. At that point? A. Yes, as I recall it.

Q. Then beyond that you saw these two holes? A. Yes, sir.

Q. How far apart were they from one another? A. I did not measure them, but I would say approximately 14 inches.

Q. Yes, and then beyond that did you see a footprint? A. That was way beyond that, yes, sir; that was at the entrance of the porch; that is a woman's footprint.

Q. Yes, I know that. Now, I think you told us you also saw another footprint, you measured for 12 inches or so? A. Yes, sir.

Q. Where was that footprint? A. That was facing the house, the footprint was on the right side of this indentation.

Q. The indentation being the hole, you mean? A. Yes, sir.

Q. That you just described? A. Yes, sir.

Q. Now how close to that hole was it? A. About eighteen inches.

Q. About eighteen inches away? A. I would say about eighteen inches.

Q. Was the footprint in the direction of the ladder? No, withdraw that. Was the footprint in the direction of the house? A. Pointing toward the house.

Q. Toward the house and toward the hole? A. Yes, sir.

Q. So that if the hole was in front of me here, for illustration, the footprint would be the print in the direction which I would make if I were standing in soft mud, so to speak? A. That is about it; yes, sir.

Q. In that direction? A. Yes, sir.

Q. And about eighteen inches, you say, away from the ——. A. Yes, to the best of my judgment; yes, sir.

Mr. Wilentz: That is all, Officer.

Cross-Examination by Mr. Reilly:

Q. I am showing you State Exhibit S-37, showing two indentations. See them (showing the witness)? A. Yes, sir.

Q. Now was all the ground around the indentation soft and muddy? A. In certain parts.

Q. Was all the ground around this footprint soft and muddy? A. Around that particular—which footprint is counsel referring to?

Q. (Examining counsel hands photograph to witness.) A. Yes, sir.

Mr. Wilentz: Will you go on with your examination while I go out for a moment?

Mr. Reilly: Certainly.

Mr. Wilentz: Go right ahead. I want you to go right ahead.

Q. Within a radius of a couple of feet around this footprint, S-36, you say the ground was soft and muddy? A. Yes, sir.

Q. The footprint was how many feet away from the indentation holes, approximately? A. I would say approximately 18 inches.

Q. Approximately 18 inches? A. Yes, sir. That is about a foot and a half.

Q. About how far away from the boardwalk? A. That is from the boardwalk.

Q. 18 inches? A. Because the boardwalk at the time I saw it, the boardwalk was almost up against —well, just as it is there (indicating on photograph). It would be a difference of about two inches, I imagine.

Q. There is no doubt that this boardwalk was not moved by anybody before the photograph was

taken, is there? A. That I don't know.

Q. You don't know? A. No, sir.

Q. You think that these photographs were arranged—?

Mr. Large: I submit that is not justified.

Mr. Reilly: I think it is quite proper.

Mr. Large: He says himself he does not think any arrangement was made.

By Mr. Reilly:

Q. Is this board here in the same condition that you saw it? A. When this photograph was taken I did not see the board; I was not present.

Q. You were not present? A. No.

Q. Before the photograph was taken, were you there? A. Yes, sir; that is, on the night of March 1st.

Q. Was the board in the same condition as it is there? A. Approximately.

Q. Approximately? A. Yes, sir.

Q. You would not say it was in that exact position, would you? A. Well, I couldn't very well say.

Q. You wouldn't say it had not been moved by somebody before the photograph was taken? A. No, sir; I couldn't very well say that.

Q. And yet this board was within how many inches of where you say the indentation was? A. To the best of my recollection it was somewhere in the neighborhood of about two inches. I didn't measure that, of course. As I recall it, the indentations were almost alongside the board. It was on the outside of the board.

Q. And alongside of the board? A. Yes, sir.

Q. Anybody using the ladder could just as well have put the foot of the ladder on the board, could they not? A. I don't know.

Q. Well, the board was there, wasn't it? A. Yes, sir.

Q. And it was under the window? A. Yes, sir.

Q. The ground was muddy. A. Yes, sir.

Q. And if you wanted to use the ladder and wanted safety so it wouldn't slip, you could put it on the board. A. Well, the board could slip.

Q. Did you try it? A. No, sir.

Q. Now you want us to believe that some man—this is a man's footprint, isn't it? A. Yes, sir, I think it is.

Q. Some man came along in muddy ground within an area of two feet and within the indication as you have given us of this boardwalk and ladder and only made one footprint? A. That is all I saw.

Q. And you couldn't find where he put the other foot at all? A. That is all I saw.

Q. You couldn't find where he put the other foot at all? A. No, sir, I could not.

Q. Did you see the ladder that night? A. Yes, sir.

Q. Did you look at the bottom rung? A. No, sir.

Q. Why didn't you? A. I didn't want to get near the vicinity of the ladder. I examined the ladder from a distance.

Q. Well, you weren't afraid of the ladder, were you? A. No, sir.

Q. Why didn't you look at the bottom rung of the ladder to see whether or not there wasn't some mud on it from the man who walked through the mud? A. I didn't want to get near the ladder.

Q. Did you see any mud? A. No, sir, I didn't.

Q. You didn't see any mud on the ladder at all, did you? A. No, sir.

Q. Did you look at the ladder? A. At a distance.

Q. How far away? A. Oh, I would say approximately eight feet.

Q. Eight feet. Where was the ladder when you did look at it? A. It was approximately 65 to 70 feet east of the east wall of the house, near some bushes, I would call it; little trees; there is a big rock there.

Q. Well, what made you so fearful of going near that ladder? A. Well, I didn't want to disturb that particular area until daylight came around, where it could be examined a little better.

Q. Well then, who took the ladder in the house in the middle of the night? A. To my knowledge, it was Trooper Bornmann.

Q. Who told him to? A. That, I don't know.

Q. Did you see the ladder in the house? A. No, sir.

Q. Were you there when this photograph was taken (referring to photograph of footprints)? A. No, sir.

Q. What did you do to preserve the footprint when you saw it? A. Why, the only thing I did was to instruct a trooper that was at the entrance of the yard, this particular place in the front of the house, to keep everybody away from that place.

Q. You saw this footprint with your flashlight? A. Yes, sir.

Q. And, did you kneel down and did you measure it? A. I didn't kneel down, I just, all I had to do was just—standing on the boardwalk—

Q. Yes. A. All I had to do was just kind of lean forward and measure it with the flashlight.

Q. I want to know what you measured it with? Is that what you measured it with? A. Yes, sir.

Q. You didn't take out a tape? A. No, sir, I didn't have any.

Q. Did you ever measure it with the tape? A. Not the footprint itself.

Q. That is what I am talking about. A. No, sir.

Q. You have given between 12 and 12 1-8, is that correct? A. Between 12 and 12 1-8.

Q. Twelve and twelve and one-eighth? A. Yes, sir.

Q. And you can come that accurately with a flashlight? A. Yes, sir, I think so.

Q. You think you can? A. Yes.

Q. Well, what prevented you from going into the house and saying to Mrs. Whateley or Miss Gow: "Give me a measuring tape?" A. Well—

Q. Nothing? A. I guess I didn't think of it.

Q. What prevented you from measuring it? A. Well, I had—

Q. Accurately. A. Well, I had a five cell Ever-ready Flashlight and that is fourteen and a half inches long. I measured it with the flashlight.

Q. Well, you couldn't measure with the flashlight by putting the flashlight into the ground. A. No, sir, but what I mean to bring out is that I measured from the rear end of the flashlight and the print ended just about where the groove is on the other side of the switch.

Q. Did you put the flashlight into the— A. No, sir.

Q. — depression? A. No, sir.

Q. Well, then, you are giving us your best guess, isn't that it? A. Yes, sir, just about it.

Q. And on width it is the best guess; is that correct? A. Beg pardon?

Q. On the width it is the best guess. A. Yes. I measured that with the palm of my hand.

Q. Now you were not the first trooper there. A. No, sir.

Q. Other troopers had been there before you. A. Yes, sir. That is at the footprint?

Q. Yes. A. That I don't know.
Q. You don't know? A. No, sir.
Q. You don't know whether you were the first man to discover or Wolf discovered it or who discovered it. A. Correct.
Q. Is that correct? A. That is correct.
Q. And you don't know whose footprint it is, do you? A. No, sir, I don't.

Mr. Reilly: That is all.

Mr. Wilentz: That is all, sir. Mr. Hochmuth.

AMANDUS HOCHMUTH, sworn as a witness on behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Mr. Hochmuth, how old are you, sir? A. I am in my eighty-seventh year.
Q. Eighty-seven? A. Yes.
Q. And how long have you been a resident of Hunterdon County? A. About ten—well, about ten years.
Q. Where were you born? A. I am here off and on summertimes—I generally go to New York—
Q. Did you serve in the Prussian Army during—
A. Yes, sir.

Mr. Reilly: Oh, I object to it.

The Court: I don't see that it makes much difference.

Mr. Wilentz: No, I am satisfied, if counsel is going to be limited similarly with his witnesses.

Q. On the 1st day of March, 1932, where were you residing? A. I was standing on the porch—

Q. Where were you living then? A. The corner of what they call the Mercer County Highway and the road that goes up to Mr. Lindbergh's place.

Q. In other words, that is at the main highway intersection with the lane that runs up to the Lindbergh place? A. Exactly.

Q. And is that where you were living? A. Yes.

Q. And were you outside that day? A. Yes, sir.

Q. Did you see a car come along? A. Yes.

Mr. Reilly: Now, please don't lead him.

Mr. Wilentz: Yes, I think you are right, sir.

Q. Tell us about your experience that morning. A. Well, I saw a car coming around the corner, pretty good speed, and I expected it to turn over on the ditch. And as the car was about 25—I should judge 25 feet away from me, the man in there looked out of the window like this.

Q. Out of the window of the car you mean? A. Yes, and he glared at me as if he saw a ghost.

Mr. Reilly: I move to strike that out as a conclusion.

Mr. Wilentz: I don't know—

The Court: What is that answer?

The Reporter: His answer was: "Yes, and he glared at me as if he saw a ghost."

The Court: What is the objection?

Mr. Reilly: It is a conclusion. However, I will withdraw it for the present.

By Mr. Wilentz:

Q. What time of the day was that? A. It was in the forenoon.

Q. And the man that you saw looking out of that automobile glaring at you in the manner that you say, is he in this room? A. Yes.

Q. Where is he? A. Alongside of the trooper there.

Q. Alongside of the trooper? A. Yes (pointing his finger).

(At this point the lights in the courtroom went out.)

Mr. Wilentz: Is there any reason for extinguishing of the lights?

By Mr. Wilentz:

Q. Well, at any rate, would you mind stepping down, please, and showing us?

Mr. Reilly: I object to that until he first points out the man from where he sits.

Mr. Wilentz: He did that.

Mr. Reilly: No, he did not. He said a man sitting next to the trooper.

By Mr. Wilentz:

Q. Which side of the trooper? A. The man

sitting between the trooper and the other man with the white shirt on.

Q. The other man with what on? A. The man with the white shirt.

Mr. Wilentz: Now may the gentleman come down without objection?

The Court: I think so.

(The witness came down from the stand and advanced in the direction where the defendant Hauptmann was sitting.)

Mr. Wilentz: Will you please put your hand on his shoulder?

The Witness: Right there (touching the defendant with his hand).

Mr. Wilentz: May we have on the record, "Indicating Bruno Richard Hauptmann"?

By Mr. Wilentz:

Q. You were telling us a minute ago about the car coming around the corner. Did it come around your corner? A. It couldn't have come any other way but from Hopewell.

Mr. Reilly: I move to strike that out.

Mr. Wilentz: That is all right; we consent to it.

Q. Along what road did it come, sir? A. It can't come any other way.

Q. I know, but you will have to tell us what road

it did come, not how it cannot come. A. I can't state exactly.

Q. I mean on what highway was it as it turned that corner? A. Mercer County Highway.

Q. Mercer County Highway, and coming from the direction of—what town was the nearest town? A. Hopewell.

Q. Hopewell. And did it make the turn, as you said, into the lane? A. Yes.

Q. And when it made the turn into the lane, did it proceed or did it stop? A. It stopped as it got in the ditch.

Q. Did it get into the ditch? A. Not yet; but it stopped there, and he pulled the ladder over to him.

Q. You say that he stopped as he got into the ditch in making the turn? A. Into the ditch.

Q. How long did it—did the car stop at all for any period of time? A. Well, I should say about quarter of a minute, or something like that.

Q. A quarter of a minute? A. Yes.

Q. Yes, sir. All right, sir. Now, you said just now something about a ladder: Was there a ladder in the car? A. I saw something, some of the ladder in it.

Q. Something?—

Mr. Reilly: What is the answer?

(Last answer read by the reporter:

"I saw something, some of the ladder in it.")

Mr. Reilly: I move to strike it out as calling for a conclusion.

Q. You saw—what did you say you saw? A. I saw—

The Court: Just a moment.

Mr. Wilentz: Oh, pardon me, please.

The Court: Won't you repeat the question and answer?

(Question and answer read as follows:

"Q. Yes, sir. All right, sir. Now, you said just now something about a ladder: was there a ladder in the car? A. I saw something, some of the ladder in it.")

The Court: I shall have to decline to strike that out, Mr. Reilly.

Mr. Reilly: May I have an exception.

The Court: You may have your exception.

(Exception allowed and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

The Court: I wonder, if counsel think it is important to have these lights on again, if they can be put on again.

Court Crier Hann: I have sent for the electric light man.

The Court: Very well, very well. They will be put on as soon as they can.

Court Crier Hann: Yes, sir.

The Court: Proceed, Mr. Attorney General.

Q. Now where do you spend your— I will withdraw that. I think you said you live in this county about ten years. A. Yes, sir; lived in Skillman first, and my son-in-law lived there.

Q. You lived in Skillman with your son-in-law first? A. Yes.

Q. I see. And you spend some time in New York, do you, too? A. Yes.

Q. With your daughter? A. My elder daughter, yes.

Q. And who lives here at this corner that you talk of, this house here, in Hopewell? A. My daughter.

Q. Your daughter? A. And my son-in-law.

Q. Your son-in-law and daughter. A. Yes.

Q. Thank you, sir. That is all. Oh. You remember the color of the car? Yes, I omitted that. A. Yes. A dirty green.

Q. A dirty green? A. (The witness nods affirmatively.)

Q. Mr. Wilentz: I am very much obliged to you, sir, and that is all we have; but you will please wait a moment until counsel for the defense asks you a few questions.

Cross-Examination by Mr. Reilly:

Q. When did you first tell this story to anybody? A. Never spoke to anybody about it.

Q. Before you took the witness stand you never told a soul about what you were going to testify to today, is that correct? A. That is correct.

Q. You give me your word on your oath that that

is correct? A. Certainly I do.

Q. Did you stand at that door, the left hand door of this court room yesterday? A. Yes.

Q. At noon recess, at a quarter of two, with a State Trooper? A. Yes.

Q. Alongside of him? A. I guess so.

Q. Don't you know? A. Yes, I think it was.

Q. And didn't the State Trooper bring you to the left door and point Bruno Richard Hauptmann out to you as he sat in his seat? A. No, sir.

Q. And weren't you then taken back up the stairs to the Grand Jury room? A. No.

Q. What did they bring you to that door for yesterday at a quarter of two? A. I don't think —

Q. Look at me, please. What did they bring you to that door for? A. Oh, I went to the toilet.

Q. No. They brought you down—

Mr. Wilentz: Just a minute now. I object to the "No," and the badgering of the witness. No necessity to shout at him.

Mr. Reilly: I am not badgering the witness.

Mr. Wilentz: No, but the witness give an answer—the point I make—

The Court: Yes. The witness ought to be allowed to answer. Mr. Reilly understands that. Now you may proceed.

Q. The toilet in that room is to the rear of the room: you know that, don't you? A. Yes.

Q. The toilet is nowhere near this door, here, is it?

Mr. Wilentz: If your Honor please—

A. I don't see what you are aiming at.

Q. I am aiming at this: Do you remember yesterday at a quarter of two being brought down the staircase of this room in here, the library, by a State Trooper? A. Yes.

Q. Do you remember being brought to this doorway here, and facing out into the courtroom: do you remember that? A. Yes.

Q. Do you remember Bruno Richard Hauptmann sitting over here with the State Troopers at that time? A. Yes.

Q. Do you remember the State Trooper pointing Hauptmann out to you yesterday?

Mr. Wilentz: I object to that.

A. No, sir.

Mr. Wilentz: I withdraw the objection. He has answered it.

The Court: Answer the question.

Mr. Wilentz: He has answered.

The Court: What is the answer?

(Answer read by the reporter.)

Q. What did they bring you to the door for?

Mr. Wilentz: Well, I object to that, if your Honor pleases.

The Court: He may state, if he knows.

A. For what purpose? I don't know.

Q. You don't know? A. I don't remember—I went out—the officer took me out to the toilet once.

Q. Well, of course, the toilet is not in that doorway. A. I know that.

Mr. Wilentz: Well, it is right near there, if your Honor please. I don't see the point of badgering the witness about that, when counsel knows it is right there.

Mr. Reilly: I am not badgering the witness and I am not going to be accused of badgering the witness.

The Court: No, I do not understand there is any badgering here. There is a point of inquiry as to where the toilet is. I think that is proper.

Q. You were here all day yesterday. Is that correct? A. Yes.

Q. Is that correct, sir? A. Yes, sir.

Q. And you were kept up in the Grand Jury room, or a room up a pair of stairs: is that correct? A. I don't know whether it is the jury room.

Q. You were not in this courtroom? A. I was here.

Q. In the courtroom? A. Yes. If you will point out the jury room I will answer. Is that the room where I left my coat?

Q. Is that the room where you left your coat? A. All right. Then I know where the jury room is.

Q. The room upstairs. Now, where were you sitting in the courtroom yesterday? A. Right over there, back of that lady with the blue dress on.

Q. All morning? A. Yes.

Q. Who brought you here? A. Brought here by a Trooper.

Q. Who brought you home? A. A Trooper.

Q. Was yesterday the first day you were in court? A. Yes.

Q. Did you tell the Trooper what you were going to say on the witness stand? A. No.

Q. You didn't tell anybody. You say you are how old? A. I am in my eighty-seventh year.

Q. You say you are how old? A. I am in my eighty-seventh year.

Q. What was your business—I suppose you are retired now, is that correct? A. Yes.

Q. What was your business? A. Well, the last five years I was a special in Loew's Theatre in 116th Street.

Q. Special officer? A. Yes.

Q. Before that, what did you do? A. I was employed in a bank in New York.

Q. Well now, this special officer business—were you employed by any detective agency? A. No.

Q. Did you have a badge as a special officer? A. I didn't take it.

Q. Did you have a badge? A. I didn't want it.

Q. I didn't ask you whether you wanted it or whether you took it. Did you have it? A. No.

Q. Where were you, up in the gallery to keep order? A. Balconies.

Q. Balcony. And, what was your business before you went into the bank? A. The what?

Q. What was your business before you became a banker? A. I came in that bank in 1876.

Q. What did you do in the bank? A. I was called a porter.

Q. A porter? A. Getting the books out, in the daytime I had the floor.

Q. Your health is rather poor, isn't it? A. My health?

Q. Yes. A. It don't seem like it.

Q. Well, I notice that you are shaky. A. I have had a good deal of rheumatism.

Q. Did you ever have a stroke? A. No.

Q. Just rheumatism. You say you are shaking from rheumatism, and you are eighty-seven years of age. A. Yes.

Q. Are you near-sighted or far-sighted? A. My eyes are all right.

Q. I didn't ask you that, mister. You are wearing glasses.

Mr. Wilentz: He has answered it. He asked if he was near or far-sighted.

The Court: He says his eyes are all right.

Q. Why do you wear the glasses, to see better? A. At a distance, yes. For reading, I read without glasses.

Q. You say you were living in March or February on somebody's farm, is that correct? A. Yes.

Q. Where? A. Hopewell.

Q. Hopewell, is that right? A. Yes.

Q. Whose farm? A. Henry Plum.

Q. Is he related to you? A. Huh?

Q. Is he related to you? A. He is a son-in-law of mine.

Q. When did you go to live there that year? A. I went, I lived there first with him and Skillman for a while. That is after I left the bank.

Q. When did you come to live at this particular corner you are telling us about? A. Oh, that is about five years.

Q. Five years. I want to know what month? A. What month?

Q. Of that year, you came to live there. Had you been living there for a year or two before that?

A. I had been in New York in the summer time, celebrated my birthday there, the 25th of July, and then I left and came out here.

Q. When did you come out here? A. To stay?

Q. August, September, October or when? A. July.

Q. July? A. After my birthday.

Q. And you stayed on continuously, is that correct? A. True, yes.

Q. And how many were in the household? A. Themselves, myself and my daughter.

Q. And, of course, you didn't do any work, did you? A. Oh, yes; we had two horses, and I attended to those, chickens and ducks, whatever we had.

Q. Did you attend to the horses and to the chickens? A. Yes.

Q. In the mornings? A. Yes.

Q. And where were the horses and chickens kept? In the barn? A. Yes.

Q. Back of the house? A. Yes.

Q. Now what day of the week was this you say you saw the dirty green car? A. That was on the 1st of March.

Q. What day of the week? A. Well, I think it was Tuesday.

Q. And— A. I am not quite—

Q. And what time did you get up that morning? A. Oh, I am up at six o'clock.

Q. And what time do you say you saw the dirty green car? A. Well, it was pretty late, towards noon.

Q. Noon on March the 1st? A. Yes.

Q. Is that so? A. It was a clear day.

Q. A clear day. Was it a cold day? A. Well, yes.

Q. How long had you been out of this front gate or at the road? A. Beg pardon?

Q. How long had you been out at this spot that you say you saw this green car? A. Why, I had just come out.

Q. How far was it away from your house? A. Well, I should judge it is about—what do you mean, the car?

Q. No, you. The spot that you were standing. A. How far I was from where?

Q. Your house. A. Oh, I was right on the porch.

Q. You were on the porch? A. Yes.

Q. And you are sure you were on the porch? A. Yes.

Q. Correct. Now how far does the house set back from the road? A. About, I should judge, about five feet.

Q. Five feet? A. The house stands back.

Q. The house stands back from the road? A. Yes.

Q. Now, this is some highway, isn't it? A. Yes.

Q. What is the name of the highway? A. Well, it is a road up to Lindy's. I call it Lindy's Road.

Q. Is it a dirt road? A. No, it is not a dirt road.

Q. Is it a State macadam road? A. No, a stone road.

Q. A stone road? A. Yes.

Q. And is there a fence between the house and the road? A. There is a hedge.

Q. A hedge? A. Yes.

Q. And, is the porch right up against the hedge or doesn't the house set back? A. The house is back from the—

Q. The house sets back from the hedge? A. Yes.

Q. You know that? A. Yes, sir.

Q. How many feet twenty, or twenty-five feet back from the hedge, doesn't it? A. I would say five feet.

Q. Isn't there any lawn between the house and the hedge? A. That is about five feet wide.

Q. Did you ever measure it? A. No.

Q. There is a lawn between your porch and the hedge, is that correct? A. Yes, there is quite a—

Q. And, you say there is only five feet between the porch— A. It isn't as wide as this is (referring to space between judge's bench and jury box.)

Q. It isn't as wide as this? A. No.

Q. How big is the porch? A. Oh, the porch is about three feet square.

Q. Three feet square? Room for any chairs? A. Well, if you want to.

O. Is it a big house or a small house? A. It is a one-story house.

Q. One-story house? A. Two stories.

Q. Two stories? A. One and a story above.

Q. Yes, parlor floor and bedroom? A. That is it.

Q. Right? A. Yes.

Q. Is it a cottage effect? A. What?

Q. Is it a wooden house? A. Yes, frame house.

Q. Frame house. Now, how long does this hedge run along in front of the house? A. All the way around.

Q. All the way around. What is the frontage of the house, of the property? A. The frontage is about, I should judge, about eighteen feet.

Q. Eighteen feet, and how high was the hedge on that particular day? A. Well—

Q. Was it as high as this railing here, or higher? A. Well, about three feet high.

Q. It is much higher, isn't it? A. About three feet high.

Q. About three feet high? A. That is about two feet, not quite.

Q. Much higher, is it not? A. About three feet high.

Q. About three feet high? A. About three feet high.

Q. Just what portion of the porch were you on? A. Facing the road going up to Lindbergh's.

Q. Had you come out the front door of the house? A. The back door. This is the back porch.

Q. This is the back porch. This is the kitchen porch, is it? A. Yes.

Q. And you had come out there and you were just standing there, is that right? A. Yes.

Q. You did not expect anything to go past there, did you? A. No.

Q. Your mind was not on the road at all? A. No.

Q. You were not interested in anything, is that correct? A. Yes.

Q. This is some day in 1932, right? A. Yes.

Q. And all of a sudden a car passes very fast? A. Coming this way.

Q. I don't care which way it was coming, it was going fast? A. Yes, pretty good speed.

Q. Pretty good speed. Forty or fifty miles an hour? A. Yes.

Q. Faster than that? A. No, I don't think so.

Q. Forty or fifty miles an hour? A. About forty miles an hour.

Q. And there was a turn in the road there? A. You see, I have seen many a one going into that ditch, and I expected to see him going over, but the car stopped.

Q. The car slowed down? A. It stopped.

Q. Stopped. It came to a dead stop? A. Yes.

Q. And then started up again? A. Yes.

Q. Is that right? A. Yes.

Q. And the man that you saw, was he driving? A. Yes.

Q. And there were windows in the car? A. Yes.

Q. Was it a cold day? A. Well, I can't exactly state.

Q. What month was it? A. March. You know

the weather we have in March.

Q. How many cars had you seen go in the ditch before that? A. I saw seven go in in one week.

Q. Seven? A. Yes, before it was fixed. It is fixed now.

Q. When did you last see a car go in the ditch before this particular day? A. I have seen some go pretty near close up to it, but not in.

Q. When before this day did you last see a car either go in the ditch or nearly go in the ditch? A. What do you mean; this car which I saw?

Q. When before that day did you see one almost go in the ditch? A. Well, I saw the Public Service man go in there quite some time before that.

Q. I ask you when before, if you can remember, and if you can't remember, tell me—

Mr. Wilentz: Just a minute. He says quite some time before that he saw the Public Service car go in there. That was his answer.

Mr. Reilly: That did not answer my question.

Q. When before this day, if you can remember—or can you remember? A. I can't remember.

Q. Now, when was it you say you think you saw or you did see the Public Service car almost go in the ditch? A. I helped him with chains to pull him out again.

Q. What date? A. State?

Q. What date? A. I don't remember; I don't pay any attention to those things, except they might drop in and I run over.

Q. This dirty green car did not drop over? A. No.

Q. It didn't go in the ditch? A. It went slanting.

Q. It did not go in the ditch? A. No.

Q. It did not ask you for any assistance, did it? A. No.

Q. It slowed up, stopped, started up again, and drove off: is that correct? A. Yes.

Q. How was the man dressed, if you can remember? A. Well, I think he had a dark shirt on.

Q. You think he had a dark shirt on? A. You see all I took in was the face and these glaring eyes.

Q. Give me this again. What was it? A. All I took in was his red face and the glaring eyes.

Q. I see. He had a red face? A. Yes.

Q. Like mine? A. A little more red.

Q. A little more red than me? A. Oh, yes.

Q. And he had very piercing eyes, did he? A. Yes.

Q. Well, you as a bank man know that you have seen many people in your bank with piercing eyes, right. A. Yes.

Q. And you have seen many people with red faces, is that right? A. Yes.

Q. Of course you told nobody about this? A. No.

Q. Not even your son-in-law? A. No.

Q. Your daughter? A. No.

Q. Nobody, correct? A. Correct.

Q. So that we have your solemn word before this jury that before you took this stand—am I right? A. Correct.

Q. Nobody in the world knew what you were going to say, is that so? A. Exactly.

Q. That's all—pardon me, it isn't all. Were you taken into the jail some time ago by a State trooper? A. Yes.

Q. When? A. Oh, it is several days ago.

Q. You saw the defendant, Hauptmann, there, didn't you? A. I saw a figure in there, but I couldn't see him.

Q. Didn't they have you in there thirty minutes?

A. Maybe so.

Q. What? A. Yes.

Q. There was nobody there but the defendant, was there? A. That's it and two troopers.

Q. And they were in uniform? A. Yes.

Q. You knew they were troopers, because they wore— A. No, one wasn't in uniform.

Q. What did he have on, trooper's pants, didn't he? A. I cannot exactly—

Q. You cannot remember only a few days ago that he had on his trooper's pants? A. A few days ago, it is longer than that.

Q. A month ago? A. Yes.

Q. You can't remember whether he had on his trooper's pants? A. I think he did.

Q. You remember that he had his cartridge belt on? A. No, I didn't look.

Q. And do you remember that he was in his shirt sleeves? A. Oh, yes.

Q. Yes. And he wore a gray shirt, didn't he? A. (Witness nods affirmatively.)

Q. The second trooper. A. Which one do you mean, the one outside?

Q. No, in the jail. A. In the cage?

Q. When they took you to see the defendant. A. In the cage?

Q. Yes. A. Yes, he was in his shirt sleeves.

Q. Yes. A. And I think—

Q. Trooper's pants. A. Trooper's pants.

Q. With a nice— A. Yes.

Q. —Yellow stripe, is that right? A. Yes.

Re-direct Examination by Mr. Wilentz:

Q. You say you didn't talk to anybody. I suppose you mean you talked to nobody—

Mr. Reilly: I object to what he supposes.

Mr. Wilentz: Wait until I ask the question.

Mr. Reilly: I object to it if it is going to be leading. I object to it now.

The Court: Let the objection be made after the question is put, and the witness will refrain from answering until after I have ruled. Now, Mr. Attorney General.

Q. You spoke to me this morning, didn't you, Mr. Hochmuth? A. Yes, sir.

Q. Just a few minutes before you got on the stand. A. Yes.

Q. And I asked you whether or not—

Mr. Reilly: I object to what he asked him.

Mr. Wilentz: Well, I have asked him about talking to people.

Mr. Reilly: All right, he is your witness. He said he never talked to a soul in the world.

Mr. Wilentz: How many objections do you have to make at a time, if your Honor please, I am talking to counsel standing up and counsel sitting down.

The Court: Now, let us understand precisely what question the Attorney General wants to put and then I will rule upon it.

(Reporter repeated last two questions and answers: "You spoke to me this morning, didn't you, Mr. Hochmuth? Answer: Yes, sir. Question: Just a few minutes before you

got on the stand? Answer: Yes. Question: And I asked you whether or not—")

Mr. Reilly: I object to what he asked.

Mr. Wilentz: I will withdraw it, it isn't finished, I will withdraw it and ask another question.

Q. And, you spoke, you spoke to officers, troopers, whatever it is?

Mr. Reilly: I object to this, he said he didn't speak to anybody.

Mr. Wilentz: Well, if your Honor please, that is just a catch expression, if your Honor please.

Mr. Reilly: It isn't a catch expression, it is serious cross examination.

Mr. Wilentz: I have no right to cross examine him, but I have a right to clear up the situation so the jury is not misled.

The Court: Yes, I think the Attorney General is entitled within a reasonable limit to ascertain whether or not the witness meant precisely what he said.

Mr. Reilly: I still say he shouldn't do it in leading questions.

The Court: No, he ought not.

Mr. Reilly: He certifies to the truth of the witness.

The Court: No, he ought not to put leading questions, the witness is his witness.

Mr. Reilly: His witness, he certifies to the truth and accuracy, we bring out certain things in the cross examination. Now he tries to explain it.

The Court: I think the Attorney General is justified in the asking of unobjectionable questions that you ascertain whether or not the witness meant precisely what he said.

Mr. Wilentz: All right, sir.

Q. So that you, as I understand it, you said you spoke to me this morning? A. Yes.
Q. And, did you speak to any officers about this case recently? A. No.
Q. Well, I mean— A. Not—

Mr. Reilly: Now, I object, that is his answer.

Mr. Wilentz: Well, now, certainly it is his answer.

A. You know, you can't prevent from speaking to anybody in the case.
Q. You can't what, what is the answer?

Mr. Reilly: I move that be stricken out as not responsive.

Mr. Wilentz: Let's hear it now.

Mr. Reilly: Wait a minute. A motion is before the Court.

The Court: I have not heard it.

Mr. Reilly: All right. The stenographer will repeat it. I can't combat the Attorney General on the voluntary statements of this witness.

(Reporter repeats last answer: "You know you can't prevent from speaking to anybody that is in the case.")

Q. What do you mean by that, sir? A. Why, if one will speak to you and the other speak to you, one say, "How do you do," and, "How do you feel?" and this way, so you can't help it.

Q. Did any of the officers speak to you about the case? A. Well, well, I tell you, after I seen him—

Mr. Reilly: I object to this.

A. (Continuing.) —I said "That is him."

Mr. Reilly: I object to it.

The Court: Well, the question is, "Did any of the officers speak to you about the case?" I think the witness is entitled to answer that question.

Mr. Reilly: Yes or No.

The Court: How is that?

Mr. Reilly: Answer it Yes or No.

The Court: Well, he—

Mr. Wilentz: He has already answered it.

The Court: What was his answer.

(Reporter repeats last answer: "Well, well, I tell you, after I seen him I said 'That is him.'")

Q. And, by "him" who do you refer to? A. Hauptmann.

Mr. Wilentz: All right, sir. That is all.

Cross-Examination by Mr. Reilly:

Q. Who gave you the name Hauptmann? A. I saw the name in the paper.

Q. Yes. Now, have you ever been in any institution? A. What do you mean?

Q. Hospital? A. Hospital. I was employed in a hospital once.

Q. Where? A. Poughkeepsie.

Q. Whereabouts in Poughkeepsie? A. Hudson River State Hospital.

Q. The what? A. Hudson River State Hospital.

Q. When were you employed there? A. I was employed as a kitchen boy.

Q. How long ago? A. Oh, I think that was in '73, '74—1874.

Q. Ever been back there since? A. What?

Q. Have you ever been back there since. A. Yes; my wife is buried there, and three children.

Q. Have you ever been back to that institution since? A. I went there one summer. My son took me up, showed me the change that had been made since I was there.

Q. Did you ever stay there? Did you ever stay there? A. No.

Q. Were you ever in any other institution as an employee or as an inmate? A. No.

Q. Or any hospital? A. No.

Q. Sure about it? A. Yes.

Q. So that you got the name Hauptmann from the newspapers? A. Yes.

Q. How long ago? A. When it came in the papers.

Q. Why, that's months ago. A. Yes.

Q. And you saw his photograph in the paper, didn't you? A. Yes.

Q. Day after day and day after day; is that right? A. No, when the first papers came out, I saw that face.

Q. You saw the photograph? A. I saw—

Q. Now, just answer my questions.

Mr. Wilentz: Just let him answer it, please.

Mr. Reilly: I submit I can get an answer, I think, yes or no. I don't want a long speech from the witness.

Mr. Wilentz: Counsel may be right about it, but I think the procedure, may I suggest it very respectfully, is to let the witness finish his answer; if it is not responsive he can move to strike it out.

Mr. Reilly: Yes, but the damage is done.

The Court: Well, I will undertake to correct the damage, if you desire me to.

Mr. Reilly: All right.

The Court: But I do think the witness is entitled to finish his answer.

Q. Am I correct in saying that you saw Haupt-

mann's picture in the newspaper? Is that correct? A. When the first paper came out.

Q. Yes. A. After his arrest.

Q. How long ago was that? A. Oh, I don't remember.

Q. You don't remember that day, do you? A. That is when he was arrested.

Q. You don't remember that date, do you? A. No.

Q. Now, can you remember the second time you saw his picture, what date? A. Oh, in every newspaper.

Q. Can you remember the date that you were in the jail? A. That must have been—

Q. Not what it must have been—can you? A. No, not exactly.

Q. That was within the last couple of months you were in the jail? A. Huh?

Q. You were in the jail in the last couple of months? A. Yes, I think it was.

Q. You think it was? A. About a month ago or something like that.

Q. What day of the week were you in the jail? A. I think it was on a Sunday

Q. You are not sure? A. No.

Q. You are not sure about the date? A. No.

Q. And that only happened a month ago, is that right? A. It is not quite a month ago, I don't think.

Q. Is that right? A. Yes.

Mr. Reilly: That is all.

Mr. Wilentz: That is all. Thank you very much.

Mr. Reilly: Your Honor, could we have five minutes to air out here?

The Court: It has been suggested by the jury and counsel that we ought to take a five minutes' recess and that will be done. The jury will retire.

(The jury retired at 11:30 a. m.)

(At 11:40 a. m. the trial was resumed.)

The Court: Poll the jury, Mr. Clerk.

(The jury was polled and all jurors answered present.)

JOHN J. LAMB, sworn as a witness in behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Captain, you are connected with the State Police in the capacity of a Captain, are you not? A. Yes, sir.

Q. And in that capacity was there presented to you by Mr. Kelly—is it—Exhibit S-32 for Identification, the ladder? A. Yes, sir.

Q. Now, when, to the best of your recollection? A. On June 1st, 1932.

Q. And have you had complete charge of that ladder since that time? A. I have, yes, sir.

Q. Any exceptions? A. When it left my custody, it was given to a Mr. Koehler of the United States Forestry Department.

Q. Except for those times when Mr. Koehler of the United States Government had possession of that ladder, was it in your custody? A. It was, yes, sir.

Mr. Wilentz: That is all I have at this

time; just for the purpose of connecting the ladder as requested.

Mr. Reilly: Nothing at this time.

Mr. Wilentz: That is all. Mr. Koehler, will you be sworn.

ARTHUR KOEHLER, sworn as a witness on behalf of the State:

Direct Examination by Mr. Wilentz:

Q. You live where, Mr. Koehler? A. In Madison, Wisconsin.

Q. And you are connected with the United States Government in what capacity? A. I am wood technologist in the forest service, which is part of the U. S. Department of Agriculture.

Q. Now on various occasions since this Lindbergh case, have you had—have you received from Captain Lamb this ladder? A. I have.

Q. And, by the way, will you tell us what is this cut that has been pointed out on No. 2, on section marked No. 1 with this little thumb-tack? I notice a cut there. Did you make that cut? A. I did.

Q. This piece of what appears to be a new piece of wood, as compared with the other, did you have that affixed? A. Yes.

Q. You did, sir. And when you got through with it, did you return it to Captain Lamb? A. I did.

Mr. Wilentz: That is all. Any questions?

Mr. Reilly: May we have him later on?

Mr. Wilentz: Surely.

Mr. Pope: Just a minute.

Cross-Examination by Mr. Pope:

Q. Where that light portion of wood is fastened to the side of the section of the ladder, you say you put that on there? A. I helped in putting it on.

Q. Why did you put it on there? A. That rail was cut in two, and it was put on to bring them back into their original position.

Q. Who cut it in two? A. I don't know.

Q. Was it cut in two when it was brought to you? A. Not the first time, but subsequently it was.

Q. Was it cut in two while it was in your possession? A. No.

Q. Or in your department? A. No.

Q. What do you mean when it was brought to you the first time? A. Well, the first time I examined the ladder, that rail was not cut in two.

Q. When was that? A. That was the latter part of February, 1933.

Q. And where? A. At the New Jersey State Police Training School.

Q. Then you did not see it again until about June 1932 or '33? A. Why, I saw it off and on then for about six weeks, and saw it again the next Fall.

Q. Well, when was it brought to you with one side cut in two? A. When I came back here in the Fall of 1932, one of the rails had been cut in two.

Q. While the ladder was in your possession, did you remove any of the nails? A. Yes.

Q. And did you remove any of the cleats? A. Yes.

Q. Did you take the ladders apart? A. Yes.

Q. And then did you put it together again? A. I helped in putting it together, I supervised it and did part of the work ourselves, two of us did it.

Q. Did you use the same or different nails? A. Used the same nails—I had turned over the nails to someone else and he turned them back to me as the

same nails.

Q. As the same nails? A. Yes.

Q. Then you don't know whether they were the same nails or not, do you? A. I didn't follow them through his hands.

Q. So that you are unable to testify positively that the nails that now appear in the ladder are the nails that were taken out by you? A. Not from personal knowledge.

Q. Now while you were examining the ladder and experimenting with it were any of the cross rounds broken? A. There was a piece split off several of them from one corner.

Q. And was that split off accidentally or intentionally? A. It was that way when I first saw the ladder.

Q. Who delivered the ladder to you? A. Captain Lamb.

Q. Where? A. First time at a State police training school near West Trenton.

Q. And what did you do with it? A. I examined it carefully, took it apart.

Q. Then did you turn it back to Captain Lamb? A. Yes.

Q. And when did you next receive it? A. As I said I—

Mr. Wilentz: When?

A. Well, the next period in which I received it was in the fall of 1933. I don't remember the exact date, but it was about the first week in November.

Q. When was that—about the first week in November? A. Yes.

Q. 1933? A. Yes.

Q. Where did you receive it then? A. At the same place at the training school.

Q. From whom? A. From Captain Lamb.

Q. And did you remove it from that location? A. No.

Q. Did you ever have it down to Washington? A. I didn't, no.

Q. Was it ever there? A. I understand it was.

Q. Well, don't you know? A. No, I didn't see it in Washington.

Mr. Wilentz: Any other questions? I offer the ladder, if your Honor please; S-32 for Identification is offered in evidence.

Mr. Pope: Well, of course, we object to the reception in evidence of this ladder at this time for the same identical reasons which we offered and placed in the record when it was first offered by the Attorney General, and for the additional reason that it now appears from the testimony of this witness that he took the ladder apart, that the nails were withdrawn, and that they were handed over to someone else; that after he did his experiment or inspection he helped put the ladder back together again, and that he used nails that were handed to him by someone else; that he does not know whether they were the same nails that came out of the ladder or not.

It also appears from the testimony of this witness that a saw-cut has been made in one of the rounds of the ladder, which was made by him. It also appears from his testimony that between the time he thus sawed this ladder and the time it was brought to him again, one of the uprights had been sawed in two, so that it was necessary to attach a small piece of light-colored board to it in order to hold it together. The ladder, therefore, is not in the same condition, that it was or in approximately the same

condition, and it is not shown to be in the same condition it was when it was discovered, as is testified here, on the Lindbergh estate. It has been taken apart, put together again; nails that may play a very important part in this case have been drawn out of it, and the gentleman says he does not know whether the same nails were put back together, or whether they were put back in identically the same holes that they came out of.

In addition to that, sir, it appears from this witness's testimony that the ladder has been in Washington, that somebody else has had possession of it; that it has been here, there, and at various places, and its course has not been traced, nor have we had an opportunity to examine as yet all of the men that have had the custody and the handling of this ladder between the time it was found and today when it is being offered into evidence.

And there is still another reason, and a very great reason, and a very strong reason.

And there is still another reason, and a very great reason, a very strong reason—there is absolutely no connection, either by circumstance or by direct evidence between this ladder and the accused, and until this ladder has been placed in the possession of the accused, or until there is some evidence in this case which would tend to show or which would be sufficient to go to the jury, to have them consider whether or not the ladder was ever in the possession of the accused, this ladder is not evidential against this accused.

I submit that it is well-established law that wherever any, whenever any, where any article, whenever any article or personal property is desired to be introduced in evidence as evidence

against an accused, there must be some connection established, be it slight, between the personal property and the accused before it can be admitted in evidence.

It may be admitted for identification until that proof is complete, but until there is something in this case to show that Mr. Hauptmann, the defendant, was in some way either directly, immediately or remotely connected with this ladder, it is not evidential and should not be admitted in evidence.

Mr. Wilentz: Your Honor please, taking the last suggestion of counsel and reason first, we represent to the Court and to our adversaries that we will connect this ladder with Mr. Hauptmann, but that is beside the point altogether. We have already connected it so far as the scene of this crime is concerned and as being the ladder and it is certainly evidential as to that.

My understanding of the objection the other day was that the only thing that was left was the question of connecting up the custody of this ladder and to whose custody it was in. We have now proven that and counsel has shifted on the theory that someone said it had been in Washington at one time, and if your Honor may remember, I will call it to counsel's attention, that while Trooper Kelly was on the stand he said that that ladder was in his custody continuously, that during that time he took it to Washington for tests, but he was there, locked it in a safe at night and took it out in the morning and then brought it back and in June he delivered it to Captain Lamb. Now we produce Captain Lamb and we connect the possession of the ladder with Captain Lamb for the

entire period except for those periods that the Government agent had it in his custody when he performed on it in such manner as he will testify at a later time.

Mr. Wilentz: So that we have proved the custody. Now there is some objection about the nails. I take it after all that this is not a cross word puzzle, that we are all supposed to be of average intelligence and if these are not the same nails, that will develop. May I say to your Honor and to counsel that we promise your Honor that we will show everything there is to be shown about the nails too. But this is the ladder that was on that scene according to the man that was there. We have connected it step by step into the hands of this man and back to Captain Lamb for three years and we will run it right into Hauptmann. Now if that is what they want I promise your Honor that it is certainly evidential.

Mr. Pope: I do not want to prolong the argument, if your Honor please, but we are not willing to accept that promise because we do not know what they think or consider or believe in their own mind to be in the nature of circumstances which may connect this ladder with the defendant. We are here defending a man for his life and his every right must be and will be protected by this Court, and we insist that this ladder shall not be admitted in evidence in this case as evidence against him until he is shown to have been connected with it in some way. Now my objection to the ladder goes further than the Attorney General seems to think it does. Our objection is, of course, that it has not been shown who had possession of this

ladder and what each person did with it every time it passed from one hand to another. Kelly didn't say who had it or who used it or what they did with it in Washington.

We don't know what has been done to this ladder until we have the witnesses on the stand and are permitted to cross examine them and find out what they did with it. For instance, it was testified here this morning that this ladder was, I think, examined by the Lochard process by somebody, for the purpose of developing latent fingerprints on it. We want to know who that man was. We want him on the stand; we want to find out what he did with that ladder when he had it. We have a right to know what he did with it. We want somebody to swear what happened to that ladder when it was in the possession of this man, Dr. Hunter I think it was, or whatever his name was.

And so with each and every man who has had this ladder, who has experimented with it, who has done something to it, who has taken it apart, who has changed this ladder from the time it was found down to the present day.

Our objection is also that the ladder is not in the same condition that it was found, that it has been changed. They have sawn pieces of wood off of it, and they have sawed it in two, and they have taken it apart, and they have tried to put it back together again,—and with what nails, we don't know where the nails came from or who put them there. It is all very well for the State to say "We are going to connect up this ladder with the defendant;" but our duty and our obligation to a man on trial for his life is to see that the ladder is connected up and brought home to him before it is permitted to go in evidence in this case, and that

is what we appeal to your Honor to help us do.

The Court: This ladder has already been marked, I think, for identification. I do not seem to have much doubt in my own mind at the moment that certain parts of this ladder certainly are now admissible in evidence; the framework of it, especially such parts of the framework as do not appear to have been disturbed—I think that they are admissible in evidence. There are certain phases, changes, admitted changes, that perhaps ought to be or will be further developed as the case proceeds; and then, too, there is the question of nails. I do not know what figure nails cut in this case, but counsel seem to have some ideas upon that subject. Now perhaps that ought to be the subject matter of some further examination; and for the purpose of allowing those phases of the matter to develop, following the plan suggested by the Attorney General, that he defer his motion for the admission of this ladder as the thing now stands, as a whole, until later, when there has been an opportunity to inquire more minutely into these changes which have been referred to. So that for the moment I think that I will defer the admission of this ladder in evidence.

Mr. Wilentz: All right. Mr. Koehler, will you step down.

Mr. Kelly, will you please take the stand again.

FRANK A. KELLY, recalled:

Direct Examination by Mr. Wilentz:

Q. Mr. Kelly, do you know who sawed this section, referring to the section that is fixed together by a white board, on Section 1 of the ladder, which is marked S-32 for identification? A. No, sir, I do not.

Q. Were you present when it was done? A. No, sir.

Mr. Wilentz: All right, sir, that is all.

(Witness excused.)

The Court: He says that he does or does not know?

Mr. Wilentz: He does not.
I will call Mr. Sweeny.

JOHN J. SWEENY, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. With what police department were you connected on the first day of March, 1932? A. Newark, New Jersey.

Q. You are still connected with that department? A. I am.

Q. In what capacity? A. At the present time I am in the Radio Division.

Q. You are a patrolman or an officer? A. Lieutenant.

Q. Were you a lieutenant then? A. Yes, sir.

Q. In that capacity were you assigned to the Lindbergh case? A. I was.

Q. Remembering that the crime occurred on the first day of March, 1932, when did you get there? A. Toward evening of the following day.

Q. When you got there towards evening, did you

make an inspection of the wall on the east side? A. No, sir.

Q. The next day did you? A. Yes, sir.

Q. In company of whom? A. There were several troopers there, the names of whom I can't recall.

Q. Did you make an observation of the east wall? A. I did.

Q. What did you find on that wall? A. You want me to tell how I got up on the wall?

Q. Yes, whatever you did and what you found. A. I put the three sections of the ladder together with the help of a couple of troopers.

Q. Sections of what ladder? A. This ladder (indicating).

Q. Exhibit S-32 for identification? A. Yes.

A. We put the foot of the ladder in the indentations that was made in the mud. We raised the ladder to the building and we saw that that wasn't the method that was used to get in.

Mr. Reilly: I move to strike it out as a conclusion.

The Court: One moment. I didn't get it.

Mr. Reilly: He lowered his voice.

(Answer read by the reporter.)

Mr. Reilly: "Was not."

Q. Now, that was with the three sections? A. Yes.

Mr. Reilly: May I ask Mr. Sweeny to keep his voice up? It is kind of difficult to hear.

Q. When the ladder was up with these three sections in this test and demonstration, did you look up at the building at the point where it had reached the third and top and uppermost section? A. I did.

Q. Did you find any marks there or anything? A. We took the third section off then.

Q. Oh, I know. But first I want to know about the three sections. A. No, sir. We did not.

Q. Then say so. Then you made a test and examination with two sections, did you not? A. Yes, sir.

Q. And when you made the test and examination with two sections, when the ladder rested against the wall of that building, what did you observe? A. We saw marks where the top of the ladder had rested against the masonry.

Mr. Reilly: I object to that as calling for a conclusion.

The Court: He may tell what he saw.

Q. What kind of marks were they; that is what I want to know? A. Scrape marks.

Q. Scrape marks on what? A. On the masonry of the wall.

Q. What sort of scrape mark is it, what is the color of it? A. It was whitewash stonework.

Q. Whitewashed stone? A. Yes.

Q. And the marks that you saw, was that whitewashed stone or had it been scraped off the whitewash? A. There was a slight scraping.

Q. What color did it leave? A. Darker than the whitewash of the wall.

Q. And at about what point were these marks that you talk of? A. About 30 inches below the window sill.

Q. What window sill? A. The window sill on

the southeast corner of the building.

Q. Southeast window sill, southeast corner? A. Yes, sir.

Q. Of the building? A. Right.

Q. First floor or second floor? A. Second floor.

Q. Was that the baby's nursery room? A. It is.

Q. I see. So that you say about 30 inches? A. About, approximately.

Q. Below that? A. Yes.

Q. These two marks were there? A. Right.

Q. How far apart were they? A. It looked to me about ten inches or a foot.

Q. When you put this ladder up against the building with the two sections, what have you to say as to whether or not the dimension or the distance between those two marks was or was not approximately the same distance between the top rung of the ladder? A. They were identical.

Q. They were identical? A. Yes.

Q. Now, did you then—oh, by the way, did you go up on another ladder? A. I did.

Q. Did you have another ladder there? A. Yes.

Q. So you were standing on another ladder while you were making the test, is that it? A. Yes.

Mr. Wilentz: Is the other ladder here? Is that the ladder referred to as Colonel Lindbergh's ladder? Is it here or isn't it, that is all I would like to know for the moment.

Mr. Peacock: No, it isn't.

Mr. Wilentz: Well, we will pass that for a second.

Q. Now did you take some sort of an instrument which permitted you to magnify those marks and inspect them with a magnifying glass? A. I did.

Q. When you did that, applying the magnifying glass to those marks that you just referred to, what did it reveal? A. Particles of wood, small splinters.

Q. Small splinters of wood? A. Yes.

Q. Where? A. On the marks made by the ladder, this ladder.

Q. So that there were particles of wood in the marks that you referred to a minute ago, imbedded into the stone or whatever it is there that the side of the building is made of, is that it? A. That is right, yes, sir.

Q. Now, while you were making this test with the other ladder, did you have a rung of that ladder which paralleled the top of the second section of S-32 for identification? A. We did.

Q. And from that point did you walk into that window, or didn't you? A. I did.

Q. Did you have any difficulty getting in? A. No, sir.

Q. How much do you weigh, sir? A. About 180.

Q. How much did you weigh at that time? A. 175.

Q. Did you step in then from this other ladder that we speak of, which we will have here in a little while, from about the point where those marks were and into that nursery window, the southeast window? A. We did.

Mr. Pope: We object to the question.

Mr. Wilentz: That is all.

Mr. Pope: We think the witness should tell us what he did.

Q. Well, tell us then what you did, officer. A. Well, after we got the spot where the kidnap ladder rested against the masonry—

Mr. Reilly: I move to strike that out.

Q. No, never mind that.

The Court: Where these marks were.

Q. After you got to the spot where the marks were. A. We moved that ladder away.
Q. You moved—

(At this point an extension ladder was brought into the court room.)

Mr. Wilentz: I think if your Honor please, we will have to build something up here to hold these exhibits after a while.

Q. After you saw where the marks were, did you remove the ladder, which is now S-32 for identification? A. Yes, sir.
Q. Did you then—or then what did you do? A. Took this extension ladder and put it this side of the marks that had been made by this smaller ladder, and we extended the ladder about maybe two rungs.

Mr. Reilly: I move to strike out that portion about the smaller ladder.

Mr. Wilentz: We consent to it.

Q. Up to the point where the marks were? A. Right.
Q. Then what? A. We had to move the top of the ladder higher than the marks so as to allow the top rung of the smaller ladder to be the same height as the extension ladder.
Q. You were talking about making the rungs meet a portion of the other ladder? A. Yes, sir.

Q. You mean S-32 for Identification? A. That is right.

Q. As you had reconstructed it and placed it there, did you then, after removing S-32 for Identification and placing this other ladder, heretofore referred to, did you place it at about the same place under the same conditions as you had had S-32 for Identification? A. We did.

Q. All right. Having done that, did you walk up that ladder? A. Yes, sir.

Q. Then what did you do? A. Got into the nursery window.

Q. How did you get in? A. Put my left knee up on the window sill and then squirmed around and put my right foot in and stepped down on the floor.

Q. Did you in doing that disturb the suitcase that was there, if there was a suitcase? A. I did not.

Q. Were you able to get in, did you get into that window without knocking the suitcase over? A. Yes, sir.

Q. Did I understand you to say you weighed 180 pounds? A. Now, yes.

Q. What did you weigh then? A. About 175.

Q. 175. How tall are you, sir? A. Five foot ten and a half.

Q. How old are you, if you don't mind telling? A. Forty-five.

Q. If you don't mind, will you put your notion of where the marks were on the picture. I will show you the picture and also the map. That will help on the cross-examination. I show you Exhibit S-38, sir, a picture of the house and the east window. Will you give us your notion, if you can describe it, or otherwise mark it, of about where these marks were that you were referring to a minute ago as being approximately 30 inches below the window sill. A. The top rung, the marks underneath the window sill, was about 30 inches below the window sill and,

if I recall correctly, the ladder sort of spraddled.

Q. Not the ladder. The marks. A. The marks cut across the window.

Q. What do you mean by "cut across the window"? A. The left—I had the ladder up there.

Q. Yes. Well, what I want to know is,—see if we can help it,—what I want to know is was it directly under the center of the window or to the right or left? A. It was not. The lefthand mark was about six inches from the right hand casing.

Q. From the righthand casing. When you talk about the righthand casing, is it the right hand as I look at it? A. Yes, sir.

Q. So what you mean is it was more to the right, is that what you mean? A. Right.

Q. As I face the map? A. Yes.

Q. Do you see those two marks X's that have been placed on there? A. Yes.

Q. With relation to those X's, where were the marks? A. About like it is marked there now.

Q. That is your judgment about thirty inches below the window sill, is that it? A. Yes, sir.

Q. All right, that's all.

Mr. Wilentz: We were referring for the record to the X's on Exhibit S-2, is that it, Mr. Hauck?

Mr. Reilly: I wonder whether or not the clerk of the court has a tape measure or whether we could bring one back after adjournment.

The Court: Has anyone got a tape measure here in court?

(No response.)

Mr. Wilentz: We can get one.

The Court: Counsel may get one.

Cross-Examination by Mr. Reilly:

Q. Mr. Sweeny, what time did you get there for the first time? A. Around dusk of the following day.

Q. Then, you were shown certain things? A. No, we were not.

Q. Well, you didn't discover any marks on the building. A. I did.

Q. You weren't the first one to discover them, were you? A. I don't know.

Q. Nobody told you they discovered them? A. No, sir.

Q. You don't know how old the marks are? A. No, sir.

Q. You don't know who made them or when they were made? A. I don't know who made them.

Q. Not guess work. A. I don't know who made them.

Q. Or when they were made. A. No.

Q. You weren't there when they were made? A. No, sir.

Q. Now, is this the ladder you used for your experiment? A. This one, yes.

Q. Sure about it? A. Quite sure.

Mr. Reilly: Shouldn't that be marked for identification, for the purposes of illlustration?

Mr. Wilentz: I think—I am satisfied to have it marked in evidence.

Mr. Reilly: Not in evidence.

Mr. Wilentz: Well, I will follow your suggestion.

Mr. Reilly: So we may talk about it and it may appear on the record for identification and illustration.

The Reporter: It will be S-40 for identification.

(Garage ladder referred to was marked State Exhibit S-40 for identification.)

Q. Now, just what was the condition of the ground around the two indentations when you arrived just about dusk? A. I didn't go in and look at them.

Q. You didn't look at the indentations in the ground? A. I didn't go back there, no, sir.

Q. Well, when did you perform these experiments? A. The day following.

Q. What time of the day? A. In the forenoon.

Q. Who was there with you? A. There was half a dozen troopers.

Q. All assisting in this experiment? A. Yes, raising the ladder and looking on, and so forth.

Q. Where did you get the,—what is the number, Mr. Clerk, you have given us?

The Reporter: S-40 for identification.

Q. —S-40, let's call this the garage ladder. A. It was laying up against the building when I saw it.

Q. So that the first time you saw it, it was up against the building? A. Yes, sir.

Q. Now, what was the condition of the nursery window on the outside when you got there? A. The window was up.

Q. And no shutters on it? A. As far as I can recall, there was a shutter on it.

Q. One or two? A. Two.

Q. Were they open? A. Open.

Q. Now, what is the length of sections 1 and 2 of the ladder in identification, known as S-32? A. I didn't measure them.

Q. Well, you were there performing an experiment? A. Yes, sir.

Q. So that at the present time you do not know the comparative length of 32 to 40? A. I do.

Q. By actual measurement? A. No, sir.

Q. Have you ever actually measured them? A. No, sir.

Q. If I bring a tape measure this afternoon, will you be good enough to measure them for me in front of the jury? A. Yes, sir.

Mr. Wilentz: I suggest, if your Honor please—I have no objection to Mr. Reilly measuring it this afternoon. It does not have to be done by this witness.

Mr. Reilly: I don't think I will be through with him.

Mr. Wilentz: Oh.

Mr. Reilly: As long as he is on the stand, I would like him to perform his experiment here.

Mr. Wilentz: Well, that is not part of the experiment, because he didn't measure it.

The Court: Well, Mr. Reilly seems to want this witness to measure these ladders, and the witness seems to be willing to do it. I sup-

pose that course might just as well be adopted.

Q. Now am I correct in saying that you inserted the foot of 32 into the indentations? A. I didn't do it personally, no, sir.

Q. Who did? A. One of the troopers.

Q. You don't know who it was? A. No, sir.

Q. Did you find it in that position when you came back to make your experiment? A. No.

Q. Were you there when he did it? A. When he inserted the ladder into the indentations?

Q. Yes. A. Sure.

Q. You saw him do it? A. Yes, sir.

Q. Then you ran up the three sections, is that correct, of 32, first? A. The first time, yes, sir.

Q. Now when you ran up three sections of 32, in what position were the shutters of the nursery? A. Open.

Q. At any time during your experiment with 32 did you go up into the nursery, close the window of the nursery, and draw in the shutters as far as they would go and try to lock them? A. No, sir.

Q. Weren't you told by people in that house that when that room was closed for the night the window was closed but not latched and the shutters were drawn in as far as possible but were not locked because they were warped? A. No, sir.

Q. Then you never made an experiment with Ladder No. 32 with the shutters closed as far as they would go? A. No, sir.

Q. Any experiment you made was with the window open and the shutters thrown back? A. Yes, sir.

Q. Did you ever go up the ladder and open the window? A. No, sir.

Q. The window was already opened for you, wasn't it? A. Yes, sir.

Mr. Reilly: Now, that is as far as I can go

without the illustration.

Mr. Pope: Just one other question, Mr. Reilly.

By Mr. Reilly:

Q. Mr. Pope suggests did you in making the experiment close the window? A. No, sir.

Q. How many experiments did you make? A. One.

Q. And that was on March 3rd, wasn't it? A. Yes, sir.

Q. In the forenoon; correct? A. Yes, sir.

Q. Now, when you went up Ladder No. 40, the garage ladder, who stood at the foot of it? A. Several Troopers.

Q. Holding it? A. No, sir.

Q. Did you have to run any of this extension up? A. Yes, sir.

Q. About how much? A. As near as I can recall, one or two rounds.

Q. Then you just went up this Ladder 40 to the top and you were 30 inches shy of the window still? A. Approximately.

Q. Will you point out here, please, something in the courtroom? A. A little more than knee high.

Q. Brought you to about here (indicating on jury box rail)? A. Approximately.

Q. From the top rung of 40, is that correct? A. Yes, sir.

Q. As you approach the top of 40,—could you go up there this afternoon? A. Yes.

Q. Could you? What would you hold on to after your hands and the upper part of your body got above the top rung? A. The window casing.

Q. You reached up, did you? A. It was right in front of me.

Q. It was 30 inches short, was it not? As you came up there and got on the top—look at that ladder—as you go up the ladder you hold on the side. A. Yes, sir.

Q. Have you ever been a fireman? A. Yes.

(Laughter.)

Q. So when you run up the ladder you hold on the side, is that right? A. Yes.

Q. When you get up there you don't crouch down. A. Not necessarily.

Q. No. How did you balance yourself when your hands got above the top of the rung? A. I grabbed ahold of the casing, the window.

Q. You reached up? A. Yes, sir.

Q. Did you hold one hand on the side to steady yourself? A. I don't recall whether I did or not.

Q. But at some time your hands would be above the top rung before you could reach the casing. A. Put your hand up and hold on to the window sill.

Q. But if you are down on the third rung—see that— A. Yes.

Q. How many feet down is that? A. From the top rung to the third rung?

Q. From the top edge, two and a half or three feet? A. It is more than thirty inches.

Q. When your foot is on that third rung, your hands are up in the air, is that correct? A. Yes.

Q. And you are still 60 inches away from the window, because the top of that ladder was 30 inches away from the sill, you have told us. A. Right.

Q. So you are 60 inches, you are five feet away from there. You haven't a five-foot reach, have you? A. I have got a seven-foot reach.

Q. Of your arm? A. From my shoes.

Q. I am talking about from your shoulder up.

Mr. Wilentz: If your Honor please, that is not fair. The question was whether he had

a five-foot reach. It was clearly intended apparently from where he stood, from his feet—

Mr. Reilly: That is quite true, but I want to know what he held on to as he approached the top of the ladder five feet away from the window.

Mr. Wilentz: I withdraw the objection.

The Court: Proceed, Mr. Reilly.

By Mr. Reilly:

Q. What did you hold on to as you got five feet away from the window? Your hands were above—
A. It is all in one movement, you reach up and grab hold of the window sill.

Q. You did not have gloves on. A. No, sir.

Q. You grabbed hold of the window sill. A. Yes, sir.

Q. And you pulled yourself up. A. I stood up straight.

Q. On the top rung? A. Yes, sir.

Q. What did you do? A. I put my hand in and took hold of the window casing.

Q. Inside of the room? A. Part of it, where the window runs up and down.

Q. On the side? A. Yes.

Q. And you swung yourself in. A. Put one leg right up in.

Q. But you did that because of your training as a fireman. A. Possibly.

Q. How many years were you a fireman before you went into the police department? A. Two years.

Q. How many years training did you have in the fire department? A. Two years.

Q. Six months before you went in, did you not? A. No.

Q. None at all? A. No.

Q. No probation in those days, but you had two years as a fireman running up and down ladders, is that correct? A. Yes, sir.

Q. Also handling scaling ladders, right? A. Yes.

Q. And your old knowledge as a fireman came back to you when you went up there. A. True.

Q. Is that one of the reasons they sent you up the ladder? A. No.

Q. Well now, when you swung yourself into the room did you have to swing sideways? A. Yes.

Q. You swung yourself around on the seat: is that correct? A. Right.

Q. And then swung yourself off on the floor? A. That is true.

Q. And in coming out, how did you come out? A. Stepped up over—

Q. Feet first and swung around? A. Sat on the window sill, yes.

Q. Now what did you do, as you swung out, feet first—is that correct? A. That is correct.

Q. Then you would make a half turn: right? A. Right.

Q. And what would you do with your right arm? A. Hold on to the window case.

Q. What did you do with your left arm? A. Held on to the window sill.

Q. Both arms were busy? A. Yes, sir.

Q. And then you would lower yourself thirty inches until you felt the grip of the ladder? A. Yes, sir.

Q. Like a fireman, right? A. That is right.

Q. Still hold on with the right hand or left? A. Yes.

Q. —side? A. Yes.

Q. And reach down, wouldn't you, to get a pur-

chase to balance? A. Carefully, yes.
Q. And that is what you did? A. Yes.
Q. Both hands were occupied? A. Yes.

Mr. Reilly: Yes. That is all for now.

Mr. Wilentz: I take it—are you through with the witness?

Mr. Rosecrans: Not through with the witness.

Mr. Reilly: No, no, I thought we were going to have the tape.

Mr. Wilentz: You want him back this afternoon?

Mr. Reilly: Yes.

Mr. Wilentz: Then there is no sense of my commencing.

Mr. Reilly: I thought being 12:30, your Honor might adjourn for lunch.

The Court: People in the courtroom will remain where they are. We want to get the jury out without delay or confusion. The jurors may go and return at 1:25. The prisoner Hauptmann is now remanded to the custody of the Sheriff and we will take a recess until 1:45, and the audience may now retire.

(Whereupon a recess was taken at 12:31 P. M., until 1:45 p. m.)

AFTER RECESS.

(1:48 p. m.)

The Court: You may poll the jury, Mr. Clerk.

(The jury was polled and all jurors answered present.)

The Court: Is the prisoner in court?

Court Clerk Fell: Not yet.

The Court: He will be brought in.

(The prisoner is brought in to the courtroom.)

The Court: Counsel may proceed.

Mr. Wilentz: Lieutenant Sweeny, will you—

JOHN J. SWEENY, resumed the stand:

Cross-Examination (continued) by Mr. Reilly:

Q. Have you your own tape, Lieutenant? All right, use your own. Now, is it Captain Sweeny? A. Lieutenant.

Q. Lieutenant Sweeny, will you be good enough to unhook this S-32. A. (Witness unties ladder.)

Q. Now, I wonder if you could measure with your tape the two sections that you say were used in the experiment, as they would appear put up against the house. Is our tape longer than this?

Mr. Pope: Yes, ours is longer.

Q. This is a long tape, Lieutenant. I think you can run it right down. A. (Witness measures ladder with tape furnished by Mr. Reilly.)

Q. Six-foot ten is the first one? A. Yes.

Q. I want the two sections, the two sections that you used in the experiment. A. Three of them were the same size.

Mr. Wilentz: Same height?

The Witness: Same height.

Q. Well, which did you use in the experiment? Are those the two? A. (Witness indicates.)

Q. Will you measure them in front of the jury. A. Six-ten.

Q. Six-ten. That makes—

Mr. Pope: Now will you give us that measure, please?

Mr. Reilly: Six-ten each. That is 13 feet eight inches; right?

Mr. Stockton: Yes.

Q. Now how were they joined in the experiment? A. They were joined with a dowel. I didn't put them together.

Q. You saw them put together? A. Yes, sir, they were joined with a dowel.

Q. You saw them when they were put together? A. Yes, sir.

Q. Now can you approximately back that 32, this 32 (indicating), back to where you say the indentations were on the ground in relation to the house, this wall (indicating on map) being the wall of the house? Show me how the two sections were up against the wall at the time you climbed Exhibit

S-40? A. (The witness arranges the section.) About like that.

Q. About how many inches do you say away from the house? A. Forty inches, 42 inches.

Q. Pointing now to this section of the Exhibit S-32, was that used in the second experiment with the same ladder, or the first experiment? A. The first.

Q. I want the two that were used in the second experiment. A. (The witness picks up another section of the ladder.)

Q. Now can you connect them and put them up against the wall? A. With some help I guess I can.

Q. Can't you do it alone? A. I guess I can.

(Witness lays two sections of ladder on floor.)

Mr. Reilly: Where is the dowel pin?

(Mr. Hauck furnishes the dowel pin.)

Mr. Wilentz: One side is enough.

The Witness: That will hold it.

Mr. Reilly: Yes, that will hold it.

Mr. Wilentz: Just wait a minute, Sweeny. Is that sufficiently connected, that little part of the dowel pin?

Mr. Reilly: Enough to hold it at least.

Mr. Wilentz: Enough to hold it, all right.

Q. Now, at the time of the experiment, of course, I assume the dowel pin was all the way through. A. It was.

Q. Did you go up this ladder? A. No, sir.

Mr. Wilentz: Referring to S-32 for identification.

Q. S-32. But you just had it placed in the position it is now in conformity with the Lindbergh home? A. Yes, sir.

Q. Did you have them exhibit 40 alongside of it? A. We did.

Q. And it was put back here, was it, even with the indentation marks? A. Yes.

Mr. Reilly: You had better take that down. It may fall.

(The ladder was dismantled.)

By Mr. Reilly:

Q. Will you take Exhibit 40, please, put it back approximately at the same place the other holes were in the ground, as shown by Exhibit S-37. I understood you to say that you had to run this up at least a rung and a half or two rungs? A. About two rungs.

Q. Before you could get the same height as S-32? A. Right.

Q. But you did not at that time measure S-32? A. No, sir.

Q. As you have here before the jury? A. No, sir.

Q. Will you turn this section the other way, please. A. (The witness rearranged the sections of the ladder, S-32 for Identification.)

Mr. Pope: No, the other way, this one here. Turn it around, upside down.

Witness turns a section of the ladder upside

down. Mr. Wilentz has it turned rightside up again.)

Q. Will you turn it upside down?

Mr. Wilentz: Why, I mean?

Mr. Pope: That is the way he put it against the wall.

Mr. Reilly: For illustration.

Mr. Wilentz: All right.

(Witness turns section of ladder upside down again.)

Q. Now, it is possible, is it not, to affix this portion of the ladder, the pin through here to this portion of the ladder here, S-32? A. It wouldn't bear any weight.

Q. I didn't ask you that, is it possible to hook it? A. I think so.

Q. Now, if that portion was up against the wall as it is now, how much space would there be from the bottom of the window to this step? A. 60 inches.

Q. Sixty inches? A. Yes.

Q. And how much space the other way, 50 inches? A. 30 inches.

Q. Thirty inches? A. Yes.

Q. You say only 60 inches 5 feet from here to the edge of the window? A. Yes, sir.

Q. Is that the way you had it in your experiment this morning when you said 5 feet 60 inches? A. No.

Q. Of course you never saw this ladder in use. A. No.

Q. Did you make any examination of the shutters? A. No. sir.

Q. Did you take the shutters off? A. No.

Q. Do you know anybody that did? A. No, sir.

Q. Weren't you interested in knowing whether or not the shutters were closed that night? You can sit down, Lieutenant, please. A. I was.

Q. Did you inquire? A. Yes, sir.

Q. Were you told that the shutters of the nursery were on the window and closed in as far as they would go except for a little warping which prevented their being locked? A. Not at that time, no.

Q. At any time did you learn that? A. Yes, yes.

Q. Did you look for the warp? A. No.

Q. Never? A. No.

Q. Did you learn that all the other windows of the nursery were closed, or rather, the shutters were closed and locked? A. Yes.

Q. Did you examine them? A. No. sir.

Q. At any time? A. No, sir.

Q. Were there any draperies on the windows? A. No.

Q. Any shades A. No.

Q. No curtains? A. No.

Q. Even on the French doors? A. I don't remember.

Q. What kind of shutters were they? A. Green shutters, sort of lattice effect that you open up and down.

Q. Like Venetian blinds, work up and down? A. Yes.

Q. This arrangement here is for the third section of the ladder to fit in, isn't it? A. I think that is for the second section to fit in.

Q. That isn't—that is the first section, the bottom? A. Yes.

Q. And doesn't this fit into the top of this? A. It may.

Q. Have you tried it? A. I don't recall.

Q. It is the same width all the way down, isn't it? A. It is, but it doesn't go together that way.

Q. Well, there is a dowel pin here, isn't there? A. Yes.

Q. It can go together that way? A. Yes.

Q. Another step belongs in here? A. It fits in one of the steps.

Q. Fits in when you put the other section in there and lock it? A. That's right.

Q. But if only two sections were used, there wouldn't be any step here at the top, would there? A. I don't know.

Q. Does not the third section fit into these two holes? A. I don't recall.

Q. Did you ever fit it in? A. Yes, sir.

Q. Well then, if you fitted it in, you do recall that it fits in? A. No, sir, that is a long time ago.

Q. Will you measure that for Mr. Pope, please, from the top round to the top of the ladder?

Mr. Wilentz: Just a minute, please.

Mr. Reilly: Is that the distance from the point that Mr. Pope holds his hand to the first rung down?

The Witness: Yes.

Mr. Reilly: That is two feet four.

Mr. Wilentz: Is that all of that?

Mr. Reilly: That is all.

Re-Direct Examination by Mr. Wilentz:

Q. Just take a look at this section, please, No. 2

on this Exhibit S-32 for identification. Do you see it? A. Yes.

Q. When you had it together, you had it this way, did you not? A. Yes, sir.

Q. That is, that distance which counsel has measured as being—how many inches?

Mr. Reilly: Two feet four inches.

Q. That particular part was the part which you had connecting between the first and second sections, is that not so? A. Yes, sir.

Mr. Reilly: Now, may he tell us what he did and where he put it.

The Court: Well, it is somewhat leading, perhaps irregular in that respect. The Attorney General may reframe his question.

Q. Will you tell us how you had it then?

(Witness demonstrates by putting two sections of the ladder together on the floor.)

Q. Now, as you have it here, and for the purpose of helping the jury and the Court, if your Honor please, may I not ask whether that portion which was just measured is the portion that you have connecting one and two, is that it? A. Yes, sir.

Q. Yes. And, when that is in that fashion, is there any such distance as they have just attempted to show by measurement between rungs?

Mr. Reilly: Oh, I object to the form of the question.

A. No.

Mr. Reilly: I object to the form of the question—just attempted to show—

The Court: Sir?

Mr. Reilly: His question that we just attempted to show—we did show.

Mr. Wilentz: Well, that is exactly what counsel did.

Mr. Reilly: I don't want the implication to give to anybody or to the jury the impression we were trying to do something here that wasn't proper.

The Court: Oh, no such implication as that. I think the question is proper enough, Mr. Reilly.

Q. Now, will you take that measure that has just been provided for and tell us the distance between these rungs as now constructed, or reconstructed.

Mr. Wilentz: Have you got that measure? Well, you can use the stool, if you want. I don't know what difference it makes.

Q. Measure all of them except those two that are, by their very appearance, very close together. A. (The witness starts to makes a measurement.)

Q. No, not that. Between the two rungs. A. (The witness makes a measurement.)

Q. What distance do those two uppermost rungs show as the ladder is now constructed? Now, just one minute. Give us the distance between the top of the rung and the next rung. Not the far ends. A. 19 inches.

Q. 19 inches. Now let us take the next one. A. 19 inches.

Q. Take the next one. A. That is the same, 19.

Q. All right. Keep right on until you are through with the rungs. A. 18.

Q. The next one. A. 18. 18.

Q. All right, sir. And then the last one. A. 18.

Q. All right. Now, will you just take the stand again. A. The witness resumes the stand.

Q. Now, as you reconstructed this ladder, sir, the one section is narrower than the other? A. Yes.

Q. And fits in: is that it? A. Right.

Q. Now, with that sort of a construction, which is the top and which is the bottom? A. This is the top (indicating).

Q. That is, the smaller section the top? A. Right.

Q. Being a fireman, I take it that you had some experience with ladders? A. I have.

Q. What have you to say—no, I withdraw that. Will you please measure the distance between the rungs on the ladder we have had in here from the Lindbergh estate? A. Approximately 12 inches.

Q. Twelve inches. Now which is the standard ladder, a ladder where the distance between the rungs is 12 inches or 18 or 19 inches? A. 12 inches standard.

Q. So that a ladder with rungs having a distance of 18 or 19 inches is ostensibly a ladder for a man with a bigger step, that is a taller man?

Mr. Reilly: I object to that as calling for a conclusion, although he has qualified him, your Honor, as a fireman and a ladder climber.

The Court: I think I will allow that question, Mr. Reilly.

(Question repeated by the reporter.)

Q. What is your answer, sir? A. Not necessarily.

Q. Well, where the ladder,—the rungs are 12 inches apart—I withdraw that. Where the rungs are 19 inches apart, a person that would be say a little shorter than myself might have difficulty in stretching and climbing that sort of a ladder, wouldn't he? A. They would have.

Q. They would have. So that the ladder is built so that it is particularly adaptable, is it not, for taller men? A. It is.

Q. Now, this ladder, when constructed with dowel pins is a swinging sort of thing where it fits right in like a glove, is that not so? A. It is, yes.

Q. And so that when put together it occupies in length—what was the measurement you said, 6 feet 10 inches, isn't that it? A. I think that is it, 6 feet 10.

Q. In this fashion (telescoping the three sections of S-32 for identification into each other.) just like that? A. Right.

Q. The three sections together like that, you could carry it around, could you not? A. Yes, sir.

Q. A simple thing, is it not? A. Yes.

Q. All right, sir. Now, when you went up this ladder putting the rung at the point where you said approximately near the point where the marks were shown on the building, the side of the wall, and you went in, and you came out, you told counsel that you put one hand on the window sill and one hand some other place—I forget, it doesn't matter so much—was it difficult to come out? A. No, sir.

Q. Did you use the two hands because you had to? A. I think so.

Q. Could you have come out with a package? A. I could.

Q. With any greater difficulty or with the same ease? A. Well, I would have to lay the package down.

Q. On what? A. On the window sill.

Q. And then as you balance yourself, what would you do? A. Pick it up.

Q. Could you close the window then? A. Yes, sir.

Q. You are certain of that? A. Positive.

Q. Positive? A. Yes, sir.

Q. So that—and in coming down the ladder, could you then come down the ladder, one hand coming down the rungs and the other hand with a package? A. I could.

Q. Did you have any difficulty at all about it? A. No, sir.

Q. And then if you had come down, would there have been any difficulty, taking either the three sections together or the two sections together, with the bundle in one hand and walking 70 feet? A. No.

Q. Now, take a look at these sections, please, particularly the—will you come down, please, Officer, and put this section away. A. (Witness puts one section against the wall.)

Q. Just put that down, please. A. (Two sections of ladder are placed together on the floor.)

Q. The proper way, I take it, would be around like this. Now, that is approximately the way.

Mr. Hauck: The other way.

Q. No. You see, I have never been a fireman. Now, you have got the two sections in a position where the dowel, where the rung is in, you would have to get it over a little further. No. That is approximately it. And the dowel pins fit. I notice, Officer, that where this ordinarily empty space is here, the impression here, that that fits with the top rung of the first section? A. It does.

Q. It does. So that as it is constructed there is no

vacancy there at all. I mean so far as that impression? A. None.

Q. No. Now will you take a look and see whether or not this ladder isn't broken right here at the intersection, split? A. It is.

Q. Split all the way down, isn't it? A. Yes.

Q. How about the other side? A. That is split, too.

Q. Split, too? A. Yes.

Q. It is split on the other end? A. No.

Q. Or is it split on any of this part? Any of this split at all? A. No.

Q. All right, sir. So that as the sections are there together, right there at the intersection, the second section is split, isn't it? A. Yes.

Q. I take it, officer, that where, since you have been a fireman and know about ladders—will you take the stand, please—you have seen these section ladders? A. I have.

Q. Various section ladders; and I take it that when the sections are together and they are placed up against the building, the weight is at the intersection, isn't it? A. That is true.

Q. I mean your entire support depends upon that dowel pin and the top of that ladder? A. It does.

Q. Where it meets the bottom of the second section? A. That is right.

Q. Isn't that so? A. Yes, sir.

Q. And the strength that that ladder can carry depends upon the strength of the top and intersection, isn't that so?

Mr. Reilly: I object to that. I object to it, sir.

The Court: Why do you object?

Mr. Reilly: It is leading.

The Court: Leading?

Mr. Reilly: He is testifying.

The Court: Well—

Mr. Reilly: And I don't think it is re-direct.

The Court: Oh, I think it is re-direct all right. I am inclined to think the question is somewhat leading.

Mr. Wilentz: I will reframe it, sir.

Mr. Reilly: All the witness has to do is to say yes.

Q. Is it a fact, officer, that some ladders can carry more weight and some less? A. It is a fact.

Q. What is it that controls the amount of weight that a ladder can carry? A. If it is an extension ladder it would have to be properly supported in the center where the most weight is borne and if it is a single ladder and long enough they use poles to take the weight and slag off the center.

Q. Forgetting the single ladder and getting back to the section ladder I suppose the type of material and everything has something to do with it. A. Absolutely.

Q. But assuming various ladders having the same kind of material, same size and everything forgetting that for the moment what is it then, that decides in a section ladder, a two-section ladder what carries the weight? A. Where it is held together at the section, where it is joined.

Q. At the intersection, is that what you mean? A. Yes, sir.

Q. That is the top and the dowel pin, I take it. A. Yes, sir.

Q. And I take it, or is it a fact that the ladder can stand in most cases just a certain amount of weight and no more? A. That's all.

Q. And when it is overtaxed, what would happen to a ladder that was overtaxed, if you know? A. It usually breaks.

Q. Where would the break be most likely to come? A. Where most of the weight was pressing.

Q. Where would that be? A. In the center.

Q. In the center. You mean by that the intersection? A. The intersection.

Q. Where is this ladder broken? A. In the center.

Q. At the intersection? A. Yes, sir.

Mr. Wilentz: That is all. I thank you.

Re-Cross Examination by Mr. Reilly:

Q. Had you talked to anybody during the noon recess? A. Yes.

Q. Who? A. Oh, a dozen people.

Q. Anybody from the Attorney General's office? A. Yes.

Q. About the ladder? A. No.

Q. About the weather, I suppose? A. No.

Q. Well, now, let's see about this ladder. You do not know who cracked it, do you? A. From my own knowledge I do not know.

Q. That is what I am talking about, your own knowledge. You did not see it cracked? A. No.

Q. You never went up this ladder and went into the window, did you? A. No, sir.

Q. You never went out the window with a bundle in your arm and swung on to this ladder, S-32? A. No.

Q. You never picked the ladder up in your arm and walked away from the house and dumped it 75 feet away? A. No.

Q. You are only speculating on what might happen if you did it? A. That is right.

Q. Unfortunately, you did not do it, although you were there to investigate? A. No, sir.

By Mr. Wilentz:

Q. You didn't take the Lindbergh child out of that window, did you? A. No.

Q. No. That is all.

Mr. Wilentz: That is all.

Mr. Perrone, will you please be sworn.

JOSEPH ANTHONY PERRONE, sworn as a witness on behalf of the State:

Direct Examination by Mr. Wilentz:

Q. In March, 1932, Mr. Perrone, where did you live? A. I lived at 2010 Powell Avenue.

Q. Where is Powell Avenue? A. In the Bronx.

Q. That is in the State of New York, is it not? A. Yes, sir.

Q. It is part of the City of New York? A. Yes, sir.

Q. Powell, is it P-o-w-e-l-l? A. That is right.

Q. And, in March, 1932, what means did you follow for a livelihood? A. Taxicab chauffeur.

Q. Employed by whom? A. Rosenblatt.

Q. They operate a chain of— A. Taxicabs.

Q. And, how long had you been employed as a taxi driver? A. For Rosenblatt Brothers?

Q. Any place? A. I have been driving sixteen years, if that is what you mean.

Q. You will have to talk above a whisper, because you have got the entire jury to talk to here and this gentleman sitting way in the corner has got to hear it. A. Sixteen years.

Q. As a taxi driver? A. Yes, sir.

Q. What is your present occupation? A. Present occupation, I have been working at the C. W. A.

Q. C. W. A.? A. Yes, sir.

Q. Now in March, 1932, I think you said you were living in the Bronx? A. Yes, sir.

Q. Are you living in the Bronx now? A. Yes, sir.

Q. In your capacity as a taxi driver did you have occasion to visit the home of Dr. John F. Condon? A. Yes, sir.

Q. At what address? A. 2974 Decatur Avenue.

Q. What date was it, if you remember? A. March 12th, 1932.

Q. What was the occasion of your visit to the home of Dr. John F. Condon? A. I had a man give me an envelope addressed to Dr. Condon.

Q. Who is the man that gave you that envelope? A. Bruno Richard Hauptmann.

Q. Is he in this room? A. Yes, sir.

Q. Come down and point him out, please.

(Witness places his hand on shoulder of man in the courtroom.)

A. That is the man.

Q. All right. Just go back. Indicating the defendant, Bruno Richard Hauptmann.

Mr. Reilly: Did the stenographer get the defendant's answer?

Mr. Wilentz: That is the defendant.

Mr. Reilly: But did the stenographer get the defendant's answer?

Mr. Wilentz: I object to the interruption.

Mr. Reilly: I want the record correct.

Mr. Wilentz: The record will be correct, but if the stenographer wants it corrected, she does not need the assistance of eminent counsel.

The Court: If there is any question of how the record stands, the stenographer may read the record and we will see about it.

(The reporter read the record as above recorded.)

The Court: Well, now we see how the record stands.

Mr. Reilly: I move that the record be amended to take the answer of the defendant to the witness.

The Court: The record is presumed to be correct. I have no reason to doubt that it is incorrect.

Mr. Reilly: I am prepared to show proof right now, by five or six people here, that the defendant made an answer to the accusation of the witness, and I believe it belongs in the record. I am sorry the stenographer didn't hear it. We all heard it.

Mr. Wilentz: I did not hear any answer.

Mr. Reilly: We all heard it—the press heard it.

The Court: The press may be called as witnesses at the proper time, Mr. Reilly. If there is any such thing as that, you will have an opportunity at the proper time to show what was said; but let the record stand as it is for the moment.

Q. All right now, sir, tell us the circumstances under which this note or paper was given to you which you just stated you delivered to the home of Dr. Condon on that day in March? A. There is a little noise, Mr. Wilentz, I didn't get you.

Mr. Wilentz: All right, it has quieted down now, and I will ask the stenographer to repeat the question.

(The reporter repeats the question.)

A. You want me to describe how I got it?

Q. Just exactly what happened when you received that note and just prior to that? A. I happened to be on a hack stand—

Mr. Reilly: We can't hear a word you say.

Mr. Wilentz: All right, I will try to regulate it in some way.

The Court: There seems to be no reason that I know of why this gentleman here should not speak so that everybody here in the imme-

diate vicinity of the witness should not hear him.

Mr. Wilentz: Yes, sir.

The Court: He seems like a good strong healthy individual. Now, won't you speak up in very much the same tone of voice that employed?

The Witness: Yes, sir.

The Court: Yes, so that we can all hear.

A. I happened to be on a hack stand at Marsholu Parkway and Jerome Avenue, March 12th.

Q. Is that in the Bronx? A. Yes, sir.

A. While on the hack stand, I had a young man ask me to drive him to 3440 Knox Place. After discharging this fare, I drove east on Gun Hill Road and when I got—

Q. Take your hand down. You drove to Gun Hill Road. A. Yes, sir.

Q. What happened then? A. I arrived at Knox Place in Gun Hill Road and a man came running to me with his hand raised motioning me to stop. I stopped my cab and this man tried to open the front right side of my door and I motioned to this man to wait a minute, that I would lower the window which I did. This man kept looking around first before he ever said a word to me. When he did he asked me if I knew where Decatur Avenue was. I told him I did, that I was familiar with the neighborhood. With that he put his hand in his overcoat pocket and brought out an envelope, looking at the envelope he said, "Do you know where 2974 is?" I said, "Yes, I am familiar with the neighborhood." This man,

looking around, again put his hand into the very same pocket and gave me a dollar bill to deliver the envelope.

Q. Did he ask you to deliver it? A. No, sir; he did not.

Q. Just gave you the envelope and a dollar? A. Yes, sir. And when he did that he walked to the rear of my cab and put his hand in his pocket; now, I don't know which it was, and taking down my license plate number.

Mr. Reilly: I object to that as calling for a conclusion.

Q. Well, he was writing something? A. He was writing something.

Q. And when he was writing, right immediately prior to his writing, were his eyes focused or directed at any thing, as you saw it? A. Yes, sir.

Q. What was it? A. Right at the license plate number.

Mr. Reilly: Well, that is a conclusion. I object to it. The man might have been looking at the back of the car.

The Court: Well, he says looking at the license plate. I suppose that is competent testimony, for what it is worth.

Mr. Reilly: Yes.

Q. How did it happen that you observed that when you are seated in front and he is in back? A. Well, the way he acted, I had my eyes on him—

Mr. Reilly: I object to the way he acted.

A. (continuing)—from the moment he gave me the note and started speaking to me, and he—

Q. Did you look around? A. Yes. And he had to go like that (illustrating) to me before I left.

Q. From the back? A. From the back.

Q. When you say he went like that, you are motioning with your hand, your right hand? A. Yes, sir.

Q. And waving your hand away from you? A. Yes.

Q. Is that the manner in which he waved that night? A. That is right.

Q. And where was he when he was waving his hand that way? A. In the rear of my taxicab, at the rear of my taxicab.

Q. And you saw him while he was doing it? A. Yes.

Q. Was the wave directed to you? A. Yes, sir.

Q. And as the result of that wave, did you comply with it and proceed then? A. I did, yes, sir.

Q. Where did you go then? A. I drove south on Jerome Avenue—

Q. Still in the Bronx? A. Still in the Bronx.

Q. Yes. A. When I passed the hack stand I showed this letter with the dollar; I waved it to another cab driver on the hack stand that I had just previously left.

Q. What was his name? A. James O'Brien.

Q. Did you then proceed? A. Why, he asked me where I was going with the letter.

Q. Yes. A. I told him to—

Mr. Reilly: I object.

A. (Continuing) I said—

Q. Well, whatever you told him, you told him something and then what did you do? A. I delivered the envelope.

Q. When you got to Dr. Condon's home what did you do? A. I rang the doorbell.

Q. And who came to the door? A. Dr. Condon.

Q. And what happened? A. He asked me would I step inside.

Mr. Reilly: I object to what he asked him.

Q. Well, at any rate, what happened? Not what he asked you. What did you do? A. I gave the envelope to Dr. Condon.

Q. And did you give him your name or anything? A. Yes, sir; I did. Dr. Condon asked me would I know this man again if I saw him, and I told Dr. Condon—

Mr. Reilly: I object to what he told Dr. Condon.

Q. Well, never mind; never mind. Counsel objects to it, and we will forget that part of it. At any rate, you delivered the note, didn't you? A. Yes, sir.

Q. And you left? A. I left.

Q. Do you know what the fare was, taxi fare from the point that you got this note to Dr. Condon's home? A. Yes, sir.

Q. How much? A. When I got there?

Q. You got a dollar, in other words? A. Yes, sir.

Q. How much was actually the cost of the fare? A. Why, fifty cents.

Q. So that the dollar bill paid for the fare and some money besides? A. Yes, sir.

Q. What time of the night was it, what was the weather condition at the time and what have you to say as to the visibility at the point and place at which you received this note? A. Well, there was an arc

light there right underneath the street light.

Q. Yes? A. And plenty of light there.

Q. What time of the night was it? A. Between the hour of 7:45 and 8:30.

The Court: What time?

The Witness: Between the—

The Court: What time?

Mr. Wilentz: 7:45 and 8:30, did you say?

The Witness: Yes, sir.

Q. Was Dr. Condon's name on the envelope written on the envelope? A. Yes, sir.

Q. That was given to you by this man? A. Yes, sir.

Q. Do you know where Woodlawn Cemetery is? A. Yes, sir, I do.

Q. How far is it if you know from the point at which you received this note? A. Oh, about two miles.

Q. Do you know where St. Raymond's Cemetery is? A. Yes, sir.

Q. How far is it from there? A. It is quite a little ways.

Q. Well, about how far? A. About five or six miles.

Q. Do you know where— How far is it from Condon's home? A. Oh, about four or five, I should say, I think.

Q. Four or five what? A. Miles.

Q. To Condon's home from this place where you received the note? A. No, not from where I received the note.

Q. I want to know from the place where you re-

ceived the note to Dr. Condon's home. A. That is about a mile.

Q. Have you since learned where Mr. Hauptmann the defendant, resided at that time and now resides, or did reside? A. I don't get that.

Q. Do you know where East 222nd Street is in the Bronx? A. Yes, sir.

Q. And about where 1279 East 222nd Street is? A. Well, I don't know just about where it is.

Q. Since his arrest, have you seen his home in the Bronx? A. Yes, sir.

Q. How far is his home in the Bronx from the place that you received this note? A. Why, about three miles.

Q. About three miles. All of these places are in the Bronx that I mention? A. Yes, sir.

Q. And that man that you are talking about, when you talk about the man that stopped you, the man that waved his hand and the man that did this and that, you are referring to one man, are you not? A. That is right.

Q. Who is the man you are referring to? A. Richard Bruno Hauptmann.

Q. The defendant in this case? A. Yes, sir.

Q. Now Perrone, there is no question in your mind is there or is there any question that this is the man, Hauptmann, that gave you that note that night in March?

Mr. Reilly: I object to that.

Mr. Wilentz: I withdraw it.

Q. Is there any question at all in your mind as to the identity of Mr. Hauptmann being the man that gave you this note?

Mr. Reilly: Again I object. He has already answered.

Mr. Wilentz: If he does not want it that certain, let it go at that. Take the witness.

Mr. Reilly: It is not what I want. The rules of evidence provide for certain things.

Mr. Wilentz: All right then, I will withdraw it.

Cross-Examination by Mr. Reilly:

Q. Who did you come down here with today? A. Today? I came down here with a State trooper today.

Q. Keep your voice up. State troopers? A. Yes.

Q. Did they come to New York and get you? A. No, sir.

Q. Where were you? A. I was sleeping in the barracks in West Trenton.

Q. How long have you been sleeping in the barracks? A. Well, I arrived here yesterday morning by train and I slept there last night.

Q. You are working now for the C.C.? A. C.W.A.

Q. What are you doing? A. Why, I am painting, painting in the park, in the Bronx.

Q. How long have you been doing that? A. Oh, I have been on the C.W.A. now close to two years.

Q. How did you obtain the position? A. Of painting?

Q. How did you obtain the position? A. Why, through the business in the taxicab business I couldn't earn enough living at it so I had to apply for work at the C.W.A.

Mr. Wilentz: A little louder, please.

Q. You gave up the taxicab business to apply for the C.W.A., is that your answer? A. No, sir, I didn't give it up.

Q. Let's have the right answer.

Mr. Wilentz: Let's have the answer he gave if you don't mind, please.

The Court: Let the stenographer read the record.

(The reporter read answer as follows:

"Why, through the business, in the taxicab business I couldn't earn enough living at it so I had to apply for work at the C.W.A.")

Q. Well, now, how much were you making a week in the taxicab business just before you applied for the C.W.A.? A. Why, not quite twenty or twenty-five dollars per week.

Q. And what are you making now with the C.W.A.? A. I get forty-eight dollars per month.

Q. Forty-eight dollars a month? A. Yes.

Q. And how much is that a week, $48 a month, and how much is that a week? A. Well, that is $12 a week. I work one week on and one off, I get two weeks a month; that is every other week I work.

Q. That is, you get $48 a month? A. Yes.

Q. $12 a week—Or $24 a week, when you work every other week? Which is a hundred a month? A. Not quite that much.

Q. Don't you know you secured your position with the CWA through the influence of people connected with this case? A. No, sir; I did not.

Mr. Wilentz: Just a minute. I object to counsel asking that type of question unless he has a basis for it.

The Court: Well, the question has been answered, and the answer may stand.

Q. Just what date did you give up the taxicab business? A. I didn't give it up, Mr. Reilly.

Q. Well, just what date did you stop driving a taxicab? A. I am still driving a taxicab, Mr. Reilly.

Q. When? A. What do you mean, when?

Q. Are you working for the CWA, or are you driving a taxi? A. I am doing both.

Q. Then you have two jobs. A. That is right.

Q. Don't you know that is prohibited by the CWA?

Mr. Wilentz: I object to that.

A. No, sir; it is not.

The Court: Mr. Reilly, I cannot see that that is material.

Mr. Reilly: It goes to the credibility. He is throwing himself on the mercy of the City of New York, and we are giving him a job in the CWA, paying $12 a week, and at the same time he is driving a taxicab.

Mr. Wilentz: He happens to be less fortunate than some of us, who don't have to do that.

Mr. Reilly: That isn't the practice of our rules in New York, applications for relief—

The Court: Your implication is it has a tentency to affect his credibility?

Mr. Reilly: Yes, sir.

The Court: Let him answer.

Mr. Wilentz: What is the question? Let us have the question and the answer.

By Mr. Reilly:

Mr. Reilly: What is the question and answer.

(Reporter repeats the last question and answer: "Q. Don't you know that is prohibited by the CWA? A. No, sir; it is not.")

Q. Who told you it was not prohibited—? Withdrawn. The CWA is relief, isn't it? A. Yes, sir.

Q. From the Government? A. From the City, I think.

Q. The City? A. Yes, sir.

Q. For those who are unemployed? A. That is right.

Q. Now, don't you know that if they knew you were driving or had any other employment, you would not be permitted on the rolls of the CWA charity relief? A. Not at the time I applied for it.

Q. Well, you are still there, aren't you? A. I am still there, yes, sir.

Q. Now, have you been ever convicted of any traffic violation?

Mr. Wilentz: Just a minute; just a minute. Now, please, young man—Of course, I object to it, because my understanding of the law is it is not permissible, not admissible and not ma-

terial, whether he has been convicted of a traffic violation, even a man charged with a traffic violation, as I understand it, the question wouldn't be admissible, it is not a crime.

The Court: You may ask the witness whether or not he has ever been convicted of a crime.

Q. Have you ever been convicted of any crime? A. No, sir.

Q. Now, the taxicab chauffeurs of New York receive their permits to drive from the Police Department, don't they? A. That is right.

Q. And they renew them each and every month? A. Each and every year.

Q. Each and every year? A. Yes.

Q. Do they get a monthly ticket, as they formerly did, to put on the front of their taxicab? A. Well, that is the insurance.

Q. That is the insurance. That must be checked up monthly, once a month? A. Every month, yes, sir.

Q. And how often does the taxicab chauffeur report to the hack license, Police Department? A. Well, they report there every three or four months for inspection.

Q. And you reported to the Bronx? A. That is right.

Q. Now, for the purpose of this jury will you tell them how large the Bronx is, where it begins? A. What do you mean by that?

Q. Well, coming up, let's come up Third Avenue; part of Third Avenue, New York, is in the Borough of Manhattan, correct? A. That is right.

Q. Where does the Bronx begin at Third Avenue? A. Well, as soon as you get over the bridge.

Q. Well, what street is that? A. Well, 134th Street, if you went over the Third Avenue Bridge.

Q. Now, then, the Bronx would extend to Spuyten Duyvil, would it not? A. Spuyten Duyvil.

Q. On one side. A. I don't know—

Q. That is the Hudson River side. A. That is right.

Q. I thought you knew the Bronx.

Mr. Wilentz: I move that that be stricken out.

A. I am very well acquainted with the Bronx.

Q. How long have you lived in the Bronx? A. I have been living in the Bronx since 1927, I believe.

Q. Well, you don't want to convey the impression here to this jury that the Borough of the Bronx is something about 15 or 20 blocks or 30 blocks, do you? A. No.

Q. It is a fact now, as I test your recollection, is it not, that one portion of the Bronx runs to Spuyten Duyvil on the Hudson River? Do you know where Spuyten Duyvil is? A. Yes, I do.

Q. Is that not correct? A. That's right.

Q. Is that not the border line of the Bronx? A. Spuyten Duyvil? I believe it is.

Q. Now as you go up the other side of the Bronx, the east side of the Bronx, it extends to Yonkers Line? A. Yes.

Q. Do you know of Van Cortlandt Park? A. Yes.

Q. It is a large area in the City of New York, is it not? A. Yes.

Q. You have been driving in the Bronx how many years? A. Oh, I have been driving in the Bronx about six or seven years.

Q. Now on this particular day it had already been published in the newspapers, had it not, in the Bronx News and other papers, Dr. Condon's connection with this case? A. Not that I knew of at the time.

Q. That came out March 7th, 8th or 9th, didn't it? A. I don't know anything about it.

Q. Don't you read the papers? A. Not the Home News at that time.

Q. Did you read any papers about this case?

Mr. Wilentz: When? A little louder, please. My objection, however, was to the fact as to whether he ever read any papers—if counsel would not mind, he might make it a little more definite as to time. A little louder.

Q. Had you read about the Lindbergh case? A. After it happened, yes.

Q. Now what day of the week was this you say this happened, the incident of the envelope and the dollar? A. March 12th, 1932.

Q. What day of the week? A. Saturday. Saturday evening.

Q. Sure about that? A. Positive.

Q. Now what time did you have your car out that day? A. I got out of the garage about 4:30 that day.

Q. What was your first call? A. I don't know.

Q. What was your second call? A. I don't know.

Q. Describe the passenger that you had for the first call? A. Pretty hard to do, Mr. Reilly.

Q. Describe the second? A. That's the same answer on that.

Q. Was the first a man or was the second a woman or vice versa? A. Pretty hard to say.

Q. Describe the third passenger, if you had one? A. Can't do it, Mr. Reilly.

Q. Describe the passenger just before you received the letter? A. A young man.

Q. Driven from where to where? A. Mosholu Parkway and Jerome Avenue.

Q. Young man? A. Yes, sir.

Q. What was the fare for that young man? A. Fifteen cents.

Q. As you were returning back to your cab stand, you say this incident happened. A. That is right.

Q. You were coming down this parkway. A. Gun Hill Road.

Q. Gun Hill Road. Where does that run? A. Well, that runs all the way over to the Boston Post Road.

Q. Isn't that in the middle of a parkway or near a parkway, Gun Hill Road? A. Well, it is right opposite Van Cortlandt Park.

Q. It runs from Van Cortlandt Park, through Van Cortlandt Park to where, to the Boston Post Road? A. No, not the Boston Post Road.

Q. Does it connect with the Boston Post Road, Gun Hill Road? A. Gun Hill? Let me see. Yes, it does.

Q. Yes. Now, as a matter of fact it is a connecting link between Van Cortlandt Parkway and around the Bronx River Road, is it not, over to the Bronx Parkway? A. What do you mean, the Bronx Parkway?

Q. Well, I will withdraw it. Where do you say Gun Hill Road begins? A. Gun Hill Road begins at right from Van Cortlandt Park.

Q. Van Cortlandt Park? A. That is right.

Q. Is that the left hand side, the North River side of Van Cortlandt Park? A. That is right.

Q. Now, Van Cortlandt Park, for the benefit of the jury, is a park that extends at least three and a half or four miles up Van Cortlandt Avenue, is it not? A. Van Cortlandt Avenue?

Q. To the Yonkers line. A. That is right.

Q. And begins at the bridge across the Hudson River. A. That is right.

Q. As you come under the elevated, is that correct? A. That is right.

Q. Now, over to the right, miles away begins—A. Gun Hill Road.

Q. Gun Hill Road is in the middle and connects, doesn't it? A. No, it begins right from the park.

Q. It begins on the right hand side—or the left hand side, of Van Cortlandt Park, doesn't it? A. Yes.

Q. It begins near the old George Washington Headquarters; do you know where that is, in Van Cortlandt Park? A. Yes, that is right.

Q. Yes. Now, on the far side of Van Cortlandt Park are these roads which run into the different parkways—Boston Post Road and the other parkways which extend up into Westchester. Correct? A. That is right.

Q. And Gun Hill Road is the connecting link between those two? A. Not that far.

Q. Well, you can ride through? A. That is right.

Q. And you were riding through it that night. A. That is right.

Q. Now, at what portion of that Gun Hill Road do you say a man waved to you? A. Knox Place in Gun Hill Road.

Q. All right. Was there anybody with you? A. No, sir.

Q. What time at night? A. Between the hour of 7:45 and 8:30.

Q. Well, that is three-quarters of an hour, isn't it? A. That is; yes, sir.

Q. Now—

By the Court:

Q. And what day was that, that this man waved to you? A. March 12th.

The Court: Pardon me.

Mr. Reilly: Yes.

By Mr. Reilly:

Q. On a Saturday night, you say? A. Yes, sir.
Q. Between half past seven— A. 7:45 and 8:30.
Q. 7:45 and half past eight? A. That is right.
Q. Now, of course, Van Cortlandt Park on a Saturday night in March at 7:45 is dark, isn't it? A. It was at that time.
Q. Yes. A. Yes.
Q. And all that area is dark except wherever there is a park light? A. That is right.
Q. There are no traffic lights in there? A. No.
Q. No reds, greens, stops or anything else? A. No, sir.
Q. So that when you are coming through you can come through on the loop, can't you? A. That is right.
Q. Were you coming through on the loop at a pretty fast rate? A. Yes, I was. I wouldn't say too fast.
Q. Well, you were coming back to your stand? A. I was going back to my stand, yes.
Q. And looking for more work? A. That is right.
Q. And what did the man do? Suddenly jump out of the bushes? A. No, he did not.
Q. What? A. He came running through from Knox Place.

Mr. Wilentz: A little louder, please.

The Witness: He came running from Knox Place, with his hand raised.

Q. Well, where he came from on Knox Place, could he see a car coming towards him? A. I don't know.

Q. He didn't know you were coming along, did he? A. I don't know how he ever came running to me.

Q. You were just coming along? A. That is right.

Q. And he was running towards you? A. That is right.

Q. No expectation on your part of seeing anybody there at all to you? A. I was surprised to get a hail that way.

Q. You got a hail and stopped? A. That is right.

Q. And of course you stopped under the great big arc light; is that correct? A. Yes, sir.

Q. Yes. Brighter than this, wasn't it? A. Well, it was an arc light. You know what a street light is.

Q. Now, where in Gun Hill Road is there any kind of a light like this? A. On the southwest corner, Knox Place.

Q. It is on a pole, isn't it? A. Yes, sir.

Q. An ordinary park light? A. It is a street light.

Q. Yes. An ordinary street light? A. Street light.

Q. In a park? A. Yes, sir.

Q. In the Van Cortlandt Park section? A. That is right.

Q. Right? A. It is opposite the park, the street light.

Q. Yes. It is opposite the park, bordering on the park? A. Yes.

Q. Now, how was the man dressed? A. He had on a brown double breasted overcoat and a brown soft hat.

Q. Peaked hat, fedora hat? A. Felt hat.

Q. Felt hat? A. Felt hat.

Q. Pulled it down or pulled it back? A. Pulled it back.

Q. Pulled it back? A. Turned up in the front.

Q. Oh, yes, turned up in front. A. Turned up in front, that is right.

Q. It wasn't down like the way men wear them at all? A. No, no, sir.

Q. But he had folded his back? A. He didn't fold it, but that is the custom of that hat that he wore.

Mr. Wilentz: Just a minute. I move that that be stricken out, the reference to the way the men wear it. My recollection is that I have seen many men wear them that way.

Mr. Reilly: Now, I didn't ask you to testify. You would make an excellent witness.

Mr. Reilly: Now, I didn't ask you to testify, General. You would make an excellent witness.

Mr. Wilentz: Now, my objection still stands notwithstanding the compliment.

The Court: You want to press your objection, Attorney General.

Mr. Wilentz: Yes, if your Honor please, that portion of it—

The Court: Let the record be read, I will see.

(The reporter read the question: "Que. Folded back? Ans. Turned up in front. Q.

Oh, yes, turned up in front? A. Turned up in front, that is right. Q. It wasn't down like the way the men wear them at all? A. No, no, sir.")

Mr. Wilentz: I object to that part of the question, the way the men wear them, if your Honor please.

The Court: Oh, I think I will allow it to stand.

A. Well—

Q. Now, just a moment. A. I—

Q. Was it a hat such as I hold in my hand? A. Can I see the hat, Mr. Reilly?

Q. I don't mean about the make, I mean was it a soft hat like that, a Fedora hat? (Exhibiting hat to witness.) A. It was turned up a little more than that.

Q. It wasn't a derby? A. No.

Q. And it wasn't a cap? A. No.

Q. It was a soft hat? A. Soft hat.

Q. And it had a front on it like this? A. No, it was turned up more.

Q. Well, it didn't have it up like that, did it? (Indicating by bending brim of hat against the crown.) A. Well, I can explain it to you, if you give me the hat back again. It was turned up with a seam like that, all the way around (witness indicates by bending the brim back a little.)

Q. A bevel edge, is that what you mean, a beveled edge? A. Yes, something like that.

Q. A beveled edge hat, right? A. That is it.

Q. Did he have glasses on? A. Who?

Q. The man? A. No, he did not.

Q. Did you have yours on? A. Yes, sir.

Q. Are you near-sighted? A. Well, evenings, I am, yes.

Q. Evenings you are near-sighted, is that right? A. Yes.

Q. This was in the evening? A. Yes

Q. Now, the man reached in his pocket—if I am wrong, stop me—which pocket did he reach in and get this note? A. The right hand pocket.

Q. Did he have any rings on his hands? A. I don't know.

Q. You did not notice? A. I didn't notice.

Q. Did you notice his hands? A. No, sir, I did not.

Q. Well, he had hands, did he not? A. He must have.

Q. What do you mean he must have, were you not looking at him? A. Yes, he had hands.

Q. He gave you his right hand? A. That is right.

Q. Now will you show me—if I may have this blotter for a second—will you show me how he handed you this note from your pocket? A. I don't quite remember how he handed it to me, but he handed it to me.

Mr. Wilentz: Please repeat the answer.

The Witness: I don't know how he handed it to me, the exact way he gave me the envelope, but I know he handed me the envelope.

By Mr. Reilly:

Q. Where did he get the dollar bill from, the other pocket? A. The same pocket he had the envelope in.

Q. He reached in twice and changed the envelope from the one hand to the other, reached in again

after asking you some questions about this address and produced a dollar bill, is that correct? A. He gave me the envelope first, and then just before he walked to the rear of my cab, he gave me the dollar.

Q. Well, did he not give you the dollar and the envelope at the same time? A. No, he did not.

Q. Did you tell him how much it would cost him? A. He asked me how much it would cost to get there.

Q. What did you say? A. I told him about fifty cents.

Q. You did not tell us that before, did you? A. I may have forgot it.

Q. Anything else you have forgotten? A. (No answer.)

Q. Is there? A. Well not that I can remember.

Q. When you said "It will cost you fifty cents," did he say anything about the balance of the dollar? A. No, he did not.

Q. Didn't he say "Here is half a dollar for a tip"? A. No.

Q. Did you ask what the balance was for? A. I did not.

Q. You took it for granted that was what it was for? A. He walked right to the rear of my cab.

Q. But you saw his hands, were they large hands? A. I didn't take notice of his hands.

Q. But you saw his hands? A. I only saw the right hand he gave me.

Q. Right hand. Bare, like mine? A. I wouldn't say it was bare or covered. I didn't take notice to it.

Q. You weren't looking at anything but the dollar bill? A. That's it.

Q. And that was in his hand? A. And the envelope.

Q. And the envelope. How many times have you gone over this story? A. What story?

Q. The story you are telling on the stand here

now? A. How many times?

Q. Have you told this story over and over again, 15—20 times? A. About that.

Q. Who suggested to you that you should answer "I don't remember whether his hand was covered or not"? A. Nobody ever said anything to me.

Q. You won't say his hand was not covered and you won't say it was covered, will you? A. I didn't take notice at the time.

Q. You know, don't you, that if his hand wasn't covered, that the imprint of his fingermarks were on the envelope he gave you, right? A. I don't know.

Q. You don't know anything about that? Nobody ever told you anything about that or to be careful about that, did they? A. No, sir, nobody said anything to me.

Q. Did you come down here today or yesterday with Inspector Sullivan of the New York City Police? A. No, sir.

Q. Do you know him? A. I never met Inspector Sullivan.

Q. Never have seen him? A. Never have seen him.

Q. Well, you have met Inspector Lyons of the Bronx, haven't you? A. Inspector Lyons is not from the Bronx.

Q. Where is he from? A. Downtown, Greenwich Street.

Q. How do you know? How long do you know him? A. I only met Inspector Lyons once.

Q. Where? A. In Greenwich Street Police Station.

Q. Never saw him in the Bronx? A. Never.

Q. Weren't you in the Bronx County Court? A. Oh, yes, that's right.

Q. Yes, you were talking to him there? A. Yes, that's right.

Q. So you did see him up in the Bronx? A. Yes, I did.

Q. Haven't a very good memory, have you? A. I have a pretty good memory.

Q. You think you have?

Mr. Wilentz: I move that be stricken out.

Q. Now what other detectives or police officers do you know in the Bronx? A. That I know of through the case?

Q. Whether they are in the case or otherwise, what other detectives do you know in the Bronx? Do you know Lieutenant Finn? A. I have only met him through the case.

Q. I don't care whether you know him through the case. You know him.

Mr. Wilentz: Please answer the question whether counsel cares or not and answer it loud.

Q. You know him, don't you? A. Yes, sir.

Q. And you know the detectives in your precinct? A. No, I don't.

Q. Where did you check in every three months? A. I haven't had a cab for over two years.

Q. I am talking now back in March, 1932. Where did you check in, Bathgate Avenue? A. I didn't have a cab at the time.

Q. Well, when you were driving you had to check in every now and then? A. No, I did not.

Q. Where did you renew your license? A. At the nearest police station.

Q. Yes, where was that, to your house? A. Nearest to my house.

Q. Where was it, Bathgate Avenue? A. No, that was Westchester Square.

Q. Westchester Square up near Yonkers? A. No.

Q. So that when this man gave you the note you started off, is that right? A. Not when he gave me the note.

Q. Well, after he waved his hand, right? A. That's right.

Q. And you had no gloves on, did you? A. I don't remember whether I did or not.

Q. Are you in the habit of driving the car with gloves? A. Without gloves.

Q. It is a fact that as soon as you rang Dr. Condon's doorbell he came and answered the door? A. That's right.

Q. Do you know Dr. Condon? A. No, sir.

Q. Had you ever seen any pictures of him? A. No, sir.

Q. Did you ask him to identify himself before you gave him the note? A. No, sir.

Q. You asked for Dr. Condon and handed it to this man, is that right? A. That's right.

Q. When were you next questioned about that? A. About a month and a half later.

Q. Where? A. Jersey State Police.

Q. At the Jersey State Police? A. Yes, sir.

Q. During the month and a half did you tell anybody? A. No, sir.

Q. About this note? A. No, sir.

Q. Did you give Dr. Condon your name and address? A. Yes, sir.

Q. He asked for it? A. Well, Dr. Condon—

Q. Did he ask for it, that is what I asked. A. He didn't.

Q. Were you driving taxicabs during that month and a half after this note? A. Right along, yes, sir.

Mr. Wilentz: A little louder, please.

The Witness: Yes, sir.

Q. Can you tell me anybody you had in your cab the 13th of March? A. No, sir.

Q. Can you describe anybody you had in your cab St. Patrick's Day? A. No, sir.

Q. The 17th of March? A. No, sir.

Q. Can you give me a description of anybody that ever rode with you during the month of March, 1932, except this description that you have of the defendant? A. No, sir.

Q. Nobody? A. No, sir.

Q. Can you give me a description of anybody that rode with you in February? A. No, sir.

Q. How soon after you saw the State Police in April, 1932, did you apply for relief? A. I applied for it, I believe, around that time.

Q. Is there any member of your family in the Police Department? A. No, sir.

Q. Did you ever study for the Police Department? A. No, sir.

Q. Did you ever study for any public position? A. Yes, sir.

Q. What? A. Chauffeur.

Q. To what? City of New York chauffeur? A. Yes, sir.

Q. Did you take the City Civil Service examination? A. Yes, sir.

Q. Are you on the list? A. No, sir.

Q. Did you pass it? A. No, sir.

Q. When did you take it? A. 1921.

Q. But not since 1932? A. No, sir.

Q. You haven't taken any examination since then? A. No, sir.

Q. Have you been promised any position by anybody? A. No, sir.

Q. How much are you receiving a day for coming here? A. I am not receiving anything.

Q. How much do you anticipate?

Mr. Wilentz: I object to that, if your Honor please.

Mr. Reilly: I think it goes to his credibility.

The Court: Well, I suppose he naturally expects that he will get the legal fees, if there is such a thing.

Mr. Reilly: Well, he may have been offered something else.

The Court: Well, you may ask him if he has been offered something else.

Q. Have you been offered anything else? A. No, sir.

Q. What do you expect?

Mr. Wilentz: I object to the question, if your Honor please, as to what he expects, as not being material to this cause. He has not been offered anything.

The Court: I am inclined to sustain the objection, Mr. Reilly.

Mr. Reilly: May I have my exception?

The Court: Take your exception.

(Exception allowed, and same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. What time did you get to Dr. Condon's

house? A. Well, between the hour of 7:45 and 8:30.

Q. How many times have you seen Dr. Condon since? A. Twice.

Q. Where? A. At his home, at the Bronx Grand Jury room.

Q. When did you see him at his home? A. March 12th, 1932.

Q. After that? A. Why, in May; in May—16th or 17th, at the Bronx Grand Jury.

Q. Not between— A. No, sir.

Q. May 16th or 17th, what year? A. 193—1932.

Q. 1932? A. Yes.

Q. Who sent for you to come to the Bronx Grand Jury? A. Why, I don't know the detective's name.

Q. You didn't appear—

Mr. Wilentz: I didn't hear the answer.

(Answer read by the reporter.)

Q. You didn't appear before any Grand Jury? A. Yes, I did.

Q. In March— in May, 1932? A. No. May, in May, 16th, or in May 16th or 17th, 1932.

Q. 1932? A. Yes, sir.

Q. Have you seen Dr. Condon since? A. No, sir.

Q. Sure about that? A. Positive.

Mr. Wilentz: What is the answer? I can't hear it.

(Answer read by the reporter.)

Mr. Reilly: You may inquire.

Re-Direct Examination by Mr. Wilentz:

Q. Counsel asked you whether or not you had the fare that you had prior to Mr. Hauptmann—whether you read the second fare and the third fare, and he has inquired as to other dates. Now, on the day that the defendant hailed you, was there anybody else that gave you a note to deliver, or was that the only note you received that day? A. That is the only note that I received that day.

Q. Nobody else gave you any note that day to deliver? A. No, sir.

Q. Have you ever gotten any note from anybody else to deliver to Dr. John F. Condon, Decatur Avenue? A. No, sir.

Q. Now, shortly after you delivered that note, that is to say, within a few days, I suppose you read in the papers about Dr. Condon, did you not? A. No, sir, I did not.

Q. Well, when did you finally read about it? A. April 10th or 11th.

Q. Somewhere in April? A. April 10th or 11th in 1932.

Q. So that is to say within a month? A. Within a month.

Q. Now, the question about your meeting Inspector Lyons and other police officials, have you met these officials since your experience which you related about today with reference to Hauptmann or did you know them before? A. After.

Q. So that on account of and since the time that you took the note from Hauptmann you have become acquainted with and met the various officials in the various states that are working on the Lindbergh case. A. That is right.

Q. You met the State Police of New Jersey. A. Yes, sir.

Q. You met the police of New York. A. Yes, sir.

Q. You met the Federal detectives. A. Yes, sir.

Q. You have met the Attorney General of New Jersey. A. Yes, sir.

Q. And you have met the distinguished gentleman Mr. Reilly, today, of the defense. A. Yes, sir.

Q. You have met all these people on account of and since the case. A. That is right.

Q. Whenever the police wanted you and summoned you, you came. A. Yes, sir.

Q. You have been summoned here and asked to come by the State of New Jersey to testify as you did before Hauptmann was arrested in the Bronx, is that so?

Mr. Reilly: I object to that. It is very improper.

Mr. Wilentz: Your Honor please, let me suggest to your Honor—

Mr. Reilly: It is leading and improper.

The Court: It is a leading question, and the witness is your witness, Mr. Attorney General and my suggestion to you is that you modify your question.

By Mr. Wilentz:

Q. Prior to the arrest of Bruno Richard Hauptmann, had you been called upon by the police to come to various places for questioning for the purpose of providing such information as you had?

Mr. Reilly: I object to it as incompetent, irrelevant and immaterial, whether he has or has not been called prior to the arrest of this defendant.

The Court: I am inclined to think that the door has been opened by yourself in respect to such an examination. I think that I will allow the Attorney General to ask the question.

Mr. Reilly: Well, I can only bow to your Honor's ruling and ask for an exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Mr. Wilentz: Please read the question.

(The reporter read the question as follows: "Prior to the arrest of Bruno Richard Hauptmann had you been called upon by the police to come to various places for questioning for the purpose of providing such information as you had?")

By Mr. Wilentz:

Q. In the Lindbergh case. A. Yes, sir.

Q. Since that time you have again been called, have you not? A. Yes, sir.

Q. To various places? A. Yes, sir.

Q. And it is in pursuance of those calls from the various governmental agencies, whether it is State, National, New York or New Jersey that you are here today, isn't that the fact? A. Yes, sir.

Mr. Wilentz: That is all.

Will counsel for defense join with me for a little recess of ten minutes or so?

Mr. Reilly: Always.

The Court: What are you suggesting, Mr. Attorney General?

Mr. Wilentz. A ten-minute recess, your Honor please, for the sake of the jury and everybody.

The Court: We will take a recess now for ten minutes.

(Whereupon at 3:12 o'clock p. m. a ten-minute recess was taken.)

(At 3:31 the trial was resumed.)

The Court: Have the jury brought in.

(The jury returned to the courtroom.)

(At this point Mr. John F. Condon was escorted to the front of the room.)

The Court: Let there be quiet in the courtroom. I want quiet in the courtroom now, or the courtroom will be cleared.

Now, Mr. Clerk, you may poll the jury.

(The jury was polled and all jurors answered present.)

The Court: Is the defendant in court?

Court Clerk Fell: He is.

The Court: Counsel may proceed.

Mr. Wilentz: Mr. O'Brien. Is he in the room—O'Brien.

JAMES J. O'BRIEN, sworn as a witness in behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Mr. O'Brien, you are also a taxi driver in New York? A. Yes, sir.

Q. And particularly in that part of New York which makes up The Bronx? A. Yes, sir.

Q. And in March of 1932 that was your means of livelihood? A. Yes, sir.

Q. And did you know Mr. Joseph Perrone, the young man who was just on the stand? A. I do.

Q. Some time in March, 1932, did you see him? A. Yes, sir.

Q. Did he exhibit any paper to you? A. Yes, sir.

Q. And what was the address and name on the paper?

Mr. Pope: I object to the question, sir; whatever took place between the taxicab driver and this gentleman was not in the presence of the man who gave the taxicab driver the envelope, and if that happened to have been the defendant in this case, of course, it was not in the presence of the defendant, and anything that was said or done at that time between two strangers is not evidence against this defendant.

The Court: Well, the question does not seem to relate to any conversation.

Mr. Pope: No, but—

The Court: But it is part of a transaction

and if the Attorney General desires to put it in, he may do it.

Mr. Pope: But, it relates to a physical fact.

The Court: Yes, it relates to a physical fact.

A. He held a letter in his hand showing me that, Dr. John F. Condon, 2974 Decatur Avenue, Bronx.

Q. And where were you at the time? A. At a hack stand.

Q. And where was he? A. In his cab.

Q. Did he leave the cab? A. No, sir.

Q. What were the circumstances under which this incident occurred? A. He was driving down Jerome Avenue and I was on a hack stand at Mosholu and Jerome Avenue. He saw me standing there and he called me over to this cab. He said that was a—

Mr. Reilly: I object.

Mr. Wilentz: Never mind what he said.

The Court: Not what he said.

Q. But, at any rate, as a result of that, you happened to walk over? A. I walked over to his cab.

Mr. Wilentz: That is all, thank you, sir.

(No cross-examination.)

P. MILTON GAGLIO, sworn as a witness on behalf of the State:

Direct Examination by Mr. Wilentz:

Q. In March, 1932, where did you reside, sir?

A. 2856 University Avenue, Borough of the Bronx.

Q. How long have you been living in the Bronx? A. Twenty-seven years.

Q. Do you still live there? A. I do.

Q. And what means did you follow for a livelihood in those days? A. Clothing store.

Q. What has your occupation been since? A. Salesman.

Q. What sort of a salesman? A. Clothing.

Q. Did you know Dr. John F. Condon at the time? A. I did.

Q. Did you know Mr. Reich, Al Reich? A. I did.

Q. You did not at that time know Colonel Lindbergh, did you? A. No, I did not.

Q. Or Colonel Breckinridge? A. No.

Q. Now, some time in March, 1930, and prior thereto were you a friend of Dr. Condon? A. An acquaintance.

Q. Did you have occasion to be at his home some time in March, 1932? A. I did.

Q. When? A. That was right after or a few days after the time I had been obliged to drive Dr. Condon to the Lindbergh home.

Q. Did you drive Dr. Condon to the Lindbergh home? A. I did.

Q. Do you remember when that was? A. It was in March, the early part of March; the exact date I wouldn't dare say; I don't remember.

Q. At whose instance was it that you drove Dr. Condon to the Lindbergh home? A. I offered to.

Q. Tell us about the circumstances, where were you at the time? A. I was in a restaurant.

Q. Whose restaurant? A. Mr. Rosenhain's restaurant. It is located at the Concourse and 188th Street.

Q. What day of the week was it and what time of the day? A. That I couldn't say. It was in the

evening, close to midnight.

Q. And were you there by any appointment with Dr. Condon or anybody connected with him? A. No, I made it a practice to go in there evenings, when I was on my way home and have a sandwich and cup of coffee. I knew the proprietor and we used to kill time sitting around.

Q. Was it a sort of hangout for the men living around there? A. That is what you would call it.

Q. And you stopped in there incidentally: is that right? A. Yes.

Q. That night you met Dr. Condon there? A. He came in some time after I had been there.

Q. While you were there? A. That is right.

Q. What did he do when he got in there? A. Well, somehow or other mention was made about Dr. Condon—

Mr. Pope: We object, your Honor.

Mr. Wilentz: I will try to regulate it, if your Honor please. Do you mind, Mr. Pope?

Mr. Pope: No conversation.

Q. While you were there, what did Dr. Condon do; not what he said? A. He called the Lindbergh home.

Q. He made a telephone call? A. Yes, sir.

Q. As a result of that telephone call, what happened as far as you were concerned? A. He was looking for Al Reich.

Q. Al Reich was not there, was he? A. He wasn't there. His purpose in locating Al Reich—

Mr. Pope: No, I object to it.

The Court: Objection sustained.

Q. Not the purpose, but as the result of the incident there were you requested by anybody or did you offer to drive Dr. Condon? A. I offered to drive Dr. Condon.

Q. And to where? A. To the Lindbergh home.

Q. That was after he had made a telephone call? A. That is right.

Q. And did you drive Dr. Condon? A. I did.

Q. Who else was in the party? A. Mr. Rosenhains.

Q. And when you proceeded along the Bronx to the Lindbergh home, did you go in your car? A. I did.

Q. Who sat in the front seat with you? A. Mr. Rosenhains.

Q. And who sat in the back? A. Dr. Condon.

Q. Alone? A. That is right.

Q. As you proceeded along on your trip how did you happen to find the Lindbergh home? A. Well, we had a little trouble finding it and we finally called for directions and—

Q. Who called for the directions? A. I don't remember.

Q. But somebody did? A. Yes.

Q. And were you directed from time to time? A. We finally landed in Princeton.

Q. Yes? A. And from there a restaurant proprietor directed us to Hopewell, and on our way we were met by several cars and they escorted us to the Lindbergh home.

Q. So that somewhere from Princeton into the Lindbergh home, automobilists escorted you in. A. That is right.

Q. Now, when you got to the Lindbergh home did you go in? A. I did.

Q. Who else went in, all of you? A. Three of us.

Q. When you got there did you talk to Colonel Lindbergh or did Dr. Condon? A. Later in the eve-

ning I said a few words to Colonel Lindbergh, but that is all.

Q. Did the Colonel greet you? A. Later on he come down, he was upstairs at the time when I arrived.

Q. I see. Now, afterwards, I take it, did you return that evening or early that morning? A. Returned early that morning.

Q. And when you returned, with whom did you return? A. Mr. Rosenhain.

Q. Did you leave Dr. Condon there? A. We did.

Q. Did he remain there overnight, therein, so far as you know? A. That is right.

Q. And he, at that time, then you and Mr. Rosenhain returned to the Bronx? A. That is right.

Q. Now, after that day or that night or that morning, did you have occasion again to—did you have occasion to be in the Condon home? A. I did.

Q. When? A. It was the Saturday, I think the date was the 12th.

Q. I see. Were you in the Condon home when a man by the name of Perrone drove up to the Condon home? A. I was.

Q. Where were you? A. I was in the upper floor.

Q. What did you do that night with reference to Perrone? A. After Dr. Condon accepted the note I checked with Perrone's identity.

Q. What do you mean, you checked? A. He had given his name, and I took his shield number from the tag he was wearing on his chest.

Q. What else did you do? A. I went out to his car and verified it with the identification card within the cab.

Q. What else, if anything, did you do, did you take his license number? A. I did.

Q. I see. What did you do with that information? A. I kept it.

Q. Until when? A. Until several members of the

police department were insistent about getting it and then I turned it over.

Q. Police department? What department, New York, New Jersey or Federal? A. New York.

Q. New York. Mr. Gaglio, that is all.

Mr. Wilentz: You may inquire, sir.

Cross-Examination by Mr. Reilly:

Q. How long have you known Dr. Condon? A. Many years.

Q. By the way, what is he a doctor of? A. I couldn't tell you.

Q. Is that a nickname given in the neighborhood? A. I don't think it was a nickname.

Q. Is he a doctor of medicine? A. I couldn't say. I know he has many degrees. One of them may entitle him to that name.

Q. Did you ever see them? A. No.

Q. Did you ever read on the wall of his room "Doctor?" A. I have seen many of the degrees in his home.

Q. Have you ever seen a doctor's degree as well? A. I didn't take particular notice.

Q. You are there quite frequently, are you? A. No.

Q. How frequently have you been there in the last year? A. I think I have made two visits to his home.

Q. How frequently in 1933? A. I don't think I have been there in 1933.

Q. How frequently in 1932? A. Twice.

Q. How long did you know him before this night in the restaurant? A. I have known him maybe 10 or 12 years.

Q. This restaurant is on 125th Street, isn't it? A. 188th Street.

Q. And is it known as Rosie's? A. That's right.

Q. Open all night, is it? A. Usually.

Q. Did you ever know a man named John Babu to hang out there, frequent the place? A. I never knew him.

Q. Now Dr. Condon, on this particular night that you say he came into the restaurant, did you know that he had a phone in his own house? A. I didn't know him that well.

Q. After your first visit to his house did you see a phone? A. That's right.

Q. How many miles was Dr. Condon's home that evening in March away from Rosie's restaurant? A. I wouldn't be in a position to say how many miles. It is about a five-minute ride in an automobile.

Q. How long to walk? A. About 20 minutes.

Q. Twenty minutes walk. Did you know Al Reich? A. I did.

Q. Before that? A. That's right.

Q. How long did you know him? A. Five or six years.

Q. How does he spell his name, Reich? A. I think it is R-e-i-c-h, I am not sure.

Q. It isn't Ricci, is it, as far as you know? A. As far as I know.

Q. Reich, R-e-i-c-h. Now did you hear Dr. Condon call the number from Rosie's restaurant? A. I don't think so.

Q. About what time did he come in? A. About midnight.

Q. Had you ever seen him before? A. Surely.

Q. So that you knew who it was? A. Yes.

Q. Now, isn't it a fact that he called from Rosie's Restaurant, he called Colonel Lindbergh's home? A. So I understand.

Q. Yes. He didn't give any explanation why he didn't call from his own home, did he? A. He had no occasion to give me any explanation of that.

Q. And you never asked him why he didn't call—

A. No, sir.

Q. Colonel Lindbergh's home from his own home, did you? A. No, sir.

Q. You didn't ask him why at midnight he called Colonel Lindbergh's home from Rosie's all-night restaurant, did you? A. He made it a practice of coming in to Rosenhain's about that time for a sandwich and a cup of coffee.

Q. Where was the telephone in Rosie's Restaurant? A. Toward the rear of the restaurant.

Q. In a booth? A. That is right.

Q. How long after he sent the telephone call did you start for Hopewell? A. A few minutes.

Q. Did you know the road? A. I did not.

Q. Now, as you proceeded—you had never been to Hopewell before, had you? A. That is right.

Q. Did you know anything about Jersey? A. Very little.

Q. And this was midnight? A. That is right.

Q. Now, how did you proceed from New York into Jersey? A. I couldn't tell you that.

Q. You don't remember, do you? A. We asked directions as we—

Q. No, no, no. A. All right.

Q. I want your recollection. A. I couldn't tell you.

Mr. Wilentz: Please let him give the answer.

Mr. Reilly: Well, he says he doesn't know.

Mr. Wilentz: Yes—

The Court: Well, he wants to say that he asked for directions from time to time.

Mr. Reilly: All right.

Q. Did you ask anybody in New York how to get to Jersey? A. I did not.

Q. Did you go through the tube? A. No, the Washington Bridge.

Q. The Washington Bridge. Now, after you got over there who directed you? A. As I said, we asked total strangers or policemen, or anyone we could find from time to time.

Q. You didn't take down their numbers, did you? A. No.

Q. Isn't it a fact that Dr. Condon directed you around the road? A. He did not.

Q. But at some certain point in the road weren't you met by State Troopers? A. That is right.

Q. And it wasn't all people in automobiles just driving by that directed you from Princeton to Hopewell, but you were met by a fleet of State Troopers in Princeton? A. I made—

Q. On motorcycles, is that right? A. I made a call from Princeton, notifying them that we were in Princeton, and they gave us general directions toward Hopewell and told us they would meet us, and I gave them, or someone, whoever made the call, I don't remember exactly, gave them our license number and the name of the car, and from that we were picked up on the way, because, if I remember correctly, we had lost our way several times.

Q. Several times. So that you got to Colonel Lindbergh's about two o'clock? A. I don't remember.

Q. Several times. You got to Colonel Lindbergh's about two o'clock? A. I don't remember.

Q. How long did you stay? A. Probably an hour.

Q. Is that the only time you went out there? A. That is the only time.

Q. You are in the clothing business, is that correct? A. That is correct.

Q. What date was it? A. The date of what?

Q. The ride. A. I don't remember. I never made a note of it.

Q. Well, you made a note of everything else, you made a note of Perrone's license and checked it up and put it in your pocket. A. I had a reason for that.

Q. I did not ask you what your reasons were. A. I didn't make any note of any date.

Q. It did not stand out in your mind that it was unusual that Dr. Condon was going out to Colonel Lindbergh's house at midnight, did it? A. Certainly it was unusual.

Q. You did not think of jotting down that date. A. I did not.

Q. Nobody has told you to forget the date, have they? A. No.

Q. Who showed you the way home? A. I don't think anyone showed us the way home.

Q. Did you drive back to Princeton? A. I don't remember, I know we came through the tube on the way home.

Q. As far as you remember then, nobody directed you to the right roads home, is that right? A. I may have asked on the way, but I don't recall.

Q. Your memory is not quite clear on that, is it? A. No.

Mr. Reilly: That is all.

Mr. Wilentz: That is all, sir—oh, just a minute.

Q. Just one question. In going from New York to Hopewell, Condon didn't give you the directions in New Jersey, did he? A. No.

Mr. Wilentz: That is all. Mr. Rosenhain.

MAX ROSENHAIN, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. Mr. Rosenhain, you are the proprietor of this restaurant that the young man was just referring to, isn't that so? A. Well, I am one of the members of the corporation. It is a domestic corporation.

Q. Oh, it is a corporation, is it? A. Yes, sir.

Q. But, they call it Rosie's, is that right? A. That is right.

Q. And it is in the Bronx? A. It is, sure.

Q. Good restaurant, is it? A. Best in the world.

Q. All right. As a result of that, I suppose, as a result of that being the best in the world, why, you have had customers like Gaglio and Condon, I take it? A. The very best people, sir.

Q. How many years have you known Dr. Condon? A. Well, I should say about ten years or more.

Q. Ten years or more? A. Yes, sir.

Q. And, was he a customer and a frequenter of your restaurant? A. Oh, yes, that is why he looks so well.

Q. And, was he in there in March, 1932? A. He was, sir, yes, sir.

Q. Now, particularly with reference to the night that the young man Gaglio was there, was he in there that night? A. He was, yes, sir.

Q. Did you take a trip with Gaglio and Dr. Condon? A. Yes, sir.

Q. To Colonel Lindbergh's home in New Jersey? A. Yes, sir.

Q. Do you remember the date, the night that Dr. Condon came in after you went to Hopewell? A. Well, Dr. Condon was there when I entered the store. I was out for the evening.

Q. I see. A. And I came in about eleven o'clock, then Dr. Condon was there when I came in.

Q. Do you remember the date? A. I believe it was March 9th, if my memory serves me right; either the 9th or the 10th, but I believe it was the 9th.

Q. Do you remember what day of the week or what night of the week it was, rather? A. I believe on a Wednesday, but I wouldn't be sure. I believe on a Wednesday, if my memory serves me right.

Q. And at any rate, you accompanied the doctor and the young man Gaglio that was just on the stand? A. Yes, sir.

Q. Now, in making your trip to the State of New Jersey, and particularly to the Lindbergh home, were you able to make the trip without asking for aid along the road? A. No, we had to ask several times.

Q. About how long did it take you to make the trip? A. I think we left the shop about midnight and arrived over in Hopewell in the neighborhood of three o'clock in the morning.

Q. Where is your shop? A. 188th Street and Grand Concourse.

Q. That is in the Bronx, is it? A. In the Borough of the Bronx, that is right, Bronx County.

Q. Well, after you arrived in the Bronx—at Hopewell, you got out of your car, I take it? A. I got out of Mr. Gaglio's car, yes.

Q. Did you all get out? A. We all got out.

Q. Is that how you pronounce it, Gallio? A. Gallio, it is spelled Gaglio.

Q. Did you go into Colonel Lindbergh's home? A. I did, sir.

Q. Did you meet the Colonel that night? A. I did, sir, yes.

Q. Who else did you meet there? A. I met Colonel Breckinridge and any number of State Troopers,

men in all types of uniforms, I presumed they were State Troopers.

Q. Did you return that night? A. Yes, sir; that morning.

Q. That morning. How long did you stay at the Lindbergh home? A. Well, in the neighborhood of about an hour. I wouldn't be exact on that.

Q. Colonel Lindbergh was dressed and awake? A. He was, yes.

Q. And the household was stirring and busy? A. That's right, yes.

Q. And then finally you left? A. Yes.

Q. Did you take Dr. Condon back with you or did he remain? A. No, he remained behind.

Q. And you and Gaglio went back? A. Proceeded home.

Q. Gaglio also is a customer at your place and a frequenter there? A. For many years.

Q. How long had you known him? A. About the same number of years.

Q. Did you know Mr. Reich at the time, Al Reich? A. Oh, yes.

Q. How many years do you know him? A. Well, I should say about the same number of years too.

Q. He is also a customer and frequenter of your restaurant? A. Yes, sir.

Q. He was not there that evening? A. No, he wasn't. Dr. Condon inquired for him when I came in the store, asked me if I had seen Al, as we called him.

Q. Do you mean know each other well enough to call Mr. Reich "Al?" A. Oh, yes.

Q. That is the doctor and you and Reich? A. I always address the doctor as "Doctor," you have to respect old age a little bit, you know.

Q. Is that how he is popularly known among his friends? A. As doctor.

Mr. Wilentz: I think Mr. Rosenhain, that is all.

Cross-Examination by Mr. Reilly:

Q. You have not any branch restaurants in Jersey? A. Beg pardon?

Q. You haven't any branch restaurants in Jersey? A. No, but after the trial I hope to open one.

Q. You should have been here last week. You are enjoying your place in the sun here today, are you not? A. Well, I wouldn't say exactly enjoying it.

Q. How many steady customers like Al Reich, Gaglio and Dr. Condon come into your place every night? A. Every night? I don't say they come in every night, but we probably number thousands of guests.

Q. A night? A. No, I didn't say that.

Q. Have you a regular steady crowd that come in every night? A. Well, they don't have to register. We never know when they are coming in, but when they come in there we feed them.

Q. You ought to know who comes in there every night. A. Not anybody in particular comes every night.

Q. Well, how many times a week does the doctor come in? A. It is never the same. Sometimes twice a week; sometimes he might come in six times a week; I have seen him there three times in a single day.

Q. He lives some distance from your place? A. not very far. I could easily walk it in twelve minutes, fifteen minutes top.

Q. You had never been to Hopewell before? A. No, sir; never heard of it.

Q. Well, you had heard of it before that night? A. Oh, yes, before that night, yes. I had heard of it as soon as the kidnapping. I read it in the paper, of course.

Q. And when it was suggested to you that you go along, you wanted to go along for the experience, didn't you? A. Well, when Dr. Condon asked me to go along, I made no hesitancy in going along; whether it was a question of experience or not I couldn't answer you, but I went along.

Q. You went along. You came home alone? A. No, I came home with Gaglio.

Q. I mean Dr. Condon stayed there all night, did he? A. He did, yes, sir.

Mr. Reilly: That is all.

Mr. Wilentz: That is all. Thank you.

Mr. Alfred Reich.

ALFRED JACOB REICH, sworn as a witness in behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Mr. Reich, in 1932 where did you reside? A. 415 Minneford Avenue, City Island, the Bronx.

Q. And how long have you lived in the Bronx? A. Twelve years.

Q. Prior to that where did you reside? A. In Manhattan, East 34th Street.

Q. That is another borough of New York, is that it? A. Yes.

Q. How long did you live in New York? A. All my life.

Q. So that as to Manhattan and the Bronx, wherever it was, as to the city of New York proper, you have lived there all your life? A. All my life.

Q. And in March, 1932, were you employed or did you have any particular occupation? A. I was

in the real estate business, and—'32, yes, the real estate business.

Q. 1932, real estate business? A. Yes.

Q. And prior to that time at some time in your life you were a pugilist and boxer, were you not? A. Yes.

Q. How long ago was that? A. I boxed professionally in 1924 for the last time.

Q. Last time? A. Yes.

Q. Prior to 1924, for how many years had you been engaged in the boxing profession? A. Eleven years, as a professional.

Q. And also during that time and after that time did you also act as a referee for prize fights and boxing contests? A. I am now a licensed referee for professional wrestling and boxing contests in New York State.

Q. That is to say you mean you are licensed for the State of New York. A. Yes, sir.

Q. I take it that you were then as you are now a heavyweight. A. Yes, sir.

Q. All right. Now, did you know Dr. Condon? A. Yes, sir.

Q. Prior to March, 1932,—I withdraw that. For how many years prior to March, 1932, have you known Dr. John F. Condon? A. I met Dr. Condon prior to 1925.

Q. At that time and since that time and up to 1932 and up to the present time Dr. Condon has indicated an interest in athletics and boxing and other sorts of sport, hasn't he? A. Yes, sir.

Q. And not only have you known him but have you been very friendly? A. We are together a whole lot going to indoor and outdoor athletic contests, track and field meets, baseball meets,—

Mr. Reilly: I don't see how this is material, if the Court please.

The Court: Well, it does not do any harm.

A. (Continuing.) —professional and amateur football games—

Mr. Reilly: Now here we go on.

A. (Continuing.) —boxing contests, and so forth.

Q. So that in March, 1932, there was this association between you and the doctor. A. Yes, sir.

Q. Did you have occasion to drive Dr. Condon some time in March, 1932? A. Yes, sir.

Q. In whose automobile? A. My automobile.

Q. Do you remember the date? A. I do not.

Q. Where did you start on this drive? A. From Dr. Condon's house.

Q. What time of the day or night was it? A. I think it was between 8:30 and 9 p. m.

Q. At night? A. yes.

Q. Whose car was it?

The Court: And do you remember the date?

The Witness: No, sir.

Q. What month was it in? A. March, early part of March.

Q. The early part of March? A. Yes.

Q. What kind of a car was it? A. It was a Ford coupe with a rumble seat.

Q. Your car? A. Yes, sir.

Q. Who was in the car besides you? A. Dr. Condon.

Q. Just the two of you? A. That's all.

Q. And so you started off at about 9:30 did you say? A. Between 8:30 and 9, as far as I remember.

Q. On that night some time in the early part of March. A. Yes.

Q. I take it that Dr. Condon's home was then as it is now in Decatur Avenue? A. 2974 Decatur.

Q. You left from there? A. Yes, sir.

Q. Where did you go with Dr. Condon? A. We drove up to at that time in the month of March a deserted frankfurter stand about 100 feet, I think, north of the last station on the Jerome Avenue subway.

Q. A hundred feet beyond? A. Yes.

Q. The last station on the Jerome Street subway? A. Jerome Avenue subway, the last station.

Q. Still in the Bronx? A. Still in the Bronx.

Q. You said something about a deserted frankfurter stand? A. Yes, at that time of the year it had not been opened yet for the summer.

Q. How close was that to the last subway station? A. About 100 feet north of the last subway station.

Q. Did you drive right up to the frankfurter stand? A. I drove up and it was on the west side, on the down side, I would say. We were driving up, and it was on the down side and I turned around and parked right in front of it.

Q. Then what happened? A. Dr. Condon got out and went over on to the porch and there was a stone there, about that big (indicating with his hands).

Q. Wait a minute. That big? Just show us how big you mean. A. That big (indicating).

Q. What would be your judgment of about that size? A. I would say a stone weighing maybe ten pounds.

Q. I mean the dimensions more than the weight, if you can help us. A. It was probably four or five inches in diameter.

Q. And your judgment is that it would weigh about ten pounds? A. I think so.

Q. Did you see that stone there? A. I saw it.

Q. As you were seated in your car? A. Yes.

Q. Did you get out of the car at all? A. No.

Q. You did not? A. No, sir.

Q. What did you see happen there if anything, with reference to this stone and Dr. Condon? A. Dr. Condon got out of the car and went over to the porch and picked up the stone found a note under it.

Q. Did you see him find the note? A. I did.

Q. And what happened then? A. He came back towards the car and there was also an electric light at that time and he stood there, opened the note and read it.

Q. Did you see him standing under the light opening the note and reading it? A. Yes, sir.

Q. Then what happened from that point? A. He got back into the car.

Q. Yes? A. And I drove across the street on which side is located Woodlawn Cemetery, and I followed Woodlawn Cemetery north to 233rd Street.

Q. About how far did you travel from the frankfurter stand to the point where you next stopped at Woodlawn Cemetery? A. I would judge offhand about a mile.

Q. Now, let's understand it, particularly for the safety of the jury: the Woodlawn Cemetery runs for at least a mile, doesn't it? A. I think so.

Q. And when you are traveling along for the frankfurter stand, along this cemetery, your judgment is that it is at least a mile that you traveled all along this cemetery highway? A. That is right.

Q. No private residence interspersed, nor anything like that on the other side of the street? A. No, nothing. The other side is Van Cortlandt Park.

Q. So on one side of the street is the parkway and on the other side is the cemetery? A. Van Cortlandt Park and Woodlawn Cemetery.

Q. No places of business? A. Well, the frankfurter stand was the only place of business there.

Q. And was that occupied or deserted there that night? A. Yes.

Q. From the frankfurter stand to the point you next stopped, after traveling a mile, was there one business establishment along the highway? A. Nothing.

Q. Deserted, so to speak? A. Yes.

Q. Then you finally stopped? A. At 233rd Street.

Q. Now, 233rd Street that intersected Jerome Avenue, didn't it, that is, it ran into Jerome Avenue? A. Yes.

Q. It is a corner, in other words? A. It is.

Q. You drove along Jerome Avenue until you came to 233rd Street, is that it? A. That is right.

Q. Did you get up all the way to 233rd, or did you stop before you got there? A. Stopped. Well, there isn't—we stopped where the curb should be, but I don't think there is a curb at that particular point.

Q. Take the least. A. Probably 50, 65 feet away from the intersection, the actual street, 233rd Street.

Q. So that you actually didn't reach the intersection, 233rd Street? A. No.

Q. 50 or 75 feet away from it, and before you reached it you stopped? A. Yes.

Q. There was no curb there you say. A. No.

Q. Sort of a little driveway? A. Well, the curb —they didn't put the curb there; there is a curb along there, but it doesn't come up right up to the corner.

Q. Well, at that particular time you drove off the highway and closer to the cemetery, is that what you mean? A. I didn't go in very close, but I pulled over to where the curb would be if there was one there, I think.

Q. I see. And what did you do then? A. I parked

Q. What did Dr. Condon do? A. Dr. Condon got out and stood in the triangle there in front of the entrance to Woodlawn Cemetery.

Q. All right.

Mr. Wilentz: Now have we got a picture of this cemetery? Will your Honor pardon us for a second until we try to locate it?

I don't seem to find it right now, Mr. Reich.

Will you let me have the last question and answer?

(Last question and answer read by the reporter:)

Q. Now, will you please tell us what made up the triangle? A. Well, the triangle— the Woodlawn Cemetery fence runs right along inside of the sidewalk, but at this particular corner it doesn't come up to the corner, it stops about here on 233rd and about here maybe, say a hundred feet from the corner, on Jerome Avenue.

Q. In other words, when you refer to a triangle you don't mean a triangle in the street. A. No, this is on the sidewalk.

Q. A triangle formed by the meeting of the various walls of Woodlawn Cemetery. A. Yes.

Q. In other words, does the cemetery come up to Jerome Avenue and meet it at right angles and go across to 233rd Street? A. No.

Q. So that it comes up to near the corner? A. To within possibly a hundred feet, on Jerome Avenue, and on 233rd Street.

Q. And then is joined at an angle? A. There is three gates there, leading into Woodlawn.

Q. And those three gates join and make a sort of an angle, isn't that it? A. Yes.

Q. That you call a triangle. A. Yes.

Q. So that if you stand at the very intersection of Jerome Avenue and 233rd Street, at the very point, the nearest intersection— A. Yes.

Q. —and you look at the gates, you face them directly, do you not? A. Yes.

Q. About how far from the sidewalk, if there had been a sidewalk, or a continuation of the sidewalk, if the walk had been continued, how far back are these gates set, if you know? A. Oh, maybe between fifty and seventy-five feet.

Q. Now, how far away from the nearest gate to you was it that you parked your car? A. Well, I was probably thirty or forty feet away from it.

Q. Then you say Dr. Condon got out? A. Yes.

Q. Where did he go, if you saw him? A. He stood in the center of this triangle.

Q. And what happened? A. The vacant space in front of the entrance to Woodlawn.

Q. What happened, sir? A. Well, he stood there for about ten or fifteen minutes, and it was a very cold night, and then he came back to the car; he was a bit discouraged. He says, "I don't know—"

Mr. Reilly: I object.

Q. Well, what did he do then, sir? A. And he sat with me in the car for maybe about five minutes. Then I saw someone come walking down south on our side of the street.

Q. How far away from you? A. Well, he was crossing 233rd Street when I saw him, and I said to the doctor—

Mr. Reilly: I object.

Q. Never mind what you said; but you saw somebody, and what did you see him do if anything? A. Nothing.

Q. All right. And that figure you saw crossing 233rd Street in the distance. A. Yes.

Q. Is it a wide street or a narrow street, if you remember? A. Quite wide.

Q. Quite wide, all right. Then as you saw him you said something to Dr. Condon. What else did you see happen then? A. The doctor got out and stood in the center of the triangle.

Q. Did you see that figure of the man that you saw crossing the street and if you did, where did you see him go? A. He continued on right straight down Jerome Avenue.

Q. Did he pass your car? A. Yes.

Q. All right. And then what happened? A. After the doctor stayed there for about five or ten minutes, he walked over to the gate. I couldn't hear anything, because I had both the door and the window closed.

Q. Did you see anything? A. No.

Q. Then what did you see happen? A. I saw a fellow come down off the gate and—

Q. Off what gate? A. The cemetery gate.

Q. About how high was that cemetery gate? A. would judge about nine feet.

Q. And when you say you saw a man come off the gate, what do you mean? A. He came down after coming up on it from the inside, to come out over the gate.

Q. I mean did you see him jump off? A. Yes, I saw him jump off.

Q. Jump off the gate of Woodlawn Cemetery? A. Yes.

Q. At the entrance there somewhere? A. Yes.

Q. And come down on the ground? A. Yes.

Q. Now prior to his jumping did you see him get up on the gate? A. No, I didn't. I couldn't see him, but I saw the doctor there talking to someone for maybe ten minutes.

Q. I see. Did you see the doctor and can you tell

us which side of the gate he was on? A. The doctor was on the outside.

Q. When you say the outside, you mean that part, that side of the gate nearest the street? A. Yes, sir.

Q. As distinguished from that side of the gate nearest the cemetery plots? A. Yes.

Q. Now, when you saw this man jump off, he landed, I suppose, out in that portion or somewhere near where Dr. Condon was? A. Yes.

Q. What happened then? A. He ran.

Q. Who ran? A. The man that came down off the gate.

Q. Yes. And in which direction did he run? A. He ran north into Van Cortlandt Park. Van Cortlandt Park above 233rd Street is on both sides of Jerome Avenue.

Q. I see. At 233rd Street, the cemetery plot ends: is that not so? A. Yes, sir.

Q. Across the street is a continuation of Van Cortlandt Park? A. Yes, both on the east and west sides.

Q. So that you have the cemetery on one side, the park on the other, and on the opposite side the park too? A. Yes.

Q. You say he ran across the street to that park. Do you know whether Jerome Avenue runs north and south? A. I think it does.

Q. Assuming that it runs north and south, to the right would be to the east, would it not? A. He ran north.

Q. I mean, I want to get the directions. To the right would be to the east and to the left would be to the left and right straight ahead would be to the north. Is that it? A. Yes.

Q. And he ran, you say, to the north? A. That is right.

Q. What then did you see, if anything? A. The doctor followed him.

Q. Yes. A. And they—

Q. How? A. They went in, about a couple of hundred feet, I imagine.

Q. Well, if you didn't see it, I am afraid you won't be able to imagine. You tell us how far your eyes followed him, if they followed them at all, either one of them? A. It did, it followed them into where there was a shack.

Q. Yes? A. With a park bench along side of it.

Q. And, could you see them go to that shack? A. Yes, I could.

Q. The night was clear? A. It was a clear night.

Q. Would you be able to recognize that shack if you saw it? A. Oh, yes.

Q. A picture of it? A. Yes.

Q. Will you take a look at that? A. That is the shack.

Q. Is that a correct picture of the shack? A. I think so.

Q. Has the position of that shack been changed since that time or is it the same to the best of your recollection? A. I think it is the same.

Q. You think the position is the same, too? A. Yes.

Mr. Wilentz: I don't know when it was taken or by whom or anyone else (handing photograph to Mr. Reilly).

Q. And what happened then? A. They sat down on the park bench.

Q. I see.

Mr. Reilly: This is Van Cortlandt Park, is it?

Mr. Wilentz: Yes.

Mr. Reilly: Offer it then.

Mr. Wilentz: I offer it in evidence.

Mr. Reilly: And there is no objection from the defendant.

The Court: It will be marked.

The Reporter: Exhibit S-41 in evidence.
(The photograph referred to was received in evidence and marked State Exhibit S-41.)

Q. Now, about how far, according to your best recollection and your best judgment, is Exhibit S-41 —is that it?

The Reporter: Yes, sir.

Q. —Exhibit S-41 being this bench, particularly, from the triangle that you spoke of before, the point where Dr. Condon was standing talking to some man? A. I would judge it was about a hundred yards.

Q. About 300 feet? A. Yes.

Q. And how long did you wait there? Did you continue to wait in your car? A. Yes, sir.

Q. How long did you wait there? A. An hour, about an hour.

Q. You didn't time yourself, I suppose? A. No, I didn't.

Q. And when— A. It was a cold night, it felt like a week.

Q. And finally, Dr. Condon returned, I take it? A. Yes, sir.

Q. And where did you go then? A. Went back to Dr. Condon's house.

Q. When they got to that shack in the park,

referred to as S-41, did you see them sit down? A. Yes, sir.

Q. What were their positions, were they close or far away, or what? A. I thought they were sitting quite far away, as far as they could, almost, both sitting on the one bench.

Q. What sort of a bench, to your best judgment, was it? A. I think it was about seven feet long.

Q. Ordinary park bench, wasn't it? A. Yes, green.

Q. How could you tell it was green from where you were? A. Well, I didn't know it that night, but I think all park benches are green—all I ever saw were.

Q. You are talking about police stations, aren't you? Now, I notice on this picture, sir, that there seems to be indicated thereon, referring to S-41, a sidewalk and a curb and a roadway. A. That's right.

Q. Is that 233rd Street? A. Yes, sir.

Q. That you have been referring to, in the Bronx? A. Yes, sir.

Q. And is that the roadway that you talked about before as intercepting Jerome Avenue in the Bronx? A. Yes, sir.

Mr. Wilentz: If your Honor please, this is all I have with this witness, and will your Honor please indulge us in the request for an adjournment at this hour, rather than have counsel start his cross-examination?

I understand it meets with the approval of my adversary.

Mr. Reilly: There are some things I want to get out of my files on this particular witness, that I will have in the morning.

The Court: Yes. Now, one moment. I desire everybody in the courtroom to remain

quietly, just where they are. Now, the jury may retire and come in tomorrow morning at ten o'clock.

STATE vs. HAUPTMANN

Flemington, N. J., January 9, 1935.

SIXTH DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

———

The Court: Open the court. Poll the jury.

(The jury was polled and all jurors answered present.)

The Court: Counsel may proceed.

Alfred J. Reich resumed the stand:

Direct Examination (continued) by Mr. Wilentz:

Q. May we have the last question and answer, please, Mr. Stenographer?

The Reporter: "Q. And is that the roadway that you talked about before as intersecting Jerome Avenue in The Bronx? A. Yes, sir."

Q. Now, Mr. Reich—is that how you pronounce your name: right? A. Yes, sir.

Q. Reich? A. Reich, yes.

Q. And you spell it how? A. R-e-i-c-h.

Q. Did you ever spell it R-i-c-c-i or anything like that? A. No, sir.

Q. On April 2, 1932, and particularly the night that Colonel Lindbergh and Dr. Condon left in an automobile were you at Dr. Condon's home? A. Yes, sir.

Q. Did you have your automobile there? A. Yes, sir.

Q. Who else was in the home besides you and Dr. Condon and Col. Lindbergh? A. Col. Breckinridge; I think Ralph Hacker was there.

Q. Ralph Hacker? Who is Ralph Hacker? A. Dr. Condon's son-in-law.

Q. Was Mrs. Condon there? A. Yes, Mrs. Condon was there.

Q. How about Mrs. Hacker, the doctor's daughter? A. Mrs. Hacker was there, Dr. Condon's daughter.

Q. Did you go with Col Lindbergh and Dr. Condon in the car that night? A. No.

Q. Whose car was used, if you know? A. I suggested that they use my car.

Q. Did they use your car? A. Yes, sir.

Q. And do you know who drove it? A. Colonel Lindbergh.

Q. So that when Colonel Lindbergh and Dr.

Condon left that night, April the 2nd, 1932, with the money box, left the Condon home, you remained at home with Colonel Breckinridge and the others?

Mr. Fisher: That is objected to, your Honor. It embraces in the question a statement that is not a fact in evidence thus far from this witness.

The Court: About the money box?

Mr. Fisher: Yes.

The Court: Perhaps that better be—

Mr. Wilentz: I understood Colonel Lindbergh to have testified to that. I don't think there is any question about it.

Mr. Fisher: There has been nothing in this witness' testimony about a money box at all.

Mr. Wilentz: Not in this witness', but Colonel Lindbergh so testified.

Mr. Fisher: Then the thing to do would be to have the witness testify what was there and not—

Mr. Wilentz: I think the Court can regulate that without the kind suggestion of my delightful adversary.

Mr. Fisher: I hope the Court will so regulate.

The Court: Suppose you ask the witness what they took with them.

By Mr. Wilentz:

Q. When Colonel Lindbergh and Dr. Condon left did they take any package or parcel with them? A. They took a box containing $70,000.

Q. How do you know it was $70,000? A. I was there when it was packed up and helped bring it up from the banker's home.

Q. Who did you help bring it up? A. I came up with fifty of the seventy in the car with Colonel Lindbergh.

Q. When you say you came up with fifty of the seventy with Colonel Lindbergh, when was that and from where did you come? A. It was the afternoon of the night of the final payoff.

Q. The afternoon? A. Yes.

Q. That afternoon. A. I drove down with Colonel Breckinridge to the banker's home and we met Colonel Lindbergh down there.

Q. Who was the banker? A. Bartow.

Q. Mr. Bartow? A. I think that is the name.

Q. And there, as I understand it, you and Colonel Lindbergh got some money and drove to the Condon home? A. Yes, we took the fifty in Colonel Lindbergh's car and Colonel Breckinridge took the twenty in his car.

Q. Am I to understand, then, sir, that the $70,000 was transported partly by you and Colonel Lindbergh and partly by Colonel Breckinridge? A. That is right.

Q. And so that finally when you got to the home, you say that you saw and helped pack this money? A. Yes, sir.

Q. What was it packed in? A. It was packed in a wooden box made of five-ply veneer.

Q. Were you present when that wooden box left with Colonel Lindbergh and Dr. Condon? A. Yes, sir.

Q. How long did you stay in the house that night? A. I stayed there until they came back.

Q. About what time did they come back? A. Probably a half or three-quarters of an hour.

Q. Who stayed with you when you were there? A. Colonel Breckinridge, Mrs. Condon, Mrs. Hacker and Ralph Hacker.

Mr. Wilentz: Take the witness.

Cross Examination by Mr. Reilly:

Q. Mr. Reich, are you engaged as a sort of a bodyguard for Dr. Condon? A. No, sir.

Q. But you go around with him? A. Yes.

Q. Have been for how many years? A. Ten years, about.

Q. Have you any other means of occupation except referee in prizefights and wrestling matches? A. I have some real estate interests. I have some real estate interests.

Q. Where? A. On City Island.

Q. Have you a boat? A. No, sir.

Q. Did you ever have a boat on City Island? A. No, sir.

Q. Did Dr. Condon ever have a boat? A. A rowboat.

Q. Did he ever have any cabin cruiser? A. No, sir.

Q. Were you and the doctor in the habit of visiting City Island? A. I live there.

Q. Well, I mean would the doctor come up and visit you? A. He came up to his place on City Island.

Q. Were there any conferences concerning this

kidnapping held with your knowledge and consent, or did you participate in any at City Island? A. No, sir.

Q. Sure about that? A. Not previous to the kidnapping. Is that what you mean?

Q. During the negotiations were there any conferences at City Island that you took part in? A. No. Dr. Condon was too busy at home at that time.

Mr. Reilly: I move to strike it out as not responsive.

The Court: Strike it out.

Q. Did you participate in any conferences with Dr. Condon and others at City Island during the negotiations covering the period around the paying off of the ransom money? A. I don't remember.

Q. Do you remember going to City Island or Dr. Condon coming to City Island? A. I don't remember him coming there after the, during that time.

Q. Now, City Island is on Long Island Sound, correct? A. Yes, sir.

Q. An arm of the sound? A. Yes, sir.

Q. In and about Pelham Bay, isn't it? A. Yes, sir.

Q. And, in relation to Hunter's Island where is City Island? A. City Island lies, I would say south east of Hunter's Island, about a, maybe a mile.

Q. And Hunter's Island is where the summer home of the New York Athletic Club is. A. No, sir.

Q. Where is the New York Athletic Club? A. The New York Athletic Club is at Travers Island,

about a half mile north of Hunter's Island, I would say.

Q. So we have Travers Island, Hunters Island and City Island all within an area of five miles, correct? A. Yes, sir.

Q. All on the shore of Long Island Sound? A. Yes, sir.

Q. Did you have anything to do with the insertion of the ad in the Bronx News? A. No, sir.

Q. But, you saw it there, didn't you? A. Yes, sir.

Q. It was called to your attention by Dr. Condon, wasn't it? A. Yes, sir.

Q. Were you in the habit of reading the Bronx News? A. Do you mean, pardon me, do you mean the original ad?

Q. I mean the very first ad that appeared in the Bronx News, did you read that? A. I read it, but not before the first letter came from the kidnaper in answer to it.

Q. Well, your attention was directed to the ad by Dr. Condon, wasn't it? A. No, sir.

Q. Did you read it after the first letter arrived? A. Yes, sir.

Q. How long after the insertion of the ad did the first letter arrive? A. I don't know that.

Q. What was the date of the insertion of the ad? A. I couldn't say that.

Q. And how do you know how long after the ad was inserted it was before you read the ad? A. I don't know.

Q. Who called to your attention that there was such an ad in The Bronx News? A. I couldn't say that, but I saw it afterwards. I was not in touch with Dr. Condon at that time. That is why he came over to Rosenhain's restaurant to look for me and he missed me. I wasn't there.

Q. How long before that had you been in touch

with him? A. Possibly a few days, Sometimes we went out two or three times a week to athletic entertainments.

Q. This particular time you hadn't seen him for two or three days: is that correct? A. Possibly.

Q. Are you married? A. Yes.

Q. Live with your family on City Island? A. With my mother.

Q. Well now, will you please tell the jury how far your home on City Island, in miles,—of course, they are not familiar with that terrain—is from Dr. Condon's house, approximately, in miles. A. I am under the impression that City Island is only about a mile long.

Q. How far would you say your home was from Dr. Condon's home? A. Dr. Condon doesn't have a home on City Island.

Q. I know; he lives in The Bronx: right? A. Yes.

Q. How far is it away from your home at City Island? A. His home in The Bronx?

Q. Yes. A. I would say about four or five miles off hand.

Q. Has Dr. Condon also a home on City Island? A. No more.

Q. Did he have during 1932? A. No, I don't think so.

Q. When you say no more, when did he have a home there? A. Up until about three or four years ago.

Q. Did you ever go to Maine with Dr. Condon? A. No, sir.

Q. You never visited in a camp? A. No, sir.

Q. Well now, coming down to the day concerning the ride with the $50,000, up to that time Dr. Condon as far as you know had never re-

ceived any notice of when, where or how to pay the $50,000, had he? A. No, sir.

Q. At whose suggestion was the $50,000 or $70,000 taken from the banker's home that day? A. Anything that took place at the time was done by and with the consent of Colonel Lindbergh and Colonel Breckinridge and Dr. Condon.

Q. Did you hear Dr. Condon suggest that day or that afternoon that it would be a good idea to get the money up in the Bronx that night? No, sir.

Q. Did you hear Colonel Lindbergh say it would be a good idea to have the money up here tonight? A. No, sir.

Q. Did you hear Colonel Breckinridge say it would be a good idea to have the money up tonight? A. No, sir.

Q. But, as a matter of fact, as you recall it, there was no plan to have the money there that night? A. Well, there was when we went down in the afternoon for it.

Q. What suggested going down for it? A. I don't know.

Q. You see, according to the testimony, there hadn't been any note found under the florist's table to pay the money within thirty-five or forty minutes, had there? A. No. There was a note came by taxicab, directing them, as I understood it to go to the florist's table or under the table.

Q. When? A. That evening, about—

Q. Yes. But the money that was found in the banker's home—and the banker's home was much safer than Dr. Condon's home wasn't it? A. But they—

Q. Wasn't it? A. Oh, yes.

Q. Yes. The money was downtown in the custody of a banker. A. Yes, sir.

Q. It was not in the custody of Colonel Lindbergh, Colonel Breckinridge, Dr. Condon or yourself. A. No, sir.

Q. Is that correct? A. Yes, sir.

Q. Then somebody, and that is what I would like to find out, if you remember who it was, directed that the money be brought up to the Bronx, is that correct? A. Yes, sir.

Q. Then when the money gets up to the Bronx, the boy rings the door bell and presents a letter to Dr. Condon to go some place, is that correct? A. Yes, sir.

Q. After the money arrived in the Bronx. A. Yes, sir.

Q. Who knew the money was to be in the Bronx that night? A. Colonel Breckinridge, Colonel Lindbergh, Dr. Condon—

Q. And Dr. Condon? A. And myself.

Q. Yes. So that after the money is there in the Bronx, comes a letter to go here, go there, and pay it off in thirty minutes, is that correct? A. Yes, sir.

Q. Well, now, you knew they were going out to pay the money, didn't you? A. I walked out to the car with Colonel Lindbergh and Dr. Condon.

Q. Was there any other car there? A. No, sir.

Q. Did you follow them? A. No, sir.

Q. Why didn't you? A. There was no following at any time, they—

Q. Why didn't you follow them that night? A. Nobody told me to follow them, I—

Q. But you were very much interested. A. Certainly.

Q. You weren't afraid of anybody. A. No, sir. (Laughter.) I had nothing to be afraid of.

Q. No. A. I didn't think that I would have to be afraid.

Q. You knew they were going to pay some unknown person some money. A. Yes.

Q. Didn't you think it would be a good idea to go along and capture that person? A. That was all talked over with the Police Department and the Department of Justice and all the men that were interested in that.

Q. Do you mean to say that the Police Department of the City of New York knew that there was going to be a payment that night? A. Yes, sir.

Q. At that place? A. No, sir; nobody knew that until they got to the florist's.

Q. And that information came from Dr. Condon, didn't it, when he picked up the supposed note? A. Yes, sir.

Q. You weren't there, were you? A. No, sir.

Q. No. Nobody knew there was to be any payoff that night but Dr. Condon, did they? A. Yes, sir.

Q. When? A. Colonel Lindbergh, Colonel Breckinridge and myself knew it.

Q. When the note came from the taxicab driver? A. When the note came.

Q. Right? A. We had no other way of knowing.

Q. Why didn't you notify the police then? A. I don't know, I wasn't one of the executives in this; I was just a dot on the "i." (Laughter.)

The Court: Let us understand about this thing. Unless the people can keep reasonably quiet in this room, there is no alternative but the rule will have to be to clear the courtroom.

Now, I suppose the people would like to stay here and, if they want to stay here, they will have to keep reasonably quiet.

Proceed, sir.

By Mr. Reilly:

Q. Didn't you feel that possibly Colonel Lindbergh and Dr. Condon might be in grave danger? A. I didn't think so.

Q. Never gave it a thought? A. No, sir.

Q. These two men were going out with $70,000 into strange territory as far as the Colonel was concerned? A. Yes, sir.

Q. To deliver up $70,000 to somebody and you had no idea who was to get it, is that right? A. I wouldn't say that.

Q. What do you mean you wouldn't say that? A. That was to be given to the man that wrote these letters that had identified himself by sending in the sleeping suit as the kidnapper of the Lindbergh baby.

Q. That was your idea, but you didn't know how many of a band might be there, did you? A. No.

Q. You didn't know how many of a group might be there? A. No.

Q. You didn't know whether they might try then to kidnap the Colonel, did you? A. I couldn't tell that.

Q. No. And you made no effort to follow or protect them, is that right? A. Yes, sir.

Q. And you made no effort to summon the police or the Government agents, neither you nor Colonel Breckinridge, to surround that cemetery or surround any spot to protect these two men and the $70,000, did you? A. I followed orders.

Q. Who gave you the orders? A. Colonel Lindbergh, Colonel Breckinridge and Dr. Condon.

Q. Why should they give you any orders? A. I was there to assist them in what they were trying to do.

Q. Did you offer to go? A. No, sir.

Q. Then they did not give you any orders when you did not offer to go, did they? A. That never came up.

Q. That never came up? A. My car held only two people.

Q. It is easy enough to get another car. How did Colonel Lindbergh come there that night? A. I suggested my car be taken because we had used it in the first contact, and I thought they might think it funny if they saw another car.

Q. There was nothing to prevent Colonel Lindbergh's car from following your car? A. They had no intention of capturing whoever it was.

Q. They had no intention of capturing the kidnaper, is that what you mean to say? A. At that time.

Mr. Reilly: That is all.

Redirect Examinaton by Mr. Wilentz:

Q. Counsel has asked you about their intention and I think you stated that they had no intention to capture— A. At the payoff.

Q. Yes. The intention was to get the baby back, was it not? A. First.

Mr. Wilentz: Thank you. That is all.

JOHN F. CONDON, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. How old are you, Doctor? A. Seventy-four years of age on the 1st of last June. (Mr. Wilentz

puts a glass of water on the bench alongside of the witness.)

Q. That water is there for you any time you want it. A. I thank you. I don't need it yet.

Q. And during those 74 years, where have you lived? A. In the most beautiful borough in the world.

Q. What place is it?

Mr. Fisher: I ask that be stricken out.

A. The Bronx.

The Court: I decline to strike it out.

Mr. Fisher: It is purely a matter of opinion whether the Bronx is the most beautiful borough in the world.

The Court: Well, I think it is, but I will let it stand.

Mr. Fisher: I think Flemington is.

Q. Well, the Bronx is a part of Greater New York, isn't it, Doctor? A. Yes, sir.

Q. You mean then that you have lived your entire life in the City of New York? A. Yes, sir.

Q. And particularly in the Bronx? A. Yes, sir.

Q. Yesterday afternoon while we were discussing your title of "Doctor"—you are called Doctor, aren't you? A. Righteously, yes, sir.

Q. All right now, will you tell us, please, the degrees that you have? A. Yes, sir.

Q. What are they? A. The first one is A.B., known as—

Q. That is Bachelor of Arts? A. Bachelor—may I—

Q. Yes, you may, sir. A. I was never on a stand

before in my life and I will be strained.

Q. That is all right. What is the second? A. Bachelor of Arts degree of the College of the City of New York, 1882.

Q. And the next, sir? A. Fordham University, the Master of Arts in course with an original thesis.

Q. And what is the next degree that you received? A. New York University, Doctor of Pedagogy, with an original thesis, scientific and un.

Q. All right, sir, so that the name with which you are known, Doctor, is not only that, but you also have the degree of Doctor, right? A. I have the title, the degree, and the diploma extant.

Q. After and during the time that you attended college and schools what did you follow as a means of livelihood? A. While I was at college—

Q. Well, you have been a teacher, haven't you? A. Not all the time.

Mr. Fisher: I submit, your Honor that the witness is entitled to answer questions asked by counsel.

The Witness: I shall do so with pleasure.

Mr. Wilentz: All right.

The Witness: I was compelled— Did I make a mistake?

Mr. Wilentz: No.

The Witness: I was compelled to help my father.

By Mr. Wilentz:

Q. Go ahead, Doctor. A. Who had eight children, seven of whom became teachers in New York City. I saw early that the burden was too great upon my father and I applied to the Western Union Telegraph Company that I might learn telegraphy, which I learned, took a position with the Western Union Company while I was studying to become a teacher, the ambition of my life.

Q. And when you became a teacher you got a position, I take it. A. In November of 1883 after being with the Western Union Company under a Mr. Page for one year I went to the City Superintendent's examination for teacher under the late honored and respected John Jasper.

Q. And how many years were you engaged as a teacher in the public school system of the City of New York? A. 46 years starting yesterday anniversary, January 8th, 1884; ending up in 1932. This would make it 50 years yesterday.

Q. When was it that you retired as a teacher? A. I retired—well, my application I put in on the day I was seventy years of age, which is a law. I didn't want to take a penny from the City of New York that I wasn't entitled to. I sent an application to the Superintendent and he asked me to please remain longer. Might I put a little praise in here?

Q. No. Well, whatever— A. Nothing? Very well, then.

Q. Well, at any rate, you did retire when, sir? A. I retired honorably with full credentials.

Q. When was that, Dr. Condon? A. That was, instead of June 1932—'30; I beg your pardon—1930. Correct that, will you, please.

Q. Yes, sir. A. I was kept until October 1932.

Q. All right, sir. Now, since that time, Doctor, you haven't been engaged particularly in any occupation, have you? A. Yes.

Q. What is it? A. Yes. I had some capital of my own, very little, but I put it in real estate.

Q. I see. A. So I thought it might be wise to learn how to protect it, to take care of it. I went down to their examination at the Federal Building, New York City, and passed the examination as a realtor.

Q. All right, sir. Now, in March, 1932, you, of course, lived in the Bronx. A. I did.

Q. And also in April, 1932. A. I did and do.

Q. On April 2nd, 1932, you saw Colonel Lindbergh, did you not, Doctor? A. I did.

Q. In company with Colonel Lindbergh, did you go some place? A. I did.

Q. In an automobile. A. In an automobile.

Q. Whose automobile was it. A. Alfred J. Reich, my friend and helper in real estate.

Q. Did you go in the morning, afternoon or evening? A. With the Colonel?

Q. Yes. A. With the Colonel, I went out as nearly as I can remember, about a quarter to eight or eight o'clock.

Q. That night—where did you go? A. With the Colonel?

Q. Yes. A. I went in the automobile and he took the wheel, followed directions given in a note to me at my front door after the bell rang—

Q. Where did you go, Doctor? A. I went across—I do not know how much you know about the Bronx, but I was born there—

Q. Tell us— A. I went across Pelham Parkway to what is called Westchester Square in an easterly direction. After going in that easterly direc-

tion, we are compelled to turn over in a northerly or north easterly direction until we came by advice from the note to a florist, known as Bergen's Floral Station or store. The directions—you want that?

Q. As a result of what you got there, where did you go? A. I went to Bergen's store, and in the front of it where I was directed—shall I go on?

Q. Yes. A. To look under a table and I would find a stone there, and finding the stone there, that there would be a note under that stone.

Q. As a result of finding the stone and the note, where did you go? A. I went across the way as directed by the note, the original note gave as nearly as I can remember, I could tell in a moment if I saw it, to cross the street, to talk to nobody and to go down Whittemore Avenue.

Q. Now, Doctor, did you go down Whittemore Avenue that night? A. I did.

Q. Did you meet a man there? A. I did.

Q. Did you have with you some time or other that night, you and Colonel Lindbergh, a box of money? A. The Colonel had the box of money with an extra package besides.

Q. All right, sir. Did you give some money in a box that night? A. I did.

Q. And who did you give that money to? A. John.

Q. Who is John? A. John is Bruno Richard Hauptmann.

Q. All right, sir. Just wait a minute. Now let's get back just about where we started, where we should start. In March, 1932, as the result of a letter or advertisement you inserted, did you receive a note?

Mr. Fisher: That is objected to as being

leading. The question should be what he received.

A. I will accept an answer. I don't know the ways of your court. Excuse me, Judge.

Mr. Wilentz: That is all right.

By Mr. Wilentz:

Q. As the result of an advertisement or letter or whatever it was that you caused to be published, did you receive any response? A. I did.

Q. What was it that you received? A. I received a letter with a peculiar signature upon it consisting—

Q. All right, just a minute. I will try to find the exhibit. A. I beg your pardon.

Q. I show you an envelope dated March the 9th, 1932, postmarked New York, N. Y., 12 noon, and ask you whether or not you recognize whether you received that note, referring to Exhibit S-24 for Identification. I thought it was admitted in evidence.

The Reporter: No.

Q. All right. A. I received this letter about March the 9th, 1932. I recollect.

Q. No, no, that is all right, Doctor.

Mr. Wilentz: I offer it in evidence.

The Court: Any objection? There is no objection. I would like to see that.

(The envelope referred to was received in evidence and marked as Exhibit S-42.)

Q. I notice that there is some coloring on that envelope, Doctor, that it isn't altogether white. Was that coloring on when you received it or was it a white envelope? A. To the nearest of my recollection it was white.

Q. I see.

Mr. Wilentz: May I proceed while your Honor is looking at it?

The Court: Yes, you may proceed. I will hand that back to you, Attorney General.

Mr. Wilentz: Yes, sir; thank you, sir.

Q. Now, in that envelope, I take it, referring to Exhibit S-42, there were some enclosures? A. Yes, sir.

Q. Will you take a look at some of these papers, handing witness S-25 for Identification and S-26 for Identification. A. (After examining papers at length) I received this letter within that envelope with the directions on it, and the signature of the three holes.

Q. Referring to S-25.

Mr. Wilentz: Which I now offer in evidence.

Mr. Reilly: I never saw it before.

Mr. Wilentz: All right.

The Court: If there is no objection it will be admitted.

(State Exhibit S-25 for Identification is now received in evidence and marked State Exhibit S-43 in evidence.)

The Court: I would like to see it, unless you are going to read it to the jury.

Mr. Wilentz: In a moment I am going to read it, sir.

The Court: Very well.

(The witness examines another note, S-26 for Identification.)

(The witness holds note up to the light, and examines same.)

Mr. Fisher: What is the exhibit he is looking at now, Mr. Wilentz?

Mr. Wilentz: S-26 for Identification.

A. That adhesive paper was not on it when I received it. That is the letter that I received in that envelope with the other one, giving the instructions, yes, sir.

Q. Except that it didn't have the adhesive tape on it? A. It did not.

Mr. Wilentz: I offer it in evidence.

The Reporter: Exhibit S-44.

The Court: It seems not to be objected to; it is admitted.

(State Exhibit S-26 for Identification is

now received in evidence and marked State Exhibit S-44.)

Q. I show you an envelope, addresed to Colonel Lindbergh, and ask you if that was enclosed with these same notes and in the same envelope just referred to? A. Yes, sir.

Mr. Pope: Will you give us the number, Mr. Wilentz?

Mr. Wilentz: The last one or the new one?

Mr. Fisher: The last one, the envelope.

The Reporter: Exhibit S-45.

(Envelope referred to was received in evidence and marked State Exhibit S-45.)

Mr. Wilentz: May I read these, please, if your Honor please?

The Court: Yes.

Mr. Wilentz (Reading to the jury): This envelope is addressed to Dr. John F. Condon, 2974 Decatur Avenue, New York. That is Exhibit S-42, one note. "Dear Sir: If you are willing to act as go-between in Lindbergh case, follow strictly instructions. Handle enclosed letter personally to Mr. Lindbergh. It will explain everything. Don't tell anyone about it. As soon we find out the press or police is notified, everyding are cansell—c-a-n-s-e-l-l, and it will be a further delay.

"After you gets the money from Mr. Lindbergh put them words in the New York American: money is ready. After that we will give you further instructions. Don't be afrait. We are not out for your thousand dollar (dollar sign after the thousand). Keep it only act strictly. Be at home every night between 6-12. By this time you will hear from us."

Together with that Exhibit S-43— you notice this exhibit has no symbol on it— inside the envelope S-45 "Mr. Colonel Lindbergh Hopewell": "Dear Sir: Mr. Condon may act as go-between. You may give him the seventy thousand $. Make one packet. The size will be about (here you will see the drawing of the size) 6 by 7 by 14 (the dimensions you see there). We have notifiet you already in what kind of bills. We warn you not use any trap in any way. If you or someone else will notify the police tere will be a further delay. After we have the money in hand we will tell you where to find your boy. You may have a air plane ready (redy). It is about 150 miles away, but before telling you the adr. a delay of 8 hours will be between." Then the circles with the three holes and the red center.

Q. Now, when you received that envelope with the papers which have just been marked in evidence, what did you do, sir? A. I came home late that night. I usually lectured in four places. One of them was the Silesian Order; it is a Catholic order in New Rochelle; the other the College of New Rochelle; third, at Fordham University and, last, at the Woolworth Building in

the lower part of the city.

Q. Yes, Doctor. Well, at any rate, you came home— A. Late.

Q. Late, you say? A. Around ten, or between ten and eleven.

Q. And when you got home at ten o'clock— A. I found my letters, as I usually asked them to be placed, by a Tiffany clock that we happen by chance to have.

Q. All right. Now, having found—did you find that letter on that particular night? A. I found that letter on that particular night.

Q. And did you open it? A. I opened it.

Q. And what did you do then, sir? A. As soon as I read it, I thought it was strange, and I felt rather pleased to think that I was honored. So I took that over to 188th Street and Concourse in order that I might meet the man who had so kindly driven me so many miles in different places in our Borough, Alfred J. Reich.

Q. Well, all right, sir. Now, when you got to that place did you find Mr. Reich? A. Mr. Reich, I was advised by Mr. Rosenhain—

Q. Well, he wasn't there, was he, Doctor? A. He was not there.

Q. All right. And then what did you do, sir? A. I went to Mr. Rosenhain and I said, "Look here, I think I have—"

Mr. Reilly: Objected to; objected to, the conversation.

A. Yes. I beg your pardon. I know; I know better than that.

Q. Just a minute. A. I know better than that.

Q. All right, sir. I know you do.

Q. When you got there? A. When I got there.

Q. As a result of what you said to Mr. Rosen-

hain or anybody else, what did you do, sir? A. I took the letter out of my pocket and telephoned its contents to a gentleman at the other end of the wire at a place called Hopewell.

Q. What time was that, about? A. As nearly as I could judge, well, I would say between eleven and twelve, I don't know the minute, although I had a stop-watch with me. I didn't take it out then.

Q. Of course, you had a telephone in your home, did you not? A. Yes, sir.

Q. Why did you not use your house telephone? A. I never used my house telephone with anything that will annoy my family.

Q. And so you went to Rosenhain? A. I went to get Alfred Reich. I didn't go to telephone first.

Q. But you finally did telephone? A. I did telephone.

Q. As a result of the telephone conversation you had with somebody at the other end at Hopewell, did you go anywhere that night? A. I went from that telephone booth to Hopewell, New Jersey, the residence of Colonel Lindbergh.

Q. Who was with you? A. Milton Gaglio, a young—

Q. Who else? A. Maxie Rosenhain, the proprietor of the restaurant.

Q. In whose car was it? A. It was one owned or one at the disposal of Milton Gaglio, I didn't know—

Q. You went to Hopewell, I take it? A. I went to Hopewell, New Jersey.

Q. Did you meet Colonel Lindbergh that night or early the next morning? A. I met Colonel Lindbergh that night, that is, in the morning, as you say, it was after 12 o'clock, yes, sir.

Q. Who else was there with you, sir? A

Colonel Breckinridge and one or two officials of some kind, I didn't pay attention to anybody but Colonel Lindbergh and Colonel Breckinridge. They were the two celebrities that I went to see.

Q. And did you return that morning or did you stay there that night? A. I stayed there all night at the suggestion of Colonel Lindbergh.

Q. Where did you sleep that night? A. I slept in the baby's nursery.

Q. Who fixed up your sleeping quarters for you that night? A. Colonel Lindbergh apologized and said that he was sorry he could not—

Mr. Fisher: That is objected to.

The Witness: I beg your pardon, I don't know those things—

Mr. Wilentz: Doctor, you and I will do this and when there is an objection, please address your remarks to the Court instead of to me.

Q. That is all right, Doctor. A. I beg your pardon, Judge, I didn't know—

Q. Just you and I will do this, when there is an objection, you will please address your remarks to the Court. Who prepared your sleeping quarters that night? A. Colonel Lindbergh.

Q. All right. And you slept in the nursery that night? A. In the nursery that night.

Q. Now, did Mr. Gaglio and the other gentlemen stay or did they go home? A. They did not, they went home, I told them to go home.

Q. Yes, sir, at least they went home anyway? A. Yes, sir.

Q. And, Doctor, that night and the next morning, I take it you and the family talked, Colonel

Breckinridge and all? A. We did, yes.

Q. And, as a result of that, did you cause an advertisement to be put in the New York American? A. I did, because in that letter—

Q. Just a minute, just a minute, please. And, through Colonel Breckinridge, did you cause an advertisement to be placed in that paper, and will you take a look and see if that is a true copy of the advertisement? A. May I?

Q. Yes, certainly you may. (Witness examines paper, Mr. Wilentz hands him.) Just that little sheet, if you don't mind. A. This?

Q. This here, just this little one, the other papers are not material. A. Oh, I beg your pardon—yes, sir.

Mr. Wilentz: And I will just offer the first sheet—do you mind if I tear it a little bit?

The Reporter: Exhibit S-46 in evidence.

The Court: It will be admitted, there being no objection.

(Paper referred to was received in evidence and marked State Exhibit S-46.)

Q. The advertisement referred to in the Exhibit S-46 in the New York American— "I accept. Money is ready. Jafsie."

Mr. Pope: Is that S-46 or 47?

The Reporter: S-46.

Mr. Wilentz: S-46 I have it here.

Q. Now, as I understood it, in answer to the last question, you had caused this ad to be inserted at the instance and authorization of Colonel Lindbergh and Colonel Breckinridge? A. Colonel Breckinridge.

Q. I see. All right, sir. Now, then, when did you return to your home? A. Returned to my home— Returned to my home from Hopewell or the advertisement?

Q. From Hopewell. A. From Hopewell I was to be at a lecture at four o'clock, and went back to New York City with Colonel Breckinridge in the automobile.

Q. What happened to the note and the letter that you had gotten to Colonel Lindbergh and to yourself, that is, Exhibit S-43, and the papers that came together with it in the envelope, S-42? A. As soon as those letters came to my home—

Q. That is,—pardon me—the first letter, I am talking about, with the enclosures. What did you do with them that night? Did you leave them with the Lindberghs? A. I left them with Colonel Lindbergh. I took no letters back with me at any time.

Q. All right, sir. Then you returned to a lecture or something in The Bronx? A. I went to a lecture in The Bronx.

Q. Did you get a response to your ad, "Money is ready, I accept," or anything to that effect, S-46? A. I did. I received another letter.

Q. The second letter which you received, was that delivered or mailed to you? A. Now, by first and second meant nothing to me.

Q. Well, I mean— A. Because I received both by mail and by messenger letters.

Q. All right. A. If you would show me I could tell you.

Q. All right, sir. Will you take a look at these papers and see if you received them after your advertisement, as you said (showing papers to witness). A. I received this letter by messenger at my front door.

Q. After the advertisement? A. After the advertisement in the paper.

Q. About what date? Do you recall the day? If you do— A. Well, as near as—I assume—it was the Saturday after; I knew that, it was the Saturday after I had placed the advertisement in a local paper besides the American, The Bronx Home News.

Q. All right, sir. A. I learn all things by relation.

Q. All right, sir. Now, just one minute.

Mr. Fisher: Why can't we have the answer fully?

Mr. Wilentz: Do you want the full answer?

Mr. Fisher: Yes. He was stopped right in the middle of a sentence.

The Court: Do you want the answer?

Mr. Fisher: Yes, please.

The Court: Let the Doctor answer.

Q. Then go ahead, Doctor. A. I remember all things according to my teaching by the relation of important things alongside of them. It is that way I teach, and I learn that way myself. Thank you.

Q. So that the important thing, of course, was the advertisement you put in- A. Yes, sir.

Q. And the visit to the Colonel Lindbergh home? A. Yes, sir.

Q. And by relation to that, it was the following Saturday? A. Connection and relation; yes, sir.

Mr. Wilentz: We offer the note with the envelope in evidence.

The Court: If there is no objectiton they will be admitted.

The Reporter: The envelope is S-47, the note S-48.

Mr. Pope: We would like to have the exhibit numbers.

The Court: Yes. Let the reporter announce the number or numbers of the exhibits.

The Reporter: The envelope is S-47 and and the note is S-48 in evidence.

(Envelope and note referred to received in evidence and marked State Exhibits S-47 and S-48 respectively.)

Mr. Wilentz: May I read the note, sir?

The Court: Yes.

Mr. Wilentz: The envelope has no post-marking on. Exhibit 47.

"Mr. John Condon, 2974 Decatur Avenue."

The letter:

"Mr. Condon: We trust you but we will not," n-o-t-e "in your hous" h-o-u-s "It is too danger. Even you can not" n-o-t-e "know if police or secret service is watching you. Follow this instruction. Take a car and drive to the last subway station from Jerome Avenue Line. A hundred feet from the last station on the left side is a empty frankfurter stand with a big open porch around. You will find a notice in senter" s-e-n-t-e-r "of the porch underneath the stone. This notice will tell you where to find me. Act accordingly. After three-quarters of a hour" h-o-u-e-r "be on the place, bring the money with you."

And the sign or symbol, as you see it there, with the holes.

Mr. Pope: Let me see that, Mr. Attorney General.

(The document referred to was handed to Mr. Pope.)

Mr. Wilentz: I take it, Mr. Stenographer, you have the identification marks of those matters I am now getting in evidence?

The Reporter: Yes, I am crossing them out as they are marked in evidence.

Mr. Wilentz: Have you a record of what you cross out?

The Reporter: I don't have a record of the identification marks of the last two.

Mr. Wilentz: Well, you will take them later.

By Mr. Wilentz:

Q. Now did you follow the instructions in that letter? A. I did.

Q. About what time of the day or night did you start to follow—by the way, what time of the night was it when you received, what number is it, Mr. Pope, please?

Mr. Pope: S-47.

A. Between half past seven and eight o'clock.

Q. And how soon thereafter did you start? A. Fifteen minutes to a half an hour, as soon as we got ready.

Q. With whom? A. With Alfred J. Reich.

Q. Where was he? Where had he been? A. At my home.

Q. Did he drive his car? A. He drove his car following directions in the note.

Q. I see. Tell us just what you did do, where you went. A. I got into the automobile with him, went up through Mosholu Parkway which is just north west of my home, went along the Jerome Avenue elevated and went to the last elevated pillar as instructed, followed out instructions implicity until I came to the frankfurter stand

which was closed on account of it being cold and wintry, there was no business anywhere.

Q. Just one minute, Doctor, please. I show you a picture of some sort of building or shack and ask you whether you recognize that (handing witness a photograph?) A. I recognize that as the frankfurter stand on which platform I found the stone and a note.

Q. Is that a correct picture of the frankfurter stand as it was at that time? A. That was a correct picture at that time. It has since been removed.

Q. Is that the stand to which you refer? A. That is the stand to which I refer on Jerome Avenue beyond the last pillar.

Mr. Wilentz: After counsel looks at the photograph, I offer it in evidence.

Q. While counsel is inspecting it, you say you drove to the Frankfurter stand. A. That is Mr. Reich drove.

Q. You went with him? A. I don't drive.

Mr. Reilly: May we know when this was taken?

Mr. Wilentz: I don't know, we will find out for counsel. November of this year—last year.

Mr. Reilly: November of this year?

Mr. Wilentz: Last year.

Q. This picture having been taken recently,

what I would like to know before I offer it again is whether or not it truly depicts the frankfurter stand you refer to and the vicinity as it was the day or night you were there? A. It is an exact photograph of what I saw that night.

Mr. Wilentz: May I offer it then?

Mr. Hauck: No objection?

The Court: No objection? It will be admitted.

The Reporter: Exhibit S-49 in evidence.

(The photograph referred to was received in evidence and marked State Exhibit S-49.)

Mr. Wilentz: Do the jury want to see these pictures as I am introducing them, or see them later?

Mr. Peacock: As you introduce them.

Q. Well, when you got to the frankfurter stand, what did you do? A. I got out of the car, walked over into that little opening that you see in front of the frankfurter stand and saw a stone. Under that stone I noticed a paper sticking out.

Q. Did you pick up that paper? A. I lifted the stone and then picked up the paper.

Q. Will you take a look at this envelope, sir, and this other paper and tell us whether or not those were the papers or paper? A. This is the envelope in which the note was enclosed. The note that I have also—Mr. Doctor—(looking at

envelope)—yes, that is the note—envelope, beg your pardon.

Mr. Wilentz: I offer the envelope in evidence.

The Reporter: Exhibit S-50.

(The envelope was received in evidence and marked State Exhibit S-50.)

A. That was the note that was enclosed in the envelope under that stone that I picked up.

Mr. Wilentz: Yes, sir, referring to S-29 for identification, which we now offer in evidence.

Mr. Reilly: All right.

The Reporter: Exhibit S-51.

The Court: If there is no objection it will be admitted.

(Note referred to was received in evidence and marked State Exhibit S-51.)

The Court: If there is no objection it will be admitted.

Mr. Pope: S-50 and 51?

The Reporter: Yes.

Mr. Wilentz: "Cross the street and fol-

low the fence from the cemetery. Direction to 233rd Street. I will meet you."

By Mr. Wilentz:

Q. Now, having received this, referring to S-51, and the envelope which is also in evidence, did you cross the street? A. Not yet.

Q. What did you do then? A. I took it under one of the arc lights and read that aloud, thinking since I didn't see anybody I might attack the—

Mr. Fisher: I object to "what I think," of course.

The Witness: Beg pardon?

Mr. Wilentz: Counsel wanted him to go through his answers. Just a minute, Doctor.

Mr. Fisher: I don't want his thoughts here, your Honor.

The Court: Perhaps you had better be confined to what he did.

Mr. Wilentz: Yes. Just a minute, Doctor.

Your Honor will recall a while ago that when the witness started to give his thoughts and impressions—

The Court: I do recall.

Mr. Wilentz: —I tried to stop him. My adversary wanted the full answer; which am I to do? Am I to regulate it according to the rules?

Mr. Fisher: I assume you are to follow the Court at my suggestion.

The Court: We will get along the best we can, Mr. Attorney General.

It is true that your adversary did complain that you weren't allowing the witness to answer the question. Now you are doing that and now he complains that there is something or other illegal being said, and that we want to try to stop, if we can.

Mr. Wilentz: What was the last answer, please?

(Last answer read by the reporter.)

By Mr. Wilentz:

Q. Never mind what you were thinking. But you read it out loud? A. Read it out loudly?

Q. Then what did you do, what happened? A. I said—

Q. No. A. I was going to tell you what I did.

Q. Tell us what you did; yes, sir. A. I took that letter and read it aloud.

Q. Yes, sir. A. And turned to Mr. Reich, who was in the car, stating, "I do not see anybody here."

Mr. Fisher: Objected to, of course.

Mr. Wilentz: If your Honor please, this is a part of the transaction, because we will prove it was in response to that, if your Honor please, that the defendant answered. It isn't a conversation out of the presence of the defendant, as I understand it.

The Court: Well—

Mr. Wilentz: If it is, I will consent—

The Court: It doesn't appear to be a conversation in the presence of the defendant as yet, does it?

By Mr. Wilentz:

Q. Well, you said something to Mr. Reich, is that it? A. I said something to Mr. Reich.

Q. As a result of that what happened? A. I thought the defendant was present.

Q. No, never mind what you thought. As the result of what you said, what did happen? A. I went back to the automobile in which Mr. Reich was seated at the wheel.

Q. What was the condition of the weather that night, Doctor? A. The condition of the weather was chilly.

Q. Cold? A. Because I had a big overcoat on, yes, sir.

Q. It was cold. Then you sat there about how long? A. Five minutes.

Q. After you sat there five minutes what did you do, sir? A. Crossed the street in the automobile, I did not walk.

Q. You mean the automobile was turned around? A. The automobile had been turned

around and facing south toward the elevated pillars in order that we might be in strict accordance with the traffic rules. I insisted upon Mr. Reich doing that.

Q. Then you got out of the car again. A. No, I got in the car and stayed there in the car and rode slowly.

Q. You stayed in the car? A. I did.

Q. Then what did you do after being five minutes or so in the car, did you get out? A. No, I told Mr. Reich—

Q. Don't tell what you told him. What did you do? A. I will have to tell—

Q. Did you finally get out of the car again? A. Not then, no.

Q. When did you get out? A. When we crossed the street in accordance with the letter that I read here, I said, "We better—"

Q. Not what you said. What did you do? A. We went across the street in the car and went slowly in a northerly direction along the cemetery fence. I refer this time to Woodlawn Cemetery, Woodlawn Cemetery fence.

Q. And after having gone slowly along this cemetery fence did you stop somewhere? A. We reached nearly 233rd Street. There is an indentation or a sort of a geometric shape, I will put it that way; it is neither a triangle—neither fish nor flesh.

Q. I want to show you a picture of what purports to be some cemetery gates and ask you whether or not that is a correct picture of the entrance to Woodlawn Cemetery as it was as you saw it that night? A. Assuming—

Q. In 1932. A. Assuming from this picture that that is a northerly direction to my left, I rode along here near the end of this post.

Q. Well pardon me, sir. Is that a correct picture of the Woodlawn Cemetery fence as you see it, the gate rather? A. That is a correct picture of the Woodlawn Cemetery fence as it was that night.

Q. The entrance? A. The entrance to the Woodlawn Cemetery on the Jerome Avenue side.

Mr. Reilly: When was this taken?

Mr. Wilentz: I take it that all of these were taken recently, all these pictures.

Mr. Peacock: Yes.

Mr. Fisher: We should like for the moment, your Honor, to object to the admission of this because we have no way of knowing that it shows the conditions as they existed at the cemetery at the time of the visit of the witness. It seems to me the proper way to prove those would be by the photographer.

The Court: Well, that may also be proved, may it not, by anyone who knows?

The Witness: I know, Judge.

Mr. Wilentz: Just a minute.

The Court: The doctor was asked if that was a correct representation of the entrance to the Woodlawn Cemetery as he saw it that night.

Mr. Fisher: But it seems to me we ought to have the primary measure of proof,

your Honor, which is the production of the photographer and the conditions under which the picture was taken, the angle from which it was taken, and all those facts which will go to better identify the picture.

The Court: Let me see the picture, please.

(Mr. Hauck handed the photograph to the Court.)

Mr. Fisher: It is admitted that it was taken at least a year after the visit of the doctor.

The Court: Well, do you want to cross examine the doctor about this picture then?

Mr. Fisher: May I see the picture, your Honor?

The Court: Yes. He has said, as I recollect it, that it is a correct picture of the scene as he saw it that night. Now if that is so, it would seem to justify the admission of the photograph.

Mr. Fisher: Yes, I should like to ask the Doctor a question as to it.

The Court: You may ask him a question.

By Mr. Fisher:

Q. Doctor, I see two figures on that photo-

graph. Were they there the night you saw the cemetery? A. What are the figures?

Q. The figure of a man there and I observe some one there (indicating). A. Those figures were not there.

Mr. Fisher: Then, your Honor, there is the very meat of my objection, the picture isn't as it was,—

A. The two men—

Mr. Fisher: —the day he saw it there, that is the reason I should like to have it called to your attention, to prove that this isn't the same.

Mr. Wilentz: We will call the photographer, if your Honor please, if there is any doubt about it. I thought it would be helpful to counsel as well as to everybody else.

Mr. Fisher: It would, if you would prove it, Mr. Wilentz.

Mr. Wilentz: It would be helpful now, but if you prefer to be technical in objecting to it.

Mr. Fisher: With the two men in there, if the Doctor says the two men were there, I am willing to have it in.

The Witness: No, tell the truth.

By Mr. Wilentz:

Q. Thank you, sir. At any rate, it was Woodlawn Cemetery? A. It was Woodlawn Cemetery.

Q. We will have to get along for a minute or two without the description, so you won't be able to help with the description.

Mr. Fisher: I ask that that be stricken out, your Honor.

Mr. Wilentz: I consent, if my adversary wishes it.

Mr. Fisher: Yes, I think you should.

The Court: Now, gentlemen, let us get down to business.

Q. Do you remember 233rd Street? A. Yes, sir.

Q. That intersected Jerome Avenue, did it not? A. Yes, sir.

Q. Did you, in your travel reach 233rd Street when you drove along slowly, as you have just stated a while ago in your talk? A. Might I, might I correct the statement there: the intersection, I refer, by the intersection, as something as crossing over, and so on, I don't want to make a mistake if I can help it.

Q. Two streets. A. But, the one only reached there, it doesn't go through—see what I mean?

Q. In other words— A. It reached, it reached.

Q. It is a dead end? A. Jerome avenue on that easterly side, yes, sir,—pardon me.

Q. That is all right. 233rd Street, you mean, runs into Jerome Avenue and then stops there. A. Yes, sir.

Q. Opposite where that road would be if it were extended as park, isn't it? A. Yes, sir, Van Cortlandt Park.

Q. Now, when you drove along, as I take it, you drove along Jerome Avenue? A. Right.

Q. And approaching 233rd Street, did you reach 233rd Street with your car before you stopped, or did you stop before you reached it? A. Stopped before we reached it.

Q. About how far away from the gates of Woodlawn Cemetery? A. It will only be a guess, 60 feet.

Q. 60 feet. Your best judgment is sufficient. Now, when you reached there, this point 60 feet away from 233rd Street— A. Yes, sir.

Q. —on Jerome Avenue, 60 feet away from the gates, I think, what did you do? A. I got out of the car with the letter that I had picked up at the frankfurter stand and went over to the middle of that space. It is like a little plaza or area in front of the gates, as you will see in the picture. Excuse me.

Q. That is all right, sir. You went into the middle of that little area in front of the gates? A. Yes, sir.

Q. What did you do? A. I took the letter out.

Q. Yes. A. And read it again, thinking I might attract someone's—

Q. Not what you thought. A. I read it.

Q. Having read it, what happened, if anything? A. Nothing for a while except that one man from 233rd Street walked down in the direction of the automobile between me and the automobile, Mr. Reich was in the automobile and I saw this man come down there but I didn't pay any attention of any account to him.

Q. Then what happened? A. I said—

Q. You said something? A. I did.

Q. As a result of what you said, what happened next? A. I saw a handkerchief inside from someone inside the gate being waved.

Q. You saw a handkerchief being waved? A. Yes, sir.

Q. Where was the man who was holding that handkerchief, and waving it? A. Might I look at the picture?

Q. I cannot give you the picture. Was it inside the cemetery or on your side? A. The man was inside the cemetery gate.

Q. Where were you then? A. Right in the center of this plaza.

Q. On the opposite side of the gate? A. On the opposite side of the gate.

Q. What happened then when you saw that handkerchief waved;—white handkerchief, was it? A. A man put his arm through the bars, which are wide enough to admit a man's arm, entering or retracing.

Q. The gates have bars vertically, iron bars? A. Iron or steel; I didn't examine them.

Q. This hand, as I understand you to say, was through the bars and waving the handkerchief? A. Yes, sir.

Q. What did you do then? A. I walked over there and said "I see you."

Mr. Reilly: I object.

The Witness: All right.

Mr. Wilentz: We will connect it with this defendant now, if your Honor please, and we maintain it was in this defendant's presence.

The Witness: Yes.

Mr. Reilly: Until you connect it—

Mr. Wilentz: We are connecting it now.

The Court: You may proceed, Mr. Attorney General.

By Mr. Wilentz:

Q. As a result of what you said, what then happened? Did you walk up? A. I walked to the gate on the outside.

Q. Yes. A. The man was standing about three feet away on the inside.

Q. Were the gates locked and closed? A. The gates were closed. About the locking I do not know.

Q. So that you were on the one side of the gate? A. Right.

Q. And this man that waved the handkerchief on the other? A. Right.

Q. Three feet apart? A. About.

Q. About three feet apart? A. Yes.

Q. How long did you stay there before that situation was changed? A. About three minutes, as nearly as I can judge.

Q. And what happened then? A. May I say what he said to me?

Q. Yes, certainly.

Mr. Reilly: And I object to it.

Mr. Fisher: First identify him.

By Mr. Wilentz:

Q. Who is the man as you found out later? What was his name?

Mr. Reilly: No. Who was the man then, not what he found out later.

Q. Who was the man you spoke to then between the gates? A. John as given to me by himself.

Q. And who is "John"? A. John is Bruno Richard Hauptmann.

Q. All right. Now what did Mr. Hauptmann say to you there three feet away from you with the gates between you? A. He said, "Did you got it the money?"

Q. Yes, and what did you say, sir? A. I said, "No, I couldn't bring the money until I saw the package."

Q. What then happened? What else happened there, please? A. About a minute or so I heard a rustle in the leaves. There is a little bit of a parkway on the inside of that gate and I heard a rustle in that direction and evidently—

Q. Not evidently. What happened then? A. He heard and said, "There is a cop."

Q. Yes? A. He caught ahold of the bars and climbed, what I call "Turner" fashion, what I call "Turner" fashion.

Q. He climbed the bars? A. He did.

Q. And then what happened? A. Up to the top of that fence and jumped in front of me.

Q. About how many feet high was that fence that he climbed? A. I would have to judge it again.

Q. Give us your best judgment. A. Nine feet.

Q. So that he climbed the rungs, or whatever it is, and then jumped down? A. No rungs, they were vertical bars, either iron or steel I should judge.

Q. I see. A. And climbed up there—

Q. And jumped down? A. Jumped down in front of me.

Q. Then what happened? A. "Did you sended the cops?" "No, I gave you my word that I wouldn't do that, and I kept my word." He then said, "It is too dangerous" and started to run in a northerly direction. He reached 233rd Street, because we had a part of that plaza in front of the gate to go, he reached 233rd Street and kept on running, and I said,—is it all right for me to say that?

Q. Yes, go ahead. A. I said, "Hey, come back here. Don't be cowardly."

Q. Yes. A. "Here I am a poor school teacher up here in the cemetery and you leaving me here to be drilled."

Q. Then what happened? A. "You are my guest." He kept on running.

Q. What did you do? A. I followed him.

Q. How far did you follow him? A. I followed him into a little clump of trees near a shack on the opposite side of the way from the cemetery, and I went over and got a hold of his arm and said, "Hey, you mustn't do anything like that; you are my guest."

Q. Then what did you do? A. I brought him back—

Q. All right. A. I didn't bring him back, I led him back to the seat by the small shack.

Mr. Wilentz: Where is that picture?

Mr. Peacock: It was offered yesterday.

The Reporter: S-41.

Q. I show you a picture of a building or a shack on S-41 and ask you whether that refreshes your

memory as to whether or not that is the shack that you refer to now. A. That is the shack as it was then.

Q. And a bench there, I see there is a bench there now, some sort of a bench. A. The bench was there, and I led him—I led him back to that bench and asked him to be seated, as my guest.

Q. Did he accept your invitation? A. He accepted the invitation. I put him on my right.

Q. Did you sit down with him? Excuse me. A. I beg your pardon.

Q. Did you sit down with him then? A. I put him to my right and sat down with him.

Q. And what happened then? Did you talk there? A. I talked to him then for more than one hour.

Q. Tell us as best you can remember what you said to him and what he said to you. A. I first reprimanded him for going across there again. I said, "Don't ever do that again. I am square with you, and the truth to a kidnaper is the same as the truth to a"—all right.

Q. Well, just what you said; whatever you said and what he said. A. Yes. He said to me, "It is too dangerous. Might be twenty years or burn. Would I burn if the baby is dead?" "Not if you did not have some part in it."

Q. That is what you said. That was your answer? A. Shall I put that in?

Q. Who said that? A. He answered, "I am only go-between."

Q. Just a minute. Who said, "Would I burn if the baby is dead?" A. John. I told him—

Q. Yes, go ahead. A. I told him No—

Mr. Reilly: Now may we have that part read that he just answered, that the attorney interrupted; that part where the

witnesses said whoever the man was said, "I am only a go-between."

Mr. Wilentz: Yes, you can read it.

Mr. Reilly: Read it back, please; I don't think the jury got it, and I don't think we got it all.

Mr. Wilentz: All right, I have no objection to having it read back.

(Record referred to read by the reporter.)

Q. All right, sir. Now, then, what else was said there? A. In order to find out whether he was the proper party or not, I said, "How am I to know that I am talking to the right man? Tell me." I trust if this hurts anybody's feelings—

Q. No. What did he say? A. I trust that I may be excused. "The baby was held in the crib by safety pins."

Q. Who said that: John? A. John.

Q. Yes, sir. And what, did you have the pins with you? A. I had the pins with me, because I took them out of the baby's crib on the night that I slept there.

Q. I see. A. They had been, as nearly as I could judge, to the right and left of where the baby's neck was.

Q. Did you take them out with the consent and knowledge of Colonel Lindbergh? A. I took them out first and asked him afterwards—what they call French leave.

Q. I see. And then what else was talked about then? A. I asked him how he happened to get into such a scrape as that, a man like he was. I

praised him and I meant it, "a man like you. What would your mother say if she knew that you were engaged like this?" And he said—shall I—

Q. Yes, go ahead. A. And he said, "My mother wouldn't like it; she would cry." Just like that, as nearly as I can imitate it; I am not a good mimic.

Q. That is all right. Go ahead, Doctor.

Q. Go ahead, Doctor. A. Then I said, "Leave that, leave that stuff. Come with me." I then used the words "I have a thousand dollars of my own available"—I didn't say that was all I was worth. I said "I have a thousand available," that is all I had at that time, "and you can have it."

"We don't want your money."

"Well, leave them, I will give you that and I will go over to Jersey and collect the rest for you if it is within my power. There are a number of lawyers in my family and if it is within the law, I will get him to go with you to the last degree, but if you fail me, I would follow you to Australia." I suppose I was a little vehement in the matter, but that is what I said to him. He said, "We won't. You will get that baby and put it in its mother's arms." That was what I was out for.

Q. Then what happened? A. Then I said, "Leave them and come." "No." "Why?" "The leader would smack me up."

"Excuse me, are you a German?"

"No, Scandinavian."

"Scandinavian?"

Q. Who said "Excuse me. Are you a German?" A. I did.

Q. Who answered, "No, I am a Scandinavian?" A. John.

Q. Then what? A. "I am a Scandinavian."

"Well, leave them. You will be caught."

"Oh, no. We were prepared a year before we were prepared to do this."

"What is that?"

"We were prepared a year before we were prepared to do this."

Q. Who said that about "We were prepared a year," John? A. John.

Q. You are the one that said, "What is this?" And that was the answer? A. Yes.

Q. Then what was said? A. Then we talked about himself. He had his coat —

Q. Go ahead, Doctor. A. Shall I? I don't know what is right—

Q. Go ahead. A. He had his coat up this way (indicating drawing the lapels of his coat up to his face.)

Q. Indicating the lapels of the coat drawn up to his chin? A. Drawn up over his mouth. I said, "You have nothing to be afraid of. I have been square all my life and I am square now. You have nothing to fear from me. Take down that coat."

"Well."

"Well nothing. Your fabric is too thin. I have got two coats, I will give you one, if you are in want." And then he coughed. It was what they call a hollow cough. I don't want to imitate that.

Q. It was a cough? A. He coughed. I said, "The inroads of pulmonary disease—" shall I?

Q. Go ahead. A. "——seem to start." Let me go over and get you some medicine. I will do anything I can to straighten this matter out, anything. I will go as hostage to the man." Shall I—

Q. Go ahead. You said you will go as hostage? A. "I will go as hostage to the man that has the

baby. Let me go." He says, "Hostage? Oh." "What I mean, I will go and stay there until you get the money and won't say—let me with the baby. I have three toys belonging to—" Shall I go on?

Q. Yes, whatever you said. A. "I have three toys belonging to the baby and there are three words I know the baby knows," because on the night that Colonel Lindbergh gave me the authorization to go on with this work, I felt confident that—

Mr. Reilly: I object to this. Is this a conversation?

Mr. Wilentz: No.

Mr. Reilly: This is an observation?

Mr. Wilentz: It is a slight—

Mr. Reilly: Deviation.

The Witness: It is a deviation; yes, sir.

Mr. Reilly: May we have it excluded?

The Court: Will you tell what happened between you and Hauptmann.

The Witness: Yes.

By Mr. Wilentz:

Q. Where did you get the toys you said you had there that night? A. I got the toys from Colonel Lindbergh, at my request. I asked him—

Q. You got the toys at your request, and they

were Baby Lindbergh's toys? A. They were Baby Lindbergh's toys.

Q. What did you say to Hauptmann about the toys, if you said anything? A. I said if he would take me to where the baby was, I would know if it was the real baby. "Please give me a chance. I promised Mr. Lindbergh, Colonel Lindbergh and Mrs. Lindbergh, to help them get their baby. That is what I am out for, nobody else."

Q. Yes. What did he say? A. "Nobody else shall ever get the baby but you, and you can put that baby's arms around Mrs. Lindbergh's neck," and I believed it.

Q. Who said that to you? A. John.

Q. All right, sir. Now, then, what happened? You kept on talking. What else did you say, if you remember? A. "How on earth could I get you if you wouldn't take me to where the baby is?" Again he said, "They would smack you down. The leader wouldn't stand for it. How could I tell you now? There is a point north—" He didn't say north—"there is a point here, and on that point I will stand and signal to them. There is a boat. They will see my signal and Colonel Lindbergh can get his plane and go right up there." "Why not walk? Why not walk?" "You couldn't walk there."

Q. This is a conversation? A. This is a conversation.

Q. Between you and John? A. Between John and myself on that bench.

Q. Now, when the conversation goes to that point, "It is about the place to go."— A. Yes, sir.

Q. Who is making those statements: John? A. John, that I was—

Q. Is that with reference to the directions where

the baby was located? A. The directions to where the baby was located.

Q. All right, and you asked him then whether you could walk there? A. What is it? Yes, sir, and he said, I couldn't get there any way but by plane, but Colonel Lindbergh would take his plane and get there, yes, sir.

Q. What finally happened that night then? A. Beg pardon?

Q. What finally happened, did you get to see the child? A. I did not get to see the child, he said they wouldn't even propose it, that they would drill him. I said, "Well, you mustn't be afraid of anything like that, do what you think is right, while you have got time, for your mother's sake." Then he seemed to feel—no.

Q. Never mind what he seemed to feel. A. No.

Q. Then, what was said about whether or not they were the right parties? A. Yes. "Maybe you think we are not the ride—" the "d" was accented on that more than his "t" in righteousness and right, and so on. He said that, "We are the ride parties." "I will send you the slipping suit of the baby. Tell Colonel Lindbergh and Mrs. Lindbergh not to worry, that the baby is all right." 'Then, you will send to me the baby's sleeping suit?" "Yes." "I vaited too long already."

Q. Who said that? A. John.

Q. Yes. And then what? A. I said, "Well, it is so important, what are you going to do?" "I will send you the sleeping suit, I must go." That had been after we talked this way for one hour and—well, ten minutes, fifteen minutes, as nearly as I can remember, and we shook hands and parted. I did not go to catch him. I wanted the baby. I didn't care about catching him.

Mr. Reilly: I move to strike this all out.

Q. Well, at any rate, he left you then? A. He did.

Q. All right, now, you returned to your home, did you? A. Yes, sir.

Q. With Mr. Reich? A. With Mr. Reich in his automobile.

Q. And finally, after being home, how many days later did you get another communication, to your best judgment? A. About the following Wednesday from that Saturday.

Q. To the following Wednesday? A. It was, I know it was until the week, about that, yes.

Q. Now, will you take a look at this paper and see if that is a letter or note which came? A. Yes, sir.

Q. In an envelope, as the next communication? A. Yes, sir. (Witness examines note carefully.) That is the letter I received.

A. Yes, sir; that is the letter.

Mr. Wilentz: I offer it in evidence.

Mr. Hauck: It is in evidence, isn't it?

Mr. Wilentz: S-31 for Identification. I offer S-31 for Identification in evidence.

The Court: If there is no objection it will be received.

The Reporter: S-52.

(State Exhibit S-31 for Identification is

now received in evidence and marked State Exhibit S-52 in evidence.)

Q. Do you remember whether or not this is the envelope in which, referring to envelope S-30 for Identification, whether this is the envelope in which that letter came, or note, just now introduced in evidence as S——what—

The Reporter: S-52.

Q. —S-52? A. It wasn't discolored this way. That is the letter.

Q. Except for the discoloring is that the envelope? A. That is the letter.

Q. I notice that there are two names, one Mr. Condon, and Dr. John F. Condon. Were they both on there at that time? A. That I couldn't remember. I think not. That looks like my writing.

Q. On the side here? A. Let me look again.

Q. Yes, take a look (handing to witness). A. That looks like mine. I am not sure. (Examines paper.) I couldn't say.

Q. You don't know about that? A. I don't know about that, but I do know about this (indicating).

Q. And that is the envelope, except that you don't know whether that— A. Whether that was on there or not; I couldn't recollect that, no.

Q. Oh, the coloring. I notice that it is— A. It is soiled more than it was then.

Q. Soiled? A. Yes, soiled more than it was then.

Q. What was contained in the envelope together with this note and letter, S-52? A. I do not know the letters by name.

Q. No, the last one that you just had, in the brown envelope. What came with it? A. (No answer.)

Q. Well, it was a package, wasn't it? A. The baby's sleeping suit, with two letters.

Mr. Reilly: No objection to that.

The Reporter: Mr. Wilentz, do you care to make the offer for the record?

Mr. Wilentz: Yes, I offer the envelope.

The Court: If there is no objection it will be admitted.

The Reporter: S-53 in evidence.

(Envelope referred to received in evidence and marked State Exhibit S-53.)

Q. A baby's sleeping suit: is that it (showing to witness)? A. Yes, sir.

Q. Who was there when it arrived? A. That I couldn't say; I don't know.

Q. Do you remember whether Colonel Breckinridge was there? A. Colonel Breckinridge was one at the house, but I do not know the other people.

Mr. Wilentz: Counsel has suggested, if your Honor please, and I ask, whether we can't have a little recess now, about five or ten minutes.

The Court: Yes, you may, yes. Let there be a recess for ten minutes. Then come in as promptly as you can.

(A recess was taken at 11:40 a. m.)

(After a short recess.)

The Court: Let the Clerk poll the jury.

(The jury was polled and all jurors answered present.)

Mr. Wilentz: Will the stenographer read the last question, please?

(The reporter repeated the last questions and answers: "Q. Who was there when it arrived? A. That I couldn't say, I don't know.

"Q. Do you remember whether Colonel Breckinridge was there? A. Col. Breckinridge was one at the house, but I do not know the other people.")

Q. Who opened the envelope marked in evidence as S-53 and took from it the sleeping suit? A. May I see that?

Q. Yes, the brown envelope. A. Is this S-53?

Q. Yes. A. That came by mail, I opened it in my parlor.

Q. Who was present when you opened it? A. Colonel Lindbergh.

Q. Anybody else? A. Colonel Breckinridge. Those are all that I remember.

Mr. Wilentz: Now, may I read the letter, which is in evidence, which we haven't read yet? It is the only one we have omitted so far. It is S-52. "Dear Sir: Our man —O-u-e-r—failed to collect the money—

m-o-n-y—. There are no more conference after the meeting from March 12th. Those arrangements too hazardous for us. We will not—n-o-t-e—allow our—o-u-e-r—man to confer that way like before."

Circumstance will not (note) allow us to make a transfer like you wish. It is impossibly for us. Why should we move the baby and face danger to take another person to the place is entirely out of question. It seems you are afraid if we are the right (rights) party and if the boy is all right. Well you have our singnature (s-i-n-g-n-a-t-u-r-e) it is always the same as the first one, specially the three holes. (The other side.)

"Now we will send you the sleeping suit from the baby, besides it means three dollars extra expenses (extra, e-x-t-r-e) because we have to pay another one. Please tell Mrs. Lindbergh not (n-o-t-e) to worry, the baby is well. We only have to give him more food as the diet says. You are willing to pay the 70,000 $ not (n-o-t-e) 50,000 $ without seeing the baby first or not (n-o-t-e). Let us know about that in the New York American. We can't do it otherwise because we don't like to give up our (o-u-e-r) safety place (s-a-f-t-y) place, (p-l-a-s-e) or to move the baby. If you are willing to accept this deal then put in the paper 'I accept. Money is redy.' (Underlined.) Our program is after eight hours we have the money received we will notify you where to find the baby. If there is any trap you will be responsible what will follow.

By Mr. Wilentz:

Q. Now, that note talks about the meeting you had on March 12th. Does that refresh your recollection as to the date? A. Yes, sir.

Q. Was it on March 12th that you met John in Woodlawn Cemetery? A. It was March 12th that I met John in Woodlawn Cemetery.

Q. After you received the note, just referred to as S-53, in that envelope, the brown envelope with the sleeping suit—

Mr. Fisher: S-52 is the letter, Mr. Wilentz.

Q. Did you after talking to Colonel Lindbergh and Colonel Breckinridge, did you cause an ad to be inserted as directed by that note? A. May I ask to have an explanation there?

Q. Yes. A. I immediately upon getting that suit brought Colonel Lindbergh into my parlor and, spreading the suit on the piano, I asked him to direct me and see if I was making any mistake.

Q. All right. A. Then in response to that I carried out the orders given in the letter, having handed him the sleeping suit.

Q. Did you then in pursuance of the orders you talk about cause an ad to be inserted in the New York American on or about March 20th? A. If you would give me any of the content or let me see it, I would tell you.

Q. Will you take a look at this paper and see if that is— A. Yes, I will—I mean shall.

Q. Take your time, Doctor. A. (After examining papers) After a conference with Colonel Breckinridge, I caused that content to be placed in a paper in New York City.

(Mr. Wilentz hands paper referred to by the witness to Mr. Reilly.)

Mr. Reilly: All right.

Mr. Wilentz: I offer that portion of this paper which has the printed advertisement in evidence.

The Court: If there is no objection, it will be received.

(Portion of paper referred received in evidence and marked State Exhibit S-54.)

Q. Now S-54, as I understand it, says: "I accept. Money is ready. You know they won't let me deliver without getting the package. Let's make it some sort of c.o.d. transaction. Come. You know you can trust Jafsie." A. Right.

Q. That is the ad? A. That is right.

Q. Now following that, did you then receive another letter or note? A. I did.

Q. Will you take a look, please, at the envelope and at the paper— A. Yes, sir.

Q. —— being S-32 for Identification and S-33 for Identification and tell me whether or not this followed in the next order? A. (After examining papers) Yes, sir, that is a letter which I received by mail at my home.

Q. After you received the sleeping suit? A. After I received the sleeping suit and after the advertisement was placed in the paper.

Mr. Reilly: (After examining papers referred to by the witness.) All right.

Mr. Wilentz: I offer them in evidence;

the envelope, marked S-32 for Identification, I now offer in evidence.

The Court: If there is no objection, they will be received.

The Reporter: S-55.

Mr. Wilentz: And the note?

The Reporter: S-56.

(Envelope and note referred to received in evidence and marked State Exhibits S-55 and S-56.)

Mr. Wilentz: On envelope S-55 is an envelope, as you can see, postmarked New York, N. Y., March 19, 7:30 p. m., to Mr. John Condon, and so forth. And S-56 reads as follows:

Dear Sir:

"You and Mr. Lindbergh know our program" our, o-u-e-r. "If you don't accept, den" d-e-n "we will wait until you agree with our deal. We know you have to come to us anyway, but why should Mr. and Mrs. Lindbergh suffer longer as necessary. We will not" n-o-t-e "communicate with you or Mr. Lindbergh until you will—so in the paper—until you will write in the paper, write so in the paper. We will tell you again. This kidnapping case was" w-h-a-s "prepared for a year already. So the police won't have any luck" l-o-o-k "to find us or the child. You only push everyding furder out. Did you send that little package to Mr. Lindbergh? It contains the

sleeping suit from the baby. The baby is well."

On the opposite side of S-56 "Mr. Lindbergh only wasting time with his search."

Following that did you cause to have through Colonel Breckinridge inserted in the New York American this advertisement on or about the 22nd of March. A. Yes, sir.

Mr. Wilentz: This I didn't show you before, Mr. Reilly.

Mr. Reilly: All right.

Mr. Wilentz: I offer the advertisement just referred to in evidence.

(The above advertisement was received in evidence and marked Exhibit S-57.)

The Court: If there is no objection it will be admitted.

Mr. Wilentz: And the one on March the 20th which I indicated to you and the one on April the 2nd.

(The above advertisements were received in evidence and marked Exhibits S-58 and 59.)

By Mr. Wilentz:

Q. Following in order will you tell us whether somewhere around the first of April or at the end of March, rather, you received this envelope which is now marked S-34 for Identification to-

gether with a note, the envelope being post-dated March the 29th, New York? A. May I look at this envelope, please?

Q. Yes, certainly, I will help you with it. A. Those stains were not on it but I received that letter.

Q. That envelope? A. That envelope, right.

Mr. Wilentz: I offer it in evidence.

(The envelope referred to was received in evidence and marked Exhibit S-60.)

(Note S-61.)

Q. I show you S-75 for Identification and ask you whether or not you received this note in that envelope (handing to witness).

Mr. Wilentz: While the gentleman is reading that letter, will you please mark this in evidence, by consent, an advertisement in the New York American.

The Reporter: The advertisement of March 26th is marked S-62 and the advertisement of March 31st is marked S-63.

(The papers referred to were received in evidence and marked State Exhibits S-62 and S-63, respectively, as above noted.)

The Witness: (After lengthy examination) This staining on the back of the letter was not there, but that is the letter I received.

Mr. Wilentz: I offer it in evidence.

The Reporter: The note will be S-61.

(Note referred to received in evidence and marked State Exhibit S-61.)

Mr. Pope: If your Honor please, in relation to this letter which the State now tenders in evidence, we have no particular objection to the letter being admitted in evidence at this time, but with this reservation: the witness says that at the time he received the letter, the stains which appear on it were not there. If the State will assure us that they will later show how or why those stains came on to the letter, we have no objection at this time.

The Court: Well—

Mr. Wilentz: Yes, we will.

Mr. Hauck: We will explain it.

Mr. Wilentz: I think we will have no difficulty about that.

The Court: The letter will be received subject to such further examination as counsel see fit to make respecting this discoloration on the back of the letter, as I understand it.

Mr. Pope: And the front, too.

Mr. Wilentz (Reading to the jury): S-61, just admitted to evidence, reads as follows: "Dear Sir: It is not—n-o-t-e—necessary to furnish any code. You and Mr. Lindbergh know our program—o-u-e-r—

program. Very well. We will keep the child on our—o-u-e-r—safe place—s-a-v-e—until we have the money in hand, but if the deal is not—note—closed until the 8th of April, we will ask for 30,000 more, and not—n-o-t-e—70,000, a hundred thousand. How can Mr. Lindbergh follow so many false clues? He knows we are the right party over singnature. Our singnature is still the same as on the ransom note, but if Mr. Lindbergh likes to fool around for another month, we can't help it. Once he has to come to us anyway, but if he keeps on waiting, we will double our amount—o-u-e-r—There is absolute no fear about the child. It is well."

Q. Now having received that note did you then receive another note? A. I did.

Q. Or letter. Will you take a look at this, dated April 1st, and tell us whether that envelope together with this note was received by you some time around the first of April? A. (The witness examines the papers at length.) Pardon my delay. I want to be sure about this.

Q. That is all right, Doctor. You take your time. A. Yes, sir, I received that letter and enenvelope.

Mr. Wilentz: I offer the letter and the envelope.

Mr. Reilly: All right.

The Court: If there is no objection it will be admitted.

The Reporter: The envelope is S-64 and the letter is S-65 in evidence.

(The envelope and letter of April 1st, are received and marked in evidence State Exhibits S-64 and S-65.)

Mr. Wilentz: Envelope post-dated or dated April 1st. From Fordham Station, New York, 9:30 a. m., the letter reading as follows, S-65:

"Dear Sir: Have the money ready by Saturday evening. We will inform you where and how to deliver it. Have the money in one bundle. We want you to put it in on a certain place. There is no fear that somebody else will take it. We watch everything closely. Please let us know if you are agreed and ready for action by Saturday evening. If yes, put in the paper 'Yes, everything O. K.' it is very simble" (s-i-m-b-l-e) "delivery but we find out very soon if there is any trap. After eight houers you get the adr. from the boy"—I suppose adr. is an abbreviation for address.

Mr. Fisher: I object to the comment. It speaks for itself.

The Court: Well, let the Attorney General read it.

Mr. Wilentz: Yes, sir.

The Court: Read the fact.

Mr. Wilentz: "After eight houers"

(h-o-u-e-r-s) "you get the adr. from the boy on the place. You find two ladies. They are innocence. If it is too late to put it in the New York American for Saturday morning, put it in the New York Journal."

That letter dated April 1st. And I show you an advertisement in Exhibit S-46, as of April 2nd, 1932. No, that is Exhibit S-59. I am afraid, Mr. Stenographer, that 46 must be for Identification. Just change that "for Identification." S-59 is the one in evidence.

Did you cause that ad to be inserted, "I accept. Money is ready" on the Saturday in question, April 2nd? A. I did.

Q. "I accept. Money is ready. Jafsie." April 2nd, 1932.

Now, that Saturday, April 2nd, 1932, with reference to when the money was brought to your house, what have you to say as to that date? A. I had nothing to do with that, sir.

Q. I know. But what day was the money brought to your house? A. On April 2nd, in the afternoon.

Q. I see. That was the same day that ad appeared in the paper, about the money being ready? A. Yes, sir.

Q. And is that the Saturday referred to in the note just read, about being ready on Saturday to deliver the money? A. Yes, sir. Yes, sir.

Q. Now then on Saturday, in accordance with instructions, you say the money was ready at your home? A. Yes, sir.

Q. And who was in your home? A. Colonel Lindbergh, Colonel Breckinridge, Alfred J. Reich, Mrs. Condon, of course, and my children.

Q. Some time during that day, on Saturday,

did you receive a note which was delivered to your home, and if you did, is this the note (showing the witness Exhibit S-38 for identification, the envelope not being marked?) A. This was delivered by some person at my home, not through the mail. Yes, sir.

Q. On what day of the week and month and year was that note delivered? A. It was on Saturday. I was following the instructions—

Q. Saturday what? A. ——in the former letter. April 2, 1932.

Mr. Wilentz: I offer—

Mr. Large: Isn't that in evidence?

Mr. Wilentz: There are two marks on it, one 28 and one 38. I take it that the 38 must be in evidence. Will you give it a number in evidence?

The Reporter: It will be S-66 in evidence.

(The note was received in evidence and marked State Exhibit S-66.)

Mr. Wilentz: That is the note; the envelope, I take it, will be S-67.

The Reporter: Yes, sir.

(The envelope referred to was received in evidence and marked State Exhibit S-67.)

Q. The note just referred to, S-66, was deliver-

ed to your home, you say? A. Yes, sir.

Q. Do you know who delivered it? A. Yes, sir.

Q. Now, this is the last note at your home on April 2nd? A. April 2nd.

Q. 1932? A. Yes, sir; the last note; yes, sir, I know who delivered it.

Q. By messenger, you mean? A. Messenger, that is what I mean; yes, sir.

Mr. Wilentz: I see. (Reading note to jury):

"Dear Sir:

"Take a car and follow Tremont Avenue to the east until you reach the number 3225 East Tremont Avenue. It is a nursery, Bergen Greenhouses, Florists. There is a table standing outside, right on the door, you find a letter. Underneath "u-n-d-e-r-n-e-a-d" you will find a letter underneath the table covered with a stone. Read and follow instructions."

"Then the three holes and the circles and the red dot."

"Don't speak to anyone on the way. If there is a radio alarm for police car, we warn you we have the same equipment. Have the money in one bundle. We give you three-quarters of an hour to reach the place."

Now, having received that note, as I recall it, Colonel Lindbergh was there, Colonel Breckinridge, Al Reich, and your family? A. Yes, sir.

Q. Did you then follow those instructions and leave? A. Yes, sir.

Q. Within how many minutes after the note was delivered? A. Within about a half an hour. It took us a little time to prepare, but within a half an hour we started.

Q. Then it was, was it, that you and the Colonel left as you testified before? A. Colonel Lindbergh took the wheel of Al Reich's coupe and I went in with the Colonel.

Q. And where did you go then? A. The Colonel took the box of money and we went across, it is called Pelham Driveway there, to Westchester Square. There is then a square which compels us to take the southerly route because you cannot go through a one way place there. And going around the southerly way we took an easterly direction—I am familiar with all those places—and we came to Bergen's Flower Store. Shall I go on?

Q. Yes, go right on. A. There was a table out in front of the store. The place was closed up, and under that table was a stone, and under the stone a note which I picked up. I got out of the car—

Q. Pardon me just a minute. Will you take a look and see if this is the note you picked up from under that stone in front of the Bergen greenhouse? A. That is the note that I received.

Q. Was it in an envelope? A. It was.

Q. The note referred to is S-39 for identification. I offer them both in evidence. Please mark them.

The Court: If there is no objection they will be received.

(The note referred to was received in evidence and marked Exhibit S-68, the envelope S-69.)

The Court: Mr. Attorney General, it is out our usual recess time. Are you ready to adjourn?

Mr. Wilentz: I suggest, if your Honor please, that I just read this short note.

The Court: Very well.

Mr. Wilentz: "Cross the street and walk to the next corner and follow Whittemore Avenue to the south. Take the money with you. Come alone and walk. I will meet you."

Circles, red dot, three holes.

Mr. Pope: We would like to see 66 and 68.

The Court: Now—were counsel speaking?

Mr. Pope: We want to see S-66 and S-68 just a minute.

The Court: Oh, yes.

Now the Court is particularly anxious to take this recess and all other adjournments that we take in an orderly fashion, and the Court would like to have the cooperation of all people in the courtroom to that end. The Court is going to ask the jury to retire and come in again at 1:45; and then, after the jury has retired, the Court is going to ask the people who are here in the alleyway to make room that the defendant can retire with the officers; and meanwhile,

until all of that has happened, the Court is quite anxious that people remain seated where they are. Now then, cooperate with the Court. The jury may retire.

(At 12:32 p. m. the jury retired.)

The Court: Now, let the people make way for the defendant to retire. The defendant may now retire with the officers.

(The defendant retires.)

The Court: Now, the court is adjourned until 1:45 p. m.

(At 12:34 p. m., court adjourned until 1:45 p. m.)

AFTER RECESS

(1:47 p. m.)

The Court: The Clerk may poll the jury.

(The jury was polled and all jurors answered present.)

JOHN F. CONDON resumed the stand:

Direct Examination (continued)

By Mr. Wilentz:

Mr. Wilentz: Have you the last note?

The Reporter: S-68.

Mr. Hauck: What is the last one?

The Reporter: S-68 was the envelope, the note was S-69.

Q. Now, the last note we referred to, which I think I read, Exhibit S-66, which ended, "We give you three-quarters of an hour to reach the place,"—that, as I understand it, was on the night of April 2nd, 1932, and my recollection is that within 15 minutes or a half hour you and Colonel Lindbergh started out in a car? A. Yes, sir.

Q. And you proceeded then where? A. In an easterly direction across the Phelham Parkway to Westchester Square, having to take the Williamsbridge Road in order to get to Westchester Square. There is a change in the road there, which takes us there. Then we went on the southeasterly side of Westchester Square, because of the traffic laws, taking East Tremont Avenue in front—over to as far as in front of Bergen's store,—I think the number was 3225 East Tremont Avenue; I am not positive about that, but I think it was three thousand two hundred twenty-five East Tremont Avenue,—I have no notes or anything—as far as I can recollect.

Q. You are talking about the greenhouse now? A. Yes, sir.

Q. That is Bergen's greenhouse? A. Yes, sir.

Q. What did you do when you got there? A. I went over to the table as directed in the note specified and picked up a stone, took a note from under it, and read it. I then went over to the automobile where Colonel Lindbergh was seated.

Q. Where was that with reference to the greenhouse? A. The greenhouse I would say is almost easterly from that, rough guess, 100 feet. That

would make Colonel Lindbergh west of the greenhouse about 100 feet.

Q. Now the greenhouse with reference to the cemetery, is it on the same side of the street or on the opposite side? A. It is on the opposite side of the street. It is on the northerly side of Tremont Avenue.

Q. And the cemetery— A. The cemetery borders on— 10

Q. That is all right. This is on Tremont Avenue, is it not? A. Tremont Avenue.

Q. And the cemetery is on what side? A. South or southerly side; but it does not run in direct accord with the points of the compass.

Q. How close to the intersection of Whittemore Avenue and Tremont Avenue is the greenhouse? A. Forty feet, rough guess.

Q. Does Whittemore Avenue intersect it all the way through or is it a dead end stop? A. Not intersect; it reaches Tremont Avenue and then there is no street through on the northerly side of Tremont Avenue. 20

Q. On the northerly side is where the greenhouse is located? A. Correct; and Whittemore Avenue stops on the southerly side of Tremont Avenue, east Tremont Avenue.

Q. Now you say then you went from the greenhouse to Colonel Lindbergh's car. A. To the car. 30

Q. The car. Did you talk to the Colonel there? A. Yes, sir.

Q. Exhibit the note to him? A. Showed him the note.

Q. Then what happened? A. I walked across the street, following the directions in the note. When I got across the other side, I went almost nearly at right angles in an easterly direction and came to a corner. Shall I go on?

Q. Go right on, Doctor. A. On that corner, 40

there was a man and a little girl respectively. The little girl seemed to be about 12 years of age and I said, "Could you tell me where Whittemore Avenue is?"

Q. What was the answer? A. The answer was "No, we are strangers here."

Q. Then what did you do? A. I looked up at the avenue sign and saw "Whittemore Avenue." The first time I knew that name pertaining to it. Then I walked along east Tremont Avenue on the southerly side.

Q. Is that the cemetery side? A. Cemetery side, southerly side of Tremont Avenue, and went along in an easterly direction past the entrance and gate.

Q. Entrance and gate of what, the cemetery? A. Of the cemetery.

Q. Go right on. What happened then? A. I went maybe 100 yards east of that gate. I saw no one and came back again to—not intersection —to the meeting, to the meeting of Whittemore Street or Avenue and Tremont Avenue, stood there and said, "There does not seem to be anybody here."

Q. And then what happened? A. "I will go over to see the Colonel." Then I went to turn away; maybe about ten feet, fifteen feet, and some one said, in a very loud, clear tone, "Hey, Doctor, over here."

Q. Then what did you do? A. I walked toward that voice. It came from the mound of St. Raymond's Cemetery, about ten feet above the level where I was standing. I followed the voice and it repeated again in a lower tone, but I could hear it. It was a still night. I heard it plainly, "Over here." I said, "All right." And I followed down that street. From the light going down that

street, it was exceedingly dark, and I walked exceedingly cautiously.

Q. It was down grade there, wasn't it? A. It was down grade and getting darker each time that I walked.

Q. That is down Whittemore Avenue, isn't it, Doctor? A. Well, I call it down. Now, the word "down"—Pardon me.

Q. That is down Whittemore—take your time. A. In a southerly direction, the note stated to go down toward the sout— I took it as meaning sound.

Q. And, when you would come down south or sout whatever it is— A. South easterly.

Q. You are walking down Whittemore Avenue, are you not? A. Yes, sir.

Q. And, as you approached there from Tremont Avenue down Whittemore Avenue to the left of you was the cemetery? A. Right.

Q. Yes, to the left of you was the cemetery and to the right was, what was there? A. To the right was a frame building, I should judge three stories and over-looking where I was at that time.

Q. Except for that frame building that you talk about, were there any other buildings in that entire block? A. No other, no other signs of civilization.

Q. And you say it was dark there? A. It was dark—that is, I was in the light.

Q. Yes. A. And as one approached—well—

Q. Yes, you were in the light and in the distance it was dark, is that what you mean? A. Yes, sir.

Q. And you approached down how far from that intersection or that joining there? A. It seems to me that intersection is within the cemetery, because there is a street within the cemetery, so-

called, it is a passageway for wagons, and so forth.

Q. How far did you go down Whittemore Avenue until you reached a little intersection or a pathway leading from the cemetery into Whittemore Avenue? A. Well, from Whittemore Avenue it leads in an easterly direction toward the sound itself.

Q. How far from the corner was it before you reached— A. Which corner?

Q. From the corner of Tremont Avenue and Whittemore Avenue, before you reached that little intersection, that little path from the cemetery into Whittemore? A. Around four city lots, around four city lots, 25 each by 100.

Q. So then as I understand it you walked down Whittemore Avenue? A. I did.

Q. From Tremont for about 100 feet, and then it was that you met an intersecting or a connecting little lane from the cemetery? A. Entrance, entrance; yes, sir.

Q. Now beyond that little lane— A. Yes.

Q. ——and further south— A. Yes.

Q. ——what is there on the same side of the street? A. On the same side of the street there was, there is not now—

Q. There was then? A. Pardon me.

Q. Yes. A. There was a hedge fence about five feet tall. It was sparsely grown or sprouting, because it was the month of April.

Q. Is that a continuation of the cemetery? A. Yes, sir.

Q. That is, the St. Raymond's Cemetery there— A. Continued.

Q. Divided in at least two sections? A. Right.

Q. And this hedge that you speak of, does that begin at that little lane we talked about, which separates the first section and the other section

of the cemetery? A. It begins on the southerly side of that right at the corner where the lane or, I call it, entrance—

Q. Lane or entrance. A. ——to the cemetery reaches Whittemore Avenue. That is, on the south side of the entrance to the cemetery, where the hedge starts, or started.

Q. Now how far from the point where the hedge started in the second section did you then continue, if you continued at all, along Whittemore Avenue? A. I was on the avenue in the middle, which is very important to me.

Q. Yes, sir. All right. In the middle. A. It was getting dark.

Q. But how wide was it? A. About, I should judge, two rods, rough guess, 33 feet.

Q. The street, you mean Whittemore Avenue? A. Whittemore Avenue; no more than 33 feet, in my opinion.

Q. You were walking along the center, you say? A. Right in the middle. I always do.

Q. How far down did you go? A. I went down ten feet beyond the intersection, and there again a person back of the hedge said "Here, Doctor."

Q. Yes, sir; what did you do? A. May I interject something here? It is important. There was no wall there.

Q. At that time? A. There was no wall.

Q. At this time, there is a wall, is that what you mean, Doctor? A. No, no.

Q. Now, just please answer the questions and we will come back to it. A. No, there is no wall.

Q. There was a hedge there then? A. There was a hedge there then.

Q. Since that time you know the hedge has been taken away: is that it? A. Yes.

Q. Has it been taken away since that time? A. Yes, sir.

Q. Well, now, let's get back to that time, that night. You walked ten feet? A. Yes, sir.

Q. I take it that having walked already a hundred feet and then approximately an additional ten feet, is that it? A. Right.

Q. Did you stop there? A. And then the width of the entrance into the cemetery is important, because I had to cross that to get to the corner, and then in order to get ten feet more.

Q. Well, you finally got to a point near the hedge, did you not? A. I did.

Q. When you got over there what did you do and what happened? A. When I got there I heard the same voice.

Q. The same voice as what? A. As I heard when he was up on the corner as he yelled "Hey, doctor."

Q. Yes, and then what? A. Then I said, "All right."

Q. Then what happened? A. He says, "Have you got it, the money?" The same—

Q. That is all right, the same what? A. The same as he said on the night that I met him at Woodlawn Cemetery gate.

Q. Yes, sir. What did you say when he asked you whether you got it, the money? A. "No, I didn't bring any money."

Q. That is what you said? A. Yes, sir.

Q. Yes, sir. And then what? A. "It is up in the car." "Who is up there?"

Q. Who asked who was up there, the defendant? A. John asked me who was up there.

Q. And what did you say then? A. I said, "Colonel Lindbergh."

Q. What did he say? A. Then he said, "Is he armed?" And I said, "I don't know."

Q. Then what did you say, sir? A. I said, "No, he is not."

Q. Then what? A. Then he said, "Give me the money." "Not till you give me a receipt showing me where the baby is." Referring to what I said are you?

Q. Yes. A. "Not till you give me a receipt showing—" Beg pardon, not a receipt, note. —"showing me where to get the baby."

Q. Now, with reference to the amount of money, did you discuss that there? A. At that place? I did.

Q. What was it? A. I said to him, "You want that money. Colonel Lindbergh is not—" Shall I go on?

Q. Yes, certainly. A. "Colonel Lindbergh is not so rich. These are times of depression. Why don't you be decent to him?" And he said, "Well, I suppose if we can't get seventy we take fifty."

Q. Then what happened? A. And I said, "That will go, but tell me where is the note?" "In ten minutes I come back again with the note and give you the note." "I will go up and get the money."

Q. That is what you said? A. I did.

Q. And he said in ten minutes he will come back with the note? A. Get the note.

Q. Did you then return to Colonel Lindbergh? A. I returned up Whittemore Avenue in a northerly direction, went over to Colonel Lindbergh—no, to the car in which Colonel Lindbergh was seated —and said—

Mr. Reilly: I object.

Q. Well, whatever you said. A. I said—

Q. Just a minute, Doctor. Whatever it was, as the result of what you said to him did he give you a money box? What did he do? A. Not yet.

Q. All right. What did he do? A. He took—

Q. Go ahead. A. He took what I thought was

$20,000 from the top of the box. It could not fit in.

Q. All right. He took $20,000 from the top of the box. Tell us what he did with it, please. A. And placed it one side in the car.

Q. What did he do with the rest? A. I did not touch that.

Q. What did he do with the rest? A. He shut the lid of the box and handed it out the window to me. "Now," he said—

Q. Now you took the box then. Did he take that out at your suggestion, the twenty thousand? A. He took it out himself. My answer to that is No, but I made the statement that John said—

Mr. Reilly: I object.

Q. Well, as a result of what you told him he took out twenty thousand, is that it? A. Yes.

Q. And then you took the rest? A. Yes.

Q. How much was in the rest? A. $50,000.

Q. And you took that back with you down Whittemore Avenue? A. Back down Whittemore Avenue in a southerly direction until I came to the same spot, about ten feet south of the junction, that was the word I tried to get before.

Q. All right, sir. A. The junction of Whittemore Avenue and—

Q. And Cemetery Lane? A. Cemetery entrance.

Q. All right. And what happened then? A. He was—yes, he was crouching down under the hedge, and I said, "Come on, stand up like a man. I have the money here." I took the money and placed it on my forearm.

Q. You mean the box? A. Yes, sir.

Q. Yes, sir. A. The box full of money.

Q. Yes, sir. A. And then I said, "Give me the note." He put his hand down his coat pocket and said, "I got the note." All right—

Q. Did he give you the note? A. Not yet, he said, "Don't—"

Q. All right, go ahead. A. He said, "Don't open it yet." I said, "I have never betrayed a confidence. I have carried out every order of both parties the best I could, I won't open it, I will take it up to Colonel Lindbergh." All right. I then handed the money out with my left hand forward, and I could look down at him; he was crouched near the hedge. "Stand up and look at me, if you want to do that, and give me the note."

Q. That is what you said to him? A. I said to him. And there was the box on my left arm, and I said, "Give me that note." He gave me the note and I handed him the box; the box therefore went on his right hand, and I took the note from his left hand and put it in my pocket.

Q. Then what happened? A. Then he says, "Vait a minute," with that "V," "Vait a minute." I said, "All right." He got down there under the hedge, put his hand in the center of the pack, and picked out the money and said, "I want to see if it is all right." "John!" "If it is marked—" Can you hear me?

Q. That is what you said.

The Court: One moment. I think, Mr. Attorney General, that we ought to make an effort to stop this. (Disorder and noise in street.) Won't one of the State Police go down there and see if they cannot stop that shouting?

The Court: Well, you might try again, Attorney General.

Mr. Wilentz: Yes, sir.

Q. Then, as I understand it, with your left hand and arm you held this money box and you gave him the note with the other? A. I gave him the money box in his right hand. He took the note out with his left hand from his pocket and handed it to me. I put that in my pocket and was about to turn away and he said, "Well, all of them said your work was perfect." "What is that?" "All of them said that your work was perfect." I said, "I know no other way"—all right?

Q. Yes, sure. A. "I know no other way to act. The truth again to a kidnaper is the same as it is to a judge." I hope the Judge will pardon me.

Q. Yes, go ahead, Doctor. Go ahead. (Laughter.) A. All right? All right, Judge?

The Court: Yes.

Q. Yes. A. Now he seemed pleased and reached his right hand then, having taken the package out of the box and putting it in his pocket, I wanted to see if it was marked all right. "If these bills are marked"—myself.

Q. That is what you were saying? A. "If these bills are marked or serial, I know nothing about it, John. I had nothing to do with it and I didn't see them." "Oh. The crowd thinks you're fine." I don't know what he meant.

Q. He said that to you? A. He said that to me. "The crowd thinks you're fine. Your work was perfect." That was a repetition.

Q. That is his saying to you? A. That is his saying to me.

Q. Yes, sir. A. A repetition. I said, "Well, if you give me a chance to get that baby, it will be all right; but if you don't, I will follow you to Australia."

Q. Now did he shake hands with you that night? A. He reached his hand over the hedge: "Your work was perfect. Good night." I said, "Good night, John. Remember, don't try to double cross me."

Q. And the man that you handed that money to was John, you say? A. Is John.

Q. That is the man you are talking about in this conversation? A. That is the man I am talking about on that night.

Q. And John is who? A. John is Bruno Rudolph—or Bruno Richard Hauptmann.

Q. Now, when you got the paper there that night—I show you a piece of paper marked S-40 for Identification—and ask you whether you recognized the paper you received on the night of March 2nd—or April 2nd, 1932, in St. Raymond's Cemetery. A. That is the note that he handed to me over the hedge.

Mr. Wilentz: I offer it in evidence.

The Reporter: S-70.

(Note received in evidence and marked State Exhibit S-70.)

Q. Having received that note, did you then return to Colonel Lindbergh? A. I returned to the car in which Colonel Lindbergh was seated. That note was enclosed; I didn't see the enclosure for it, but that note was originally enclosed.

Q. In an envelope, you mean? A. Yes, sir; because he told me not to open it for six hours—maybe eight—six or eight hours.

Q. I see. A. I said, "I have never betrayed a confidence; I will hand it to Colonel Lindbergh, which I did.

Q. And then what happened? A. Colonel Lindbergh would not open the envelope. I said, "Colonel,"—may I talk?

Q. Yes. A. "Colonel, your baby—"

Mr. Reilly: I object to this.

Q. Well, at any rate, you returned anyway, didn't you, to your home? A. No.

Q. Was the envelope finally opened? A. It was.

Q. Who opened it? A. Colonel Lindbergh.

Q. Where was it when he opened it? A. At West—on the southerly side of Westchester Square, on a little house stoop—that I own—on the southeasterly side of Westchester Square, about a mile from where we got it.

Q. And then what did you do from there? A. After the Colonel—well, we started with the note opened; we both read it—I read it, I read it—

Q. All right. A. And went over to my house with that note, went inside and discussed that matter with those who were in there.

Q. Who were in there? A. Colonel—

Q. Breckinridge? A. Breckinridge, Al Reich, Alfred J. Reich—that is all I remember, because they were interested most.

Q. Yes. And then what happened? A. They held a little council, the two Colonels, and said we would go down to some place in the lower part of the City of New York.

Q. Well, as the result of their conference about the note, did you and others leave the house? A. We did.

Q. About what time of the night? A. Around midnight, as near as I can remember.

Q. All right. Before you relate about that—

Mr. Wilentz: May I read the note found at the Cemetery?

The Court: Well, has it been admitted in evidence yet?

Mr. Wilentz: Yes, if your Honor please; it is S-70.

"The boy is on the boad—"b-o-a-d" Nellie. It is a small boad 'b-o-a-d' 28 feet long. Two persons are on the boad. The—'t-h-e' are innocent. You will find the boad between Horseneck Beach and Gay Head near Elizabeth Island."

By Mr. Wilentz:

Q. When you left at midnight, who left in the party? A. Colonel Lindbergh, Colonel Breckinridge, Alfred Reich and then some men belonging to the United States, I think, I didn't know him. I didn't know him, Mr. Attorney General.

Q. Was it Mr. Irey of the United States Department of Internal Revenue? A. Either one of two, I wouldn't be sure, either Mr. Irey or Mr. Frank Wilson, either one of those two.

Q. Did you leave in an automobile? A. Yes, sir.

Q. The four of you? A. Yes, sir.

Q. And where did you go? A. Down to around Seventy—the street near Central Park West, I couldn't tell you the number of the house now.

Q. Then where did you go? A. We stayed there and had consultation.

Q. Whose house was it? A. Oh, it was the late Senator Morrow's. I don't know the number.

Q. In New York? A. Yes, sir.

Q. From Senator Morrow's home where did

you go? A. We went in an automobile to Bridgeport, Connecticut.

Q. Who drove the car? A. Colonel Lindbergh.

Q. All the way from New York to Bridgeport? A. No. That I couldn't say as to when they changed wheels, I don't know.

Q. Traveling through the night? A. Yes, sir.

Q. About what time would you say you arrived at Bridgeport? A. Around five o'clock in the morning or a little earlier, it was very dark.

Q. Having arrived there at five o'clock in the morning, the four of you men, what did you do? A. The men who were with me advised waiting a little while, inasmuch as it would not be practicable to go farther east at that time until light would assist them.

Q. And did you wait then? A. I did.

Q. What time finally did you leave Bridgeport? A. I'd say when it was light, when it was light.

Q. And what did you do then? What did your party do? A. Went in an airplane from Bridgeport to within the vicinity of Gay Head.

Q. Who piloted the airplane? A. Colonel Charles A. Lindbergh.

Q. Colonel Lindbergh piloted it and who were the passengers besides the Colonel? A. Colonel Breckenridge, this gentleman from the United States Service Department and myself.

Q. And how long were you in the air? A. I did not take time to know, but we stopped at Gay Head or very near it up there. It was then light.

Q. Did you return that day to your home? A. No, sir.

Q. Did you stay with Colonel Lindbergh? A. Yes, sir.

Q. Until when? A. Until he had finished the flight. I was in the airplane with him.

Q. Did you accompany him on both flights that he made or only on one? A. I did.

Q. Did the Colonel find his baby? A. He did not.

Q. Did you find the boat Nellie? A. I did not.

Q. Did the Colonel find it? A. He did not.

Q. In addition to the airplane and aviation trips, do you know whether or not there were any Federal coast guard cutters that made the trip? If you know? A. Yes. As soon as we got there the Colonel took a little bayou there as his landing place and came right down into that little bayou and stayed there; and then I went up to the Cuttyhunk Hotel. I had a sandwich and a cup of coffee, something like that, and at that dock there was a United States boat; now just at this particular time, whether it was a revenue cutter or a United States gun boat I could not say, but it wasn't a man of war. The reason I—

Q. At any rate it was a Government boat, was it? A. It was a Government boat.

Q. And as the result of a conversation there do you know whether or not the Government boat left? A. No, the boat stayed there while I was there and out beyond that there was a United States Revenue cutter.

Q. Yes, sir. A. And—

Q. Go ahead. A. And beyond that again there was a man of war.

Q. Yes. A. I should judge at a distance of maybe four miles, three miles, I could see it.

Q. And did you go up on both occasions in the same plane, or was one different than the other? A. That part I do not recollect for this reason. I heard the conversation—

Q. Well, as long as you don't recollect it, Doctor, it is all right. A. Oh, all right.

Q. Did you land on the water at any time in

one of the planes? A. I did not.

Q. Did the plane land on the water at any time. A. Not—

Q. While you were with it? A. No, except in the little bayou.

Q. Yes, except there? A. Yes, in the little bayou there at Cuttyhunk.

Q. At any rate, your flight with Colonel Lindbergh took several hours, didn't it, from time to time? A. Yes, sir.

Q. And you abandoned with the Colonel—the party abandoned the search, did it not? A. Yes, because it was getting toward dark.

Q. And then where did you go? A. Came back to that bayou and then personally I got on the revenue cutter or Government boat and waited there for a while and the Colonel said—

Mr. Reilly: I object.

A. I beg your pardon. Then I got on the airplane again with Colonel Lindbergh.

Q. And where did you go? A. I went—I was in the plane and the Colonel directed the plane along Long Island, past the local towns there, from Greenport and Eaton's Neck and down along that section until we came to a flying field, and landed on that flying field, in Long Island, convenient to Astoria, or a little south of that.

Q. And from there where did you go? A. Got in an automobile and went back to Third Avenue, and then the Colonel offered to take—no, I took the elevated with a Mr. Alfred Reich, who was with me at the time. The elevated up to my home.

Q. Where did you meet Mr. Reich? A. Mr. Reich had been asked if he would take the automobile belonging to, I think, the Colonel, I am not sure, from Bridgeport back home, that is to

the flying field, he called that home, at that time.

Q. Did you meet him at the flying field? A. Mr. Reich took that automobile back to the flying field and we met him there.

Q. Colonel Lindbergh took the car? A. Colonel Lindbergh then took a car; whether it was that one or not; there were a great many cars there, I couldn't tell you, but he took the car and offered to see that we would get home. I thought he was tired enough—I won't say that—I see it now.

Q. At any rate, you did not accept the invitation and you got on the elevated? A. I got on the elevated and went up with Alfred Reich.

Q. Now remembering that April the 2nd, Saturday night, April the 2nd, 1932, was the date and the time of this meeting at St. Raymond's Cemetery— A. Yes, sir.

Q. Then having gone on these airplane trips— A. Yes.

Q. And having returned, what next did you do with reference to communicating with John? A. I felt hurt naturally. Oh—

Q. That is all right, Doctor. What did you do? A. And I wrote a note through the press. Whether it was broadcast or not I do not know, but I wrote the following statement: "John, what is the trouble?" Or, "What is the matter?" or something like that, "Have you double-crossed me? Jafsie." That is in content what I wrote. I haven't seen that note in a long time.

Q. Did you get any response to that? A. May I look at it?

Q. On April 6, 1932— A. Yes, that is about right. (Witness examined note.) Yes, sir. I am the author of that advertisement.

Mr. Wilentz: I offer it in evidence.

(The advertisement referred to received in evidence and marked Exhibit S-71.)

The Court: There being no objection, that will be admitted.

Mr. Wilentz: The ad reads:

"What is wrong? Have you crossed me? Please, better directions. Jafsie."

Q. You say you received no response to that? A. I received no response to it.

Q. That note continued for several days at your direction, did it not? A. Yes, sir.

Q. So that, Doctor, when the $50,000 or $70,000 was brought to your home that day, or that Saturday, by Colonel Lindbergh or Colonel Breckinridge— A. And Alfred Reich.

Q. Yes. ——that was the day that you were awaiting word, was it not? A. Yes, sir; Saturday.

Q. Now, following your meeting with John in Woodlawn Cemetery and then following your meeting with him at St. Raymond's Cemetery, did you see him again and, if so, when? A. Do you mean after that, sir?

Q. Yes. A. Yes, sir; I saw him about the latter part of October, in Centre Street.

Q. New York, you mean, Centre Street? A. Police Headquarters—I didn't want to say prison.

Q. Yes.

The Court: That was in 1934, Doctor?

The Witness: That was in 1934, yes, sir.

By Mr. Wilentz:

Q. And then after that, did you see him again and if so, where, before you came to court? A. Yes, sir, I did. One evening at the corner of Williamsbridge Road and Pelham Parkway, I saw him walk over in the direction of what I found to be his home after. I was in a bus going in the opposite direction, but I did not pursue him, owing to the fact that he got into the woods which is there. You have to see that to understand what I mean.

Q. When was that, Doctor? A. In August, some part of August, 1934, nearly three months before I saw him—

Q. In New York? A. In New York.

Q. In the New York Police Station? A. Yes, sir.

Q. Did you see him again in the jail here at Flemington? A. Yes. Shall I explain?

Q. Just answer that you did or did not? A. Oh, yes.

Q. Now, in all these talks, whenever you refer to "John," as I understand it, you are referring to the defendant Hauptmann? A. Yes, sir.

Q. Where do you get the name "John?" A. On the night that I asked him what his nationality was, is, where he came from, I said, "Please tell me your name. You know mine all right; tell me your name." He said, "Call me John."

Q. When the last note was received at your home, that is to say, April 2nd, 1932— A. Yes, sir.

Q. ——and you went to the door, do you remember who accompanied you to the door? A. Yes, sir.

Q. Who was it? A. Milton Gaglio.

Q. Anybody else? A. He is the only one that I remember.

Q. When the note came was your daughter there? A. In the house?

Q. Yes. A. Yes, sir.

Q. Do you remember whether she accompanied you to the door? A. I couldn't. If she accompanied me she was behind me; I didn't see her.

Q. You don't recall? A. No, sir.

Mr. Wilentz: All right. Thank you. Take the witness.

Mr. Reilly: May we have a minute to arrange the exhibits?

Mr. Wilentz: Oh, if you will pardon me. Will your Honor bear with me for a second.

By Mr. Wilentz:

Q. Dr. Condon, after you had dealt with John and, of course, the child hadn't been returned—? A. Yes, sir.

Q. And eventually the body was found, I take it, you were questioned by police? A. Yes, sir.

Q. And did you give a description of the John? A. Yes, sir.

Q. Tell me, please, give me the description of John as you saw him at Woodlawn Cemetery and St. Raymond's Cemetery about his size and everything else. A. He was about 5 feet 9 and a half, what we term in boxing circles, a middle weight, that is, or a little heavier than a middle weight—middle weight is 158, that is what it is—

Q. Yes, sir. A. ——to 165. Five feet 10 and a half, very well built and exceedingly active and athletic, were my description.

Q. I think you said five nine and a half and then you said five ten, or something like that. A. Well, I had a little doubt as to whether it was

five nine, five nine and a half or five ten—I did not measure him except by my eye.

Q. Now, from his appearance, what did you have to say then and what was his complexion? A. I would say that his complexion would be what I would call light, that his hair was of—well, shall I use the term I used?

Q. Whatever term you used. A. A muddy blond.

Q. A muddy blond? A. Yes.

Q. And about—now you have given us the weight, your judgment of the weight, your judgment of the height and your judgment of the complexion? A. Yes, sir.

Q. When you talked about his being muscular or otherwise, how did you arrive at that observation? A. I have trained about 10,000 athletes in my life, and they couldn't deceive me upon those inner muscles.

Q. Well, you felt his muscles, is that it? A. I did.

Q. Where? A. I felt his muscles on that bench when I said, "Your coat is rather of light fabric. I have two coats; let me give you one." But I was studying him.

Q. So that that is where you felt his muscles? A. That is where I felt his muscles.

Q. In his arms? A. Yes, sir.

Q. And that description that you have just given, five foot nine or five foot nine and a half—A. Five foot nine or five foot nine and a half.

Q. Whatever it is, did you tell him—was your observation that he was of Scandinavian origin or what? A. No, I didn't draw that deduction. I took that on face value. I had faith in him.

Q. Well, what was your observation?

Mr. Reilly: I object as calling for a conclusion.

Mr. Wilentz: I will withdraw the question.

Q. So that this description that you give us now was the observation that you made of him at the time, is that right? A. Right.

Q. And did you give that description and observations to the authorities long and long before Hauptmann was ever arrested? A. Nearly two years, yes, sir.

Q. Thank you. That's all. A. About two years.

Mr. Fisher: We would like the time fixed, if your Honor please, as closely as possible by day and date.

Q. Did you give it to the Federal authorities? A. I did.

Q. Did you give it to the New York authorities? A. I did.

Q. Did you give it to the New Jersey authorities? A. I did.

Q. Five foot nine or five foot nine and a half? A. Five foot nine or five foot nine and a half.

Q. Muddy blond? A. Yes, sir.

Q. Of German or Teutonic extraction? A. Yes, sir.

Q. Or Scandinavian? A. Yes, sir, about 168—158, muscular.

Q. Muscular? A. Yes, sir.

Q. And about how much weight? A. About 158, middleweight, to 165—at that time.

Q. Yes, sir, at that time. A. Yes, sir.

Mr. Fisher: May I ask that the witness

be allowed to give his own idea of the height and not the idea of the Attorney General?

Mr. Wilentz: You may have the witness and get the idea.

The Court: I think he has repeatedly said that it was, well, five nine, five nine and a half, and five ten.

Mr. Fisher: And the Attorney General always forgets the ten.

The Court: I didn't observe that. At any rate, the record will speak.

Mr. Wilentz: You may inquire, sir.

Cross Examination

By Mr. Reilly:

Q. Doctor, how long have you been in this business of training athletes? A. Fifty years.

Q. What is a lightweight? A. A lightweight, the numbers given to me were 135 pounds from the time of Jack Farrell.

Q. Quite a ways back, is it not, Doctor? A. Yes, sir.

Q. And what is a welterweight? A. Welterweight originally was 142 pounds, and went from 142 pounds to 148, where the different rules belonging to that line were changed by the Committees on boxing.

Q. The rules— A. 142 —

Q. You mean the Marquis of Queensbury rules? A. They had nothing to do with the Marquis of

Queensbury rules. The Marquis of Queensbury rules represented four rounds under the late John L. Sullivan, who was a marvellous boxer.

Q. What am I, a heavy weight? A. You a heavy weight? May I look? (Witness stepped down from stand and examined Mr. Reilly.) This don't hurt you, does it?

Q. No, not a particle. A. Undoubtedly a heavy weight. (Laughter.)

Q. And I take it you yourself are a heavy weight? A. Now?

Q. Yes. A. Yes.

Q. So we start even. A. Right,—that is, physically. (Laughter.)

The Court: Let us proceed quietly.

Q. You are not angry at me, are you, doctor? A. Not a particle.

Q. Now in the course of your many activities did you ever study acting? A. I never did.

Q. Never appeared in any amateur dramatics or coached any? A. Never to my recollection did I appear in any amateur dramatics and only coached where my position as principal of a school required it.

Q. And did that require teaching dramatics? A. Yes, sir.

Q. For how many years? A. Oh, dramatics, or teaching?

Q. No, dramatics? A. It did not go over a term of years. There are two little receptions in all schools where there are two terms, from September to January and January to July, not inclusive, and during those two terms I would be called upon twice to help in English expression, accentuation, so on,—yes, sir,—just helped.

Q. Now, Doctor, did you ever teach theosophy? A. No, sir.

Q. You did teach at Fordham? A. I did.

Q. And what course? A. You mean Fordham University?

Q. Yes. A. Yes, I did.

Q. What course? A. What course? Many.

Q. Well, were you in any particular branch of it? A. Yes, sir.

Q. What branch? A. The branch of education, referring mostly to teachers.

Q. Teachers? A. Teachers throughout the United States.

Q. Did you ever have any experience or knowledge of signs, particular signs? A. Knowledge of signs?

Q. Yes. A. Nothing, except what I would pick up, that might come incidentally in the course of my lectures.

Q. Did you ever read any books on signs? A. I never read a book on signs, except the Encyclopedia and dictionary as a book of reference.

Q. Then, you are not the John Condon who signed in the public library of New York, are you? A. I never took—

Q. ——two weeks before the kidnaping for the German Koch's Book of Signs, are you?

Mr. Wilentz: Just one minute, please, Doctor. There is nothing in the record, if your Honor please, that any such thing ever happened.

Mr. Reilly: Now, there is—

Mr. Wilentz: All right, I will withdraw the objection. Let him answer. He wants to answer the question.

The Witness: Yes, sir, I do, I want to answer it.

The Court: Let the witness answer the question.

A. I have never taken a book from the New York Library, neither have I ever signed my name for any book, and I never took a book on Theosophy or signs of any kind there, sir.

Q. Have you heard that a John Condon, two weeks before the kidnaping—now just wait until I frame my question, Doctor. A. I will be pleased—

Q. If you will, please. A. Yes, sir.

Q. Have you heard that a John Condon two weeks before the kidnaping signed for Koch's book on signs in the public library?

Mr. Wilentz: Just a minute, please, Doctor.

The Witness: All right, you are the doctor, but I would answer him.

Mr. Wilentz: That, if your Honor please, whether he heard something, is not material to this cause, if your Honor please.

The Court: I am inclined to think that is so, Mr. Reilly.

Mr. Wilentz: And, therefore, I object to it.

Mr. Reilly: May I take an exception?

The Court: You may.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Mr. Reilly: I now ask the Attorney General of this State to produce the slip from the public library in New York signed by a Dr. John Condon, which I understand is in his possession.

Mr. Wilentz: I do not know as it is in my possession, I will get it, but it has absolutely nothing to do with this case, and when it is offered, I shall object to it.

Mr. Reilly: Now, I object to his voluntary statement as to what it has to do with this cause.

The Court: Well, the Attorney General has told you that he will furnish it.

Mr. Reilly: That is all I want.

The Court: Proceed.

By Mr. Reilly:

Q. Now, Dr. Condon, will you take a pencil or ink and a pad and write, please.

Mr. Reilly: May I have that pen, Judge? It is the nearest thing here.

Q. Have you a pen, Doctor? A. I have.

Mr. Wilentz: You may be seated, Doctor, if you will, please. Just wait one minute now.

The Witness: Yes.

Mr. Wilentz: Just a minute, Doctor. You will wait until you are asked a question, please.

The Witness: I will, I will.

Q. Now, Doctor, will you write "John Condon," please. A. As my name?

Q. Just those words, "John Condon." A. No, it is not my name.

Q. What is your name? A. John Francis Condon, or John F. Condon.

Q. Well, will you write "John," please? A. Yes.

Mr. Wilentz: Is it comfortable for you, there, Doctor?

The Witness: Well, I will stand. (Rising.) It is a little—that doesn't make any difference; never mind my comfort.

A. "John"?

Q. Yes, sir. A. Yes, sir (writes.)

Q. All right. Now, will you continue. Put under it, please, "Francis." A. Yes, sir. (Writes.)

Q. Now, will you write the "Condon" underneath that, please. A. With pleasure. (Writes.)

Q. And then will you give me, please, a copy

of your signature. A. Yes, sir. (Writes.) That is my bank signature.

Q. Perfectly safe with me, Doctor. A. I hope so. (Laughter.)

Mr. Reilly: I offer this sheet for identification.

The Court: It may be marked for Identification.

(The sheet of handwriting by Dr. Condon was marked Defendant's Exhibit D-7 for Identification.)

Mr. Wilentz: You may be seated, Doctor, please.

By Mr. Reilly:

Q. You have told us, Doctor, that you were born in the Bronx, is that correct? A. Yes, sir.

Q. Did you at any time live in any other borough of the City of New York? A. Never.

Q. Have you always lived close to where you are now living in the Bronx? A. How close?

Q. Well, within five or six blocks or ten blocks? A. No, I didn't. In the vicinity where I was born, McKinley Square.

Q. Where is that? A. McKinley Square in the Bronx?

Q. Where is that in the Bronx? A. 169th Street and Boston Avenue.

Q. That is the east side of the Bronx, is it not? A. East side of the Bronx? You will have to give me some definite line to tell from. What do you mean, east side of the Bronx?

Q. I will withdraw it. We seem to be getting all over the Bronx. A. Thank you.

By the Court:

Q. This Boston Avenue that you refer to, Doctor, is what some of us call the Boston Post Road? A. Yes, sir. It changed names twice in my life.

By Mr. Reilly:

Q. I would like to know, Doctor, when it was that you first started teaching. Am I correct in 1882? A. No, sir.

Q. When? A. I was graduated in 1882 and was appointed as teacher in the City of New York under the late honored John Jasper on January 8th, yesterday was the anniversary, 1884, not '82.

Q. Fifty years ago yesterday, was it? A. Yes, sir.

Q. And you went from the public schools to Fordham? A. No.

Q. I mean in teaching. A. No.

Q. When did you teach in Fordham? A. I taught in Fordham from 1929 to 1932.

Q. 1932. Then you stopped teaching? A. I did.

Q. You retired? A. I did.

Q. Since then you have been more or less of a gentleman of leisure? A. No, sir; never had a day's leisure in my life.

Q. Well, you have been traveling a lot around the country, haven't you, Doctor? A. That wasn't leisure.

Q. Just came back from a trip, didn't you? A. Trip? Came back from a little mission, yes.

Q. Well, the little mission ended in Trenton two days ago, didn't it? A. Trenton?

Q. Yes. A. No.

Q. When did you arrive in Trenton, the day before yesterday? A. Yes.

Q. And where had you come from? A. From Brockton, Mass., and Rockland, where I lectured.

Q. Did you lecture in Brockton? A. No, sir; Rockland. I mentioned Rockland last, and in English we take the last noun which brings on that relationship, sir.

Q. Well, now, irrespective of the lecture on English, will you please tell me the City you were last in before you arrived in Trenton. A. Well, the City that I was last in?

Q. That you were last in. A. I stopped at every single city between Brockton and this place.

Q. Were you traveling by automobile? A. Yes, sir.

Q. Remember being in Taunton? A. Beg pardon?

Q. Do you remember being in a town called Taunton? A. Yes.

Q. Did you drop in a drug store there? A. I did.

Q. Did you have a conversation with the druggist? A. Yes, sir.

Q. And did you at that time tell him that you had not yet discovered "John"? A. No, sir.

Q. And didn't you say to the druggist at that time, "They haven't caught John yet; I'd give ten thousand dollars to find him"? A. Finished?

Q. Yes. A. No such thing. (Laughter.)

Q. You make sometimes extravagant remarks, don't you? A. No, sir.

Q. You are always cautious about what you say? A. I am.

Mr. Wilentz: Objection. All right—withdrawn.

The Witness: Pardon me?

Mr. Wilentz: That is all right, Doctor.

The Witness: I have the situation, if you don't mind; don't worry.

Mr. Wilentz: That is all right.

(Laughter.)

Q. You are enjoying your day in the sun, Doctor, aren't you?

Mr. Wilentz: Just a minute.

A. I don't know what he means. He will have to speak English if he speaks to me. What is it? What does it mean?

Q. You are enjoying your day here before these people, your first day in court that you ever testified; you are enjoying it, aren't you? A. No, sir, I feel sad over it.

Q. Why, haven't you been preparing for weeks for this day in court by giving out statements to the press about what you were going to do— A. I will tell you—

Q. (continuing)—to the cross-examiner? A. I will tell you, because I found insidious snares in every single place that I went, in order to trap me and make fun of me and ridicule me, and they haven't succeeded.

Q. Did the druggist up in Taunton ridicule you? A. He did not.

Q. What was his name? A. I don't know.

Q. Well, would you know it if you heard it?
A. I would.
Q. Donegan? A. That is the name.
Q. Yes. A. Yes, sir.

Mr. Wilentz: Just a minute. I have a letter from that gentleman which I would like to exhibit to Mr. Reilly. Maybe it will help him in his examination.

The Witness: Will you let me see it, please?

Mr. Reilly: I don't want any assistance, Mr. Attorney General.

Mr. Wilentz: Yes. Well, I have the letter here.

Mr. Reilly: I don't want to act as a nursemaid toward this witness.

The Witness: Just a minute.

Mr. Wilentz: Just a minute.

The Witness: All right.

Mr. Wilentz: If your Honor please, I present to the Court an unsolicited letter from Mr. Donegan.

Mr. Reilly: Now I object to this. I object to it. If it keeps on, I will make a motion for the withdrawal of a juror.

Mr. Wilentz: I will withdraw the offer.

Mr. Fisher: Do it anyway. Make the motion anyway.

Mr. Reilly: I move now for the withdrawal of a juror for this production of this paper and the statement of the Attorney General, and the declaration, and that we may have a mistrial, I will ask Mr. Pope to argue the question of law.

Mr. Pope: I don't think it needs any argument, your Honor. I think the question of the announcement of the Attorney General was so manifestly out of order, unfair and prejudicial to the rights of this defendant that it requires no argument.

The Court: Have you finished?

Mr. Pope: Yes, sir.

The Court: I will deny the motion for a mistrial or the withdrawal of a juror; and in connection with that I wish to caution the jury most emphatically to disregard everything that has been said in their hearing respecting what was said to be a letter from this—what is the name?

Mr. Fisher: Mr. Donegan.

Mr. Reilly: Mr. Donegan.

The Court: Donegan, the druggist up in—what place?

Mr. Reilly: Taunton.

The Court: Taunton—Massachusetts?

Mr. Reilly: That is right.

The Court: Massachusetts. I ask you to disregard that completely.

Q. Dr. Condon, so there will be no mistake and so that the record will have it, I ask you again did you not recently in Mr. Donegan's drug store in Taunton, Massachusetts, in the course of conversation with him concerning this case say that Hauptmann was not the John and that you would give $10,000 to find the John? A. I never said any such thing, sir.

By Mr. Reilly:

Q. Do you recall where you were two weeks ago last Sunday night? A. Two weeks ago last Sunday night? Well, not just at this particular time, no.

Q. Do you recall whether or not you were in New York City? A. I do not.

Q. Were you in New York City, the Borough of Manhattan within the last two weeks? A. (The witness nodded his head.)

Q. Do you recall a Sunday evening, to be exact, two weeks ago last Sunday evening, taking dinner at a restaurant known as the Oyster Bay on 8th Avenue and West 43rd Street? A. 8th Avenue and West 43rd Street?

Q. A sea food house. A. I ate there, yes.

Q. Did you eat there that Sunday evening? A. I think so.

Q. Did you there in conversation with a waiter in connection with this case say that Hauptmann

was not the John? A. I did not.

Mr. Wilentz: Just a minute. May I have the name? However the question is answered, I suppose.

Mr. Reilly: I will give you the address and give you the card.

By Mr. Reilly:

Q. But you were there? A. I was at such a restaurant, I didn't know the name.

Q. You talked? A. I always talk, yes.

Q. And you talked to a waiter, didn't you? A. I did.

Q. Did you talk? A. I didn't know him.

Q. Did you talk about this case? A. That I don't recollect at present.

Q. Well, you have tried to recollect here some conversations of two years ago with people, and this, I am only asking you about a conversation two weeks ago; can't you remember it? A. If you tell me the conversation I shall, but I can't indefinitely, I can't answer anything indefinitely that way.

Q. Now, let's go back again, Doctor, if we will. A. Yes.

Q. In all of these towns you rode through in your last trip— A. Yes.

Q. —the trip, which wound up in Trenton, may I ask you why that trip began? A. I take objection to your roundup in Trenton: it is not true.

Q. Well— A. It wound up at my home, sir.

Q. Then eventually you came to Trenton? A. That was after; it has nothing to do with this case.

Q. Well, then, we will go back and take your objection. The trip that wound up at your home in The Bronx. A. Right.

Q. Will you tell me where that trip started from? A. At my home in The Bronx.

Q. Now, will you tell me how long a time it took to make that trip and the different cities you passed through. A. Yes, sir; about three days, and the cities I passed through, I can tell you that by a route. If you show me the map I will tell you everything.

Q. Well, if you will just tell me the important ones— A. Yes.

Q. That is, the ones—just give me the outlines. A. Bridgeport — Bridgeport, Rockland, Taunton—I am mentioning those where I stopped chiefly; yes, sir.

Q. Did you— Are you familiar with a camp in any place called Beckett? A. Beckett?

Q. Yes. A. Yes, sir.

Q. Where is that? A. By direction or distance in miles, or what?

Q. No, in what state? A. Massachusetts; yes.

Q. Massachusetts? A. Center Lake, Beckett, yes, I am—

Q. Center Lake, isn't it? A. Center Lake is the lake.

Q. Is the lake? A. And the little town of Beckett, which you recollect was washed away, the remnant is still there, yes, sir; right.

Q. Were you there in the early Spring of 1932? A. Yes, sir.

Q. And when did you go there? A. Within a few days of Decoration, or, rather, Memorial Day.

Q. Was that after the ransom proceedings had finished? A. Yes, sir.

Q. And who did you go there with? A. With a young man named Walter Goodwin.

Q. And how long did you stay, Doctor? A. Four days, or five.

Q. Would you mind telling us what Walter Goodwin's business is? A. Walter Goodwin's business as far as I knew was to take me up there to that lake where he owns the little camp.

Q. Wasn't it owned by a man named Broadhurst. A. No, sir.

Q. Do you know Broadhurst? A. No, sir.

Q. Do you know the name of Goodwin's father-in-law? A. No, sir.

Q. Do you know whether he has a father-in-law? A. I do not. Never saw him. Don't know anything about him.

Q. Within the past month, Doctor, did you go to Miami. A. Yes.

Q. How many days did you spend there? A. Well, the days, the days—maybe four.

Q. Did you see any newspaper men while you were there? A. Plenty.

Q. Did you tell them at that time that Hauptmann was not the John? A. No, sir.

Q. How many newspaper men did you see? A. Oh, I couldn't count them, they were flocking in there in such droves that I couldn't count them.

Q. How many interviews did you give? A. I couldn't state that they were interviews, but I had conversations with anybody that came to my room or to my table.

Q. They asked you about this case, didn't they? A. They did.

Q. Yes. You never once told any newspaper man that this defendant was John, did you? A. Which defendant?

Q. This defendant here. A. Oh. I never did.

I never told or mentioned his name to them or in public, never,—note the words Colonel—of affirmation or denial. I make a distinction between "identification" and "declaration of identification."

Q. In other words, I am to understand that split hairs in words? A. No hairs at all. A man's life is at stake and I want to be honest about it.

Q. There was nothing preventing you from telling the press, was there, that this was the right man? A. Yes, there was; yes, there was.

Q. If you wanted to be honest about it, why did you not blazon forth that fact to the world when they asked you? A. Because I didn't wish to do it and perhaps interfere with this case itself.

Q. If you were honest and telling the truth, do you not know that nothing could interfere with the truth, no matter how many times you said it was the man? A. It didn't. It didn't. It didn't interfere because I didn't say.

Q. In Greenwich Street, New York police station, you said it was not the man, did you not? A. No, sir. Get all the people that were there, I did not.

Q. You never said it was the man? A. I never said it was or was not.

Q. Because you know you are not sure? A. Because I made the distinction between declaration and identification. The identification meant what I knew mentally, the declaration meant what I said to others. There isn't a man who breathes has ever heard me say that that was the man but one.

Q. You were brought there for the purpose

of identifying Hauptmann, were you not? A. I was, yes, sir.

Q. And you didn't identify him, did you? A. No, sir. Beg pardon, there is the word "identification" again. I take exception to your language. It would make a mistake and when you begin to divide the identification and declaration and denial, you would make it appear as though I were dishonest and I am not. I won't—is that too severe, Judge?

The Court: No.

Q. Come on, I can take it. A. That is good. I want you to know, Counselor, that the identification is purely a mental process after the senses have known, after the senses have distinguished, and unless that is taken that way to answer quickly, fast, I don't know but what it might be a kind of trap that you were getting me. The declaration is where I tell it to others. Identification is what I know myself.

Q. And that is what you think is the common definition of identification, is it? A. No, I don't think that at all.

Q. Now you are talking down here to a lot of plain people. Do you understand that? A. I do perfectly.

Q. Yes, plain people, and identification means only one thing, the picking out of a person. A. Yes.

Q. Did you ever announce the identification of this defendant? A. I did.

Q. In any court of law before today? A. I did not.

Q. And nobody had any muzzle on you, did they? A. Nobody. But, if you will allow me—

Q. Please answer my question.

Mr. Wilentz: Go ahead, please. Answer the question.

The Witness: I did. Thank you.

Mr. Wilentz: All right.

The Witness: Yes.

Q. And how many times in the past two years— A. What?

Q. —have you been asked concerning "John?" A. I don't—

Q. How many times in the past two years have you been asked by anybody about "John?" A. I didn't count how many times, but—

Q. Numerous, weren't they, thousands? A. Right; right; curiosity seekers.

Q. You wouldn't call Inspector Sullivan of the Police Department of New York a curiosity seeker, would you? A. I didn't tell him pro nor con.

Q. No. A. Or con.

Q. You wouldn't call a judge that sat in the extradition proceedings up in The Bronx a curiosity seeker, would you? A. What do you mean?

Q. Judge Hadding, is that the name? A. I don't know anything about that.

The Reporter: Hammer.

Q. Judge Hammer. Do you know Judge

Hammer of The Bronx? A. Very well, but I wasn't before him.

Q. Well, the State didn't call you, did they? A. (No answer.)

Q. Neither New York State nor Jersey called you, did they? A. You will have to specify when.

Q. When Bruno Richard Hauptmann was on trial for extradition only two or three months ago, in October, in The Bronx, and you, with the secret locked in your heart—you were not called, were you? A. Only by the Jury—under—under—

Q. I am talking about that proceeding—were you called? A. No.

Q. And that proceeding was after you saw Bruno Richard Hauptmann in Greenwich Street and Centre Street? A. To the best of my recollection, yes.

Q. Now, when you decided after the kidnaping that you would like to do something in the way of aiding the Colonel in the recovery of his child, as you have told us— A. Yes, sir.

Q. —that was how many days after the kidnaping? A. That what?

Q. That you decided you would like to aid the Colonel? A. As I recollect it the first of March the baby was taken away; by the 7th of March I had determined to do something to help him and Mrs. Lindbergh to get the baby back, yes.

Q. That was six days after? A. Yes.

Q. During those six days you had never seen the note left in the crib, had you? A. I had not.

Q. During those six days the note, as far as you know with the symbols left in the crib was in the possession of the authorities, right? A. Colonel Lindbergh, I thought, in the possession

of Colonel Lindbergh, was my impression, I had not seen it.

Q. All the notes that were printed in the newspapers were very careful to leave the signature off, weren't they? A. I don't know that.

Q. You didn't see it? A. I didn't notice that.

Q. You had no knowledge of any signature up to the 7th of March? A. I had not.

Q. The little Bronx News— A. The what?

Q. The little Bronx News. A. You mean The Bronx Home News? Yes. 150,000 circulation and over is a pretty good paper.

Q. Are you a stockholder? A. Am I what?

Q. A stockholder? A. No, sir.

Q. Not a part owner? A. No, sir.

Q. But still you have the circulation right at your fingers' tips? A. No, sir. It was the question such as you gave that had been brought out since that made me recollect that I might have made a mistake in sending it to a little Bronx paper; but it wasn't a little Bronx paper. I resent that— Oh—

Q. Well, whether you resent it or not, it is a fact that you knew there was such an association in the United States as the Associated Press, did you not? A. I did.

Q. That reached every town and hamlet in the world, practically? A. I did.

Q. You knew also in the United States there was the United Press? A. I did.

Q. You knew there were other press— A. I did.

Q. —agencies? A. Yes, sir.

Q. Correct? A. Yes, sir.

Q. You knew that for six days the newspapers of the world had printed the fact and the unfortunate fact that Colonel Lindbergh's child had

been taken? A. I did.

Q. Yes. And you decided that you thought you might be able to get in contact with the kidnapers? A. I did.

Q. Was that because of your former contact with ex-convicts and people of the underworld? A. Had nothing to do with it, and I had no associations with ex-convicts. Those stories in the paper were lies.

Q. Then why did you pick out a local Bronx Borough paper, with a circulation of 150,000 with all of New York's six million people to insert your ad? A. Because those papers all led toward one poor miserable fellow that I thought was innocent. His name was Arthur Johnson.

Q. Arthur Johnson never lived in The Bronx? A. He lived at City Island.

Q. On Lamont's yacht. A. On a boat, correct.

Q. Which went sailing up and down? A. Yes, sometimes.

Q. Did you know Red Johnson? A. I did not.

Q. Then why should you, a Doctor of Philosophy, an A.B., a Professor of Fordham, suddenly decide that you would protect Red Johnson, a sailor on a yacht, unless you knew him? A. I'll tell you why: because I always hated to see an underdog, and always gave him a chance throughout my life, and I had heard that Arthur Johnson had nothing to do with it, from many people. I was at that time going in among them and questioning them concerning the probabilities of the case.

Q. What people told you Red Johnson had nothing to do with it? A. A number of sailors. I visited every single shipyard there; went to every sailor that I could find and found out that Arthur Johnson was not that kind of a fellow.

Q. And what would the sailors on City Island,

sailing up and down the Sound, know about the kidnaping in Hopewell? A. They weren't sailors sailing up and down the Sound. They were men in the shipyard, and at the shipyard in City Island, those repairers to the yachts.

Q. And how would they know this inconspicuous Danish deckhand on Lamont's yacht? A. If you will allow me, I will take away the nationality. I never say anything against a nationality.

Q. Well, I will put the nationality in and ask you the question. A. Say it again.

Q. How would they know this inconspicuous Danish deckhand on Lamont's yacht? A. I don't know that he is Danish. I didn't know that he was inconspicuous, judging from the way—judging from his treatment.

Q. Did you learn that he phoned Betty Gow at half past eight the night of the kidnaping? A. I knew that the night of the kidnaping.

Q. How did you know it if you were not in contact with him? A. I will tell you how I knew it. I knew it because it was spread around all through that—

Q. The night of the kidnaping? A. Now your English again—

Q. The night of the kidnaping? Answer the question. That is what you said, the night of the kidnaping. A. Ask your question.

Q. You said you knew that the night of the kidnaping. A. That occurred the night of the kidnaping.

Q. No. You said you knew it the night of the kidnaping. A. Did I say that?

Q. Yes, you did. A. I said that—when you spoke that he, Arthur Johnson, had telephoned to Betty Gow on the night of the kidnaping, but I had never seen, I add it again, I had never seen

Red Johnson, as called, I mean Mr. Arthur Johnson.

Q. Are you in the habit of calling deck hands "Mr. Arthur Johnson" with a bow? A. I am. This was my father's teaching. I never heard of a man 21 years of age that shouldn't be called Mr. in the United States. We have no lords or dukes or earls here.

Q. What about Whateley? A. I don't know what you mean.

Q. You never heard of Whateley, the butler? A. You mean where?

Q. In the Lindbergh home. A. Oh, you must be specific because it is a long time. I heard of a man named Mr. Whateley in Colonel Lindbergh's home.

Q. When did you hear of that? A. Where?

Q. When? A. I heard of that about the 8th of March, 1932.

Q. Now, again, Dr. Jafsie— A. No, no.

Q. I will leave that out. I will come to that in a minute, don't worry. It is in my mind and I am coming around to it. Why do they call you "Jafsie"? A. I will tell you, it is the simplest thing in the world. I was told by men in the secret service, men who in the Department of Justice knew the work, that the word "Jafsie", might carry me through it and the name "Condon" wouldn't. I wasn't ashamed of Condon, but my initials are J. F. C., and if you will repeat them pretty quickly you will find they form the word "Jafsie". Will you do that?

Q. Yes, Jafsie. A. That is right.

Q. Now, let me repeat the other names that come to my mind. You say the kidnaper was known as John? A. Yes, sir.

Q. That is your name too, isn't it? A. Yes, sir.

Q. You are a Doctor of Philosophy and other degrees? A. I have some degrees; I explained that.

Q. And they have been calling you Doc, is that right? A. No. Only some people who could not understand the nature of the degrees.

Q. But they do call you that, those who do not understand? A. Right.

Q. Now, let's go back again, please. A. Yes.

Q. So you decided that because somebody was accusing somebody that you didn't know, never heard of before, a deckhand on the Lamont yacht, by the name of Red Johnson— A. No, Arthur Johnson.

Q. Arthur Johnson? A. Yes.

Q. You ought to come and spring to his assistance by inserting an ad in a local paper in The Bronx: right? A. I didn't say; no, sir—

Q. Isn't that what you said? A. I didn't say that was the chief reason; no, sir. I had some reasons for putting the letter—not an ad then—the ad didn't come first.

Q. All right, a letter in The Bronx News? A. Right; Bronx Home News.

Q. Bronx Home News? A. Right.

Q. Now, of all the big Metropolitan dailies, you didn't bother with them, did you? A. No, sir.

Q. But you put your letter, or your appeal, in The Bronx Home News? A. I did.

Q. Correct? A. Right.

Q. Yes. And didn't you do that because you knew at that time that the kidnaping band were waiting for your letter in that paper? A. No, sir.

Q. Yet within 24 hours after it was published in that little paper, a letter came to you, did it not, from Williamsburgh, Brooklyn, dated March 8th? A. I would like to see that; I didn't recol-

lect that it came from Williamsburgh. May I see that exhibit, please?

Q. I think we will get to it. A. All right.

Mr. Reilly: It is in an envelope there, the second letter. No, you will have to take time out to get these exhibits.

Mr. Large: The jury want to recess.

The Court: What is that? Want to go out?

Mr. Peacock: The jury.

The Court: Would the members of the jury like to retire for a moment: is that your idea?

(The jurors signified affirmation.)

The Court: You may retire in the custody of the officers. Come back just as quickly as you can.

(At 3:11 p. m. a recess was taken.)

(After a short recess.) 3:25 p. m.

The Court: The Clerk may poll the jury.

Be seated, Doctor.

JOHN F. CONDON, resumed the stand.

The Court: The Clerk may poll the jury.

(The Clerk polled the jury and all answered present.)

The Court: The defendant is here. We may now proceed, I think. Is the Attorney General here? The Attorney General is here.

Mr. Wilentz: Yes.

The Court: You may proceed, Mr. Reilly.

Cross Examination (Continued)

By Mr. Reilly:

Q. Doctor, we have been arranging the exhibits. I will go back again. When do you say Johnson's name was first mentioned in the public press in connection with this case? A. As nearly as I can recollect, the first search that was made, when the paper announced that he went through the Holland Tunnel with a milk bottle in his car.

Q. When was that in the paper? A. I don't know, but I saw it in the paper.

Q. Now isn't it a fact that that was in the paper on March 5th? A. I couldn't say that, sir.

Q. You wouldn't say that you read it March 2nd in the paper, would you? A. No, sir.

Q. You wouldn't say you read it March 3rd? A. I don't remember the date, sir.

Q. Well, when did you first develop this keen interest in Johnson? A. Oh—

Q. What date? A. Yes, sir. Around the 7th of March. It may have been the 6th or 7th. I could tell by the calendar of 1932, because it was Sunday night.

Q. I take it that you appreciated that everybody in the house with the exclusion of Colonel and Mrs. Lindbergh were under suspicion? A. No.

Q. You didn't gather that at all from reading the papers? A. I never had the slightest suspicion of anything in their home.

Q. You didn't gather anything at all? A. I gathered nothing of the kind, nor would I entertain it.

Q. Of course, you had never read in all of your vast experience of English butlers not being honest, you?

Mr. Wilentz: I object to that, if your Honor please.

Mr. Reilly: He said he had never entertained any suspicion. I have a right to ask that question.

Mr. Wilentz: Let me make my objection, please. I object to the question, if your Honor please, because it is not material in this cause, and in the second place, because it is not the fact.

Mr. Reilly: It is very material at this point to follow up this question.

Mr. Wilentz: I think it is an improper reflection anyway.

The Court: I am minded to allow the Doctor to answer this single question.

The Witness: Yes. Thank you.

The Court: Repeat the question, please.

(The reporter read the question as follows: "Of course you had never read in all of your vast experience of English butlers not being honest, had you?")

The Witness: I have never heard that honesty applied to any nationality.

By Mr. Reilly:

Q. Will you answer my question? A. I did.
Q. Had you ever heard or read in all your vast experience— A. I did not.
Q. —of English butlers who were not honest? A. I did not.
Q. I do not suppose you ever read in all the time that you lived in the Bronx of the jewel robberies on Long Island of the homes in which English butlers were hired?

Mr. Wilentz: Just a minute. You see, your Honor please, that is the reason for my original objection. It opens up to a field of asking about robberies all over this world, and of course that is far afield and I object.

The Court: I sustain the objection.

Mr. Reilly: I ask for an exception.

The Court: Granted.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Well now, were you in New Rochelle in 1932, Doctor? A. Yes, sir.

Q. Did you give a lecture there in the summer of 1932? A. I gave many. Do you mean the College of New Rochelle?

Q. No, I mean New Rochelle village or township, whatever it is? A. Village, I had a special place to go to give any of my lectures, and inasmuch as I lectured in different places, I would like to know which one of those you mean.

Q. Well, you would pass New Rochelle, wouldn't you, to go to St. Elizabeth's College, where you would go, is that where you lectured? A. I don't recollect ever having heard of St. Elizabeth's College.

Q. Well, did you lecture in the New Rochelle College? A. At the College of New Rochelle, yes, sir.

Q. And you were there during the summer of 1932? A. I assume.

Q. Were you there in the spring of 1932? A. Yes, I know that.

Q. Were you there in March, 1932, is that right? A. Yes, sir.

Q. In one of your visits to New Rochelle in the spring of 1932, did you meet a young lady there? A. Well, I had a woman's class, so I had to meet the young ladies, whether I wished to or not.

Q. This young lady did not belong to the women's class. A. Then, if I met her, if you shall specify, I will tell you.

Q. I will.

Q. Do you recognize this picture, Doctor (showing photograph)? A. At the College of New Rochelle? Oh, oh.

Q. I asked you do you recognize the picture. A. No, I do not recognize the picture.

Mr. Reilly: Referring to—

A. (continuing) Never having seen that person in my life.

Mr. Wilentz: Referring to Exhibit D-3 for Identification.

The Witness: No, I never met her. You don't mind my turning it over, do you?

Mr. Wilentz: Just a minute, please. Now you have answered the question, please, Doctor.

The Witness: All right.

Q. You have no recollection of meeting— A. I never met her in my life.

Q. —the young lady whose picture that is? A. I never met her in my life.

Q. In New Rochelle? A. I never met her in my life.

Q. You meet a great many people in the course of a year, don't you? A. Many.

Q. Now, about March 5th you say you first heard of Johnson's connection with this case, in the newspapers? A. About that time. It might have been the same date, yes, sir.

Q. And what date did you write your letter to the Home News? A. I wrote it on the Sunday nearest to March 5th. Well, it was between March 5th and 6th.

Q. And it was because you— A. Or 6th or 7th.

Q. And it was because you wanted to assist Johnson, is that it? A. No, sir. That was only one of the reasons.

Q. Well, that is one of the reasons you have given, is that right? A. Yes, sir.

Q. Well, without any other reason, was there any other person concerned in your reasons that you wanted to help, who had been falsely, as you claim it, accused? A. Not falsely accused. I wanted to help two more people. That is the answer, yes, sir.

Q. Had they been accused? A. No.

Q. Was there any other person—and again I repeat the question—who had been accused either falsely or unfalsely up to March the 7th that you desired to aid by the writing of your letter? A. No, sir,—except Colonel Lindbergh.

Q. Now, I said— A. Well—

Q. You understand English, professor? A. Very well.

Q. Yes. Well, get this: I said accused justly or unjustly. A. If they were what?

Q. Then you rip out "Except Colonel Lindbergh". You know he was never accused. You understand—

Mr. Wilentz: Now, excuse me. I object to the lecture and the scolding of the witness.

Mr. Reilly: I am not scolding him.

Mr. Wilentz: Just a minute, please.

The Court: Yes. I think we had better proceed in a more even way and let the question be reframed, Mr. Reilly and we will have Dr. Condon answer it.

The Witness: Please, sir.

Q. Was there any other person except Johnson that you desired to aid by your letter which person had either been accused justly or unjustly before March the 7th? A. No, sir.

Q. Now, we understand each other on that. A. Yes, sir.

Q. So that on March 7th you did write a letter to your local paper, is that correct? A. Yes, sir.

Q. And your local paped is published somewhere in the Bronx? A. Yes, sir.

Q. I don't know where it is. It that correct? A. Yes, sir.

Q. You sent no copies of your appeal to any other agency at that time? A. No, nobody except—

Q. Nobody else? A. —the editor of the Home News.

Q. All right. How soon after that did you receive a reply to your personal appeal in the Bronx News? A. About three days, the 7th to the 10th or 11th, as nearly as I can recollect.

Q. Have you any recollection, Doctor, of the date it appeared in the Bronx News? A. If you give me a calendar of 1932, I will make it sure.

Mr. Reilly: I will do this, Doctor, I will ask the Attorney General if the publisher is here. I saw him the other day. He may have a copy in his pocket. We can get it right here.

Mr. Wilentz: What date was it, Mr. Coleman? May I ask him?

Mr. Reilly: Yes, sir.

Mr. Wilentz: Mr. Coleman, what date was it?

Mr. Coleman: The date of the letter was March 7th, 1932.

Mr. Wilentz: Do you want the date of the letter or publication?

The Court: Well, the Attorney General is trying to find something with the consent of the adversary, and if there is no objection to it, he may bring it out.

Mr. Wilentz: Do you want the date of it?

Mr. Reilly: Yes, and let's get the publication of it.

Mr. Coleman: (From the courtroom) Published on March 8th.

Mr. Reilly: Have you a copy of it?

Mr. Coleman: No. I think the New Jersey State Police has it.

Mr. Wilentz: I will get you a copy of it. Written March 7th and published March 8th?

Mr. Coleman: That is right.

By Mr. Reilly:

Q. Is that a weekly paper, Doctor? A. The Home News?

Q. Yes. A. It is a daily paper.

Q. Daily paper? A. Yes, sir.

Q. I asked you before, Doctor, whether or not

you didn't get a reply to your appeal. A. That is it.

Q. In an envelope marked Williamsburg, Brooklyn. A. I do not recollect the mark upon the envelope now. But I could tell you if I saw it.

Q. Did you turn over to the authorities every letter that you received during the ransom negotiations? A. Yes, sir.

Q. And have you seen here in court every letter that you received? A. That I couldn't say, because I received—well, I couldn't say that; I don't know.

Q. Did you keep any record, independent record of the letters that you received and then turned over? A. I never kept any record at all and sometimes I didn't read them.

Q. Well, do you remember getting two letters —A. I could tell you if you showed me them.

Q. I haven't them unfortunately. I am going to ask you about them. A. Excuse me.

Q. Do you remember receiving two letters in the same kind of handwriting as the letters in evidence with the same kind of symbols on them which you did not turn over to the authorities? A. There was no such thing. Every letter that I got without exception with the symbol on was turned over either to Colonel Schwarzkopf, who was working with me, to Captain Oliver of the City of New York, or Inspector Brockman of The Bronx. Everyone to the authorities.

Q. In your appeal, Doctor, to the— A. Do you mean the letter?

Q. No. In your appeal to the— A. Well, what appeal do you mean? The letter to the Home News?

Q. Yes, to the Bronx Home News. A. I didn't make it as that; it was an offer.

Q. All right, as an offer. A. As an offer.

Q. Now did you, because I haven't a copy of it here— A. No, I will tell you.

Q. You see, I am at a little disadvantage. A. I will tell you.

Q. How did you indicate they should communicate with you? A. I will tell you.

Q. By a box number or your name and address? A. No. My name and address, 2974 Decatur Avenue, the Bronx where I lived, and do now.

Mr. Wilentz: All right, Doctor. You have answered the question.

A. All right.

Q. So that, that address being in the appeal printed in the Bronx Home News— A. Yes, sir.

Q. —called naturally for the reply to your home. A. Right.

Q. It that correct? A. Yes, sir.

Q. And now I come down to Exhibit 5, or rather, S-42, and I will ask you again, Doctor to identify that so we can go along in the natural sequence of the letters. A. Yes, sir.

Q. And ask you whether or not—

Mr. Reilly: I think I will have to have your assistance, Mr. Attorney General.

Mr. Wilentz: Yes, sir.

Q. They both came in here, did they? A. The same—

Q. Referring now to— A. The two letters.

Q. S-43— A. Well, I don't know them by the numbers.

Q. That was directed to you and it had inside

a letter, S-44, contained in envelope S-45, which asked that it be delivered to Colonel Lindbergh. A. Right.

Q. And of course you read it? A. Yes, sir.

Q. And you received this—do you recall what day it was? A. Received that?

Q. Yes. A. It was I thought three days after the 7th or very near that, anyway.

Q. Well, your appeal went to the newspaper office on the 7th, is that correct? A. Yes, sir.

Q. Published on the 8th? A. Yes, sir.

Q. And according to this stamp it appears that it was mailed at midnight in New York station March the 9th, is that correct? A. Well, that would make it the 10th; seven and three are ten. I said three days, yes. That is right.

Q. And it is fair to assume from that you received it in the morning mail of the 10th? A. Yes.

Q. The 7th the appeal, the 8th the publication, the 9th the writing, and the 10th the reception? A. Right.

Q. If the kidnaping band were not anticipating something from the Bronx News, didn't you think it strange that the appeal should not be published in the metropolitan dailies? A. No, sir.

Q. And you gave no indication to any agency or metropolitan daily that you had sent the appeal to the Bronx News? A. I did not.

Q. And of course you did not know the kidnapers? A. I did not.

Q. They might just as well have been in Massachusetts— A. Anything.

Q. (continuing) Texas, Mexico or any place? A. Yes.

Q. And yet if they were you expected them to see the Bronx News, did you? A. Yes, sir.

Q. Why? Were they waiting for something from the Bronx News? A. No.

Q. You recall no doubt, Doctor, you will recall as I read this letter, its contents? A. I hope so.

Q. (Reading) "Dear Sir: Mr. Condon may act—" that is the Colonel's, I think. A. No.

Q. I think this is it. A. That isn't the Colonel's.

Mr. Reilly: Is this the Colonel's letter?

Mr. Wilentz: The one with the symbol on is the Colonel's and the one without is to him.

Mr. Reilly: That is it?

Mr. Wilentz: That is it.

Q. This letter which you received in reply to your appeal bears no symbol? A. Let me see it, will you? Thank you, counselor. I remember the letter, that is correct.

Q. It bears no symbol? A. It bears no symbol.

Q. Up to the time you received this letter, Doctor, the symbols had not been printed in the newspaper? A. No, sir.

Q. Nobody in the outside world knew what was on the kidnap note? A. Yes.

Q. Except Colonel Lindbergh? A. And his household.

Q. And his household, and there remained—? A. Right.

Q. And when you received this letter without the symbols— A. Yes, sir.

Q. Which read "Dear Sir: If you are willing to act as go-between in Lindbergh case, please follow strictly instruction. Handle enclosed letter personally to Mr. Lindbergh. It will explain

everything. Don't tell anyone about it. As soon we find out the press or police is notified, everything are—"

Mr. Wilentz: "Cancel."

Q. "—everybody and ourselves—"

Mr. Wilentz: "Everything are cancel."

A. "Cancelled."

Q. "—everything are cancel and it will be a further delay. After you get the money from Mr. Lindbergh—"

Mr. Wilentz: "Put in three words."

Mr. Reilly: No, it isn't "put."

Mr. Wilentz: Do you mind my helping you?

Mr. Reilly: Yes, it isn't "put."

Mr. Wilentz: But these two words—

Q. "—But printer put three words in the New York American, 'Money is ready.'" "Over—"

Mr. Wilentz: "After,"— Oh.

Mr. Reilly: What is it?

Mr. Wilentz: "After that."

Q. "—After that we will give you further instructions what—"

Mr. Wilentz: "Don't be afraid."

Q. "—Don't be afraid; we are not out for your thousand dollars, and keep it. Only act strictly, be at home every night between six and twelve by themselves. You will hear from us."
Right?

Mr. Wilentz: "Six to twelve by this time." A. One moment.

Mr. Wilentz: "Six and twelve; by this time you will hear from us."

Q. Oh, "By this time you will hear from us."

The Witness: One moment. That was enclosed with another letter. Will you let me see whether the other letter had the symbols or not?

Mr. Reilly: We will come to that.

The Witness: Please.

Mr. Wilentz: Will counsel please show the letter as the witness asks, whether there is a question or not?

The Witness: There are two letters involved and it is very important.

The Court: Let him see both.

The Witness: Yes, not halfway.

Mr. Reilly: All right.

(Counsel handed the witness another letter.)

The Witness: Yes, sir, whenever I got that signal, I paid attention to it at once as I was directed.

By Mr. Reilly:

Q. But when you got this letter, the first letter— A. That was inside with that, in my opinion.

Q. Was the Colonel's letter open or closed? A. Closed.

Q. Sealed? A. Sealed.

Q. You did not know anything about any symbols in the Colonel's letter, did you? A. I did.

Q. From this letter? A. From the letter I received at the Colonel's.

Q. I don't think you understand me, Doctor. A. I guess I don't.

Q. This letter came in response to the ad, correct? A. Yes.

Q. It is conceded that it did. A. Yes, but if you will read the contents of it, you will see that it has close connection with the letter with the symbols on it.

Q. I am not interested in that just yet. A. All right, excuse me.

Q. I am only interested in this, in answer to your ad you received this letter directed to you without any symbols. A. I don't say that—

Q. Here they are. A. Let me see the envelope.

Q. There is the envelope, too. A. That writing would make me take notice of it, yes, sir.

Q. Now there are no symbols on that letter, correct? A. Right.

Q. Colonel Lindbergh's letter was sealed? A. Right.

Q. You didn't open it? A. No, sir.

Q. You did go to the telephone? A. That, that—

Q. That night. A. The first letter?

Q. The first letter. A. Yes, sir.

Q. And you called up the Colonel? A. Yes, sir.

Q. And you had a conversation with him? A. That is, I was told it was the Colonel, yes.

Q. And didn't you tell the Colonel then that you had a letter which bore the same symbols as the note left in the nursery? A. I did not know anything—no, sir, I did not know anything about any note left in the nursery until I got the symbols specified. In taking those two points—

Q. Who specified the symbols? A. The man in the letter, whoever wrote it to me, and that had the symbol on the night I telephoned, and I telephoned from that letter in my hand to Colonel Lindbergh.

Q. And you told him you had a letter that had the symbol? A. With the symbols I did.

Q. Right? A. Right.

Q. And the only letter that you had in your hand with the symbols the night you telephoned the Colonel— A. Yes.

Q. —was the letter that came in answer to your ad.? A. If it had the symbols, yes, sir.

Q. Not if it had the symbols. A. That is the only—

Q. You said it had the symbols. A. If it had the symbol, it had it—I wouldn't say so unless it had.

Q. And it was only when you told, wasn't it, Colonel Lindbergh — withdrawn. You didn't

know Colonel Lindbergh before this time? A. I did not.

Q. No. He didn't know you? A. He did not. That is, to my knowledge.

Q. He was being pestered to death, no doubt, by all kinds of cranks? A. He was, yes.

Q. And bugs? A. Sorry to say.

Q. Right? Right? A. Right.

Q. And at first he refused to come to the phone, didn't he? A. No.

Q. At first, didn't somebody else answer the phone? A. Someone else answered the phone but I insisted that the Colonel come to the phone.

Q. And when the Colonel came to the phone didn't you tell the Colonel, "I have a letter with the same symbols on it as the note left in the nursery, and didn't the Colonel say, "If you have come out?" A. No, sir. This is what I said. I said, "Colonel, I do not know whether this is important or not, but there are what I might call a secantal circle, that is, one circle cutting in the other, the same as a secant cuts through a circle, and I said, "Is it important? Shall I bring it down to you?" And he said to me, "I will get the automobile and come up to you. Where are you?" I am in The Bronx, but you don't have to. You have enough to do and I will come down to you, to Hopewell." That was my exact answer by telephone. I hope you can verify it.

Q. And when you got down there did you see the ransom note? A. When I got down there I did not see the ransom note.

Q. When did you first see the ransom note? A. I first saw the ransom note when it was sent to me by mail.

Q. I mean the original nursery ransom note.

A. I didn't see that at all until recently, maybe a couple of months ago.

Q. It was never exhibited to you at all? A. Never exhibited to me at all, only spoken of by the Colonel who sits—

Q. Even when you brought this down? A. When I brought that down I did not compare it. No, I didn't compare it.

Q. I show you now what is popularly known as the nursery note, Exhibit S—doesn't appear to be marked. A. No.

Mr. Wilentz: It is in evidence, S-18.

Mr. Reilly: S-18.

Q. And I show you S-43. I will ask you to look at the symbols on the bottom of each. A. Yes. (Examines notes.) Yes, sir.

Q. They are practically the same, aren't they? A. No, sir.

Q. The symbols? A. No, sir, they are not. If the circles were concentric circles and placed there, the red dot wouldn't be outside the first circle that is made on the right side. It is entirely out there. They are not the same symbols, sir.

Q. One is an imitation of the other, isn't it? A. Well, a very poor imitation.

Q. A very poor imitation? A. I think so.

Q. Very poor imitation? A. Yes.

Q. That is your opinion? A. That is all.

Q. As a man of the world? A. You ask that?

Q. Yes. A. Yes.

Q. And I am asking whether or not it is your opinion as a man of the world, of the years you are and experience you have had and school and college— A. Yes.

Q. —that they are not alike, the symbols are not alike? A. Well—

Q. One is a poor imitation of the other? A. One is a poor imitation of the other. I do—

Mr. Wilentz: That is what I object to, sir.

Mr. Reilly: Repeatedly throughout that letter they say, "We this" and "us" and so forth.

The Court: I suppose, Mr. Reilly, the letter speaks for itself.

Mr. Reilly: I am asking the impression he gathered.

The Witness: My impression—

Mr. Wilentz: Just a minute. I think, your Honor please, if we are going to be permitted, not that this particular question has any significance, but the difficulty about these questions about impressions and convictions and conclusions is that once the door is opened, it is very difficult to tell when to stop. I object to it for that reason, if your Honor please, that it calls for a conclusion and therefore is not admissible.

Mr. Reilly: I think it is proper cross examination. We are here charged solely and individually as the prime mover and the only mover, and now here come letters, we and us, and conversations with John in which he says that "The Chief will slap me down" or something like that, "I couldn't

do this and I couldn't do that." I want to show by continuity of witnesses that it was always their impression and always their belief that many people were interested in this kidnaping and I believe I have a right to bring it out by cross examination.

Mr. Wilentz: May I suggest at this time, your Honor please, that we are not concerned about the impression whether there were more than one, but actually what the fact was. Our charge is that he did this killing. Whether he was assisted by others or whether he was not is not material to this cause except to the evidence that comes here. The question before the Court, however, is, what this man's impression is from a letter which speaks for itself, his impression from that letter as your Honor can readily see, may be different from somebody's else.

If we were to permit impressions and we felt that his impression was different from ours, why, we might then start calling a flock of witnesses to tell each impression. I think, if your Honor please, it is going far afield. It opens the door to what I believe to be admissible evidence, and therefore I object to it.

Mr. Reilly: The doctor on direct examination was allowed to testify freely as to everything that was in his mind without any objection from us. We allowed him to do that so we would be in a position to cross-examine him—we believe in cross-ex-

amination—and we feel quite sure it will not be limited by your Honor.

The Court: I think I will sustain the objection, Mr. Reilly.

The Court: You may have an exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Now, you will notice from the letter, Doctor, you hold in your hand, and which you are reading, that they used the word "we." A. They did.

Q. How many times? A. I will count it (Witness examines paper) As I glance over it quickly, I make "we" four times.

Q. That is referring to Exhibit S-44. A. Yes.

Q. Did Colonel Lindbergh, after he opened this letter, allow you to read it, the letter you took down to Hopewell that night, Exhibit S-43, in this envelope, Exhibit S-45? A. Let me see it (Witness is given envelope by Mr. Reilly and examines it). Did he let me read this?

Q. Yes, in Hopewell. A. This is the part that was written to me. I opened this and read this. You have Colonel Lindbergh's envelope and my letter. I would like to have it congruous at least.

Mr. Reilly: Now, will the Attorney General stipulate that I have handed this witness the letter contained in the envelope addressed to Colonel Lindbergh?

Mr. Wilentz: My understanding is that this letter, with the other letter—

The Witness: Right.

Mr. Wilentz: —that counsel, just had, together with this envelope—

The Witness: Right.

Mr. Wilentz: —altogether came at one time as the first communication in Exhibit S-42. In other words, two notes and a little envelope enclosed in S-42, the envelope dated March 9th; as to which one of those pieces came in the envelope here, S-45, I do not know; I imagine it was this (indicating).

Mr. Reilly: Well, I want you to look, Colonel—or General—right while you are here. The testimony is—

Mr. Wilentz: I don't know whether I am being demoted or not, if your Honor please.

Mr. Reilly: Did I make a Colonel out of you then?

Mr. Wilentz: You made a Colonel out of me (Laughter.)

Mr. Reilly: The letter which I hold in my hand, Exhibit S-43, is address "Dear Sir." The testimony has been, if the Court please, that that was contained in this envelope, addressed to "Mr. Colonel Lindbergh, Hopewell, New Jersey," that

this witness, after receiving this letter, which says "Dear Sir, if you are willing to act as go-between," all of which was enclosed in the large envelope—

Mr. Wilentz: Here it is; here it is (producing).

Mr. Reilly: —that when this large envelope was opened by Dr. Condon, he found this letter addressed to himself, that he found an envelope sealed, which contained a letter addressed to Colonel Lindbergh, which bore upon it the ransom signature; that he took that letter, sealed, to Colonel Lindbergh's home that night, where the Colonel opened it in his own library.

The Witness: Not in the library.

By Mr. Reilly:

Q. In some part of the house? A. In the bedroom.

Q. All right, in the bedroom? A. Yes.

Q. And then when I show you the letter that was sealed in the envelope, addressed to the Colonel, you accuse me of giving you and handing you the wrong letter, don't you? A. No.

Q. You didn't a minute ago? A. No.

Mr. Reilly: Will you consent—

The Witness: I accused you of handing me an envelope addressed to Colonel Lindbergh and a note addressed to me. You will find my name on one of those notes.

Q. But the letter I handed you— A. Yes.

Q. —at that time, in answer to the question you made— A. Yes.

Q. —was Exhibit S-43. A. That is the one.

Q. In envelope S-45. A. Yes.

Q. And it has nothing to do with you at all; it was a letter— A. I beg your pardon.

Q. Look at it again then.

Mr. Wilentz: Why don't you show him the whole communication.

A. That is right. Here is my name upon this letter, "Mr. Condon."

Q. Quite true. Now, is this the letter you delivered to Colonel Lindbergh in Hopewell? A. I couldn't say that just now.

Q. Don't you remember? A. No.

Q. All right. Let me take that away from you. A. Yes. (Handing paper to examining counsel.)

Q. With the General standing right here. A. With my name on?

Mr. Wilentz: Would you rather have me stand back?

Mr. Reilly: No, I want you right here.

Q. Now, is that the letter—Colonel, those titles! —Is that the letter you showed Colonel Lindbergh in his bedroom? A. No, sir.

Q. Now, once more I must ask you— A. The letter I showed him had the sign.

Q. To have the record correct— A. Yes, sir.

Mr. Wilentz: What was the answer? "The letter I showed him," what?

The Reporter: "The letter I showed him had the sign."

The Witness: The letter I showed him had the symbol.

Q. I hand you now the envelope. A. Yes, sir.
Q. Is that the way, without its opening, is that the way you received it in the mail? A. Yes, sir.
Q. And are those the enclosures that were in it? A. Yes, sir.
Q. Will you look, please? A. Yes, sir, I will see.

Mr. Reilly: And I think the gentlemen will concede that those are the two.

Mr. Wilentz: May I at this point suggest that after all the witness is just a little older than Mr. Reilly and myself, and if he is tired, may I ask if the Court would like to take a little recess?

The Witness: Not for me. Let them go right on. All night.

Mr. Wilentz: Very well, sir.

The Witness: I don't recollect having shown to Colonel Lindbergh or read to Colonel Lindbergh this letter. The letter that I telephoned had the sign on it—

Mr. Wilentz: Referring to S-44.

The Witness: —the symbol. The letter I read to him at the telephone or from the telephone, had the symbol on it.

By Mr. Reilly:

Q. Well Doctor, I am only showing you the letter that was offered this morning in evidence by the Attorney General of this State. A. Yes, sir.

Q. As coming from this envelope which had been addressed to you. A. Yes, sir.

Q. I know nothing about these. You say now, do you, that your recollection is that the letter you showed to the Colonel was the letter with the signature, is that correct? A. Yes, sir.

Q. I asked you before—possibly you didn't understand me—if in addition to this letter which you showed the Colonel in Hopewell— A. Yes, sir.

Q. And that was contained in this envelope—was it not? A. Yes, sir.

Q. And sealed? A. Yes, sir.

Q. When you handed to the Colonel? A. Yes, sir.

Q. Did you receive— A. Excuse me.

Q. Yes. A. That I couldn't state for this reason: I did not telephone to Colonel Lindbergh until I saw the symbol. Now I could not see the symbol on that letter, so I couldn't telephone the symbol to him.

Q. Yes. A. I described the symbol over the telephone to the Colonel and asked him if it was important and he said, "Yes, it is important." This I think is relevant. And he said, "If you wish, I will come up to see you. Where are you?" "At the Bronx. No, Colonel, you have enough to do. I will come down there." "When?" "Now." And I started within a reasonable time after that with a letter with the symbol on it.

Q. Well, then, that is just what I asked you ten minutes ago. A. That is what I wanted to—

Q. Whether or not when you phoned Colonel Lindbergh you did not tell him over the telephone you had a letter that had a symbol on it? A. I did.

Q. And up to that time there had been no publication of the symbol, had there? A. I think not.

Q. And, when the Colonel heard that you had what corresponded to his nursery note— A. That part I didn't know.

Q. All right. —he asked you to come down or else he said he would meet you? A. That is right.

Q. He said it was important? A. Right.

Q. When you asked him about the signature? A. Right.

Q. Correct? A. Right.

Q. So that it was the signature on the letter that made it important enough for the Colonel to see you that night? A. I believe so.

Q. Well, now, then you again agree that this is the envelope that you received through the mails (Handing witness an envelope.) That this is the letter that was addressed to you (Handing witness a paper.) That this is the letter that has the signature (Handing witness another paper.) And that is the envelope that it was in (Handing witness an envelope.) A. I do.

Q. So that up to that time, up to the time you phoned the Colonel that you had a letter with the symbol on it, as far as you know, you were the only person, after the Colonel answered you, in the general public that knew anything about the symbol? A. No, that is not true.

Q. Who else? A. Rosenhain, the proprietor of the restaurant at 188th Street and Concourse, and Milton Gaglio.

Q. Had you shown them the symbol? A. I had

shown Mr. Rosenhain the symbols and Mr. Gaglio offered his car.

Q. All right. A. Thinking it was important to come— Pardon me.

Q. But, they had not been out of the store from the time that you showed them the symbol until you had all started for Hopewell? A. Yes, they had to get the car.

Q. They didn't communicate with anybody, so far as you know? A. Not that I know, that I know of, no.

Q. Now, when you went down with this note, with the symbol on it— A. Yes, sir.

Q. —to the Colonel's home— A. Yes, sir.

Q. —you remained overnight? A. I did.

Q. And you came back some time the next day, am I correct? A. In the afternoon of that date to deliver a lecture.

Q. Yes? A. Yes.

Q. And, do you recall now the date of the next letter? A. No, not exactly the date, but I could tell you if I received it if you show it to me. Dates mean nothing to me as such.

Q. Can you tell us, Doctor, who it was received the first reply when the mail was delivered at your home? A. What do you mean, at my own house?

Q. At your own house. A. I can't, because we have a letterbox and the letterman puts a letter in the box. No, I couldn't tell you that.

Q. Then it is emptied by the family and placed by the Tiffany clock? A. It was emptied by me and this first letter was by the Tiffany clock, yes.

Q. When you came home about half past ten in the evening? A. A little after ten o'clock, yes.

Q. It does not appear, Doctor, by anything that is indicated upon the envelope of Exhibit S-48— S-47 is the envelope and S-48 is the letter—just when you received that letter, and I ask you if

you will search your recollection after reading the letter and see if you can tell me about when you received it. A. (The witness examines letter.) I received that letter as nearly March 12th as I can possibly remember, yes, March the—yes; March the 12th. That did not come by mail.

Q. No, that came to your house, didn't it? A. Yes, sir.

Q. By messenger? A. Yes, sir.

Q. Now, between the receipt of the letter—A. This one?

Q. No. The letter that you took to Hopewell. A. Oh, yes.

Q. And this particular letter which I have shown you— A. Yes.

Q. —delivered March 12th— A. Yes.

Q. —did you do anything in connection with the instructions contained in the first two letters, the first letter to you and the first letter to Colonel Lindbergh that you delivered to him? A. Yes. When I went down to the Colonel's house I went upstairs and the Colonel and Colonel Breckinridge were there at Hopewell.

Q. Well, I mean after you left Hopewell; after you left Hopewell. A. Well, that is—

Q. When you came back the next day? A. I went over the instructions and then Colonel Breckinridge asked if he might carry on the work that he thought I had started by means of the letter. I said, "Here is the house. Come on up and take it; it is yours."

Q. In your house? A. Yes, sir.

Q. Colonel Breckinridge lived up at your house about a month, didn't he? A. Not then. He hadn't started to live there then.

Q. Well, when you told him, "Come on, the house is yours—" A. Yes.

Q. When was that? A. That was at the time

that I received this letter, about. I had gone down to Hopewell first, had never seen him before, that I recollect, nor had I seen the Colonel. But after that we struck up a sort of an acquaintance, and perhaps a friendship, a lasting friendship.

Q. And I have it, it is fair to assume, that between the receipt of the letter you took to Hopewell— A. Yes.

Q. —and the receipt of the letter of March 12th— A. Yes.

Q. —you didn't do anything? A. Oh, yes.

Q. What did you do? A. Oh, yes.

Q. What did you do? A. I planned every single thing that I could in order to get Colonel Lindbergh's baby back to its mother.

Q. Did you do anything? Did you go any place? A. Yes.

Q. Where did you go? A. Every place that I got any kind of a lead, and among them was up to City Island.

Q. You had a boat house there once, didn't you? A. A shack, if you would allow me to tell you; I had a shack.

Q. That is more or less of an Irish term, isn't it, a "shack"? A. No, that is a United States of America, fine term—the shack in the woods, the shack of the miner. Oh, that is a common term.

Q. Isn't there a shack in the County Athlone? A. Right. You turn it over to the Irish part, with which I am familiar.

Q. I thought that is where you got the word shack from? A. No, sir, I was born in this country the same as you.

Mr. Wilentz: All right, Doctor.

Q. We are not asking you about your country of birth. I am asking you about the shack. Was it big enough to live in or was it a boathouse or

what? A. No, sir. It was just one room and a partial attic pointed as I heard one Irishman say, "The roof took in half the room."

Q. When did you have it? A. Oh, since—I have it still. It is mine for the time being. 1916 to the nearest recollection.

Q. You went back to City Island? A. What do you mean went back.

Q. Between the receipt of the first and second letters. A. Every summer for 35 years.

Q. I am talking about those days between March 8th or 9th—I take it your trip down to Hopewell was when, the 9th or 10th? A. It was at least the 9th. That is near it, the 9th or 10th.

Q. Would you say you received the letter in the morning? A. What morning?

Q. Of the 9th? A. And what letter?

Q. The first letter, the big one we have been looking at. A. I didn't get it until after ten o'clock that night because I wasn't home; if you mean the one with the symbols on that I took down to the Colonel.

Q. That is what I mean; that is what I am talking about. A. Yes, sir.

Q. Now, you came back when? The 10th? A. Back where?

Q. To your home. A. To my home—

Q. For that lecture. A. I came back the next day at about half past one, in order to be at my lecture at four o'clock in the city.

Q. Can you give me the date of that? A. The date?

Q. The date. A. The 10th or 11th, about.

Q. Now you said between the receipt and delivery of the Colonel's letter to Hopewell and the receipt of the letter by messenger on the 12th of March to your home, you had gone to City Island. A. I had gone to City Island?

Q. Yes. A. You say between the receipt of that letter and—?

Q. That is what I asked you. A. Did you?

Q. And that was your answer.

Mr. Wilentz: I don't recollect it.

A. No, I didn't answer that. Read the record. I don't think so, because I don't remember now.

Mr. Wilentz: Just a minute.

The Court: The witness was saying that he was busying himself trying to help Colonel Lindbergh bring his baby back.

The Witness: That is right.

Mr. Reilly: That is right.

The Court: You then put a question to him as to what was the nature of this work that he was doing.

Mr. Reilly: That is right.

The Court: And he then said that amongst other things he went to City Island.

Mr. Reilly: Yes, but— Pardon me.

The Court: And then the examination broke off if I recollect it; and why not take it up from that point?

Mr. Reilly: All right.

Q. Did you go to City Island between the time you came back from Colonel Lindbergh's home about March 10th and the receipt of the second letter at your house March 12th? A. As I feel now, I am not sure.

Q. Well, can you recall any place you did go? A. Up to March 12th?

Q. Yes, between the 8th and 9th of March and March 12th? A. Only to my lectures, that is all.

Q. Now, when you received State's Exhibits 47 and 48, the letter that was delivered at your house, which letter I will hand to you, where did you go? (Handing letter to witness.) A. What date was this, sir?

Q. March 12th. A. Oh, yes. (Witness examines letter and envelope.) That was March 12th delivered to me by messenger, to my front door.

Q. The question, Doctor, was after you received it, where did you go? A. After I received it, I went to a frankfurter stand at the end of the elevated structure on Jerome Avenue, west side, frankfurter stand north of that station.

Q. Now, will you be good enough to take the same letter and count the "we's" in that. A. Yes, sir. I only make two out so far, as I read quickly over it. Do you want me to go over it again? I see two at a glance, the word "we" twice. Do you see any more?

Q. And this letter, Doctor, said, "We trust you." A. Yes.

Q. "But we will not come in your house. It is too danger." A. Too dangerous.

Q. "Even you cannot know if police or secret service is watching you. Follow this instruction. Take your car and drive to the last subway station from Jerome Avenue line. Correct? A. Right.

Q. When you took the car to drive to the last

station of the Jerome Avenue line, were you accompanied by any police? A. No, sir.

Q. No secret service men? A. No, sir.

Q. No officials? A. No, sir.

Q. When you got to 100 feet from the last station on the left hand side, the empty frankfurter stand— A. If you will just as leave put it north of that station.

Q. What? A. Put it 100 feet north of that station. The last elevated pillar, I think it was.

Q. Do you think the 100 feet north from the last station should be in this letter? A. Not in the letter, no.

Q. Well, I am reading the letter. A. Go on. Read that again, please, and I will show you what I am after.

Q. "Take a car, drive to the last subway station from Jerome Avenue line 100 feet from the last station on the left side is an empty frankfurter stand—" A. That is right.

Q. "—with a big open porch around—" A. That is right.

Q. "—you will find a notice in the center of the porch—" A. A notice? No.

Mr. Wilentz: Just a minute, please. Let counsel reading the letter.

The Witness: Yes, sure.

Q. "—you will find a notice in the center of the porch underneath the stone. This notice will tell you where to find us." Is that correct? A. Right.

Q. Now, who did you go to that frankfurter stand with? A. With Alfred J. Reich who was at my house at the time.

Q. And when you arrived at the frankfurter

stand did you get out of the car? A. I did.

Q. And Reich remained inside? A. He did.

Q. What time of the night was that? A. A rough guess quarter past eight, a little later.

Q. Had you ever seen that frankfurter stand before? A. Never noticed it before. I might have seen it, glanced at it passing by.

Q. Were you familiar at that time with that neighborhood? A. I am familiar with all the neighborhoods in the Bronx.

Q. Well, I am asking about— A. Yes, sir.

Q. —this particular neighborhood. A. Yes, sir.

Q. You knew there was a frankfurter stand there? A. I did not.

Q. You knew there was a Jerome Avenue station? A. I did.

Q. You knew it was the last station on the line? A. I did.

Q. How far away from the frankfurter stand did Reich stop his car? A. Right in front of it.

Q. And when you went into the space in front of the frankfurter stand, was it where the shelves are? A. No shelves.

Q. Well, what was there? A. Nothing at all, except a little railing in front of it, something about that height (indicating rail in front of jury). And then an opening without any gate. I walked right in that entrance.

Q. You walked right into that opening? A. Yes, sir.

Q. That is what they called the big open porch around, is that right? A. I suppose. It had an open porch.

Q. How large a stone was there? A. Well, I didn't measure it. I took it off and—

Q. Was it a paving stone? A. No. If you know what the Irish call a paver, that is what it is. The Irish have the word paver in two sections;

one is the nails in an Irishman's boots on which he slides, and the other is the same as we have our pavement or—

Q. That is the rock he throws when he goes to a party? A. Right, right, on a pleasant party; right.

Q. That would be about as large as your fist, Doctor? A. Larger.

Q. Larger than that? A. Yes, sir; it couldn't fit in my fist.

Q. Did you take the rock away with you? A. No, sir; I took it off the note only.

Q. Did you take the rock and show it to Reich? A. I did not.

Q. Did you pick the note up very carefully so as to preserve any fingerprints that might be on it? A. I did not.

Q. Weren't you ever instructed that was the way to handle these notes? A. I was not; I didn't think anything of the kind, fingerprints or anything else.

Q. Was it in an envelope, the note? A. Yes.

Q. It was not only in an envelope, but it was in an envelope addressed to you ready for mailing, wasn't it? A. No, no stamp on it as I see it.

Q. No stamp? A. No, right. If you will let me see it, I will tell you.

Q. Everything on it but the stamp: correct? A. I think so. I received that envelope. May I look at it?

Q. Surely. A. I don't know what my rights here are yet.

Q. You have all the rights in the world. A. Will you pardon my finger marks on it? That is the letter that I received on that night, picked it up on the frankfurter stand underneath that stone.

Q. Now, of course on March 12th— A. That was the night.

Q. It is indicated on this letter that was delivered by messenger. A. Right.

Q. Which says, "After three-quarters of an hour be on the place and bring the money with you." You were not able to bring the money that night, were you? A. I was not.

Q. You did not have the money that night? A. I didn't.

Mr. Reilly: Now, before going into this next letter, may we adjourn?

The Witness: Let them go on.

The Court: I remind the people in the audience of what I said at the noon recess. I want everybody to remain just as they are for just a minute or two. It won't be long. The jury may now retire.

(The jury retired.)

The Court: Let the jury pass out as quickly as they can reasonably.

The jury is to be returned here tomorrow morning at ten o'clock.

Now, then, I will ask the people who are crowding in upon the aisles here to make way so that the defendant and the officers accompanying them may retire. Just make a little room here. The defendant is now remanded to the custody of the Sheriff.

Now, the Court will take a recess until ten o'clock tomorrow morning.

The Witness: Do you want me, Judge?

The Court: Ten o'clock.

The Witness: All right.

(At 4:31 p. m. an adjournment was taken until tomorrow morning, Thursday, January 10, 1935, at ten o'clock.)

STATE vs. HAUPTMANN.

FLEMINGTON, N. J., January 10, 1935.

SEVENTH DAY.

Present:
Hon. Thomas W. Trenchard.

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

The Court: You may open the court.

(The jury is polled and all jurors answer present.)

The Court: Counsel may proceed.

Mr. Wilentz: Dr. Condon, will you please take the stand.

JOHN F. CONDON resumed the stand.

Cross-Examination (continued).

By Mr. Reilly:

Mr. Wilentz: Is there any objection to having the lights on this morning, if your Honor please?

The Court: Not at all. Will the officers turn the lights on.

Q. I think, Doctor, when we adjourned yesterday we were discussing a note found under a rock. A. Where?

Q. I am handing you, Doctor, Exhibit S-47 and S-48, the envelope and the letter delivered at your house, I believe you testified yesterday, March 12th. A. May I open it?

Q. Yes. A. I received that note on March 12th.

Q. And in response to the contents of this note, I think you testified yesterday that you did go to a hundred feet from the last station on the left side beyond Jerome Avenue, where there was an empty frankfurter stand with a big open porch? A. Right.

Q. And found this note, Exhibit S-51, enclosed in this envelope (indicating)? A. I received that letter at that frankfurter stand on that night. May I look at the envelope?

Q. Certainly. Anything, Doctor. A. Thank you. Thank you. (Examines envelope.) Yes, sir. I received that. I picked that note up.

Q. From under the rock. Now Doctor, you notice that the note picked up from under the rock bears no symbols, is that correct? A. Right, merely stamps; right.

Q. And it also was enclosed in an envelope addressed as though ready for mailing—that is, your name and your address in the Bronx? A. Well, yes, sir.

Q. Now will you describe again, Doctor, your trip from your house to the Jerome Avenue subway

station? A. After the original note about which you spoke— may I see that again?

Q. Yes. A. —came to the house I asked Mr. Alfred J. Reich if he would go with me to carry out the directions as being placed— Oh, excuse me; right. This one had the symbols on before I moved. Pardon me for that. I will try not to bother you today.

Q. That is all right, Doctor. Now, when you arrived in the neighborhood of Jerome Avenue subway station, Doctor— A. Yes, sir.

Q. —where was the first place you stopped? A. In front of the frankfurter stand described in that letter with the symbols.

Q. And that is shown on Exhibit—

Mr. Wilentz: What is the number of the exhibit? The photograph you mean?

Mr. Reilly: Yes, the photograph of the frankfurter stand.

Q. Doctor, could you tell us about how far the frankfurter stand was from the entrance to the subway? A. One hundred to 150 feet, about.

Q. What time of night was that? A. Between a quarter of eight and half past eight, as nearly as I can recollect; between a quarter of eight and half past eight.

Q. Doctor, would the subway station be in the direction to the left or to the right? A. No, it couldn't be to the left. (Referring to photograph.)

Q. Was it to the right, then? A. That is Van Cortlandt Park.

Q. Yes. A. It could be to the south. Will you stick to the points of the compass, please. I know better that way than by left and right, on account of the perspective of that photograph.

Q. It would not be behind this? A. It could not.

Q. It would be the other side? A. What is the statement?

Q. The other side across the street from the subway station? A. No. This is the entrance to the frankfurter stand.

Q. Correct. A. Now, as I am facing that, I am facing west or in a westerly direction, the surveyors make that difference. In going to what you call the left or in a southerly direction is the last elevated station spoken of in the letter, which bears those symbols.

Q. To the left of the frankfurter stand? A. Not to the left, it couldn't be, sir.

Q. As you faced the frankfurter stand? A. I faced the frankfurter stand?

Q. As I am facing this photograph now? A. Yes, sir.

Q. Would the subway station be to my left or to my right? A. Neither, because there is an angle there in that park which has since been fenced up with an iron fence.

Q. Would it be in the left direction? A. Now will you face that way and I will—

Q. Yes (Mr. Reilly faces with his back to Dr. Condon). A. Now, if that is west that you are facing now, it may be to your left or not, but it is in a southerly direction. If you point with your left hand to south (Mr. Reilly holds out his left hand at right angles)— not quite, no, it is over this way farther. (Mr. Reilly swings his hand in front of him.)

Q. That way? A. No, that is the park over this way; to the left.

Q. The other way— stop me when I swing. (Mr. Reilly slowly swings his arm back to the right angle position.) A. More, more, there, whoa. There, there is the elevated structure.

Q. One hundred feet, Doctor? A. Maybe 150, I didn't measure it.

Q. Well, that is all right, your best recollection. How long were you standing in front of the frankfurter stand before anything happened? A. I didn't stand in front of the frankfurter stand before something did happen. I walked from the car over to the frankfurter stand. I didn't stand in front of it at all.

Q. Did you see anybody around there? A. I, yes, I saw in this southerly direction that I speak to you about, and about south, southwest— do you know the points of the compass?

Q. (Mr. Reilly bows his head.) A. All right.

Q. We are both sailors, I take it. A. Now I saw an automobile and it seemed to me that somebody was in that automobile. Does that answer your question?

Q. How far away was that? A. Maybe, rough guess, forty feet.

Q. Was there anything to indicate to you that anybody in that automobile wanted to attract your attention? A. Nothing whatever.

Q. How many people in the automobile would you say? A. I only saw one sticking out, his head out, in the front.

Q. Now, was there anything else, or was there any other person in that neighborhood at that time that attracted your attention? A. Yes, sir.

Q. All right. Tell us about that? A. There was another automobile which seemed to be a country automobile. It had a canvass covering. I was exceedingly careful while I was investigating and I noticed that that was a sort of country automobile; that is, it was not one of these polished automobiles that we see in the City of New York, for instance, and in Flemington.

Q. How far away was that from you? A.

Across the way. I should judge the road is at least a hundred feet road, but I saw the automobile.

Q. Was the lighting good there that night? A. Splendid.

Q. Did you take the number of the automobile? A. I did not, because I was sideways or catercornered to it. I couldn't see any number there.

Q. But you didn't stroll over in that direction and take the number of either automobile, did you? A. No, sir; I got into the automobile from the frankfurter stand and went on riding.

Q. But you were investigating carefully, weren't you? A. I was, very.

Q. Well, why didn't you take the number of these two machines? A. It didn't affect me at all. I had what I went after, which was the note.

Q. That was all you cared about, the note? A. That is all. Following instructions.

Q. Then the note said, "Across the street and follow the fence—" A. Say that again. I think it said "Cross."

Q. "Cross the street." A. Yes, that is right.

Q. "And follow the fence from the cemetery—" A. Right.

Q. "—direction to 233rd Street." A. Right.

Q. What cemetery was that: Woodlawn? A. Woodlawn Cemetery.

Q. And was Woodlawn Cemetery directly across the street from the frankfurter stand? A. It is and was.

Q. Now, in crossing, did you cross the street then? A. I did not. I got into the automobile there because I didn't know what I'd see or notice and went with Mr. Reich in that automobile, that is, I accompanied him. He was at the wheel.

Q. Yes. Did you pass the two cars? A. No, sir; because the one car, the first to which I referred,

was in a southerly direction from me. I did not have to pass that.

Q. And when you arrived at Woodlawn Cemetery gate—is that correct—you did get there? A. You mean near 233d Street?

Q. Yes. A. Yes, sir. Because there are many gates.

Q. Now, this plaza that you spoke of yesterday. A. Yes, a little park or plaza.

Q. Woodlawn Cemetery runs about how many city blocks on that side? A. Well, I will just have to map those out now, I never measured it or surveyed it.

Q. Approximately? A. Approximately?

Q. Yes. A. I should suggest, it is pretty hard—close on to half a mile—880 feet, close on to that. Eight hundred and eighty yards. Eight hundred and eighty yards.

Q. Half a mile? A. Four hundred and forty is a quarter and 220 an eighth. Yes.

Q. The 880 feet you are referring to— A. Eight hundred and eighty yards, a half a mile, I think, yes.

Q. On what street is that? A. It is on what is called Jerome Avenue. There is no street. The cemetery occupies it. It doesn't run, it occupies that space.

Q. There is a large fence around the cemetery, is that correct? A. Large?

Q. High. A. Right. Metallic, I don't know whether it is iron or steel.

Q. About nine feet high? A. That is a little high, I think, but near it.

Q. Between eight and nine feet? A. So people cannot get over.

Q. The top of the cemetery fence is iron prongs, is that correct? A. It is pretty dangerous climbing.

Q. It is spikes? A. Right.

Q. And in the cemetery there are guards? A. Are what?

Q. Guards. A. Guard, but I didn't think there were guards.

Q. Did you ever see any guards? A. I did.

Q. How many? A. One.

Q. Where? A. Near 233d Street, maybe 50 or 60 feet south of 233d Street inside the iron gate.

Q. That night? A. On that night.

Q. At that time? A. No, a little after.

Q. While you were talking to the man through the gate? A. While I was talking, I was on the outside and he was on the inside of the gate, and while I was talking to him, I was attracted by a noise—there was a little foliage or set of bushes there which have since been changed.

Q. Did you see the guard? A. I did.

Q. Describe him, please? A. Describe him? It was rather dark there and all that I could tell about him would be that he was Riehl. That is his name. Excuse me, that is his name, and of German extraction because I spoke to him; and a rather stout man —I would call it portly—a heavyweight.

Q. Did you talk to him that night? A. I did.

Q. Before or after you talked to this other man? A. After I talked to that man. He addressed me first.

Q. The guard came up to the inside of the gate, did he? A. He came to the inside of the gate, yes, sir.

Q. Was that after you say this man had climbed over this nine-foot gate? A. Yes, sir.

Q. Now the gates at the place which lead into the cemetery are much higher, are they not, than the gates on the side of the cemetery, or the fence on the side of the cemetery? A. In my opinion they are graded, that is, they go in a triangular direction— no, in an angular direction. I should judge

the angle formed from the horizontal bar on top of the fence would be about 30 degrees, or 40 degrees. That is, from the actual height of the fence along Jerome Avenue that we drove by to this spot in front of the gate at 233d Street, or near it, there is an angle there reaching to two high pillars— have I made that plain?

Q. (Mr. Reilly nods.) A. Thank you.

Q. And this man eventually, you say, climbed up the inside? A. In turner fashion— do you know what I mean "in turner fashion"?— people climb in two ways, one of them is by drawing the body up— and people in here know— and then alternating. They do not take their two hands and draw up. You can tell a palooka— I think the word is they call them—

Q. What? A. I think they call them, I think they call them in the press, the word "palooka." I I don't know the meaning of that word, they call it a "palooka" if he does not act with grace.

Q. I suppose you mean, Doctor, hand over hand, is that what you mean? A. No, because the bars are so placed that he could hardly climb hand over hand. The rope climbing you refer to— I don't refer to that, sir.

Q. Well, did he come up on one bar or two bars? A. He came up on two bars.

Q. Two bars? A. Yes, sir.

Q. Gripping one, then gripping the other, coming up? A. Right; alternating.

Q. What did he do when he got to the top of this fence with the iron spikes? A. There is between the top of that fence and the lower part of that fence a row of those spikes again to keep the bars first firm, because they need to have those firm on those gates.

Q. Where was the guard when this man was com-

ing up turner fashion? A. As nearly as I can judge, 30 feet back near a tree. I thought it was an elm—I didn't examine that.

Q. Thirty feet? A. Thirty feet.

Q. Point out something in the courtroom, please? A. Beg pardon?

Q. Will you point out something in the courtroom. A. Yes.

Q. The distance between the man coming up over the fence and the guard behind him. A. Point out—you have given too many things which are incongruous to me.

Q. All right; all right. Assuming this is the gate, only it is much higher (indicating gate to jury box)— A. Yes; yes, sir. Yes, sir.

Q. And assuming that standing in here is this man— A. Yes, sir.

Q. —who now begins to come up turner fashion. A. Yes, sir.

Q. Or, I will put him this way (illustrating); point out something in this courtroom behind him. A. Yes. If you will face me. He didn't have his back to me.

Q. You were here, Doctor, weren't you? A. Oh, you have reversed the place.

Q. Yes, I reversed it so as to get the distance. A. I see.

Q. You are here. (Indicating.) A. All right. That is outside of the fence.

Q. On the outside? A. Right.

Q. The man is here— A. All right.

Q. —that is going to do the climbing. A. I see it. I see it.

Q. Now, will you point out in this direction, if you can, indicating where the guard stood, as to the distance? A. I see it now, yes. About as far, from this rail, from this rail—

Q. From that rail, yes. A. And it is merely measurements.

Q. To the best of your recollection? A. That is right. And by a tree that was there at that time which I thought was an elm tree— it is a kind of umbrella appearance, about a stately elm spoken of in so many writers— and about as far as the second row there. I think if you will measure it you will come nearly thirty feet.

Q. Second row? A. That is right.

Mr. Wilentz: Pardon me, just a minute. Do you happen to have the measurements of the courtroom? It isn't necessary, but I thought maybe—

Mr. Reilly: You and I can gauge that. What do you say, 25 feet.

Mr. Wilentz: About 30 feet. It is agreed by counsel that it is approximately 30 feet.

The Witness: Yes.

By Mr. Reilly:

Q. And, of course, there was nothing between the guard and this man climbing? A. There was.

Q. What? A. There were some bushes which have since been removed. There is now there, that is, there was shortly— I pass there a good deal— maybe like Immortelle, Ivy, maybe Rosemary. I do not know the nature of the plant. I didn't analyze it.

Q. Were they low? A. Yes, sir.

Q. Did the guard do anything? A. Yes, sir.

Q. Did he shout? A. No.

Q. Did he fire a shot? A. No.

Q. Did he blow a whistle? A. No.

Q. Summon help? A. No.

Q. Rather unusual, wasn't it, for a man to be climbing out of a graveyard at night? A. I don't think so.

Q. Did you ever climb out of one at night? A. I never went in one at night (laughter).

The Court: That must not be repeated. We are here to conduct this trial under as favorable conditions as possible. Don't you see ladies and gentlemen that we must have quiet here? Please observe that.

Q. Doctor, if you have never been in one and you never saw anyone climbing out of a graveyard before—did you at night?— didn't you think it was unusual? A. Did I think it was?

Q. Yes. A. I knew why it was.

Q. But the guard didn't? A. No, he did not.

Q. He was not in your confidence? A. I didn't know it.

Q. I said, "He was not in your confidence?" A. Never saw him before.

Q. He didn't expect you there? A. He didn't expect me there.

Q. And when he saw two men, one looking through a fence and one going over the fence, he gave no alarm? A. He gave no alarm.

Q. When the man jumped over the fence, you say he began to run, is that correct? A. He did.

Q. Did he run fast? A. Oh— yes. I would call it the step of a distance runner. Do you distinguish the sprinter from the distance runner?

Q. Yes, but I don't know whether the jury can or not. A. All right.

Q. The point is this, Doctor: You were then

under a brilliantly lighted— am I correct— entrance to a cemetery? A. No, sir.

Q. It wasn't well lighted? A. No, sir; but—

Q. And a man ran away? A. He did.

Q. And he ran in what direction? A. In a northerly direction.

Q. There was no subway station near there? A. Nothing near it.

Q. Nobody that you could see around at that particular time, was there? A. Not at that particular time.

Q. No automobiles parked from the country or anywhere else? A. No automobiles parked, nothing, just clear.

Q. Just Al. Reich in the car? A. In the automobile.

Q. About how far away from the front gate or from where you were standing? A. Of course, you realize I did not measure it.

Q. I know that, Doctor. I want your best recollection. A. There is a plaza there and I should judge from the gate to the gutter where he was would be 60, 70 feet.

Q. Was the car pointing in the direction the man was running in? A. Yes, sir.

Q. Did he start after the man? A. He couldn't.

Q. Was the car locked— what do you mean he couldn't—? A. No, he couldn't— do you mean to run?

Q. No, start his car after him? A. Oh, no, he was under my orders.

Q. What orders? A. That he would stay where he was. You know— well, excuse me— that he would stay where he was till I returned.

Q. I see. And you didn't call to him "Follow him, Al?" A. No, sir; I followed him myself.

Q. How far did the man run before you caught

him? A. I am measuring the street. Pardon me, I am measuring the street.

Q. The distance? A. And visualizing until I come to the shack, and then, maybe 60 feet beyond that— well, I think there were five trees that were there— 100 yards.

Q. Then, you caught up with him, did you? A. Yes, sir.

Q. Caught hold of him? A. Yes, sir.

Q. And he was running fast? A. Not then.

Q. Did he slow down? A. He stopped.

Q. He stopped? A. When I—

Q. Then, you caught up to him, is that correct? A. What is that again?

Q. I say, when he stopped, you caught up to him, is that correct? A. Yes, sir.

Q. And where did you and he then go to talk? A. I took him by the left arm, that is, by the coat sleeve—

Q. Into this— A. —and escorted him back to the, to a little shack that is up there in the park, used for— well, I saw a man sleeping in it, and I saw some boys dressing in it for the athletic sports up there—only one room.

Q. You had seen it before that night? A. No, sir. That is, I did not take any particular notice of it.

Q. Did you know it was there before that night? A. Oh, yes.

Q. It was quite a distance in off the road. Is that correct? I am showing you now Exhibit 41. A. Yes.

Q. Is it still there? As far as you know, is the shack still there? A. Well, it was last week; yes, sir.

Mr. Wilentz: What is the answer?

The Witness: It was last week.

Q. You notice, Doctor, that this shack appears to be in on some kind of park or parkway. Is that correct? A. Yes, sir; public park.

Q. Is the bench outside of this shack— was that bench there that night and in that position? A. There was a bench there.

Q. Was there a bench there in that position? I will put it that way. A. There was a bench there that night and I adjusted that bench in order that I might go around and see if anybody was there, and I said that to him on that night: "I better see if anybody is around the shack."

Q. And where was Al Reich then? A. In the car in front—

Q. Back in the same spot? A. In the car in front of the cemetery, outside that little plaza.

Q. And as you sat there talking to this man, I believe you said that he had his coat collar up part of the time. A. Yes.

Q. And that he had a cough that indicated to you that he was suffering from consumption? A. No, sir.

Q. Or pulmonary trouble? A. Yes, sir.

Q. Was it a hard cough? A. No.

Q. Was it a soft cough? A. No.

Q. Was it a cough that appeared to you to come from his lungs? A. Yes, sir.

Q. How many times did he cough? A. Once.

Q. And you suggested that he take something for the cough? A. No, I didn't.

Q. Well, what did you suggest? A. I suggested that I go to a drug store and get some medicine, I said.

Q. And how far away was the nearest drug store? A. Oh, I couldn't tell you that now, but I could find it; I know all the places there.

Q. You wanted him to sit on the bench there while you went away to a drug store? A. No, I didn't. I would take him with me if he would come.

Q. Suppose he wouldn't come? A. If he wouldn't come, I would stay there, as I did.

Q. What were you going to get him for this pulmonary cough? A. Well, it might have been Ayres' Extract. Do you know it? Well, that is one. Then there is Schenck's Cough Medicine. I have taken care of a good many athletes, and I know what to get.

Q. How long were you sitting there? A. From the time I place him there until I went away? A rough guess, an hour and ten minutes.

Q. And he only coughed once? A. That is all.

Q. Now, I want you to show, if you will, please, Doctor, the way he had his coat up around his face. A. Yes, sir. This was a top coat (illustrating).

Q. Indicating, for the purpose of the record, the coat coming up around the ears? A. Around the ears.

Q. And around in front of the mouth? A. Around in front of the mouth.

Q. Covering the chin and throat? A. Covering the chin and throat— at that time.

Q. And the hat, what kind of a hat did he have on? A. It is one that I call a fedora. Will you get me a couple of specimens?

Mr. Wilentz: You can put your collar down.

The Witness: May I? May I?

Mr. Wilentz: You are through with that part, aren't you?

Mr. Reilly: That part, yes.

The Witness: I didn't think. I was interested in the case so much.

Q. Will this hat fit you well enough to give an illustration? A. I wouldn't put it on, I wouldn't put it on, but I can tell you how. All right, all right.

Mr. Wilentz: What is the question?

A. What is the question?

Q. Can you give an illustration with this hat? You said you could tell me. Have you a soft hat here with you this morning? A. I wear a derby.

Q. Well, was the hat pointed down in front like this (indicating)? A. It was not.

Q. It was rolled up? A. It was.

Q. With a bevel edge? Do you know what a bevel edge is? A. What do you mean, bevel edge on a hat?

Q. I mean an edge that turns up slightly, like this (indicating). A. You mean taped? You mean taped?

Q. In comparison to a hat that is pulled down like that (indicating). A. Turned up.

Q. Turned up. A. Turned up.

Q. A turned up brim? A. Yes, sir.

Q. Did you ever say to anyone that the man who sat on the bench and talked to you was a Scandinavian? A. May I change—

Q. Will you answer that yes or no? A. May I ask you to change the question yes or no. Did I ever— Will you please call it again?

Q. Did you ever tell anyone that the man who sat on the bench with you in the park that night was a Scandinavian? A. I said that he said was a Scandinavian— many times.

Q. He said many times he was a Scandinavian?

A. No, I said many times— The verb there refers to the many times.

Q. All right; how many times did he say that night he was Scandinavian? A. Once.

Q. And you repeated it many times after that? A. That is away from the bench.

Q. You repeated to other people many times? A. Yes.

Q. After that? A. Yes.

Q. That the man was a Scandinavian? A. I said he said so— I didn't say so. I said he said so.

Q. Did you ever say after talking to the man on the bench that the man you talked to had a scar on his face? A. No, sir; never—

Q. Sure about it? A. Never said it in my life. I didn't see any.

Q. You had no flashlight with you? A. I did not.

Q. After this conversation finished— A. Yes, sir.

Q. —who left the park first? A. I did.

Q. Where did you go? A. Right back to the automobile in which Mr. Alfred J. Reich was at the wheel waiting for me, where I left him.

Q. That would be again how many feet away from the park bench where the conversation took place? A. Which do you mean; myself or the automobile?

Q. Reich. A. In the automobile. I have your question now. Yes, sir. Reich was a short distance below 233d Street, maybe 60 feet. The parkway itself must be— two sidewalks and a road, I don't know whether it is a two-rod road or not, but across the road there, and then up a little bank, roughly 60 or 70 feet away from 233d Street, is the shack. Now, that makes a total— do you want me to calculate it?

Q. Roughly, not in inches. A. Well, now, taking 70 feet to the bank, 70 feet to take me to the

bank, that is from the shack in a southerly direction, 70 feet there and 33 and 20— and 70 more for the two sidewalks and the roadway; 233d Street, would make 140 feet say, and he was down between 20 and 30— I would say on a rough guess 175 feet from the shack to the place where Alfred J. Reich was sitting in the automobile. That is in a southerly direction from the shack.

Q. While you were sitting on the bench, could see Reich in the car? A. Not Reich.

Q. Could you see the car? A. I could.

Q. Through the bushes? A. There were no bushes there; you have the wrong place.

Q. Well, how were you looking? A. I was facing almost in a southerly direction, but turned around at an angle—while speaking to a gentleman, I was always told to look at a gentleman when I was talking to him.

Q. You could see the car, is that it, Doctor? A. I could see the car, no bushes, no shrubbery— if you will show me the picture, I will demonstrate to you.

(Mr. Reilly hands witness a picture.)

A. (Continued) This angle again in this corner is very deceptive in a photograph—

Mr. Reilly: I move to strike it out as not responsive.

The Witness: That way—

Mr. Reilly: Wait a minute, Doctor, that is your opinion. I move to strike it out.

The Witness: Yes, right.

The Court: Strike it out.

The Witness: In a southerly—beg pardon?

The Court: I said strike it out.

The Witness: Yes, yes, I will forget I said it. In a southerly direction. There is the sidewalk and there the gutter to which I refer. Those are on the northerly side of 233d Street, the gutter and the sidewalk, 233d Street. Now, the width of the road in a southerly direction from that, and the distance of maybe 60 feet, that may be, Mr. Reich was in the automobile.

Q. All right. You got back in the automobile? A. Yes, sir.

Q. Where did you go? A. Sat in the automobile and told Mr. Reich—beg pardon. I know now. I know your rule better now. I know better now.

Q. Where did you go? A. I sat in the automobile and asked Mr. Reich if he'd go down Jerome Avenue through Mosholu Park to my home, where I started from.

Q. When you arrived home what did you do? A. When I arrived home—I will have to think a little about that.

Q. Anything in connection with this case, that is all. A. That is all, yes. I spoke of it—is that permissible?

Q. Who did you speak to? A. Colonel Breckinridge, who was waiting at my house.

Q. Did you do anything the next day about this case? A. The next day was Sunday. I went to church.

Q. I asked you about the case, Doctor. A. About the case? To me that has a great deal of—all right. Now, the next day—

Q. Sunday. A. Did I do anything about the case? I can answer that truthfully; yes, sir, I did.

Q. Did you receive any notes on Sunday? A. Not to my recollection now. If you will show me any, I can tell you.

Q. I show you Exhibit 53 and I ask when you received this. A. This appears to me to be the envelope in the package in which the sleeping suit came. I didn't examine the sleeping suit here, but I only saw it No, I didn't; just looked at it in recess. You know I didn't examine the sleeping suit. Yes, sir. I received such a note and, as nearly as I can judge, that was around—let me see now, my relation—around the 16th or 17th of March. I always go to see a parade—

Mr. Wilentz: All right, you have answered the question, Doctor.

The Witness: Yes.

Mr. Wilentz: You have answered the question.

The Witness: Yes.

Q. Around the 17th of March? A. A little after, maybe.

Q. Who actually received that package, if you know, in your house? A. I did.

Q. At what time? A. The morning mail, at about half past ten. We had three mails there. Half past ten, as nearly as I can recollect. It was about that time.

Q. Was that the first— A. Beg pardon?

Q. Was that the first letter you received personally? A. First letter?

Q. By mail? A. Do you mean in my life?

Q. No, no. In connection with this case. A. Oh. About the case. No. You mean from the letter carrier?

Q. From the letter carrier, yes, in this case. A. Well, I didn't get it from the letter carrier.

Q. Who did you get this from? A. It was put on top of the box, the mail box.

Q. And you found it there? A. I don't say that. I couldn't recollect that, sir, but I know that I got it.

Q. Can you tell from the stamp, cancellation mark, what station— A. Pardon me?

Q. —is on the envelope? A. What station? I will take a look at that. I see New Jersey, first.

Mr. Wilentz: You mean the cancelled stamps?

A. You mean the cancelled stamps? Well, just a minute. (Examines paper.) As it stands, as it stands, on account of it being blurred, I could not tell you at present.

Mr. Reilly: Have you a magnifying glass?

Q. And this note, I believe, referring now to Exhibit S-52, you received at the same time. A. There were two notes which I received and this is one of them, with a signature on, and the two notes were wrapped inside of the sleeping suit, if this is the one; I couldn't quite tell you yet.

Mr. Reilly: May I have the other note, wrapped inside the sleeping suit?

A. (Continuing.) There was a wrapper, a brown wrapper around—

Q. (Paper handed to the witness.) A. Yes, sir.

Q. That is the wrapper? A. Inside of the sleeping suit, which was again bound with—I always call it brown paper; it isn't quite brown, it is almost manila paper in color.

Q. Was there one note inside that wrapper? A. No, sir.

Q. Or two? A. Two, two.

Q. What did you do with the two notes? A. I will have to give you a preliminary statement. Will that be all right?

Q. No, just answer the question. What did you do with the two notes? A. The two notes? I took them out of the sleeping suit and read them.

Q. Have you any independent recollection now of what was contained in the two notes? A. What do you mean, independent recollection?

Q. Well, I have shown you note No. 1. A. You did.

Q. Where is note No. 2? A. I do not know, sir. One was addressed to Colonel Lindbergh and one was addressed to me. Would you allow me to see which one that is now? I didn't pay specific attention to that. There were two notes there and—

A. There were two notes there.

Q. (Handing the witness a paper.) A. This was the one addressed to me, one was addressed to Colonel Lindbergh within the package in which the sleeping suit was folded.

Q. How do you know it was addressed to Colonel Lindbergh? A. Because I opened the package and it was inside the package with the sleeping suit.

Q. How was it addressed to the Colonel? A. As nearly as I can recollect, "Colonel Lindbergh," I could tell it if you showed it to me. I don't carry those things in my mind.

Q. I am trying to find it. A. Trying to find the letter? I will tell you about that. I sent for Colonel Lindbergh. May I go on?

Q. You may. A. I sent for Colonel Lindbergh to come up and see if the article which I had received was his baby's sleeping suit.

Q. He came up and you showed him the note, did you? A. No, sir.

Q. Did you give him the note? A. No, sir.

Q. You didn't destroy the note? A. I did not.

Q. What did you do with it? A. I left it right there in the sleeping suit open on my piano until he would see it.

Q. Have you ever seen it since? A. I have never seen it since.

Mr. Reilly: May we have it, Mr. Attorney General?

Mr. Wilentz: It is one of those notes; I don't know which it is, as I understand it.

Mr. Reilly: Well, let's have it; we are asking for that particular note.

The Witness: Well, I haven't it. Could I assist you, counselor?

Mr. Wilentz: Just a minute, Doctor; you have answered the question—please.

The Witness: Excuse me.

By the Court:

Q. Doctor— A. Yes, sir, Judge.

Q. —was it March 17th, 1932, that you received this package done up in a manila covering? A. Within a day or two, it might have been a little after, but I remember that by relation—

Q. Yes. A. —on that particular day, because it was a great day in my life.

Q. But you think it was along about March 17th? A. Yes, Judge.

Q. When you opened that manila package you discovered in it, did you, a sleeping suit? A. Yes, sir.

Q. And when you opened this package with the sleeping suit— A. Yes.

Q. —you discovered a letter or two? A. Two.

Q. Two? A. Yes, sir.

Q. And those you placed with the sleeping suit? A. Yes, sir.

Q. On your— A. On my piano.

Q. —on your piano? A. I don't what to make it as a sort of—

Q. I want to make sure that I understand you. A. Yes, sir; and sent for Colonel Lindbergh to come to my house and see whether it was his baby's suit or not.

Q. So I understand. A. Yes, Judge.

Mr. Reilly: Now, have we that second note?

Mr. Wilentz: They are all there.

Mr. Reilly: While I continue, Mr. Fisher, will you look over these and see if there are any notes addressed to Colonel Lindbergh.

Mr. Fisher: Yes, sir.

Mr. Reilly: Going on beyond this particular exhibit number.

Mr. Fisher: What is the present exhibit number on this letter?

Mr. Reilly: We have it right there, this letter—

Mr. Fisher: That is Exhibit S-52; we want one later than that.

Q. Now you recall, Doctor, do you, that the letter to you said, "Now we will send you the sleeping suit from the baby—" A. Will you kindly read the first line on the opposite side of that letter? Is there anything on it?

Q. "Dear Sir: Our man failed—" A. That is correct. That is the letter.

Q. Now page 2: "Now we will send you the sleeping suit—" A. Yes, sir.

Q. "—from the baby. Besides it means three dollars extra expenses—" A. Yes, sir.

Q. "—because we have to buy another one." A. Yes.

Q. Is that right? A. May I look?

Q. Surely. A. Yes. (Examining letter.) That letter with the signature on was in with the baby's suit.

Q. Did you ever buy any of these suits, Doctor? A. Never. Didn't need them.

Q. At no time, you never bought any or made any presents? A. Never bought any in my life. Never made any presents. No, sir.

Q. When your children were growing up you didn't buy any? A. When my children were growing up I never had that part of the household. That is the woman's work.

Q. In addition to the wrapper you have shown us here— A. Yes.

Q. And in addition to the note— A. May I see that, please?

Q. What? What? A. I haven't looked at this.

Q. Certainly. (Handing sleeping garment to the witness.) A. May I—(lifting tag on garment.)

Q. Yes. A. (The witness examines garment at length.)

Mr. Wilentz: May I inquire what the question is?

Mr. Reilly: The Doctor asked to examine the suit. There is no question yet. He wanted to examine the suit.

A. Yes.

Q. You didn't put any mark on this suit, Doctor? A. None, none whatever.

Q. No mark of identification? A. None whatever.

Q. So that you would be able to recognize it the next time you saw it. A. None whatever.

Q. And you haven't seen it now in close on to three years. A. Right.

Q. Have you ever seen babies dressed in these sleeping suits? A. What do you mean dressed? Did I ever see the dress put on them or after it was accomplished?

Q. Have you ever gone into a person's house where they had little children and you were taken in to see little Andrew or little Michael in the crib and did he have one of these things on? That is what I mean? A. I don't remember.

Q. You don't remember? A. No, sir.

Q. Can you tell me where the wrapping paper is that this suit came in, the inside wrapping paper? A. I cannot.

Q. Was it tied up with any particular kind of cord? A. You mean this?

Q. Yes. I am now referring to the sleeping suit. A. I do not recollect that part of it.

Q. You left it on the piano; Colonel Lindbergh came and looked at it. Who was the first person after that that took this suit away, if you know? A. The Colonel more than looked at it. He what I call examined it, yes.

Q. Did he take it away with him? A. He did.

Q. Did he take the wrapping paper away with him? A. He took everything away with him.

Q. Did he take the note away with him? A. He took the letters away with him.

Q. Both of them? A. Yes, sir.

Q. After obtaining the suit and the two letters? A. After what?

Q. Obtaining the suit and the letters? A. I beg pardon; I didn't quite understand you.

Q. You received another letter, did you not, which is known as State Exhibit 56—S-55 the envelope and S-56 the letter (presenting same to the witness)? A. Yes, sir. May I see that one? (Counsel handed letter to witness.) Yes, sir. May I look at it?

Q. Certainly. A. (Witness examines letter at length.) I received that letter with the signature on it.

Q. The postmark bears the date on or about March the 19th? A. Yes.

Q. And I assume that this letter was received after the sleeping suit? A. Yes, sir.

Q. So that your testimony that the sleeping suit was received about March the 17th then is about correct? A. I believe so.

Q. After receiving this letter, what did you do? A. I consulted with Colonel Breckinridge in my home.

Q. Did you go any place? A. Do you mean on that day? I couldn't remember.

Q. On or about the next day in connection with this case? A. Couldn't remember that unless you specify some errand or some motive for going. I don't know.

Q. Now, showing you Exhibit S-64 and S-65, which bears the postmark "April 1st"— A. April 1st? May I?

Q. Yes. (Handing witness the exhibits.) Did

you receive it that day or the next day, the first or second, if you can recall? A. (Witness examines exhibit at length.) I received that on or about April 1st, 1932, with a signature on the letter.

Q. Did you acquaint Colonel Lindbergh with the contents of the letter? A. Appoint what?

Q. Colonel Lindbergh with the contents of the letter. A. Did you say appoint? I couldn't get you.

Q. No. Did you acquaint? A. Oh, I beg your pardon—yes, sir, acquainted Colonel Lindbergh—no, at that particular time we were—not we, I was exceedingly busy and I asked Colonel Breckinridge if he would kindly help in that matter.

Q. Was he living at your house then? A. He was—staying.

Q. Do you recall what day of the week you received this letter? A. The nearest recollection was Friday. I am not sure, around that time.

Q. Well, you know the letter said, "Have the money ready by Saturday evening—" A. Right.

Q. "—we will inform you where and how to deliver it." A. Yes, sir.

Q. "We want you to put it in a certain place." A. Yes, sir.

Q. "There is no fear that somebody else will take it. We watch everything closely. Please let us know if you are ready." If you are—"agree and ready for action by Saturday evening. If yes, put in the paper, 'Yes, everything O. K.'" Correct? A. Yes, sir.

Q. Did you put "Yes, everything O. K."? A. I turned that over to Colonel Breckinridge, and together we talked over some ads; the particular one I couldn't tell you now.

Q. Well, then on Saturday the money was brought to your house; is that correct? A. What date?

Q. Following this letter. A. April 2nd, yes, sir.

Q. Brought up in the afternoon; correct? A. As

nearly as I can recollect, yes.

Q. Now, how many people in your group— A. What do you mean, group?

Q. Colonel Breckinridge— A. Oh, go on.

Q. Colonel Lindbergh. A. Yes, sir.

Q. And yourself—knew the contents of this letter? All three? A. Yes, sir.

Q. It was not divulged to the press? A. Not—

Q. As far as you know? A. Yes; not by me.

Q. And, as far as you know, nobody outside of that little group, the Doctor and the two Colonels, knew anything about it? A. Since I received it from others I know nothing about that.

Q. But I am talking about— A. The group.

Q. Your group. A. The three knew it.

Q. Yes. A. And that is as far as I care to state.

Q. Yes. A. Yes, sir.

Q. Reich didn't know the contents of this letter, did he? A. I don't know. You would have to ask him that.

Q. Well, you didn't tell him, did you? A. I never tell anybody anything really about official business while it is being conducted.

Q. And who made the box? A. Now, "make" and "plan"—would you pardon me?

Q. Apparently it was planned in a letter. Who made it? A. No, it wasn't planned in a letter I planned the making of the box.

Q. Did you plan that in a letter? A. I did not. I planned it from a letter that had been sent with the signature on on a previous occasion. That letter—if you will tell me that I can go on with that. I don't care about remembering—

Mr. Wilentz: You have answered the question, Doctor.

Q. The directions for the making of the box were

contained in a letter, were they not? A. The original request by the kidnappers or the intermediaries.

Q. Yes, the size and everything else was in a letter? A. Yes.

Q. So they planned it, not you? A. The box. That was only a diagram of what they wanted.

Q. Who made the box? A. A wood carver on Webster Avenue, near 198th Street or 200th Street.

Q. What is his name? A. I couldn't tell you.

Q. What? A. I can't tell you, but I would know it if you would recall it to me.

Q. Don't be pointing at me. You had this box made? A. I did.

Mr. Wilentz: Just a minute.

The Witness: Don't shout. I can hear you. I am not deaf. I can hear every syllable that you utter if you use your lips. All right.

Mr. Wilentz: Just a minute, Doctor. You wait for the question, please.

By Mr. Reilly:

Q. Now we will get back to this letter. In a certain letter and I want to be precise about this question and I want you to understand it. A. Yes, certainly.

Q. In a letter from the kidnappers they drew a diagram of a box? A. Yes, sir.

Q. They asked that the money be enclosed in a box of about those dimensions, correct? A What dimensions?

Q. As indicated in their letter. A. Right.

Q. You then had the box made, didn't you? A. Yes, sir.

Q. According to those dimensions? A. And according to orders, yes, sir.

Q. Who were the orders from, the Chief? A. Colonel Lindbergh and Colonel Breckinridge, that is in conference. I won't say "orders." They never ordered me to do anything.

Q. Now we will cut out all the orders and all the conferences and get right down to United States talk, Doctor. A. Yes.

Mr. Wilentz: Just a minute. All right. I withdraw the objection. I wanted to object to the cutting out business, because it is a part of the case.

The Witness: Yes, sir.

Mr. Wilentz: Answer the question, please, Doctor.

The Witness: What was the question?

By Mr. Reilly:

Q. Who made the box? A. A wood carver and box maker at Webster Avenue, near 198th Street. It is in the United States Theatre Building, I believe.

Q. When did he make the box? A. I can tell you from the letter they sent.

Q. No, tell me from your memory. A. Well, then, I don't remember.

Q. You remember everything else about this case, don't you? A. The date wasn't important about making that box, sir, to me.

Q. No? The box that was to contain the ransom money was of no importance to you, is that correct? A. Not in the sense that you use it, no.

Q. You knew it was an important link in the chain, didn't you? A. Of what chain?

Q. The passing of the money, if it ever was passed. A. Yes, sir.

Q. Has the box ever been found? A. I do not—

Q. As far as you know. A. I do not know.

Q. Then give me again, search your recollection for the name of the man that made it. A. I do not recall it, but it is on record and I reported it to the Department of Justice. If there is a man in the audience belonging to the Department of Justice—

Mr. Reilly: I move to strike this all out as not responsive.

Mr. Wilentz: If your Honor, please, I object to it being stricken out. The witness indicated that he can get the name.

The Court: I will let it stand, Mr. Reilly.

Q. How much did you pay? A. Pay what?

Q. For the making of the box. A. About three dollars and a quarter.

Q. When did you pay it? A. At the time the box was made.

Q. Did you get a receipt? A. I did not.

Q. Why didn't you ask for one? A. I never think in my local place of looking for a receipt for anything.

Q. Now, what was the box made of? A. That is what I meant by planning.

Q. Just tell us. A. I took whitewood—yes, I am telling you— I took whitewood, and they call that poplar, they call it honeysuckle; that is the same wood. I took whitewood and mixed it with other styles of wood until I got the color and the kind of a box that I wanted.

Q. What kind of a box was that? A. A box made of layers of substance, a little thicker than veneer, so that at any time I could recognize the box; it was five-ply.

Q. Five-ply what, wood? A. Wood.

Q. Five distinct layers of wood? A. Yes, sir; carefully put together, as I recollect it.

Q. That made the sides how thick. A. The sides? Rough guess, five-eighths of an inch; three-quarters of an inch, about that.

Q. How long? A. The box?

Q. Yes. Show me with your hands, will you? A. Not yet. It was six inches by seven inches by fourteen inches, and I will give you my conception of what you ask me now. I think that six inches is about—will you get a ruler or something.

Q. No, we will take your recollection. Go ahead. A. About six inches (indicating.)

Mr. Wilentz: Hold it there now a minute.

The Witness: Yes, sir.

Mr. Wilentz: May we have on the record that the witness indicates the distance between his fingers which counsel—can we agree about what it is?

Mr. Reilly: Oh, yes, six inches by fourteen inches.

Mr. Wilentz: Indicates about six inches.

The Witness: No—

Mr. Wilentz: All right now, you have answered the question. Now what else?

Mr. Reilly: Well, he is going to give us the size of the box.

Mr. Wilentz: Give us the other dimensions.

A. You want the dimensions. By seven inches. That is enlarging that about an inch.

Q. That is depth, is it? A. I make an inch about from the edge of my thumb here to the end, because I have measured that.

Q. All right. A. Six by seven was the end of the box, and its length was fourteen inches, or as close as the artist could make it.

Mr. Wilentz: All right, Doctor, you have answered the question then.

Q. And when you took this box under your arm that night—and you did, didn't you? A. What do you mean? What night and what—?

Q. The night you passed the money. A. No, I didn't.

Q. Well, did you take the box? A. No, sir.

Q. You didn't take the box? A. No, sir. Colonel Lindbergh took the box and put it on his seat.

Q. I am not talking about that. I am talking about when you walked up the street to meet the kidnapper. You had— A. You didn't say so. Yes, sir, yes, sir.

Q. Yes. A. Yes, sir.

Q. I am jumping all those details and lectures. A. Well, they are important to me.

Q. All right. Let's get as to what the kidnapper did. You have the box now, haven't you? A. Yes, Counsel.

Q. You handed it to him? A. Well—

Q. You said you handed it to him? A. I did.

Q. He got down on the ground? A. What is that?

Q. He got down on his knees? A. Yes, sir.

Q. He pulled the money out? A. Some.

Q. He put it in his pocket? A. Some.

Q. Not all of it? A. No, sir.

Q. How was the money bound up, one package, wasn't it? A. You know the bankers' packages?

Q. Yes. A. That is the way the money was bound up, such as the bankers have.

Q. How was it; in fives—? A. I would have to calculate it.

Q. Were they wrapped in one package? A. Not to my knowledge.

Q. Did you see the kidnapper stuffing the money in his pocket? A. I did.

Q. Did you ask him to give you the box back? A. I did not. The money was in the box when he left me.

Q. Did he leave first? A. I think we both left together.

Q. Did you ever go back there and look for the box? A. I did.

Q. When? A. On several occasions.

Q. The first is all I want. A. Yes. Wait, now—Saturday night I gave him—the following Monday I went over there and I had heard from someone in that section—

Mr. Reilly: I object to this; it is not responsive.

A. (Continued)—that a grave was disarranged.

The Court: Not what you heard.

The Witness: Thank you. What I saw.

By Mr. Reilly:

Q. Monday you went over? A. Yes.
Q. What time? A. Around noon.

Mr. Wilentz: Would your Honor object to a slight recess at this time, to get some air in the room?

The Court: We will take a recess of—how long?

Mr. Wilentz: About five minutes.

The Court: We will take a recess of about five minutes.

(At 11:20 A. M. a recess was taken.)

(The jury returned to the court room.)

The Court: The Clerk will poll the jury.

(The jury was polled and all answered present).

The Court: You may proceed when you are ready, Mr. Reilly.

Mr. Reilly: Thank you.

Cross-Examination continued by Mr. Reilly:

Q. Doctor, I understand you to stay that you accompanied Colonel Lindbergh in a plane from Bridgeport? A. That what?
Q. You accompanied Colonel Lindbergh in a plane from Bridgeport? A. To where?

Q. Somewheres off the Maine Coast. A. Right.

Q. Is that correct? A. Right.

Q. When was that? A. April 3rd, 1932. Pardon my delay; I was thinking.

Q. Sunday? A. Yes, sir.

Q. Fly all day? A. Not all day.

Q. Well, when did you land? When did you come back and land at the field in Long Island? A. What? Hicksville, I think it was. Right? Around six o'clock.

Q. The same day? A. The same day.

Q. So that all the search that was made for this boat, twenty-eight-foot boat, off the coast of Maine, after the paying of the ransom money, covered a period of from dawn, we will say, at Bridgeport, although you did say yesterday that you were advised that you would have to wait a while, the visibility for the plane was sort of low, is that correct? A. What do you mean? The what for the plane?

Q. The visibility. A. The visibility?

Q. For the plane to observe the water. A. Yes.

Q. Was sort of low, and you were advised to wait a while, is that correct? A. The visibility was low? I don't understand that language. If you will put it in English—

Q. I will put it— A. Yes. I don't understand it.

Q. You and I have a great difference in English, have we not? A. No, it is the way you express it.

Q. Do you have any difficulty in understanding me? A. In that, yes, sir.

Q. You don't want me to talk baby talk, do you? A. I want you to talk in English; speak English.

Q. Let me see if I can recall your testimony of yesterday. A. Yes.

Q. In your English. A. Yes, sir.

Q. You did go to Bridgeport? A. Yes, sir.

Q. And you arrived there at what time? A. Around six o'clock in the morning.

Q. Correct. Did you take the plane immediately? A. We did not.

Q. Why? A. Because it was too dark.

Q. Then you did have to wait until it was light enough? A. That is right.

Q. For the plane to see? A. Right, for the Colonel to see.

Q. Do you know now what I mean by visibility? A. For the Colonel to see the plane. Not in that connection, it is not correct in English.

Mr. Wilentz: Don't argue with counsel, please.

Q. What time did you leave Bridgeport? A. Around six o'clock in the morning or a little after that.

Q. You said at six o'clock it was too dark? A. A little after that.

Q. Seven? A. I think before that.

Q. How many miles up the coast did you fly? A. I didn't measure it, but if you will show me a map I will tell you exactly.

Q. No. A. All right, I will give you my opinion then, that is all it is.

Q. That is all I want. A. From Bridgeport to Cuttyhunk is the best way I can describe that; Elizabeth Islands, Cuttyhunk, Horse's Neck, Woodshole and Gayhead, are all in a vicinity, if you know any of those.

Q. Yes. A. The number of miles I haven't calculated, but I could do that easily.

Q. Well, do you recall when the plane was over about Woodshole? A. Yes, sir.

Q. About what time of the day was that? A. Ten o'clock.

Q. Ten o'clock in the morning? A. As nearly as I can remember.

Q. Now, you know, don't you, that Woodshole—Massachusetts, isn't it? A. Well, it is outside.

Q. Yes. A. Outside the coast.

Q. It is on the coast line? A. Yes, it is between two islands.

Q. Woodshole is the station of a Coast Guard ship? A. Right.

Q. Correct? A. Yes, sir.

Q. And you arrived there about ten o'clock in the morning? A. Yes, sir.

Q. How long did you stay in the air before the plane came down to the little cove you told us about yesterday? A. From Bridgeport to that little cove, I should judge, between nine and ten, eight and nine.

Q. Came into the cove at— A. Between eight and nine, I should judge.

Q. Between eight and nine, before you arrived at Woodshole? A. Yes, sir.

Q. Did you go up in the plane again? A. Yes, sir.

Q. How long did you stay in the air? A. Stayed in the air until after four o'clock, between four and five—scouted.

Q. By "between four and five in the air," do you mean that was the time you arrived back at Hicksville? A. No, sir.

Q. Then did you start back? A. That was in addition. It was getting dark and Colonel Lindbergh wanted to get back and investigate along Long Island to see if he could find the boat Nellie. Yes.

Q. Was there anything in the note that indicated Nellie, the boat, was along the Long Island Shore? A. The Long Island shore? The words, "Long Island shore," did not appear in the note, as I recollect it, sir.

Q. Did the Colonel ever tell you why he wanted to go back to the Long Island shore? A. He didn't, but I knew.

Mr. Wilentz: Just a minute. You have answered the question. You didn't.

The Witness: He didn't.

Q. So that you were back in Hicksville anyway around what? A. Around five or six o'clock; six o'clock, yes.

Q. On Sunday of the same day? A. Sunday of April 3rd, 1932.

Q. Did you ever go out on a plane after that in connection with this case? A. No, no.

Q. You did insert or there were some insertions of ads after that? A. Oh, yes.

Q. You never received any so-called ransom notes, did you, after the payment of the money? A. Not with the signature on.

Q. But you did receive some notes? A. Oh, yes.

Q. Without the signature? A. Yes, even last week.

Q. Then did you attend a boathouse conference at any time? A. Never. That is if I understand what you mean by boathouse.

Q. Was there any conference at your shack, City Island? A. Never.

Q. Well, did you visit City Island afterwards. A. Yes.

Q. Did you visit City Island on or about April 10? A. I do not recollect that, but the chances are I did.

Q. That would be the second Sunday of April, 1932. A. I couldn't say that I did.

Q. Were you in the habit of going to City Island on week-ends? A. Yes, sir. What do you mean week-ends again?

Q. Saturdays and Sundays. A. No, sir.

Q. Saturdays or Sundays, either day. A. Just to visit, that is right.

Q. When you went to City Island on these weekends or Saturdays or Sundays, with whom would you associate? A. The neighbors, people whom I had known for thirty-five years on the island.

Q. Would you talk to them? A. Much.

Q. Now, on April 10th, 1932, at City Island—

A. Yes.

Q. —did you say to any of the neighbors that you believed there was a gang of four or five connected with the Lindbergh baby kidnapping?

Mr. Wilentz: Just a minute. I object to the question, if your Honor, please. I have no objection to the question if it is limited to some particular person or persons, but it is impossible to meet this sort of a question, if your Honor, please, in any other way.

Mr. Reilly: It is cross-examination. He said he talked to his neighbors many times on City Island. It is a small place.

Mr. Wilentz: May I suggest in response to that, if your Honor, please, that I take it if counsel directs this form of a question that it is based upon some information and that would have to be on the basis that some person or persons whom he knows he thinks were addressed in that fashion. Now, just to leave the question an inference just wide open, I don't think is quite a fair question.

The Court: I think the rule is that the witness should have his attention directed to individual or individuals and the time and place.

Mr. Reilly: But may I first ask him in a general way if he spoke to the neighbors, and

if he says no, am I not bound by his answer? Is this not more or less collateral?

The Court: Spoke to the neighbors about what?

Mr. Reilly: About this kidnapping.

The Witness: Certainly.

The Court: Yes, certainly.

Q. On City Island on April 10th?

The Court: Yes.

A. Certainly.
Q. You did? A. Yes.
Q. You did speak to the neighbors? A. I did, many times.
Q. Many times you spoke to them? A. Yes, sir.
Q. Now in your conversations with the neighbors of yours on City Island on April 10, 1932, did you tell them that you believed that it was a gang of four or five that had kidnapped the Lindbergh baby?

Mr. Wilentz: Just a minute.

A. I don't remember. I don't remember.

Mr. Wilentz: All right, that will do.

Q. Did you tell the neighbors at City Island, your friends, at any time that you were the Jafsie mentioned in the ads?

Mr. Wilentz: Just a minute, please, Doctor. I have already made an objection to a

similar question. I thought your Honor ruled on it.

Mr. Reilly: The Court ruled that I might ask it.

Mr. Wilentz: Oh, well, I didn't understand that.

Mr. Reilly: Now this is indicative of more conversation that he had after he announced that he was the Jafsie.

Mr. Wilentz: I have no objection to those questions if they are directed as to somebody, so that we might be able to meet it, if necessary.

Mr. Reilly: I can't ask him all at once, General. I will do the best I can.

Mr. Wilentz: I don't mean that, sir, if your Honor, please. What I mean is, to whom was it directed.

The Court: Well, I have already indicated, I think the witness is entitled to have his attention directed to the person, the time and the place.

Mr. Wilentz: Therefore I object to the word "neighbor" as a general term.

The Court: Now, then, what is your question?

By Mr. Reilly:

Q. Did he—did you, rather, on April 10th, 1932,

on City Island, to the neighbors of that small place, people that you had known for thirty-five years, tell them that you was the Jafsie mentioned in the ad?

Mr. Reilly: I don't see any harm in that.

The Court: Well, what is the objection to it?

Mr. Wilentz: There is no particular objection to that particular question, but as to conversations—

The Court: Let that particular question be answered.

Mr. Wilentz: Yes.

A. I don't remember.

By Mr. Reilly:

Q. Did you ever tell anyone that you were the Jafsie mentioned in the ad? A. When?

Q. At any time? A. Yes, sir; everybody I knew.

Q. And that included the neighbors on City Island, didn't it? A. Well, as a general statement, yes.

Q. Now, will you give me the names of some neighbors on City Island that you talked to and that you told them that you were the Jafsie of the ad. A. Every one that I met, after it was published by someone else.

Q. Well, after it was published? A. Yes, that was it, never before.

Q. All right. A. Never before.

Q. I asked you if it was published by someone

else; did some neighbor come to you and say, "Doctor, are you the Jafsie in the ad?" A. Many.

Q. Give me the names of some of them. A. I don't remember the names, but if you name anyone I will tell you, with pleasure.

Q. Give me the names of some of your neighbors on City Island. A. Yes. In regular order from my own home: Mr. Carmen—will you stop me if I make a mistake?

Mr. Wilentz: No, no. Go on, Doctor.

The Witness: Mr. Carmen, Mr. Booth, Mrs. Booth, Mr. Van Allen— Will that be sufficient for you? If you name any others I will tell you yes or no. Mr. Horace Smith. Mr. Robert Barry. It is pretty hard to name names without tabulating them.

Q. Those are all people you talked with? A. All people I have spoken with.

Q. At some time or other? A. Did you say all the people or did I speak to all those people?

Q. All those people. A. Yes, sir.

Q. And during your conversations with all those people did you at different times tell them you were the Jafsie in answer to their questions? A. Yes, sir.

Q. And did you also tell those people different incidents of your transactions with the so-called kidnappers? A. Only after— Yes, sir—

Q. After it was published? A. Right, yes, sir.

Q. You have been talking about this case? A. All the time, every time I could.

Q. To anybody that would talk to you? A. Anybody that would talk to me, yes, sir.

Q. Can you remember every statement you made to everybody you talked to? A. I don't believe it is possible. No, I don't believe it is possible for a

human being to do it. If you name anyone I will tell you.

Mr. Wilentz: All right, Doctor, you have answered the question.

Q. You don't write stenography, do you? A. Well—

Q. Yes or no? A. Wait a minute—stenography? No.

Q. You never made any record of your different conversations with any person in this case, did you? A. No.

Q. Did you ever say to anybody— A. Outside the official statements under the Department of Justice and the Police Departments—

Mr. Wilentz: All right, Doctor, you have answered the question.

By Mr. Reilly:

Q. Whatever you told them, Doctor, they wrote down? A. Yes.

Q. You did not? A. No, I didn't write down, I told them.

Q. And now, of course, you are depending upon your memory in 1935 for what happened in 1932? A. Yes, sir.

Q. Did you ever say a woman took part in the negotiations?

Mr. Wilentz: Just a minute. That I object to, your Honor, please, unless the time and place and person are indicated in the question.

Mr. Reilly: He says he has talked to everybody that talked to him.

The Court: I know, but we ought to proceed in an orderly fashion.

Mr. Reilly: Your Honor holds that that is not a proper question?

The Court: Yes.

Mr. Reilly: May I have an exception?

The Court: Yes.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Mr. Wilentz: Just put your papers away, please, Doctor.

The Witness: This was hurting me. I have adjusted it.

By Mr. Reilly:

Q. Do you recall speaking to a group of newspaper men in Bronx County on May 15th, 1932? A. I don't remember the date, but if you will specify, I will be pleased to tell you.

Q. Do you remember being in the District Attorney's office on May 13th, 1932, District Attorney McLaughlin, of the Bronx? A. McLaughlin? I was there. The date—?

Q. In May—let's see if we can get the date.

Mr. Wilentz: May, 1932.

The Witness: Yes, sir.

Mr. Reilly: Did you see some newspaper men there?

The Witness: I couldn't tell you that.

A. (Continuing.) I couldn't distinguish the newspaper men from others.

Mr. Wilentz: All right.

Q. Did you talk to some people there who said they were newspaper men? A. Before or after the transaction? A. May 15th?

Q. Yes, but—

Mr. Wilentz: May 15th, 1932.

A. I couldn't remember that.

Q. May 15th, 1932? A. The date specified in the—business men and newspaper men meant nothing to me.

Q. How many visits did you make to District Attorney McLaughlin's office in May? A. One; one that I remember.

Q. One that you remember? A. Yes.

Q. And, on that day, irrespective of the exact date, did you talk to some newspaper men? A. I do not—

Q. Or people who said they were newspaper men? A. I do not recollect.

Q. Did you talk to a group of men after you left District Attorney McLaughlin's office? A. I do not remember that. If you will specify I will be pleased to tell you.

Q. If I repeated a conversation to you that I thought might refresh your recollection— A. Yes, sir; I would know if you said anything I ever said.

Q. Did you say on the visit to the District Attor-

ney's office in the Bronx, in May of 1932, to a group of people that asked you questions, did you say to them there at that time that you knew the abductor? A. I knew the abductor—on May—?

Q. Yes. A. On May 15th, 1932— I did not, to my recollection.

Q. Now, Doctor, did you ever go out on a boat in connection with this case? A. Did I ever go out? Yes.

Q. Were you taken blindfolded aboard a boat at any time? A. I was never blindfolded by anybody in my life.

Q. This boat that we are speaking of, where was that? A. What boat?

Q. I asked you if you were ever on a boat. A. I did.

Q. In connection with this case. A. That is right, sir.

Q. I asked you whether you were blindfolded and you said no. A. Never, never.

Q. Now, where was the boat, please, and under what circumstances did you get on the boat? A. The Department of State Troopers, under Colonel Schwarzkopf, who was in close touch with me, sent a man, he may be new, sent a man—shall I name him, sir?

Q. Go right ahead.

Mr. Wilentz: Tell us what happened.

A. Yes. By the name of Samuel Laon, and he had a companion with him. They asked me to go with them to Boston. I got on their boat and went with them to Boston, Massachusetts, on the case, if that is what you refer to, sir.

Q. No, I am referring— A. Steamboat.

Q. Were you ever on— A. It was a steamboat.

Mr. Wilentz: All right, sir.

Q. Were you ever on a small boat? A. Now what do you mean, rowboat?

Q. In connection with this case. No, a cruiser. A. Wait now. Sailing or moving—was I ever on a boat?

Mr. Wilentz: In connection with this case.

The Witness: Never.

By Mr. Reilly:

Q. Did you ever stand on the deck of a boat upon which you thought the lady had been hidden below the deck? A. Never.

Q. Did you ever visit a boat anchored just above Throgg's Neck? A. Many times.

Q. In connection with this case? A. In connection with the case.

Q. Well, all right. Give me the first time you were on a boat at Throgg's Neck in connection with this case? A. I didn't get on the boat that I went to see. I stayed in my own rowboat, a pilot boat.

Q. Did you see some men on the other boat? A. I saw some men on the other boat.

Q. Did you talk to them? A. I did.

Q. Did one speak with a German accent? A. I couldn't recollect that unless you told me what he said.

Q. You spoke to him. I don't know what he said. A. I don't know then. I don't know either.

Q. Well, give me a description of the men you talked to? A. One of them was known—shall I?

Mr. Wilentz: Answer the question.

The Witness: One of them is known as "Coal Barge John."

Q. Give me a description of him, will you? A. A man who has been working on those boats for years. Right above Throgg's Neck you said, didn't you? I mean in a northerly direction. When I say "above" I distinguish the words "northerly direction" and "above," is that fair? Yes, north of Throgg's Neck. Yes.

Q. How many men were on the boat? A. I couldn't tell you.

Q. How many men did you see? A. Two at least.

Q. You went out of that boat believing those men were the kidnappers—

Mr. Wilentz: Just a minute.

The Witness: No, sir.

Mr. Wilentz: All right. I object to any questions about his beliefs, if your Honor please, without counsel asking him any more, because apparently the witness won't wait for my objection. But I object to any questions about his beliefs at that time or any time, because they are not material and admissible, I think counsel knows that.

Mr. Reilly: I think they are material for this reason: If he ever saw anybody on a boat and came back and made any statements concerning that person that he believed to be an interested party in this particular case different from what he said at this trial, I think it is material.

The Court: Well, of course, the Court will

have to deal with the questions as they are put, Mr. Reilly.

Mr. Reilly: I cannot put them in advance, because my witness is not a child and he listens to me as I address your Honor and the value of the cross-examination will be swept away.

By Mr. Reilly:

Q. How many boats did you visit after you paid— and I am not talking about steamboats that you rode on or the rowboats that you rowed in; how many boats did you visit after you paid the ransom money in connection with this case?

Mr. Wilentz: Excluding steamboats and rowboats?

Mr. Reilly: I don't want anything he rode on. I want boats he went to visit.

The Witness: I don't recollect— one. One that I told you about was the only thing that I visited, and then I did not go aboard.

By Mr. Reilly:

Q. Now, Doctor, do you recall being in Childs' Restaurant, New York, Broadway, in the neighborhood of 67th Street, during the month of December, 1934? A. I was there at Childs' Restaurant, visited it frequently, but the exact moment I don't know.

Q. Well, which Childs' Restaurant? A. Well, I will tell you—

Q. Let's see if we can get that? A. There is a kind of an opening in a northeasterly direction—

Q. What street? A. Well, St. Nicholas Street, I think, is about 66th Street or near that, and then it was one block south, or near it, 65th, 64th or 63d, about that. I can point to it.

Mr. Wilentz: All right, Doctor, you have answered it.

Mr. Wilentz: All right, Doctor.

Q. Did you meet there a man named Marcus Griffith, or Griffin? A. Marcus Griffuth?

Q. Yes, of the New York Inquirer? A. Not to my knowledge.

Q. Did you talk to a man in Childs' Restaurant the last time you were there in December, 1934? A. Yes, sir.

Q. About this case? A. I couldn't tell you, but if you specify I will remember.

Q. Did you tell Marcus Griffuth of the New York Inquirer in Childs' Restaurant during the month of December, 1934, that the child's body was brought back to the spot where it was found buried and you knew that to be a fact? A. I don't remember having said so.

Q. Is your memory poor? A. It is not. It is a question of my belief that I am thinking of.

Q. You won't say you didn't say it? A. I won't say I didn't— I don't know.

Q. Now, after the defendant was arrested and you saw him in Centre Street Police Headquarters— is that correct? A. Police headquarters I think— yes, yes.

Q. Did you ask a detective in the Bronx for some pictures of the defendant so you could study them? A. Not to my recollection.

Q. Will you say now that you did not, after the arrest of this defendant, ask Detective Callahan of

The Bronx for some pictures of this defendant so you could study them? A. I did not.

Q. Did Detective Callahan of The Bronx give you some pictures of the defendant? A. I don't know— I don't know him.

Q. Did anybody give you any pictures in The Bronx of this defendant? A. Not that I remember.

Q. And did you say to Detective Callahan— A. I don't know; I don't remember—

Q. Wait a minute, please. A. I see.

Q. Did you say to him when he gave you the pictures, "Don't tell anyone you gave me these pictures?" Yes or no. A. No.

Q. Now, I want the exact date, if you can recall, when you say you saw Hauptmann in The Bronx and you were riding in a bus. A. The exact date of the month I do not know, but it was in the latter part of August, 1934.

Q. And what bus were you riding in? A. Riding from the New Rochelle section down, that is in a southerly direction toward New York.

Q. And you didn't think it of enough importance to write that date down, did you? A. Not the date.

Q. Give me the number of the bus. A. I didn't take that. The number of the bus I was in?

Q. Yes. A. No, sir; I didn't take it.

Q. Did you take the chauffeur's number? A. I did not.

Q. Did you call out to the chauffeur, "Get that man?" A. "Get the man?" No, it was none of my business.

Q. None of your business? A. No, sir.

Q. To get the man? A. For me; no, sir.

Q. Do you want this jury to believe that it was none of your business— I will reframe the question. A. Yes.

Q. If it offends the General. It is your sworn

testimony then, is it, that you saw the man in August, 1934? A. Yes, sir.

Q. On the street in The Bronx, the man to whom you had handed the $50,000 ransom, the man you believed had double-crossed you, and you made no outcry? A. I didn't say that. I didn't say that I didn't make any outcry.

Q. Did you make an outcry? A. I did.

Q. In the bus? A. In the bus.

Q. Give me the name of a person that heard you. A. I don't know anybody. I was alone.

Q. Did you take anybody's name? A. I didn't know anybody.

Q. Did you make any effort to have the bus driver run the man down? A. He couldn't—

Q. Did you ask him to? A. Yes, sir.

Q. To run him down? A. No, I didn't, on account of the traffic. You see, he couldn't run him down; there might have been fifty people killed.

Q. That is what you think about it? A. That was my thought then.

Q. Did you ask anyone in the bus to give their name and address? A. I did not.

Q. In what direction did this man go that you saw in August? A. Northeasterly direction, that is—

Q. Where did he disappear? A. He disappeared in the woods north of Pelham Parkway.

Q. And where did you ride in that bus before you got off? A. Rode to the crossroad of Pelham Parkway and Williamsbridge Road. Williamsbridge Road runs, well, almost in a northerly and southerly direction; Pelham Parkway goes to the east, towards City Island.

Q. Do you recall a detective, an investigator by the name of Val O'Farrel? A. Never saw him to my recollection. He died I believe, didn't he?

Q. Yes. But he died after the defendant was arrested. A. I didn't place him. All right.

Q. Now, do you recall a few days after the defendant was arrested being on the piazza of your home at 2974 Decatur Avenue, the Bronx? A. Yes.

Q. Did you talk there to anyone about this case and particularly to O'Farrel? A. Never saw O'Farrel in my life to my recollection.

Q. Would you recognize a picture of him if you saw him? A. Yes, sir.

Q. I show you a picture—A. Yes, sir.

Q. —and ask you whether or not you recall ever seeing that gentleman? A. I never saw the gentleman in my life.

Q. Of course, you know he is dead now, don't you? A. I do, but the truth is just the same.

Mr. Wilentz: Wait a minute.

Q. Well, who did you talk to on the piazza of your home? A. Beg pardon?

Q. Who did you talk to a few days— A. My own immediate family, their friends and mine only.

Q. Anybody else? A. Not that I recollect.

Q. Do you remember during the negotiations that you were carrying on with the alleged kidnappers during the month of March, 1932, driving to a theatre, the Windsor Moving Picture Theatre in The Bronx; you know where that is, don't you? A. Yes, sir; yes, sir.

Q. It is at Foardham Road and Kingsbridge Avenue, isn't it? A. Windsor; yes, sir. Whether I drove or walked I could not tell you now.

Q. Do you remember going there one night with Al Reich? A. I don't recollect that. If you will tell me the play or— Windsor? I don't recollect ever having gone to the Windsor Theatre with Mr.

Reich, unless you would give me a hint that I might recollect it. I don't remember it.

Q. If you can't recollect the date, I can't ask you any more. His Honor has ruled on that. A. No.

Q. Doctor, did you ever in your real estate business that you have told us about rent any farms in the neighborhood of Hopewell, New Jersey? A. I was never in Hopewell.

Q. I asked you whether you rented any farms in the neighborhood of Hopewell, New Jersey? A. Did I rent them?

Q. Yes. A. No.

Q. Did you ever know a Mrs. Day? A. No.

Q. Who lived— A. No.

Q. You don't know where she lived? A. I don't know any such person.

Q. Do you know a Captain Barnard Eels? A. Barnard what?

Q. Eels. A. The word Barnard is odd. Captain Eels I know very well.

Q. Do you know a Mrs. Peacock? A. Mrs. Peacock, I do.

Q. Captain Eels is at City Island, is he not? A. No, sir.

Q. Where is he from? A. Around Cuttyhunk.

Q. Where is Cuttyhunk? A. Cuttyhunk is just maybe southeast a little of the Elizabeth Islands, and just west of that station that you said, Woodshole, in that vicinity.

Q. Woodshole? A. To the west of that.

Q. That is a Government station for coast guard cutters? A. Yes, sir; yes, sir.

Q. And you knew him from up there, did you? A. No, I knew him from City Island before.

Q. Where did you know Mrs. Peacock from? A. She was a tenant of mine.

Q. Where? A. At City Island.

Q. Did you ever tell anyone that the headquar-

ters of the kidnappers was at City Island? A. No, sir.

Q. Did you ever tell anyone that you knew the headquarters of the kidnappers? A. No, sir.

Q. Was at City Island? A. No, sir.

Q. Did you ever tell anyone that you were receiving mail from City Island from an agent of the kidnappers? A. Not to my recollection.

Mr. Wilentz: Just a minute.

The Witness: Oh, pardon me.

Q. I ask you whether or not you received this letter (showing to the witness)? A. You said Mrs. Peacock?

Q. I asked you whether you received that letter? A. Yes.

Q. When? A. I couldn't tell you that. Let me see now (examines paper). I couldn't tell you exactly when because I have received more from the same family and I do not specify the Captain himself, Captain Bernard Eels.

Q. Can you tell me when you received that letter? A. I cannot.

Q. Will you say you didn't receive it during the ramson negotiations? A. No.

Q. You did or did not receive it? A. I couldn't tell you.

Q. Couldn't tell me? A. No.

Q. I show you another letter—

Mr. Wilentz: Just a minute. Pardon me a minute. I ask that the letter referred to now be marked for identification.

Mr. Reilly: No objection at all.

(Letter referred to marked Defendant's Exhibit D-8 for identification.)

Q. Did you receive this letter? A. (Witness examined letter at length.)

Mr. Wilentz: Will you answer it.

The Witness: Is there a question? A. Yes.

The Court: Did you receive the letter?

The Witness: I received such a letter, but it was dated, it is not exactly as this is. It was dated:

By Mr. Reilly:

Q. Did you receive it? A. Someone tore the date off. That would have to be from memory purely and simply. When those folks were my tenants, just before they moved in place place—

Q. What year? A. Rough guess, November, November, 1932.

Q. Where was your place that you are talking about? A. Corner of Minneford Avenue and Beach Street, a little bungalow.

Mr. Wilentz: Just a minute. Do you expect to mark it for identification?

Mr. Reilly: What is the number of the exhibit? The number of the exhibit, the one just referred to by the witness?

The Reporter: This one here?

Mr. Wilentz: What is the number?

The Reporter: D-9 for identification.

Q. Well, there is no doubt that these two are your letters, letters you received? A. Not my writing.
Q. Letters you received? A. Two letters I received, yes.

Mr. Reilly: I offer them in evidence.

Mr. Wilentz: I have no objection if the defense—

The Court: No objection?

Mr. Wilentz: No.

The Court: Well, it is a little irregular, but I suppose they really should go in as a part of the defendant's case.

Mr. Wilentz: Just a minute. If he offers it as a part of his case—

Mr. Reilly: As a part of my case.

Mr. Wilentz: A part of the defendant's case.

The Court: And there is no objection?

Mr. Wilentz: And there is no objection.

The Court: Let them be admitted.

The Reporter: D-8 and D-9.

(Letters referred to were received in evi-

dence and marked Defendant's Exhibits D-8 and D-9.)

Q. Who did you give these letters to, Doctor? A. I don't remember. I think I left them on my desk in the shack— in the bungalow at City Island.

Q. Do you remember two ladies calling on you during the time that you were conducting these ransom investigations? A. Two ladies?

Mr. Wilentz: When and where, please?

Mr. Reilly: At his home on Decatur Avenue, Bronx.

The Witness: At my home on Decatur Avenue, Bronx— many hundreds of them.

Mr. Reilly: Will you recognize one of them if you saw her? A. I think so.

Mr. Reilly: Mrs. Corran, stand up, please.

The Witness: Have her come over this way, please, so I can get a good look. (A woman came forward and stood before the witness.)

By Mr. Reilly:

Q. Do you recognize this lady as being one of the ladies that called at your home? A. There were two ladies, Mrs. Bush— Yes, sir; I recollect her.

Q. Did you give these two letters to her? A. I did not. I beg pardon. I think to her companion, to her companion.

Q. Did you say in her presence and to her companion that the handwriting on these two letters or

of these two letters were the handwriting of the kidnappers? A. No, sir.

Q. And did you say to this lady and the lady that was with her that you knew the kidnappers to be four in number? A. Not to my recollection.

Q. You won't say you didn't say it? A. I won't say either till I am sure. Might I ask a question?

Mr. Wilentz: Just a minute now. You have answered the question, please.

The Witness: All right; all right.

Q. And one of these ladies was a Mrs. Bush, wasn't she? A. Right.

Q. Who formerly lived in Flemington, New Jersey? A. I only know that by her own statement.

Q. Didn't she exhibit to you as evidence of the fact that she came from this very town checks from her bank account on the Hunterdon County National Bank (showing a check to the witness)? A. I will see.

Mr. Wilentz: If your Honor please, I object to the question because I don't see that it makes any difference what Mrs. Bush told him as to where she lived.

The Witness: (Aside to Mr. Wilentz) She didn't say.

Mr. Wilentz: Well, I will withdraw the objection.

A. She didn't say.

Mr. Wilentz: I will withdraw the objec-

tion. I suppose if it doesn't matter, it can't do any harm.

By Mr. Reilly:

Q. Did she exhibit a check? A. No, sir; not to my knowledge.

Q. Didn't she say she came from Flemington, New Jersey? A. She came from the vicinity. The word "vicinity" she used; yes.

Q. She said also that she was familiar with the terrain surrounding Colonel— A. With the what?

Q. —the terrain and country. I am now using map language. Terrain. A. I see. How do you spell that name?

Q. T-e-r-r-a-i-n.

Mr. Wilentz: Please, please now.

The Witness: All right. I want to know.

The Court: Please don't occupy time unnecessarily.

A. The earth, yes; I know it now.

Q. Did she tell you that she came from the neighborhood? A. Yes, sir.

Q. Surrounding Colonel Lindbergh's estate? A. Not Colonel Lindbergh's estate; no, sir.

Q. In the neighborhood? A. No, sir; Flemington.

Q. And that she was familiar with Hopewell? A. Yes, sir.

Q. And then didn't you ask her to identify herself? A. Yes, sir.

Q. And didn't she then draw out some checks and say, "Here—" A. No, sir.

Q. "—are checks from my bank account?" A. No, sir.

Q. Did she tell you that she had been in the real estate business? A. No, sir.

Q. Did you ask her where she lived down here? A. I did.

Q. Where? What was her answer? A. Her answer was that she owned two farms, one of which— you refer to Miss Bush, not to this lady?

Q. Yes. A. She answered me and this is the real estate transaction that comes to my mind. Wait a minute. She told me that she bought two farms here, that she worked one herself. That is right.

Mr. Wilentz: May I know when this conversation is alleged to have taken place?

Mr. Reilly: This conversation was in March—

The Witness: As nearly as I can remember.

Mr. Reilly: 1932.

The Witness: It was in 1932.

Q. In March in your home?

Mr. Wilentz: Just a minute. Let's ask him.

The Witness: On the front veranda and in the front room when other people came and occupied the veranda.

Q. After your name had been announced as Jafsie and people knew that you were conducting some investigation? A. People knew that I was Jafsie.

Q. Conducting some investigation? A. Right, right; that had been published.

Q. Yes, and you gave her these letters, these two letters. A. Yes.

Q. Yes. Now, Doctor Condon, you say that you have been an educator for how many years? A. Fifty-one years.

Mr. Wilentz: Oh, pardon me, since they are in evidence on the part of the defense, would counsel mind reading the letters to the jury so they will know what they are?

The Court: Well—

Mr. Reilly: I don't think that is part of our case to read them now and confuse the jury.

Mr. Wilentz: Well, I don't think there ought to be an air of mystery about them, if your Honor please.

Mr. Reilly: There is no air of mystery, we will follow them up in the usual course of chain.

Mr. Wilentz: Well, they were offered in evidence. They are in evidence.

Mr. Reilly: Yes, they are in evidence.

Mr. Wilentz: I do not know why they should be withheld even at this time.

The Court: Well, perhaps—

Mr. Reilly: Formal link in our case, it will be much more intelligent to the jury as we progress to have this lady go on the stand and give her conversation connected with the letter in evidence and then they will be read to them.

The Court: When are you proposing to read those?

Mr. Reilly: Yes.

The Court: When are you—?

Mr. Reilly: In the case, in the defense, when Mrs. Corran takes the stand and gives her recollection of the conversation with Dr. Condon.

The Court: My thought was that if these letters were important enough to mark in evidence, that it might add to the clarity of the situation if they could be read now, so that the people could understand what counsel is talking about.

Mr. Reilly: The letters in themselves are not so important as to what the letters contained insomuch as it is the handwriting of the writers and that I don't care to disclose Mrs. Corran's testimony at this time unless I am forced to.

Mr. Wilentz: Well, if your Honor please, we have been spending, I think, about fifteen or twenty minutes about this phase of the case and two letters have been introduced by the defense. I take it that the jury is as much a part of this case as the rest of us. Now, counsel knows what is in the letters, the witness knows what is in the letters, and I know what is in the letters; they are in evidence, your Honor, if you want to see them, but we are withholding them from the jury. I cannot understand that phase of it.

Mr. Reilly: We are not withholding at all. As I told your Honor, and I don't want any misstatements made or exaggerated statements made in front of this jury that we were withholding anything—it is the handwriting that we are concerned with, and the handwriting, as I understand, in this particular case, the General is going to rely on later on by the calling of his experts. I don't think it fair or proper at this time for us to expose our reasons why these letters which this witness gave to our witness should not be given in advance before his handwriting witnesses testify.

Mr. Wilentz: Well—

(Counsel held a whispered consultation.)

Mr. Wilentz: Counsel agrees for the time being, rather than make an issue of it, that these letters have absolutely no reference to the Lindbergh case or mention of it.

Mr. Reilly: No, it is the handwriting and the conversation of the Doctor when he turned over the letters. One more question and I am through.

By Mr. Reilly:

Q. Were you ever connected with School 35—or rather, the school on 35th Street near Ninth Avenue, Manhattan? A. I was principal.

Q. You were principal there, were you not, from 1899 to 1902? A. Right.

Q. When you left there in 1902, where did you go, what school? A. I was transferred by request

to Public School 97 then, No. 12 now. They changed the numbers.

Q. By whose request were you transferred? A. By my own.

Q. Weren't you transferred by the Department of Education? A. They do all that transferring.

Q. Yes. Weren't you transferred not at your request but at the request of the teachers in the school? A. No, sir.

Q. Weren't you transferred to another school because of conduct—

Mr. Wilentz: Just a minute, if your Honor please. Now that I object to.

Mr. Reilly: I have a right to put the question.

Mr. Wilentz: I know, but you can't—

Mr. Reilly: The record should show my question even if—

The Court: The Doctor testified, as I recall, that he was transferred at his own request.

Mr. Wilentz: Yes, sir.

The Court: I suppose the cross-examining counsel have a right to search him in that respect.

Mr. Wilentz: As to whether or not that is true, but if your Honor please, and I take it a courtroom cannot permit the assassination of a witness by an inference. The reason is what I object to. I don't object to the most search-

ing examination as to whether it is at his request or somebody else's.

The Court: The question may be put. You may object to it and I will rule upon it.

Mr. Wilentz: Yes, sir.

The Court: I can't rule upon a thing when I don't know what it is.

Q. Weren't you transferred after being principal thirteen years— three years there, wasn't it? A. Do you ask me?

Q. Yes; 1899 to 1902. Right? A. Yes, sir.

Q. Three years, right? A. Yes, sir.

Q. Question withdrawn. Had you even been transferred from any school before? A. Yes, sir.

Q. How many times? A. Twice in 50 years.

Q. Now Public School No. 32 was known as the William Woods School, am I correct? A. I do not know now.

Q. It is at 357 West 35th Street? A. That is right.

Q. New York City. Is the present principal Dr. John H. Grotkopp? A. I don't know.

Q. Have they an alumni association connected with that school? A. They have.

Q. Do you know the president of the alumni association? A. If you will give me his name—

Q. Franklin Johnson? A. No, sir.

Q. Now I ask you again, weren't you transferred from that school in 1902 not at your request but by orders of the Department of Education—

Mr. Wilentz: Just a minute.

Q. —because of conduct unbecoming a gentleman—

Mr. Wilentz: Just a moment.

Q. —arising out of your conduct with a woman teacher? A. No, sir.

Mr. Wilentz: Just a minute.

Mr. Reilly: I think we have a right to investigate not only convictions of a witness, if there are any, or his moral turpitude.

Mr. Wilentz: Just a minute.

The Court: The witness answered the question "No, sir."

The Witness: No, sir.

Mr. Wilentz: If your Honor please, while the answer is in the record and it is in our favor, I still want to protest to your Honor against this form of a question as to other witnesses, too, and when they come I expect to object again, because I think they are unfair to the limit.

Mr. Reilly: Now, when I ask a question—

The Court: There is nothing before me, The question has been asked, it has been answered, and it is in the record.

Mr. Reilly: And I move that the remarks of the Attorney General after your Honor ruled, be stricken from the record.

The Court: I decline to strike out his remarks.

Mr. Reilly: I except.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s.s.) THOMAS W. TRENCHARD,
Judge.

Mr. Reilly: Now may we adjourn for lunch while I go over my files and papers?

The Court: One moment. Quiet, quiet. I would like the jury to retire now and come back at 1:45. I want the people to remain seated where they are in the courtroom until the jury has retired and until the defendant has retired.

(At 12:32 the jury retired.)

The Court: The prisoner is now remanded to the custody of the Sheriff and he may retire with the officers.

The court will now take a recess until 1:45 p. m.

(At 12:34 p. m. a recess was taken until 1:45 p. m.)

AFTER RECESS

(1:45 p. m.)

The Court: The Clerk may poll the jury.

(The jury was polled and all jurors answered present.)

The Court: Is the defendant in court?

Mr. Reilly: Yes. We have finished with Dr. Condon.

The Court: What is that?

Mr. Reilly: We have finished with Dr. Condon.

The Court: You have finished with Dr. Condon. Mr. Attorney General, the defense has announced he is finished with Dr. Condon.

Mr. Wilentz: I just have a few questions, if your Honor please, as soon as the witness—is the witness here?

The Court: Is Dr. Condon in court?

Mr. Hauck: Yes, he is here. We have sent for him, your Honor.

JOHN F. CONDON, resumed the witness stand.

Re-Direct Examination by Mr. Wilentz:

Q. Dr. Condon, there has been some talk about your athletics and your familiarity with it. Just one

question or two about it. When you were at college were you active in athletics? A. Yes, sir.

Q. Play football? A. Yes, sir.

Q. Captain of your college team? A. Yes, sir.

Q. And are you the holder of a Congressional medal for—

Mr. Pope: I object to the question as immaterial.

Mr. Wilentz: I will withdraw the question if counsel objects.

Q. You will recall that with reference to the first letter that you received at your home and which you say you got about ten o'clock that night after which you went to Rosenhain's restaurant and called Colonel Lindbergh's home, with reference to that incident my recollection is that your testimony indicated that one of the letters was not opened until you got to Colonel Lindbergh's home. Is that the fact or not? A. That is not the fact.

Q. Would you like to tell us what was the fact? A. Yes, sir. I took two letters, which were enclosed, one of which had signals on them, as I learned after, and one addressed to me, which had no signals, symbols or signature upon it. I had that one which was addressed to Colonel Lindbergh and sealed in my hand with the other one; called up Hopewell and asked if I might see Colonel Lindbergh as I had a letter that I thought might be important because in the opening—

Q. No, never mind. That is what you said. Now, as a result of that what direction did you get over the telephone from the person you believed to be Colonel Lindbergh?

Mr. Reilly: I object to it on the ground

that he did not know Colonel Lindbergh's voice at that time.

The Witness: I did not—

Mr. Wilentz: Counsel has gone all over that.

The Witness: I did not—

Mr. Reilly: I went over—

The Court: You may inquire of the Doctor whether or not he now knows that that was Colonel Lindbergh's voice.

The Witness: I say the first one who came to the telephone was not Colonel Lindbergh.

By Mr. Wilentz:

Q. Well, as the result, at any rate, of whatever it was that was said to you over the telephone that night, you being in Rosenhain's Restaurant and the voice being elsewhere down at Hopewell, what did you do? A. I asked permission to open a note.

Mr. Reilly: I object to it.

Q. What did you do as the result of it; did you open it? A. Well—

Q. After you talked on the wire? A. I got permission—

Mr. Reilly: I object to it.

The Witness: All right.

The Court: The question now is what did he do. He may state that.

By Mr. Wilentz:

Q. Tell us what you did, Doctor? A. So I went to the telephone and a voice directed me—right?

Mr. Reilly: I object.

Mr. Wilentz: Counsel can't object. He can move to strike out. The witness should be permitted to answer an orderly procedure followed.

Mr. Reilly: The Court has ruled that the conversation was inadmissible. He was about to say "A voice directed me." That is a conversation.

The Court: I did not understand that that was the purport of the testimony.

The Witness: No.

The Court: The question was what did he do.

Mr. Reilly: The answer was—he started to say "A voice directed me."

The Court: That may be stricken out.

Mr. Wilentz: I will try to regulate it, if your Honor please, so what Mr. Reilly objects to won't get into the record.

The Witness: Thank you. I opened the letter addressed to Colonel Lindbergh and read

that letter which contained the signature of the kidnappers to someone at Hopewell.

Q. And did you do that at the request of the person with whom you were talking?

Mr. Reilly: I object to it, that is another ingenous way of getting in the question.

Mr. Wilentz: I will withdraw the question.

Mr. Reilly: It is not re-direct examination.

Q. As the result of the conversation which you had over the telephone with Hopewell that night from Rosenhain's, did you then open that letter you are talking about? A. I did.

Q. And was that the letter which you talked of as first being sealed and addressed to Colonel Lindbergh? A. It is.

Q. And when you read that letter over the telephone did you describe whether it was at your own instigation or at the request of the person on the other side, the symbol and the signature? A. I read that letter.

Q. Will you please answer the question? A. It is rather complicated, counsel.

Q. I don't doubt it a bit. A. It is.

Q. Did you refer to the symbol at all when you were talking over the telephone? A. I did.

Q. And following that, you went to Hopewell at the request of the voice on the other end? A. I did.

Q. So that my recollection is that earlier in the testimony, however, you stated you took the sealed envelope to Colonel Lindbergh. A. I did, that is an error.

Q. All right, that is an error. A. That is an error.

Q. Now, speaking about the sleeping suit, when that sleeping suit arrived and before it was ever opened—I withdraw that. When that sleeping suit package was opened, who was present in your house to the best of your recollection? A. Colonel Breckinridge—

Q. I see. A. —is the only one that I remember.

Q. How about your daughter, was she there?

Mr. Reilly: I object to it as leading. He said Colonel Breckinridge was the only one there.

Mr. Wilentz: He says—

The Witness: My family is always there.

Mr. Reilly: In answer to my question this morning he said Colonel Breckinridge was there

Q. Tell us—

Mr. Reilly: Now, there has been a recess and I think we should be concerned and confined to re-direct, strict re-direct examination without the leading questions.

The Court: What is the present question?

Mr. Wilentz: The first question was about who was there, and he said Colonel Breckinridge and I asked whether his daughter was there and he said it is too leading.

The Court: He may answer that question.

A. Yes, my daughter was there.

Q. All right, sir, now, with reference to the wood carver that you spoke about and you gave the address and not the name, did you give the name to the authorities at the time? A. I did.

Q. In connection with some of the questions about the airplane trip or trips I think Mr. Reilly included trips to Maine, I think unintentionally. The place was up around Massachusetts, isn't that it? A. I never went to Maine, no.

Q. No, but where you did go was up in the vicinity of Massachusetts? A. Of these Islands described in the note.

Q. Well, is that in the vicinity of Maine or Massachusetts? A. Massachusetts, vicinity—well it was up toward Massachusetts, New Bedford.

Q. But not Maine? A. No.

Q. All right. Now about the bus; as I understand it, in August, 1934, you were on a bus? A. Yes.

Q. And while on that bus, my recollection is you stated that you saw John? A. Yes, sir.

Q. What did you do when you saw John with reference to making an effort to apprehend him? A. I arose from my seat and told the bus driver to stop.

Q. Did he stop? A. He did not.

Q. Then what happened? A. The traffic was going at that time in a westerly direction along the northerly side of Pelham Parkway, which runs in an easterly and westerly direction.

Q. Well, did he finally stop? A. He did.

Q. And did you get out? A. I did.

Q. Did you make an effort to apprehend this man? A. I searched the best I could, but he had gone away. I couldn't see him.

Q. Did you report that incident to the authorities? A. I reported it to the Department of Justice.

Q. Now, some short time ago, when counsel for the defense was interrogating you with reference to

what you did or what you didn't say to various people— A. Yes.

Q. —that you have met in these years, the question was asked you whether or not you didn't tell somebody that the child's body was moved to the place where it was eventually found. Now let me ask you this: Did you at any time from March 1st, 1931— A. '32.

Q. —1932, and up to the present time, did you at any time and do you know now how that body was placed in the grave in which it was found in Mercer County, New Jersey? A. I do not.

Q. And you did not then? A. I did not then.

Q. Early in the cross-examination by our distinguished adversary you were asked the question: did you learn that he phoned Betty Gow at half past eight the night of the kidnaping—referring to Mr. Johnson. A. I said—

Q Just a minute. now. My recollection is that your testimony was: "I knew that, the night of the kidnaping." Now, is that correct? A. No. I knew that was so on the night of the kidnaping.

Q. When did— A. I didn't know it on the night of the kidnaping.

Q. When did that information come to you? A. Will you pardon my distinction there?

Q. All you have got to do, sir, is come along with me and we will be finished in a minute. A. Yes.

Q. When did you ascertain that—not accurately; to the best of your recollection. A. It was after my meeting with John at Woodlawn Cemetery on March the 12th, 1932.

Q. Where did you get the information, in other words? A. From John.

Q. About the newspapers? A. No.

Mr. Reilly: Don't lead him, Mr. Attorney General, please.

The Witness: No.

Mr. Reilly: Go ahead. I have been waiting to hear this.

By Mr. Wilentz:

Q. What I want to know is this, sir: at some time or other you learned that Miss Gow had received a telephone call from Mr. Johnson? A. Yes.

Q. When did that information come to you and how did it come to you if you remember? A. It came to me through general gossip and the newspapers.

Q. That is all. A. That one point, yes.

Q. When was the first time that you saw the symbol which is attached and affixed to these various notes which are in evidence? A. About March 12th, 1932.

Q. The first time you saw the symbol? A. Yes, sir.

Q. What date did you receive the first note? A. I beg your pardon? The first time I received the symbol—around the 9th or 10th of March as nearly as I can recollect, 9th or 10th.

Q. When you saw it for the first time, under what circumstances did you see it? A. The opening of the sealed letter which was addressed to Colonel Lindbergh, to the best of my recollection.

Q. My recollection is, if you don't mind, Doctor, that in describing the cough which you heard once while you were with John, that you referred to it as pulmonary or something to that effect. A. Yes, sir.

Q. What did you mean by that? A. To my mind, it is plain that when a man coughs, he coughs—

Q. Please tell us what you meant by that particular expression as to John that night? A. That any slight difficulty in breathing through the lungs or

compressed lungs would make you cough.

Q. That was your conclusion from the cough? A. That was my conception at the time.

Q. You had no way of knowing and did not know whether it was tuberculosis or what it was, did you? A. I had not.

Mr. Wilentz: That is all, Doctor, for a minute, unless Mr. Reilly has some questions.

Re-Cross Examination by Mr. Reilly:

Q. Doctor, in any of your lectures or in any of your public appearances heretofore have you ever had any difficulty in expressing yourself in the English language?

Mr. Wilentz: I object to the question as not being material or competent, it is argumentative, that is all.

Mr. Reilly: I will prove in a minute why it is material, if the Court will allow me.

The Court: Well, he may answer yes or no.

The Witness: Will you repeat that question for me?

Q. In any of your lectures and public appearances, the number of times you have been before audiences or making speeches any place, have you ever had any difficulty in expressing yourself? A. Never.

Q. You pride yourself on your education, your degrees and your knowledge of English, is that correct?

Mr. Wilentz: Just a minute now, please. Just a minute.

The Court: Is there an objection.

Mr. Wilentz: I object, if your Honor please.

The Court: Sustained.

Mr. Reilly: May I have an exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Now you come in here at the close of your cross-examination and you say that when you used the language yesterday that you had taken a sealed note to Colonel Lindbergh at Hopewell that that was a mistake? A. I did say that and it was a mistake, yes.

Q. Was it a mistake in English? A. A mistake in English? No.

Q. You did not use the wrong words, did you? A. Stating it? I did not use the wrong words at the time.

Q. When you testify now, rather when you testified yesterday and used the language that you knew the night of the kidnaping that Red Johnson had phoned to Betty Gow, was that a mistake in English? A. It was.

Q. Last night after you left here, where did you go? A. To the hotel where I am stopping.

Q. In Trenton? A. Yes, sir.

Q. With whom did you talk? A. (No answer.)

Q. Connected with the prosecution. A. I don't know, but maybe that was in the automobile, I do not, I did not even think of it.

Q. When you arrived there, or at any time today, were you questioned about the mistakes of English, as you call them, you made yesterday? A. I was not.

Q. When was it first called to your attention by anyone that you had made a mistake yesterday when you said you took the unsealed or, rather you took the sealed envelope, unopened envelope, to Hopewell? A. It occurred to myself—

Q. Where and when? A. —as I was leaving the automobile, going home from here—that is, to the hotel, sir.

Q. Who did you have lunch with today? A. Samuel Leon, of the New Jersey State Police, who was assigned to—what will I say—escort me, and Alfred J. Reich.

Q. I show you a picture, Doctor, and ask you if you ever saw this person. A. As the photograph is presented to me, I can't say that I did. I may have. I have taught 46,000 people, and I may have seen him, but I don't know.

Q. Did you see him in 1932? A. 1932? Not to my knowledge.

Q. Did you see him after you handed the money over the hedge in the cemetery? A. Not to my knowledge. He made no impression on me if I did.

Q. Did you have many visitors at your home after— A. Oh, many.

Q. After you paid over the money? A. Many.

Q. Did you have the same visitors, the same individuals call there many times? A. Yes.

Q. Will you say now whether or not the original living person whose photograph I showed you didn't call on you many times after the payment of the ran-

som money? A. I could not say. I would only know by the conversation and the events which occurred during that conversation or those—

Q. Then the recollection of people's faces make no impression on you? A. They make a fine impression on me.

Q. You say now you can't remember this man? A. That man? I did not think of seeing, I don't recollect having seen him, and he did not make any impression upon me as seen in that photograph.

Q. You have seen this photograph in the newspapers, haven't you? A. I have—this one?

Q. Yes. A. I haven't taken notice.

Q. You have never seen this picture in the newspapers in connection with this case? A. I don't recollect.

Q. Have you seen the newspapers in connection with this case? A. Many.

Q. Many of them? A. Yes, sir.

Q. And you have read and seen, you have seen the faces and read the captions under each picture, haven't you? A. Not each picture; too many for that.

Q. Well, do you recollect now whether you have ever seen this picture in the newspapers? A. Just this particular time I do not.

Q. You won't say that it never was in the newspapers? A. Oh, no, I would not.

Q. Can you recall the names of any of the pictures you saw in the newspapers?

Mr. Wilentz: Just a minute. If your Honor please, I object to the question.

The Court: Well, Mr. Reilly, I am obliged to call your attention to the fact that this is not re-cross examination.

Mr. Reilly: I know it isn't, but I was going along so nicely I didn't think the General would even object. (Laughter.) May I have the picture marked for identification.

The Court: Is there any objection to that, Mr. Attorney General?

Mr. Wilentz: No.

The Court: It may be marked.

(The photograph referred to was marked D-10 for identification.)

Mr. Wilentz: Doctor, thank you, sir.

The Witness: Is that all.

Mr. Wilentz: That is all, sir.

Mr. Wilentz: Colonel Breckinridge, will you please be sworn.

HENRY BRECKINRIDGE, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. Colonel Breckinridge, where do you reside? A. 455 East 57th Street, New York City.

Q. And you are a member of the Bar of the State of New York, is that so? A. Yes, sir.

Q. And how many years have you been a member of the Bar? A. Something—of New York State?

Q. Yes, sir. A. Something over 12 years.

Q. Are you a member of the Bar of any other state? A. Yes, sir.

Q. What states? A. The states of Maryland and Kentucky and the Supreme Court of the United States.

Q. When did you first become a member of the Bar of any state? A. 1910.

Q. Were you ever connected with the United States Government in any official capacity? A. Yes, sir.

Q. In what capacity, sir? A. The Assistant Secretary of War from 1913 to 1916.

Q. During what administration, Colonel? A. The first administration of President Woodrow Wilson.

Q. How long have you known Colonel Lindbergh? A. For seven years.

Q. And during a great part of that time have you been his friend as well as his counselor? A. Yes, sir.

Q. And in that capacity as friend and counsel, did you have occasion to advise with him and consult with him and attempt to help him in his difficulties as the result of the crime which occurred on March 1st, 1932? A. Yes, sir.

Q. When was it that you were first called in by Colonel Lindbergh for your guidance and your assistance? A. Between ten and eleven o'clock on the night of the 1st of March he telephoned me.

Q. As the result of that telephone call what did you do? A. I proceeded to his residence, with my wife, his residence at Hopewell.

Q. And finally, did you have occasion to meet Dr. John F. Condon, the gentleman who was just on the stand? A. Yes, sir.

Q. Where did you first meet him? A. At Colonel Lindbergh's Hopewell residence.

Q. Tell me, sir, whether you were at the home of

Colonel Lindbergh when Dr. Condon's call came. A. I think I was not, sir; I think I came in later, but before his arrival.

Q. When he arrived, I understood you to say then that you were there, however, before he arrived that evening? A. Yes, sir.

Q. And I take it that you discussed with the Doctor and the Colonel the news that he brought? A. Yes, sir.

Q. And as the result of that and from that time on, was your association with Dr. Condon quite close? A. Yes, sir.

Q. I take it the association was in the common endeavor of all the parties to procure the return of the child. A. Yes, sir.

Q. Tell us, then, if you will from your best recollection just what it was you did as you remember it now with Dr. Condon from that night on. A. Dr. Condon remained in Hopewell the night of March 1-2, first and second. On the second of March, we proceeded to go back to New York.

Q. You do not mean the first of March, Colonel? A. No, sir. I beg your pardon. I don't mean the 1st of March, I mean when he came, the 9th of March, the night of the 9th-10th of March.

Q. At any rate, the date after he arrived. He arrived in the evening or early in the morning. A. Yes.

Q. The next day, some time early in March, you and he went back to New York, is that it? A. Yes, my recollection is that he arrived on the night of the 9th of March, perhaps after midnight which would make it the 10th; that we proceeded to go to New York and he invited me to his home where I remained for many weeks, for most of the time.

Q. Did you remain there on and off at least until the day that the news was flashed that the Lindbergh child's body was found dead? A. Yes, sir.

Q. Right up to about May 12, 1932, then. A. Yes, sir.

Q. How close was the contact, in other words, how frequent was it that you stayed there? Did you sleep there? A. Yes, sir.

Q. Every night? A. Nearly.

Q. Nearly every night. A. Yes, sir.

Q. Were you in the home when notes and papers arrived? A. Yes, sir.

Q. Referring specifically to the manila envelope in which was wrapped the baby's sleeping garment, were you present in Dr. Condon's home when that arrived? A. Yes, sir.

Q. Is this the complete package—I mean, the wrapping paper or was there more to it as you remember it? (Handing the witness an exhibit.) A. This is at least part of it, if these portions of paper adhere here.

Q. We are now referring to Exhibit S-53. How large was this package? What I am trying to find out, Colonel, is was the whole sleeping suit in that, or what? A. It was wrapped in paper.

Q. Wrapped in paper? A. Yes, sir.

Q. And then with reference—you don't mean this paper, though, do you? A. No, sir, not necessarily that paper; that may have been part of it.

Q. That is part of it? A. Yes.

Q. But what I am trying to find out is, this to me seems like just an envelope.

Mr. Fisher: Oh, that is objected to, if your Honor please. That is objected to, what it seems like to the Attorney General.

Mr. Wilentz: I think that is objectionable.

Mr. Fisher: I think so.

Mr. Wilentz: I won't argue about it.

A. I think it was contained in a package probably eight inches long with a diameter of four or five.

Q. And this is a part of the mailing package, as you remember it? A. Yes, sir.

Q. Who was present when that package was opened? A. Dr. Condon, Mr. Ralph Hacker and myself.

Q. Was it opened in your presence? A. It was, sir.

Q. Did it arrive in your presence? A. It did, sir.

Q. And when it was opened in your presence there was found what? A. There was found in it the sleeping garment of the baby and at least one letter.

Q. Now, whatever it contained, whether there was a sleeping garment, you know that? A. Yes, sir.

Q. And one letter you remember? A. Yes, sir.

Q. Do you recollect whether there was any other note besides the one letter? A. I do not.

Q. Whatever it was that was in that package when it was opened you saw, did you not? A. Yes, sir.

Q. And whatever it was that was in there and which you saw, what happened to it? To whom was it delivered? A. To Colonel Lindbergh.

Q. So that if there were one note or two notes, or whatever it was, it was delivered to Colonel Lindbergh? A. Yes, sir.

Q. And you know that to be the fact? A. Yes, sir.

Q. All right, sir. Now, these notes were coming to Dr. Condon and on occasions you were there. Did you have anything to do with the advertisements in the paper responding to those notes? A. Yes, sir.

Q. As a matter of fact, Colonel, you actually caused them to be inserted, did you not? A. Yes, sir.

Q. Am I to understand, then, that when a note would come and you and Dr. Condon would confer about it, sometimes with Colonel Lindbergh, sometimes without, and as the result of that conference, if an advertisement was to be inserted you would cause it to be inserted? A. Yes, sir; that is true, except as to the first advertisement which was inserted before any contact with Dr. Condon.

Q. And as to that first advertisement, so far as you know, that was a voluntary one on the point of the doctor without your knowledge? A. No, sir, it was not, it was the one to which, the one to which I infer was inserted at my directions after the receipt of a letter to me by the kidnaper.

Q. Yes, but what I mean is, the one before—I withdraw that. After the receipt of the first letter by Doctor Condon, so far as you know, the letter which came to Hopewell when you first met Dr. Condon. A. Yes, sir.

Q. You came back to New York? A. Yes, sir.

Q. Dr. Condon then inserted an ad, is that it? A. No.

Q. Did you? A. Yes.

Q. I see. A. Dr. Condon and I jointly conferred and at my direction the advertisements were inserted.

Q. So that from the time that you met Dr. Condon I mean, up to the time that the ransom money was paid, all the ads that were inserted in the paper, were they all inserted by you? A. Yes, sir, at my initiation.

Q. And charged to your account, too, weren't they? A. Yes, sir.

Q. In Dr. Condon's transactions during that period, did he comply with the instructions and suggestions as given by you? A. Yes, sir.

Q. Were you in the house, the Condon home, the night that the taxi driver delivered a note on March

12th, 1932? A. Yes, sir.

Q. Did you direct Dr. Condon to go to the florist shop on Tremont Avenue in accordance with the instructions in the note?

Mr. Fisher: That is objected to as extremely leading.

Mr. Wilentz: I withdraw the question.

Mr. Fisher: Withdrawn?

Mr. Wilentz: I withdraw the question.

Q. Do you recall the night Dr. Condon left on March 12th, I think it was? A. Yes, sir.

Q. Prior to going there, did he discuss it with you? A. Yes, sir.

Q. Did he go with or without your consent? A. With my consent.

Q. And of course, during those times you were acting for Colonel Lindbergh? A. Yes, sir.

Q. Now, on the night that the money left the Condon home in the box that has been referred to and described in this court, were you present at the Condon home that night? A. Yes, sir.

Q. Tell us please, as best you can remember just how that money was brought there, and if you had any part in bringing the money there? A. The money was brought in two separate packages in two separate conveyances, from the house of Mr. Francis Bartow, $50,000 of it in an automobile in which were Colonel Lindbergh and Mr. Al Reich; the other one by myself, the $20,000 by myself in another automobile.

Q. You travelled alone with the twenty? A. Yes, sir.

Q. And you arrived at the Condon home, I take

it, and when you did both packages of money being there, what was done with the money? A. It was inserted in a box.

Q. What kind of a box was it? A. It was a wooden box.

Q. Who had procured the wooden box? A. Dr. Condon.

Q. Was it procured with your consent and with your knowledge? A. Yes, sir.

Q. Was it a part of the plan which you men had proceeded with as you thought in accordance with the instructions given by the kidnapper? A. Yes, sir, plus some other considerations.

Q. Now you remained at the Condon home, I take it, while—I will withdraw that. Did you see that money box leave with Colonel Lindbergh and Dr. Condon on the night, Saturday night, April 2, 1932? A. Yes, sir.

Q. Were you present at the home when a note arrived? A. Yes, sir.

Q. That night. Had you been expecting directions that night? A. Yes, sir.

Q. Did you expect that there would be a call for the money that night? A. Yes, sir.

Q. Had you caused an ad to be inserted with reference to it? A. Yes, sir.

Q. That Saturday? A. Yes, sir; to be inserted in both the New York American and the Evening Journal, in accordance with the directions of the kidnap note.

Q. That is to say, did you get directions from the note which asked you to insert the ad for that Saturday? A. Yes, sir; and the note also said that "in case you have not time, insert it in the Evening Journal," so it was inserted in both papers.

Q. I show you Exhibit S-37: "Dear Sir: Have the money ready by Saturday evening." Now, was this note, S-37, with reference to Saturday evening,

April 2nd, 1932,—how soon before that was this note received, S-37? A. That note, as I remember, was mailed on the 1st of April and was received, I think, the evening of the 1st of April or early Saturday morning. I think the evening of the 1st of April. So we put the ad in both the morning New York American and the Evening Journal.

Q. Then as I understand it, the advertisement put in these two papers was the result of the receipt of S-37? A. Yes, sir, and the language of the advertisement conformed to the direction of the kidnap note.

Q. Did you then cause to be inserted the advertisement which appeared, "Yes, everything O. K. Jafsie"? A. Yes, sir.

Q. On the Saturday? A. Yes, sir.

Q. So that on the very Saturday, April the 2nd, 1932, when you were there and Condon was there, you expected word any time to bring the money, didn't you? A. Yes, sir.

Q. And that is why the money was there? A. Yes, sir.

Q. Was Colonel Lindbergh there? A. Yes, sir.

Q. What time did he arrive? A. He arrived in the latter part of Saturday afternoon with Mr. Al. Reich, conveying the $50,000.

Q. I take it, of course, Colonel, that that Saturday afternoon when Colonel Lindbergh came there, I take it it was much more tense than it is here now?

Mr. Fisher: Oh, that is objected to, your Honor. It calls for a conclusion, the tense feeling as to what is going on there and is purely for the benefit of the jury.

The Court: The Attorney General may inquire as to what conditions were there at that time.

Mr. Wilentz: May I just say if it is for the benefit of the jury, I don't know that that is an objection, or a legal objection.

Mr. Fisher: I certainly think it is an attempt to influence unfairly.

The Court: Well, I have made certain suggestions here. If they are of value they may be pursued.

Mr. Wilentz: Thank you, sir.

By Mr. Wilentz:

Q. Colonel, will you tell us about the situation in that home that afternoon from the time that money arrived? The ads were in the paper, Colonel Lindbergh arrived, as I understand it, you were there, Dr. Condon was there, his family was there and the money was there? A. Yes, sir.

Q. Tell us just about the situation in that home, what you did there. A. The money was packed; in packing it in the box, the box was a little split, because the box seemed to be designed to contain exactly the money, by its dimensions and volume, whereas the money was wrapped in paper and tied with string, and in trying to close the box, it broke. Something after eight o'clock, as I remember, the expected note arrived.

Q. Tell me first before we get to eight o'clock what you men did from eight o'clock, from the time Colonel Lindbergh arrived. A. We waited.

Q. Just sit around? A. Yes.

Q. That is what I want to know. The situation that afternoon as you men sat around. A. The situation, all I can say is that it was such as one would expect, people waiting for such an event.

Q. That is it. And was it a matter of hours? A. Yes.

Q. Did you leave the house during those hours? A. No.

Q. Did Colonel Lindbergh leave the house during those hours? A. No.

Q. Did Dr. Condon leave the house during those hours? A. No.

Q. And then finally at eight o'clock the note arrives, is that it? A. Approximately.

Q. What happens, immediately upon the arrival of the note? Who sees it, who looks at it, and what is done? A. I think that Dr. Condon received the note in the presence of his daughter, Mrs. Hacker, brought it back to the rear room where the rest of us were, the rear room of Dr. Condon's house.

Q. Did you give any instructions to the Doctor from wherever you were about anything with reference to the note while he was at the door getting it? A. No. Colonel Lindbergh was there.

Q. I see. Did Colonel Lindbergh give any instructions or any suggestions? A. No.

Q. Let me refresh your recollection. Did anybody say anything about giving the man a tip or something? A. Not that I know of.

Q. You don't recall it? A. I do not.

Q. All right, and then immediately—Did you hear the doorbell ring? A. Yes.

Q. Now, from the moment that doorbell rang and Dr. Condon got to the door, what I want to know is did he immediately come back with the note? A. He did.

Q. And was it, or was it not, opened in your presence? A. It was.

Q. As the result of the receipt of that note was it that Colonel Lindbergh and Dr. Condon departed with the money? A. It was.

Q. How soon after the receipt of the note? A. I should think ten minutes.

Q. Now, Colonel— A. Fifteen.

Q. —I take it that from the time you and Colonel Lindbergh started discussing this matter and Dr. Condon entered into the case, the matter of whether or not the money should be paid was discussed? A. It was.

Q. Tell me whether Dr. Condon ever suggested or urged that this money should be paid. A. He did not.

Q. Isn't it a fact that he urged that the money shouldn't be paid? A. Except upon a c. o. d. delivery.

Q. Except when the child was delivered, you mean? A. Yes, sir.

Q. Was there ever one cent paid to Dr. Condon for the time and the trouble and the effort and the expense that he underwent in connection with his contacts with you? A. No, sir.

Q. Did he ever request it? A. No, sir.

Q. As I understand it, you slept at his home? A. Yes, sir.

Q. You ate there. A. Yes, sir.

Q. Lived with his family those days. A. Yes, sir.

Q. I take it, Colonel, that while you were there and during those times, other people came? A. Yes, sir.

Q. Were you there when the telephone was changed, the telephone number was changed in the Doctor's home? A. I am not sure of that, sir.

Q. You are not sure.

Mr. Wilentz: I think it has already been agreed by consent that Colonel Breckinridge received this letter?

Mr. Reilly: Yes.

Q. You received one of the letters with the symbol on that is already in evidence, I think, Mr. Reilly kindly consented earlier in the proceedings not to annoy you with it, but while you are here, State's Exhibit S-23—well, let me ask you: Colonel Breckinridge, you have seen this envelope, have you not, addressed to you: "Mr. C. O. Henry L. Breckinridge?" A. Yes, sir.

Q. That was brought to you at Hopewell from your office? A. Yes, sir, by Mr. Phelan.

Q. Of your office? A. Yes, sir.

Q. I notice on the rear of this envelope, a little torn it is, that is, the front of it is addressed to you, sir, and on the rear, I notice that the return address is "Colonel Lindbergh, Hopewell, New Jersey"? A. Yes, sir.

Q. Is that the way it was when it was received by you? A. Yes, sir.

Mr. Wilentz: This is Exhibit S-21.

Q. Now will you take a look at S-22 and see if that is the note that came addressed to you in connection with the envelope and letter? A. Yes, sir.

Q. And in that, as I see it, you were asked to please hand an enclosed letter to Colonel Lindbergh? A. Yes, sir.

Q. Is this the enclosed letter? I am not sure about it, so will you please take a look at it yourself, Colonel? A. Yes, sir.

Q. And did you give it to Colonel Lindbergh? A. Yes, sir.

Q. Now the note to you did not contain the symbol, did it? A. No, sir.

Q. But the note which was enclosed and which you were requested to deliver to Colonel Lindbergh did have the symbol? A. Yes, sir.

Q. From the testimony already adduced in this

case, I understand that on various occasions Mr. Al Reich was in the Condon home, too? A. Yes, sir.

Q. Now his conduct in connection with these negotiations from the time that you got into the case, was that with your consent? A. Yes, sir.

Q. Was he paid for his various services that were rendered at your request and with your consent and at the request and consent of Dr. Condon? A. No, sir.

Q. Did you, after the money was paid, accompany Colonel Lindbergh, Dr. Condon and Mr. Irey in these various airplane trips? A. Yes, sir.

Q. On both occasions, when he went up from Bridgeport or somewhere in that vicinity? A. On one day.

Q. On one day? A. Several flights on one day.

Q. Yes. And then, when the child wasn't found and all of you returned, where did you come to? A. I stayed on most of the time at Dr. Condon's.

Q. Stayed on in the hope of getting more news? A. Yes, sir.

Q. Were you at Dr. Condon's home and did you consent to the insertion then of another advertisement that ran for four days: "Have you crossed me? Better directions"? A. Yes, sir.

Q. "Jafsie." Did better directions come? A. No, sir.

Q. Did you continue on at Dr. Condon's home in the hope of getting more word until May 12th? A. Yes, sir.

Q. And of course, when the news came that the child's body had been found, you left? A. Yes, sir.

Q. Thank you, Colonel, that is all.

Q. Oh, yes; I wanted to ask you about the Government Coast Guard cutter, or some boat. Did you have anything to do with requesting that the Government coöperate in attempting to find this boat Nellie, described in the kidnapper's instructions as

the place upon which the child was located? A. I know that the news was flashed at some time. The exact time I don't know. I think it was done by the Federal authorities representatives of the Internal Revenue Bureau.

Q. To have the boat go out and hunt—to have the Government boats look for boat Nellie? A. Whatever was done was done at the initiation of the Federal authorities.

Q. Well, the United States Government cutters, or whatever it was, didn't find the boat Nellie, did they, so far as you know? A. No, sir.

Q. On the night of April 2nd, 1932, being the night when the money was paid, $50,000, where was Mr. Al Reich that night? A. He was at Dr. Condon's residence.

Q. With you? A. Yes, sir.

Q. Now, there is no question about that, is there? A. No, sir.

Q. That Rich or Reich was there at Condon's home while Lindbergh, Colonel Lindbergh and Dr. Condon were away with the money and until the men returned, isn't that so? A. He was there, yes, sir.

Q. Not out of the house? A. No, sir.

Mr. Wilentz: That is all. Would you like to have some water, Colonel Breckinridge?

The Witness: I think I would, yes, if you please.

Cross-Examination by Mr. Reilly:

Q. Colonel Breckinridge, sir, had the police alarm been flashed, as far as you know up to the time of your arrival at Hopewell? A. Yes, sir.

Q. It had. Had the police arrived when you arrived? A. Yes, sir.

Q. And, of course, I take it for granted that you saw the ransom note that night? A. Yes, sir.

Q. Now, Colonel, it was not generally known was it, that there were some symbols on the bottom of the nursery note—we will call it? A. No, sir.

Q. Can you tell me, Colonel, when it was that the public first learned that there were any symbols on the nursery note? A. No, sir, I cannot definitely, there were rumors of it in the press throughout the days of March.

Q. Throughout the days of March? A. Some time later, I don't know when they started.

Q. The latter part of March? A. I don't know, sir.

Q. To your knowledge had any information been given out with your consent concerning the symbols prior to the night you heard from Mr. Condon? A. No. sir.

Q. You were here in court yesterday and heard Mr. Condon testify that in his opinion the note he took to Hopewell, the signatures were a poor imitation of the original note; did you hear that? A. I heard him make that statement about two documents. What they were, I don't know.

Q. The investigation into the disappearance of this unfortunate child was confined within the grasp of yourself as adviser to Colonel Lindbergh, and the Colonel, is that correct, and Colonel Schwarzkopf, and how many others directly formed the group in control prior to Dr. Condon's entrance into this? A. I don't know whether you could call it control, the Federal authorities were cognizant of everything that was done, the representatives of the Intelligence unit of the Internal Revenue people.

Q. Were they active? A. Yes, sir.

Q. Were the State Police active? A. Yes, sir.

Q. The local police active? Or did it pass into

the hands of the State Police? A. I think it passed into the hands of the State Police.

Q. Were the New York police doing anything, as far as you know? A. I think they were, sir.

Q. Do you recall, Colonel, a letter being received by Colonel Lindbergh about the 3rd or 4th of March with a stamp on it, Williamsburgh, New York? A. The second kidnap letter dated the 4th of March was mailed from Brooklyn.

Mr. Reilly: May I have that envelope?

Mr. Wilentz: Yes, it is there. Here it is, S-19.

Mr. Reilly: That is it.

Q. And it bears the date March 4, Brooklyn, N. Y., Station 2, 9 p. m., 1932, and that was prior to the entry of Dr. Condon into this case, wasn't it? A. Yes, sir.

Q. And that bore the signature, symbol? A. Yes, sir.

Q. What, if anything, Colonel, what orders or directions, if any, were given to the New York police concerning the receipt of this letter postmarked Brooklyn, if you know? A. I don't know, sir.

Q. Who would know? A. The New York police, sir, I suppose.

Q. Well, I know, but the letter was received by the Colonel. A. Yes, sir.

Q. And the Colonel has testified that very few people knew what he was doing at that time.

Mr. Wilentz: I don't think—

Q. Publicly. That is a fact, isn't it? A. I think so.

Q. Do you know whether or not the Colonel notified the New York police? A. I do not, sir.

Q. That from Brooklyn at 9 p. m. on March the 4th within 72 hours—Am I correct—of the child being taken away— A. (Nodding affirmatively.)

Q. —a letter came from Brooklyn, you don't know, do you? A. No, sir, I do not.

Q. Now, in your contact with Dr. Condon in the beginning of the contact with him, it is fair to say that you knew nothing about him, is that correct? A. Not prior to our meeting, no, sir.

Q. Yes. And I assume as a member of the Bar, and of your experience that you did question in your mind the insertion of his appeal in the Bronx News? A. Yes, sir.

Q. It gave you some thought? A. It did, yes, sir.

Q. Is it true, Colonel, that you caused to be written to him or did you write two letters to him bearing counterfeit symbols at any time? A. No, sir, I did not.

Q. Do you know of any letters being written to him— A. No, sir.

Q. —any decoy letters? A. No, sir, not that I know of.

Q. Not that you know of. You had many investigators working on this case, didn't you, Colonel? A. No, sir.

Q. Well, do you recall a gentleman introducing you through the late President John Grier Hibben of Princeton University whose name was Robert B. Edgar? A. No, sir, I do not recall him.

Q. Do you recall two gentlemen interested about the time, shortly after—I will reframe it. Two gentlemen interested in this case as investigators whose names, Mr. Thayer, or Mr. Fogarty? A. Yes, sir, Mr. Thayer is an attorney and Mr. Fogarty is now deceased, was an ex-detective of the New York Police force latterly in private practice.

Q. You say Mr. Thayer is an attorney? A. I assume that is the Thayer, Mr. Robert Thayer?

Q. Jersey or New York? A. No, sir, of New York, he is an associate of Colonel Donavan.

Q. Formerly of Buffalo, New York? A. Yes, sir.

Q. Now, it is a fact, is it not, Colonel, that—I withdraw that. You say you don't recall Mr. Edgar —see if I can refresh your recollection. Do you recall being at Colonel Lindbergh's home on Easter Sunday, 1932? A. What date was that, sir?

Mr. Reilly: Well, as to that, I will have to call on some of the ecclesiastical authorities around here, the Attorney General. Do you know when Easter Sunday was in 1932?

Mr. Wilentz: It was in April, I think.

Mr. Reilly: I think it was the first Sunday in April.

The Witness: I do not know, sir.

Q. And you have no independent recollection of having a conversation with Mr. Edgar in Colonel Lindbergh's library Easter Sunday, April of 1932, have you? A. I have no recollection of it.

Q. Do you recall the night that you arrived, rather, the night you arrived in answer to a telephone call from Colonel Lindbergh, March 1st? A. Yes, sir.

Q. Do you remember the weather in and around Hopewell that night? Was it very windy? A. Yes, sir.

Q. Blowing quite a gale? A. It was windy.

Q. Well, could you give us any idea of the velocity of the wind? A. No, sir; I couldn't.

Q. It was not an 80-point storm, as they say at sea? A. I don't know.

Q. It was quite noticeable, the wind? A. Yes, sir.

Q. Colonel Lindbergh's home was on top of the mountain or a hill? A. It was on the slope, up-grade.

Q. On the slope. Was the wind more intense there than it was in the lower roads? A. I don't know, sir.

Q. You don't recall that, do you? A. No, sir.

Q. Who delivered the note at Mr. Condon's house on April Ist? A. April 2nd.

Q. April 2nd, the Saturday night? A. I don't know, sir.

Q. Just the doorbell rang— A. Yes, sir.

Q. Mr. Condon disappeared from the room and, in a short time, reëntered the room with the note: is that correct? A. No, sir. Mrs. Hacker was with her father there, and we did not move out of the rear room, wishing to make as little disturbance or commotion in the house as possible.

Q. Did Mrs. Hacker go to the door with him? A. Yes, sir.

Q. The person who delivered the note was never apprehended, was he? A. I understand not, sir.

Q. Was there any description given of the person who delivered the note for the ransom money? A. Mrs. Hacker gave such a description to the police authorities.

Q. How soon afterwards? A. I don't know, sir.

Q. Well, what prevented the person who delivered the note from being taken into custody right there and then? A. Nothing.

Q. You would not only have the person but you would have the note. A. That is right.

Q. Correct? A. Yes, sir.

Q. You don't know if it was a man, or woman, boy or girl, or what it was. A. Not of my personal knowledge.

Q. You don't know. A. Or vision, no, sir.

Mr. Reilly: That is all.

Mr. Wilentz: Just a question, please, Colonel.

Re-Direct Examination by Mr. Wilentz:

Q. Counsel asked you what there was to prevent the apprehension of the person that brought the note. Was it the desire, the intention or the plan to arrest the person that brought the note? A. No, sir.

Q. My understanding then is that it was the note that you were waiting for, that you wanted, and not the man. A. Yes, sir.

Q. Is that it? So far as Colonel Lindbergh was concerned and so far as his instructions were concerned, they wanted the return of the child at the time and not the person that was getting the money, isn't that it? A. Yes, sir.

Q. And his instructions were followed, so far as you were concerned and Dr. Condon was concerned. A. Yes, sir.

Mr. Wilentz: Thank you, Colonel.

By Mr. Reilly:

Q. Now just a moment. Exhibit S-66 and S-67—this is the note, Colonel, is it not, which was handed in in Dr. Condon's house on the evening of Saturday, April 2nd? A. (Examining note at length) Yes, sir.

Q. And that note says: "Take a car and follow Tremont Avenue to the east until you reach the number 3225 East Tremont Avenue, which is a nursery, Bergen Green House, Florist. There is a table standing outside right on the door or floor you find a letter underneath the table covered with a stone. Read

and follow instructions. Don't speak to anyone on the way. If there is a radio alarm for police cars, we warn you we have the same equipment. Have the money in one bundle. We give you three-quarters of an hour to reach the place." Now, weren't you also interested in gathering together, and arresting the members of the band who had taken this child? A. Later, yes, sir.

Q. Then? A. No, sir.

Q. Didn't you consider it as a lawyer, and not only as the friend of Colonel Lindbergh, but as a member of the Bar of the State of New York, that it was your duty to apprehend any person that had any connection with this case? A. Yes, sir.

Q. Why didn't you do it that night? A. Because I was serving what I thought was a superior duty, to recover the child alive.

Q. But you had the man that delivered the note, and you had the note, didn't you? A. Yes, sir; but we didn't have the child.

Q. Dr. Condon, you say, always refused to surrender the money unless he received the child? A. That was his desire.

Q. But on this particular night, with no one looking at him, but somebody who received it, he handed $50,000 of the Colonel's money, as he says, over a hedge; is that right? A. His opposition was overruled.

Mr. Reilly: I move to strike it out as not responsive. It is the conclusion of a very good lawyer, but it is not responsive to the question.

Mr. Wilentz: I think it is responsive, if your Honor please.

The Court: I decline to strike it out, Mr. Reilly.

Mr. Reilly: I except.

The Court: Take your exception.

(Exception allowed and same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Over his opposition in the group; is that what you mean? A. His opposition—

Q. In the group? A. —to paying any money without receiving the child at the same time was overruled.

Q. Overruled? A. By those immediately concerned.

Q. Oh, I see. That it was not an opposition to the payment of the money. I misunderstood you.

Mr. Reilly: I think that is all, Colonel.

Mr. Wilentz: That is all.

Mrs. Hacker, will you please take the stand.

MYRA CONDON HACKER, sworn as a witness on behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Your full name is Myra Condon Hacker, is that it? A. Yes, sir.

Q. And you are the daughter of Dr. Condon, who was on the stand a moment ago? A. Yes, sir.

Q. You live in the State of New Jersey, do you Mrs. Hacker? A. Yes, sir.

Q. Where do you live? A. I live at 1545 Warwick Avenue, West Englewood.

Q. West Englewood? A. Yes, sir.

Q. And your husband is an architect? A. Yes, sir.

Q. I suppose that during the times that your dad was interested in these negotiations that you were at his home on various occasions? A. I was, sir.

Q. Did you spend much time there, Mrs. Hacker? A. Almost all my time.

Q. Except for the times that the children visited your parents. What did the family consist of at home? A. Just my mother and my father and myself, with my husband, when he could come.

Q. So that so far as the Bronx home is concerned at Decatur Avenue, that was occupied by your mother and your dad? A. Yes, sir.

Q. Except when you would visit them? A. Yes, sir.

Q. How many brothers and sisters have you? A. I have two brothers.

Q. Two brothers? A. Yes, sir.

Q. Both of them are above the majority age, I take it, both of them are over twenty-one? A. Yes, sir.

Q. And they live with their families, I take it? A. Yes, sir.

Q. Now on the night, withdraw that; on the day that there was received the sleeping garment, were you in the house? A. I was.

Q. Who else was in the house besides yourself, Mrs. Hacker? A. My father, Colonel Breckinridge, my mother.

Q. And do you recall where the package was delivered or where the envelope was delivered? A. According to my recollection it was in the middle of the morning in the post box.

Q. And who procured it from the post box, as you remember? A. My father, I believe.

Q. And did you see him bring it in? A. Yes.

Q. And when he brought it in was it opened? A. I beg pardon?

Q. Was it opened when it was brought in? A. No, sir.

Q. Well, did you see it opened? A. Yes, sir.

Q. That is what I mean. Was it opened in your presence? A. Yes, sir.

Q. And in the presence of Colonel Breckinridge? A. Yes, sir.

Q. And did you see the sleeping suit then being contained in that yellow package or tan package? A. Yes, sir.

Q. Was there or was there not a note in there? A. Yes, sir.

Q. Have you any recollection as to whether it was one note or two notes? A. (No answer.)

Q. Give us your best recollection. A. My best recollection is that there were two notes.

Q. That is your best recollection? A. Yes, sir.

Q. Now whatever was there—

Mr. Reilly: May we have that read, General, please?

Mr. Wilentz: "My best recollection is that there were two notes."

Q. Whatever was in that package, what was done with it—notes, package and all? A. It was completely turned over to Colonel Lindbergh, when he arrived.

Q. How soon after its arrival did Colonel Lindbergh arrive? A. Well, I couldn't say—a few hours.

Q. A few hours? And during all that time Colonel Breckinridge was in the house? A. Yes, sir.

Q. Now, Mrs. Hacker, on April 2d, 1932, you were at Dr. Condon's again, at your dad's home? A. I was, sir.

Q. And you remember that the telephone bell rang or, rather, the doorbell rang? A. Yes, sir.

Q. And there was a note delivered? A. Yes, sir.

Q. Do you know who delivered it? A. I don't know his name.

Q. You have never seen his picture? A. Not to my knowledge.

Q. And did you give a description of the person to the authorities? A. I did, sir.

Q. But you were present at the door, as I understand it, when you saw a stranger hand to your dad that note on April 2d, 1932, the Saturday when the money was paid? A. Yes, sir.

Q. What is your best recollection as to the size and height of the man who delivered it? A. It was a man, wasn't it? A. Yes, sir; it was a man.

Q. Yes. A. My best recollection was that he was about five feet six or seven, very slim.

Q. Yes. A. And very dark.

Q. Very dark, very slim and five foot six or seven? A. Yes.

Q. And, you have never seen him or his pictures since? A. No, sir, not to my knowledge.

Mr. Wilentz: That is all, Mrs. Hacker. Thank you.

Cross-Examination by Mr. Reilly:

Q. Mrs. Hacker, will you relax, please, and don't hold yourself so tense? A. Thank you.

Q. I want to ask you a few questions, that is all, I want you to be comfortable. The man that came to the door with a note that Saturday night— A. Yes, sir.

Q. —what is your best recollection as to how he was dressed? A. Indefinitely.

Mr. Wilentz: What is the answer?

The Reporter: Indefinitely.

A. Indefinitely.

Q. Did you go to the door with anybody? A. With my father.

Q. Now, you had been living over in West Englewood, is it? A. I beg pardon?

Q. Is it West Englewood you live? A. That is my present residence, yes.

Q. Yes. How long have you been living over there? A. About two years and a half.

Q. And at the time you talk about, you were living home, is that right? A. No, I wasn't, I lived in Leonia at that time.

Q. Leonia, New Jersey? A. Yes.

Q. And was your father a frequent visitor to you over there? A. No, I was a more frequent visitor to him.

Q. Naturally. How far is Leonia from West Englewood? A. Perhaps four or five miles.

Q. Well, now, what was the occasion of your being home with your father if you were married and living in Leonia the morning that the sleeping suit arrived? A. During the entire negotiations I desired to be as helpful as possible. My parents were advanced in years.

Mr. Wilentz: Will you please repeat the answer?

(The reporter repeats the last answer.)

Q. Your husband did not come over, did he? A. He came over.

Q. Occasionally? A. As often as he could, as business permitted him.

Mr. Wilentz: I am sure the jurors cannot hear the answers.

The Court: A little louder, because we all wish to hear.

The Witness: I will try, sir.

(Last question and answer repeated.)

Q. Was it the first or second mail of the day that you say this sleeping package arrived? A. Why, I think it was the second mail.

Q. Around eleven or twelve o'clock, or something like that? A. I thought around ten-thirty.

Q. Who discovered it on top of the mail box, do you know? A. Well, we went, I believe my father.

Q. And you say you brought it in and Colonel Breckinridge was there and your mother and your father and yourself? A. That isn't exactly what I said.

Q. Was the Colonel there? A. He certainly was.

Q. Who else was there—we will put it that way? A. Just my father and myself. My mother was resting.

Q. And then later on Colonel Lindbergh arrived?

A. Yes, sir.

Q. And the contents of the package and the wrapping paper and everything else were delivered to the Colonel, is that correct? A. Yes, sir.

Q. Now you say that this man that delivered the note on April 2d, Saturday evening, that is correct, is it not? A. Yes, sir.

Q. Was about five feet six? A. Or seven, yes.

Q. And his weight was about what? A. He was of slight build, I wouldn't attempt to estimate it.

Q. You are not as familiar with those terms of lightweights and welterweights as the rest of the family. Was he a slim young man? A. Yes, sir.

Q. About how old—we will put it this way, in his twenties or thirties? A. I should say his twenties.

Q. Have a mustache? A. I don't think so. Not to my recollection.

Q. Black hair? A. Dark hair, as I remember.

Q. Rather a dark complexion? A. I should say so.

Q. Either of Italian or, we will say, Jewish type? A. I wouldn't care to link up with any nationality.

Q. Was there any characteristic at all about him that looked foreign? A. I couldn't say. When it was considerably fresher in my mind I gave it to the Department of Justice.

Q. And, of course, now you are simply trying to remember something that happened almost three years ago; is that right? A. Yes, sir.

Q. I ask you to look at this photograph and see whether that wasn't the man that delivered the note (showing to witness.) A. I do not think so.

Q. You wouldn't say it wasn't?

Mr. Wilentz: Well, now, she has answered the question. She doesn't think so, if your Honor, please.

The Court: Yes.

Mr. Reilly: I know. I don't care to harass this witness.

Mr. Wilentz: I know counsel isn't harassing the witness.

Mr. Reilly: It is cross-examination.

Mr. Wilentz: I think counsel is very considerate, but I still object to the question.

The Court: What is your question now, Mr. Reilly?

Mr. Reilly: She said she didn't think so and I asked her to say whether or not she would say that it wasn't the man.

The Court: Well, she may answer that, if she can.

A. I do not believe it is the man.

Q. Of course, I show you a photograph without mentioning any names or anything of a man without a hat, don't I? There is no hat, this picture has no hat on it, has it? A. No, sir.

Q. And I assume the person that delivered the note—

Mr. Wilentz: Pardon me just one minute. I hate to interrupt you. In referring to this—

Mr. Reilly: Pardon me.

Mr. Wilentz: Counsel just overlooked inadvertently, the picture shown to the lady is D-10 for identification.

The Court: Let that be noted.

(Photograph referred to marked Defendant's Exhibit D-10 for identification.)

By Mr. Reilly:

Q. Do you recall the kind of a hat he had? Was it a slouch hat? A. I am sorry, I don't.

Q. Didn't take very long then to deliver the note, did he? A. No.

Q. Did he ask for anybody when he rang the bell and the door was opened? A. That I don't recall.

Q. You don't recall whether he said: "Are you Mr. Condon?" or "Dr. Condon" or "Are you Doc?" or anything like that, do you? A. I am sorry, I don't.

Q. Do you recall whether he said anything? A. I don't.

Q. Do you recall your father saying anything? A. No.

Q. Father didn't say, "Come in, you are expected. We have been waiting for you," or anything like that? A. Not to my knowledge.

Q. And yet you were there? A. I was.

Mr. Reilly: That is all.

Mr. Wilentz: Thank you, Mrs. Hacker, that is all.

If your Honor, please, that completes a certain line of our examination and as has been our custom and luxury, may we ask for a five or ten-minute recess at this time? The air is quite thick.

The Court: Can you get along with five, do you think, Mr. Attorney General?

Mr. Wilentz: Yes.

The Court: We will take a recess of five minutes; in the meantime the jury may retire.

(At 3:05 o'clock P. M., a recess was taken for five minutes.)

(After a short recess the trial was resumed.)

The Court: Now we must have quiet in the court room. The Clerk may poll the jury.

(The jury is polled and all jurors answered present.)

The Court: Counsel may proceed when they are ready.

Mr. Large: Corporal Horn.

WILLIAM F. HORN sworn as a witness on behalf of the State:

Direct Examination by Mr. Large:

The Court: William F. Horn?

The Witness: Yes, sir.

Q. Where do you reside, Corporal? A. I reside in Hackensack, New Jersey.

Q. Have you any official position? A. Corporal detective, New Jersey State Police.

Q. New Jersey State Police?

(Mr. Large gives the Reporter a paper to mark.)

The Reporter: S-72 for identification.

(The paper referred to was marked State's Exhibit S-72 for identification.)

Q. I show you a paper writing marked Exhibit S-72 for identification and ask you whether or not you saw that written? A. Yes, sir, I did.

Q. Where was it written? A. It was written in the Second Precinct, New York City Police Station, at 156 Centre Street, New York City.

Q. Who was it written by? A. By Bruno Richard Hauptmann.

Mr. Large: I offer it in evidence.

Mr. Fisher—It is objected to, your Honor; at the present time we should know some of the conditions under which it is written.

Q. Under what circumstances was this written? A. Hauptmann was requested to take the dictation from several forms that we had.

Q. Yes. A. And he wrote those.

Q. Was it done voluntarily? A. Done voluntarily, yes, sir.

Mr. Large: I submit it is admissible.

Mr. Fisher: It is still objected to, your Honor, because, for the various following reasons: First, that no time is shown as to the hour of the day or the day of the month; second—

Mr. Large: Well, I will show that.

Mr. Fisher: Second, nothing is shown as to the condition under which the writing was done. The witness has simply said it was voluntary. We have no way at the moment, without the privilege of cross-examination, of knowing that to be true.

The Court: Well, do you wish to cross-examine the witness as to the voluntary character of this writing?

Mr. Fisher: Yes, indeed; before it is to be admitted.

Mr. Large: I will ask first, if your Honor, please:

Q. On what day was this written? A. I think the date appears on the paper itself.

Mr. Reilly: Yes; 9/20.

The Court: September 20th.

Q. September 20, 1934; is that right? A. Yes, sir; between midnight the 19th and the morning of the 20th.

Mr. Large: Go ahead, Mr. Fisher.

By Mr. Fisher:

Q. When was Mr. Hauptmann apprehended, do you know, Corporal? A. The 19th of September.

Q. At what time of day? A. At about nine a. m. in the morning.

Q. And this writing you are talking about was done some time between midnight and the following morning, is that correct? A. Yes, sir.

Q. That would be after the man was in custody from nine o'clock in the morning until nine at night and then on until some time after midnight? A. That is correct.

Q. More than fifteen hours, is that correct? A. That is correct.

Q. Do you know what had been done with Mr. Hauptmann during the fifteen hours of custody? A. He had been questioned.

Q. Continuously? A. Continuously, yes.

Q. So that for fifteen continuous hours, the man had been under a barrage of questions propounded by police or authorities of some description, is that correct? A. I wouldn't say continuously.

Q. Well, he was continuously in custody, was he not? A. He was.

Q. And you were taking statements among the various policemen, were you not? A. Yes, sir.

Q. Practically all day? A. Yes, sir.

Q. And into the night? A. Yes, sir.

Q. As a matter of fact, if you hadn't been questioning Hauptmann he would not be up at 12 o'clock, would he?

Mr. Large: Object to that as calling for a conclusion and argumentative.

Mr. Fisher: Withdrawn.

Q. The fact is that he had been continuously awake under the examination of police officers from the hour of his arrest at nine o'clock in the morning until some time between midnight and daylight of the next day, is that correct? A. I didn't see him all the time.

Q. Well, you know that he was in custody, don't you? A. I know he was in custody, yes.

Q. Where was he when he wrote this alleged specimen? A. He was in the Bureau of Criminal Identification.

Q. And who was present there with him? A. Lieutenant Finn—

Q. Who is Lieutenant Finn? A. A member of the New York City Police Department.

Q. Who else was there? A. Several other police officers.

Q. How many? A. Approximately ten or fifteen.

Q. Yes. Ten or fifteen police officers and Haupt-

mann. I assume Hauptmann's counsel was there, his lawyer.

Mr. Wilentz: I object to that, because there is no basis for the assumption.

Mr. Fisher: I will withdraw it, your Honor.

Q. I ask was Hauptmann's attorney there? A. He wasn't.

Q. Hauptmann was there without the benefit of counsel, is that correct? A. That is correct.

Q. And having been in your custody or the custody of the police for at least fifteen hours or upward he was then asked to write, is that so? A. He was, yes, sir.

Q. What was the defendant's condition as to nervousness at that time? A. As far as I could see he was all right.

Q. Do you think that the constant examination of police for fifteen hours in no way affected his nervous system?

Mr. Wilentz: Just a minute. I object to the question as to what his opinion is.

Q. From his appearance did it seem that he had in any way been affected by the examination? A. It didn't seem that way.

Q. Had he had any food at any time? A. I don't know. I personally didn't see him have any, but I wasn't there—

Q. That is all right, Corporal. But you didn't see him have any food? A. I didn't.

Q. Who directed the prisoner to write? A. I did and Lieutenant Finn.

Q. I see. And what did you direct him to write? A. Directed him to write the writing on those sheets, on the sheet.

Q. Just as it appears on there? A. Yes, sir.

Q. And you directed him to do it just as it is there? A. What do you mean? I don't understand you.

Q. There is the paper. Does that contain exactly what you directed him to write? A. (Witness examines paper at length.) To my best recollection it does.

Q. Was the prisoner abused in any way during that day? A. No, sir.

Q. Did you see him struck at any time? A. No, sir.

Q. Were there any threats of any kind made to him during the fifteen hours of confinement? A. No, sir.

Q. Any promise of any kind held out to him? A. No, sir.

Q. Did he volunteer to write upon the first request, or did you use some persuasion? A. He volunteered. He was exceptionally willing to write it.

Q. I see. After 15 hours he was willing to write? A. Yes, sir.

Q. Now, what kind of a pen was this written with? A. It was written with three different pens.

Q. What type of pen is the first? Show me what type of pen is the first, show me how far it is written with one pen, down to what point. A. I could not determine that positively, looking at it now.

Q. I assume about there, for one point. (Indicating on paper.) A. It is possible.

Q. One, two, three, four, five, indicating a point about halfway on the fifth line of the writing, it would seem about there is the end of one writing, isn't it? A. It is possible; it is hard to say.

Q. What kind of a pen wrote the top? A. With two ordinary Spencerian pens and a fountain pen.

Q. What sort of a tip? A. Not a stub pen; an ordinary office pen.

Q. Fine point or broad point? A. It wasn't exceptionally fine, it wasn't broad, it was an ordinary soft pen.

Q. And the first two pens that he wrote with, they are office Spencerian pens? A. Yes, sir.

Q. And the last a fountain pen: is that right? A. Yes, sir.

Mr. Fisher: I submit, your Honor, that the offer should be rejected because of the fact that the man clearly was not writing under normal circumstances in such a way as would give his hand the normal appearance in his penmanship.

The Court: Is that the only objection, that you have to make?

Mr. Fisher: Further that it is not the voluntary writing of the defendant, but that there appears on that paper just such things as he was directed to put there by the officers, some fifteen of them, who had him in charge, and under no circumstance can it be considered the voluntary writing of the defendant in this cause.

The Court: Did you hear the witness say that he volunteered to write?

Mr. Fisher: Yes, your Honor, while in the presence of 15 police officers and in custody, sir.

Mr. Large: If your Honor please, the subject matter of the paper was dictated by the officer and it is offered for handwriting purposes rather for its content (handing paper to the Court).

In other words, it does not purport to be a confession or anything of that nature.

The Court: Well, that is what I was interested in.

Mr. Large: Oh, no; oh, no, it doesn't purport to be such. The words were supplied by the man asking for the sample. It is merely as a sample of handwriting.

The Court: There is nothing in here in the way of a confession of guilt?

Mr. Large: No, sir. It isn't intended as such. It is one of many samples of handwriting.

The Court: And offered for that purpose alone?

Mr. Large: Yes, sir.

The Court: Well, have counsel anything further to suggest or to offer why this paper should not be admitted as an exhibit?

Mr. Fisher: Nothing further, sir.

The Court: I will admit it.

Mr. Fisher: And we may have an exception?

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s.s.) THOMAS W. TRENCHARD,
Judge.

The Reporter: S-72 in evidence.

(The paper referred to received in evidence as State Exhibit S-72.)

Mr. Large: S-72 in evidence. Will you mark that (producing another paper).

The Reporter: S-73 for identification.

(Paper referred to was marked S-73 for identification.)

Mr. Large: This witness has witnessed—

The Reporter: Do you want these all for identification?

Mr. Large: Yes. There are five of them this witness witnessed.

The Reporter: S-74 for identification.

(Paper referred to was marked S-74 for identification.)

Mr. Large: Do you want to look at these?

Mr. Fisher: Yes. Excuse me. How many of them are there altogether?

Mr. Large: Five more.

The Reporter: S-75 for identification.

(Paper referred to was marked S-75 for identification.)

Mr. Fisher: Now, if I could ask the witness one question about the whole five of them, I

could deal with all of them at once. I will ask him if they were all written under the same conditions.

The Reporter: S-76 for identification, S-77 for identification.

(Papers referred to marked S-76 for identification and S-77 for identification.)

By Mr. Large:

Q. Now, Corporal, I show you five papers marked for identification S-73, S-74, S-75, S-76, S-77, and ask you to look at them and tell me whether or not they were all written in your presence (handing the witness the papers referred to)? A. Yes, sir, they were all written in my presence.

Q. And who wrote them? A. The defendant.

Q. Were these written under similar circumstances to the circumstances outlined under which S-72 was written? A. They were written under the same circumstances.

Q. The same evening or the following day? A. The same evening, it was between midnight and two in the morning.

Mr. Large: I offer these in evidence.

Mr. Fisher: I would like to ask a question or two, your Honor.

By Mr. Fisher:

Q. Do I understand that these were all written at

about the same time, it was a continuing operation? A. Yes, sir.

Q. And they were all written under exactly the same circumstances and as the result of the same directions as the other one that has been admitted? A. Yes, sir.

Mr. Fisher: We offer, your Honor, the same objection as to the other.

Mr. Large: Will it be admitted? I might state, if your Honor please, that these are introduced merely as handwriting specimens and are not, or do not purport to be confessions in any sense.

The Court: I think they are admissible, Mr. Fisher.

Mr. Fisher: And assuming your ruling is the same, I shall ask for an exception.

The Court: Yes. You have nothing further to urge in regard to the voluntary character of these papers.

Mr. Fisher: At the moment it is impossible to offer anything further. Of course, there will be a denial by the defendant at the proper time. At the moment there is no further objection than I have already urged, your Honor.

The Court: Very well, they will be admitted. Exception allowed,

(s.s.) THOMAS W. TRENCHARD,

Judge.

The Reporter. In evidence, Exhibit S-73, S-74, S-75, S-76, and S-77.

(Papers referred to were received in evidence and marked State Exhibits S-73, S-74, S-75, S-76 and S-77.)

Mr. Large: Any further cross-examination of this witness? He will be recalled.

That is all, Mr. Horn.

THOMAS J. RITCHIE, sworn as a witness on behalf of the State:

Direct Examination by Mr. Large:

Mr. Large: I will have these marked.

(The papers handed to the reporter were marked Exhibits S-78 for identification, S-79 for identification, S-80 for identification, S-81 for identification, S-82 for identification, S-83 for identification, and S-84 for identification.)

Q. Do you hold an official position, Sergeant? A. Yes, sir, I do.

Q. What is it? A. I am a Sergeant, New Jersey State Police.

Q. And you reside where? A. In Lawrenceville, New Jersey.

Q. Sergeant, I show you seven papers or writings marked S-78, S-79, 80, 81, 82, 83 and 84 for identification respectively, and ask you whether or not you saw them written? A. This one I did, yes, sir.

Q. I am showing all of them. Look at them all, please. A. (After examining papers) Yes, sir, I saw all of those written.

Q. You saw all of them. Does the date appear

on them, the date you saw them written? A. On some of them, not all of them.

Q. On what days did you see them written, just look at them? A. Some September 19th and September 20th, two different occasions that I took the writing.

Q. All were written on one of those two days? A. Yes, sir.

Q. And then you referred to September 19, 1934? A. That is right.

Q. And they were written by whom? A. By Bruno Richard Hauptmann.

Q. And they were written where? A. In the Second Precinct Police Headquarters in Greenwich Street, New York City.

Q. New York City? A. Yes, sir.

Q. State whether or not they were written voluntarily by the defendant? A. They were written voluntarily, in fact, Hauptmann said, "I would be glad to write, because it will get me out of this thing." He made that statement to me.

Q. To you? A. Yes, sir.

Q. Before writing them? A. That is right.

Q. Now Sergeant, do you know how long the defendant had been in custody when these specimens were taken? A. Why, the ones taken on the 19th were taken around between six and seven o'clock.

Q. In the afternoon? A. In the evening, that is right.

Q. And about the ones on the 20th? A. At lunch hour, I think, 12:45.

Q. That is just after midnight? A. No.

Q. Oh, in the daytime? A. At lunch time, that is right.

Q. Now, I ask you to look at that 12:45 and does that say a. m. or p. m.? A. This says a. m.

Q. It says a. m. Well, that isn't the lunch hour,

is it? A. No. Maybe there is a mistake, on this you will find 12:45.

Q. It says a. m. too, doesn't it? A. Well it was at 12:45 in the afternoon,.

Q. Then the writing is contrary to the markings: is that correct? Your marking says a. m. and you insist that the writing was done in the p. m.? A. It was done in the p. m.

Q. So that the marking on the specimen is incorrect: is that right? A. That isn't my writing.

Q. Well, it says a. m., doesn't it? A. That is right, sir.

Q. All right; then to that extent the marking is improper, isn't it? A. I would say it is.

Mr. Large: Which do you refer to, Mr. Fisher?

Mr. Fisher: I am referring now to Identification S-82.

Q. Despite the—what is your name? A. Thomas J. Ritchie.

Q. And what does that say right under the time that it is marked? A. Thomas J. Ritchie.

Q. And is that your signature or not? A. That is my signature, yes, sir.

Q. Then the writing is yours, isn't it? A. That is not.

Q. Simply the signature is yours? A. No, there is another signature above it.

Q. But this signature is yours here? A. That is right.

Q. So if there was a mistake made there, the mistake must have been on there at the time you attached your signature, is that correct? A. That is right, yes, sir.

Q. And although your document is marked 12:40 a. m.? A. That is right.

Q. Over your signature? A. That is right.

Q. You still say that is was written in the afternoon? A. I do.

Q. Yes, twelve hours difference? A. P. m.

Q. Yes, and that is p. m. of Wednesday? A. That is right.

Q. After the prisoner had been in custody now some 30 hours? A. That is right.

Q. Having been apprehended at nine o'clock on the 19th, in the morning? A. Yes.

Q. Now will you tell me why weren't all these specimens taken at one time? Why were there so many hitches at having the defendant write? A. Oh, at midnight or shortly after midnight I was detailed to take some handwriting specimens to Mr. Osborn and he had told me to obtain from the defendant some printing matter, so that he may go over that.

Q. Now as to exhibit marked S-83 for identification, I call your attention again to the a. m. Do you say that is a mistake too? A. I do not.

Q. That was taken at 12:45 a. m.? A. No. I mean that should be p. m.

Q. That should be p. m.? A. It was taken—the writing was taken at p. m.

Q. So that the notation on it is an error? A. That is right.

Q. Is that correct? A. That is right.

Q. Twelve hours difference? A. That is right.

Q. Now that also bears your signature, doesn't it, Sergeant? A. That does, yes, sir.

Q. So that is two mistakes over your signature? A. That is right.

Q. Now, I show you a document marked S-81 for identification and call your attention to the time on there. Does that say 12:45 a. m.? A. A. m., yes, sir.

Q. And does it bear your signature? A. Yes, sir.

Q. And was it written at 12:45 a. m.? A. P. m.

Q. So that the third specimen bears an error? A. That is right.

Q. Over your signature. A. That doesn't bear any—

Q. That doesn't bear any. A. That was taken at the same time. (Indicating.)

Q. Now you say that you took some of these specimens at about six o'clock on the 19th, is that correct? A. That is right, yes, sir.

Q. Will you identify—it couldn't be any of these three, could it (Handing paper to the witness)? Will you identify out of the others? A. (The witness examines papers handed to him by examining counsel.)

Referring to Exhibit S-80 for identification. Do you say that was written at the same time as the three we have discussed? A. Yes, sir. And these were written between six and seven on the 19th.

Q. On the 19th. Now, did the prisoner write these voluntarily? A. He did.

Q. Will you relate your conversation with him immediately leading up to the writing? A. Why, I asked him to pick up his pen and write of his own free will what I would repeat to him, which he did voluntarily and at that time is when he said he would be glad to write so he could get out of this thing.

Q. And he didn't offer any objection whatever to writing? A. None whatsoever.

Q. At that time? A. No.

Q. And he wrote exactly what you told him to write, is that correct? A. Not exactly.

Q. Well, what did you tell him for if he wasn't to write it? A. I mean that some of the words on there are not written as I pronounced them to him.

Q. I see. You pronounced one thing and he wrote something else, is that it? A. Right.

Q. Now as to the other writing that has been admitted, testified to by Corporal Horn, did you take your writing before Corporal Horn or after Corporal Horn? A. Some of it before and some after.

Q. Some of it was taken after? Which was taken after Corporal Horn's? A. This was taken after Corporal Horn, the next day, or rather, his was, I understand, between twelve and two in the morning and this was at 12:45 p. m. of the same day.

By Mr. Fisher:

Q. Following after the same afternoon? A. Yes, sir.

Q. Who all was present when you took your specimens? A. Which ones are you talking about?

Q. The first ones, the six o'clock ones. A. Detective Cashman and Detective Cramer of the New York City police.

Q. Was the defendant represented by counsel at the time? A. He was not.

Q. And what people were present when they were written? A. Lieutenant Finn—there were other detectives in the room.

Q. Was the defendant represented by counsel at that time? A. He was not; no, sir.

Mr. Fisher: They are objected to, your Honor, upon the grounds stated before, and upon the further ground that these specimens clearly were taken in September, 1934. I apprehend the rule of law to be that any mediums of comparison in handwriting cases are to be taken from writings of the defendant prior, written prior to the disputed documents, and for that reason I offer that as a further objection to their admissibility, sir.

Mr. Large: I understand the rule to be that that only applies where a defendant wishes to use that for himself.

Mr. Fisher: I raise that objection.

Mr. Large: "Such writings are only inadmissible under the language of the statute when they are sought to be used before a Court or jury by a party in whose handwriting they are."

That is in the case of State versus Barris.

Mr. Fisher: It would be a strange rule indeed to change the rule of evidence depending upon which side they were to be used for, sir. The rule is the same.

The Court: Let me have the Compiled Statutes containing the Act relating to Evidence.

Mr. Large: 78 New Jersey Law is the one I am referring to. Prior to your Honor's ruling I would like to state as to these exhibits that they are also offered merely as handwriting exhibits and do not purport to be confessions.

The Court: I understand.

Mr. Fisher: My objection goes to them only as handwriting exhibits. I realize fully what they are offered for.

Mr. Large: 78 New Jersey Law, page 14, your Honor. State vs. Barris. I have the opinion briefed here, your Honor, if you would like to see it. I have it marked there.

The Court: I would like the Court Crier to bring me the Evidence Act as found in the Compiled Statutes.

Mr. Fisher, do you desire to offer any proof with respect to the voluntary character of the documents?

Mr. Fisher: At this time, no, sir, your Honor, the only one I will have will be the defendant, and I would rather that that be in its regular turn.

The Court: I think the exhibit is admissible. Take your exception.

Mr. Fisher: All right.

(Exception allowed, and the same is signed and sealed accordingly.)

(s.s.) THOMAS W. TRENCHARD,
Judge.

The Reporter: Exhibits S-78, S-79, S-80, S-81, S-82, S-83 and S-84 in evidence.

(The papers referred to were received in evidence and marked State Exhibits S-78, S-79, S-80, S-81, S-82, S-83 and S-84.)

The Court: Mr. Peacock, I think you brought this book to me. I thank you very much and I wonder if you would put it back where it belongs.

Mr. Fisher: Mr. Peacock, will you take this one at the same time. Thank you very much.

Mr. Large: Cross-examine.

Mr. Fisher: Nothing further from the Sergeant.

Mr. Reilly: No.

Mr. Large: That is all.

Mr. Hauck: Lieutenant Finn.

Mr. Large: Will you mark this, please.

(Paper produced by Mr. Large marked State Exhibit S-85 for identification.)

JAMES J. FINN, sworn as a witness on behalf of the State.

Direct Examination by Mr. Large:

Q. Do you hold any official position, Lieutenant? A. I am a night lieutenant in the New York Police Department.

Q. And have been how long? A. About 29 years in the Police Department and about four—six years —a night lieutenant.

Q. I show you a paper marked State Exhibit S-85 for identification and ask whether or not that was written in your presence? A. It was.

Q. By whom? A. By the defendant Richard Hauptmann.

Q. On what date? A. On September 20th, 1934, about 12:45 p. m., it should be, that is my writing and it should be p. m.

Mr. Large: I see. I offer it in evidence.

By Mr. Fisher:

Q. You say the notation on there, Lieutenant, is an error? A. Yes, sir.

Q. This should be p. m. instead of a. m.? A. Yes, sir.

Q. Was that written by the defendant voluntarily? A. It was.

Q. Did he offer any objection to writing? A. No objection at all.

Q. Simply very readily and willingly agreed to write when you asked him to? A. In fact at all times he was trying to extradict himself from the case, tried to make himself innocent all the way through.

Q. Of course he was the guest of your police department at the time, wasn't he?

Mr. Large: I submit that isn't—

Q. Well, he was in custody, wasn't he? A. He was.

Q. And had been for some considerable time? A. He was.

Q. Twenty-seven or twenty-eight hours? A. About that.

Q. And if he had refused to write I suppose it would have been all right.

Mr. Large: I object to that—what would have happened if he hadn't done it. That is not material.

Q. Had policemen questioned him continually from the time he was taken in there? A. He was—

Q. Under constant examination? A. Not constant, no.

Q. Had he had an opportunity to sleep? A. He did, in a chair.

Q. In a chair? A. Yes, sir.

Q. Yes, with a mattress in the chair, or no mattress? A. No mattress.

Q. The only chance then he had to rest was in a chair such as we sit in here in the courtroom? A. Yes.

Q. From nine o'clock in the morning until after twelve the next day? A. Correct.

Q. That is correct? A. Yes.

Q. And he volunteered very readily to write for you? A. He did.

Q. Is that right?

Mr. Fisher: I ask the admission of these to be refused and urge the same arguments as heretofore.

Mr. Large: I offer it in evidence.

The Court: All right; you have nothing to offer respecting the voluntary character of this statement?

Mr. Fisher: Not at this time, your Honor.

The Court: They will be admitted.

The Reporter: Exhibit S-85.

Mr. Large: Offered as Exhibit S-85.

(Paper referred to received in evidence and marked State Exhibit S-85.)

Mr. Large: Cross-examine.

Mr. Pope: May we have the markings?

The Reporter: S-85, sir.

(Witness leaves the witness stand.)

Mr. Large: Thomas Sisk.

THOMAS H. SISK, sworn as a witness in behalf of the State:

(Two papers marked State Exhibits S-86 and S-87 for Identification.)

Direct Examination by Mr. Large:

Q. Do you hold any official position? A. I beg your pardon?

Q. Do you hold any official position? A. Yes, sir.

Q. What is it? A. I am a special agent in the Division of Investigation in the U. S. Department of Justice.

Q. We can't hear it. A. I am a Special Agent in the Division of Investigation of the U. S. Department of Justice.

Q. Were you in September 1934 employed by the Government? A. Yes, sir; I was.

Q. I show you S-86 for identification and S-87 for identification and ask you whether or not you were present when those two were written (handing the witness the exhibits referred to)? A. Yes, sir.

Q. Where were they written? A. They were written at the Second Police Precinct in New York City on Greenwich Street.

Q. By whom were they written? A. They were written by Bruno Richard Hauptmann.

Q. This defendant? A. Yes, sir.

Q. In your presence? A. Not entirely in my pres-

ence. I was in the room when he started to write, but I did not remain at his side and watch the complete operation.

Q. Well, what part did you watch? A. I was present when he started to write and I then walked away inasmuch as there were other officers at his side watching the operation.

Mr. Large: If he was not there during the whole operation—

The Witness: I was in the room—

Mr. Large: All right. I will not offer them under those circumstances.

Mr. Fisher: No questions.

Mr. Large: You may stand aside, sir. Is Inspector John Lyons here? I understand he will be here in the morning.

Mr. Wilentz: Your Honor please, we have about ten of these exhibits which we may be able to agree upon in a minute.

Mr. Fisher: That one we will make a stipulation—

Mr. Wilentz: Judge Large offers this one by stipulation, it being agreed that this is the handwriting of the defendant Hauptmann with the exception of some words "Reinhold Haberhand" or something like that, who is also a party to this agreement—that signature of Mr. Reinhold Haberhand—the rest is the handwriting of the defendant.

Mr. Large: Wait until we get it marked.

The Court: The stipulation ought to be quite definite.

Mr. Fisher: We stipulate—excuse me.

Mr. Large: Wait until it is marked.

The Reporter: In evidence?

Mr. Large: Mark it in evidence, yes.

Mr. Fisher: Yes.

The Reporter: S-86 in evidence.

(So marked.)

Mr. Fisher: We stipulate, sir, that S-86 in evidence is in the handwriting of the defendant Hauptmann except as to such things as the words Reinhold Haberhand and Witness John K. Lyons—H. N. Schwarzkopf.

The Court: Well, that stipulation may be placed upon the record and the paper admitted in evidence.

Mr. Large: This paper being an agreement or a promissory note of some character.

The Court: Will you let me see that, Judge?

Mr. Large: Yes, that is dated July 20, 1933.

(Counsel confer.)

Mr. Fisher: We enter by stipulation in evidence card of the Liberty Mutual Insurance Company stipulating that the words "Richard Hauptmann, 1279 E. 222nd Street, New York City" are the genuine writing of the defendant. There are some other markings on them.

Mr. Large: Marked what?

The Reporter: That is Exhibit S-87.

Mr. Large: Marked S-87.

(So marked.)

Mr. Large: These are all alike, the rest of them.

Mr. Fisher: I think every one of them is an application, different years.

(Counsel confer.)

Mr. Fisher: On an application for registration—

Mr. Large: Why not take them all?

Mr. Fisher: Well, let's take them all together.

Mr. Large: There are nine of them; as to all nine.

Mr. Fisher: As to all nine of the next exhibit, which are applications for motor vehicle licenses, we stipulate that everything appearing

on there in ink, except exhibit marks from the former proceedings, are in the genuine hand of the defendant. That applies to nine exhibits.

Mr. Hauck: They will be marked—

The Court: Give their numbers.

The Reporter: Marked Exhibits S-88 to S-96.

Mr. Fisher: They start with S-88 and go to S-96.

Mr. Hauck: Both inclusive.

Mr. Fisher: Both inclusive.

The Reporter: Yes.

(So marked.)

Mr. Reilly: There are some exhibits, if the Court please that, rather than take up the time on each one of these little matters, we thought we could get together for the next half hour or so; if we adjourn court now, the Attorney General and myself would go over those and we might be able to stipulate and shorten this trial greatly. We are now in conference on a matter that we may be able to save the Court on another angle the presence of 25 witnesses, and if we can do that, I think—

Mr. Wilentz: As to the counting of the money and the wrapping of the money, and things that are not at all of any substance.

The Court: Then the proposition coming from both sides is that we recess until ten o'clock tomorrow morning, and that will be the order.

Now, the people in the courtroom will remain seated, please,—everybody.

The jurors may retire, and come back tomorrow morning at ten o'clock.

The prisoner is now remanded to the custody of the Sheriff. He may retire in the custody of the Sheriff.

(At 4:10 p. m. an adjournment was taken until tomorrow morning, Friday, January 11, 1935, at ten o'clock.)

Opening of Eighth Day

STATE vs. HAUPTMANN

Flemington, N. J., January 11, 1935.

EIGHTH DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

———

The Court: The Clerk may poll the jury.

(The jury was polled and all jurors answered present.)

The Court: Is the defendant in court?

Mr. Reilly: He is, sir.

The Court: Counsel may proceed, when they are ready.

Mr. Wilentz: Mr. Frank J. Wilson.

FRANK J. WILSON, sworn as a witness in behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Mr. Wilson, have you any official capacity with the United States Government? A. Yes, sir.

Q. What is that position? A. Special Agent in charge of the Intelligence Unit, Internal Revenue Service.

Q. Special agent in charge? A. Yes, sir.

Q. Of the Intelligence Unit? A. Yes, sir.

Q. That is the Internal Revenue Department of the Government, is it not? A. A part of it, yes, sir.

Q. In what territory do you have charge? A. The States of Ohio, Indiana and Kentucky.

Q. Were you assigned by the United States Government in connection with this Lindbergh case and if you were, when? A. Yes, sir, about March 15th, 1932.

Q. As the result of that assignment, did you come to Hopewell, New Jersey? A. Yes, sir.

Q. And when you got there will you please tell us what happened? A. I arrived at Hopewell, New Jersey, with Mr. Elmer L. Irey, Chief of the Intelligence Unit, Mr. Madden, another agent, and the three of us had conferences with Colonel Schwarzkopf, Colonel Lindbergh and Colonel Breckinridge.

Q. In connection with those conferences, were there exhibited to you the ransom notes with the symbols that had been received up to that time? A. Yes, sir.

Q. Did you or did you not receive the fullest cooperation during those days from the New

Jersey State Police, Colonel Lindbergh and Colonel Breckinridge? A. We received full co-operation at all times.

Q. Now as the result of the various conferences did you finally direct the manner in which the seventy thousand dollars referred to in one of the ransom notes, did you direct the manner in which that money should be handled? A. Yes, sir.

Q. What did you do? A. At the conference with Colonel Lindbergh and Colonel Breckinridge and others it was directed that I proceed to the office of J. P. Morgan & Company where a package of currency was available. A package had previously been prepared without retaining the serial numbers. At this time I directed the proper procedure to follow in order to correctly record and describe the currency which had been demanded in the ransom notes. I instructed them that they should have two men work on each note, each piece of currency, noting the number appearing on it, the series, the correct description as to whether it was a United States gold certificate, a United States note or a Federal Reserve note, and I instructed them to use the gold certificates that were available at that time as part of the package which they should prepare, and I also instructed them that they should carefully retain the original sheets, upon which the numbers were being recorded in order that they could be used at a trial at a later date, and that they should be kept in the possession of one person, who was the head of the office or a responsible person in that office.

Q. Under your directions, do you know the name of the man who caused to be prepared these lists? A. Yes. Mr. Stewart Wilson Cragin.

Q. And would you be able to recognize the

original lists with the serial numbers that were prepared under your direction and under the supervision of Mr. Cragin? A. Yes, sir.

Q. Will you take a look at these yellow sheets and see if they are or are not the original writings of the men who made up the packages of money and marked down on these yellow sheets the serial numbers as directed by you. A. (Examines sheets.)

Q. Take your time, Mr. Wilson, we will wait. A. Yes, sir; these are the original sheets.

Q. Those are the yellow sheets and not the printed white sheets you refer to, Mr. Wilson? A. I do.

Mr. Wilentz: I offer that part of the book which contains the yellow sheets.

The Court: If there is no objection, they will be admitted in evidence.

The Reporter: S-99.

(The yellow sheets referred to were received in evidence and marked State Exhibit S-99.)

Q. Mr. Wilson, on April 4th, 1932, that is to say, a few days after the $50,000 had been paid, did you have a conversation again with Colonel Lindbergh? A. Yes, sir.

Q. And as the result of that conference, did Colonel Lindbergh request the United States Government to try to find some of this money which had been paid? A. Yes, sir.

Q. In a letter directed to the Secretary of the Treasury? A. Yes, sir; Colonel Lindbergh wrote this letter in my presence and handed it to me for

transmittal to the Secretary of the Treasury and I handed it to Mr. Elmer L. Irey, Chief of the Intelligence Unit, who turned it over to the Secretary.

Q. Now, as a result of the request of Colonel Lindbergh, the request being to make a search for this money, which had been paid, what did the Government do? A. The Government caused the printing of 50,000 circulars, bearing the serial numbers.

Mr. Pope: We object to what was caused to be done. What this witness might have done might be all right.

(Letter, Colonel Lindbergh to Ogden B. Mills, Secy. of Treasury, received in evidence and marked State Exhibit S-100.)

(Envelope marked S-100A.)

Q. What was done to your knowledge? A. The list was transmitted to Washington under my direction and a list was prepared and circulated throughout the banks in this country and foreign countries.

Q. When you say a list was prepared, you mean the list was printed? A. Printed at the Government Printing office, mailed from the Treasury Department to banks in this country and foreign countries.

Q. When it was printed, it was printed in circular form? A. Yes, sir.

Q. Do you know how many of these circulars were sent out and distributed throughout the world by the Government? A. 50,000 and later dates, 200,000.

Q. I show you a printed communication from

the Treasury Department, Washington, dated April 6th, 1932, and signed by W. O. Woods, Treasurer of the United States and ask you if that is the circular you refer to as being the one which was sent out in the number that you have just indicated? (Handing witness a document.) A. 50,000 of these circulars were sent out.

Q. And later two hundred thousand? A. Yes, sir.

Mr. Wilentz: I offer this, for the convenience of the defense counsel as well as the prosecution, so that we will have a printed copy if we want to refer to these yellow sheets; and I offer it in evidence after inspection.

Mr. Pope: Is this for us?

Mr. Wilentz: I am going to give you that copy after it is in evidence.

Mr. Pope: All right.

Mr. Wilentz: I can give you another one.

Mr. Pope: All right.

The Court: There seems to be no objection to the admission of the document, and it may be admitted in evidence.

(Circular referred to received in evidence and marked State Exhibit S-101.)

Q. Mr. Wilson, was the mailing and the circular edition of these printed circulars—

Mr. Wilentz: That is in evidence, not for identification.

The Reporter: Yes, sir, "Ev Id".

Mr. Wilentz: I will withdraw the question.

Q. Did you just circularize the United States of America or did you also for the Government send these to other nations? A. Sent them to other nations.

Q. You are now referring to Exhibit S-101. A. Yes, sir; it was printed in four foreign languages.

Q. Now, on December 26th and 27th, 1934, at my direction did you go to the office of the Trenton Banking Company and examine an envelope containing some gold certificates and other moneys? A. Yes, sir.

Q. Before I get to that, will you tell me whether the list contained in the yellow sheets—

Mr. Reilly: What date, General?

Mr. Wilentz: December 26 and 27, last year.

Q. —whether the serial numbers contained in the yellow sheets in State's Exhibit S-99, the printed being the copy, the printed being S-101, whether or not they contain correctly and accurately the serial numbers of the bills that made up the Lindbergh ransom package. A. Yes, sir.

Q. Was there one exception? A. One exception, where a figure was transposed.

Q. What do you mean by a figure transposed? A. There was one serial number where I believe the number, part of the number was 61 and it was

made 16.

Q. Of all the numbers the 6 and the 1 were transposed? A. Yes, sir.

Q. Getting back then again to December 26th and 27th, 1934, at my direction did you go to the Trenton Banking Company office in Trenton, New Jersey, in company with Corporal Horn of the New Jersey State Police and examine a package of gold certificates and other moneys? A. Yes, sir.

Mr. Wilentz: May I have the money, please.

(Package handed to Mr. Wilentz.)

Q. First let me ask you whether or not you recognize this sealed package. A. Yes, sir. It bears my initials and the date upon which Captain Snook and myself sealed it.

Q. Tell me whether or not the serial numbers of those bills are amongst—I withdraw that.

Q. Tell me whether or not the moneys contained in that package bear serial numbers which are in the yellow sheets now in evidence as S-99 and which are also contained in the printed exhibit S-101. A. There are 966 United States gold certificates in this envelope, bearing the same serial numbers as appear upon the original list which were prepared at Morgan & Company at the direction of Mr. Madden and myself on March 22nd, 1932.

Q. In other words, every bill in that folder as you checked it is a part of the Lindbergh money prepared at the Morgan Company and which made up what is commonly known as the Lindbergh ransom money? A. With one exception, where it appears the figure was transposed.

Q. That is one bill, you mean? A. Yes, sir.

Q. That is, the bill where the six and the one are transposed? A. Two figures are transposed, I am not really—

Q. Positive? A. —positive about the particular digits that were transposed.

Q. Well, whether transposed or not, all the money in there is a part of the Lindbergh ransom money? A. Yes, sir.

Q. And there is in that package, how much? A. $14,600, consisting of 493 twenty-dollar United States gold certificates and 474 ten-dollar United States gold certificates.

Mr. Wilentz: I offer this—

Q. How much is it altogether? A. $14,600.

Mr. Wilentz: I offer $14,600 of United States in evidence as one exhibit in this sealed package.

Mr. Reilly: Judge Pope will argue the objection.

Mr. Pope: We object to the admission of this money, your Honor please—

Mr. Wilentz: We withdraw the offer then and ask that it be marked for identification.

(The package of money was marked S-102 for Identification.)

By Mr. Wilentz:

Q. With reference to S-102 for identification and the seals thereon, did you participate in the

sealing of this envelope, S-102? A. Yes, sir, I did.

Q. So that since the time that you caused it to be sealed, it has not been open, as you see it? A. No, sir.

Q. It is in its original package? A. Yes, sir.

Mr. Wilentz: If your Honor please, Mr. Wilson is called away by the United States Government and that explains my calling him out of turn. I address these remarks to your Honor for the purpose of asking counsel whether they will make any point of the fact that the package might have been opened since he sealed it, because I would not be able to call him back as he will be quite a distance away.

Mr. Pope: Did he seal it?

Mr. Wilentz: He stated so.

Mr. Pope: Those are his seals on there.

Mr. Wilentz: Yes.

Mr. Pope: We will so agree.

Mr. Wilentz: So we may stipulate on the record that no point will be made that the seals have been opened since. He affixed the seals to it.

By Mr. Wilentz:

Q. I notice, Mr. Wilson, that in some of these yellow sheets which make up Exhibit S-99, that there are some blue check marks and so that counsel and particularly the defense will know

what they mean, it not having been explained up to now, did you affix those blue check marks alongside of some of the serial numbers? A. Yes, sir.

Q. What is the meaning of those blue marks, as you put them alongside of some of these serial numbers? A. On December 26th, December 27th, 1934, Corporal Horn and myself checked each identical bill appearing in that envelope with the numbers appearing upon the yellow sheets and I placed a blue pencil check mark opposite each number in the record on the yellow sheets where the same number was in and on the gold certificates which we were handling.

Q. So that where the blue check mark appears in this exhibit 99, that represents the bill which is in the package. A. Yes, sir.

Q. And it is for the convenience of the trial I take it? A. Yes, sir.

Mr. Wilentz: I want it witnessed, your Honor please, that I am returning this package. (Laughter.)

Mr. Reilly: Don't put it over here.

Q. Now, Mr. Wilson, I desire to exhibit to you a five dollar bill of the United States of America. There appears to be written on the back of this bill in pen and ink "Loew's" with some sort of ink marking, and I ask whether this has been in your possession and, if so, for how long and from whom you obtained it. A. Yes, sir; this bill has been in my possession since December 21st, 1934, at which time I obtained it from the cashier in the office of the Treasurer of the United States at Washington, D. C.

Q. Thank you, sir.

Mr. Wilentz: I offer it for identification.

The Court: It may be marked.

(The five dollar bill was marked State Exhibit S-103 for Identification.)

Mr. Hauck: Did you mark the bill itself?

Mr. Wilentz: Yes, S-103 for identification.

The Court: When did you get that bill, Mr. Wilson?

The Witness: December 21st, 1934, at Washington, D. C.

By Mr. Wilentz:

Q. Can you from memory describe the bill which you got from the Treasury Department that date? A. It is a five dollar United States note, series of 1927 or 1928; I don't remember the serial number, but I checked the serial number.

Q. Is it one of the bills of the Lindbergh ransom money package? A. I checked the serial number on that bill with the yellow sheets prepared at Morgan & Company, Mr. Madden and myself, and we found that that particular—Corporal Horn and I found, that that particular number appeared upon the yellow sheets.

Q. So that it is a part of the Lindbergh ransom money? A. Yes, sir.

Q. Now, Mr. Wilson, as a representative of the United States Government, you continued to work on this case in an investigating capacity? A. Yes, sir.

Q. And also in an advisory capacity? A. Yes, sir.

Q. So far as you were concerned, I take it, representing the Federal Government, you were in the same position as the State troopers, that is, your job was to do the same kind of work? A. Yes, sir.

Q. Your business is also to apprehend criminals, is it not? A. Yes, sir.

Q. Now, you knew, did you not, that Colonel Lindbergh was planning to pay thousands of dollars to some person who was attempting to get it on the pretext that he was going to surrender the Colonel's child. A. Yes, sir.

Q. And, you knew of the negotiations, as well as the other police officers? A. Yes, sir.

Q. Did you make any effort to interfere with those negotiations and apprehend the criminal? A. No, sir.

Q. Wasn't it your duty—I withdraw that. Were you in the court yesterday? A. Yes, sir.

Q. Did you hear counsel for the defense propound to Colonel Breckinridge a question with reference to his duty as a lawyer, with reference to the apprehension of a criminal? A. Yes, sir.

Q. What have you to say as to whether or not you knew as an officer of the law, and particularly representing the United States Government? Didn't you know that it was your duty to apprehend the criminal?

Mr. Reilly: I move that he answer yes or no, please.

The Court: Yes or no.

A. Yes, sir.

Q. Did you do it? A. Yes, sir.

Q. How? A. We felt that two things were necessary.

Mr. Reilly: I object to how he felt.

The Witness: All right.

Mr. Reilly: Wait.

The Court: Let him tell what he did.

The Witness: We retained the serial numbers on the ransom bills and, as a result of that, we were successful in finding a large amount of it in the possession of one person and that evidence was presented to the Grand Jury in Hunterdon County with other evidence which resulted in his indictment and he is now on trial for murder.

Mr. Fisher: That is objected to, if your Honor please, because it doesn't state a fact. No such indictment was returned by the Grand Jury Mr. Wilson is speaking about. On the contrary, it is an indictment for kidnaping which has never been brought to the fore.

The Court: He is talking about an indictment for murder. Was there not an indictment for murder?

Mr. Fisher: Not at the session he is speaking about. The original indictment was for a kidnaping.

Mr. Wilentz: That is not the fact at all. I don't know why counsel attempts, if

your Honor please, to misstate the facts. I am sorry that I must so refer to him. This indictment is for murder, as the witness has stated.

The Court: Yes. If counsel have any doubt about the matter and desire to cross examine this witness in relation to the activities that he has been speaking of, counsel may do so.

Mr. Fisher: What I want to get in the record, your Honor, is that there are two indictments here, the first returned to John Doe for kidnaping, and now this indictment for murder.

The Court: I know of no indictment for kidnaping. I know of an indictment for murder. That is the indictment on which he is now on trial.

Mr. Wilentz: There is only one indictment for kidnaping and counsel knows it, as far as this defendant is concerned.

By Mr. Wilentz:

Q. And as the result of the plans of the United States Government with reference to these serial numbers, the arrest and indictment you speak of, of a man who is the man you are talking about? A. Bruno Richard Hauptmann.

Q. Now, in addition to that you have continued along in this investigation since his arrest, have you not? A. A great deal of the time. I was on another assignment for a period of a few months.

Q. Temporarily? A. Yes, sir.

Q. So that you had been on and off this assign-

ment for the Government since March, 1932? A. Yes, sir.

Q. The other day in this courtroom counsel for the defense asked Colonel Lindbergh who he thought was the kidnaper—

Mr. Reilly: I object to this.

Mr. Wilentz: Let me ask the question.

Mr. Reilly: If he is going to predicate it upon—

Mr. Wilentz: I don't know, since counsel asked that sort of question I thought I would try it (laughter), and if it is objectionable—

The Court: One moment.

Mr. Wilentz: Well, I will withdraw it if there is an objection to it, and I see that there is one.

Mr. Reilly: I don't think it is legal. That is why the objection.

Mr. Wilentz: I think that counsel is right about it; I don't think it is legal. I didn't think the other one was. (Laughter.)

By Mr. Wilentz:

Q. Did you as agent in charge cause to be investigated, so far as you could, the money transaction of this defendant, Bruno Hauptmann? A. Yes, sir.

Q. And you assigned agents for that purpose,

did you not? A. Yes, sir.

Q. So far as you know, Mr. Wilson, since the indictment of Bruno Richard Hauptmann for murder has there been one ransom bill turned up? A. No, sir.

Mr. Wilentz: That is all.

Cross examination by Mr. Fisher:

Q. Do you mean to say, Mr. Wilson, as a positive fact it is within your knowledge that not a single ransom note has been passed since the apprehension of Hauptmann? A. Not that I know of.

Q. Well, now, that is a different question. You don't know whether any has or not, do you? A. I have no report and have not seen any; I know nothing about any bill turning up, sir.

Q. But you would not want to say under oath in this court as you sit there now, that not a single ransom bill has appeared since the arrest of Hauptmann would you? A. None that I know of.

Q. Will you say that not a ransom bill appeared anywhere in the world since the arrest of Hauptmann? A. I don't know what has happened throughout the world.

Q. Of course you don't. Now you say you are in this investigation from some time in March, 1932, that is correct, isn't it? A. Yes, sir.

Q. Working with the police, various police organizations? A. Yes, sir.

Q. State Police? A. Yes, sir.

Q. Jersey City police? A. Yes, sir.

Q. Newark police? A. Yes, sir.

Q. To some extent, the New York City police? A. Yes, sir.

Q. What about the New York State police organization? A. Yes, sir.

Q. Trenton City police? A. No, sir.

Q. Federal Agencies? A. Yes, sir.

Q. You testified in the trial of the indictment against John Hughes Curtis, did you not, Mr. Wilson? A. Yes, sir.

Q. At that time, on page 373, in answer to a question: "Could not the truth or falsity of Mr. Curtis' investigation have been established as to the contact with the actual kidnaping gang at any time by any person, Colonel Lindbergh, the police, or anybody else demanding that he produce a writing bearing that symbol or discontinue his activity in the case?" And in answer to that question didn't you answer "No"?

Mr. Wilentz: What is the question, your Honor, please?

Mr. Fisher: That is the question. Was that question asked and did he answer?

Mr. Wilentz: It is not proper cross examination, your Honor. It is not material anyway. It has nothing to do with his testimony up to date whether a question of that sort was asked at another trial. It does not bear on the subject matter of my inquiry.

The Court: It does not seem to be related to the direct examination.

Mr. Fisher: May it please your Honor, I will attempt to show you where it is; Mr. Wilentz had the witness testify that he came in this investigation in the middle of

March, I think he used the very date, March 15th, and continued as an investigator in this cause from there on with a short exception. Now, it is my understanding that I will be permitted to question this man as to his actions during the days he has related he was working on this particular case.

The Court: Well, you may—

Mr. Fisher: With reference to the solution of the crime.

The Court: You may question him about his activities.

Mr. Fisher: Yes.

Mr. Wilentz: I have no objection to that, Mr. Fisher, I told you that once, but I do not see at the moment that it is relevant to ask him what he testified to at the Curtiss trial.

Q. As a result of your investigation, and as the result of being connected with the case, were you connected with the case, were you called on to testify in the trial of the indictment against John Hughes Curtiss? A. Yes, sir.

Q. Now, the testimony that you gave there resulted from your investigation, didn't it? A. Yes, sir.

Q. Yes. Now, while testifying in that cause, as the result of your investigation conducted during the period about which you were questioned by the Attorney General, were you asked this question during the trial of the indictment

against John Hughes Curtiss: "Question: Could not the truth or falsity of Mr. Curtiss' investigation have been established as to contact with the actual kidnaping gang at any time by any person, Colonel Lindbergh, the police, or anybody else, demanding that we produce a writing bearing that symbol or discontinuing his activity in the case?"—

Mr. Wilentz: I object.

Q. —and didn't you answer No?

Mr. Wilentz: Just a minute, please. Well, if your Honor please—

Mr. Fisher: I assume I have a right to finish my question.

Mr. Wilentz: I assume that they are two separate questions anyway, first the question and then the answer. Now, the first part is just the question. That is where I attempted to interrupt counsel, but apparently he didn't hear my effort. Now, if your Honor please, it is the same question and I make the same objection. To open the door to this line of questioning particularly where it isn't with reference to my direct examination, would be to attempt to try a different defendant, who apparently had some trial here at some other time in which Mr. Fisher apparently participated. It is not at all material to this case what his views were about that situation at that time, and he wasn't asked about it on direct, and for that reason, not because I have any particular reason for attempting

to have this question eliminated, but merely for the properly and orderly procedure of the trial, I think that this question which I believe to be objectionable because it is immaterial, should be overruled, and therefore I object to it.

The Court: I sustain the objection.

Mr. Fisher: I pray an exception to your Honor's rule.

(Exception allowed and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Now Mr. Wilson, while you were on the investigation, starting, as you testified in answer to the Attorney General, about March 15th, did you develop any clues which seemed to indicate that you were about to close in on the kidnaper? A. No, sir.

Q. You didn't? A. (The witness shakes his head negatively.)

Q. Now I ask you whether or not now in the trial of the indictment against John Hughes Curtis, in answer to this question—

Mr. Wilentz: What page, please.

Mr. Fisher: Page 393.

Q. If you didn't make the answer which I will incorporate in my question?

Mr. Wilentz: I will object to that, as

long as counsel gives me advance notice of it. First the question, if your Honor please,—

Mr. Fisher: I assume, your Honor, that I have the age old privilege of asking my question before objection is offered.

The Court: Yes, you may ask your question.

Mr. Fisher: Yes.

"Mr. Wilson, the person to whom you refer is suspected of being implicated in this matter? A. Not"—

Mr. Wilentz: Just a minute. I object to that if your Honor please. I think that the answer cannot be included in the question. My understanding of the law is that when—

The Court: Yes, I think you are perhaps correct about that. Mr. Fisher may ask whether or no the witness on the Curtis trial was asked a certain question. Now you may frame your question; frame your question.

Q. Mr. Wilson, on the Curtis trial, were you asked the question, "Mr. Wilson, the person to whom you refer is suspected of being implicated in this matter?" Were you asked such a question or were you not? A. Yes, sir.

By Mr. Fisher:

Q. And in answer to that did you state "Not him himself, but he is in touch with other persons and for that reason I do not care to give his name"?

Mr. Wilentz: I object to the question, if your Honor please, because it is not material to this cause at all; it is not proper cross examination, does not at all refer to the subject matter of my inquiry.

Mr. Fisher: I think that is entirely foreign to the law of New Jersey. Here is a man who is a police officer and if, under oath in this court, he gave evidence as to a person who as a result of his investigation he suspected of having knowledge of this crime, certainly on the trial of this indictment that should be admissible testimony, particularly if it was other than the defendant.

Mr. Wilentz: May I state, if your Honor please, if we are going to inquire as to suspects and as to this gentleman's opinion at that time, we are going to return to the position that we had earlier in the case, and we will have to ask what this gentleman's opinion is now. It does not affect his credibility in this case at all, it is apparently not intended for that purpose, but it is merely to inject a matter that is absolutely foreign to this case. Apparently counsel cannot forget the Curtis case and it has absolutely nothing to do with this witness or his testimony in this case, nor has it anything to do with the case.

Mr. Fisher: Apparently the State would like to forget the Curtis case, but they can't forget it.

Mr. Wilentz: I move that remark be stricken.

Mr. Fisher: I move your remark be stricken.

The Court: I will sustain the objection.

Mr. Fisher: I pray an exception, your Honor.

The Court: Take your exception.

(Exception allowed and same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Fisher:

Q. Mr. Wilson, I ask you this further question: if on the trial of the indictment against John Hughes Curtis you were asked this question: "If you disclosed this man's name—"

Mr. Wilentz: What page?

Mr. Fisher: Page 394.

Q. "If you disclosed this man's name, would it affect the people this man is in touch with who are suspected of this crime?"

Mr. Wilentz: I object to the question, if your Honor please, because it has no bearing on this case at all and it is not proper cross examination, not having been alluded to at all in the direct and it is not material to this cause.

Mr. Fisher: Your Honor, it is my position it is proper by having the witness testify that he was engaged in an investigation of this very crime. Certainly if he was engaged in an investigation, anything he did in the investigation would be proper cross examination.

The Court: As far as Mr. Curtis—is that the name—was concerned, was he indicted for murder?

Mr. Fisher: Mr. Curtis was indicted for interfering with Justice. Nobody knows what he was tried for.

Mr. Wilentz: Counsel should know, he defended him, if your Honor please.

Mr. Fisher: I was defending what the State introduced, and the State introduced nothing that could be understood.

The Court: I sustain the objection.

Mr. Fisher: I pray an exception.

The Court: Granted.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Fisher:

Q. Now Mr. Wilson, I ask you if in the course of your testimony in the trial of John Hughes Curtis you referred, in speaking of the people suspected of the crime, continuously to them as a gang?

Mr. Wilentz: I object to that, if your Honor please, for the same reasons. I hate to be on my feet every minute objecting to questions. I don't think it is material to this cause, if your Honor please, aside from the fact that it is not proper cross examination and I respectfully submit that the question ought not to be allowed.

The Court: This witness has not been asked as to whether, to his knowledge, a gang committed this murder or whether an individual committed the murder, has he?

Mr. Fisher: I am looking to sworn testimony, your Honor, in the cause.

The Court: I am talking about his present examination.

By Mr. Fisher:

Q. In March and April, 1932, did you refer to the crime as being committed by a gang?

Mr. Wilentz: I object to the question, if your Honor please.

The Court: I sustain the objection.

Mr. Fisher: I pray an exception to your Honor's ruling.

The Court: Granted.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Now Mr. Wilson, where was the first ransom bill passed after the money was turned over to the suspected person, suspected of procuring the money from Condon—where was the first ransom bill picked up? A. The first bill that we know was passed was located in a bank on Broadway not far from 72nd Street, I believe, or near the Majestic Apartments.

Q. And when was that? A. That was approximately about April 7th or 8th, 1932.

Q. Now, where was the next ransom bill that you know of found; where did it come to light? A. I believe it come to light in a restaurant referred to as Schrafft's Restaurant on lower Broadway.

Q. At about that time did you have any knowledge of a $20 ransom bill picked up near Bridgeport, Connecticut? A. There never was one of these bills picked up in Bridgeport, Connecticut.

Q. Never any picked up— A. No, sir.

Q. —in Connecticut; in the State of Connecticut? A. Not one.

The Court: Did the witness say where,

on what date, this second bill was picked up?

Mr. Fisher: No.

The Witness: No, your Honor, I do not recollect the date. It was approximately around May 1st, 1932.

The Court: Down in the Broadway neighborhood of New York?

The Witness: Lower Broadway, yes, your Honor.

By Mr. Fisher:

Q. And what was the denomination of the first bill picked up, the one that you say was found in the Broadway bank? A. Twenty dollars.

Q. And about the second one: what was the denomination of that? A. Five dollars.

Q. Now, Mr. Wilson, what about ransom money being picked up outside the United States? Do you know whether or not any ransom bills have ever been located in any country foreign to our own? A. Not one while I was working on the case.

Q. Do you know whether or not any have been found? A. No, I do not.

Q. You don't have any knowledge of that? A. No.

Q. Do you know whether or not approximately $3,000 of ransom money was deposited by one Max Schlaug, a florist of New York City? A. No.

Q. You never heard of that deposit? A. No, sir.

Q. Do you know whether or not $2,910 of ran-

som money was deposited in a Federal Reserve bank in New York City the day the gold embargo became effective? A. No, sir.

Q. You know nothing about that $2,910? A. Not that amount.

Q. Well, was there any sizable deposit made in a Federal Reserve bank of New York the day the gold embargo became effective? A. Yes, sir.

Q. How much was it? A. $2,980.

Q. $2,980. Was that deposited by one person? A. We don't know.

Q. Well, was there a deposit slip or any record of the transaction? A. Not that would be directly connected with that amount.

Q. Isn't there any record kept, or wasn't there any record kept within your knowledge by the bank that would indicate who turned in $2,980 of ransom money? A. We tried to establish the person that turned that in and we could not do so.

Q. Well, you established a name, didn't you, Mr. Wilson? A. Not definitely, no sir.

Q. Do you mean to say that there was no name on any slip that accompanied the turning in of the 2980 dollars? A. Yes, there were slips containing names, but we were unable to attach this particular amount to a particular slip because—

Q. Pardon me. A. Go ahead.

Q. Was there any ransom money turned in at that time that you were able to attach any particular slip to? A. No, sir.

Q. Now, do you mean to tell this Court and jury that of the $2,980 the last day that gold was legal tender, that there is no way at all that you could identify, even as to name, any person who turned in a single one of those ransom bills, is that correct? A. Oh, yes, we could identify many of them.

Q. Well, did you identify anybody by name that

turned it in? A. I beg your pardon, we could not identify anyone.

Q. By name, even? A. By name, no, sir.

Q. So that, on that day, $2,980 of ransom money was passed over the bar of the bank and you say now that not a human being knows even a name that was given by a person that passed one of those ransom bills?

Mr. Wilentz: Just a minute, the question is impossible of an answer, whether this man knows whether any human being knew.

Q. Well, as an intelligent human being do you know? A. No, sir. We have a slip that may be connected with it, but we couldn't definitely establish it.

Q. What is the name that appears on the slip?

Mr. Wilentz: I object to that, if your Honor please, as mere speculation.

The Court: Well, I don't know about that. The witness may know and he may not. I cannot tell whether he does or does not. He may answer the question.

The Witness: J. J. Faulkner.

By Mr. Fisher:

Q. You had reason to believe that the slip bearing the name of J. J. Faulkner was passed over the till along with some ransom money, is that correct? A. We thought it might have been.

Q. Well, did you check up J. J. Faulkner? A. Yes, sir.

Q. As you were investigating J. J. Faulkner, is it true that a J. J. Faulkner threw himself from the top of the Chrysler tower and committed suicide? A. I don't know.

Q. Don't you know, as a matter of fact, that that is true? A. No, sir.

Q. That J. J. Faulkner of New York committed suicide shortly after the knowledge that this ransom money had been turned in to the Federal Reserve Bank? A. No, sir.

Q. You say you have never heard of that, Mr. Wilson? A. No, sir, I have not.

Q. You never heard of a man named J. J. Faulkner committing suicide in New York? A. I heard of a man named Faulkner, but I don't remember that that was his initials.

Q. You carefully investigated J. J. Faulkner, did you not? A. Yes, sir.

Q. Did you find a J. J. Faulkner alive? A. Yes, sir, several of them.

Q. Several of them alive? A. Yes, sir.

Q. Did you find any of them dead? A. Yes, we found some of them dead.

Q. Dying since the passing of the ransom money into the bank? A. No, sir, previous to that.

Q. Then your investigation disclosed no man named J. J. Faulkner who died between the time the money was passed in the Federal Reserve Bank—and I speak now of the ransom money—and the date of the arrest of Hauptmann? A. I don't remember the initials of the Faulkner that committed suicide. He may have had those initials, but I am not sure.

Q. What happened to the slip signed J. J. Faulkner? A. It was left in the bank where the money was exchanged.

Q. Who has it now, if you know? A. I do not know.

Q. Do you know whether that note was submitted to handwriting experts to compare to the handwriting of the defendant in this cause? A. I don't know.

Q. You know nothing about that? A. I don't know that.

Q. You did not follow that investigation? A. No, I was away from this case for a short period and I don't know just exactly what was done about that.

Q. When did you come back on the case, Mr. Wilson? A. I came back on the case November 15th of this year.

Q. Did you make any effort then to personally locate the note signed J. J. Faulkner? A. No, sir.

Q. Didn't you consider that an important element of your investigation? A. I was informed that it had been taken care of.

Q. Were you informed that it had been given to a handwriting expert to compare with the handwriting of Mr. Hauptmann? A. Yes, sir.

Q. And what were you informed the result was? A. That it was not the same writing.

Q. That it was not in the handwriting of Bruno Richard Hauptmann? A. Yes.

By the Court:

Q. When you speak, Mr. Wilson, of a note, do you mean a deposit slip or something of that character? A. A slip very similar to a deposit slip that was used at the time an exchange of gold certificates was made for Federal Reserve notes which the Government required be surrendered.

Q. You saw there a deposit slip signed by J. J. Faulkner? A. Yes, your Honor.

Q. Did that deposit slip show the amount of money that had been exchanged? A. Yes, your Honor.

Q. What was that amount? A. $2,980.

Mr. Fisher: I should like to ask the State to produce that slip at this time so that I may present it to the witness for identification.

Mr. Wilentz: I should like to have a little advance notice of what is wanted. We have a ton of evidence—

Mr. Fisher: You mean it isn't in court now?

Mr. Wilentz: I have whatever you want, if you will ask for it.

Mr. Fisher: You will produce that for the next session?

Mr. Wilentz: If we have it you will have it.

Mr. Reilly: Just a moment. It is very important that we have it. We have a stipulation on the record. We want to trace that slip.

Mr. Fisher: Yes. The Attorney General says he will produce it and that, of course, is sufficient for us.

By Mr. Fisher:

Q. Now, let's get back to the picking up of ransom money. What about the third ransom money found, the third piece of ransom money—Do you remember where that was found and when, and what the denomination of it was? A. I am not positive. I think the third piece was a five dollar United States note found at Bickford's Restaurant on 42nd Street near Broadway or in that vicinity.

Q. Now, on the same day that the Faulkner money was passed in at the bank, was there any additional ransom money beyond the $2,980 passed there that day? A. No, sir.

Q. There wasn't an additional—

Mr. Wilentz: I can't hear you, Mr. Wilson.

A. No, sir—excuse me.

Mr. Fisher: I am in the way.

Mr. Wilentz: No, you are not in the way, you are standing too close and he doesn't throw his voice up. There is no objection to that, Mr. Fisher, I don't mean that.

Q. Do you know whether or not there is a ten dollar ransom money note passed in the same bank on the same day as the $2,980, a ten dollar note? A. No, I do not.

Q. You have no knowledge of that at all? A. No.

Q. Now, how much ransom money was there in the envelope that you produced here this morning? A. $14,600.

Q. And do you have in your possession any additional ransom money at this time? A. No, sir.

Q. What happened to the $2,980 deposited by Faulkner? A. It was sent by the Federal Reserve Bank to the Treasurer of the United States.

Q. Now, how much ransom money altogether, exclusive of the money produced in court this morning and the $2,980 has been sent in to the Treasurer of the United States since the passing of the ransom money down to the present time?

Mr. Wilentz: If the witness knows.

Mr. Fisher: Yes.

Q. If you know. A. I don't know.

Q. Well, you know that this $2,980 was sent in? A. Yes, sir.

Q. Now, how much more money do you know has been sent in to the Treasurer of the United States? A. I know of approximately $1,000.

Q. $1,000. Now, of that $1,000 was it sent in in single bills; that is, one bill at a time? Or a five or a ten or a twenty? A. No. One lot of fifty ten-dollar bills and—

Q. Where—pardon me. A. Yes.

Q. Where did that come from? A. It come from the Chase Bank and Trust Company, No. 149 Broadway.

Q. And had that been turned in to that bank in one lump sum or was it an accumulation? A. I don't know.

Q. Mr. Wilson, who would have knowledge of how much money has been turned in to the Treasurer of the United States? What official would have that information? A. The cashier in the office of the Treasurer of the United States.

Q. Who is that, if you know? It is Mr. Hilbert.

Q. Mr. Hilbert? A. Yes.

Q. H-i-l-b-e-r-t? A. Yes, sir.

Q. And he would have definite knowledge of just how much of this ransom money has been surrendered to the Treasurer of the United States? A. He would have knowledge regarding certain parts of it; I don't know whether he will know whether all of it has been.

Q. Well, is there any person we could put our hand on who would be able to come in this court and say to a certainty how much ransom money has found its way back to the office of the Treasurer of the United States? A. He is the best man available, I believe.

Q. And so far as you know, within your own knowledge, $1,000 has been turned in, exclusive of the money you have here and the $2,980 deposited by Faulkner? A. And a few odd bills.

Q. What would they total, Mr. Wilson? A. Oh, two or three hundred dollars.

Q. Two or three hundred dollars. A. Yes, sir.

Q. It would be safe to assume it at three hundred: is that so? A. I believe so.

Q. That represents approximately $18,000, doesn't it? Eight, twelve, eighteen, seven—if I figure correctly, $18,800: is that roughly right? A. Yes, sir.

Q. Without relying on my figures? A. Yes, sir.

Q. And how much money was passed to the kidnaper? A. $50,000.

Q. $50,000. Then at the moment, so far as you know, there is roughly $31,000 of ransom money that has been surrendered to the United States Treasurer or is not in your possession in this file? A. Yes, sir.

Q. Now, you sent out circulars, or your Department sent out circulars giving the numbers of the bills: is that correct? A. Yes, sir.

Q. And where were they sent? A. To banks, banking institutions, post offices, police departments, in this and foreign countries.

Q. Were they sent down through the Wall Street, the financial district, to all financial institutions down there. A. All the banks down there.

Q. Do you have a copy of the notice that was sent out, Mr. Wilson? A. It was introduced in evidence.

Mr. Fisher: Is it here, Mr. Wilentz?

Mr. Wilentz: It is the printed one.

Mr. Reilly: This here.

Mr. Fisher: This one?

Q. Now, this is the circular sent out giving the numbers of the ransom bills? A. Yes, sir.

Q. And is that what you refer to when you say that was sent to all institutions everywhere? A. Yes, sir.

Mr. Wilentz: That is 101, is it, Mr. Fisher?

Mr. Fisher: It is Exhibit S-101 for Identification.

Mr. Wilentz: No, it is in evidence.

Mr. Fisher: It is in evidence, oh, yes, it is in evidence.

Q. Were those numbers published in the public press? A. I believe—a few of them were. I

don't believe there were a great many of them published.

Q. A certain lot of them from time to time, is that it? A. Yes, sir.

Q. But there was knowledge given to the press that such a circular had been sent to all financial institutions, wasn't there? A. Yes, sir.

Q. So that it was generally known to the rank and file of the people in the nation that the ransom numbers had been broadcast to all financial institutions? A. Yes, sir.

Q. What day— That bears the date April the 6th. Is that the approximate date it reached the banks or is that the day it was sent out? A. That was sent out on April 6th, 1932.

Q. Now Mr. Wilson, did you have any knowledge of a $20 ransom bill being picked up in London— A. No, sir.

Q. —England. Do you know whether or not there have been any ransom bills passed since the 19th of September, 1934. A. No, sir.

Q. Within your knowledge none have been passed? A. No, sir.

Q. But there are outstanding so far as you know roughly $31,000 in ransom bills. A. Well, I don't know whether it is outstanding. Much of that money may have gone into the Treasury of the United States without being located.

Q. Let me ask you this: so far as your records go you can account for only, roughly, between eighteen thousand and nineteen thousand dollars of the ransom money, is that correct? A. Approximately that amount.

Q. Approximately, of course. A. Yes.

Q. Were any ransom bills picked up in Philadelphia? A. No, sir.

Q. What about Chicago. A. No, sir.

Q. Were there any ransom bills picked up any-

where except in New York City? A. I believe there were one or two picked up just outside the city.

Q. Did you ever hear or did you have any knowledge of ransom money being located in the safe of the Earl Taylor Hat Company, New York City? A. Never.

Q. Or in the possession of one Meyer, M-e-y-e-r, in New York City? A. No, sir.

Q. Was any ransom money ever picked up in the Capital, that is Washington, D. C.? A. No, sir.

Q. Who had knowledge besides yourself of the numbers on the bills prior to the passing of the ransom? A. Mr. Arthur P. Madden, Special Agent in charge of our Chicago office, who operated with me, in directing the procedure by which the list was prepared, and also the manager of the banking house that prepared the list had knowledge of it.

Q. What about employees of the bank who assisted in the preparation of the packages? A. The various men that worked upon it of course had knowledge of it.

Q. How many men would you say, Mr. Wilson, altogether including yourself and Mr. Madden, had knowledge of the markings of the numbers on the ransom bills? A. Approximately 25 to 27 or 28.

Q. Does that include Colonel Lindbergh and Colonel Breckinridge? A. Yes, sir.

Mr. Fisher: I think that is all, sir.

Re-direct Examination by Mr. Wilentz:

Q. You are leaving the State after your testi-

mony today, are you not, on business for the Government? A. Yes, sir.

Q. Just for the purpose of the record, so we may connect it later, the money, the 14,000 and some odd dollars that has been introduced in evidence that you refer to, or rather that has been introduced for identification, you left that at the Trenton Savings Bank sealed, did you not? A. Yes, sir.

Q. And it came up with one of the agents this morning? A. Yes, sir.

Q. And that is the package that you had there, as I remember it? A. Yes, sir.

Q. Now, this Faulkner referred to, was there any evidence that you found that Faulkner actually deposited any gold certificates in that bank that day? A. We could not find any direct evidence with reference to it.

Q. Was there any evidence except that a man by the name of Faulkner had exchanged some moneys at that bank that day? A. We found that a man by the name of Faulkner had exchanged $2900 at the bank on that day; yes, sir.

Q. Now— A Or, a man using that name.

Q. A man using that name? Is it a fact that such a person with the address given— isn't it a fact that it was found that that was a fictitious name so far as the address given was concerned? A. Yes, sir.

Q. Now, with reference, as I understood Mr. Fisher's calculation, approximately $18,000 has been definitely located, and of that you mean the fourteen thousand some hundred dollars that were found in Hauptmann's possession? A. That is included, yes, sir.

Mr. Fisher: Objected to, your Honor.

I should like the witness to say what he means.

Q. Well, what do you mean, sir? A. In arriving at that calculation, the $14,600 found in Hauptmann's garage was included.

Q. Now, with reference to the other moneys Mr. Fisher indicated, for the purpose of the record, at this stage, there is $31,000 approximately unaccounted for,— I think that is the way it is: that is true, isn't it? A. Yes, sir.

Q. Is it possible and is it probable that some of this money could reach the Treasury Department and be there without being detected? Yes, sir.

Q. Why is that probable and why is that possible? A. Because on May— previous to May 1st, 1933, President Roosevelt issued an order calling in all United States gold certificates to the Treasury Department and at that time a large amount of money went in and the serial numbers of each bill that went in could not be checked. It was not a practical proposition.

Q. Have you any notion at all, can you give us some estimate of the number of bills that were turned in to the Government as a result of the President's order?

Mr. Fisher: That is objected to, your Honor. Mr. Hibben—

The Court: The objection is overruled.

Mr. Fisher: Exception.

The Court: Granted.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

The Witness: Several billion dollars.

Q. Several billions of dollars? A. Yes.

Q. And so as I understand it the reason you gave why some of this money may have gotten into the Treasury without detection was because of the comparison between the amount that had been paid by Colonel Lindbergh and the amount that had to be returned?

Mr. Fisher: That is objected to. It is very leading.

Mr. Wilentz: I will withdraw the question. Oh, I don't think it is leading.

Q. Now when the President of the United States ordered the return and surrender of gold certificates, what have you to say as to whether or not it is not within your knowledge that anybody could come into any bank of the United States, using any name, and exchange gold certificates for others? A. They could do that.

Mr. Fisher: Object again for the same purpose.

The Court: Did the witness answer the question?

Mr. Wilentz: He did answer the question.

The Court: What was his answer?

Mr. Wilentz: He said they could.

Mr. Fisher: I move to strike it out, sir.

Mr. Wilentz: I asked him whether it was within his knowledge that they could do that.

The Court: I think I will allow the answer to stand.

Mr. Fisher: Note an exception.

The Court: Yes.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. At the time when the President of the United States called for the surrender of gold certificates, was that order accompanied with the manner in which the money was to be returned?

Mr. Fisher: Objected to as leading, sir.

A. Not the—

Mr. Wilentz: Just a moment.

The Court: Just a moment. Read the question, please.

Q. (Pending question read by the reporter.)

Mr. Fisher: That is extremely leading.

The Court: Oh, I think that may be answered. You may answer that. I don't think it is leading.

A. I believe a date was specified but not the particular manner in which it should be done.

Q. I see. Did the United States Government to your knowledge designate any particular place where people were to bring these gold certificates? A. All banks.

Q. Was there any requirement, if you know, by the United States Government as a part of that law or any other law, was it a requirement of the United States Government that anybody identify themselves when they surrendered gold certificates? A. No, sir.

Q. So that if you as a resident, say, of Oklahoma, happened to be in New Jersey some time after the President's order and before the date, the limitation date of the President for the surrender of the money, and you wanted to exchange your gold in order to comply with the President's order for other moneys of the United States, would it, under the United States regulations, have been necessary for you to identify yourself by name or otherwise?

Mr. Fisher: That is objected to.

The Court: You see, he has been pretty well cross examined on this topic by you.

Mr. Fisher: Not on that topic.

The Court: Generally.

Mr. Fisher: He is setting himself up as an expert on United States procedure.

The Court: The witness may answer the question if he knows.

(Reporter repeats the last question.)

A. No, sir, it would not.

Q. During the times, Mr. Wilson that you were required to leave this case because of other duties with the Government, did you assign other agents in your place, or were they assigned? A. They were assigned, yes, sir.

Q. Now, Mr. Fisher asked you about the first bill that was found. I think you said April 7th or April 8th, near the Majestic Apartments. A. Yes sir.

Mr. Fisher: Objected to, just a second, there is nothing in the testimony that says Majestic Apartments thus far down.

Mr. Wilentz: I have got it right on my notes from his testimony, Majestic Apartment, that must have been in the testimony, I could not have dreamed it.

The Court: What is the present question? (The reporter repeats the last question: "Now, Mr. Fisher asked you about the first bill that was found. I think you said April 7th or April 8th, near the Majestic Apartments? A. Yes, sir.")

Mr. Fisher: I withdraw the objection if it is objected to.

The Court: He may answer it.

Mr. Wilentz: The objection is withdrawn, if your Honor please, anyway.

The Witness: Yes, sir.

By Mr. Wilentz:

Q. Now, in your investigation—withdraw that. You say you know the Majestic Apartments? A. Yes.

Q. Do you know the Majestic Apartments with reference to its—withdraw that. Do you know whether Mr. Bruno Richard Hauptmann worked there? A. Yes, sir.

Mr. Fisher: I object to that unless he shows of his own knowledge.

The Court: Well, he is asked if he knows and he says that he does.

Mr. Fisher: Yes.

The Court: You may cross examine him about that when you get ready.

Mr. Fisher: Yes.

By Mr. Wilentz:

Q. Were you in the Bronx Court when Mr. Hauptmann testified as to the places he worked? A. No, sir.

Q. You were not. Is there any question that he didn't work there?

Mr. Fisher: There is a question as to this man's knowledge—considerable.

Mr. Wilentz: I see. But not as to whether he worked there?

Mr. Fisher: That is not before us, Mr. Wilentz.

Mr. Wilentz: All right, sir.

Q. Now, of course, Mr. Wilson, neither you nor any other person living knows how much of this money is in circulation or where, isn't that so? A. No, sir.

Q. And is it possible at all humanly for any agency, Government, State or otherwise, to state definitely today how much of this Lindbergh money except that which has already been found is in circulation amongst the general public and amongst various banks?

Mr. Fisher: Objected to, your Honor.

The Court: I think that question has already been answered.

Mr. Wilentz: That is all I have.

Re-cross Examination by Mr. Fisher:

Q. Are there any gold notes in circulation today, Mr. Wilson? A. I presume there are, a limited number.

Q. In circulation? A. That have not been returned to the Treasury Department.

Q. Now the Attorney General asked you a question prefaced by the words "of your own knowledge." What do you understand that to mean? A. Well, if I read a sworn statement or I read a transcript of evidence in a court procedure as I

did with reference to the matter that was referred to, I would consider that my own knowledge.

Q. Then your own knowledge means something that you read, is that right? A. A transcript of a court procedure.

Q. I don't care what it is—

Mr. Wilentz: It isn't what you care. Just a minute, if your Honor please. I think that the witness has been interrupted before his answer.

The Court: Let the witness answer the question.

Mr. Fisher: I submit to the stenographer to see if the question isn't answered.

The Reporter (Reading): "Then your own knowledge means something that you read: is that right? A. A transcript of a court procedure."

Mr. Fisher: Yes, it was answered, Mr. Wilentz.

The Court: Proceed.

By Mr. Fisher:

Q. You never saw Hauptmann work in the Majestic Theatre, did you? A. No, sir.

Q. You never heard his voice while he was employed there, did you? A. No, sir.

Q. And when you answered under oath as to something of your own knowledge, you are relying on something you read: is that correct? A. The testimony in the court proceedings.

Q. Will you answer my question, please? A. Yes.

Mr. Wilentz: The testimony in what?

The Witness: In the court proceedings.

Mr. Fisher: Just a moment. I will conduct this examination,—subject to your Honor's ruling.

The Court: Well, you will have to conduct it in an orderly fashion.

Mr. Fisher: Yes, I want to.

By Mr. Fisher:

Q. Something you read; is that correct? A. Yes, sir.

Q. Now, Mr. Wilson, I understood you to say that a man could take gold, after the embargo was declared, to a bank and simply pass it through a window, without any formality or without writing anything or leaving any memoranda: is that correct? A. Yes, sir.

Q. And is that true of any sums of money? A. Yes, sir.

Q. Do you say that a man could take in $2,980 as much money as that and pass it across the bar without any memoranda being given or exchanged? A. Yes, sir, larger amounts than that.

Q. Wasn't it the rule that if any money over a thousand dollars was turned in, that an exchange slip must be executed? A. No, sir.

Q. Giving the name and address of the party turning the money in? A. No, sir.

Q. You say that was not the rule? A. That was not the rule.

Q. No such instructions went out to the various bankers of the country? A. Not—no, sir.

Q. Requiring them to take a memorandum from any person who exchanged more than one thousand dollars? A. No, sir.

Q. Why do you suppose, Mr. Wilson, the Federal Reserve—why did the Federal Reserve Bank require this man to make out a slip a transfer slip? A. They requested all people making deposits there to do so, but that was not done in other banks throughout the country.

Q. Well, then, so far as that particular United States Bank is concerned, it was necessary to exchange a memorandum when you exchanged money, gold money? A. In that particular bank.

Q. Yes, so that there is an exception to your general rule, then, is that correct? A. Yes, sir.

Q. Well, now, how about other exceptions over the country, do you know if any other bank required the same thing? A. I don't know of any other banks that did that.

Q. But you do know this particular bank did. A. Yes, sir.

Q. As to ransom money slipping back into the Treasury Department, what were the instructions given the Treasury Department as to this so-called ransom money? A. There were instructions given to Federal Reserve banks and to other banks, to make a careful search of this money.

Q. Issued by authority of no less a person than Herbert Hoover, the President of the United States? A. Yes, sir.

Q. Is that correct? And they were told to watch with great care for these so-called ransom notes, were they not? A. Yes, sir.

Q. Then was the Treasury Department itself

instructed to keep a check on ransom money as it should come in? A. As far as practical, but it was not practical to check all money coming in.

Q. Then you want us to understand that despite the order of the President of the United States, despite the emergency that existed, they were not at all careful in observing money sent in through the Treasury of the United States. A. No, I don't want to—

Q. Well, they were careless to the point that you say it would have been very simple for money to slip through their fingers? A. No, they were not careless, but they were handling volumes of money and it was not practical to check each bill.

Q. It was better to forget all about the Lindbergh kidnaping than to check the money?

Mr. Wilentz: I object, your Honor please, this in a harangue and I object to it.

The Court: That is an improper question.

Mr. Wilentz: I move that it be stricken from the record.

The Court: Yes.

By Mr. Fisher:

Q. Then the force of work, the volume of work, became so acute that there was some laxity existing in the department in the search for ransom money?

Mr. Wilentz: I object to that question as being improper.

The Court: I overrule the question. It has been answered repeatedly.

By Mr. Fisher:

Q. Will you explain to me exactly what did happen that the ransom money might be overlooked in the Treasury Department? A. The President, Franklin D. Roosevelt issued a proclamation calling in all gold certificates and they came in in such great volume that not through carelessness or laxity or being lax, but because there was such a great volume coming in, it was not practical for the Treasury Department or banks to check each bill that passed through their banks in such a short space of time.

Q. Did you ever work in the Treasury Department itself, that is, in the Treasury Building, in the Secretary of the Treasury's office? A. I worked in the Treasury Building.

Q. Did you work in the Department that would handle the return of money such as you are now speaking of? A. No, sir.

Q. What happens, Mr. Wilson, to gold money turned in? A. I don't know.

Q. Is it still stored in Washington? A. I don't know.

Q. You don't know whether it is destroyed or whether it is stored or what happens to it? A. I do not know.

Q. You don't know then whether they checked the gold that has come in since the arrest of Hauptmann? A. I do not know that they have checked it all.

Mr. Fisher: That is all.

Re-direct Examination by Mr. Wilentz:

Q. Now, with reference to these notices, S-101, being sent to banking institutions, they were not sent to brokerage houses, were they? A. No, sir.

Q. Being connected with the Treasury Department, you are familiar with the fact, are you not, that in 1933 and shortly prior to the inauguration of President Roosevelt, that many banking institutions in the country closed? A. Yes, sir.

Q. And during the time— No, withdraw that.

Q. And upon the inauguration of the President of the United States you recall, do you not, that there was a banking holiday? A. Yes, sir.

Q. And that during those days the ordinary banking methods of people were stopped? A. They were.

Mr. Reilly: Oh, I object to the speculation and the discourse.

Mr. Wilentz: Well, no; I am coming to a question, if your Honor please.

The Court: I don't know the point of it, Mr. Wilentz.

Mr. Reilly: Neither do I, sir.

The Court: It may be relevant. I will allow it.

Mr. Reilly: Then we will go along with the General until he gets to the point.

Q. The moneys during those days, during the banking holiday, is it a fact, or is it not a fact that much more cash was handled throughout

this nation than ever before in the history of the country?

Mr. Reilly: I object to that.

The Court: Well—

Mr. Reilly: Far-fetched, if the banks were closed—

The Court: If he knows.

Mr. Reilly: Well, how could he know?

The Court: I do not know how he could know. Do you know about that as a fact?

The Witness: No, sir; no, your Honor.

The Court: He says he does not know.

Q. Now, we have been talking about gold. What have you to say as to whether or not this Lindbergh money was all gold or whether or not some of the certificates were other than gold? A. $35,000 was in United States gold certificates; $15,000 was in other currency, such as United States notes and Federal Reserve notes.

The Court: Were the serial numbers taken with respect to not only the gold certificates but the Federal Reserve notes and U. S. Treasury notes?

The Witness: Yes, your Honor.

The Court: All of the notes in the package, the serial numbers were taken?

The Witness: Yes, your Honor. The yellow list represents $50,000, of which $35,000 was gold certificates, 5,000 United States Federal Reserve notes and 10,000 United States notes, totalling $50,000.

The Court: I understand you, sir.

By Mr. Wilentz:

Q. Just one more question, Mr. Wilson. You talked about the bank which did require the presentation of some slip, deposit slip or exchange slip. Did that bank require a person to identify himself? A. No, sir.

Q. So that so far as that bank was concerned, the requirement was, according to your answer to Mr. Fisher, that when a citizen or a resident came in with gold he had to give a name? A. Yes, sir.

Q. That is to say, his name, but no identification was required, as I understand? A. None at all.

Q. So that if I went in and gave Mr. Fisher's name, that is all there would be to it; is that it? A. That is all.

Q. Or reverse, if Mr. Fisher went in and gave my name? A. Yes, sir.

Q. As a matter of fact, the clerks made out many of those exchange slips?

Mr. Fisher: Objected to, your Honor.

Mr. Wilentz: I withdraw the question.

Q. Do you know whether or not many of the exchange slips for gold certificates in that bank were made by the persons who asked for the ex-

changes or whether they were made by clerks in the bank?

Mr. Fisher: That is objected to, if your Honor please.

The Witness: No.

Mr. Wilentz: He doesn't know anyway.

The Court: He doesn't know.

Mr. Wilentz: He doesn't know anyway.

All right, Mr. Wilson; thank you.

By Mr. Fisher:

Q. Just one question. I understand that $70,000 was marked. That is correct, isn't it, Mr. Wilson? A. Yes, sir.

Q. And what happened to the $20,000 that wasn't used? A. The $20,000 that was not used was returned at the direction of Colonel Lindbergh to his bank.

Q. And then the serial numbers destroyed as to that $20,000? A. No.

Q. Crossed off the list? A. It was not destroyed. The list was kept separate on the $20,000.

Q. And you used only the $50,000? A. That is correct, Mr. Fisher.

By Mr. Wilentz:

Q. As a matter of fact, the $20,000 was in fifty dollar bills: isn't that so? A. It was.

Q. And there are no fifty dollar bills in this list? A. None whatsoever.

Mr. Wilentz: Thank you, Mr. Wilson. And we wish you a pleasant journey.

Court Crier Hann: The jurors would like to have a recess, your Honor.

The Court: I am told that certain members of the jury would like to retire for a moment.

Mr. Reilly: Yes, sir.

The Court: We will take a recess for five minutes.

(At 11:31 a. m. the jury retired.)

(At 11:42 a. m. the jury returned.)

The Court: The Clerk may poll the jury.

(The jury was polled and all answered Present.)

The Court: Counsel may proceed.

Mr. Large: I will call Colonel Schwarzkopf.

H. NORMAN SCHWARZKOPF, Sworn as a witness on behalf of the State:

Direct Examination by Mr. Large:

Q. Colonel, do you hold an official position? A. I do.

Q. What is it? A. Superintendent of the New Jersey State Police.

Q. I show you two writings, marked S-86 and S-87 respectively for identification and ask you if you were present when they were written? A. I was, yes, sir.

Q. Who wrote that? A. Bruno Richard Hauptman.

Q. Under what circumstances were they written, Colonel? A. Inspector John A. Lyons of the New York City Police Department explained to Bruno Richard Hauptmann that he wanted specimens of his handwriting; asked him if he was willing to give us some. He said, "Yes," and from a circular which had been published, Inspector Lyons read off the words on that circular and Hauptmann wrote them on two pieces of paper.

Q. In other words, then, as I understand it, he wrote from dictation? A. Yes, sir.

Q. And the spelling is his own?

Mr. Fisher: I object to it.

The Court: How is that?

Mr. Fisher: I object to it as leading, "and the spelling is his own."

The Court: What is the question?

(The last question was repeated by the reporter: "And the spelling is his own?")

The Court: Well, that is a little leading. You better reframe your question, Judge.

Mr. Large: All right.

By Mr. Large:

Q. Is the spelling his own? A. Yes, sir.
Q. Referring to whom? A. Hauptmann.

Mr. Large: Do you want to cross examine?

By Mr. Fisher: (on voir dire)

Q. When were these written, Colonel? A. On September 19th, 1934.
Q. At what time of day? A. They were written, it was early in the evening, around seven o'clock; I think it was right after Hauptmann had had supper.
Q. The same day he was arrested? A. Yes, sir.
Q. And where were they written? A. They were written at the Greenwich Street police station, New York City.
Q. From dictation by Inspector Lyons? A. Yes, sir.
Q. Hauptmann was in custody at the time? A. Yes, sir.
Q. And had been since nine o'clock in the morning? A. Yes, sir.
Q. Undergoing questioning during that period of time? A. Intermittently, yes, sir.
Q. Was he represented by counsel at the time the writing was done? A. No, sir.
Q. In the hands of the police? A. Yes, sir.

By Mr. Fisher:

Q. And without any representing him present? A. No, sir.

Mr. Fisher: I object to them for the same reasons as urged in the argument yesterday.

Mr. Large: I call the Court's attention to the fact that they are, as the others, not offered as confessions. They are merely samples of handwriting written by the defendant.

The Court: I understand that.

By the Court:

Q. Colonel Schwarzkopf, were any promises made to Hauptmann in order to get him to do this writing? A. No, sir.

Q. Was he threatened in order to compel him to do the writing? A. No, sir. It was explained to him that we wanted a specimen of his handwriting, and he willingly gave it to us.

The Court: Now, Mr. Fisher, do you desire to present any proof upon the question of the voluntary or involuntary character of this act of writing?

Mr. Fisher: Not at this time, sir.

The Court: I will admit the exhibits.

Mr. Fisher: Exception.

The Court: You may have an exception, Mr. Fisher.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

(The specimens of handwriting were received in evidence and marked S-97 and S-98.)

Mr. Large: Now that is all, I think, Colonel Schwarzkopf.

Mr. Lanigan: Mr. Albert S. Osborn.

ALBERT S. OSBORN, sworn as a witness on behalf of the State:

Direct Examination by Mr. Lanigan:

Q. Where do you reside, Mr. Osborn? A. In Montclair in this state.

Q. Where is your business office? A. 233 Broadway in New York City.

Q. What is your occupation? A. I am an examiner of questioned documents, disputed handwriting and typewriting, ink, paper and so forth.

Q. Have you testified on the subject of disputed handwriting in courts? A. Yes.

Q. How long a period of time have you been testifying? A. Upwards of thirty years.

Q. And how wide a territory has your experience covered? A. I have been engaged on cases from 39 states of the United States, various parts of Canada, Newfoundland, Porto Rico.

Q. Have you had cases submitted to you from countries other than the United States and Canada? A. Yes; the ones I have mentioned, Canada, Newfoundland. I have had one case directly from the City of London, England, originally a

case submitted to me for examination from New Zealand.

Q. I see. Are you the author of any books on the subject of questioned documents? A. I am.

Q. What are they? A. They are right over there, "'Questioned Documents," is the title of one of them.

Q. Look those over and tell me what they are. A. And the title of the other one is "The Problem of Proof."

Q. With respect to The Problem of Proof, can you tell me who wrote the introduction of your book.

Mr. Reilly: I object to it as incompetent, irrelevant, immaterial, who wrote the introduction. It may have been a gratuitous act—

The Court: The question is who wrote the introduction?

Mr. Reilly: Yes. It is not at all competent. It might have been a gratuitous act of some old friend who might have been very extravagant in his praise, and I say it is not competent, relevant or material.

The Court: Well, I think I will exclude that.

Mr. Lanigan: All right.

By Mr. Lanigan:

Q. Have you made a study of the law relating to questioned documents? A. Yes. I am not—

Q. What purpose— A. But I am not a lawyer.

Q. For what purpose did you make your study? A. I cited in my book Questioned Documents some 1400 cases or citations regarding the law relating to questioned documents.

Q. Have you testified in the State of New Jersey? A. Yes, sir.

Q. Have you testified in homicide cases? A. Yes.

Q. Can you name for me some of the late cases in which you have testified? A. Late cases?

Q. Yes, in the last four or five years. A. I testified in Texas a few weeks ago; I testified in the Bronx—not in this case—let me see. Just recently, you ask the question?

Q. Make it in the last four or five years, any cases of prominence. It is not material anyhow.

Mr. Lanigan: I offer the witness as to his experience and qualifications.

The Witness: I can name a number of cases.

Mr. Lanigan: I rest it there. I offer the witness as to his qualifications.

The Court: Are there any questions in relation to the qualifications of this witness?

The Court: Does the counsel desire to examine this gentleman as to his qualifications?

Mr. Reilly: No. I got up to assist the witness in looking for something he was looking for under the chair. I think he has found it now.

The Court: Yes.

It seems to be in effect conceded that the gentleman qualifies as an expert on handwriting.

By Mr. Lanigan:

Q. Now Mr. Osborn, when did you first see the ransom notes in this case? A. Your Honor, I have to ask indulgence from the Court and opposing counsel, because I can't hear as well as I did once.

The Court: Well—

The Witness: And if people speak distinctly and look at me I can hear them. And I have also—

The Court: Yes—

The Witness: An apparatus here which helps me somewhat.

The Court: Very well. You may use that and we will get along, I am sure.

The Witness: What is that last question?

Q. When did you first see the ransom notes? A. I first saw the ransom notes in May, 1932.

Q. Did you make an examination of them at that time? A. I did.

Q. Did you make photographs of them at that time? A. Yes.

Q. Did you afterwards have occasion to make a

further examination of the letters and compare them with other writings? A. Yes.

Q. Under what circumstances and for what purpose were these examinations made? A. I examined them later, in the month of May, and I think not long afterwards. Then I had occasion to examine the photographs of the notes many times during the next two years and a half. Shall I tell the circumstances?

Q. Yes. Relate the circumstances under which you examined them. A. The writing of well over 100 different possible writers of the ransom notes were brought to my office and the office of my son for examination, to see whether these various writers or any of these various writers wrote the ransom notes and the occasion arose, of course, for examining the notes during those examinations.

Q. Yes; now, with respect to those writings did you reach a conclusion? A. Yes.

Q. What was the conclusion you reached? A. The conclusion was that the writer of the ransom notes had not been found.

Q. What period of time did that cover? A. up to September last year; that is, from after May 1932 to September 1934.

Q. Have you made a careful comparison and examination of the socalled ransom notes with the conceded writings and the request writings of Bruno Richard Hauptmann? A. I have.

Q. Does the amount and the character of the writing which has been placed before you for comparison and examination give you sufficient material upon which to base a conclusion? A. Yes.

Q. What have you to say with respect to the amount of the writing?

Mr. Reilly: I object to the form of the question and ask that he be asked what his opinion is.

Mr. Lanigan. Read the question.

(Pending question read by the reporter.)

The Court: The amount of the writing?

Mr. Lanigan: Yes; the volume of it, the number of pieces.

Mr. Reilly: Oh, I withdraw that objection.

The Court: Yes. The witness may answer. You may answer that question, Mr. Osborn.

Mr. Reilly: I didn't understand that question.

The Court: You may answer that.

A. The amount of the writing, in my opinion, is ample upon which to base a positive opinion.

Q. Have you reached a conclusion concerning the writer? A. I have.

Q. Are you prepared to state that conclusion?

Mr. Reilly: I object to the form of the question and ask he state his opinion.

The Court: Well, that may be done; it amounts to the same thing, I think. You may ask that.

Mr. Lanigan: I am unable to distinguish—

The Court: Yes.

Mr. Lanigan: I am not Dr. Condon, exactly, I can split hairs with you if you care to.

The Court: Let the question be read.

(The reporter reads question: "Are you prepared to state that conclusion?")

A. I am.

Q. What is the conclusion?

Mr. Reilly: And opinion.

Mr. Lanigan: It is the same thing.

Mr. Reilly: Well, I would like to have the word opinion used for the purpose of the record and I ask that he ask what is his opinion.

Q. Based on your examination and comparison what is the opinion you have reached? A. My opinion is that the ransom notes were all written by the writer of the various papers signed, "Richard Hauptmann."

Q. Have you examined these various ransom letters for the special purpose of determining whether or not they were all written by the same writer? A. I have.

Q. What is your opinion regarding that matter? A. My opinion is that all the ransom letters were written by the same writer.

Q. Do you recall how many ransom notes there were, Mr. Osborn? A. I think fourteen.

Q. I show you exhibits—take the first ransom note, Exhibit S-18. A. Yes.

Q. Have you the second note? A. The second note is Exhibit 20.

Q. Have you the third note? A. I am unable to say.

Q. Have you any other notes? What is the third note? A. I am unable to say exactly without further examination just what the order is. I can give the exhibit numbers. The next one I am examining is State's Exhibit 23.

Q. That is right. That is the third note. Now have you S-43? A. 43?

Q. S-43—L-5.

Mr. Wilentz: May I help the witness? The envelope is in the way.

The Witness: I haven't seen these papers since they had these new marks on them. They have all been marked since I have examined them.

The Court: Take your time, Mr. Osborn, we are in no haste. Take your time.

A. The next one I am examining is State's Exhibit 44.

Q. All right. That is right.

Mr. Reilly: We can shorten this, General, by admitting he examined them all.

Mr. Wilentz: Fine; thank you, sir. And that he admitted also, if I may inject, all of these—

Mr. Lanigan: One of the request writings.

Mr. Reilly: If he said he did, we stipulate that he examined those. That is all.

The Witness: (after examining writings) All of these various requests and proved writings I have examined.

By Mr. Lanigan:

Q. I see. Now, for the sake of continuity the ransom notes you have examined, the fourteen ransom notes— A. Yes.

Q. And you have examined the request writings? A. Yes.

Q. And you have examined the conceded writings? A. Yes.

Q. And your opinion is what with respect to them? A. My opinion is that the ransom notes were written by the writer of these various writings, proved writings, that I have just referred to.

Q. All right. Now, will you please explain the reasons which led you to the conclusion you have just expressed.

Mr. Reilly: May I suggest that you do that note by note, what he is going to do, one note after the other?

Mr. Lanigan: He is going to state his

reasons first and then pick up the notes in sequence.

The Witness: Will you hand me my brief case. My brief case is down there somewhere.

Mr. Lanigan: There you are, sir.
(Handing witness his brief case.)

Mr. Lanigan: The witness refers to the ransom notes, the papers I showed him.

A. Do you want these?

Q. Just explain them now, explain the reasons. A. I first examined these writings for the purpose of determining, if possible, whether or not they were all written by the same writer, that is, the ransom notes themselves and this examination was—I will try and hear you if you object.

Mr. Reilly: Go ahead.

Q. Just address the jury. A. Yes. This examination was made in May, 1932, when the ransom notes were first submitted to me. I examined them then for the purpose of determining whether they were connected with each other and I found that they were connected with each other in a large number of ways, seven or eight different ways. A number of these ways outside of the question of handwriting. They were connected with each other, in my opinion, by the language contained in them, the use of words, spelling, peculiar spelling, by the statement in the latter letters of the amount of the ransom mentioned in the first letter; by the statment in the latter letters relating to the subject of not reporting to the police, and

mainly, and perhaps most positively the ransom notes were connected with each other by a peculiar and ingenious device that appeared on the lower right hand corner. Am I talking too loud, your Honor?

The Court: No, you are doing nicely.

The Witness: I am inclined to talk louder because I like to hear anybody speak so loud.

I encourage loud speaking in others by the way I talk myself.

Q. Just address the jury, please. A. I hold in my hand the reproduction of printing, photograph of printing, of various parts of these letters which in my opinion indicate that the letters came from the same source. I refer to the language and the statement, the ideas, in the letters. For example, the first one is the letter that was left in the room when the kidnaping occurred, what has been referred to and is referred to in the notes themselves as the ransom note. That letter says, "We warn you for making anyding" intended for anything—"public or for notify the police"; and then in the lower lefthand corner of that first page are the words "Indication" I think the word is indication, it is rather illegible, "Indication for all letters are," then the word, peculiar word, "singnature" s-i-n-g-n-a-t-u-r-e, and below that the word "and three holes"; and then to the right and in the corner appears this peculiar device which is made by imprinting two overlapping circles with ordinary printer's ink—I mean ordinary writing ink—and I think the impression was made not by a rubber stamp but by

some instrument which didn't take ink well, so that the impressions are not good. It is a crude device in certain ways. I experimented with the various instruments; I think with the bottom of a bottle or a porcelain or some China cup or something that is simply put upon ink and then the impression made.

But the most significant thing about this device are the holes which are referred to on the first letter and referred to in one of the later letters as "specially them three holes." The three holes connect these eleven letters with each other, in my opinion, unmistakably, for this reason: they are punched through the paper, so there is a hole through the paper, not merely a perforation, but a hole and, in my opinion, they were all punched from the same model or pattern. A pattern was made or a model or they were punched one from the other. They were not punched at the same time because the holes are not exactly the same size and not exactly the same shape, but they are in the same relation to each other and in the same relation to the edge of the paper and to the bottom of the paper, so that you can take Letter No. 1, put the corners together and the side together, hold it up to the light and you can see through all three holes, and you can see through all three holes on all eleven of them. The only difference is in what is numbered 13 and 14; they are the last ones—I don't know what the exhibit numbers but they are the last ones, the two latest ones; the two holes are about a sixteenth of an inch nearer the bottom of the sheet.

But horizontally they are the same distance from the edge and another circumstance in connection with the holes is that they are not the same distance from each other. The first and second holes are farther apart than the second and

third, and they are uniform. So in my opinion it couldn't have been made excepting from a pattern or one made from another. It would be impossible to make them from a description alone or a mere observation of them, because of this mechanical similarity.

The second letter which originally was marked L-1—these original marks perhaps ought to be explained, were the marks that were put upon these papers at the extradition proceedings and they were the only marks that I could follow in preparing these exhibits.

Q. That is S-20 here. A. What?

Q. S-20. The second letter is S-20. A. Yes. well, it was originally one, the second letter said, the first line of the second letter: "Dear Sir: We have warned you note"—intended for not, it was spelled n-o-t-e, "to make anyding public or other notify the police." The very first sentence is a repetition of the sentence in the first letter, and on that same letter, down in the lower corner, appears the word "singnature" on all letters. Not only refers to the previous one and this one, but those that might follow, and an arrow which points up to the device. The second page of that same letter—and by the way, these exhibit numbers do not designate the second page, do they?

Q. No, one exhibit. A. The exhibit numbers do not designate, they designate the piece of paper?

Q. That is right. A. Some of these letters are written on both sides of the sheet and I have referred to the second page in my references. The second page of this letter says "Our ransom—a-u-e-r, our—"was made aus"—a-u-s, out, German—"for $50,000." That is what the first letter said, $50,000. This letter says, "Our

previous letter, practically says our previous letter said $50,000 and it did, but now, we have to take another person to it and probable have to keep the baby for a longer time as we expected."

The reference to the amount $50,000 is the same.

The next letter, which originally was marked Exhibit H—

Q. Yes. A. What is that?

Q. Just refer to your own notes and go right on.

A. All right. Exhibit H, at the lower part of the first page, has merely the word "singnature" at the left, and then the device at the right; and the second page of that same letter, they are single sheets and the writing is on the back, the second page "Wy" why—W-y—"Wy did you ingnore our letter which we have left in the room." Two points of connection there: one, the peculiar spelling of the word "ingnore," an unnecessary "n" before the "g", exactly as the word "singnature" is written; and also the reference to the first letter which was left in the room.

The Witness: I have been at home three or four days, your Honor, with throat trouble, and I may have to stop occasionally.

The Court: Many of us have the same trouble.

A. (continuing) In the same letter, in that same letter there appears "and ransom was made out for $50,000," another reference to the amount that appeared in the first letter, "but now we have to put another lady to it and probably" intended for "probably," although it is misspelled,

"have to hold the baby longer as we expected."

The next letter, which originally was marked Exhibit K—and these exhibit numbers still appear upon the papers, says, "It seems you are afraid if we are the right party and if the boy is all right. Well, you have our singnature. It is always the same as the first one, specially them three holes."

The next reference to this was originally on L-2, it says, "He knows"—that previous reference was to Colonel Lindbergh—"He knows we are the right party." This is another letter. "Our singnature is still the same as in the ransom note." Now these ransom notes are connected with each other with many peculiarly spelled words. It can hardly be described as misspelling, they are peculiar combinations of letters. This word "singnature" that appears all the way through them for instance. And another connection appears in the second letter. The first two lines of the second letter are written with great deliberation and very distinctly like the writing in the first letter. The rest of that letter, the second letter, is written somewhat more freely.

Q. What does that indicate to you? A. What?

Q. What does that indicate to you? A. Well, it indicates the closer connection at the beginning of the second letter with the first letter. The first letter was written with more deliberation than any of the other letters, written somewhat more slowly and with more deliberation, but in my opinion it was written by the same writer.

Now, there are some other words, other statements, ideas, contained in these letters which in my opinion tend to connect them with each other and especially, I mean tend to connect the later letters with each other and with the first letter. The first letter says, "The child is in gut care."

That is the letter left in the room. That particular sentence is written with a coarser pen than the rest of the letters, indicating it was written not continuously with the other part of the letter.

The next letter says, "Don't be affrait about the baby." These are references to the care of the child which appear in the different letters. "Don't be affrait about the care of the baby. Two lady keeping care of it day and night. The also" intended for "they," written "t-h-e"—that is an error which appears here numerous times in which the verb is not correctly spelled or the noun is not correctly spelled in some instances, and sometimes it is the verb. Here it is "the" intended for "t-h-e-y," although it is rather illegible—"also will feed him according to the diet."

The next letter says, "We are interested to send him back in gut (g-u-t) health."

Or "got", it is difficult to tell just exactly what some of these letters are. They are written so peculiarly and so illegibly. The next letter says "There is no worry about the boy. He is very well and will be feed according to the diet." This, in my opinion, this reference connects these letters with each other as series. I suppose it is understood what the diet means. The next letter says, "Please tell Mrs. Lindbergh not to worry, the baby is well. We only have to give him more food as the diet says." In the next letter it says, "Did you send that little package to Mr. Lindbergh. It contains the sleeping suit from the baby." Then, "The Baby is well." In the last letter it says, "There is absolute no fear about the child. It is well."

Q. Are these correct photographic reproductions of the notes? A. They are.

Mr. Lanigan: I offer them in evidence.

The Court: If there is no objection they will be received.

(Photographs referred to received in evidence and marked State Exhibits S-104 and S-105.)

Mr. Lanigan: Proceed, Mr. Osborn.

The Court: Mr. Attorney General, it is about our recess time, and before you take up another topic I think we had better take a recess until 1:45 o'clock. The people will remain seated where they are in the courtroom.

The jury may now retire.

(The jury retired at 12:29 p. m.)

The Court: The prisoner is remanded to the custody of the Sheriff, and he may now retire with the officers.

The Court will now take a recess until 1:45 p. m.

———

(At 12:31 a recess was taken until 1:45 p. m.)

———

AFTER RECESS

(1:46 p. m.)

(The jury was polled and all jurors answered present.)

The Court: Will the Attorney General and Mr. Reilly step up here to speak with me one moment.

(Counsel conferred with the Court at the Bench out of the hearing of the jury.)

Mr. Reilly: May it please your Honor and Mr. Attorney General, last week in conference your Honor said that you were most anxious to proceed with this trial on all Saturdays, that you thought the interest of justice would be best served that way. Your Honor will recall that when the motion for the bill of particulars was argued defense counsel asked that certain exhibits be impounded so that our experts could devote some time to the examination of them so they could follow Mr. Osborn and the other experts for the State, and your Honor said that you were without power at that time, but that you would give us the opportunity to examine the exhibits.

Now it appears, if the Court please, that there are many exhibits,—I should say Mr. Osborn has very likely, and the other experts have very likely, gone over, I should say, 30 or 40 exhibits in order to arrive at their conclusions.

The experts for the defense have never seen any of the original notes, nor have they seen any of the comparisons that the prosecution had. If we were to stop the examination of the experts for the State, say, in the middle of next week, and ask

this Court for sufficient time to examine the exhibits, I fear we would have to take at least 48 hours before we could do substantial justice to this defendant.

Most of our experts come from not only Jersey but from other places, and it is our desire to gather them together tomorrow and I have been assured by the Attorney General that he will set aside a room in Trenton where these exhibits may be examined by our experts under the supervision of a member of his staff. I am moving now for an adjournment for tomorrow at the close of the court today, until Monday morning so that counsel, who although not engaged in court, will be actually engaged in the preparation during Saturday and Sunday of their side of the case, so there will be no delay when the time comes for the defense to offer their expert witnesses.

Further than that, the Attorney General tells me that there are a line of witnesses to certain steps in this proceeding which, if called, would amount to at least 25 or 32 witnesses and would take at least a day and a half. So as to try to make this trial move as rapidly as possible and within the confines of justice, the defense feels that during the Saturday and Sunday interim, the Attorney General and our staff of the defense may be in such a position that we can shorten the trial and eliminate at least 26 or 27 of those witnesses and limit the evidence under a stipulation to about three of those witnesses.

So that I would not want your Honor or the jury or anyone to think that this

application was merely for the purpose of obliging counsel to get some fresh air. It is work that must be done by the defense, and your Honor appreciates the more or less limited time that we have had and will have in examining these exhibits. So I ask your Honor for that discretion which is vested upon you to grant this adjournment.

Mr. Wilentz: If your Honor please, the prosecution did last October or November, it is my recollection, provide to the defense counsel at that time an inspection of some of these exhibits, not all, those that we had at the time, particularly the ransom notes, and also gave them a copy; but my information is that the present counsel have never had an opportunity to see those exhibits. Under those circumstances I believe that the request now made is fair and reasonable.

In addition to that counsel has very kindly consented to endeavor to agree upon certain facts which would eliminate twenty-five or more witnesses.

I believe this request is fair, if your Honor please, because it will save time. In other words, we would have to spend a day and a half here in matters that would not be interesting, for one thing, if your Honor please, and secondly they would be just a matter of formal proof. "Did you wrap the money?" and did the next man wrap this money and "Did you mark down these numbers?" Counsel has consented to agree to have three or four witnesses who

know about it testify to it and eliminate the others.

So that we actually will not lose any time, if your Honor should decide to grant the request made by the chief defendant's counsel.

In addition to that, if your Honor please, let me suggest to your Honor very respectfully that if you do give us the day tomorrow, as far as the lawyers are concerned, we will be occupied all day. The only difference it will make will be that the jury will not be forced to be here. There won't be any time lost. And I think under all the circumstances the State should and does consent to the request of counsel.

The Court: I wish to speak about this matter to the jury. I have had time to think about this request that has been made. I think the request should be granted. Normally I would be very anxious to go on on Saturday, but to go on over Saturday, as has been explained by the lawyers, would not result in the saving of any time; on the contrary, I think the adjournment would result in the saving of time in the trial of this cause. Now, in such circumstances it seems that I ought to adjourn over from tonight until Monday morning. Having determined to do that, I want to say a word or two to the jury. In the first place, I wish to suggest to them that they spend as much time as they feel like and as reasonably possible out in the open air and in the sun light over Saturday and Sunday. Now in connection with that thing it appears that one of the guards of this jury, I do not know his name, one of the officers

in charge of this jury, happens to be the owner of two buses that carry quite some few passengers when loaded. Now he has volunteered to take the jury, he is going along in the buses, to take the jury and the officers who are in charge of the jury on a little ride; I do not know whether it is to be Saturday or Sunday, I suppose that can be adjusted between the jury and the officers. Now I see no objection to that, and I have consulted with the counsel on both sides, and they consent to it. I am going to impose this limitation, that the route to be traversed when you are out for this ride of relaxation shall not be along any of the places which have been described here in the trial of this cause. Counsel tell me that it would be quite satisfactory to them to have the buses driven from here to—Frenchtown, is it?

Mr. Fisher: That is right, sir.

(The Court: And from Frenchtown to Milford — I ask the guard's attention to what I am saying—from Frenchtown to Milford, from Milford—to where?

Mr. Pope: Pattenburg.

The Court: Pattenberg?

Mr. Pope: That is right.

The Court: From Milford to Pattenburg and—

Mr. Fisher: And thence to Clinton.

The Court: And thence to Clinton and then back here.

And of course it is understood that there is to be no talk with anybody about this case. The purpose is to give you a little bit of relaxation and air.

That may be done.

Counsel may now proceed.

Mr. Lanigan: If your Honor please, there has been offered and introduced in evidence some 55 exhibits relating to the ransom notes, to the request writings and to the conceded writings. For the purpose of clarification and in order to expedite, I would like to have entered on the record that when the witnesses refer to the following exhibits, the numbers of which I shall give the stenographer, they are referring to the ransom notes and the envelopes; that when they refer to the following numbers, 1 to 10, they refer to the request writings and in the subsequent numbers to the conceded writings. I think by referring generally to "ransom notes," to "request writings" and to "conceded writings" the jury will have a clear picture.

I make a motion that they be entered in that way and the testimony of the witnesses so taken.

The Court: Is there any objection to that?

Mr. Reilly: No objection.

The Court: That may be the course.

By Mr. Lanigan:

Q. Mr. Osborn, at the lunch hour we ended with the introduction of the photographic exhibits S-104 and S-105.

Mr. Reilly: They are in evidence?

Mr. Lanigan: Yes.

Q. Will you now proceed with your reasons and illustrations from that point. A. In further explanation of the identity of these socalled devices or signatures, I have in my hand a photograph which is printed on a transparent film of the 11 devices. These are made from the photographs that were made of these documents in May 1932, the negatives were made then and these are simply prints on films so that they are transparent. The devices shown in the corner and the holes print as black because these are transparencies. These 11 transparencies are fastened together so that any one can be compared with any other one by simply pulling them out to one side like this, and then there is a little lost motion so that the edges of the paper, which is shown by the black line, the edge of the sheet, can be put together and the corner can be put together and then it can be seen whether the holes will match. It is much easier to compare them than it is to compare the originals, because the originals are, of course, opaque paper and the holes are there; if you get them and hold them up to the light you will see whether they will match. This is a method of comparing particularly the punched holes with each other.

It will be seen, in my opinion, that No. 13 and 14 that I have already referred to, is a little different from the other two, that apparently they were punched at the same time by the shape of their holes, and their position, exact position. The others practically match. Of course, the holes are a little different in size, but it in my opinion is possible to take the exhibit that I have and see whether there is this identity of position of these punched holes as connecting the eleven letters with this device on it.

Q. And that refers to the signatures? A. Yes, the device, the signature in the lower righthand corner.

Q. Are they correct reproductions? A. They are.

Mr. Lanigan: I offer them in evidence.

Mr. Reilly: No objection.

The Court: No objection, they will be received.

The Reporter: Exhibit S-106.

(Reproductions referred to were received in evidence and marked State Exhibit S-106.)

The Witness: I didn't have the sticker on.

Q. Proceed from that point. A. I have examined these two sets of writings—where are they?

Q. In your bag? A. No, I mean the originals.

Q. These are the original notes. Note No. 1. A. All of them, and the standards.

Q. All right. There is your envelope and these are your standards. A. I have examined these two sets of writings for the purpose of determining—

Q. What are they, Mr. Osborn, please? A. The two sets of writings are the ransom notes.

Q. Yes, and these? A. And the request writings.

Q. Of whom? A. The admitted writings—

Q. Of whom? A. Of Richard Hauptmann.

Q. And you are making a comparison between the writings of Mr. Hauptmann and the ransom notes? A. Yes.

Q. Proceed. A. I made this comparison examination for the purpose of determining whether or not these two sets of writings were written by the same writer, whether or not, in the second place, the similarities and identities are due to accident or coincidence, or third, whether the similarities and identities are due to intended imitation. They are the three alternatives. In my opinion the question must be considered in that way. Either these two sets of writings are by the same writer or the similarities and identities are accidental and coincident—just happened to be the same. And the other is that the ransom notes are the imitation of the handwriting of this writer.

Fortunately, there is a large amount of writing. Otherwise it would be difficult to answer to these questions definitely, some of them. For example, the question of imitation: it would be an enormous problem to imitate the amount of writing that appears in these ransom notes and imitate it successfully. First would be the necessity for the physical skill, the necessity for the ability to analyze the writing and determine what its characteristics, its controlling characteristics, are; and

third, and most important of all, would be the securing of standard writing, genuine writing, for imitation which would contain all of the characteristics which appear in the ransom notes.

It is important to consider in connection with that point as to what it is that connects the writings, what kinds of characteristics are they? Are they mere accidental things or are they the reproductions of a system of writing? Or are they developed characteristics and rare characteristics? In my opinion, the ransom notes are connected with this other writing, with this standard writing, genuine writing, writing of Richard Hauptmann, in all three of these ways: General characteristics, ordinary, usual characteristics, and unusual or rare characteristics. Now it would require an enormous amount of standard writing, for instance, if one had one or two letters of this writer, those letters would not contain a large number of things that appear in these ransom letters that are in the genuine writing. When you have a sufficient quantity of the genuine writing. This matter of handwriting comparison is a matter of reasoning, finally, it is looking at things and saying, is it reasonable to assume that that would be the fact? It is just a matter of reasoning, not merely looking at it, and when we show our illustrations here, that will be the question, whether accidental, the imitation or is it the same handwriting. In my opinion it is the same handwriting.

As the ordinary conditions in the amount of writing and the character of the writing. In my opinion the anonymous letters are all written in a disguised hand, somewhat disguised. The standard writing, the genuine writing is of two or three different kinds, one phase of it are the automobile

registrations, they are made a year apart, and I think covered three years—doesn't it?

Q. Correct. A. Three years. Then, there is some genuine writing, a promissory note, or a contract it is called, which it is reasonable to conclude is a natural handwriting, and then we have sixteen—a large number, I am not, I just don't know how many there are—

Q. Sixteen, go ahead. A. A large number of pages of what is known or described as a request writing, that is, a writing that the writer was asked to write, knowing inevitably, of course, that the purpose of it was to examine his handwriting and to see what kind of handwriting he did write. You will find when you examine these papers if you have not already examined them, that some of this request writing is of matter that is written three times, the same matter.

Now, that was a request made at the suggestion of writers on the subject, that in asking for request writing it is desirable to have the same matter written more than once, not merely to get more writing but to see whether the writing is honest writing or not, to see whether it is the genuine, ordinary, habitual writing of the writer. Now, that is shown in this way: when, for instance, a page of writing, as some of these letters are, a page — when it is dictated to a writer and the writing is then taken away, the sheet is taken away from the writer and another sheet is supplied and the same matter is dictated—now, if they differ from each other, it is not the habitual genuine, honest writing of the writer. And that is exactly what we find in this request writing. In one instance we find it on the same sheet of paper. In my opinion, these request writings—I mean these ransom notes—are disguised writings; part of the request writ-

ings are disguised writings, and the writer didn't have but one disguise. So that when the request writings were asked for, part of them are written in the style of the ransom notes and part of the request writings are like the writings of the automobile registrations and the promissory note contract.

Now, in my opinion, that has significance in this case as indicating the condition of mind of the writer in writing, for instance, Exhibit S-72. Exhibit S-72 has five lines of writing on it, very similar to the ransom notes, and then there is a sudden change to the natural or more natural style of writing of this writer.

On Exhibit No. 73 we have the writing—all of the writing is like the last part of 72. It is not the disguised writing at all and this particular exhibit in my opinion, Exhibit 73, would hardly furnish basis for the opinion that that writer wrote the ransom notes. I mean if that is the only one we had.

Now Exhibit No. 74 is nearly all of it like the first part of 72. It is all in that unnatural style, the whole sheet.

No. 75 is another one that is not disguised. So that in examining these request writings it is necessary to examine them in comparison with each other, to see which of the writings can be depended upon as a basis of comparison for the identification of the ransom notes.

Q. Well, did you find your basis of comparison? A. What?

Q. Did you find a basis of comparison? A. Yes.

Q. All right proceed from there.

A. Now this handwriting is identified by comparison of the characteristics. A characteristic in handwriting is that by which it may be de-

scribed, just the same as the characteristic of anything else.

They are the things by which it may be described. And in handwriting, characteristics of varying degrees of force as a means of identification are not all alike. They are like the description of an individual. Handwriting is identified exactly as a man is identified, as an automobile is identified, as a horse is identified, by general description and then by individual marks and scars and characteristics which, in combination, and that is the significant part of this matter of comparison, is the combination of characteristics so that it is not reasonable to say that they would accidentally coincide. That is the question.

Now, we have this writing, certain characteristics, which are characteristic merely of a class of writing. When pupils learn the same system of writing, if they learn to write perfectly, you couldn't distinguish one writing from another, because it would be merely the copybooks of writing; they would be just alike, but that does not occur.

In the first place, handwriting from the same system and the same teacher, with a different pupil, produces a different result in certain particulars, so that some of the handwriting characteristics given at the beginning, given at the time that writing is learned and then, as soon as writing is employed—and what I am saying, when writing is employed, it may be assumed that all the time I am referring to this writing, this writing (ransom note exhibits). In my opinion, this writing in this case, both classes is what may be described as developed writing.

Now, developed writing is that which differs from copybook, differs from the model that one

follows, or differs from the copies that were set for them to learn.

Writing, of course, begins, it is an acquired qualification, it is an acquired habit, first imitating the forms, and then the forms become more easily made, until finally writing is a succession of habitual motions; the signature part of writing are the motions which are made with the pen, with the ink on it, records the motions.

Q. Do those habitual motions appear in the ransom notes? A. Yes.

Q. Will you illustrate them for me, please? A. I have put together various clippings from both sets of these writings (producing).

Q. What are they? Explain what they are, please. A. These are words and similar combinations of letters taken from the ransom notes on one side and on the other side from these request and genuine writings.

Q. And they truly portray both the request writings and the ransom notes? A. What?

Q. Do they truly portray the ransom notes and the request writings? A. Yes.

Q. All right. A. These are clippings from photographs. Of course, we couldn't cut up the originals. They are photographs, and then prints are made and these parts are taken apart, taken and put opposite each other for comparison; and the method would be just the same whether it was to show that the writer was different or the writer was the same—put the same words and combination of words opposite each other and see how they look and then ask the question, Is it the same writing? Are they accidental similarities or are they imitated similarities? Now each of these—

Q. Have you any enlargements of these? A. There are five of these collections; there are five

of these collections. Each page has a place that can be marked as an exhibit.

Mr. Lanigan: All right, mark it for identification.

The Witness: Well, do you want to show it to Mr. Reilly?

Do you want to see that?

Mr. Lanigan: Mark it for identification.

The Reporter: S-107 for identification.

(Book of enlargements referred to marked State Exhibit S-107 for Identification.)

The Witness: Mr. Lanigan, you didn't show it to Mr. Reilly.

Mr. Lanigan: I am doing that in due course.

Mr. Lanigan: This is offered in evidence for the purpose of comparison and I desire to present the enlargement.

The Court: If there is no objection it will be admitted.

(Received in evidence and marked Exhibit S-107.)

Q. Now, Mr. Osborn, what does this purport to be? A. We have in these two groups of the writing, of the Hauptmann writing—

Q. In other words this is the writing of whom? A. In the right hand side or the request writings and the—

Q. Of whom? A. And—of Richard Hauptmann.

Q. All right. And this purports to be what, sir? A. On the left side are the clippings from the ransom notes.

Q. Yes. A. On this exhibit the Hauptmann writing is on the left side and the ransom notes are on the right side. They are just the opposite of this.

Q. Yes. A. The inscription at the top indicates of course, that these are the ransom notes, clippings on the right side, and on this one the ransom note clippings are on the left side.

Q. Then we have all the Hauptmann writing on the middle and the ransom notes on the outside? A. Yes.

Q. All right. Now proceed. A. Yes. We have here a combination of words showing the characteristics in this writing. On the one at the right—Mr. Lanigan, shouldn't this be marked as an exhibit for identification so I can refer to the whole sheet?

Mr. Lanigan: I offer them for identification (two large photographic reproductions which had been affixed to the wall.)

(Photographic reproductions marked State Exhibits S-108 and S-109 for Identifications.)

Q. Proceed, Mr. Osborn, please. A. I have five of these exhibits.

Q. Take these two first. Confine yourself to what is on the board. A. These exhibits are the reasons for my opinion. These are the reasons,

the things that can be seen, and I will attempt to interpret them somewhat. We have in S-108 on the left hand side a group of the writings of Richard Hauptmann. On the right hand side are the ransom notes. This Exhibit 108 contains three, in my opinion, invented, unusual characters. The first one is the "X." This X in the word "next," the word "expected" and the word "expenses," and another word "expected," and this is "extra." On the right hand side we have two examples of the word "Bronx" written with this same strange character. It isn't an "x" at all. It isn't German, it isn't roundhand, it isn't Latin script.

Latin script is the round hand or writing similar to American handwriting or English handwriting. In Germany it is referred to as Latin script. It is like English roundhand, like the old style and the old style American writing. That character is not in either, any of these systems of writing. In my opinion, it is an incorrect attempt to make what is an old hand "X," an old roundhand "x" is made with a beginning stroke like a small "n," with a loop at the bottom and then a loop at the top, and then the downward stroke touches the upward stroke and it makes an "x." (Witness demonstrates with a pencil and paper.)

The old writing books had it in, the early writing books. Now, the error in this letter is in making a loop at the top. If you make a loop at the top, then you can't make the second part touch the first, as it should, to make an "x" and this result we see as shown here in five examples.

Q. Will you just step down close to the map so that defense counsel may have an unobstructed view? A. No. I am going to sit down.

Q. All right. Do it that way then. A. If we

had only the request writing we wouldn't have these x's at all. There are some words with x's in the request writing but not that x.

The next character that I call attention to is the character shown—where is my pointer?

Q. Here it is, right here (handing to the witness). A. All right; so we don't have to get up. The next writing which I call attention to is the one I am pointing at, in the word here (indicating) and the one below. It is not familiar to me.

Q. Well, what is it? A. But it is intended for a capital T.

Q. All right. A. In the request writing we have two of them; one that I am pointing at could be almost exactly superimposed. That is a capital T.

Q. (Witness indicates the letter T.) A. What?

Q. Do you indicate the letter T? A. Yes.

Q. All right. A. Capital T in the word time, in both instances, and the capital T—that was intended for the word there, but the e wasn't written. That was in one of the ransom notes.

Now the next characteristic to which I call attention is this unusual difficulty with the h. In one of the ransom notes we have this word (indicating). This is in the second ransom note, hte. In one of the requests, only one of the request writings, we have the word the, written three times hte.

In my opinion it is highly individual. Of course, it is not a matter of form; it is a matter of the order of the letters. We have in the Hauptmann writing on the left the word "little," l-i-h-g-t for "light," passing a red light—that is in one of the automobile applications. On the right hand side we have the word "right" from the ransom note, r-i-g-t-h for "right." We also have the word "was." This is the verb "was"

with an "h" in it that shouldn't be in it. And this fault of arranging the letters incorrectly. This word that I am pointing at is the word "years," y-e-a-r-s. It is written y-e-a-h-s. At the right of that we have the word "year," which is written y— this first character here is intended for a "y," but of course it isn't a "y." There are 57 of them in the ransom notes, showing that it isn't an accidental thing. The word is written y-a-e-r, "year."

Now we have at the left over here the first word at the top, the word "not" with a peculiar final "t", peculiar final "t" in the word "not", and then we have the same letter in the word "next" and the same letter in the word "it," and the word "not" at the lefthand side under the Hauptmann writing on the second line. Now that character spraddled out in that way, sprawled out in that way, in my opinion is a distinctive individual characteristic. There are dozens of them in this writing on both sides. These examples that I showed here with the exception, for instance, of the "x's" these are the only ones that are shown here, but many of these characteristics appear over and over again, and the ones that are shown are only examples, for instance. Now we have some examples here, examples here of the German form of "t." Now that is a German "t" simply indicating that the writer was a German writer. That "t" finished at the bottom with a little stroke inside, and we have one over on the lefthand side here. That would have significance only as connecting the writings, that alone, of only connecting the writing with a German writer, which, of course, wouldn't be sufficient to identify an individual.

But, that is one of the general characteristics in this writing. Now, we have in the word "near"

here a peculiar final "r", and this writing throughout the ransom note writing, and also the writing with which we are comparing, the Richard Hauptmann writing, has a peculiar habit of finishing words in an awkward way with strokes that are too long. It applies to many letters, many letters. For instance, take the word "will", down at the bottom here, this one on the right hand side, the ransom note, would seem to be just an individual accidental thing, but it is repeated. We find similar ones throughout the writings. It applies in some instance to "e", sometimes to "l" sometimes to "h". For instance, there is an example of it in that word "right", "r-i-t-h". There is the stroke going down here, the word "near" here, too long below the line. And then, at the left, we have here examples of the word, of the letter "w" on the right hand side, the ransom notes, the word "will" beginning with a downward stroke. Then, the letter "w" I mean beginning with a downward stroke the letter "w," then beginning with a slight little bit of a beginning stroke and then an upward stroke and then the "w" made with a whole extra part at the left and then at the bottom, this letter "s", an old round hand letter that occasionally appears on both sets of these writings. "It", as made in the copy book, and written like "nv" it is the old round hand double. "It" occasionally appears we have one over here in the request writing. You will see there that it is like "nv". That is a small "w" and we have some, and on the left hand side we have four "w's", one with the downward stroke, upward stroke, double stroke, and then this old round hand style of "w".

Q. Will you go to the next map and continue your explanation from that map, please. A. There are other characteristics in this writing, in these

documents, than the writing alone, which in my opinion connect them. We have one peculiar one that appears at once in the writing at the top of Exhibit S-109, the word "New York" written as a compound word.

Q. Illustrate that, will you, please. A. A compound word. This specimen at the top is the writing that was on the sleeping suit wrapper; the paper was folded and it was of brown color, so that it was a little more difficult to photograph it; but you will notice that there is a hyphen between the "New" and the "York;" there is a hyphen between the "New" and the "York" in the next one, and in the next one. The one below that does not have it. Then on the right hand side we have the word "New York" in one of the automobile registrations, and the word "New York" in—I have forgotten where that one comes from.

Q. Well, go on to the next one. A. But it is one of the—

Q. Go on to the next one; take the one below it. A. Yes. It is one of the Hauptmann writings; and then below that is some writing from the request, the request writing, the word "New York" with a hyphen, and below that another one in the same writing. These two show what I have already referred to as the disguise in the request writing, these two words, "New York."

Q. Well, in the ransom notes where you have indicated the word "New York," how many times does the hyphen appear there? A. It appears on the ransom notes one, two, three times.

Q. And on that request, on the Hauptmann writing, where does it appear? A. It appears three times, four times on the request writing.

Q. All right. Now proceed to the next, please. A. Now there is another characteristic here in this Exhibit 109 which in my opinion is significant

and that is the peculiar form of the capital N. If we had only the one at the upper righthand side here it would look like an accidental letter, with the first part of the letter tilted up in the air. We have the same letter exactly on the notation on the wrapper containing the sleeping suit, the same form of "N"—we have the same form of "N" in the second "New York" here. It doesn't appear every time. Then in the next "New York" request writing, we have a strange "n," a strange character. That character is the capital N made backwards.

Q. Is there such a character in the ransom note, such a character of "N"? A. Yes.

Q. Will you point it out to me? A. Yes. This is the last ransom note.

Q. I want the character "N." A. It refers to the boat Nellie and the "N" is a printed "N," this is the ransom note, a printed N in the word Nellie, made wrongside up, made backwards, and in the request writing the word "Condon" appears with the "N" made twice in that way, showing that it is not an accidental thing, merely an accident thing. Then we have here in connection with—opposite this middle part here—the capital C a peculiar capital C. The word "Condon" is printed excepting the beginning letter which is a script letter and that same letter appears in the ransom notes, one of them on the wrapper of the sleeping suit and the other the word "Condon" at the top of one of the ransom notes.

Now we have next here the word "house" and "hall" and the beginning of the word "Hauptmann." Those three h's are German h's. They are in my opinion similar to some of these German characteristics I have already pointed out that would only indicate German, excepting for instance the peculiar and awkward manner in

which they are sometimes made, that is, there is as much variation in German writing as there is, of course, in American writing, so that German writing can be identified as compared with other German writing which differs from ordinary, the ordinary conventional forms.

Then we have a capital W, the ransom notes. This "W" is another common German characteristic that tends to connect this writing with a German writer and of course the similarities as they are constructed here in my opinion does tend to indicate this particular writer. We have below the word "boad" which is intended for boat, which is in the last letter, the same letter the word "Nellie" is in; the word "boad" with a "b" with the loop, the ovals at the right extending up to the right, you see. Below that we have the character "t" which is used by certain German writers for the "d". The "d" and "t" are used interchangeably and the significance here is simply the peculiar manner in which it is made, the large finishing loop at the left and in this instance the word "Dear Sir," or "Tear Sir" with its flourish out at the left. Below that we have the word "ransom" and the word "note".

Q. Go on. A. the word "ransom note" is written in one of the ransom notes, referring back to the ransom note. This contains a peculiar "a" which is a modification of the German or roundhand "a" made continuously like in the word "Hauptmann."

That is a peculiar adaptation of the German form, but of course other German writers do write it, some of them. We have at the bottom here the word singnature from the first letter, with a large flourishing s— the word singnature, s-i-n-g-n-a-t-u-r-e, with this t that has no crossing,

and that is a circumstance that I wish to call attention to particularly.

I assume I may look at my notes here.

Q. Go on. Use them to refresh your memory, please. A. Of the t crossings. The t in German writing is made like the letter t in the word expected up here, finished at the bottom, and requires no crossing; but this writing, most of this writing, is not German writing—most of the writing, I mean, in the ransom notes, and in the Hauptmann writing; it is not German writing. I have counted the number of t's that would require a cross, like the one, for instance, in the word singnature, and in the ransom notes there are three hundred and ninety-one of these t's; three of them are crossed. In my opinion this shows a general habit which is, I think, characteristic.

And in that same connection, referring to a characteristic in writing which is—

Q. Just a moment, please, Mr. Osborn. How many did you say: three hundred and what? A. 391.

Q. In the ransom notes? A. No, 391 t's in the ransom notes that would ordinarily be crossed, have a crossing.

Q. Did you examine the conceded writings for the number of t's contained therein? A. Well, I didn't count them all but there are a very large number the same way. For instance, there are whole pages of the request writings, there are whole pages of the request writings with not one crossed "t." I thought—whole pages with not one crossed "t." There are a few crossings. The specimens that have more crossed t's than anything else are one or two of the automobile registrations where the writer is asked to print the

name, and evidently the question of legibility in the writing was right in mind.

Now, the same peculiar omission in writing which is a characteristic is shown in the small "i." Now, the small "i" requires a dot and, in the ransom notes, there are 304 small i's, seven of them are dotted, and the—

Q. Now—A—and the same proportion exists in the standard writings, whole sets of the standard writing with not one "i" dotted in it at all.

Now, that in my opinion is a characteristic which is distinctive as indicating the connection between these writings. Now, finishing up S-109, we have the word "singnature" at the bottom, and below that the word "ingnore." "Why did you ingnore."

Q. Are you tired, Mr. Osborn? A. What?

Q. Are you a trifle weary? A. Why, I haven't, I would be—

Mr. Lanigan: I ask your Honor's indulgence; I think we have finished with these two maps. Shall we recess, with your Honor's permission?

The Court: Yes, we can have a recess of five minutes.

Mr Lanigan: A recess of five minutes.

The Court: The jury may retire if they wish to.

(At 2:55 p. m. a short recess was taken.)

(At 3:03 p. m. the jury returned to the court room.)

The Court: Poll the jury.

(The jury was polled and all answered present.)

ALFRED S. OSBORN, resumed the stand.

Direct Examination (Continued)

By. Mr. Lanigan:

Q. Now Mr. Osborn, have you finished with these two enlargements? A. Yes, for the present.

Mr. Lanigan: All right, will you take them down?

The Witness: You can put the others right over there.

Mr. Lanigan: All right.

The Witness: Put the others right over them.

Q. Which one do you want (showing two charts to the witness)? A. Either one.

(A photographic enlargement was placed on the wall to the right of the jury.)

Mr. Lanigan: I offer these and ask that they be marked.

Mr. Reilly: The first two charts?

Mr. Lanigan: The first two charts.

Mr. Reilly: No objection.

The Reporter: S-110 and S-111 for identification.

Mr. Lanigan: I offer the first two charts in evidence.

Mr. Reilly: No objection to the other two.

The Reporter: S-108, S-109, S-110 and S-111 in evidence.

(Charts referred to received in evidence and marked State Exhibits S-108, S-109, S-110 and S-111.)

Q. S-110 and S-111 (indicating). A. S-110 and S-111?

Q. S-110 and S-111. A. Yes.

Q. Now will you proceed, Mr. Osborn, please, and show me the characteristics which indicate the comparison upon which your opinion is based? A. We have in these two comparisons, S-110 and S-111, additional words and letters for comparison. In the first row, the first line, are the capital I's, more capital I's from the Hauptmann writing, the first line, and one on the fourth line, down below here, with a beginning stroke. That is the complete or more complete form of the capital I.

This capital "I" as shown at the top here, with the exception of the one at the left, is not a copy book form at all. That is a developed form, an individual form of the letter and on the one side we have the ransom note letters, on the other side we have the Hauptmann writing, some of them are shaded more than others, but

in my opinion they are eventually the same form.

I next call attention to the small "s" which in this writing is a very peculiar character as made at the beginning of words, and as made at the ends of words, we have them on 110 and we have them on 111. I call attention, for example, to the word "is" and the word "is", on the 110 and on the ransom notes on the left hand side and the word "is" on 111, and on the Hauptmann writing on the right the word "is", and this is one of the very rare dotted "i's". There are only a few of them, three or four of them in all the writing.

Then the "s" is made disconnected at the beginning of words; the pen is taken up and a very rounded large circle is made to begin with, and then at the end of the word, the letter is a distorted and illegible letter. If we had only one, it would seem as though it was an accident; but they appear frequently, the ransom notes—here are three of them in one group. In the Hauptmann writing on S-111 we have the word "as" and the last part of the word "letters" and this one is the writing in that note or agreement paper.

The letter "y" in the word "you" in the Hauptmann writing and in the ransom notes is a distorted letter. It is really a "j" without a dot, and without an upward stroke. A few of them are made with a short upward stroke and there are 57 of them in the ransom notes, there are two of them that have a little hook to begin with, and all the others are made with the downward stroke. We have here on the left the ransom note, the word "you", and on the right hand side in one of the request writings the word "you" with this distorted character as the beginning character of the letter.

Now this same letter "y" made at the end of words is another character, another peculiar

character. It has a short pointed base. There are many of them; when made at the end of words, the last stroke of what would be the "y" slants over to the right and then an angle is made at the base. We have two examples of the Hauptmann writing on the right hand side.

We have below the "s" as it appears in the middle of words. The small "s" is a very poorly designed and executed letter in this writing, in the ransom writing, the letter writing, and also in the Hauptmann writing.

The letter "p" is made sometimes beginning with a downward stroke merely and sometimes with a short beginning upward stroke, but the top of the letter is no higher on either side than the rest of the word. Below here we have the word "robbery". It was supposed to be "robbery" only it is spelled with a "p". And below that the finishing "r", a peculiar finishing "r" which appears on the left side in the ransom notes, on the right hand side in the Hauptmann writing. And here again with one example it would seem to be accidental, but it is not. And below that we have the "f", an occasional character. Usually the "f" is not this particular form where it goes up on the left hand side and then across, but it is like the "f" we have on this side, on the 111 exhibit. We have two styles of "f" here, and one down here. That makes three "f's". They appear in both sets of writings.

The first one is just an abbreviated downward stroke. The one on the left, the ransom note "F", the one on the right, the Hauptmann writing "F", then we have the same writing with the downward stroke, traced back to the middle, that is similar to German writing, and we have that same character in the ransom notes.

So, we have three different kinds of "f's"

appearing in both sets of writings. The word "to" shows the small "o" not merely not closed at the top, but wide open. Many people make the "o" slightly open, but these "o's" are more like a "v", but they are intended for an "o", all of these letters, and they are the same in the Hauptmann writing as they are in the ransom notes.

These "s's" I have already referred to as comparing with the "s's" on 110 and at the left of these "s's" that look like a distorted accidental letter, but we have the same thing in the Hauptmann writing. Then the word "not", this writer had a habit of making the small "n" and the small "m" out of slant. The downward strokes, you will observe, are a backhand, slant back to the left, and there are many examples in these writings. Here we have the word "you", two from Hauptmann writing and two from ransom notes. As I said, there are 57 of them in ransom notes, and pretty nearly the same number—I have forgotten exactly what it is—in the Hauptmann writing.

Next we have the capital "D", which is a highly developed peculiar character. The "D" is made with an open side on the right hand, to make a "D" of it, like the printed "D", like the script "D", but this writer makes the "D" with the upward stroke so close to the downward stroke that there is no opening, frequently, I mean, that there is no opening on the righthand side at all.

We have this word "Dodge" in one of the automobile registrations and the word "dear" in one of the ransom notes, the word "dear" in another one of the ransom notes, with no opening on the righthand side at all. In my opinion that is a highly individual character tending to connect these two writings. We have in the request writ-

ing beginning the word "during" in which the "d" is made similar to the letters in the word "dear" and the word "Dodge," and in the request writing there is the word "Dear Sir" in the middle of the request writing that is made with no loop on the righthand side.

We have here again the w's with the peculiar extra beginning stroke at the left and the hook.

The word "money" is misspelled in this writing most of the time. I think there are two letters in which the word "money" is correctly spelled; but we have here, for instance, the word "money" m-o-n-y and then in the request writing is the word "money" m-o-n-y, money; below that we have the letter, the German "t" and the same German "t" in one of the ransom notes; and then the other kind of "t"—t's at the end of words ended with a little stroke to the right, and no crossing; one for instance, in the word "feet" and in the word "it". You will notice the finishing part at the bottom; and the word "feet" appears twice here with this "f" that is traced back to the bottom, similar to the style of the German "f". On the righthand side in S-110 we have those "n's" out of slant, in the word "no", in the word "one" and then in the word "one" on the righthand side; and then the final "t's" which appear in this writing as very distinctive characters. They are not any system, but in my opinion are individual characteristics of this particular writing. Now we have one other—

Q. One other map.

Mr. Lanigan: Admitted under the same principle?

(No objection from defense counsel.)

Mr. Lanigan: Mark it.

The Reporter: S-112.

(Chart received in evidence and marked State's Exhibit S-112.)

(Exhibit S-112 placed on wall to the right of the jury.)

Q. All right, Mr. Osborn. A. 112 exhibit shows again Hauptmann writing on the righthand side and the ransom note writing on the lefthand side with similar words for comparison. We have at the beginning the capital "A" made in a variety of ways. They are all based on the roundhand, old roundhand style of "A" but are peculiar and distorted letters, and we have the same on the ransom notes and the same on the Hauptmann. For instance, the one I am pointing at on the righthand side is the Hauptmann writing; the one on the left in the word "baby" is in the ransom notes. Then they are sometimes made continuously and in some instances made with a little circle in the top, which is made continuously as the letter is made.

We have next the peculiar finishing of the "h" in the word "March" and in the word "have" and another one of these a's with a circle in the top. That is in the ransom notes. We have that same thing in that Hauptmann writing on the righthand side.

The "b" is made in this writing in two ways, one occasionally with a loop and occasionally with simply a downward curved stroke. The word—this is the word "but" at the left and the word "but" in the ransom notes to the right and then the word "but" from the request writing and

the word b-o-u-t was intended for the word "boat".

The small "c" is a letter made continuously and with a shaded part in the downward retraced part on the righthand side. The "d" is made in three different ways: One the roundhand "d", the old roundhand style of "d", German style, where the letters are made in two parts and then a stroke to the right, but the letters modified in a very awkward way by making the parts too far apart, leaving an open space between them. Also the "d" as made in the ordinary American writing appears, without taking the pen off, the ordinary "d", and we have the same thing in the ransom notes. We have below here the word "for" showing the "f's" traced back at the bottom and the "r" with the long finishing stroke, too long in proportion to the rest of the letter which is the same in the ransom notes and in the Hauptmann writing.

Then a peculiar "h" at the end of words. This one is one of the last ransom notes, the letter "h" with a very long flourish at the bottom, the word "both" also of the ransom notes, then we have the word "each" in the request writing with the downward finishing stroke too long, and the word "with" made in the same way.

Now, these negatives are printed on eleven by fourteen plates, so that they can be held in the hand and looked at at the ordinary reading distance. I don't know whether the light shines on some of that so that maybe some of those in the back part of the jury box can't see them very plainly, but these— (Mr. Lanigan takes one of the books of plates) Is that one that has Mr. Reilly's name on it?

Mr. Lanigan: Is there one that has Mr. Reilly's name on it?

The Witness: There is one here that does have it.

Mr. Lanigan: Let me have Mr. Reilly's copy then, please.

Mr. Reilly: I didn't know you would know I would be here. (The witness gives Mr. Reilly a copy.)

Mr. Reilly: Thank you.

The Witness: Now, these are the same negatives but made in a different form, and we have ten of them, six for the—so that two of the jurors can look at them together and then the testimony can be reviewed.

Mr. Lanigan: Perhaps they can be distributed.

The Court: I suppose, if there is no objection to distributing them.

Mr. Reilly: Well, I would have to take that up with all the counsel. Let's wait.

Mr. Lanigan: All right. Wait just a moment, please.

The Witness: What?

Mr. Lanigan: Wait just a moment please, until counsel confers.

Mr. Reilly: So that they may confer.

Mr. Pope: It will be decided today as to whether or not the jury may see them?

The Court: Well, it is proposed to be decided today. If there is any objection to it I suppose it may be settled later.

Mr. Pope: We would like to have a conference, your Honor, on that question and decide whether we would do it. It is rather unusual.

The Court: That is to say whether or no you will consent that these photographs that Mr. Reilly has just laid down there, whether or no they may be distributed to the jury to look at instead of undertaking to handle a large map, that is the proposition, is it?

Mr. Pope: Yes.

Mr. Lanigan: Illustrate by the testimony of the witness.

The Court: Well, counsel may agree on it. If they cannot, why then we will think about it further.

Mr. Reilly: Let me see if I can get this. They are copies, I take it, of that large chart.

The Court: That is what the witness says.

Mr. Reilly: And the idea is that the

jury may have them here while Professor Osborn continues his testimony,—is that it?

The Court: That is the idea.

Mr. Reilly: Then they are to be taken away from the jury, because they can't be carrying them around with them.

The Court: No. They are, I suppose, to be put in the hands of the Clerk.

Mr. Reilly: That is it.

The Court: And then if they are admitted as exhibits they may be carried to the jury room with the other exhibits.

Mr. Reilly: With the other exhibits.

The Court: Yes.

Mr. Lanigan: With the other exhibits.

Mr. Reilly: That is all right.

Mr. Lanigan: The purpose of the offer is to aid, as far as possible, the jury.

The Court: Yes.

Mr. Lanigan: So that they may have a clear picture of what we are presenting.

Mr. Rosecrans: And while the witness is testifying.

Mr. Lanigan: And while the witness is testifying. I will have them marked with the consent of counsel for identification, at the close of the day, and they may be returned to the Clerk. Anything that will aid the jury is the desire of the State.

Mr. Reilly: And it appears on the record that they are what, we will say, are smaller editions of the chart?

Mr. Lanigan: Yes, smaller editions of the charts.

Mr. Reilly: All right.

Mr. Lanigan: Mark them for Identification.

Mr. Reilly: All right.

Mr. Lanigan: And I will offer them in evidence.

The Court: Well, they will be admitted if there is no objection.

The Reporter: S-113.

Mr. Lanigan: Just mark one of them and mark it S-113. I think one will be sufficient.

The Witness: There are six. Here are four, and there are two more. Here is another one; that is five.

Mr. Lanigan: Just one will do.

Mr. Hauck: I would mark them all. Then there won't be any objection that some of them are not in evidence.

Mr. Lanigan: You are the Prosecutor. All right.

Mr. Hauck: Mark them all.

The Reporter: Exhibits S-113, S-113-A, S-113-B, S-113-C, S-113-D and S-113-E.

(Received in evidence and marked State Exhibits S-113-A to S-113-E inclusive.)

The Witness (Aside to the Court): When does your Honor usually adjourn?

The Court: We usually work until 4:30.

The Witness: I am rather tired.

The Court: Are you tired?

The Witness: Yes. I think we can finish this, though.

The Court: Well, you may proceed with Mr. Osborn. Mr. Osborn tells the Court that he is tired. Now, that may be taken into account; see what the result is.

By Mr. Lanigan:

Q. Now Mr. Osborn, will you proceed with your illustration, please? A. These illustrations are enlargements of those combinations of the pasted up collection of clippings.

Q. Is this the exhibit to which you refer? A. Yes.

Q. This is an enlargement of this small one? A. Yes. Are these marked?

Q. Yes, they are all marked. A. Exhibit S-107. There were a few that I noticed were loose. Be sure they are pasted down and don't get lost.

These are reproductions of this Exhibit S-107 and are put in this form so that they can be looked at at the ordinary reading distance. I find that some people can see at a distance better than close at hand and others can see better close at hand. The purpose of this is so that every part can be compared with every other part of these writings, beginning on the lefthand side, the first one, you will see, the Hauptmann writing is on the left and the ransom note writing is on the right. All the others, it is just the reverse of that. Turn to the second page and you will see the ransom notes at the left and Hauptmann writing at the top on the right, just the reverse. There will be no confusion, I think, about it because every one of the pages is marked as to where the letters come from.

Now making this examination, as I have said before, it is necessary to consider whether these similarities here are accidental or not or whether they are merely the reproduction of a particular system of writing, like German or roundhand or the Palmer system or any other system of handwriting.

Or whether they are the developed characteristics of a particular writer; developed characteristics are the ones that are the modified forms that are originally learned, if they are learned correctly. Then, of course, the consideration of the peculiar-characters which, in my opinion, in this instance are inventions or developments not

found in ordinary handwriting. It is—now on the question, for instance, of is it imitated writing: I have already said that the writing imitated—you have to have something to imitate. It is necessary to have models and it is necessary to have models for everything if you are going to reproduce it correctly. And in my opinion this is not an imitated handwriting for the reason that it is so skillfully done. It embodies so many characters, it embodies characteristics of so many different kinds, it embodies the forms of the same letter made in different ways and then also contains—shows this general characteristic of, general characteristics of the omission of the "i" dots, the omission of the "t" crossings, these peculiar flourishes at the end of words, and then those characteristics which are not handwriting at all. For instance, we have that word "New York."

Q. Pardon me, Mr. Osborn, upon what page does that word appear, the word "New York?" A. That appears on the second page.

Q. Page 2? A. Yes, page 2, the word "New York."

Q. Whereabouts on the page does it appear? A. It appears under the words "ransom notes" on the lefthand side, three examples. I don't remember that I have ever seen the word "New York" in any connection of this kind written as a compound word.

Now, that is a peculiar individual, in my opinion, characteristic, an error, of course, and it is repeated in both sets of writings.

Then, the combination of script forms and printed forms. Take the word "Condon" on that same page, you have a printed "C" or I mean a script "C," and a printed "D," capital letters, as compared with the same letter in the

word "Nellie." May we have some of that printed, those printed specimens in the request writing—those printed—

Mr. Lanigan: Referring to Exhibits S-84, S-83, and Exhibits S-82 and S-80.

Q. You describe them as what, the printed what? A. We have four examples there.

Q. What are they? Suppose you explain to the jury what they are. I don't believe the jury are— A. They are eighty—

Q. But what are the papers, what are the papers? A. Exhibits.

Q. Not the papers themselves; what are they, describe them? A. These are part of the request writings.

Mr. Peacock: Written by whom?

The Witness: One is Exhibit S-84.

Q. Written by whom? A. S-83, S-82 and S-80.

Q. Written by whom? A. Written, I am informed, by request, by Richard Hauptmann. Now, these show numerous examples of this "n" like in the word "Condon," just the same thing. I am simply calling attention to that to show that that was just not an accident, in which they were written, the "n" made in that way. Did you ever look at them, ever see these? Handing exhibits to Mr. Lanigan.) There are some qualities in this writing.

Q. Will you kindly wait just a moment until the jury conclude with the exhibits? A. Oh, you mean looking at that?

Q. Yes, please. A. Yes.

The Court: You may proceed now. The

jury seems to have finished looking at the pictures.

By Mr. Lanigan.

Q. Proceed, please, Mr. Osborn. A. If you will just turn to the page with the word "of" at the top.

Q. Which page is that, please? A. It is the third example, the word "of" at the top. There are certain features or qualities in this writing that haven't been referred to at all. If you will look at that whole page, you will see that the slant is very similar, especially in words like, for instance, "of." If you will look at the word "will" down on the righthand side, the fourth word from the bottom, you will see how much more it slants than the others. That is taken from one of the request writings, in which the whole page is slanted like that. The ransom writing and the request writing, that in my opinion is in the disguised form, are written practically the same slant. That is about 20 degrees to the right or 25 degrees to the right of vertical. The identifying qualities in writing are slant, proportions, connections, pen lifts, design of letters. For instance, this writing, ransom writing, and also the request writing with which I am connecting it, is a proportion of only about 1 to 2.

Now proportion in writing is the different sizes of the letters in comparison with each other, the long letters for instance; this writing in this particular differs from German writing, and it also differs from the old roundhand or the Latin script writing, which makes "l's" and "f's" three or four times as high as the small "p," I mean the small "o" or small "a" or

small "n." Now this writing is in the proportion of about one to two; the longer letters, many of them, a large number of them are only about twice as high as the smaller letters; and in that particular are characteristics or show characteristics that are the same in both sets of writing. And I have already called attention to the peculiar habit of slanting the "n" and "m" too much to the right. That appeared in both sets of writings. Now, of course, as a particular form differs in slant from other forms, it to that extent is individual, is the individual form. For instance, take the word "the"—it will be slanted to the right and an "n" following it, and "n" will be slanted leaning practically over to the left. Then the degree of skill in this writing, that is another characteristic by which writings, many times, are positively differentiated. You can say that these two writings are not the same because one of them is much more skillfully written than the other.

But in this instance we have here practically the same degree of skill. The writing is of the same quality, the same general quality, the ransom notes and the request writings, the—

Q. To which page are you referring now, please? A. Well, I was referring to the "of" but I have referred to all of them in some of these particulars.

Q. "Of" at the top of page 3? A. "Of" is on page 3, yes.

Q. All right. Proceed from there, please. A. Now if we have only a signature, for instance, only a signature to identify as having been written by a certain writer, not for the purpose of determining whether it is genuine or not, but to determine who wrote it, many times the question can't be answered at all positively, I mean,

because there isn't sufficient matter. There isn't sufficient matter so that it might be said "But that is accidental because there is only one instance." You might say it is accidental.

So that in examining this writing, in my opinion, the whole problem must be presented: Does this writing as a whole, not simply one word—I'd say some one of these words, perhaps any one of them might be accidentally, accidentally duplicated in another writer. But then when another one is duplicated and another one is duplicated, then we have the principle apply upon which this matter of identification in handwriting is based, and that is, the presence or the absence of one characteristic may be accounted to accident or coincidence.

But as the number increases, the probability of accidents or coincidents disappears and conviction is irresistible. The word that I have just repeated as describing the principle upon which identification of handwriting is based is, in the New Jersey Law Reports, an opinion written by a—

Mr. Reilly: I object to this.

Mr. Lanigan: Wait a minute; one moment.

Mr. Reilly: Stick to the handwriting, please.

Q. Will you turn to page—

Mr. Reilly: Not the opinion; I object to it.

Mr. Lanigan: I consent.

The Court: Yes, I think—

Mr. Lanigan: We consent to it.

The Court: I think the legal conclusion perhaps is objectionable.

Mr. Lanigan: Yes.

Q. Now, turning to page 3, Mr. Osborn, of this book, taking the letter "y," the 1, 2, 3, 4, 5, 6—the sixth line— A. You mean on the page beginning at the bottom?

Q. The "y," I understood you to say, looked like a "j," I am not clear as to that. A. Yes, it is not only made like a "j," but you will observe if you look at it carefully that the stroke is curved to the right, curved, the downward stroke.

And in my opinion the freedom with which these letters are written is another indication that it is not an imitation of writing. They vary slightly but they are written quickly, rapidly, most of them and indicate—do not indicate a careful attention to the form and details of the letters.

Q. Taking the letter "d" on the same page, is that a characteristic? A. "D?"

Q. Yes. A. Yes, I think that is a highly individual characteristic, in that it is a modification in form that modifies toward eligibility, towards making a letter that you can tell what it is. Now when that "d" stands all by itself and the downward stroke is traced by the upward stroke, it is very difficult, for instance, to tell what it is, whether it is a "d" or not, because the distinctive characteristic of a "d" is an open righthand side. That is the form, the printed form and also the script form.

Q. Now, taking the word "feet," is the letter "f" a characteristic, referring to page three of the exhibit. A. Yes, in my opinion, that is a characteristic, and in this writing also there is this little peculiar bottom of the stroke. For instance, there are three examples on next to the last line at the left, the word "it" i-t, it, and the next word, it is intended for "did" but it is written t-i-t with that finishing stroke to the "t."

Now over on the righthand side in the request writing there is that same word, "dit," and then on the last line we have three words, two at the left on the ransom notes and one at the right with that little stroke at the bottom.

Q. Now referring to the next page, page 4, is the letter "p" appearing thereon a distinguishing characteristic? A. Which letter did you say?

Q. Page 4 in the ransom notes, line 6, and in the Hauptmann writing line 4, the letter "p." A. You said "d?"

Q. On page 4— A. I know, but "d," was the letter "d?"

Q. "P"; the letter "p" apearing in police and, under the Hauptmann writing, the letter "p" appearing in the word "place." A. Well, one of those is a capital and the other is a small letter.

Q. I see. Then take the word "between." A. Yes. That is a small "b"; the small "b," that is.

Q. Is the "t" appearing in the word "between" a distinguishing characteristic? A. Yes; that is the occasional German "t" which appears in this writing. In either the ransom letters or the Hauptmann writings, that "t" is an unusual "t" although it is a German "t," but ordinarily it is not made that way; but it does appear occasionally in both sets of writings; as it appears, for instance, in these two words "between." And

there is another letter that I haven't referred to before in that word "between," the one on the righthand side. Look at the second "e." It looks like a small "c." Well now, that is a modification of the roundhand or Latin script "e." That is an "e."

Now, over on the other side, under the ransom notes, is the word "deliver." You notice the "e" in "deliver" that has that extra stroke in the middle, extra stroke in the middle of the letter. Now, those letters are rare letters, in both sets of writings, are rare letters, but they do appear occasionally, and in my opinion are significant as indicating the connection between these two sets of writings.

Q. On the same page, Mr. Osborn, the word "my" has the letter "m" appearing in the word "my" under the ransom notes. A. Yes.

Q. And the word "my" appearing likewise in the Hauptmann writing. A. Yes.

Q. A distinguishing characteristic? A. Yes. And the downward stroke and also the word "with" at the right of it, the downward strokes of those letters are made vertical or just slightly slanting to the left.

That is one of the, another one of the characteristics that I have already called attention to. There are many of these forms which appear only once, which would be significant only as an indication that they are rare characteristics, which appear in both sets of writing.

Q. Now, turning to the next page, please, the word "any," the angular "y" in the word "any," appearing in the ransom notes— A. Yes.

Q. And, the "y" appearing in the Hauptmann writing— A. Yes.

Q. —is that—

Mr. Peacock: What line?

Mr. Lanigan: Line 6.

A. Yes, that same form appears in the capital letter "Y," also, which is on the second specimen in the book. The word "New York" at the top, now that is characteristic, that is the second specimen in the book, the word "New York" at the top; you look at the three words, "York" the three words "York," and the capital "Y" form, which is made of two strokes, which come down and form an acute angle at the bottom. That is not the ordinary common capital "Y" at all, and on the righthand side, on the Hauptmann writing, the first "Y" at the top is a more ordinary formal "Y," but the next one with two strokes, with an angle toward each other, the third one where the stroke is out at the left and disconnected, but would form an angle, and the fourth one a very distinct angle. Now, the same words under the words "ransom notes" you see have that form of the beginning part of the "Y" decidedly out of slant with the main part of the letter and the second part of the letter is the "Y" made just like the small "y" is made without, for instance, the one under "ransom notes" at the top, there is, the paper was partly folded, but the downward stroke is a single stroke and then the stroke at the lefthand side which forms a form similar to the capital "V" and the first one on the righthand side at the top, you see it disconnected with two strokes at an angle of nearly 45 degrees to each other. Now, that is an individual form in handwriting.

Q. Mr. Osborn, does the exhibit which you hold in your hand contain any other distinguishing characteristics upon which you have based your

opinion? A. You mean do these specimens?
Q. Yes. A. Well, I think I have not referred to every word, but I have referred to enough of them so that I am somewhat weary.

The Court: Mr. Osborn says again that he is fatigued. I am wondering—you have not finished, have you, Attorney General?

Mr. Lanigan: No.

The Court: Well, I think it is unwise. Mr. Osborn is not quite as youthful as most of the counsel here and perhaps it is unwise to require him to go further on it. What do you think about that?

Mr. Lanigan: In view of your Honor's courtesies to us, I was endeavoring to get as far as I could with the witness. I personally would like to continue, but out of deference to Mr. Osborn, if it would meet with your Honor's approval, I would like to suggest the possibility of adjourning at this time. My examination may be quite extended. My witness is fatigued, and it presents a situation in which I desire to ask your Honor's indulgence.

The Court: Mr. Osborn, do you feel that you ought not to go on at this hour?

The Witness: Well, I would prefer not to. I really haven't been very well for a week.

The Court: Yes.

The Witness: And I am somewhat exhausted.

The Witness: I can go on if it is necessary.

Mr. Reilly: I understand Mr. Osborn is over 80 years young, and we will consent to the adjournment.

The Court: I think perhaps it would be wise to adjourn. Before we do so, I desire to say another word to the jury. You will recall that something was said about the possibility of your taking a ride tomorrow or the next day in the custody of your officers. If you go, be sure and do only what the Court has told you it is agreed that you shall do. You are not to go outside of the limits of the County. If you go you will take the route that the Court has indicated to you and that will keep you within the limits of the County. You are not to stop anywhere where there is an assemblage of people, you are not to talk to anybody about the case, and the officers are to accompany you and see to it that these directions are observed.

The jury may now retire.

(The jury retired at 4:00 p. m.)

The Court: Has the jury retired?

Court Crier Hann: The jury is out.

The Court: The jury is out. The pris-

oner is remanded to the custody of the sheriff and he may go in the custody of the officer. The Court will now take a recess until 10:00 o'clock Monday morning.

(At 4:04 p. m. court adjourned until Monday morning, January 14, 1935, at 10:00 a. m.)

STATE vs. HAUPTMANN

Flemington, N. J., January 14, 1935.

NINTH DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(The jury was polled and all jurors answered present.)

Mr. Lanigan: Mr. Osborn.

ALBERT S. OSBORN resumed the witness stand.

Direct Examination (continued)

By Mr. Lanigan:

Q. Mr. Osborn, have you had an opportunity to make a count of the "i" dots and the "t" crossings and the word "you" in the request writings? A. I have.

Q. Will you report the result of that count. A. In the photograph of request writings I found that there were 106 small i's and eight of them were dotted. The word "you", there are 24 words of the word "you" in the photograph specimens, and there was just one that had the beginning part of the "y" in the word "you".

Q. Yes. A. And of the "t" crossings there were 196, and there were four—196 "t" crossings that would require a crossing. I didn't count the German forms that were finished at the bottom, but there were 196 that would require a crossing, and there were four crossings.

Q. Now, I wish to ask you a few questions, Mr. Osborn, about what is referred to as graphology. Is your evidence in this case based upon the so-called science of graphology?

Mr. Fisher: Objected to, your Honor, unless it is first explained to the jury what they mean by the science of graphology.

The Court: He may answer Yes or No.

The Witness: My opinion in this case is not based upon the principles of what is described as graphology.

Mr. Fisher: Your Honor, I ask you to have that stricken, and ask him to answer yes or no.

The Court: I decline to strike it out.

The Witness: Is that correct, your Honor?

The Court: Yes. The answer may stand.

By Mr. Lanigan:

Q. Will you explain briefly, please, just what graphology is? A. Graphology in America, in this country, and in England is understood as determining from handwriting the character of the writer, as distinguished from the students of handwriting, document examiners and so forth who examine writing for the purpose of determining whether it is genuine or not, that is the question of forgery and also examining writing for the purpose of determining whether it can be identified as the writing of a certain individual. There are two classes of handwriting examiners. One class examines writing for the purpose of determining whether it is genuine or not and whether it can be identified. The other class examines handwriting for the purpose of determining whether it indicates the character of the individual who did the writing. And the questions are entirely different. In one case, it is a ques-

tion of genuineness and the question of identity; the other case is a question of—oh, all kinds of problems: whether the writer would be a good husband or wife; whether the writer is honest, whether the writer likes children and dogs, any kind of a question. And the graphologists go farther than that, some of them, to determine disease from handwriting, diagnosing disease. The two classes of examiners are entirely different.

Q. In your experience have you been opposed in any case by graphologists? A. Not who testified as graphologists.

Q. Are there graphologists in America? A. Yes.

Q. Where? A. Well,—

Mr. Fisher: That is objected to, your Honor. It has no materiality at all here.

The Court: I am wondering what materiality it has.

Mr. Lanigan: I withdraw it.

The Witness: Yes, there are graphologists in America.

Mr. Fisher: I think he did not hear the objection.

The Court: Yes. That may be stricken out.

By Mr. Lanigan:

Q. I understood you to say that a graphologist delineates character. What does that include? A. I didn't quite understand that.

Q. I understood you to say that a graphologist in his examination delineates character. A. What?

Q. He delineates character, he shows character; is that correct? A. Yes, yes; any quality in the individual. It is inferring from the handwriting the qualities of the individual.

Q. All right. Now, Mr. Osborn, you have examined the conceded writings of Bruno Richard Hauptmann? A. Yes.

Q. You have likewise examined the request writings of Bruno Richard Hauptmann? A. Yes.

Q. And you have examined the ransom notes which are in evidence? A. Yes.

Q. Based upon your examination and comparison, can you say who wrote the ransom notes? A. Yes.

Q. Who wrote them? A. In my opinion, Bruno Richard Hauptmann wrote them.

Q. Why do you say so? A. Because in my opinion the evidence of the physical evidence of connection between the admitted writings and the ransom writings and the request writings and the ransom notes, the physical connection between these writings, in my opinion, is irresistible, unanswerable, and overwhelming.

Mr. Lanigan: You may cross examine.

Cross Examination by Mr. Reilly:

Q. Now, Mr. Osborn,—

Mr. Reilly: May I have the nursery note?

Mr. Hauck: The note?

Mr. Reilly: Yes.

Q. I am going to refer now to what is known as the nursery note, Exhibit S-18. I have a very, very bad cold, and if you have any difficulty in hearing me, I will either raise or lower the tempo. A. I think you have a good, penetrating voice so that I won't have to need my, use my machinery here at all.

Q. All right. Now, you examined that note, didn't you? A. I did.

Q. Yes. Now, looking at the note, the visual observation of this note, it is, is it not, entirely different in looks from the other notes? A. No. You used the word "entirely". I would say "somewhat".

Q. Well, I will come to that in time. A. That is I was answering the question as you asked it.

Q. All right. Now will you look again, please, at S-18 and S-19 and S-20. They are somewhat different, are they not? A. Yes.

Q. As you look at them—may I, your Honor, hand these two to the jury now? (Handing letters to the jury.) Now where do you say, Mr. Osborn, in your chart here you find a "d" in the first nursery note that corresponds with any other "d" in the ransom note—on your chart? A. This is not the chart that shows the d's at all.

Q. Then let's have all the charts put up. A. You can't put them all up at once. Which ones do you want?

Q. We will find a way of putting them up.

(Court Crier Hann exhibits a chart to the witness.)

The Witness: That is not the one. That is the one (another chart).

(Exhibit S-111 placed on wall to the right of the jury.)

By Mr. Reilly:

Q. Now, referring to chart— A. Here it is, S-111.

Q. Yes, S-111. I am now indicating Chart S-111, and I am pointing to a "d" under the heading "Ransom Notes". Is the "d" that I am pointing to the "d" you have taken from the nursery note? A. No. You have asked me what—

Q. You have answered the question. A. You have asked a question. I haven't answered it.

Q. I asked you a question and you answered "No". A. No, you asked me where the "d" appeared.

Q. No, I didn't. I asked you this: is the "d" that I am pointing to in the ransom notes, Chart S-111, the "d" from the nursery note? A. Oh. Well, I am referring to a previous question you asked; that is all.

Q. All right. I am asking you that "d" now, is it or is it not? A. Oh, that is not from the nursery note.

Q. All right; that is your answer.

Q. Have you a chart with s's? A. Yes. This is the chart (indicating).

Q. Number S-110? A. Yes, 110. There are a number of s's on that and also there are s's on one of the others, but I think there are more here.

Q. Capital S's? A. No, small s's.

Q. So that nowhere on the charts or in the

books or any of the exhibits that you have here —because I take it that the first book, small book, contains all of your comparisons? A. Yes.

Q. The books for the jury contain the same comparisons enlarged? A. Yes.

Q. The charts contain the same comparisons greater enlarged. A. Yes.

Q. So there is nothing on the chart that is not in the book. A. No.

Q. Now, does it appear anywhere on your chart the "s" of the nursery note? A. The capital "S"?

Q. Yes. A. No.

Q. Does it appear on your charts the "h" of the nursery note, the capital "H"? A. No.

Q. Do the figures $50,000 appear on your charts? A. No.

Q. Does the capital "A" reading down the nursery note; "Dear Sir: Have $50,000 ready, 25,000 in twenty dollar bills, 15,000 in ten dollar bills, $10,000 in five dollar bills, after—" have you a capital "A" on your charts? A. I think not, not that one. There is a—

Q. I am referring to the nursery note now as I go along. A. No.

Q. Reading down further, "After two—four days we will inform you will be—" I think it is "where to deliver the money." Now, have you the capital "M" of the "money" on your chart? A. No, I think not.

Q. Now, I want you to look at the "y" of "money", see it? A. Yes.

Q. Have you that "y" on the chart? A. No.

Q. Now, how many other people's handwritings did you examine besides Hauptmann's as a comparison? A. Oh, I think over a hundred.

Q. And where did you secure those specimens from? A. Those specimens were brought to me,

most of them, by the State Police of New Jersey, a few by the United States Investigation Bureau.

Q. Did you examine in your one hundred or more specimens other than Hauptmann's the handwriting of one Isidor Fisch? A. Yes.

Q. I hand you a card and ask you whether or not—

Mr. Lanigan: It is objected to.

Q. —that is not the handwriting of Isidor Fisch. A. I couldn't say.

Mr. Lanigan: It is objected to.

The Witness: I couldn't say. It looks somewhat like it.

Mr. Lanigan: That is objected to under Section 120 of the Act. There is nothing to show that it is the handwriting, satisfactory to the Court, under the statute.

Mr. Reilly: I am cross examining this expert, who looked over a hundred other specimens, and I believe I can hand him anybody's handwriting, anybody's in this room or anybody alive or dead, and test his credibility and his experience.

Mr. Rosecrans: He already said he examined it.

The Court: I am inclined to overrule the objection.

Q. It does resemble, as you recall, the handwriting of Isidor Fisch, does it not? A. My re-

collection is it does, although it doesn't have his name at all as the word "Isidor".

Q. Well, that has from Isidor, hasn't it? A. Yes.

Q. Yes.

Mr. Reilly: I will ask to have it marked for identification, please.

The Reporter: D-11 for identification.

(So marked.)

Q. Do you in examining the "y" in defendant's exhibit D-11 for identification see any general characteristics of that "y" which conforms to the word "y" in money? A. The letter "y" you mean.

Q. The letter "y", yes. A. Oh, there is some general resemblance, but they are very different, not sufficiently alike so that I would say that they were by the same writer.

Q. Where are the handwritings that you examined of Isidor Fisch? Where are they now? A. I don't know.

Q. Who did you give them back to? A. Why, the New Jersey State Police people, I think.

Q. Did they take them back after you examined them? A. Yes.

Mr. Reilly: May we have them?

Mr. Wilentz: If your Honor please, we know of no reason why we should surrender papers that we have that have nothing to do with this case up to this time.

Mr. Reilly: I believe, under cross ex-

amination, I have the right to see and have exhibited here the handwritings that he compared and from which he says there is no comparison, and have them offered in evidence, so that when our handwriting experts go upon the stand they may see just what he saw and pass their opinion.

The Court: Did not the witness on his main examination say that he had examined a number of other handwritings?

Mr. Lanigan: That is correct sir.

The Court: Well, having examined those handwritings, why is it not competent for the counsel for the defendant to cross-examine with respect to them if he can get hold of them?

Mr. Lanigan: He can if the genuineness of the writing which he produced can be established.

The Court: The genuineness of the writings be established?

Mr. Lanigan: Yes. We have no knowledge that the letter counsel holds in his hand belongs to Isidore Fisch or anybody else.

The Court: I don't understand that we are cross-examining now with respect to the so-called Fisch letter. The cross examination now apparently is purporting to inquire into what the expert saw when he examined these, let us say a hundred other

papers. The thing that interests me now for the moment is, upon what principle can cross examining counsel be denied the right to inquire into those matters if he can get his hands on the papers that the expert examined. I suppose that is so, is it not?

Mr. Lanigan: That is correct, yes.

The Court: The question now is, he wants the State, if it can, to produce those papers that the State handed to the expert. Why shouldn't the State do that?

The Court: I just want to know why should not the State, if it can,—I do not know that it can—

Mr. Lanigan: Well, I am not in a position to say, your Honor, whether we can or not; I will ascertain if we can, but at the present time I have no knowledge of them and I will make every inquiry that can be made.

Mr. Reilly: We will pass that.

The Court: Then the matter will have to be left in that fashion.

Mr. Lanigan: Yes.

By Mr. Reilly:

Q. Mr. Osborn, again I direct your attention to S-18 and ask you how many of these letters or words from the nursery note are up here on

your charts, if you can recall? A. I can't recall; I think there are only a few, two or three.

Q. Will you point out the two or three? A. The word "singnature" is one.

Q. Yes. A. And the word "is", the word "we", and the line "the child is in good care" is on one of the exhibits that I put in.

Q. I think you testified that in your opinion the nursery note was in a disguised handwriting? A. Yes.

Q. Now "singnature"—did you take that as what I might call a monument in this case, because of the fact that it was spelled that way? A. A monument?

Q. Something that stood out all through these letters. I understood you to testify yesterday that wherever the word signature was used it was spelled that way, is that correct? A. Well, I think that had some significance, yes.

Q. Yes. That directed your attention more or less toward that word, is that correct? A. Yes.

Q. Because of its spelling? A. Well, its spelling and its use in connection with calling attention to the device in the corner.

Q. Yes. A. It would have been significant even if it hadn't been misspelled.

Q. Well, now, the device in the corner, apparently was made by a punch, wasn't it, holes? A. No, I don't think it was a punch. It might have been made with some kind of instrument, I think a rough instrument. I reported that it might have been made with a nail or with some instrument of that kind.

Q. I think you testified last week that from an examination of this device all of the holes were the same distance in from the edge of the paper, from the bottom, is that correct? A. Well, practically so except the last ones. The last ones

are a little nearer the bottom. There are just two of them.

Q. You have seen punches, have you not, Doctor, or rather Professor— A. Neither; neither doctor nor professor.

Q. Well, you have been long enough in this business to rate both of those. A. You think I am entitled to them, do you?

Q. I think you are. A. I see. I thank you.

Q. There have been so many titles given out in this case, it won't do any harm to give you one. A. May I call you judge?

Q. Not yet, please. A. I see. (Laughter.)

Q. You are familiar with these punches, are you, Mr. Osborn, that are like a conductor's punch or a school teacher's punch for punching papers through? A. Oh, no; oh, no.

Q. You wouldn't say then that these were made with any punch? A. No. You mean a regular punch?

Q. Yes. A. No. Otherwise the holes would be uniform. In shape and size they are not.

Q. And in your opinion they were made either with a nail or some rough instrument? A. Well, some rough instrument, I think. I couldn't say what. There are two of them—the last two I think were punched at the same time with the last instrument; but that isn't true of many of them.

Q. I make about between 67 and 75 words or figures in here. I take 50,000 to be two words, although it takes five figures. Will you count the words or symbols or figures in that letter and tell me how many? A. You mean all the characters?

Q. The whole thing, all the characters, yes, please, and tell me how many you make. A. I don't know as I understand you. You want me

to count the letters, all the characters or the words?

Q. Words. A. Oh, the words.

Q. Dear Sir would be two? A. Oh, yes.

Q. "Have 50,000"— I don't know how you designate that. A. I see. I think there are about 64 or 65; somewhere along there.

Q. Now, Mr. Osborn, will you point out on your chart the "we" that you have taken from the nursery note (referring to Exhibit S-110). A. It doesn't appear on these. There is the word "is" from the nursery note.

Q. That is the word "is"? A. Yes.

Q. You compared it to this one of Hauptmann's; is that correct? A. Yes. And is the "s" of the word "letters".

Q. You say visually that the comparison between this "s" and this "s"—yes or no, please— A. I would say those are not so much alike as some of the others.

Q. I am asking you about that one, pointing out this "s" and this one: they are not very much alike, are they, looking at them? A. I would say they are not very much alike, just those two. Of course, my opinion is not based on any one comparison anywhere.

Q. Anywhere? A. Yes.

Q. Now, is there a difference in the line, isn't there pressure on these ransom notes as you look at them than there is in the Hauptmann writing? A. I think most of them are written with a coarser pen.

Q. You wouldn't say there was more pressure? A. No.

Q. Now, do you notice this break here? A. Yes.

Q. And the break here? A. Yes.

Q. Doesn't that indicate to you that whoever was writing the ransom note was copying it from

something? A. No, there is no indication of copying in my opinion at all.

Q. If a man was writing these ransom notes from a copy and was trying to imitate the handwriting on the original, you say there would be no break in the line of letters? A. Oh, there is no, there should be a break between the capital "I" and the small "s" in "is".

Q. No, in making the letter itself? A. There is no break in this "i", this peculiar "i".

Q. There isn't any break, but there is a shading, isn't there? A. There is a change—

Q. Doesn't that show that the pen was lifted, or the pressure was lifted from the pen? A. Not at all.

Q. Isn't this part heavier than the top? A. That is the ink, that is a distribution of ink.

Q. Well, isn't it due to pressure? A. No.

Q. A man wouldn't stop in the middle of a "J" here and here and dip his pen in the middle of the ink well and then come back again? A. Well, he didn't, you are misinterpreting the physical evidence.

Q. I am pointing out to you on these charts the visual difference, if I can, between the ransom notes and the Hauptmann writing. Now, did you testify that these ransom notes were in a disguised hand? A. Yes, and therefore— Shall I answer the rest of it? —there must have been a disguised hand to imitate, if they are imitated.

Q. Absolutely. And in disguising the handwriting of the ransom notes it is fair to assume that someone was copying from a disguised hand? A. No, no. They do not show. For example, the particular one that you hold in your hand is two pages of writing, much of it written rapidly and carelessly, and it does not show the characteristics of imitation. Shall I tell you what they are?

Q. No, no. A. I can tell you.

Q. I suppose you can—in your opinion. A. No, my business.

Q. Your business, yes. A. Yes.

Q. Well now, you have written a couple of books, haven't you? A. I have.

Q. And you don't want us to get the impression that you are the only one that has written a book? A. I really have written three. One of them is published in German.

Q. Do you speak German? A. I can say a few German words. I learned to write in German when I was a youth and I think I can repeat the alphabet now (laughter), and I can write my own name in German, but I am not a German scholar and I do not speak German.

Q. Did you ever live in Germany? A. No. I have been in Germany, though.

Q. Now let's get back to these books. Other people have written books on the same question and subject, haven't they? A. Oh, yes.

Q. Are you familiar with Ames on Forgery? A. I am. I knew him personally.

Q. And Melcher's book? A. Melcher?

Q. Of Philadelphia, yes. A. Oh, he has written some pamphlets, that is all (laughter). He is dead now.

Q. Well, how about Frazier of Philadelphia? A. Yes, I knew him, too. I know his book.

Q. And Hagen of Troy, New York, wrote a book? A. Yes, I knew him, too, and I am familiar with his book.

Q. And Woods of Detroit wrote a book? A. Well, you would hardly call it a book. It is an advertising—

Q. Another pamphlet? A. No, it was an advertising circular (laughter).

The Court: Now that must stop. We do not care to be interrupted in that fashion. Proceed, counsel.

Q. And Amesworth of London? A. Your Honor, I didn't intend that for a joke.

The Court: It is no fault of yours.

The Witness: I am trying to restrain myself.

The Court: It is no fault of yours. It is the fault of the audience.

Q. Did Ainsworth of London write a book? A. Who?

Q. Ainsworth of London: did he write a book? A. No. Ainsworth Mitchell wrote a book. His name is Mitchell, not Ainsworth.

Q. Ainsworth Mitchell? A. Yes.

Q. Well, I have it Mitchell Ainsworth. I thought Mitchell was his first name; my error. Ainsworth Mitchel. A. That is his name—W. Ainsworth Mitchell is the editor of the London Analyst. He has written several books.

Q. And they are all authorities? A. Are they all?

Q. Yes. A. Well, varying degrees of authority. I would say Mitchell is an authority. Some of these that you have mentioned are not.

Q. Well, the writers considered them authorities, didn't they? A. I am afraid they did.

Q. Yes. And you consider yourself an authority? A. I don't say that.

Q. You leave it to the world to judge? A. I let other people say it.

Q. Now we will go back to the ransom notes.

Did you find in any of the notes a better flow of English, did you find in some of the latter notes a better flow of English than in the notes in the beginning? A. That is, language, you mean?

Q. Yes. Language. A. Well, in some particulars. The latter notes are brief, most of them are brief, and say perhaps a little more definitely what they intend to say. But—

Q. Now I am going— A. I didn't quite finish

Q. Pardon me; I thought you were through. A. But I think the language is substantially similar throughout, although of course there is some difference.

I have finished now.

Q. Would you say that in this ransom note, S-20, the writer attempted to change his handwriting or form of handwriting two or three times throughout that letter? A. The first part of the letter, I remember without looking at it, the first part of the letter is more like Number 1, more like S-18, than the other part of the letter, that is, the first part of it is written with more deliberation, the first two lines, and then the rest of it is written somewhat more freely.

Q. The first two lines? A. Yes.

Q. May I now direct your attention to the first four and a half lines and then direct your attention to the sentence which begins, "We can note make—" and ask you whether or not there isn't a change in the handwriting or attempted change at the beginning of the word "We" and from then on? A. No, I don't see any change. Where it begins "We know very well?" No, I think there is no particular change between that and the preceding sentence.

Q. I take it then that your testimony is that the one person wrote all these ransom notes? A. Yes.

Q. You do not think that any of these ransom notes were written by different individuals? A. No.

Q. I now refer you to the letters received by Colonel Breckinridge on March 8th, Exhibits S-21, S-22 and S-23, and call your attention to the note which has no signature and the note that has the signature and ask you whether there is, in your opinion, a visible difference? A. Visible difference, did he say?

Q. Yes. Visible difference. A. Oh, there is a little variation, but in my opinion they are substantially the same.

Q. The envelope is printed, correct? A. Yes, most of it.

Q. Well now, have you taken any of the printing of "Mr. Colonel Henry L. Breckinridge, 25 Broadway, New York," and put it on your chart? A. No, no.

Q. Have you taken any letters or characters from the letter mailed to Colonel Henry Breckinridge, Exhibit 23? A. Yes.

Q. How many? A. Oh, quite a number.

Q. Point them out, please. A. The very first words in the letter "Did you," or "Tid you,"—"t-i-t," and the word "between," the word "we" and also the word "the," which is included in one of these exhibits.

Q. (Mr. Reilly turns over one of the maps on the wall.) A. No, it is not that one.

Q. (Mr. Reilly turns over another map.) A. Nor that one, it must be this one under here.

Q. (Mr. Reilly turns over another map.) A. Yes, this is the one; this, in my opinion, was a significant characteristic to which I failed to call attention.

Mr. Lanigan: Referring to what, point it out?

Mr. Reilly: S-108.

A. May I get over here, so I won't be in the way? The habit of this writer to write certain words incorrectly—we have the word "kidnaping" which is written with this peculiar capital "T" and the small "t," and we have in this this letter to which my attention has been called, the word "the," the word writen "t-t-e."

Q. The word "the" or "we?" A. The word "te," that is in this letter which you have just handed me in the fourth line from the bottom. That—no, this is another example of it, there is another one somewhere. It appears two or three times in the letters, but that is the characteristic, the writing of the small "t" instead of the letter "h," in the word "the," and we have it here with a capital letter "Te."

Q. Yes. A. Mr. Reilly, I could have made a hundred exhibits—

Mr. Reilly: You must strike that out as not responsive.

The Court: Yes, that is not responsive.

The Witness: I thought you practically had asked me that, why I didn't do this, why I didn't put them all in; I couldn't put them all in.

Q. You had plenty of time to do it? A. But I wouldn't be permitted to bring 50 different exhibits of this kind into this courtroom.

Q. You mean to say where a man is on trial for

life, or death you wouldn't be permitted to fill the courtroom, if you wanted to, with exhibits?

Mr. Lanigan: I ask that that be stricken.

A. Well, I think it would be very bad judgment to do it, anyway.

Mr. Reilly: May I ask you now—

The Court: Is there anything pending for the Court to rule upon? There seems to be not. You may proceed.

By Mr. Reilly:

Q. May I ask you now, while we are on the subject of your not being permitted to bring this into the room, or that, how much a day you are being paid for your services.

Mr. Lanigan: I object to that.

The Witness: I would just as soon answer.

The Court: Well, now, Mr. Reilly, how do you think that is important?

Mr. Reilly: Well, it is the number of days he worked on that. I will withdraw the money part, and ask how many days you have worked on this.

The Witness: I don't know.

Q. How many months? A. I have given atten-

tion to this case for two years and a half, but I haven't counted up the days; and I don't know whether I am going to be paid for them or not, not all of them. There has been no arrangement whatever about compensation.

Q. You know you are going to be paid by the State of New Jersey, don't you. A. I don't know that even, although I have confidence in the State of New Jersey. (Laughter.)

Q. Confidence enough to expect your bill to be paid, isn't that right? A. (No answer.)

Q. Will you look now at this nursery note, please?

The Court: Now, Mr. Reilly, that note, I suppose counsel will agree, for my information is the note that was found upon the window sill.

Mr. Reilly: That is it.

Mr. Lanigan: The so-called crib note.

The Court: And that note is S-18?

Mr. Reilly: S-18, that is it.

Mr. Lanigan: That is correct.

The Court: And it has the symbol on it —any signature?

Mr. Reilly: No, just that signature; the symbol and underneath it "and three holes."

The Court: Yes. Now, I want for pur-

poses of clarity to ask about exhibit Number S-30—no, Exhibit S-20. Have you got that in your hand, Mr. Reilly?

Mr. Hauck: Yes, he has that.

Mr. Reilly: I believe so. I have, sir.

The Court: Yes. Will you let me see that?

Mr. Reilly: Surely. (Handing exhibit to the Court.)

The Court: I think it will help me very much to have these questions asked.

Mr. Reilly: That, your Honor, is the first one received by Colonel Lindbergh, March 4th, is that right?

Mr. Hauck: Yes.

Mr. Lanigan: We usually describe it as S-20, note Number 2, mailed March 4th.

The Court: Now I would like to inquire about S-21.

Mr. Lanigan: S-21 is an envelope post marked March 7th.

Mr. Reilly: I think you will find they are there, the envelope and the enclosures (Indicating.); Colonel Breckinridge received a letter and—

The Court: Oh, this is the one that was addressed to Colonel Breckinridge?

Mr. Reilly: Colonel Breckinridge, that is it.

The Court: And it is twenty—

Mr. Lanigan: 21 is the envelope and 22 is the note.

The Court: 22 is the note?

Mr. Lanigan: That is it.

The Court: And that has the symbol on it?

Mr. Lanigan: Yes.

The Court: And 23 is the one that you are now examining upon, isn't it?

Mr. Reilly: Yes, sir.

The Court: And have I seen that, S-23?

Mr. Reilly: S-23 is the letter that was directed by the people to have handed to Colonel Lindbergh, enclosed in the envelope to Colonel Breckinridge.

Mr. Lanigan: Directed to Lindbergh through Breckinridge.

Mr. Reilly: Yes.

The Court: I thank counsel very much.

That will help me to keep track of this matter.

The Witness: Here is a "t."

Q. The "we" that you speak of—withdrawn. I take it that you indicate this as a "the," the kidnaper, the baby, correct? A. Yes, and that particular small word occurs in another phrase two times.

Q. But it does not appear, does it, in the nursery note? A. No.

Q. In addition to the "the" taken from S-23, what other word do you say you have picked out here? A. The very first word I think it is "tit," that is one of these and there are some other ones.

Q. "D-i-d?" A. It was intended for the word "did," but it is written 't-i-t."

Q. It looks also like a poor American "m," does it not? A. You mean the whole word?

Q. Yes. A. Well, somewhat. It is an illegible word.

Q. An illegible word, it could mean anything, but the context of the letter indicated that somebody intended "did?" A. Yes, and it was written carelessly.

Q. Or disguised on purpose carelessly? A. No, I don't think so.

Q. You don't think so? A. No, disguised is usually slower than that.

Q. Well, that doesn't— A. I don't mean disguised. You said disguised purposely? I would say Yes to that question, but I thought you meant copying.

Q. Yes. A. In my opinion, it wasn't copied. It was disguised purposely, I think.

Q. Yes. And it is not found in the nursery

note? A. No. That same word isn't in the nursery note at all.

Q. Have you taken any words or characters from S-22? A. What is that?

Q. That is a note to Colonel Breckinridge to hand the enclosed to Colonel Lindbergh. A. No. But that is one of the other examples of the "tte."

Q. Yes. A. Exactly the same thing as we have here for the word "the." But let me see if that is the one that is here. No. No, that isn't the one; but that is another example of it. I think there were no clippings from that letter, or photographs from that letter, I mean.

Q. And there is no "the" of that kind in the nursery note? A. No. Let me see it, will you, please. I don't know whether the word "the" appears at all.

Q. "The police." A. No; there is an "h" in that one, an "h." It is usually written with an "h." This is an exceptional form.

Mr. Reilly: May I have the next letter?

Q. I notice that you paid a great deal of attention to "New York." A. The under one there, I think, the under one, the third one, the one under that. The next one under that. (Referring to exhibits being turned over on the wall.)

Q. Then, what interested you so much about the "New York" you say was the hyphen, is that correct? A. Well, that is one of the characteristics, but one of the significant characteristics in my opinion, highly significant, is the first letter which is an "M," which is tipped up, (referring to Exhibit S-109.)

Q. I see that. But, in your examination of German handwriting, or handwriting written by Germans who are writing or attempting to write

in American, haven't you ever seen an "N" like that before? A. Oh, perhaps I have, but I think it is an unusual characteristic, especially if it goes to this extreme.

Q. Well, isn't all handwriting of foreigners after they have come to this country and they attempt to write, unless they are very well educated people, college men, isn't it more or less peculiar unto itself? A. You mean in the "N" alone?

Q. No. A. No, no, there is no system or nationality characteristic in that "N", made in that way. This design of "N" of course is the old round hand "N," the Latin script "N," but I am referring to the fact that it is tipping over, it is tipping over to the right, and if it was made of wood, it would fall down.

Q. Yes, but this one would stand up? A. Well, perhaps that one would stand up a little better.

Q. That is the ransom note, this is— A. No, that is the sleeping suit memorandum.

Q. Well, that is one of the chain? A. Oh, yes. That is the sleeping suit address, that is the wrapper.

Q. You know, do you not, that in Germany when they write the names of towns that are divided like New York, it is customary for Germans to put a hyphen between the name of the town? A. Not educated Germans.

Q. We are not talking about educated Germans, we are talking about carpenters. A. I would say generally it is not the custom.

Q. Did you ever see anyone write the address Hamburg-Altoma? A. Oh, yes, that is a different thing, I think.

Q. Altoma is a suburb of Hamburg. Have you seen, Berlin,-Schoenberg written with a hyphen?

A. Well, I don't think that would be correct. I don't believe I have seen it.

Q. How many times have you seen in Germany, where a town was part of a province, it was divided in writing by a hyphen? A. Well, in some instances, of course, the use of the hyphen is correct.

Q. Yes. A. But in my opinion—

Q. All right. A. It is not correct here.

Q. Well, not from the American viewpoint. Now, give me some instances where a German would use the hyphen in writing, in writing towns, cities. A. I don't—I can't recollect any now.

Q. But you have seen them? A. I concede that where there is some connection between the name of a town and a suburb it might be written that way.

Q. Well, have you seen Alsace Lorraine divided by a hyphen? A. Yes. Sometimes the name of a city and a suburb might be separated in that way.

Q. Well, it is characteristically Teutonic, is it not? A. No I don't think so.

Q. Is it Scandinavian? A. I don't know.

Q. Have you ever examined any handwritings of Scandinavians? A. Yes, I have examined the handwritings of every nation on earth.

Q. Well, now, the Austrians write the same as the Germans, don't they? Yes, Austrian writing is practically German writing.

Q. Yes. A. Yes.

Q. Have you heard or do you know that there are a great many Scandinavians bordering on the upper Prussian part of Germany that have come over from Scandinavia and were educated in Germany? A. Oh, yes; and there are a number of nations surrounding Germany, that German is their mother tongue; northern Italy, northern

Switzerland, eastern Holland and eastern France.

Q. As a matter of fact there is a ferry, isn't there running from Prussia to Scandinavia? A. Well, Scandinavia—

Q. Sweden. A. —writing is somewhat different from German writing.

Q. Yes, but I am talking about those Scandinavians educated in Germany. A. Yes, they may be educated in Germany even if they are Scandinavians.

Q. No, I am not asking you whether they are educated in German, living in Scandinavia, I am talking about the Scandinavians educated in Germany. A. Well, of course, if they went to Germany for education they probably would have learned to write home before they went.

Q. Yes. A. I am trying to answer your qestion exactly as you are asking it. It is a fact that there are those who write German who are not born in Germany. That is the point.

Q. That is it. Now, we will go on to the next note, please. There is one here. (Taking note which had previously been handed to the jury.) A. I am trying, your Honor, not to unduly prolong this.

The Court: That is all right.

Q. Now, I am going to show you Exhibit 42 and Exhibit 43, the beginning of the Dr. Condon notes. I show you 44. There is no symbol on there, is there? A. No.

Q. Now, did you take any of that particular note and put it on your chart? A. Yes, I think so. That word "New York" as it appears the third one up there is taken from this. That one, yes.

Q. Yes. A. No, that one above that, the third one from the top.

Q. That? A. Yes, that is from here.

Q. All right. A. And I think the word between it is down near the bottom and this is, I think, a highly distinctive handwriting on that note, that is characteristic of the ransom notes generally.

Q. Now, isn't this written with more clearness as to characters than the preceding note? A. Oh, it is written more freely than the Exhibit S-18 and the nursery note. You call that nursery note, I don't mean to—

Q. That is what I call it, yes. A. Yes.

Q. So that the jury will always remember, that is the note found in the nursery. A. I don't mean to characterize anything incorrectly.

Q. Now I show you Exhibit S-43 to Colonel Lindbergh about the box. How many words or symbols did you take from that and put on your chart? A. Well, there was quite a number taken from this, I think. I think the word "Condon" or at least the letter "C" in Condon at the top, and my recollection is that the "w" and some of the "you's," that is some of the words "you" and quite a number of other characteristics, I think.

Q. Well now, is there any symbol, character, word or letter that you have taken from S-45 that appears on the chart in comparison to the nursery note?

The Court: Is that S-45 or S-43?

Mr. Reilly: S-43, this is another one, Judge; 43, Judge, is the letter with the symbol.

The Court: Yes.

Mr. Reilly: And 45 is the envelope addressed to Colonel Lindbergh, and I assume that 44 was the letter addressed to Dr. Condon, was it?

Mr. Hauck: That is right.

Mr. Reilly: And what is the exhibit number please, or the envelope which contained that?

Mr. Hauck: S-42.

Mr. Lanigan: S-42.

Mr. Reilly: S-42 was the envelope to Dr. Condon, S-43 is the letter directed to Colonel Lindbergh; S-44 is the envelope?

Mr. Hauck: S-44 is the letter to Condon.

Mr. Reilly: S-44 is the letter to Dr. Condon, all in the one envelope, and S-45 is the small envelope addressed to Colonel Lindbergh.

The Court: Then what is the exhibit number of the letter addressed to Colonel Lindbergh about the box?

Mr. Reilly: That is 43.

The Court: Was there a symbol on that letter?

Mr. Reilly: Yes, sir.

The Court: Thank you.

By Mr. Reilly:

Q. Did you have my question? A. I don't think there was any question that was not answered.

Q. Did you find anything in your opinion of the words in 43 that were also written in the ransom note? A. I haven't compared any of the ransom notes directly with the nursery note. Their characteristics are grouped, but not for the purpose of comparing in handwriting the nursery note with the other ransom notes. None of them are compared directly in that way.

Q. But did you hear Dr. Condon say in his testimony that in his opinion the nursery note was an original as far as the symbols were concerned, but that the other notes were poor imitations?

Mr. Lanigan: That is objected to.

The Court: Please repeat the question.

(Pending question read as follows:

"Q. But did you hear Dr. Condon say in his testimony that in his opinion the nursery note was an original as far as the symbols were concerned, but that the other notes were poor imitations?")

The Court: Well, he may answer that yes or no.

A. I don't know anything about his testimony. I didn't hear it or read it.

By Mr. Reilly:

Q. Did you notice any difference at all between the note, the ransom note, the nursery note, No. 1, the note to Colonel Lindbergh of March 4th, No. 2, the note to Colonel Breckinridge, No. 3, that group: did you notice any difference in your opinion in so far as those notes were concerned and the notes which passed through the hands of Dr. Condon? A. No.

Q. You say No? A. I say No.

Q. In your opinion? Now here is one of the Dr. Condon notes. Isn't the phrasing of the letters, the general outline, much clearer than the preceding notes? A. I would say that it is clearer than the nursery note, and perhaps a little more freely written than some of the others, but it is essentially the same.

Q. Well, is this disguised in your opinion? A. I think they are all disguised, all the ransom notes.

Q. Exhibit S-48 and Exhibit S-47. A. That is, they are all disguised to a certain extent; that is, that they are not natural, free writing.

Q. And that is what you did, you took all of this mass of material, made up your charts, as you have indicated here, and given your opinion on that. A. Yes.

Q. Correct. Without distinctly directing your attention to all of the comparisons, using the nursery note as a standard yes or no. A. Well, I would say no. I directed my attention specifically and directly to the question as to whether the nursery note was written by the same writer as the other notes; and in my opinion, the connection is absolutely unmistakable. I can't say it any plainer than that.

Q. Well, Doctor, or Mr. Osborn, you have been mistaken many times, have you not, in your diagnosis and your opinions on handwriting? A. I

wouldn't say many times. I don't pretend to be infallible, but I intend to be careful.

Q. But you have found to be mistaken, have you not, many times? A. No, I won't say that. When you say "many times"—of course, we have all kinds of questions, Mr. Reilly; some of them are difficult, some of them it is impossible to give any answer to at all; some of them where the evidence is somewhat closely balanced. Now in those cases, of course, it might be possible to make an error, but in this case the evidence is very, very extended.

Q. In your opinion, right? A. How is that?

Q. Do you recall the Hartze case in Pittsburgh about thirty years ago when you were opposed by Cavallo and Malone, two handwriting experts? A. No.

Q. Well, you knew the late Cavallo, didn't you? A. Oh, I knew Mr. Cavallo very well.

Q. He was a recognized authority, was he not? A. Yes.

Q. Do you know Colonel Malone of Baltimore? A. I know a Mr. Malone. I didn't know he was a Colonel.

Q. They are all Colonels south of the Mason-Dixon line when they get that old. A. Yes.

Q. You know him? A. He is an engrosser, he makes penmanship exhibits.

Q. Do you consider him an authority? A. No.

Q. You don't? A. I consider him a witness who testifies on the subject.

Q. Yes. Well, so are you a witness that testifies on the subject? A. Yes, yes.

Q. You are being paid by the State of New Jersey or expect to be paid? A. Well, I hope to be. (Laughter.)

Q. Whether you consider Mr. Malone a handwriting expert or a professor of penmanship, or

whatever you consider him, was he opposed to you with Mr. Cavallo in the Hartze case in Pittsburgh? A. I don't remember anything—you say it was thirty years ago?

Q. Yes. A. I have forgotten quite a number of things that occurred thirty years ago. I don't remember that case and I don't remember that Mr. Malone was there. The last time I was against Mr. Malone was over here in Easton, when his testimony was all excluded on cross-examination.

Q. Was that the case in which you testified concerning a $10,000 note? A. No, that was a will case.

Q. Well, what was the case at Easton, Pennsylvania, where you testified in a $10,000 promissory note? A. Oh, I had a good many $10,000 notes. That is a favorite amount.

Q. Well, I am geting down to Easton: you have not had many ten thousand dollar promissory notes in Easton, Pennsylvania, have you? A. Easton?

Q. Yes. A. Well, that wasn't in Easton; I did not have a ten thousand dollar note case in Easton.

Q. Well, where was the last ten thousand dollar note case you had in Pennsylvania? A. I can't remember that, but I have had many ten thousand dollar note cases; I had three of them at one time, at one time.

Q. Did you ever testify in an action in Easton, Pennsylvania? A. Where?

Q. Easton, Pennsylvania, concerning a $10,000 note, in which you testified that the signature was genuine— A. No, I never testified—

Q. —and it was found to be a forgery? A. No, I never testified in Easton, Pennsylvania, but once, and that was regarding a will; and my testimony was supported by the decision.

Mr. Reilly: I move to strike that out as not responsive.

The Witness: Well, he is asking me about Easton, Pennsylvania, your Honor.

The Court: "And my testimony was supported by the decision" should go out, I think, and I will strike it out.

By Mr. Reilly:

Q. Do you remember testifying in the Whitehurst case, a marriage contract? A. Where was that?

Q. That was in New York. A. And what was the name?

Q. Whitehurst. A. I haven't any—

Q. A marriage contract that you swore was genuine and it was found to be forged. A. No. I haven't any recollection of it whatever.

Mr. Lanigan: I object to it as calling for a conclusion.

The Witness: You want the—

Mr. Lanigan: One moment, please.

The Court: Mr. Reilly, that question, I think, is objectionable, and I do not think the witness is required to answer it. I do not recall whether he did or did not answer.

Mr. Lanigan: He did not answer it.

The Court: He will not be required to answer it.

Mr. Reilly: May I have an exception?

The Court: You may have your exception.

(Exception allowed and same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Reilly:

Q. Do you recall the Kilbourne case in Pottstown, New York? It was a will case where you were engaged to pass on the genuineness of the signatures on the will. A. Pottstown?

Q. Yes. A. Have you got the date?

Q. Well, I should assume from my information that that was within the last five years. A. No, I haven't been in Pottstown in the last five years at all.

Q. Well, let me see if I can refresh your recollection. The case I am speaking about in Pottstown, a gentleman named Snell up there was interested in the outcome of the estate. Does that refresh your recollection? A. No, no.

Q. Well, do you recall the case of Burke against Peters in New York County in which you were engaged to pass on the validity of a deed made by a woman named White for Mrs. Burke? A. Was that in Brooklyn?

Q. No, that was in New York County. A. Brooklyn is in New York.

Q. Where you testified that the signature was not made—or rather, was made with an iron ink.

A. I can't recollect any such details in testimony in a case that might have been twenty-five years ago.

Q. This is not twenty-five years ago. A. I don't know when it was.

Q. This was less than ten years ago. A. I can't remember the names. I undertake to remember these things, but I can't carry these names in my mind.

Q. Well, can you recall any case in which you gave evidence that the ink that wrote the signature on the will was in your opinion an iron ink? A. Oh, I think so, yes.

Q. And were you discredited in that case? A. No, I don't think so.

Mr. Lanigan: That is objected to.

The Court: He says "No, I don't think so." I will allow it to stand.

Q. Now do you recall back in 1925, Dr. Sinclair Tusi or Tousi, 830 Seventh Avenue, New York City? Do you recall him? A. No. I recall, however, that that man, a man by that name, called on me and said that I had been accused of having made a mistake in his case and he said it wasn't true, and I didn't remember the man, I don't know the man; and I am not sure that he was entirely sane.

Mr. Reilly: Now I move to strike that out as not responsive.

The Court: Well, I do not know but what you drew it out, Mr. Reilly, but to make sure that no illegal injury is done to your client, I will strike out the latter part,

which perhaps may be said to be irresponsive.

Q. Well now, despite your opinion of Dr. Tousi, do you remember that he was at 830 Seventh Avenue, New York City? A. Oh, I don't remember it at all. I didn't remember the case, and the circumstances were very peculiar; the man wrote to me two or three times and then he came to see me, and I couldn't get head or tail to what he was telling me about.

Q. Didn't he bring you some letters for your examination? A. No.

Q. Now, you can remember that, can't you? A. Did he—

Q. I say you remember he did not bring you any letters? A. Well, I don't remember the case at all.

Q. But still you can remember the man's name? A. No. He came to see me or wrote me, and that is all I remembered about it.

Q. Didn't you render an opinion on letters he brought you? A. I don't remember that at all.

Q. Didn't you give as your opinion that another doctor—giving a name—had sent these letters, anonymous letters about Dr. Tusi? A. No, I don't think so.

Q. Well, you are not definite on that, are you? A. No.

Q. Now we will get down to something nearer, if you can recall this case of Mrs. Von Moschzisker, in this very State. Do you remember that? A. Mrs. Von-what?

Q. Moschzisker, M-o-s-c-h-z-i-s-k-e-r, the poison pen case in Hackensack, New Jersey, in February 1928. A. No.

Q. You don't remember that? A. Didn't have anything to do with it.

Q. Do you know a handwriting expert named Stein? A. Yes. Shall I characterize him?

Q. No. I only asked you if you knew him. A. I will be pleased to do so.

Q. Didn't you testify in this case of Von Moschzisker before Judge Zabriskie in Hackensack, New Jersey? A. No. I wasn't in—

Q. In February 1928? A. I wasn't in the case at all.

Q. Well, did you render an opinion which was not used? A. I did not.

Q. Now, do you recall this case, the case of Burt versus Peters, Supreme Court, New York County, 1926, where you testified— A. What was it?

Q. —that the body of the deed was not over eight years old, and it was found that the deed was a great many years old.

Mr. Lanigan: I object.

A. Was it a typewriting case?

Q. It was a deed case in which the signature on the deed was in ink and you testified that it was an iron ink and in your opinion the deed was not over eight years old. A. Well, that the signature was not over eight years old?

Q. The signature, yes. A. Well, that don't sound like my testimony, because I am very cautious about giving the age of ink.

Q. Do you—? A. It is usually impossible.

Q. Did you testify in that case? A. I can't remember the case at all.

Q. Well, any cases you testified to as to ink? A. If you want to know if cases have been decided against my view, I don't hesitate to say that they have.

Q. How many? A. What?

Q. How many? A. Well, I would say it was occasional. It occurred so infrequent that it always gives me a shock. I think maybe one in twenty, or something like that, by percent, or so. There are all kinds of cases, some of them are very difficult, and yet it is necessary that you give an opinion in it, and others are very plain in which a difference of opinion can be accounted for only on the ground of indifference or dishonesty.

By Mr. Reilly:

Q. Do you remember the Tappen will case? A. What is the name?

Q. Tappen, T-a-p-p-e-n, Tappen? A. Tappen?

Q. That was a case in Newark? A. Was that recently? I was recently in Newark in a case but it wasn't that name.

Q. Well, were you ever in a Tappen will case in Paterson, New Jersey? A. I have never testified in the City of Paterson. I can't quite understand that either, because it is quite near to Montclair where I live.

Q. Did you ever testify in Newark? A. Many times.

Q. Did you ever testify in Newark in a Tappen will case? A. Tappen? I don't recollect that name at all.

Mr. Reilly: Now your Honor, may I reserve further cross-examination of the witness subject to the production here of the papers that they are going to look for?

The Court: Well, yes, I think you may do that, Mr. Reilly, allowing you to cross-

examine if these papers are discovered and delivered to you.

Mr. Reilly: Yes, sir. That is all.

The Witness: Does that mean, your Honor, that I must remain here?

The Court: I am not sure just what that means.

The Witness: I am supposed to be in Ottawa very soon.

The Court: Cannot that be determined speedily whether these papers are available?

Mr. Lanigan: We will make every endeavor, sir.

The Court: And, Mr. Osborn, it is going to be determined as speedily as possible whether these papers that Mr. Reilly wants are available or not and, if they are available, then you will expect to be here until that time.

The Witness: Yes. I can remain here if necessary.

The Court: Well, it is hoped that you will not be required to be here very long.

The Witness: Yes.

The Court: That is all that I can say.

Mr. Lanigan: That is all.

Court Crier Hann: The jury would like to retire.

The Court: The jury would like to retire? Well, we will have to take a recess then for five minutes.

(At 11:34 a. m. the jury retired.)

(After short recess trial was resumed.)

The Court: You may poll the jury.

(The jury was polled and all answered present.)

Court Crier Hann: The jury is in the box.

The Court: The State may call its next witness.

Mr. Wilentz: Miss Alexander will you please be sworn?

HILDEGARDE OLGA ALEXANDER, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Mr. Wilentz: If your Honor please, and for the benefit of the counsel for the defense, we are calling this witness out of turn for business reasons.

Q. Miss Alexander, where do you live? A. 730 East 236th Street, the Bronx.

Q. And how long have you lived in the Bronx? A. All my life.

Q. Do you know Dr. Condon? A. I do.

Q. How long have you known Dr. Condon? A. Since 1923.

Q. Did you see Dr. Condon in the month of March, 1932? A. I did.

Q. Was it before it was publicly known that he was negotiating in the Lindbergh case or after? A. After.

Q. Was it before or after it was chronicled that the money had been paid, the ransom money? A. Before.

Q. Sometime between those dates you mean? A. Yes.

Q. Where did you see him? A. I saw him in front of the telegraph office in the waiting room of the Fordham Station of the New York Central.

Q. In front of the telegraph office? A. Inside.

Q. Inside. Has the New York Central a Fordham station there? A. Yes.

Q. Were you in that station that day? A. In the platform of the station, yes.

Q. About what time of the day or night was it? A. I should judge about 6:15 or 6:30 in the evening.

Q. Dark, I suppose, I mean it was night time? A. Yes.

By the Court:

Q. Can you fix the day, Madam? A. Not definitely, not the date.

Q. But was in March? A. It was in March. It was either on a Monday or Tuesday evening.

Q. 1932. A. Yes.

By Mr. Wilentz:

Q. Now, who else was in that station besides you and Dr. Condon? A. I saw a man looking at Dr. Condon.

Q. How far away from Dr. Condon was this man? A. About from where I am sitting to where you are sitting, probably just a little further.

Mr. Wilentz: May we stipulate it is about from 10 to 15 feet.

Mr. Reilly: Yes.

Q. Was there anybody else in that station besides Dr. Condon and this man and yourself? A. There may have been but I didn't notice anyone particularly.

Q. Well, were there many people there? A. I wouldn't say that. There are never very many people there.

Q. On this occasion particularly? A. No.

Q. You noticed Dr. Condon and you say you noticed another man? A. Yes.

Q. What were you doing in the station? A. I went into the station to telephone my mother, to tell her I wouldn't be home for dinner.

Q. And will you tell me again what you saw Dr. Condon do in the room. A. Dr. Condon was in front of the telegraph office and he seemed to be having an argument.

Mr. Reilly: I object.

Q. Well, was he talking to somebody there? A. He was.

Q. Yes. At the telegraph station: is that it? A. Yes.

Q. And what was the other man doing that you observed? A. Watching him.

Mr. Reilly: I object to that as calling for a conclusion, the operation of some person's eyes.

The Court: Well, the question was what was the other person doing. I think that is proper.

Q. How far—

Mr. Reilly: I don't think the answer is competent.

The Court: I don't know what the answer is.

Mr. Reilly: She has already answered, that he was watching him.

The Court: Watching him?

Mr. Reilly: I think that calls for the operation of another person's mind.

The Court: I will allow it to stand.

Mr. Reilly: Exception.

The Court: You may have an exception.

(Exception allowed and same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Now, what—pardon me. Assuming that you were in the position that Dr. Condon was,—that is to say, facing somebody else at a telegraph station, in what direction from you was it that this other man was standing watching, as you say? A. Well, if this is—if I am facing the telegraph station here, there is a phone booth here (indicating to the right), and a ticket office in this direction (indicating to the left).

Q. That is a phone booth in the direction toward your right and a ticket office toward your left? A. Yes, and more phone booths to my left.

Q. And more phone booths to your left, yes. Where did the man stand in relation to Dr. Condon, about fifteen feet away, in what direction? A. I should say near the information booth, in the direction of the other phone booths.

Q. Was Dr. Condon's back, in other words, what I want to know is, was the man in back of Dr. Condon. A. Diagonally in back of him.

Q. Diagonally in back. What attracted your attention to the gentleman who you say was watching Dr. Condon? A. The fact that he was very obviously watching him, very significantly.

Mr. Reilly: I move to strike that out as not responsive.

Mr. Wilentz: Well, I—

The Court: I do no know why I should strike it out.

Mr. Reilly: Very obviously is her conclusion.

Mr. Wilentz: If your Honor please, it is not a conclusion, it is an observation on her part, something she saw.

The Court: I will have to allow it to stand, Mr. Reilly.

Mr. Reilly: May I have an exception.

The Court: You may have an exception.

(Exception allowed, and the same is sealed and signed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Wilentz:

Q. Now, the man to whom you refer and whom you saw in that station that night, did you see him again, madam? A. Yes, I did.

Q. When, approximately? A. Approximately two or three evenings later.

Q. Where? A. He was walking at Fordham Road and Webster Avenue, there is a comfort station there and he was turning the bend.

Q. Were you walking in that vicinity? A. I was.

Q. Who was the man you saw in that station watching Dr. Condon on this night in March and

whom you saw a few night afterwards walking down Fordham Road. A. I say the man was Bruno Richard Hauptmann.

Q. Now, when Mr. Hauptmann was arrested in the Bronx, did you see his picture in the paper? A. I did.

Q. And when you saw his picture in the paper did you report the incident to anyone? A. First to my mother.

Q. And then to whom? A. Then I discussed it one evening when I was coming uptown with some friends and it was reported to the foreman of the Bronx Grand Jury and the following day I was called upon to report it to the foreman of the Grand Jury.

Q. Were you called upon to report it to the foreman of the Grand Jury? A. The following morning.

Q. Did you also come to Flemington to the jail to see the defendant Hauptmann? A. I did.

Q. Now, when you saw Dr. Condon in the railroad station that night and you also saw this man, on that very night did you say anything about it to anyone? A. Well, I was talking to my mother over the telephone, I was recounting the incident to her—

Mr. Reilly: I object, your Honor.

The Court : I think that is objectionable.

By Mr. Wilentz:

Q. You spoke to your mother about it? A. Right.

Q. Now, at that time did you know who the man was? A. No.

Q. Did you attach any particular significance

at the time? A. Well, I thought that he may have been—

Mr. Reilly: I object to what she thought.

Mr. Wilentz: All right, I will withdraw it. That is all, Miss Alexander. Mr. Reilly may inquire.

Cross examination by Mr. Reilly:

Q. How old are you, young lady? A. Twenty-six.

Q. Do you live with your mother? A. I do.

Q. What is your occupation? A. I am employed in the dual capacity of salesperson and model.

Q. Where? A. Is it necessary to give the address, Mr. Wilentz?

Q. It is. A. 38 East 32nd Street.

Q. For whom? A. For the Fem Robes.

Q. Are you a photographic model? A. No, not at present.

Q. Clothing model? A. Yes.

Q. How long have you been employed there? A. Over three years.

Q. Where were you employed in March 1932? A. With the same firm.

Q. That is on Fifth Avenue. A. Off Park Avenue, between Fourth and Madison.

Q. And what time do you finish your business? A. Five-thirty o'clock.

Q. Did you have any showings in March 1932? A. Well, we always have buyers in the showroom.

Q. Any special showings? A. Not any special showings, no.

Q. What line do you show in March? A. Tea gowns, negligees.

Q. Tea gowns and negligees? A. And pajama ensembles.

Q. Are they engaged in manufacturing those things? A. Yes.

Q. Nothing else? A. No.

Q. How many seasons a year have you in your line? A. We have a Fall season and a Spring season.

Q. Now the fall season you show in August don't you, and July? A. July and August.

Q. Yes. A. That is right.

Q. And the spring season you show in December and January, don't you? A. January and February, right into March.

Q. Of course, the spring season modelling line is considered finished, is it not, by the 1st of February, the opening of Palm Beach? A. Well, we don't do business with Palm Beach at all. We don't consider it finished.

Q. You do business with houses that sell in Palm Beach, don't you? A. Well, a few of them.

Q. Well now, the modelling profession is divided into seasons, is that correct? A. That is right.

Q. Yes. And as you testified, you have two seasons, a winter season and a spring season? A. That is right.

Q. Correct? A. That is right.

Q. And you only show pajamas, lingerie and negligee? A. No. lingerie.

Q. Pajamas and negligee, is that it? A. And tea gowns.

Q. And tea gowns. All right. Well, a tea gown is a dressing gown for a lady around the house, am I correct? A. Well, a tea gown is something you can entertain friends in at teas or bridges.

Q. In the privacy of your home, correct? A. That is right.

Q. You do not sell suits, street dresses or evening wear? A. No.

Q. Correct? A. Right.

Q. How many models are there in your place? A. Just myself.

Q. What time of the day was it that you finished your work this particular day? A. Five-thirty, I always finish at five-thirty.

Q. And where did you live then? A. At the same address.

Q. Where is it? A. 730 East 236th Street.

Q. And how do you go home from Park Avenue in the neighborhood of where you work to that address on 236th Street? A. Yes, I walked over to the Third Avenue "L". I take the local up to 42nd Street and then I change for the express.

Q. The "L"? A. Yes, the Third Avenue "L".

Q. You don't take the subway? A. No, I don't.

Q. And then change at 149th Street? A. No, I don't.

Q. And how long does it take you to get home? A. Usually about a half hour, thirty-five minutes, it all depends.

Q. Now, how far away from your home was this railroad station? A. How many stations, do you mean?

Q. The railroad station you say you saw Dr. Condon at? A. Well, part of my—well, on the Central, the next station is the Botanical Gardens, the one after that is Williams Bridge, and the one after that—

Q. Could you go on the Central? A. No, I occasionally use it, but not very often.

Q. Did you use the Central that night? A. No, I did not.

Q. You went up on the "L" and got off where? A. Fordham Road and 190th Street.

Q. Fordham Road and 190th Street? A. Yes.

Q. Where, in connection with Fordham Road and 190th Street is the railroad station? A. You walk down from the Third Avenue "L" and then you walk probably a few steps west and there is a platform right there, there is a connection, I mean, you can enter the New York Central train.

Q. What station of the New York Central do you say it is? A. Forham Road, 190th Street.

Q. But you were getting off at 233rd Street? A. No, I wasn't. I got off at Fordham Road and 190th Street.

Q. Why? A. Because I attended evening school.

Q. Where? A. Fordham Road; Theodore Roosevelt Evening High School, at the time.

Q. What time does that evening school start? A. It starts at 7:30.

Q. How far is the high school from your home? A. By stations or by time?

Q. Time. A. I should judge about 20 minutes or 15 minutes by train.

Q. You would have time to go from your place of business, leaving at 5:30, go up and get your dinner and come back to the high school, would you not? A. Yes, I would.

Q. Did you? A. No, I didn't. I had dinner in Forham that night.

Q. Where? A. At a Chinese restaurant.

Q. With whom?

Mr. Wilentz: Just a minute. I have no objection to revealing to counsel the lady's escort, but I don't see that it matters. If counsel hasn't any objection, I would like to suggest that we will provide that in-

formation to counsel. Unless he has some particular reason, I would make the suggestion that we will provide the name of the lady's escort.

Mr. Reilly: I can't see any reason why cross examination should not proceed.

Mr. Wilentz: We will withdraw the objection.

A. I had no escort, Mr. Wilentz.

Mr. Reilly: Then the gentleman is misinformed. He was going to give me the name of somebody that doesn't exist.

By Mr. Reilly:

Q. You had no escort, did you? A. I was by myself.

Q. Where is this Chinese restaurant? A. On Fordham Road and Webster Avenue, 190th and Webster.

Q. How near is that to the elevated railroad station that you say you came down on? A. It is on the west side of Webster Avenue.

Q. You know, do you not, that there are telephone booths in every elevated station in New York City? A. Yes.

Q. There are telephone booths in every subway station in New York City? A. Yes.

Q. And there is a telephone in your Chinese restaurant? A. Yes.

Q. So you walked down the stairs of the elevated station and over to the New York Central Railroad Station? A. I just had to turn a few steps.

Q. For the purpose of telephoning your mother, is that correct? A. That is right.

Q. And on the railroad station you found Dr. Condon, right? A. Inside the platform of the waiting room.

Q. Now I want you to describe for this jury that railroad station at 190th Street and Fordham Road of the New York Central. A. Well, I would say this was the main entrance coming in (indicating).

Q. Yes. Now where is the ticket booth? A. The ticket booth is in the center.

Q. And what time were you there that night? A. About 6:15 or 6:30.

Q. Yes. And where was the ticket agent at 6:30 that night? A. He may have been in the booth. I didn't take particular notice.

Q. Don't you know that the station closes at five o'clock? A. I have never known it to close at five o'clock. I have always been in there.

Q. Did you ever try to buy a ticket at that station, going north on the New York Central? A. No, I did not.

Q. After six o'clock? A. No.

Q. Now it is nothing more or less than a local station on the New York Central for local trains, am I correct? A. That is correct.

Q. How near is it to Mott Haven Station? One station further north or one south? A. Well, Mott Haven is going north.

Q. And how near is it to Spuyten Duyvil? A. Spuyten Duyvil is not in that direction at all.

Q. What road is this on? A. What road is it on?

Q. The New York Central; where do the trains run that pass this particular station you are talking about? A. Park Avenue—

Q. If Spuyten Duyvil is not on the station, not

on that road. A. Well, the trains run east of White Plains Avenue, west of White Plains Avenue, east of Webster.

Q. Where does this particular road start, this railroad? A. At 42nd Street.

Q. All right. It is not the spur up around 133rd Street bridge that runs into Boston, is it? A. Not that I know of.

Q. Do you know the Boston and Maine Road that starts at 133rd Street, of the New York Central? A. No, I don't.

Q. And how long have you lived in the Bronx? A. All my life.

Q. All your life and you don't know that there is a road that begins in the Bronx and runs to Boston of the New York Central? A. No, I don't.

Q. All right. Now, do you know anything about the Putnam Division? A. I do not.

Q. Of the New York Central. You don't? A. No, I don't.

Q. Do you know that there is a Putnam Division of the New York Central that runs through the Bronx and runs through—maybe this will refresh your recollection Pocantico Hills, the home of the people up there—

Mr. Wilentz: Just a minute. I have no objection to counsel asking whether there is such a road, but I do object to counsel saying, "Do you know there is?" Now I think in that respect counsel is testifying. While I don't make a point of it I think it has gone beyond the line of reasonableness. It leaves the impression that there is such a line. There may be, but he is not in position to testify.

Mr. Reilly: How do you know? She

says she lives in the Bronx and says she was at a New York station, Judge, and I have a mind's picture, and I have a right to ask her, because I know the particular station she is talking about and I am trying to develop something here.

The Court: What fact is it that you have in mind that you want to prove by this witness?

Mr. Reilly: I want to prove that she was never there and she doesn't even know where the station is or what the station is or what lines run past the place, and she has lived in the Bronx all her life.

The Court: Well, she has already testified several times that she was there, hasn't she?

Mr. Reilly: Yes. Although she can say she was there, sir.

The Court: Yes, I understand that.

Mr. Reilly: She can't visualize this station on this particular road.

The Court: Now, then, what, in order to test her veracity, I suppose—

Mr. Reilly: That is it.

The Court: You want to put to her certain questions. Now what are those questions?

Mr. Reilly: Does she know there is a road that runs from The Bronx of the New York Central with stations on it that runs into Pocantico Hills?

Mr. Wilentz: That is what I object to: does she know that there is. What I submit, if your Honor please, very respectfully to your Honor, is that that is testimony by counsel that there is, and not being familiar with The Bronx, I think the question ought to be, if I may respectfully, very respectfully say, does she know whether or not there is any such road.

As the question goes, it leaves the inference that there is a road.

The Court: You see, I am dealing here with a cross examining counsel, and I am inclined to think that his question may be answered. Now, let the stenographer reread the question to the lady, and let her answer it if she can.

(Pending question read by the reporter.)

A. I do not.

By Mr. Reilly:

Q. Now, you have told us that sometimes you take the New York Central home; is that right? A. That is right.

Q. And when you do you go to 42nd Street and Park Avenue: correct? A. That is right.

Q. Now, what line do you take? A. I go to the lower level and I buy a ticket and I find out what track the train leaves on, and I go on that track

and get into the train and get off at either Fordham or 233rd Street; I never pay any attention to whether the train goes further or not, or whether it goes—

Q. Well now, is there a station of the New York Central at 233rd Street? A. There is; it is called Woodlawn.

Q. Called Woodlawn? A. That is right.

Q. Then that is on the White Plains Division, is it? A. That is on the New York Central.

Q. Is it the White Plains or is it the Yonkers Division. A. It is on the White Plains Division.

Q. Yes. Now, you say you get a ticket and you walk to a gate and you pay no attention to where the train goes: is that it? A. Well, I know where it is going, because I ask.

Q. Well, don't you have to look at the indicator alongside of the station entrance, the train entrance? A. That is right.

Q. Yes. And the indicator has a long list of stations that the train stops at, hasn't it? A. That is right.

Q. Now, have you ever taken a train and changed before you got to Fordham? A. No.

Q. Did you ever change at Highbridge? A. No.

Q. Is Highbridge above or below your station? A. I don't know where Highbridge is; I imagine it is below.

Q. Yes. Now isn't it a fact, young lady, that anyone desiring to go in the way you have indicated must change at Highbridge for the Putnam Division and the White Plains side? A. Not that I know of.

Q. Don't you know that at five o'clock at night and six o'clock at night there are no local stops? A. There are so.

Q. Between the Grand Central on that line

and possibly Mount Vernon? A. Well, there are local stops.

Q. How many times have you ridden on the New York Central to your house? A. Often enough to know what train leaves there.

Q. How many times? A. I can't approximate the number of times.

Q. What is the fare? A. The fare to Fordham varies.

Q. What varies on the New York Central, what fare? A. The fare from 42nd Street to Fordham.

Q. Is how much? A. I think it is thirty-five cents.

Q. Don't you know? A. I can't remember definitely.

Q. What is the fare to 233rd Street? A. I believe it is 44 cents.

Q. Don't you know? A. Or 49; not definitely either.

Q. When was the last time you rode? A. Possibly several years ago. I don't know. I am not in a position to state that definitely.

Q. Several years ago you rode on the New York Central to your station, is that right? A. That is right.

Q. Several years ago means what, five years? A. Maybe two years.

Q. Maybe two years? A. Maybe three years.

Q. It made no impression, did it? A. No.

Q. How long do you know Dr. Condon? A. Since 1923.

Q. Where did you meet him? A. In a theatre.

Q. Who introduced you? A. The manager of the theatre.

Q. Where was the theatre? A. At 195th Street and Webster Avenue.

Q. And under what were the conditions that you were introduced to him? A. Well, I worked

at the theater at the time, while I was going to high school.

Q. What were you doing in the theater? A. I was cashier in the theater.

Q. And Dr. Condon was a frequent visitor? A. He was a patron.

Q. What? A. A patron of the theater.

Q. And why should the manager of the theater introduce you, his cashier, to Dr. Condon? A. Because the manager conversed with Dr. Condon very, very often. There were never crowds that came into the theater during the afternoons and the manager knew I was going to high school at the time, mornings while I worked in the afternoons and he also knew that Dr. Condon was connected with either the Board of Education or was a principal, and he thought it was nice to let Dr. Condon know that I was going to school while I was working.

Q. Was Dr. Condon a principal then? A. I don't know.

Q. Was he ever connected with the Board of Education? A. I don't know that either.

Q. How many times after that did you see Dr. Condon? A. Just during the time that I worked in the theater.

Q. How many years ago was that? A. 1923.

Q. You left the theater in 1923? A. 1924.

Q. '24, and from 1924 down to 1932, you tell us you had never seen Dr. Condon once, is that right? A. That is right.

Q. What was Dr. Condon doing when you first saw him in this railroad station? A. He was standing in front of the telegraph office, walking back—

Q. Where is the telegraph office? A. Inside of the platform, the waiting room.

Q. This is a local station, is it not? A. That is right.

Q. What telegraph operator was ever on duty there in March? A. I don't know.

Q. Did you see one? A. Yes, there was a telegraph operator—because Dr. Condon was talking to someone.

Q. Talking to a telegraph operator in this station? A. Talking to someone.

Q. Which is it now? A. A telegraph operator, most likely.

Q. Did you see the man telegraphing? A. No, I did not.

Q. You came to the conclusion that he was a telegraph operator? A. That is right.

Q. And Dr. Condon had his back to you, did he not? A. He was directly in profile to me.

Q. But you were not in front of him? No, I was not in front of him.

Q. You did not hear what he said? A. No, I didn't hear what he said.

Q. You came to the conclusion he was talking? A. He was very much excited, I came to that conclusion.

Q. You came to the conclusion he was excited? A. He was excited.

Q. Did you make your telephone call to your mother? A. I did.

Q. From that station? A. I did.

Q. And of course you went into the booth. A. I did.

Q. When you came out you went out? That is right.

Q. And went upstairs and went on the street? A. No, I didn't go upstairs. It is on a level with the street.

Q. Then you were on the upper station, you were not on the platform? A. I was on the level.

The waiting room is on a level with the street.

Q. Did you get off the train and walk through the station out into the street? A. I walked downstairs from the Third Avenue elevated station.

Q. I am talking about the station. A. Yes.

Q. Is that on the level with the street? A. Yes.

Q. You can walk into the station— A. Yes.

Q. Through the station to the platform where the train is, is that right? A. You walk downstairs.

Q. Yes, for the train? A. For the train.

Q. Yes. A. That is right.

Q. Yes. So you don't walk off the street for the train, do you?

Mr. Wilentz: She didn't say she did.

A. You walk from the street right into the waiting room where the information room is and the Western Union office is.

Q. And that is back now in 1932? A. That is right.

Q. And where was this booth? A. The telephone booth?

Q. Yes. Then— A. There are booths on both sides.

Q. Both sides of what? A. Of the waiting room, the ticket office.

Q. Well, now, your object in going there was to phone? A. That is right.

Q. And you came right in and you glanced around and went to your phone, didn't you? A. May I demonstrate how I came in?

Q. Do you want to come down here and show how you came in? A. I will say this is one way of coming in—there are several—I don't know how many there are, and I came in from an entrance that showed Dr. Condon to me directly in

profile, and there were phone booths directly where I entered.

Q. And you went to the phone booth? A. I didn't use the phone booths where I entered. I walked directly to the opposite side where Dr. Condon was standing.

Q. But you used a phone booth? A. And I used the phone booths there.

Q. That didn't take more than two minutes, to phone? A. Several minutes. I had a conversation with my mother at the time.

Q. Then you came out, right? A. That is right.

Q. And you went on about your business? A. That is right.

Q. When did you next see Dr. Condon, or have you seen him since? A. No, I have only seen him in the papers, that is all.

Q. Have you had any conversation with him over the phone or any way? A. No, I have not.

Q. Has anybody come to you from his house? A. No.

Q. Has anybody come to you from anybody's house? A. No.

Q. Has anybody come to you from any place at all? A. No.

Q. You haven't talked to a soul about the testimony you were going to give here this morning, have you? A. Oh, yes, I have discussed it.

Q. Who? A. Discussed it first with my mother.

Q. Outside of your mother. A. And members of my family.

Q. Outside of your mother. A. My employer.

Q. Yes. This is all recently? A. Yes, a few months back.

Q. And who brought you down here today, young lady? A. District Attorney Breslin.

Q. Who? A. Mr. Breslin, of The Bronx.

Q. Do you know him? A. I don't know him personally, no.

Q. When did he come to the house for you yesterday? A. Yes, he came to me last night.

Q. Before that when have you seen Breslin? A. About two weeks previously, on a Friday when he called for me to drive me out to Flemington.

Q. Were you in The Bronx courtroom at the extradition hearing of this case? A. In the courtroom, no.

Q. Were you around the building? A. In September I was around the building, yes, or in October, I don't know when it was.

Q. In October. Did they bring you there? A. They brought me.

Q. And how long were you there? A. Possibly an hour or so; I don't recall.

Q. And you didn't testify, did you? A. I did.

Q. In court? A. No.

Q. That is what I am talking about. A. No, I did not.

Q. You didn't testify before the Judge? A. No.

Q. This is the first time you have testified? A. Yes.

Mr. Reilly: That is all.

Re-Direct Examination by Mr. Wilentz:

Q. In addition to coming here with Mr. Breslin, you came here with your mother this morning? A. That is right.

Q. And you came at the invitation and the urging of the State, did you not? A. That is right.

Q. When you were in the Bronx Court House you came there as the result of the invitation of

the foreman of the Grand Jury, did you not? A. That is right.

Q. And when you got there you spoke to District Attorney Foley and told him your story? A. That is right.

Q. You asked at that time, as you have asked since, to try to keep away from any publicity, haven't you? A. Absolutely.

Mr. Wilentz: Thank you, miss, very much, and we are sorry to trouble you.

The Witness: Thank you.

(Witness leaves stand.)

Mr. Lanigan: Elbridge W. Stein.

ELBRIDGE W. STEIN, sworn as a witness on behalf of the State.

Direct examination by Mr. Lanigan:

Q. Where do you live, Mr. Stein? A. I live in Montclair, New Jersey.

Q. Your place of business is located where? A. 15 Park Row, New York City.

Q. What is your profession? A. I am an examiner of disputed documents, including questions of handwriting, typewriting, inks, paper, and those things that enter into the physical makeup of documents.

Q. Do you devote all of your time to the work? A. All the time that I work, yes.

Q. I see. Have you made a special study of the study of handwriting? A. Yes.

Q. What work have you done and what studies

have you pursued in connection with the subject of handwriting? A. I have studied the subject of handwriting for upwards of thirty years in numerous ways, its history, its teaching, its learning and its identification. This has included the books that have been written on the subject in English, of which I know, some foreign translations of articles, the collection of reference materials on handwriting of various kinds, reproduction of handwriting and the preparation of cases for court.

Q. Have you testified in court on numerous phases of your work? A. Yes.

Q. Have you testified in New Jersey on handwriting identification? A. Yes.

Q. Can you recall for me briefly some of the cases in which you have been engaged? A. I have been engaged in the Gypsum-Queen case of Ottawa, Burt Gamble case of Saginaw, Michigan, the Jennings case in Chicago the MacDougal case in Toledo, Schafter case in New Orleans, the Wendel case in New York, the Ridley case in New York, recently the Vanderbilt case in New York, are some of them.

Q. Now, have you testified in homicide cases? A. Yes.

Q. What period of time and how wide a territory does your experience cover? A. I have been testifying for the past, almost twenty-two years it will be next month.

Q. In how many states, sir? A. I have had cases from 27 states of the United States, various parts of Canada and Alaska. I haven't testified in all of those states, but in the greater number of them.

Mr. Lanigan: I offer the witness as to experiential qualifications.

Mr. Reilly: Mr. Fisher will take charge of him.

Mr. Fisher: No objection.

The Court: I suppose it is conceded he is qualified as an expert. You may proceed.

Q. Mr. Stein, I show you the so-called ransom notes and ask you if you have made an examination of them? A. I have.

Q. When did you first make your examination? A. First in the summer, I think it was in July of 1932.

Q. What was the purpose of your examination? A. The purpose of the examination at that time was to discover, if possible, any evidence that might lead to the identification of whoever wrote them.

Q. What did you do? A. I examined these various ransom letters and made a report.

Q. Yes. On how many occasions have you seen the original ransom notes? A. Well, I have seen them on two occasions, in 1932, and then I have seen them on a couple of occasions in 1934.

Q. When was the last time you saw them? A. A couple of months ago.

Q. I show you exhibits which are the request writings of Bruno Richard Hauptmann and ask you if you have examined those? A. I have.

Q. I show you the conceded writings of Bruno Richard Hauptmann and ask you if you have made an examination of those? A. Yes.

Q. What was the purpose of your examination and comparison, Mr. Stein? A. The purpose of my examination was to determine, if possible, whether or not the writer who wrote the request

and conceded writings of Bruno Richard Hauptmann wrote the ransom letters.

Q. As the result of your comparison and examination, have you reached an opinion concerning them? A. Yes.

Q. What is that opinion? A. My opinion is that the writer who wrote the Bruno Richard Hauptmann writings, that is, the request and conceded writings, also wrote the ransom letters.

Q. Now, will you take these original documents and just explain to the Court and jury, and illustrate it, if you will, the reasons which have led you to that conclusion which you have just expressed. A. Very briefly, the reasons for my conclusion that the writer of the Hauptmann writing, the request and conceded writings, is the same writer who wrote the ransom letters, is based upon a consideration of the similarities in the handwriting, the Richard Hauptmann writing, as compared with the ransom letters, taking into consideration the differences that exist between these two sets of writings and by two sets I mean the ransom letters and the Hauptmann writing, as well as the similarities, and interpreting in my judgment in a correct way what the similarities and differences mean as affecting the identification of the writer. Specifically my opinion is based upon numerous similarities, always keeping in mind the differences, because there are some differences. These similarities are of several different characters. Some of them are similarities that concern spelling, and there are a couple of divisions of the spelling. Some words are spelled incorrectly, because the correct letters are not used; other words are spelled incorrectly, because the letters are arranged incorrectly—that is, the correct letters are used, but they are in improper sequence.

Q. Proceed. A. There are a number of misspelled words in the ransom letters and in the Hauptmann writing. They are not all the same. There are some misspelled words in the ransom letters that are spelled correctly in the Hauptmann writing. There are some words in the ransom letters that are spelled correctly and that are misspelled in the Hauptmann writing; and there are words both in the ransom letters and in the Hauptmann writing that are spelled both correctly and incorrectly—that is, the same word.

I have made some photographic illustrations of some of these similarities, and it will probably shorten my testimony a little to use them.

Q. All right. Have you the photographs here? A. I have.

Q. Produce them, please. A. (The witness produces photographs). These photographs which I hold in my hand are photographs in enlarged form of words taken from the ransom letters, from photographs of the ransom letters, and photographs of words from the Hauptmann writing, a schedule of which I have prepared, showing where each of these words came from.

Q. Taken from the originals? A. Yes.

Q. And do they truly depict the originals? A. They do.

Mr. Lanigan: These are offered in evidence, if your Honor please.

The Court: If there is no objection they will be admitted.

Q. How many sets are there? A. I think there are ten sets there of seven different divisions.

Mr. Lanigan: Shall we mark them all as one exhibit?

Mr. Reilly: Sir?—

Mr. Lanigan: Shall we mark them as one exhibit?

Mr. Fisher: Don't we need just one of each? Won't that be sufficient. Aren't you offering a number of the same thing?

Mr. Lanigan: Yes.

Mr. Fisher: It seems that one of each would be ample.

The Court: Well, I don't know whether it will result in confusion to give them one exhibit number or not. Counsel will have to determine that.

Mr. Lanigan: I suggest then in that event that we mark them by sets.

The Court: Mark them by sets?

Mr. Fisher: That is all right.

The Court: That seems to be agreed. That will be done.

Q. Will you divide them into the sets in which they come, sir.

(Set No. 1 of specimens of handwriting

submitted by Witness Stein received in evidence and marked State Exhibit S-114.)

(Set No. 2 marked S-115

Set No. 3 marked S-116

Set No. 4 marked S-117

Set No. 5 marked S-118

Set No. 6 marked S-119

Set No. 7 marked S-120.)

Mr. Lanigan: Now we have finished, your Honor.

The Court: The Court is about to take a recess, but I wish everybody to remain just where they are.

The jury may retire and come back at one-forty-five.

(The jury retired at 12:35 p. m.)

The Court: The prisoner is remanded in the custody of the Sheriff and he may now retire.

(The prisoner retired.)

The Court: The Court will now adjourn until 1:45, and the people may retire.

(At 12:36 p. m. a recess was taken until 1:45 p. m.)

After Recess. (1:48 p. m.)

(The jury was polled and all jurors answered present.)

Elbridge W. Stein resumed the witness stand:

Direct examination (continued) by Mr. Lanigan:

Q. Mr. Stein, will you now proceed to illustrate to the jury, giving your reasons, the conclusion which you have reached. A. This exhibit, which is No. S-114, contains words misspelled or letters arranged in incorrect order, in words, in both the ransom letters and the Hauptmann writing. On the left side of this illustration—

Q. Pardon me just a moment. Which sheet are you using: the large sheet or the short sheet? A. Well, I am beginning with the large one.

Q. Large sheet? A. Top. The arrangement of this illustration is that on the left side are the words taken from the ransom letters; on the right side from the Hauptmann writing.

Now the first illustration at the top is an illustration of the spelling of the word "not." This word standing alone, as it does on this illustration, would be read as the word "note." Therefore it has to be read in connection with the other words that preceded and followed it in order to understand that it is the word "not."

On the left side the first word "not", which is spelled n-o-t-e, came from S-20, that is came from Exhibit S-20, and was in this expression: "We cannot make any appointment" and it was spelled n-o-t-e. The next one on the left side from the ransom letters came also from S-20 and was in the expression "We have warned you not to

make." The third one came from Exhibit S-48 and was in the expression "You cannot know." And the last one, the fourth one from S-52, was in the expression "Tell Mrs. Lindbergh not to worry."

Now these words are not the only ones that were spelled "n-o-t-e" from the ransom letters. They merely illustrate the way in which the word "not" was generally spelled in the ransom letters.

From the Hauptmann writing on the right hand side, the first word "not" which is spelled n-o-t-e, the same as the spelling in the ransom letters, came from S-72, exhibit S-72, and in the expression "Did you not write?" The next one came from S-75 and was in the same expression "Did you not write?" The next one "They were not near" from S-75 and the fourth one from S-72 in the expression "You cannot tell when."

This spelling of "not" as n-o-t-e in my judgment has a connection, connecting the writer of the Hauptmann writing with the writer of the ransom letters.

The next division of this misspelling is the word "the," as it appears on this illustration No. 114. Actually that word was written "t-h-e" for the word "t-h-e-y." The first of these words illustrated and on the left side, underneath the heading Ransom Letters, the "the" came from S-70 and reads "they are innocent." That is, that is the expression in which the word "the" was used for "they."

The next one, on the left side, came from the expression from S-65, that is, the ransom letters, and was in the expression "they are innocent," but the "they" was spelled t-h-e. On the right side, under the Hauptmann writing, the first of these words used, that is, the word "the" used for "they" came from S-72 and was in the ex-

pression "did you not write." The next one came from S-75—no, no; that is incorrect. The first one came from S-75, in the expression "they will be good for something," and the "they" is spelled t-h-e as it appears here on the illustration under the Hauptmann writing.

The next one came from S-98 and in the expression "They are innocent," and I am referring now to the t-h-e on the right side, under the Hauptmann writing, and the last one "They will be good for something," from Exhibit S-73. Here are two examples of the word "they" spelled t-h-e, from the ransom letters and three examples from the Hauptmann writing where the word "t-h-e-y" was spelled "t-h-e."

The next illustration under the ransom letters is the word "were." That word was used where the expression or word was "w-h-e-r-e." The first of these came from S-18 and it was used in this expression, "Inform where to deliver." Now, that word "where" was spelled "w-e-r-e." That was the first of the ransom letters. The next word spelled "were" for w-h-e-r-e, in the ransom letters from S-20 and in the expression again, "Where to deliver." The third one came from S-48 and, in the expression, "Tell you where to find us." In each of those instances the word "where" was spelled w-e-r-e, as you see in the illustration.

In the Hauptmann writing on the right hand side the first of these words used in an expression that the proper word is "where" was in this expression from S-72: "Where the robbery." The remainder of that expression was "Where the robbery took place." That came from S-72.

The second one of these words, spelled w-e-r-e for w-h-e-r-e, came from S-73, in the expression "Where shall we send them?" And the last one

from S-75, in the same expression as the first one. "Where the robbery." Those came from request writings, where the same matter was dictated more than once.

In my opinion the use of this word, spelled we-r-e for w-h-e-r-e, is a connection between the writing in the Hauptmann writing and the writing in the ransom letters.

The next misspelled word is the word "money." The word "money" was spelled correctly in the ransom letters and it was spelled correctly also in the Hauptmann writing; but it was spelled in the manner in which it is illustrated here m-o-n-y on the occasions that will be found in this illustration. That requires no connection in order to determine what the word is.

And the next word, at the bottom of the page, is the word used for anything, spelled a-n-y-d-i-n-g. There are more illustrations of this spelling in the ransom letters than I have illustrated here but it shows this word "anything" was spelled a-n-y-d-i-n-g in both the ransom letters and in the Hauptmann writing.

Now, referring to the small section of this Exhibit 114, at the top, on the first line, is illustrated the use of the correct letters in a word in an incorrect order. The first word is "right," spelled in the ransom letters r-i-g-t-h. The second one, the word in its proper sequence or context would be the word "the," but it is spelled "h-t-e."

In the Hauptmann writing there are two illustrations of the word "the" written "h-t-e" as are found at the top of this small section or part of Exhibit 114. There is also the word "night" showing the difficulty that this writer had in using a combination of "g-h-t." It is true that in this word "night" the arrangement of the letters are not the same as they are in the word "right" from

the ransom letters. In the ransom letters it being r-i-g-t-h. In the word "night" from the Hauptmann writing it is arranged n-i-h-g-t. And in my judgment it shows the difficulty, the similar difficulty that the writer of the Hauptmann writing had as compared with the same character of difficulty that the writer had who wrote the ransom letters.

The next misspelled word is the word "by," that is, it is spelled "by." The word, however, that was intended to be written and that the matter that becomes before and after would indicate is the word be, b-e. Now the first of these words that I illustrated here in the photographic illustration, the word "by," came from this expression from S-75—no, that isn't correct—the first one came from S-20. That is on the left side and under the title of "ransom letters." That word came from this expression "Don't be afraid," and it was spelled "by" as it is shown here in this illustration, and the next one under the heading of the ransom letters came from the expression, "The amount will be $70,000." I haven't that exhibit number, but it is about the second or third in the series of ransom letters. This word "be" was spelled b-y by the writer of the Hauptmann writing and as is shown here on the right side in the expression from Exhibit S-72, "Will be good for something," in the Hauptmann writing spelled "by" as is illustrated here. The second spelling of the word "be," spelled "by" from the Hauptmann writing came from Exhibit S-74 and from the expression "when it will be," and the "be" is spelled "by."

In my judgment these misspellings, as one is added to the other, become much more significant and forceful in connecting the writer of the Hauptmann writing with the writing of the ran-

som letters. Standing alone, not so important as when considered altogether.

The word "be" b-e, was misspelled in another way in both the ransom letters and in the Hauptmann writing. It was spelled b-e-e, and that came from the expression in the ransom letters "The size will bee about." That was in the expression, talking about the box, and that came from Exhibit S-42. That is the word b-e-e, under the left, in the left column under the ransom letters.

Now, there were two illustrations, and I think those are all that there were in the Hauptmann writing of be spelled b-e-e. The first of these came from S-75, that is, the first one that is illustrated came from Exhibit S-75 and in the expression "Tell when it will bee." There, the "be," which should be properly spelled b-e was spelled b-e-e, and the second one illustrated came from S-72 from the same expression, "Tell when it will bee." In my opinion, this word "bee" spelled incorrectly in two different ways, is much more significant in connecting the writing in the Hauptmann writing and the ransom letters than if it were misspelled one way.

The next misspelled word that I have illustrated here was the word "was" spelled w-h-a-s; and there is just one illustration of it, the first of which came from S-56 in the expression "this case was prepared." There the word "was" was spelled w-h-a-s, as is shown in this illustration No. S-114. The word "was" was misspelled in the Hauptmann writing in this expression, "anything that was stolen" from S-74.

Then the word "can"; the word "can" was misspelled, spelling it c-a-n-e, an illustration of which came from S-48 in the ransom letters, spelled c-a-n-e in the expression "you can not know" and two illustrations of this word "can,"

spelled c-a-n-e, from the Hauptmann writing in Exhibits S-74 and S-77, both in the same expression, "you can not tell," spelled c-a-n-e.

Hour: that is, the word used for h-o-u-r was spelled "o-u-e-r." I have the exhibit numbers from which those came but they are spelled the same way in both the ransom letters and in the Hauptmann writing.

And the word "did"—that is, the word "did" as it would be interpreted as being that word from what precedes and follows in both the ransom letters and in the Hauptmann writing, spelled "t-i-t."

Now, in my judgment, these various misspelled words, like in the ransom letters and in the Hauptmann writing when considered altogether, have a strong connection between the writing in the Hauptmann writing and in the ransom letters. I would say that one of these misspelled words standing alone is not nearly so significant as when they are considered one enforcing and backing up the other, until, when they are all considered together, they do have very great significance.

Now as I have said, these are not all the misspelled words that are in the ransom letters and neither are they all the misspelled words that are in the Hauptmann writing. There are some misspelled words in the ransom letters that are not misspelled in the Hauptmann writing and it is the other way about; there are some words spelled correctly in the ransom letters that are misspelled in the Hauptmann writing and there is also words spelled correctly in the Hauptmann writing and that same word spelled incorrectly.

Q. Is that the second chart? A. Yes.

Mr. Fisher: How is this one headed,

Mr. Lanigan, that is, the first word on it? I haven't the heading on it.

Mr. Lanigan: This happens to be S-115.

(The chart referred to was distributed to the jury.)

Q. Proceed with your illustration on Exhibit S-115. A. S-115 is arranged in the same manner as the one that I have just explained; that is, the ransom letters, the words taken from the ransom letters are on the left side; the Hauptmann writing on the right side, that is, the words taken from the Hauptmann writing.

The first part of this illustration and down to that white line that runs across is illustrating the small "y" at the beginning of words. The small "y" at the beginning of words—and all of these illustrations are the word "you" or "your"—shows a peculiar design and not only is this design of small "y" peculiarly developed, but there are some variations even in that peculiarity which in my judgment is important and to which I will call attention.

Now this small "y" standing alone, without anything to tell what it was, could not properly be interpreted as "y" and in my opinion when a letter is so modified that it becomes illegible, it tends towards significance and peculiarity in a handwriting. These words were taken from various exhibits, and as we go along I will refer to the exhibits. The first word "you" under the ransom letters came from Exhibit S-43. Then there are two of these words immediately under it coming from S-22 and S-18 and then the next two under the ransom letters came from S-23 and S-52 and then the next one standing by itself came

from S-68 and the next one under the ransom letters, S-51 and then the next to the last of these words, two on the left side from S-48 and S-56 and the last two on the left side, S-56 and S-23.

Now on the right side, from the Hauptmann writing, the first one came from S-72, the next two from 75 and 79 and the next two from 78, both of them from 78; the next two from 79 and 78 and the next two from 79 and 98; the next from 74 and the last two from 77, both from S-77.

Now, there is some modifications in this letter to which I would like to direct attention. The first of these, "y," is at the top, made without any preliminary upward stroke, the letter beginning at the top with the curved stroke made like an abbreviated "j." That is without the upper portion of the "j". That kind of peculiar letter is found both in the ransom letters and in the Hauptmann writing.

Now, there is a modification of that in the very next column of words where the two words appear, the two words "you," and one of these come from S-18, that is, as I understand, has been referred to as the nursery ransom letter. There the small "y" is made with a slight upward stroke, similar to a "j," and over in the Hauptmann writing there is the same thing, that is, there is this modified peculiar small "y" made like a "j." Then there are different modifications of the connection of this "y" to the following letter. It was usually made by not raising the pen, that is, this peculiar "y" was made and gone right on to the small "o" without raising the pen, but sometimes the pen was raised, as is shown in the third one from the top, the y-o-u. There this peculiar "y" was made when the loop was completed, the pen was raised quite a little space between the finish of the "y" and the beginning of the "o".

Over here are illustrations of that same thing from the Hauptmann writing, this peculiar "y" with the pen raising, another modification of a peculiar letter, found alike in both the ransom letters and the Hauptmann writing.

This "y" was finished in two different ways; it was made with a loop at the bottom as an ordinary "y" would be made. It was also made without any loop; it was made with an angle at the bottom and then starting from the bottom of the letter, off to the right off toward the small "o". Now, here is an illustration of it in the last one of the word "you," found in this Exhibit S-115 under the ransom letters.

There is the word "you" made with a small "y", no loop at the bottom at all, just an angle going right over to the "o".

Across on the other side are two examples of the same identical modification of this peculiar "y" in the Hauptmann writing, no loop, an angle, just going across. Now in my judgment these modifications of this peculiar letter are much more significant as connecting these two writings than if there was only just this peculiar form alone; because all of these modifications are found in the ransom letters and found in the Hauptmann writing.

The next, under this Exhibit S-115, is the final "y". There are three positions in which letters are found in words, and sometimes the position that a letter occupies in a word has something to do with certain writers in its form. Now that position may be at the beginning of words, such as in this word "you" that I have just been describing; another position may be in the middle of words, and another position at the last of words. Now this "y" that I have been referring to next is the "y" at the end of words. The "y"

at the end of words was not made in this peculiar way that it was made at the beginning of words; and there are two peculiarities in the final or ending "y" of words to which I wish to call attention:

Here in this word "empty"—and that came from Exhibit S-48—the word "way" came from S-66. The word "rely" from S-20 and the word "by" just to the left of the word "way" from S-44, and the word "any" to the left of "rely" came from S-43; the word "specially" from S-52 and the word, the first word "baby" on the left side from S-56 and the other two in order from S-23 and S-61.

Now on the other side the word "maybe" up there just under the white line—the word "maybe" came from S-72 and the word "by" just to the right of it from S-72 also; the word "they" from S-74 and the word "money" from S-75; the word "day" from S-86 and "July" from S-86.

The next word, the word was "every" written a-f-e-r-y, came from S-72 and the next one from S-75; the next word intended for the word "robbery", written r-o-p-e-r-y came from S-75 and the word "by" from S-77 and the word "money" at the bottom from S-79.

Now, these final y's have two kinds of finishing strokes or portions to them. The word "empty", the word "by" and the word "way" under this column on the left side from the ransom letters, the letter "y" is finished with a straight downward stroke, no loop, no stroke of any kind except just the straight stroke. That is not an unusual finishing stroke for a "y," many people do that, and it is only significant here in connection with other kinds of finishes. I would say that that, standing alone, doesn't have very much connection; it is not very significant as indicating identi-

fication and it is only when it is combined with other things that it has value. But this same kind of finishing of "y" is found in the Hauptmann writing, as it is illustrated here on the right side of this word "maybe" and "by" and "they" and "money." But there is another finishing stroke or portion or loop used in both the ransom letters and in the Hauptmann writing. Now, this "y" in the word "any" and "rely" and "specially" and "baby," under the ransom letters, is in some ways—I think, can best be described by saying it is a kind of clumsy finish, a little stroke up toward the left without any particular destination, it doesn't make it a loop, neither does it go off in a skillful way. So that I think it is rather a clumsy kind of a finish.

Now, that same kind of a clumsy finish is found over here in the Hauptmann writing in the word "day" and "July" and "every" and "robbery" and "money," and so forth.

Now, in my judgment, the fact that the "y" is finished with the straight downward line, which in itself is not very important, but in connection with these other kinds of finishes, this clumsy one, the fact that the writer used both of them, in my judgment, has a connection, connecting the Hauptmann writing with the ransom letters.

There is another peculiarity about this final "y" to which I wish to call attention. Not in every instance but in some instances the upper portion, that is, the part that is the top before the loop is made, is made like a "v," like a notch, with an angle at the bottom.

Now in this word "empty," there is no turn at the bottom in the word "empty" from the ransom letters.

The word "way" is another illustration of a notch or angle at the bottom of the first part of

the "y"; and then there is quite a plain one in the word "by," b-y; another one in the word "any." Now in the word "they" on the—well, starting at the top of those, the word "maybe," the top part of that "y" is just like a "v", a printed "v" with a sharp point down at the bottom. The word "by" just to the right of the word "maybe" is the same kind of a top part to this "y", and then the word "they," t-h-e-y, under the Hauptmann writing there is another illustration.

Now the next word "money" isn't so—that is not really one of this kind of finishes, but down here in the word "July" there is another one of these angular "y's". Now these angular "y's" were found not only in these small letters but in the capital letters, and I will refer to those in an illustration showing those capital letters.

Now these peculiarities, some of which as I have said are somewhat general, become significant when considered altogether, and that is the way I considered these, the identification of the writing of these letters; not one of these letters, not the nursery letter alone, not any one of these notes, but I considered all of the letters, all of the ransom letters, as compared with all of the Hauptmann writing.

Q. Your next illustration is what number? A. No. 116.

Q. S-116? A. That is right.

(Photostatic copies of exhibit handed to the jurors.)

Q. Now referring to S-116, proceed with the illustration. A. I repeat again that all of these illustrations that will be shown are arranged in the same way, the words and characters from

the ransom letters are arranged on the left side and under the title that is designated at the top, and on the right side of the words and characters from the Hauptmann writing.

This exhibit S-116 illustrates first the word "to" and so other words ending in "o", "so". This shows several things, to which I will refer after I have designated where these come from. Now, in order, and from the top, under the heading "ransom letters", the foreword "to" came from S-65, then coming right down, S-20, S-48, S-20, S-20 again, then in the next line there are three of these words "to". The left one being S-23, the next S-52, and the next S-68; immediately under that S-56 and S-44. The two words "so" came from S-20 and S-56. On the right side, under the Hauptmann writing, these words "to" came from S-78 and S-86, those two at the top. Then, in order, S-98, S-79, S-74, S-98, then those two came together from S-72 and S-75, and the last two from S-74 and S-79. Then, "so" on the right side came from S-74 and S-77.

Now, there are a couple of things here in this word, illustrated by this word—and might be illustrated by any number of words from both the ransom letters and the Hauptmann writing. These illustrations that I prepared only show the principle that is involved by the writer of both of these writings and not the complete illustration of everything that was done.

In the first place, there are several different kind of t's used in this "t-o." Now, it will be observed at the top on the left side, under the ransom letters, that the first "t" was made with an upward stroke. That same kind of "t" is found in the Hauptmann writing. That is not an unusual "t" at all. The only thing that is un-

usual about that is the fact that it isn't crossed and you will observe that there is an absence of t-crossings in these words as taken from the ransom letters and also as taken from the Hauptmann writing—no "t" crossings where there should be a "t" crossing. Now, there are some of these t's that, made in the form in which they are made, do not require "t" crossing. I will refer to them. But all of these at the top, down to the last word "to" as they are made here properly require a "t" crossing.

Now, there is another kind of upward stroke. The first one illustrated begins down nearly at the bottom of the "t" going upward to the top and then the "t" being made from that point on. Now, there is another kind of an upward stroke, the third line across this illustration. There you will see that this upward stroke begins about half the height of the "t", found both in the ransom letters and in the Hauptmann writing, a modification of the letter. It is a simple modification but nevertheless it is here, and it shows that the writer used both of these kinds of beginning strokes for small "t."

Then there is still another kind of "t" made, down here where this line of the words "to" appear. There is a "t" made without any upward stroke at all, just beginning at the top. That is another modification of the beginning of a "t".

Then there is, in addition to that, in the last "t" illustrated, the German form of "t." Now, that is the kind of "t" made in the form in which it is here that does not require a crossing; that is that makes a "t" of itself without the crossing. All of these other t's should properly have been crossed, but they were not, in neither the ransom letters nor the Hauptmann writing.

Now this "o" in the word "to"—it has an un-

skillful and rather clumsily made last stroke, just a blunt stroke up to the right at the top of the letter, no curve in it; and the letter "o" is made so that it stands open, and it is open more than just a little bit. In fact, many of these "o's" border very closely on that same form that I have described as the top of the small "y." It conforms somewhat to a printed "v" with an angle at the bottom.

Now in my judgment these peculiarities, I think when they are all considered they are peculiarities, they are peculiarities from the fact that this writer used modifications of the letter "t". Now, of course, that first "t", standing alone, is not a peculiarity at all, but when considered with the other "t's," then the whole list of them do become personal.

Q. Mr. Stein, did you make any investigation in order to determine the number of "o's" that were open at the top? A. I did not. I did not count them numerically. I would say that from my examination most of the "o's" that are final letters in words are represented correctly by this illustration.

Q. That is right. A. When they are last letters in words, they are open and they are finished like these words "to" and "so" that I have illustrated here. I can't tell how many there were.

Now the next illustration is the "f," the small "f," and I will just give you where these words came from, and then consider what the significance of them is. The words "from" and "feed" came from S-44 and S-23, respectively. The next two, "for" and "from" from S-20 and S-44; and the next two—I don't seem to have the next two; that is, the words "from" and "find."

Oh, yes, I have those, they came from S-20 and S-24. Then the words "if" and "suffer" came

from S-65 and S-56. On the other side under the Hauptmann writing the two words "feet" came from S-98 and S-78. The words "follow" and "for" from S-78 and S-74 and the words "from" and "or" from S-86, both from S-86, and then the last two "avery" and "of" from S-77 and S-86.

Now here are three different positions of small "f", the beginning of words, the middle of words and the end of words. This "f" while not entirely, I would say, it is not unique at all, you can find this "f" in other writings, but it is similar in the ransom letters and in the Hauptmann writing. The finishing part from the bottom comes up on the left side in most instances, and when this letter is a final letter in a word as is found in the word "if" from the ransom letters and in the two words "of" from the Hauptmann writing, the downward stroke has been retraced almost for its entire length that the line continued by the upward stroke and the finishing stroke just off to the right without an angle.

Now, the intermediate small "f," that is an "f" in the middle of words, is a little different. Take the word "suffer" in the ransom letter and down at the bottom there you will see that the second "f," the second "f" shows it more clearly, the first "f" in my judgment is made in the same way, but the ink ran together from the first line and the second line until there is no light between the downward and upward strokes, but the second "f" in the word "suffer" shows the "f" there was not made on the upward stroke on the left side of the downward stroke, but it was made on the right side and with an angle at the bottom.

Now, that same kind of "f," that is, the same kind of finishing part of "f" is in this word "a-f-e-r-y" from the Hauptmann writing. Now,

in my judgment, this combination, the combination in the way in which the initial "F" is made, the intermediate "f" in the middle of words, and the "f" in the end of words, connects these writings, that is, the Hauptmann writing and the writing in the ransom letters.

Q. Now, will you refer to the next illustration. I think it is S-117. A. Now, referring to Exhibit S-117, on the left side again is a matter from the ransom letter and, on the left side, the letters from the Hauptmann writing.

The first division here refers to amounts, money amounts, with the dollar sign. The 5,000 at the top came from S-23, 70,000 from S-45, 15,000 from S-18.

Q. It is 50,000, isn't it, instead of 5,000 at the top? A. Yes, 50,000 at the top; that is right. Then we are down to the third one, 15,000 from S-18, "$10" from S-22 and "$10" from S-18, and on the right side, "$200" from S-86.

The placing of the dollar sign after the amount may not be so peculiar from one writing, who had learned to write German. The dollar mark itself is a kind of clumsy sprawling dollar sign which I think has some connection between these two writings, as well as its location, and as I said its location in some way may be a general characteristic. There may be other Germans who write a dollar amount with the dollar sign following the numbers, but it is one of those general characteristics which connect these two writings, and sufficient general characteristics in combination are significant.

So that all of these characteristics which are general in their character, when they are all gathered together and considered together in the effect that they may have upon identification have very much greater significance and weight than

one of them standing alone. However, whether this dollar, the location of the dollar sign is general or in this particular an individual characteristic, it is the same in both the ransom letters and in the Hauptmann writing.

The next illustration is the capital "D"; the capital "D" as is illustrated here, and reading from the ransom letter side, the word "dear" at the top of that section of the illustration came from S-56 and S-18. The next two came from S-22 and S-44, and the next three from S-20, S-56 and S-52. Then on the right side, the word "dear" from S-98, from S-88, S-77 and S-75.

There are a couple of things about this "D" which in my judgment connect these writings; that is the ransom letter writing and the Hauptmann writing. First is the manner in which this "D" at the top is made, without much of the letter on the right side of the downward stroke; that is, there is a very narrow portion of the capital "D" on the left side of first stroke—most of it hangs over on the left side, as is shown here in these words "dear," and as is shown on the right side in the words "dear" and "Dodge." Then there is another kind of "D" which from its position in these letters I interpreted as being a capital "D," and that is a "D" made by throwing the portion after the downward stroke is made, throwing it over to the left very low in the height of the entire letter, such as is found in this word "dear" on the right side, and in what seems to be the word "deal" on the left side. There it is just a little loop on the left side of the staff, and here again in my opinion that character, standing alone, if you didn't have the "ear" following that character you couldn't tell what the letter was, and in my judgment, when a letter is modified to the extent of making it

illegible, it becomes more significant as a personal characteristic.

Then the next division in this Exhibit 117 begins with the word "New York" on the left side, which came from S-53; then the word "mark" from S-23 and the next one from S-20 and then the three words "New York" from S-65, S-64 and S-23, and on the right side under the Hauptmann writing the word "New York" from S-75; then the word "back" from S-75, the next "back" from S-73, and then the words "New York" in order, S-86, S-72, S-88 and S-74.

There are several things about the word "New York" which in my judgment connected these two writings, the ransom letter writing and the Hauptmann writing, the first of which is writing the word "New York" with a hyphen. In my judgment, that at least is a peculiarity that is found in both the ransom letters and the Hauptmann writing. I haven't seen "New York" written with a hyphen by any writer—that is, by any writer of any nationality.

If that is a characteristic of foreign writing, it is a characteristic that I don't know anything about. I have never seen it used in the word "New York" and in my judgment it has a peculiar significance.

Now, there was a hyphen in this first word "New York" under the ransom letters. That is the word "New York" taken from the wrapper in which the sleeping suit was returned. It looks from the photograph as though that little extension below the finish of the "w" was a continuation of the "w," but it was not. When that hyphen or part of this word is looked at carefully under magnifications, it is quite clear that that little disconnected portion is actually a disconnected

stroke and in my judgment was intended for a hyphen.

Now the word "New York" was written both ways, in both the ransom letters and in the Hauptmann writing. It was written with the hyphen and it was written without the hyphen.

Now even if this hyphen is a foreign characteristic, which I don't know anything about, then the fact that the writer wrote it both with the hyphen and without the hyphen connects these two writings, and here it is. Here is "New York" written in four illustrations here in this Exhibit 117 from the Hauptmann writing where there is a hyphen. There are three illustrations from the ransom letters written with the hyphen.

And then here is one illustration from the ransom letters without a hyphen and one from the Hauptmann writing without a hyphen. Now, in my judgment the use of the hyphen and its omission becomes significant when it appears in both of these handwritings—and I refer, when I say both of these handwritings, to the writings in the ransom letters and in the Hauptmann writing.

Now, there is in this word "New York," this "v" shaped upper portion of capital "Y," found here in the Hauptmann writing, the third word, "New York" from the bottom of the right side and the last one. There is the upper portion of the "Y" in the word "New York" and those are script writings as contrasted from printed forms.

In my judgment those are intended for script forms. There the upper portion, the upper part of the capital "V" is a printed "V," with a sharp part of the bottom, it is just a notch. That is found over here in the words "New York" from the ransom letters, third illustration from the bottom, the second illustration from the bottom

and the last one—the last three on the left side of that same notch in the Capital "Y".

And it will also be observed that these capital Y's begin in the same way, that is, there is no initial oval upward stroke or anything at the top, except beginning at the top with a straight downward stroke similar to a printed "Y." When I say they are both made the same way, I am referring now to the last three Y's in the word "New York" under the ransom letter side as compared with the last one on the right side and the third from the bottom; and I am designating those because those in my judgment are script forms. The other letters would imply that those are script forms and not printed forms.

Now, there is another thing about this word "New York" and that is the way in which the capital "N" is made. The capital "N"—there is an illustration here, both in the ransom letters and in the Hauptmann writing, where the middle or connecting portion is made from the bottom of the first stroke up to the top, to the right of the second stroke. That is the third one from the bottom on both sides.

And then another is the beginning location of the first part of the capital "N." For instance, and specifically the first one under the ransom letter side. There the capital "N" starts very high, and the second from the bottom is another illustration of the tendency to make it high, but it is not as high as that first one.

Now there are some illustrations from the Hauptmann writing of that kind of a beginning of an "N"; the second from the bottom is one of these illustrations.

Now I wish to refer to the small "k," the final small "k." The final small "k" in almost all of the ransom letters is made with the finishing

stroke turned back toward the left. Now there are none of those kinds of finishing strokes in any of the Hauptmann writing that I have seen. There are no "k's" with the finishing stroke turned back toward the left. They are made out toward the right; and I would say that that is a difference between the Hauptmann writing and the ransom letters.

Q. Would that, Mr. Stein, indicate disguise? A. Well, I am just going to call attention to that.

Q. All right, proceed. A. Now, I call attention to two "k's" under the ransom letters; that is, the first one in the word "New York" and the next one the word "mark." Now in neither one of those "k's" is there a stroke or does the final stroke of the "k" turn back toward the left. So that the writer of the ransom letters had more than one "k" in his mind, even if he were trying to disguise or write in an unnatural way that letter "k," because there are two that are not made with this stroke coming back toward the left. Then the third "k", that is the third one in the word "mark," under the ransom letters; and I think that is an important one.

That "k" was originally made with a stroke extending up after the loop was made of the "k" there was a stroke extending up on the right side and you can see it there sticking up above the last part of the "k." Now in my judgment that "k" was intended to be made just like the "k" in the word "back" over in the Hauptmann writing, in the second line of this "k." There is a "k" with the second part of it sticking right up in the air.

Now you can see going back to this word "mark" that the writer after making that upward stroke raised the pen and came back and made this clumsy finish on that "k.' In my judgment

that is an attempt to write in an unnatural way. In my judgment all of these k's that are made with this curving back to the left is an intentional attempt, an attempt at least, to disguise this writing. And in my judgment the difference between this "k" in the Hauptmann writing and the ransom letters does not point toward another writer, but toward an attempt to disguise; and in my judgment the word "mark" and this word "back" show clearly what the writer had in mind and what he did unconsciously in writing this word "mark."

Q. Now, the next set. Now, proceed with an illustration of S-118. A. S-118—

Q. Yes. A. —contains two divisions: one concerns the small "s" and the other the small "p." The first portion of this illustration shows small "s" at the beginning of words in various forms, first sharp at the top, as in the word "certain" and in the word "sending" and disconnected from the following word, that is, the pen raising.

The next section shows the "s" made with the rounding top and the pen raising again between the "s" and the following letter; and then there follows "s" made with a rounding top without much curve at the bottom of the "s," but rather a straight downward line, and then extending or going right on to the next letter without raising the pen.

And then there is another kind of an "s" made with a little loop at the bottom. The two words "send" look like the word "sin," but that is not the word, but that is what it looks like under the ransom letters, and has a loop down at the bottom; and then this word "sending" and "send" at the bottom on the other side is the same kind of a connection from the "s" to the following letter.

All of these different modifications of the initial "S" are in the ransom letters and in the Hauptmann writing. Then the next section of the Exhibit 118 shows small "s" in the middle of words. Here again is a small "s" that standing by itself like in the word "press," you couldn't tell that it was a small "s," it is made in such a way that the two "s's" in the word "press" would look like an "n" and the "s" in the Hauptmann writing, the "rs" standing alone, you couldn't tell it was an "s." In my judgment this peculiar form of small "s," modifications of this letter at the beginning of words and in the middle and at the end connect these writings.

Then the small "p" in the lower part of this illustration shows small "p" not extended above the height of the small letters "o", "e" or "n", that is, it doesn't stick up in the air as it properly should as made from a copy-book style or manner. There is also different modifications of the small "p" with regard to its connection to other letters, in the word "person" and "police," it is found that the pen was raised after the "p" was made, and then the "e" and "o" started after the pen was raised. On the right side in the Hauptmann writing is the word "promise," "place" and "person," all of which the pen was raised after the "p."

This "p" was sometimes made with a little introductory stroke at the top as is found in the two words "person" under the ransom letters, and as is found in the word "police" and "promise" under the Hauptmann writing,—modifications of this letter alike in the ransom letters and in the Hauptmann writing; and then the small "p" in the middle of words,—in the word "papers" under the ransom letter column. If those p's stood alone you couldn't tell that

they were p's, two p's at all, at least I couldn't. And that is true in this word "robber" and the word "keep" spelled k-e-p-p, and the final "p" finished with just a straight downward stroke at the last part in both the ransom letters and in the Hauptmann writing.

These different modifications of this letter, when at the beginning of words, in the middle of words and at the end of words, and alike both in the ransom letters and in the Hauptmann writing, in my judgment again, when considered with all of the other things that are alike in these two writings, connect the writer of the Hauptmann writing with the writer of the ransom letters.

Q. Are you tired, Mr. Stein? A. A little bit.

Mr. Lanigan: Might I ask your Honor's indulgence for a recess for the witness for a moment?

The Court: You are thinking about a recess for five minutes?

Mr. Lanigan: Yes.

The Court: It may be taken.

(At 2:55 p. m. a short recess was taken.)

(After a short recess the witness resumed the stand.)

(The jury was polled and all jurors answered present.)

By Mr. Lanigan:

Q. Now, Mr. Stein, will you kindly resume with Exhibit 119, please.

Mr. Fisher: What is he talking on now?

Mr. Lanigan: 119.

Q. Proceed, please. A. On Exhibit 119, at the top is illustrated small "t" in two positions, at the beginning of words and at the end of words, and their various modifications in both of these places. The first of these modifications or manners in which small "t" is made at the beginning of words is with an upward stroke, to which I have referred. That is illustrated here in the word "the" at the top and the words "the" and "them" from the Hauptmann writing. And then in the next line is illustrated a beginning small "t" without any initial upward stroke with an angle at the bottom, but without a retrace of the downward stroke by the upward stroke, but going right off to the "h."

And there are three illustrations of that kind of beginning "t," from the ransom letters and two of them from the Hauptmann writing, the two on the extreme right. Then, there is another kind of beginning "t" made by retracing the downward stroke of the "t" about a third or one-half of the way upward and then across, which is the third line, both in the ransom, in the writing from the ransom letters and in the Hauptmann writing, that word "the."

Then, there is still another kind of a "t" as is illustrated in the word "time," and in the word "to." These two "t's" that is the "t" in the word "time" from the ransom letters and the word "to" in the Hauptmann is peculiar, because of the direction of that little loop at the

bottom. It goes around so that the left side of the loop is coming downward, that is, the pen was coming downward on the left side of the loop, and that isn't the way a German "t" is made, because the next illustration in the word "take" and the word, two words "to," under the Hauptmann writing are more particularly German and there is an angular loop or a little loop at the bottom goes upward on the side, all of these modifications are both in the ransom writing and in the Hauptmann writing.

The final "t" is made, and it will be observed also that there are no crossings on any of these t's, either in the ransom letters or the Hauptmann writing, whether the "t"—at least, any of the places where the 't" required a crossing—these final t's are made with a slight upward stroke at the end as in the word "but" and "about" from the ransom letters, and in the words "out" and "at" right across from the Hauptmann writing; no crossing but a slight upward stroke at the end. Then the "t" was also made with just a straight downward stroke and stopping at the bottom, without any upward stroke or any other stroke at all. And there are two illustrations from the ransom letters, the words "but" and "what" and then directly across, the words "not" and "that". There is another kind of final "t" or the finishing of the "t". And then the last illustration here is more particularly based upon a German "t"; but there are three different kinds of final t's used, both in the ransom letters and in the Hauptmann writing.

In the next illustration, and the entire remainder, bottom portion, of Exhibit 119, is the small "x". Every small "x" that is made in the ransom letters is made in a peculiar way. The

word "next" shows quite clearly that the writer had in mind the making of two loops or loops in each part of the small "x" and giving it the appearance of two small e's. That is also true in the word just below it, which is "expenses". All the x's that are in the ransom letters are illustrated here, and they are all made in this peculiar way. Some of them look like small u's and others like two small e's. In the word "Bronx" two words "Bronx", from the Hauptmann writing this small "x" is made like two small e's.

In addition to that the downward stroke of the first small "e" turns back slightly toward the left as though the writer intended to make a loop at the bottom as well as at the top; that is, the downward stroke of the first small "e" in this "x" comes back a little bit toward the left, and that is found over here in the ransom letters in the x's in the ransom letters, particularly that word "expenses" and then in the word just below, the word "expended."

I have illustrated here two other x's made in the Hauptmann writing: in the word "Bronx," the third word "Bronx" is a regular crossed "x." The writer knew how to do that and there is also an "x" that is made after the German form in the word "Bronx" at the bottom.

These peculiar x's diverge from any form of "x" that I know anything about. It seems like a modification or a development from a Latin script "x" which has already been illustrated to you, and which has a loop at the bottom of the first part, a loop at the top of the second part and then those two parts coming together.

But loops at the top of both parts of the "x" is the part that makes this "x" differ from any "x" that I know anything at all about. In my judgment that is—well, in my experience this "x"

is a unique form. I have never seen that "x" in any writing before.

These modifications of the "t," this peculiar "x" is a further reason for my opinion that the writer of the Hauptmann writing wrote the ransom notes or letters.

Q. Your next exhibit is what, sir? A. The next is 120.

Q. S-120. (Exhibit S-120 was distributed to the jurors.) Please proceed with the illustration of S-120. A. Exhibit S-120 illustrates the small "w" and its various modifications as found in the ransom letters and in the Hauptmann writing. There are numerous of these forms. In the first portion at the top of this illustration is illustrated the small "w" beginning at the top, no preliminary stroke at all: In these two words "will" and then across in the Hauptmann writing the words "when," "was" and "will" again. Then there is another kind of small "w" used, a small "w" beginning with a regularly made beginning stroke like in the word "we" under the ransom letter column and across on the other side the word "when" spelled w-e-n and "were."

Then, there is still another kind of small "w" and that is a "w," the form of which comes from the old round hand and looks like "nv." It is found in the ransom letter side in the word "will" just as though the first part of the letter was an "n" and the second part a "v," and that is found over in the Hauptmann writing as illustrated in the words "where" and "will." These various modifications are found both in the ransom letters and in the Hauptmann writing.

And then at the bottom, at the bottom is found the most peculiar of all these w's. The "w" is made in many instances with an additional part, making it appear as though there had been three

portions or parts made to the "w," the first part being almost like the first part of the "w" in the first word illustrated here, the word "will" but there are numerous examples of this peculiar beginning part of small "w" where the "w" appears to have three parts to it, a number of them have been illustrated here at the bottom. Now, these various modifications of all these letters to which I have called attention in my judgment are more significant as connecting the writing in the Hauptmann writing and the writing in the ransom letters than if they were just one peculiar form.

In addition to that, these modifications of all of these various letters and modifications of peculiarly made letters, in my judgment, remove still further away the possibility of an imitated writing, that is, of the ransom letters being an imitated writing. When all of these things are considered in their accumulated effect, and in my judgment given their proper interpretation, I am forced to conclude quite positively, that the writer of the Hauptmann writing was the writer of the ransom letters.

Q. I show you Exhibit S-18, the so-called crib note, and Exhibit S-19, the letter dated March 4th, and ask you if you have made a comparison and examination of the paper in those letters. A. Yes.

Q. What was the purpose? A. Well, the purpose was to see whether S-18 and S-20 belong to the same original sheet.

Q. You investigated it? A. Yes.

Q. Did you reach a conclusion concerning it? A. Yes.

Q. What is it? A. I think there is quite some evidence showing that these two pieces of paper as they stand now were originally one sheet of

paper and folded with the diagonal—with the horizontal fold, at the time that they were together.

Mr. Lanigan: You may cross examine.

Cross examination by Mr. Fisher:

Q. Mr. Stein, will you let me have your full name, please. A. My full name is Elbridge Walter Stein.

Q. E. W. Stein? A. Yes.

Q. Will you relate for me, please, some of the noted cases you have been engaged in. I think you gave a list to Mr. Lanigan at the start of the examination. A. Yes. I testified in the Hall-Mills case here in Somerville. I testified in the Odierno case in The Bronx; in the Walsh case in Binghamton, New York; the Scholes case in Pittsburgh; the Fine case in Mays Landing. Now, those cases that I have given you are all homicide cases.

Q. Yes; and partly New Jersey cases? A. Yes; two of them in New Jersey.

Q. What about other cases that you mentioned? A. Well, I testified in the Jennings case in Chicago, the Burt Gamble case in Saginaw, the Schafter case in New Orleans—I don't know whether I mentioned that or not, that is one of them.

Q. Well, Mr. Stein, aren't you overlooking a very important New Jersey case of recent date that you testified in? I refer now to the Mowell case in Hackensack in Bergen County. A. I testified in that case.

Q. You testified in that case? A. Yes.

Q. You neglected to mention that in reciting the cases that you testified in? A. There are a lot more I neglected to mention.

Q. You didn't mention that case, did you? A. No.

Q. You were associated in that case with Mr. Alfred D. Osborn, am I correct in that? A. You don't have the name correct.

Q. Albert D. Osborn, that is the junior Osborn? A. Yes.

Q. Do you know whether the junior and senior Osborns are engaged as partners in this business of examining questioned documents? A. I do know that they are not. Their work is entirely independent of each other.

Q. Do they share the same office? A. Yes.

Q. They share the same office, but they are not partners? A. No.

Q. Father and son, aren't they? A. Yes.

Q. Now what was your preliminary education leading up to your being an expert in examining questioned documents? A. You want me to go back to my beginning education, I presume?

Q. Yes, that is right. A. I went to the public schools in the country, was educated to teach school, and I did teach in the schools of Pennsylvania for four years. Then I began to study the subject of handwriting with a view of teaching it.

Q. Pardon me there, Mr. Stein. In what way did you begin the study of handwriting? A. Why, I went to the Zenerian College in Columbus, Ohio and there spent pretty nearly two years, first in the study of handwriting, its practice, and later I assisted in teaching in that college.

Q. Is the school still there? A. Yes. It is not under the name that it was at that time. At that time it was called the Zenerian Art College. It is now just called the Zeneria as I have information.

Q. And that is a school teaching among other

things the art of determining handwriting or—A. No, now that isn't correct.

Q. You tell me what it is. A. That is a school that teaches, and in which I studied—

Q. Yes. A. —the history of handwriting, its learning and its teaching.

Q. Yes. And from there where did you go? A. From there I went to Pittsburgh into a commercial school where I taught handwriting.

Q. That is what we would call in our present schools penmanship? A. Yes.

Q. Where the pupils have a copy book and you teach them how to write the words down in the book under the copy—that sort of penmanship? A. Well, it wasn't done in that way but it was the teaching of handwriting, that is teaching students to write.

Q. Was it the Palmer method of writing? A. No, I never taught the Palmer method.

Q. Never taught the Palmer method. And from there, Mr. Stein, where did you go to further your education? A. Well, I was in Pittsburgh quite a long while, and it was during my work in Pittsburgh that I became interested in document work.

Q. Now, permit me to ask you this question: is there any examination that you had to undergo submitted by the authority of this or any other State, in order to become qualified to act as an expert in determining the authenticity of questioned documents, such, for instance, as an attorney or physician has to pass? A. No, no.

Q. One simply studies until he acquires what he thinks is sufficient background, and then he starts out into the world an expert: is that it? A. Well, that is partly correct.

Q. So that there really is no qualification that you have to submit. to satisfy a State of your

ability to be an expert? A. No, that isn't quite correct.

Q. Well, now, you tell me what test you have to pass, for instance, to practice in New Jersey your art, or your trade, or your profession, or whatever you term it. A. Why, you have to comply with the law.

Q. Yes. A. And that, as I understand it, in almost every jurisdiction, is to the satisfaction of the trial court that you are qualified.

Q. I see. A. Now, I don't know, that varies in different places.

Q. Well, if that were strictly true, Mr. Stein, any person would have a hard time testifying the first time, wouldn't they? A. Well, I don't think so.

Q. I mean, how would you qualify yourself the first time you offered yourself as an expert witness? A. Through your previous study of handwriting and the study of disputed document questions.

Q. You would simply say to the Court "I have read Mr. Osborn's book," we will say, and the book of a man whom he said was an authority from London; "I have looked at documents, ancient and otherwise, and I feel I am now qualified to pass on these documents as an expert." A. I don't believe that would qualify you.

Q. Well— A. I think you would have to say that you had studied the subject and that you had made a study for the purpose of identifying handwriting.

Q. Now, —

The Court: Mr. Fisher, I don't like to interrupt—

Mr. Fisher: Yes, your Honor.

The Court: But I understood that counsel conceded that this gentleman had qualified as an expert.

Mr. Fisher: I am trying, your Honor, to point out to this jury the manner in which a man becomes an expert, for their guidance.

The Court: Well, is it important except as it relates to this witness?

Mr. Fisher: I think it is highly important; I think it is of the utmost importance, sir, to show this jury how a person becomes qualified to come in and say that this writing is or is not the writing of any individual, sir.

The Court: Well, he has just told you that he qualifies by satisfying the Court.

Mr. Fisher: That is right.

The Court: In which he is testifying.

Mr. Fisher: Now I am trying to further that, to see whether he has to undergo, for instance, the examination that I did or your Honor did for admission to the Bar.

The Court: Well, I think the fact is that he has already testified he has not, Mr. Fisher.

Mr. Fisher: All right.

The Court: And my only purpose in in-

terrupting you was to save time, if we could.

Q. Let me ask you this further question then, sir: Assuming that I should become dissatisfied with the practice of law, I should buy all recognized authorities on the examination of questioned documents, I should prepare myself in such way as I thought would make me a qualified examiner of questioned documents, there would be nothing then to prevent me from hanging up my sign or listing myself in the telephone directory as an examiner of questioned documents, would there, sir? A. Not at all.

Q. That is right. A. You could do that without that study.

Q. That is exactly right.

Q. So that anyone in the world then can hold himself out as an expert and they don't have to satisfy the constituted authority of any State that they are experts? A. Not at all. You might have to satisfy the trial court before you could testify, but you could put out your shingle for any profession at all.

Q. That is not true, is it, Mr. Stein? Can you do that for law, for instance?

The Court: Now, why go into that?

Mr. Fisher: I think the statement should be clarified. He says you can do it in any profession at all.

The Court: I think he was referring to so-called handwriting experts.

By Mr. Fisher:

Q. You didn't mean that to apply to any profession other than your own? A. Of course not, not a doctor or a lawyer, not at all.

Q. That is what I thought, sir. Now, about the procuring of the medium of comparison—May I have those? Mr. Stein, I now show you a group of papers, Exhibits 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 97 and 98, and ask you whether you saw any of those written. A. Not a single scratch of the pen on any of them.

Q. They first came into your possession from someone connected with the New Jersey State Police or some other police organization: is that correct? A. Yes.

Q. So that at no time did you see the defendant Hauptmann write anything on these notes? A. No, I never saw Hauptmann write anything.

Q. Under what conditions can a best specimen of test writing be taken from a suspect? A. Before he is suspected at all.

Q. That is correct, is it not? A. Yes.

Q. What have you to say as to a specimen taken after a man has been in custody for a minimum of 15 hours and a maximum of 30 hours under examination by police authority or authorities, where the testimony is that all the sleep he had was such sleep as he could get in an upright chair? A. Well, that depends. In certain circumstances, I think that would be a very excellent time, and that might show some things that this writing wouldn't show that was written before the controversy arose.

Q. Will you reconcile that please, with your statement of a moment ago that the best time to take it was before a man was suspected? A. My reconciliation of that is that the latter condition might show that he was trying to disguise his writing or that he failed to disguise it.

Q. Well, now which time would you say was the best to take a specimen, Mr. Stein, before a man is suspected—that is to get a true test now, a true specimen—or under such conditions as I related in my question? A. Well, I am inclined to think both times.

Q. Both times would be excellent? A. I think the first time before the controversy arises you get the natural handwriting and afterward you may get—and depending on circumstances of course, you may—that writing that is taken by request may show some things that the other writing written before won't show.

Q. Well, now— A. And I am thinking particularly now of an attempt to disguise.

Q. Now, let me ask you this, in connection with a person writing by request, what is his mental attitude most likely to be?

Mr. Lanigan: That is objected to,—

A. That—

Mr. Lanigan: I can't follow that question, sir.

Mr. Fisher: Oh, I think that is quite a proper question, your Honor.

The Court: What is his mental attitude likely to be, when?

Mr. Fisher: At the time of the request writing.

Mr. Lanigan: How can this witness know that?

The Court: How can he know that?

Mr. Fisher: From his years of experience, the normal reaction of a witness held in custody for fifteen hours.

Mr. Lanigan: That is objected to.

The Court: I think I will have to sustain the objection.

Mr. Fisher: Very good, sir, I pray, of course, an exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Fisher:

Q. In the taking of test writings, what should be done as to the party from whom the test is being taken? A. The matter should be dictated. It ought to be dictated more than once. The matter ought to be written with sufficient speed so that there isn't too much of an opportunity to write unnaturally. I'd say those are the main things.

Q. Yes. What have you to say as to an effort to keep the man doing the writing calm and keep the conditions as natural as possible while he is writing? A. Well, I don't know how you'd do that unless you give him a sedative of some kind.

Q. Well, is a person who writes by request

while in custody likely to write self-consciously and somewhat unnaturally or is he likely to write a perfectly natural hand? A. That depends whether or not he is guilty or not. A person that isn't guilty of a crime or knows that the writing that he is writing would not be a link in connecting him or convicting him of a crime, I think he'd write, and I have known people to write, with the exception of slight nervousness, almost naturally.

Q. Do you consider Mr. Albert Osborn, who was on the stand today, an authority on handwriting? A. Undoubtedly.

Q. May I quote you from his book and ask you whether this is your experience in line with the question you just answered: "One who writes by request is inclined to write self-consciously and somewhat unnaturally even when there is no attempt made to do so." A. That is exactly what I said, that he writes nervously.

Mr. Fisher: Will you read the last question. May I have the witness's answer, the one where he said it is the one I said? May I have that read?

The Court: Yes, you may have it read.

Mr. Fisher: The question before he said just to the contrary.

The Reporter (reading): "Well, is a person who writes by request while in custody likely to write self-consciously and somewhat unnaturally, or is he likely to write a perfectly natural hand? A. That depends whether or not he is guilty or not. A person that isn't guilty of a crime or knows that the writing that he is writing

would not be a link in connecting him or convicting him of a crime, I think he would write and I have known people to write, with the exception of slight nervousness, almost naturally."

Mr. Fisher: Yes.

Q. Now you say that is the same thing as Professor Osborn's book says, do you, sir? A. Yes.

Q. Yes. All right. Now, let me ask you as to the subject matter of a specimen writing. What had the subject matter ought to be? A. Well, I can't answer that question. You can have him write anything. I would say that a subject matter that would take the man's mind on a traveled route, or something of that kind, would be desirable.

Q. Yes. But what have you to say as to something that makes good, coherent reading after it is written? Is that the fair way to do it? A. Yes, I would say so.

Q. And is that a more preferable way than to giving words cut up? A. I think so.

Q. That mean nothing? A. Yes.

Q. I ask you to read exhibit marked S-77 aloud. (Handing to witness.) A. "We were not near" and I don't know what that next word is; it looks like "s-n-u-d."

Q. Well, did you examine it, sir? A. And the next word is "hull," "where the robbery took place between six and twelve by our time. During all the time I was out"—then the second word —"out the house but later came home, did you not write letters to New York sending back anything that was stolen from Mr. Conway. Police keep those letters and papers."

Then there is some crossed out there.

Q. There is what? Just a minute—there is what? A. Some crossed out. There are two words crossed out.

Q. Will you let me see the two that are crossed out there? A. (Indicates to counsel.)

Q. Oh, yes. All right. A. Of course, I am reading this with the proper words. The next word, "s-h-h-e"—it is intended for "the" or "they."

Q. All right. You read it any way you please. A. All right. It is intended for "they." "They will be good for something later maybe." "One of the letters said Dear Sir. Thank you for the bills and for your money. We will send back the bills later perhaps. We shall" — spelled "c-h-a-l-l," and it is "were" for "where"— "where shall we send them? The address we lost. Be at home every night so you will hear from us. You cannot tell when it will be."

Q. Now, would you consider that line of reading that would get his mind on travel? A. No, not necessarily. It does not necessarily have to be travel.

Q. Well, would you consider that a coherent, readable letter that makes sense? A. Well, in different sections; certainly.

Q. Is that the best way, sir, to take a test? A. I think that it is quite good.

Q. You think that is the right way to do it, do you? A. Yes.

Q. Let me ask you again, Mr. Osborn is considered an authority? A. He is.

Q. Mr. Osborn has to say as follows "When a suspected writer copies or writes from dictation a connected discourse which arouses some interest in the matter itself, he is more likely to write naturally than if he writes a series of disconnect-

ed names and words." Is that correct? A. I agree entirely with that statement.

Q. And you say that the thing you just read is a connected discourse which arouses some interest in the matter itself? A. And not separate words as stated in the book. There isn't anything like that.

Q. Will you answer my question? A. Yes, I would say that is entirely correct.

Q. Will you say what you just read is a connected discourse which arouses some interest in the matter itself? A. Yes, in different sections of it.

Q. That is enough, sir. A. Different sections.

Mr. Wilentz: Let him answer.

Mr. Fisher: May I have an answer, yes or no?

The Court: I think you have already had it.

Mr. Fisher: The answer was Yes?

The Witness: Yes in different sections.

Mr. Fisher: I ask that it be stricken, "in different sections."

The Court: No, I will not strike it because that is precisely the answer that the witness made.

Mr. Fisher: It was not responsive, of course.

By Mr. Fisher:

Q. Would you consider the writing you just read a series of disconnected names or words? A. No.

Q. You would not so consider it? A. Not at all.

Q. Was it a series of disconnected sentences that you just read? A. A series of thoughts.

Q. Disconnected? A. In different divisions of that request writing.

Q. Disconnected one from the other? A. Oh, but not disconnected sentences, it is different divisions of thoughts.

Q. Well now, maybe we better read the letter again—question, the first part of this letter says, "We were not near"—what one were we reading from, 76? A. I will tell you.

Q. Isn't that the one? A. Yes, that is it.

Mr. Wilentz: What did counsel say?

Mr. Fisher: Pardon me, I am simply asking him to pick it out from the words.

The Court: It is not necessary that this witness read the letter again, he has already read it.

Mr. Fisher: I am asking him to read it himself, your Honor, and tell me how many breaks there are in continuity.

The Court: All right.

Q. Will you read that through and tell me how many separate breaks there are in the continuity of the letter? A. Four.

Q. Four separate lines of thought? A. Yes.

Q. And that is— A. Not entirely unrelated, but there are four divisions.

Q. Yes. A. I would say in that writing.

Q. And that is what you consider a good coherent writing from start to finish? A. Oh, I think that is perfectly satisfactory as a standard, as far as language is concerned.

Q. And you don't think it disagrees with Dr.— with Mr. Osborn? A. Not in the least.

Q. Now what about the subject matter of a test writing being the same as the disputed writing itself? A. Well, that is used sometimes, sometimes not.

Q. Is it the proper form or isn't it? A. Well, I think sometimes it is desirable to have the same subject matter or at least very closely related matter written, in addition to other matter.

Q. Isn't it true that it is improper to ask a suspected writer to write the disputed writing? A. Well, it would be highly improper to give it to him and let him copy it, yes. He'd be very likely to write it different if he was guilty.

Q. Do you think that it is proper to use the same words in exactly the same order, that is, directly the same thing that is in the disputed writing? A. Well, occasionally I think it is desirable, in conjunction with other dictation.

Q. Now, what have you to say as to obtaining standards of comparison all at the same time or spaced and if spaced how far apart? A. Well, that depends on opportunity. I can't say. I think if I could cite an ideal instance I'd say have them spaced apart a little distance.

Q. Well, how far? A. Well, that depends on the opportunity that you have for spacing them apart.

Q. Well, suppose you have a man in such custody as the defendant Hauptmann was in, a cus-

tody that lasted for, according to testimony, more than thirty hours, without him having the benefit of counsel. Now then, when would you have taken your specimens? A. Well, that I can't tell you.

Q. No. Now, about the first impression you gained from looking at the disputed documents, does that influence stay with you throughout? A. No.

Q. It doesn't? A. No.

Q. Permit me to quote you from Mr. Osborn. A. Just as you please.

Q. "Although it is impossible in any investigation not to be somewhat influenced by first impressions the proper control of these impressions is a measure of the thoroughness with which any investigation is conducted." Does the influence stay with you or doesn't it? A. He doesn't say that in what you read.

Q. "Although it is impossible in any investigation not to be somewhat influenced by first impressions—" A. Now, go ahead.

Q. "—the proper control, and so forth." A. Well, read the balance.

Q. "—the proper control of these impressions is a measure of the thoroughness with which any investigation is conducted." A. I agree with that wholeheartedly and that is what I tried to do.

Q. So that you say then that it is impossible to get away from the influence of the first impression entirely? A. No, I don't say that, not exclusively.

Q. Oh, not exclusively—of course not. A. No.

Q. "Entirely" is the word I used, sir. A. Well, I think many times I get away entirely from first impressions; I find first impressions are wrong.

Q. I see. And to that extent you disagree with Mr. Osborn? A. No, I don't disagree with him

at all, because he says exactly the right thing there. (Laughter.)

The Court: Mr. Fisher, is it worth while to debate this matter?

Mr. Fisher: I think we apparently don't agree in English, the witness and I.

The Court: Well now—

Mr. Fisher: All right. If your Honor thinks we shouldn't go any further.

The Court: Well, now, put the question. What I deprecate is a debate between—

Mr. Fisher: All right, I will withdraw that.

The Court: —between counsel and the witness.

By Mr. Fisher:

Q. Now Mr. Stein, you didn't see any of the request writings written, did you? A. No.

Q. And from hearing you testify in reference to the exhibit marked 114, which is the double one, I take it that you base your opinion that the handwriting here is that of Mr. Hauptmann largely on misspelling—as a matter of fact, almost your entire testimony from this exhibit has to do with spelling, is that correct, sir? A. Well, I would say this exhibit was prepared to show similarity of misspelling.

Q. As to that exhibit your testimony was given almost entirely as to misspelling, is that correct? A. It was.

Q. You took your spelling from the Hauptmann writing from the specimen submitted to you by the police, did you not? A. Yes.

Q. And you know nothing whatever about how that writing was obtained, do you? A. Not a thing.

Q. Nor what instructions were given the prisoner when he wrote? A. No.

Q. Nothing about that at all? A. No.

Q. All you took was what was handed to you as the handwriting of Hauptmann? A. Yes.

Q. And, if he had, for instance, if Mr. Hauptmann had been advised by the police to write n-o-t-e, there would be no way in which you could tell that, would there? A. Not at all.

Q. And if he were advised to spell "money" m-o-n-y you wouldn't know it, would you? A. No.

Q. You would simply take what you had before you? A. Certainly.

Q. In making your deductions? A. I was given just a little bit of information and that was that these request writings were dictated.

Mr. Fisher: I don't care, of course, about his opinion.

The Court: Yes, we do not care for that, sir.

The Witness: Excuse me, sir.

Q. Now, I call your attention to Exhibit S-77 and ask you to look at the third word there and tell me what it is. A. It is "not" spelled correctly.

Q. Spelled correctly? A. Yes.

Q. That is right? A. Just as I said.

Q. Spelled n-o-t? A. Yes.

Q. Now, I call your attention to exhibit marked

S-72 and ask you what the third word there is. A. And that is "not," spelled correctly.

Q. That is from a specimen handwriting of Hauptmann, isn't it? A. Yes.

Q. That is the test writings, or whatever you call them? A. Well, I think they have been referring to these as request writings.

Q. As request writings, that is right. Now, I show you exhibit marked S-74 and ask you what the third word is there. A. That one is "not" spelled correctly again.

Q. And that is from the request writings? A. It is.

Q. I hand you exhibit marked S-76 and ask you what the third word there is. A. That word is "not" spelled correctly.

Q. I see. Now, that is four of them spelled correctly, isn't it? A. Exactly; just as I said.

Q. Now I show you—

Mr. Fisher: I ask that the "just as I said"—the witness can boast some other day—I should like answers to my questions here, sir.

The Court: Yes; it better be so.

The Witness: All right, Judge.

By Mr. Fisher:

Q. Now, I show you a document marked S-73 and ask you the third word there in the spelling. A. Well, that word is intended for "not" and spelled n-o-t-e.

Q. And it is exactly the same subject matter in which appeared the four "nots" I spoke to you about just a moment ago? A. Yes.

Q. Isn't that true? A. That is correct.

Q. Now, I show you exhibit marked S-75 and ask you what the third word there is. A. That word is intended, from the context, to be "not" and spelled n-o-t-e.

Q. And that is the same subject matter? A. Yes.

Q. As the other? A. Yes.

Q. So that we have—pardon me just a second. I think that is all.

Q. So that we have that specimen writing or that request writing six times; I have showed it to you six times? A. Well, I can't tell how many times.

Q. You can rely on me to that extent. A. If you showed it to me six times, six of them, why that is correct.

Q. Yes. Four where "not" was correctly spelled and two where it was incorrectly spelled, is that so? A. Yes; just in one instance.

Q. That is right. A. In each of those, however.

Q. All right. But the word "not" appearing the third word in that request writing on six separate and distinct papers, four times was spelled n-o-t and two times n-o-t-e? A. Yes.

Q. Is that correct? A. Just in that one location.

Q. That is right. Now we will go to some other location. You found the word "be" misspelled, didn't you? A. (No answer.)

Q. You found the word "be" misspelled? A. Yes.

Q. And how was that spelled? A. Two ways—b-y and B-e-e.

Q. And you found the three letter word was misspelled, didn't you? A. Yes.

Q. And you found the three letter word "the" misspelled? A. No.

Q. Well, is h-t-e the proper way to spell "the"?

A. Oh, yes, that is right; that was incorrectly spelled.

Q. That was misspelled, wasn't it? A. Yes.

Q. And you found the four letter word "were" misspelled, didn't you? A. Well, that was the five letter word "where," spelled w-e-r-e.

Q. And you found the five letter word "money" misspelled? A. Yes.

Q. Is that right? A. Yes.

Q. And you found the word "our" misspelled? A. Yes.

Q. Now, was that "our" used where it was misspelled in the sense of time or meaning us or a group? A. I think this actual example is o-u-r instead of h-o-u-r. I believe that I referred to that as h-o-u-r and I think now that it was not that but o-u-r.

Q. On your direct examination I believe you used it as h-o-u-r. A. I think so and I think that is incorrect. I think this is o-u-r.

Q. It meant our, referring to a group of people. A. Yes.

Q. Did you find in the ransom notes the word "consequence"? A. I think so.

Q. And the word "appointment?" A. I think so.

Q. And the word "accordingly?" A. Yes, I think so.

Q. And the word "arrangements?" A. I think so.

Q. And the word "hazardous"? A. Well, I remember that word somewhere, I am not just sure where that is.

Q. Pardon me, these are not marked (referring to certain photographic reproductions which counsel had handed the witness), and I can't pick them out. You will have to look through and find them. A. I am quite sure the word "hazardous" appears somewhere in the ransom letters.

Q. And the word "information?" A. I just don't recall that word.

Q. What about the word "circumstance"? A. I can't recall that word. It is probably here but I don't recall that.

Q. What about "responsible?" A. I think that word is in the ransom letters.

Q. How about "underneath," underneath the stone one of the ransom notes that was found on the florist's porch. A. I don't remember that as "underneath".

Q. Let me see if I can find that one. That one is a short letter.

Mr. Fisher: Will you pardon us a moment, your Honor, these are not marked.

The Court: Yes.

The Witness: Yes, underneath. The word is "undernead"—n-e-a-d.

Q. Do you find the word "instruction" in that same letter? A. Yes.

Q. Is that correctly spelled? A. No.

Q. Where is it off? A. Well, this "i-n", if that is intended for "i-n" it has too many parts in it.

Q. Mr. Stein, is that "instruction" correctly spelled or isn't it? A. No.

Mr. Fisher: Let me see that. May I hand this to the jury to show them where he says,—

Mr. Hauck: Let's get the original.

Mr. Fisher: He says that "instruction"

is improperly spelled. I don't know what number it is.

Mr. Wilentz: Your Honor please, there is evidently a controversy between counsel and the witness as to whether or not "instruction" is properly spelled and—

Mr. Fisher: It is in evidence and submitted to the jury.

Mr. Wilentz: It is a matter of argument to the jury. Our observation is that it is "i-m," right to begin with instead of "i-n."

Mr. Fisher: It is in evidence and the jury can see it.

The Court: I suppose it is ultimately for the jury to see.

Mr. Wilentz: We call their attention to the fact that our claim is that it is "i-m" right to begin with.

The Court: You are calling attention to it now and you can argue it to the jury when your time comes.

Mr. Fisher: Our contention is that it is "In."

By Mr. Fisher.

Q. Now I point out the word "information" and ask you if that is correctly spelled. I wish I had numbers on these things. Can you follow

them there. A. I think so. I think that first letter is intended for a capital "I."

Q. All right. A. And if it is, then it is correctly spelled.

Q. All right. Now does the word "between" appear in these notes, from your recollection? A. Yes.

Q. And was that correctly spelled? A. I will have to look at it.

Q. I am afraid I will have a hard time to find it. Does the word "absolute" appear in the notes? A. Yes.

Q. And is it correctly spelled? A. It is.

Q. As a matter of fact, there are a great number of words in the notes containing from six to nine letters that are correctly spelled, is that correct? A. Well, there are a great many words spelled correctly. Now as to the number of letters, I can't just tell you that.

Q. Well, how about the word "circumstance"? Was that correctly spelled in the ransom notes? A. Well, I can't answer that offhand. My recollection is that it is correctly spelled. I might be wrong about that.

Q. And what about the word "responsible"? A. Well—(examining counsel hands paper to the witness) That I would say is correctly spelled.

Q. So that there did appear throughout these notes any number of words of a substantial number of letters that were correctly spelled? A. No doubt about it at all.

Q. And at the same time, such words as "be" were incorrectly spelled? A. Yes.

Q. And n-o-t, the word "not" was incorrectly spelled? A. It was.

Q. Did that have any significance to you, sir? A. Yes.

Q. Did it lead you to the conclusion that per-

haps the writer of the ransom notes was purposely misspelling small words? A. I don't think so.

Q. Well, didn't it seem strange to you that a man of sufficient education to spell the words we have related here wouldn't know how to spell "not" and "be," the little b-e? A. No.

Q. Nothing unusual about that? A. No.

Q. I see. Now I ask you to take— You have it in your hand—114 and tell me whether or not the angle of the writing headed "Hauptmann Writing" isn't absolutely different than the angle in the ransom letters? A. You mean the slant?

Q. The slant, that is right. A. Some of it is different.

Q. Considerably different, isn't it? I call your attention to the notes, the four first words at the top. A. Well, the first one is just about the same as the one from the ransom letter, very slightly different.

Q. What about the second one? A. The second one, there is some difference.

Q. What about the third one? A. Some difference in that.

Q. And the fourth one? A. And some difference there.

Q. Considerable difference, isn't there? A. Well, I would say there is some.

Q. What about the next "the"? A. Well, a little more slant in the Hauptmann writing.

Q. Yes? A. Than the one from the ransom letters.

Q. What about the next "the"? A. There is a difference there in the slant.

Q. Now, I call your attention to the word "were" next down in line and especially to the "r", do you say that those "r's" have any similarity at all, these two, sir? A. Why, yes, I think so.

Q. You think that the—is there another one of these for the jury so that they can follow it intelligently?

Mr. Hauck: There is a whole bunch of them here.

Mr. Fisher: Let me have a couple of them, will you please.

(Mr. Fisher gives the jury copies.)

Q. Now, referring to 1, 2, 3, 4, 5, 6, 7, the seventh word down, the word, the letters "w-e-r-e," you say that there is a similarity in those "r's"? A. Oh, some relation, it is not close.

Q. Well, it is a very distant relation, isn't it? A. Well, I wouldn't say it is so distant, but the one on the left side is much more clumsy.

Q. Yes. A. Than the one on the right side.

Q. As a matter of fact, that is almost a straight line up in the air, isn't it? A. No, it strikes back toward the left, just the same as the top on the other one, that is a similarity.

Q. But, the other one is a decided "r," isn't it, standing alone, you would know that was a letter "r", wouldn't you? A. I think so.

Q. And, standing alone, would you think that is an "r"? A. I doubt it.

Q. Well, to that extent there is a difference, you would know one but you wouldn't know the other, is that what you mean by slight difference, is that it? A. Well, I would say there is a difference in the legibility of the two r's.

Q. Now, I ask you, indicating 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, the tenth word down, what is that word? A. The word is "money."

Q. And do you say that the final "y" on that word ends as the word "money" immediately opposite? A. Not at all.

Q. Is there any similarity at all in that "y"? A. That is, as compared with the other?

Q. Yes. A. Not very much, except the alphabetic similarity.

Q. You mean the spelling? A. Why, yes.

Q. You mean the spelling? A. Yes.

Q. Yes. And you don't know how that was put on there, whether it was following dictation or whether it wasn't, do you? A. You mean that one word?

Q. I mean the one word. You don't know whether the man was told to write m-o-n-y or whether he was told to write m-o-n-e-y or what he was told to write, do you? A. In the Hauptmann writing?

Q. Yes, in the Hauptmann writing? A. I have some information about it.

Q. Were you there? A. No.

Q. Then you don't know from your own information anything about it, do you? A. No more than you do.

Q. That's right. I know nothing about it. A. Well, that—

Q. I know not the first thing and you don't either, do you? A. Yes, I do.

Q. You have been told something? A. Yes.

Q. So have I, and our information apparently differs. A. All right.

Mr. Wilentz: I move that that be stricken out, if your Honor please.

Mr. Fisher: Well, I think the whole thing should be stricken out.

Mr. Wilentz: Just a minute.

The Court: Yes, that is entirely argumentative and, for the most, I think, irrelevant. I have already indicated that.

Mr. Fisher: I will consent that it all be stricken out.

Mr. Wilentz: Just a minute now. Just wait until the Court finishes.

Mr. Fisher: Yes.

The Court: I have already indicated that to you heretofore. Now, is there anything further that need be said, for the purpose the record, in relation to this incident?

Mr. Wilentz: The comment of counsel, I just forget what it was, I move it be stricken out.

Mr. Fisher: And the comment of the witness, as uncalled for.

Mr. Wilentz: I am making the motion, please.

The Court: Well, I have already in effect stricken out what the witness has said in response to these irrelevant questions, and now I will strike out what counsel has said, on motion of the Attorney General, and instruct the jury to disregard the answer.

By Mr. Fisher:

Q. Now I refer you to the ransom writing, the next to the last word before the turn in the paper, the word "anyding," and I ask you whether there is any similarity in the final "y" in the "anyding" in the ransom side and the "anything," "anyding" on the Hauptmann side. A. You mean "g", don't you?

Q. Well, is it a "g" or a "y" there? A. "G."

Q. "G"? All right, in the final "g" then. A. Not very much.

Q. Practically none, is there? A. I would say not very much.

Q. And I ask you the same question as to the last two words appearing at the bottom of your exhibit. Is there any similarity there in the final letter? A. Well, not very much there.

Q. No. And I ask you in reference to the middle "y" in the last one, whether there is anything very similar in those two y's. A. Yes.

Q. They are similar? A. I say there is something that is very similar.

Q. Well, one of them, the true writing, ends straight down, doesn't it? A. No. Is that one of the similar things? I didn't understand you.

Q. I am asking you whether or not the "y" doesn't go straight down? A. Yes.

Q. And in the ransom note it has a decided curl, hasn't it? A. Yes.

Q. Then there is that much of it that is dissimilar? A. That is right.

Q. What is there about it that is similar? A. That sharp "V" angle of the first part of the "Y"—just alike in both of them, both of them sharp, like a printed "V".

Q. Do you see what I am referring to, Mr. Stein, this "Y" here? A. That is exactly the one I am referring to.

Q. You say that that "Y" is sharp like a

"V", is that correct? A. Undoubtedly.

Q. I see. Now referring to the word "was" about midway down the second part of this exhibit: I ask you whether the two "w's" are similar? A. No.

Q. Is the "h" similar? A. Well, somewhat.

Q. Well, not very similar, is it now, Mr. Stein? A. Well, I wouldn't say not highly significant.

Q. No. What about the finishing "s" there, is that similar? A. Not as much as some of the others.

Q. No. So that there is a word in which you can't find much similarity, is there? A. Oh, just that one word.

Q. But you have it on your exhibit. A. Certainly.

Q. Now, how many words are there, total number of words, on all the ransom notes? A. I can't tell you.

Q. How many words are there, total, on the request writings? A. I can't tell you that.

Q. How many separate words have you photographed? A. I don't know that.

Q. Well, have you photographed ten percent of them, ten percent of the words? A. I'd be doubtful. Maybe I did, but I wouldn't know.

Q. Well, your best information on that, now, your best belief—have you photographed as much as ten percent? A. Well, I couldn't tell, I couldn't give you any idea.

Q. Suppose we stop long enough then to find out. I will show you the ransom notes.

The Court: Well, Mr. Counsel, don't the papers speak for themselves? Aren't they before the jury?

Mr. Fisher: Yes, that is true, your Honor.

The Court: Then what is the use in taking up the time of everybody, having this witness count things that the jury can count for itself?

Mr. Fisher: I had no idea in the world of doing that until he said he can't even estimate the proportion. Now, if he could estimate it I would be willing to accept it. I think on cross examination I have a right to show upon what basis he made his test.

The Court: Well, I don't know. You know there must be some limit to cross examination.

Mr. Fisher: Yes, of course. Perhaps I can handle it this way.

By Mr. Fisher:

Q. Can't you estimate, Mr. Stein, what per cent of the words you photographed out of the ransom notes and out of the test writings? A. I cannot.

Q. Well, would ten per cent be a fair estimate? A. That I don't know.

Q. Did you write 90 per cent—

Mr. Wilentz: If your Honor please, the witness says he cannot estimate—

Mr. Fisher: It is terribly important.

Mr. Wilentz: That seems to be an intelligent answer.

The Court: Yes, he says so and as far as this witness is concerned that will have to stand.

By Mr. Fisher:

Q. You didn't photograph every word, did you? A. On these exhibits that I have prepared?

Q. Yes, on these. A. No.

Q. You photographed just those that you thought showed a similarity, is that correct? A. Not all of them.

Q. And you didn't photograph anything that you didn't think showed a similarity, did you? A. Yes.

Q. You did? A. Yes.

Q. All right. Now, where are those? A. That small "k" to which I referred is one of them.

Q. But you have some other words, some other letters in that word that you set up as having a similarity, don't you? A. Somewhat.

Q. Yes. Now, what I want, Mr. Stein, is for you to tell me whether you photographed any of the words that didn't strike you as being similar? A. No.

Q. In any respect? A. No.

Q. In other words you were looking for similarities and paying no attention to those that weren't similar, is that correct? A. No.

Q. Now in your specimen writing, you had Mr. Hauptmann write some figures, didn't you? A. I didn't have Mr. Hauptmann write anything.

Q. You had some delivered to you, some figures, as the writings of Mr. Hauptmann, did you not? A. Yes.

Q. I ask you, did you photograph those? A. I didn't include them in these exhibits, no.

Q. I show you an exhibit marked S-81 and ask you whether that has a number of figures across the top? A. Yes.

Q. You did not photograph any of those and set them opposite the ransom note figures, did you? A. No.

Q. Can you tell me why? A. I had to draw the line somewhere in my comparisons and there are many things that I didn't include in the comparisons, both similarities and differences. I can't tell you why a lot of these things were left out, except that I had to draw the line somewhere to the comparisons.

Q. Did the fact that there is absolutely no similarity between the ransom figures and that test have anything to do with your leaving it out?

Mr. Lanigan: That is objected to; that calls for an assumption. It is an assumption of counsel.

The Court: Will the stenographer repeat the question?

(The pending question was repeated as follows: "Did the fact that there is absolutely no similarity between the ransom figures and that test have anything to do with your leaving it out?")

The Court: I think if it is important at all to this matter, the witness ought to be asked whether in his judgment there is any similarity.

Mr. Fisher: I will withdraw the pending

question and ask the witness whether he notes any similarity in those figures.

The Witness: I think there is not a great deal of similarity between the figures that are shown me and the ones that I have used here in this comparison.

By Mr. Fisher:

Q. The ones shown you now are from State's Exhibit S-81, are they not? A. Yes.

Q. The admitted writings of Hauptmann? A. Yes.

Q. And the figures over here are admittedly from the ransom notes, are they not? A. That is right.

Q. Now, I ask you did the fact that there was no similarity between these figures and the ransom figures have anything to do with your leaving them out of your tests? A. Well, I think it probably did.

Q. Well, you wanted to put in just things that looked like the ransom notes writing, didn't you? A. I put in those things that I thought was important.

Q. To the State's case? A. Not necessarily.

Q. Oh, then, why weren't these included; those figures are important and are not in this test? A. I didn't consider them such.

Q. Why did you put this "200" in there? That is admitted figures in the writing of Hauptmann. A. To show the use of that dollar mark.

Q. That is right. That seemed important to you that you have included that? A. I thought that had some connection with these writings.

Q. Didn't you think all these figures had some

significance to them? A. I didn't see the significance in them.

Q. Because they didn't look like the ransom figures, is that it? A. Well, that may be true, that they did not.

Q. Well, now, in the figures that you took, that you say had the dollar signs, you will note that is surrounded by parentheses marks, isn't it? A. Yes.

Q. So you did see the significance of that in the ransom notes? A. No.

Q. To that extent it was significant, wasn't it? A. Well, it was in a different position.

Q. It was a figure with dollar signs in both places, wasn't it? A. Yes.

Q. Now, did I understand you to say that you had never seen the word "New York" with a hyphen or with this little mark in the middle? A. I said that I had never seen it written by a foreign writer in that way.

Q. Isn't it true that a German very frequently puts a dash between towns or proper names that are double? A. Well, if it is true, I have never seen it.

Q. What about Berlin—Haupelgart have you ever seen that combination of towns written? A. No.

Q. Or Berlin—Grenowau with a dash between the two; have you ever seen that written? A. Well, would that be a similar situation to New York? I am doubtful whether it would be. I haven't seen it.

Q. That is the answer to the question. Thank you, sir. You haven't seen it? A. No.

Q. New York is written here on occasions, in the admitted Hauptmann writing, without the dash, isn't it? A. Right.

Q. And it is written in the ransom note on occasions without the dash, isn't it? A. Yes.

Q. And you don't know whether Hauptmann was told to put that dash there or not in the request writings, do you? A. I do not.

Q. No. As a matter of fact, Mr. Stein, don't you know that virtually every province in Germany that has two names—the dashes betwee 10 them? A. Well, that may be true.

Q. Like Alsace Lorraine, for instance? A. Yes, where there are two proper names.

Q. That is right. A. I think that might be true. I know of none where there would be an adjective connected with the name.

Q. Then do you think— A. Such as New York.

Q. Do you think it would be impossible for a man who learned to write in Germany, where they divide Alsace Lorraine, and where they divide all 20 the provinces, to put in the name of a province that is divided in two? Do you think that it would be terribly unusual to put a dash in there? A. It may not be. I haven't seen it.

Q. Now in the test writing you find the word "every" spelled a-f-e-ry, don't you? A. Yes.

Q. And in the ransom notes you find every spelled correctly any number of times, don't you—everything, or everyding—the every part of it spelled correctly? A. I think so. 30

Q. Yes. A. I don't have a definite recollection, but I think so.

Q. Well, if there is any doubt in your mind I could show it to you, sir. A. Well, I don't think so, I don't think that it is misspelled in the ransom letters.

Q. No, the word "every" is properly spelled in the ransom notes any number of times? A. Well, that is my recollection.

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Q. Yes. A. At least it is not misspelled the way it is in the Hauptmann writing.

Q. So that the request writing didn't follow the misspelling there, did it? A. No.

Q. Now let me get the sample with the word or letter "j." Now referring to Exhibit S-115, and the letter "j" that you have. A. Yes.

Q. We will look at this one. A. The word "you," you mean.

Q. The word "you," yes, the "y." Now referring to the fourth one down, is there a similarity in the characters in the two writings, the ransom notes and the Hauptmann note? A. Yes.

Q. Doesn't this one have a decided loop? A. Yes. That is, the one from the ransom letters has the loop.

Q. Yes. Does this have any (indicating)? A. The one to which you have pointed doesn't. The one right below it does.

Q But this one does, doesn't it? A. No, it is like the long ones down at the bottom.

Q. Now this here, I refer you to this one (indicating). Is that similar in any way to the one you have directly opposite it? A. Yes.

Q. In angle? A. You mean slant?

Q. Yes, slant, pardon me; slant. A. No. I would say the Hauptmann writing slants more than the one from the ransom notes.

Q. Yes; considerably more, does it not, Mr. Stein, as a matter of fact? A. Yes, yes.

Q. And isn't that a general characteristic of the admitted Hauptmann writing, that it slants, or, as I say, angles considerably more than the ransom notes? A. Part of it.

Q. Yes. A. Part of the Hauptmann writing.

Q. Now you testified in the Mowell case, didn't you, Mr. Stein? A. Yes.

Q. And on your side of the case was Mr. Albert D. Osborn, is that right? A. Yes.

Q. The younger Osborn? A. Yes.

Q. And opposed was a man named Spencer, is that correct, Bushrod Spencer? A. I can't recall that he testified. He probably did.

Q. In that case you were testifying for the State as you are here, were you not? A. Yes, sir.

Q. Did the finding of the jury support your testimony? A. No.

Q. That case was tried before Judge Zabriskie, was it not? A. No.

Q. Not before Judge Zabriskie? A. No. Judge Zabriskie was the trial attorney for the defense.

Q. He appeared for the defendant? A. Yes.

Q. And he was successful—

Mr. Wilentz: Just a minute, if your Honor please.

Mr. Fisher: I withdraw the question.

Q. Judge Seufert was on the Bench?

Mr. Wilentz: What is the difference who was the Judge, if your Honor please?

The Court: I don't think it makes a bit of difference.

Q. Just one question. The letter "o," isn't it characteristic of a German to leave the top of his "o" open? Isn't that a German characteristic? A. I haven't seen it in English writing, written by a German.

Q. You mean you have not examined any writing by a German that had an "o" left open at the top? A. As I understand that question, it is Eng-

lish writing done by a writer who first learned to write German?

Q. That is right. A. In all the specimens of that character that I have, I have not that characteristic.

Q. I now call your attention to the final "f"—this is on Exhibit 116—on the final "f" and I ask you if it is similar to these two final f's in the admitted writing. A. Yes.

Q. Does not the Hauptmann writing end with a decided curl out to the right? A. Yes.

Q. And does this one? A. Just a slight one.

Q. Very slight, is it not? A. Yes.

Q. So slight it is scarcely noticeable on the photograph? A. I wouldn't say that.

Q. Is it like the other two? A. Not in the length of the finishing stroke.

Q. Now, the "x" that you speak of, is that an unfamiliar "x" that type of "x"? A. And you are referring to the word "Bronx"?

Q. "Bronx" on the Hauptmann writing, on Exhibit S-119. A. It is decidedly a peculiar one.

Q. Have you met it in your examinations of disputed documents? A. I have never seen it.

Q. You say you have never seen that "x"? A. No.

Q. Well, there is an "x" you are familiar with in the Hauptmann writing, isn't it, there? A. Yes.

Q. Referring to the one next to the bottom? A. Yes.

Q. And that is in the admitted Hauptmann writings? A. Yes.

Q. And that is made as any of us would make an "x" isn't it? A. It is the common ordinary Garden type of "x."

Mr. Fisher: Yes. That is all, sir.

Mr. Lanigan: Mr. Stein, please—

Mr. Fisher: Just one moment, I should like to ask now, Mr. Wilentz, if he has found the Fisch letters we have looked for.

Mr. Wilentz: I haven't even looked for them, if your Honor please.

Mr. Fisher: All right, then, that is all.

Mr. Lanigan: A short re-direct.

Re-Direct Examination

By Mr. Lanigan:

Q. I show you State Exhibit S-72 and ask you if the writing contained in that letter shows different slants? A. Yes.

Q. Do you find that same slant in the request writing? A. Well, this is the request writing.

Q. S-72? A. Yes.

Q. Yes, do you find that same writing in the ransom notes? A. Yes, the first five lines of Exhibit S-72 correspond with the slant in the ransom notes. And from there on in 72 the slant is greater.

Q. Do you find the word "not" in that request writing? A. Yes.

Q. In what ways is the word "not" spelled there? A. It is spelled both ways; it is spelled n-o-t in the first line; in the fourth line it is spelled n-o-t-e.

Mr. Lanigan: May I show this, your Honor, to the jury as illustrative of the witness's testimony?

The Court: Yes.

(Request writing exhibited to the jury, who examined same at length.)

The Court: Is there anything further from this witness?

Mr. Lanigan: I am waiting for the jury to finish with the exhibit, if your Honor please.

The Court: Oh, yes.

By Mr. Lanigan:

Q. I show you what has been introduced in evidence as the promissory note and the three automobile licenses which are the genuine writings of Hauptmann, all written prior to March 1st, 1934, and ask you to indicate if you can find therein any hyphens in the word "New York." A. There is one "New York" in Exhibit 86 written with a hyphen.

Q. That is the promissory note? A. That is the promissory note.

Q. Do you find any others? A. In Exhibit S-96 there are two "New Yorks" written with a hyphen. I think those are all.

Q. I show you an additional automobile license and ask you if it appears there. A. Well, there is an "N. Y."

Q. What is the exhibit number, please? A. This is Exhibit S-89. There is an "N. Y." with what appears to be a hyphen, but that might have been intended for a period—but it is distinctly a hyphen.

Q. I see. A. Between the "N" and "Y."

Q. I show you this exhibit and ask you if it is indicated therein? A. Exhibit S-87 has the word "New York" written with a hyphen.

Q. Written with a hyphen. In your examination of the automobile licenses, the genuine writing of Bruno Richard Hauptmann, and of the ransom notes, do you find in the ransom notes and in the genuine writings the same peculiar "x" in "Bronx"? A. Yes.

Mr. Lanigan: That is all.

Mr. Fisher: That is all, sir.

The Court: Counsel seem to be indicating to me that we ought to take an adjournment. I suppose we ought to do so and yet it may well be that before we are finished with this case, we will have to go to longer hours. I don't know how that will be and I hope it will not be so.

In pursuance of present purposes, we will take an adjournment now very shortly. Meanwhile everybody in the court room will remain where they are. The jury may retire and come in tomorrow morning at ten o'clock.

(The jury retired at 4:26 o'clock.)

The Court: The prisoner will now be remanded to the custody of the Sheriff. He may retire. The Court will now take a recess until 10:00 o'clock tomorrow morning.

(At 4:29 p. m. a recess was taken until the following morning at 10:00 a. m.)

STATE vs. HAUPTMANN

FLEMINGTON, N. J., JANUARY 15, 1935

TENTH DAY

Present:
Hon. Thomas W. Trenchard.

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(The jury was polled and all jurors answered present.)

The Court: Counsel may proceed.

Mr. Lanigan: John F. Tyrrell.

JOHN F. TYRRELL, sworn as a witness in behalf of the State:

Direct Examination by Mr. Lanigan:

Q. Where do you reside, Mr. Tyrrell? A. Milwaukee, Wisconsin.

Q. Where is your place of business, sir? A. 438 Empire Building, in that City.

Q. Your occupation? A. Examiner of questioned documents.

Q. Have you testified on the subject of questioned documents in court? A. I have.

Q. What part of your time do you devote to the work of examining questioned documents? A. My entire working hours.

Q. Describe briefly what work you have done and what studies you have pursued in connection with the subject. A. I have examined documents, signatures, writings and the like for more than forty years. I have a library of the best books which I have read. I have an equipment of the approved cameras, instruments, and various matters necessary to conduct the examination of documents.

Q. Can you recall for me some of the cases in which you have testified, please? A. Yes.

Q. Name them. A. I testified in the Molineaux case in New York City 35 years ago, the Rice-Patrick case, Dr. Kennedy case—those are homicide cases. I testified in the McCormick case, Magniesen case, and other—Wilson case—homicide cases and in the Leopold and Loeb case in Chicago.

Q. Chicago? A. Yes, sir.

Mr. Lanigan: I offer the witness as to experience and qualifications.

The Court: Do counsel for the defendant desire to examine him as to his qualifications?

Mr. Pope: Not at this time, your Honor.

The Court: He seems to be qualified. Counsel may proceed.

By Mr. Lanigan:

Q. Now, Mr. Tyrrell, in connection with this case against Bruno Richard Hauptmann, I show you the ransom notes and ask you if you made an examination of those? A. Yes.

Q. When did you last see them? A. I last saw them at the headquarters of the New Jersey State Police in Trenton.

Q. Will you take a look at them and see if those are the notes that you have examined? (Handing exhibits to the witness.) A. Yes.

Q. I show you the request and conceded writings, Exhibits S-72 to S-96, and ask you if you have made an examination of those? A. Yes.

Q. So that you have examined the original ransom notes and the conceded writings. In addition thereto, have you made an examination of any other documents of Bruno Richard Hauptmann which are in evidence in this case? A. Yes.

Q. What are the other documents you have examined, Mr. Tyrrell, please? A. The documents having to do with the automobile licenses and the agreement of date July 20th, 1933, between Richard Hauptmann and Reinhold Haberland.

Mr. Lanigan: Reinhold Haberland, referring to Exhibit S-86.

Q. Now, you have examined the ransom notes, Mr. Tyrrell? A. I Have.

Q. The request writings? A. Yes.

Q. And the conceded writings? A. Yes.

Q. What was the purpose of your examination, sir? A. To determine whether or not there was an identity existing between the normal or automobile writings, the request writings and the ransom notes.

Q. As the result of your examination and comparison, have you reached an opinion concerning them? A. Yes.

Q. Are you prepared to express it? A. Yes.

Q. What is that opinion? A. That the writers are identical, that they were all written by the one writer.

Q. So that the person who wrote the conceded writings of Bruno Richard Hauptmann and the genuine writings, in your opinion, wrote the ransom notes? A. Yes, sir.

Q. Now, have you prepared any illustrations? A. Yes.

Q. Will you produce them, please? A. I have here a number of comparisons made by placing together in columns words and characters taken from the three writings referred to.

Q. And they correctly depict the ransom notes and the request writings? A. Yes, they are photographic reproductions of the writings referred to.

(Mr. Lanigan handed photographic reproductions referred to to counsel for the defense.)

Mr. Lanigan: They are offered in evidence and I ask that they be marked.

The Court: If there is no objection they will be marked.

(The first set of photographic reproductions consisting of ten similar copies was received in evidence and marked Exhibit S-121.)

The Court: I want to call the attention of the officers to the fact that we don't seem to have very much ventilation in the room. I don't know that we can improve it much, but

my suggestion is that those windows in the rear of the room be lowered from the top a few inches and those two windows over there also be lowered.

(The balance of the photographic reproductions submitted by the witness were received in evidence and marked respectively Exhibits S-122, S-123, S-124, S-125, S-126, S-127, S-128, S-129, S-130.)

Mr. Lanigan: I desire to present these to the jury, if the Court please, one to each.

The Witness: Just a moment. That is all right. This is the first one.

Mr. Lanigan: I will refer to that as Exhibit S-121.

Q. Now, Mr. Tyrrell, proceed, briefly, with your illustration. A. I made an examination first of the ransom notes, comparing them from the first note, cradle note, to the last note.

Q. Yes. A. "The boy is on the boat Nellie"; and I find evidence that in my opinion points to one writer as the writer of the series. The first note, the cradle note, is somewhat of an extravagant disguise. This is evidenced by the inconsistencies as shown between some of the words and letters and others. This similar or a similar disguise is shown in the first four lines of the second note, Exhibit S-20. There was a lapse of time between the writing of the first note and the last note. Obviously, the writer of the second note did not have the first note before him when the second note was written. But there are in those first four lines, as it were, recollections of the writing of the first

note, in the letter "y", for instance, if I may illustrate that.

Q. Yes. Will you illustrate it, please? A. The word "money" (witness writes on board). The "y" is made first as a "v" and then a stroke is added to it to bring it off to the side. Now that is a peculiar way of making a "y" and is shown in the word "baby" of the second note which is finished in the same way, first a "u" form and then the stroke below to complete it. In this type of writing of "y", this way of writing the "y" is also shown in the word "notify" in this second letter in the second line. The "y" is made there as a triangular start and piece put—tail put to it. This shows a connection, the same idea of making the letter, same mental conception of expression of that particular form which I regard as important.

And there are other similarities that exist between this first letter and the other letters. There is the "D" of "Dear Sir." The "D" of "Dear Sir"—

Q. Referring to Exhibit S-121? A. Yes. That is made first with the tall vertical stroke and then there is a very slight back to it and the forepart of the letter is finished very considerably to the right of the staff. Now, in the word "don't," in one of the other ransom letters, in Exhibit S-45, the sixth line, there was a word written "don't" and it was started with a peculiar character for "D", a "T", ton't, and then a piece is added to it to make a capital of it because it started a sentence. Now, for the purpose of illustration, that first "D" in "Dear Sir" is that taken from the so-called nursery note, the crib note? A. Yes.

Q. All right. Proceed, please. A. A capital is made—this is the period terminating the sentence just prior and then the capital is made out of the small letter, which shows the same movement and the same conception of a form of letter. The other

characteristics that in my judgment connect this first ransom note and the other letters are, first, the word "you," spelled as if it were intended for j-o-u, "jou"; but in my judgment it is an abbreviated type of "y", because this writer of the ransom notes knows how to spell "you" and where it occurs at the beginning of a sentence he appropriately uses a capital "Y."

Q. Yes. A. This word "jou" occurs many times in these ransom letters and many times in the request writings, sometimes written with a slight upward stroke and often without it, beginning abruptly with the down stroke; but it has generally the awkward "o" and the "u" which is similar. It is the same movement.

Then there is this word "we" in the Exhibit S-18, the ransom note, and this "we"—

Q. Just a moment. Let me find that, please. Is that the exhibit to which you refer (showing witness)? A. Yes. I have it here.

Q. All right. Go ahead. A. I am merely at this present time giving some of my reasons for believing the writer of the other, the notes, following the cradle note, was also the writer of the cradle note.

Q. That is with respect to the fourteen ransom notes? A. Yes.

Q. All right. A. We have the word "warn," the "w" of which is written in that old type of roundhand, with a "v" forepart and a "u" second part; and that is written in S-20, the first line: "We have warned you note to make anything public or to notify the police."

And then there is also the word "child" of this first cradle note. That "child" is a peculiarly written word.

Mr. Pope: What word are you referring to now, Professor?

The Witness: I am referring to the word "child" as found in Exhibit S-18.

A. (continuing.) There is the oval written "C" and "H" without the back, the undotted "i" and the "D" dropped below the base line, the upstroke continuing from the top of the oval. That is a peculiar letter. It is a peculiar fact, too, that the "h" has a part of it missing, the "i" is undotted and I find that in these ransom notes that is quite prevalent that there should be i's without dots and h's without after parts and there are some d's that are quite similar in movement; and so I think from these examples of identification by a writer who did not have the first ransom note before him, that there is a very strong indication that all of these letters following the ransom note were written by the writer of the ransom note.

Now, I have some comparisons that I would like to offer. Just to comment, relative to this comparison, as shown in this Exhibit 121, I have already referred to the capital "D," the other d's in this column, which represent the words "Dear Sir," taken from the ransom notes where that occurs, the complimentary address, they are all constructed on the same general principle or idea of form.

The jury will refer to the fifty up from the bottom; they will find a peculiar, small—that is, small in size—"d".

Mr. Pope: Will you give us the number of that?

The Witness: Just a second; I am looking for it.

Mr. Wilentz: What number?

Mr. Lanigan: 121.

A. (continued) In S-52, the first line, there is a very small "d" for a capital; it is hardly larger than the lower case of small letters of the word that follows and it is pinched at the bottom, at the turn and the back, upstroke for the curve of the back coalesces with the downstroke and there is a forward loop, a very peculiar letter, and that same "d" is found in S-88 of the automobile cards in the word "Dodge."

Q. Now will you proceed with your next? A. Now there is one other thing—

Q. Yes. A. —with regard to this "D," and that is the type of "D" that is found in the request writings. The first "D" is found in S-72, eighth line, "Dear Sir." This "Dear Sir" occurs in the middle of the page. The "D" is similar in movement to the "D's" of the ransom notes, but the next "D" that occurs in a similar location in one of the other request writings, S-77, is a very cramped form and might represent a small German "t" as well as a capital "D." But there is a real type of German "t" in the word "Dear Sir" spelled "Tear Sir" in S-75 in the seventh line and another small "t" for "D" in the "Dear Sir" of Exhibit S-73, seventh line, while in the "Dear Sir" of Exhibit 74, the eighth line, there is a printed "D."

Now this writer could make an English "D" and as he was writing from request English writings he had recourse to these types of "D's" that are unlike his "D" and in my judgment there was evasion.

Q. Feigned writing? A. Evasion. Now have you got the next set?

Q. Yes; the next set is S-122, "redy"—the "y". A. Yes, all right.

Q. Now will you proceed, Mr. Tyrrell, please, with your illustration of S-122?

Mr. Pope: What number is that?

Mr. Hauck: S-122.

Mr. Pope: No, he has them numbered 1, 2, 3, 4 and so forth.

Mr. Hauck: The number is on the back.

Mr. Pope: I have got it now: "y", number 2.

Q. Proceed. A. The photograph that you now hold represents the terminal y's taken from these exhibits; at the left column, from the ransom notes as indicated; in the center, from the standards as indicated, and at the right from the dictated writings. These standard writings are taken from the agreement of July, 19—what is that, 33?

Q. The so-called Haberland agreement. A. Yes.

Q. Yes. Identified as the Haberland agreement. A. Taken from the agreement of July. Now these y's of the ransom notes, you will notice some variation, but there is this distinctive feature in them, and that is that the upper part is made like a "V" with a sharp turn at the bottom, and this type of "Y" is prevalent throughout these writings. Sometimes the after part of this "V" is made in the same line or direction as the finishing stroke. But the y's, their idea of form, their execution, is the same, and there is with these that variation which is an actual variation, that is, that a writer does not always write exactly alike although he may intend to; but he follows his practice and we do not always precisely duplicate the letters that we make.

There is a strong identity in these y's and this, with the other matters that I have referred to, I

regard as an indication of one writer having written these notes.

What is the next one?

Q. The next exhibit is S-123, No. 2.

The Court: Is it warm enough in this room for members of the jury?

(The jury signified in the affirmative.)

Mr. Lanigan: (to the Court): Did they neglect you? I thought they sent you up a set.

The Court: No. I have them here.

Q. Now, Mr. Tyrrell, will you proceed, please, with Exhibit S-123. A. I had already drawn the word "child" on the chart and referred somewhat to its peculiarities. Now, this dropped part of "h" is a very peculiar matter in writing. I have not found it in any case that I have ever examined to the extent shown here. There have been one or two instances in my experience where part of an "h" has been dropped, but that was probably in those cases accidentally, as there were but one or two instances of it.

But, in this case it appears to be a habit of this writer to do that peculiar thing, and these h's are slighted in the ransom notes in numerous places and also in the writing from dictation, which in my opinion indicate that it is an unconscious habit of this writer to do this peculiar thing. Now, we have the word "that" taken from Exhibit S-65, the sixth line.

Q. Referring to letter of April 1st, S-65. A. And here we have another element introduced and that is that the "t's" are uncrossed. Of course it is not exactly unusual for a writer to neglect to cross

his t's and I have seen German writers that did it. That was probably induced by the fact that the German "t" is not made with a cross as we make it, but by a little turn at the bottom near the base line, a very expressive and legible letter as they make it, but this writer makes a turn at the bottom of the "t," a turn of the pen for the stroke to the next letter and does not cross the "t." There are but two or three, perhaps a half a dozen or so instances in these letters where the "t" is crossed, that is in the dictated writings.

And this dropping of the "t" is shown in some of the examples that I have put in this photograph under "Ransom." There is the word "that," "those" and you notice the d's and the third "there" t-e-r, the "h" slighted. And even in the word "believe" there is a loop for the "b" and the second part of the "b" is turned into an "e"—"lelieve" and the "i" undotted. "Lelieve" it would read. And then in the Haberland note the word "months," the "h" is dropped, part of it. It is spelled "m-o-n-t" loop slighted, half of "h" and a final "s" and it even is found in the defendant's own signature. We have five instances of it.

Q. Five instances of what, sir? I didn't get that. Five instances of what, please? A. Of the dropping of the "h" in the defendant's signature. E-86 or S-88—pardon me.

Q. Yes? A. The word "Richard." (Illustrating on chart.) Can't I have this a little higher? It is rather awkward getting down so low.

Court Crier Hann: A little higher?

The Witness: Yes. Put it up a little higher.

(Easel adjusted as requested by the witness. The witness removes a sheet from the easel.)

Mr. Pope: Please don't throw that away, sir.

Mr. Lanigan: They are being faithfully preserved for you, Mr. Pope.

A. The word "Richard," the "h" is slighted, and that occurs in four of the request writings signed "Richard Hauptmann," S-73, S-74, S-76 and S-77; also in the automobile card, S-88.

Q. S-88; that is the automobile card. A. Yes; which in my opinion is an indication that this peculiarity exists in the handwriting of this writer to the extent that it is even incorporated in his own signature.

The next one, please.

Q. The next one is S-124, the word "you," the use of the small "j." A. What is the number?

Q. The number in the corner is 4, your Exhibit 4. A. All right. This is the character that I referred to previously, the word "you" the slighted "y," written to resemble an undotted j-o-u, and you will find it in the ransom letter examples given in the illustration, that there are in the left of that double column at the left in the photograph instances of this peculiarity in the word "you" as taken twice, as taken from the cradle note, in the S-20, the twenty-seventh line, S-56, in the thirteenth line, with the upstroke j-o-u, and in the j-a-e-r, and also in the word "your" in Exhibit S-44, line 1, and in 51, line 4, a great, large example of it, larger than any of the writing. Then in the center of this photograph you will find the word taken from dictation, from the dictated letters or writings "jou." Now that first "j" in that column is made after the fashion of the German "j," but the others are looped "j's" and also in the second one up from the bottom is one

that looks something like an "f." It is because the upstroke to finish the letter proceeded on following the downstroke and then abruptly turned across to the "ou" and these "o's" are open "o's" in all of these exhibits in the photograph which, of course, adds to the identification to the extent that they are open. Now in the extreme left column of this photograph is the word "you" written with a capital "Y," which indicates that the writer knows how to correctly express the word in English. He has used the "Y" and that "Y" is the characteristic capital "Y" made with the upper part as an angular dip as it were, v-shape, and that is also given in other examples of "you," the word "you" where it begins a sentence and it was appropriate to use a capital; and at the left you will find a number of words "Yes" taken from the automobile cards which are made in the same way. (Witness writes two "Y's" on the board), this very peculiar "Y"; it is sometimes with a straight loop, sometimes with a stroke upward to the right as in the capital "Q" and sometimes with a loop at the bottom, once with a loop at the bottom.

There is a very peculiar coincidence in these j's, both as lower case letters and their use, and their use as capitals, and their form as capitals.

Q. Now, Mr. Tyrrell, referring please, to Exhibit S-125, your number 9, the word "the," proceed, Mr. Tyrrell, please. A. The photograph you now hold contains two illustrations, the first is of the odd type of capital "T." This capital "T" is made with a slating down stroke and a return from the base of that stroke upward and a curve to the top of the letter. (Witness illustrates.) And that letter "the" taken from Exhibit 20 and the 31st line also has one of these slighted h's in it, it looks like "tillie." And then there is the word "there" as shown in the photograph, Exhibit 65, the fifth line. (Witness illustrates

by writing "ther" on chart.) These are from the ransom notes. Now, in the dictated writings, in Exhibit S-76, second line is the word "time". (Witness illustrates.) This word "time" is written in a very angular type of writing, and, by the way, when these dictated writings are examined, they are two varieties of writings at least, one is the writing that more nearly resembles the ransom letters and the other is a very angular and compact type of writing. The two writings in these dictated writings, if placed side by side, would hardly pass as being written by the same writer without close comparison. Pictorially they are dissimilar.

Q. Did you make such a close comparison, Mr. Tyrrell? A. I did.

Q. And the opinion you reached was what with respect to that? A. That there is pictorially a greater difference between specimens of these dictated writings than there is between the ransom writings and some of the dictated writings.

Q. But your comparison examination led you to the conclusion as to the writer? A. Yes.

Q. And who was the writer, in your opinion? A. The writer of the standards.

Q. Yes. A. All of these converge and point into one direction. Then there is the word "time" and the word "tell" as shown in these—in the photographs taken from the writings here shown. Then at the bottom of this chart, photograph you hold, is a peculiar form of "t" or "d," and the words are "tit you." "Tit you." And the peculiar "d" or "t"—for there is a little turn at the bottom of the downstroke, and that represents the word "did."

In the word "Dodge," the name of the automobile given in these automobile cards, Exhibits 95 and 96, twice, is what is intended for the word "Dodge." (Illustrated by writing word "Dodge" on chart.)

The word "Dodge" was spelled with a capital "D" as shown in one of the previous photographs, properly spelled, but here we have it spelled T-o-d-g-e, "Todge," with a "T," peculiar kind of a character, and "tit you," also with a peculiar kind of a character which, in my judgment, is another reason for regarding these comparisons as pointing to a particular person, the writer of the standards.

Q. Mr. Tyrrell, just at that point, for the purpose of clarification, when you refer to the standards, to what writings do you refer? A. I refer to what might be termed the business writings.

Q. Of whom? A. Of Richard Hauptmann, as shown in the cards, and the others as the dictated writings. These writings, because of at least their pictorial resemblance, fall into three groups: The ransom notes—

Q. Yes. A. The normal writings and the dictated writings.

Q. So that when you use the word "standard," which has not heretofore been used, you are referring to the writings of Bruno Richard Hauptmann? A. Yes. The dictated writings are also standard.

Q. Yes. All right. A. Are offered as such.

Q. Now will you go to Exhibit S-126, please. A. My number?

Q. Your number is 13, No. 13. Just a little faster. A. Yes, sure. This photograph has four illustrations of peculiarities found in these ransom notes and in the other writings, the dictated and request writings; and the first is the words "will be." "Be," you will notice, is spelled b-e-e, and the "e," the second "e," is finished downward, showing the same movement, and the spelling the same idea. That occurs in the ransom note, 43, line 4, and in the dictated writings, 72 and 75, lines respectively 11 and 12.

Then there is in the photograph just below the writing of that peculiar word "note" for "not" spelled n-o-t-e, and you will observe that in addition to the peculiar spelling there is also the same expression of form, that is the same words spelled in the same way and written in the same way, and we find examples of that in the dictated writings, the "note," the same finishing "e," similiar finishing "e" downward and the uncrossed "t"—uncrossed t's. Then at the upper corner of this same photograph is an illustration of a very peculiar transposition of letters. In Exhibit S-20 the 27th line we have the word "the" spelled h-l-e, the "l" representing an uncrossed "t," but transposition of the letters; and in the dictated writings, there are three of those in the dictated writings, in Exhibit S-98 in the first two lines and in the second line. And in S-77 another dictated specimen, there is the word "the" spelled h-l-e; so it shows there was some difficulty with writing h's both as to placing and as to their form. And this is further shown in the illustration in the lower right corner of your photograph, the word "night," n-i-h-g-t and in Exhibit S-72 in the fifth line the word "that," a repetition of a line, was spelled t-a-h, incompleted word, but same transposition.

And in the ransom note S-52, thirteenth line, we have the word r-i-g-t-h; in the standard automobile card, "passing the red light," "past the red light"; S-94, we have the spelling, fifth line, l-i-h-g-t. All of these have, in my opinion, very considerable significance as indicating the writer connected with them.

Q. Now, Mr. Tyrrell, referring to Exhibit S-127— A. Yes.

Q. All right, proceed with Exhibit S-127. A. Some of the features that I have referred to are the outstanding similarities. I will take up a few of the lesser prominent ones, lesser significant ones, but sig-

nificant nevertheless. In the first is the word "are." The word "are" is started with the German form of "a" and a very good form of script "r," and is finished with the loop "e" that ends downward. Now, this indicates the movement of the hand; a movement in writing is very important because it shows what the operation was and, where we have identical movements, we have identical operations.

(Illustrated on chart the word "are.")

There is the same movement, the same idea, and those examples are shown as indicated in the photograph in a number of instances. Then there is the word "to." I have taken the three "to's" appearing in the Haberland note, one made with what we might term the English form of "to," but uncrossed and the other "to" with the German form of "to." You notice that the "o's" are open and they conclude with a stroke to the right. The movement is the same in all three instances. And then in the center of this illustration we have the word "to" without the "t" crossed and the open "o" and the movement to the right, and some of these are decidedly abbreviated.

Q. Just at this point, Mr. Tyrrell, do the open "o's" appear throughout the 56 pieces of writing submitted to you? A. Yes, it is the general practice of the writer. (Illustrated on chart the word "to.") The word "to." It has gotten down here so it looks like a "w" and that is a very peculiar way of writing the word "to."

And they look so alike that unless the exhibits are marked you cannot tell from which exhibit they are taken.

Then we have that peculiar "w." The idea of form of a "w" is not so peculiar, because that is found in other writings, but it is the way this one is

made. (The witness illustrates on chart.) The ransom notes are modifications—that is, the w's—of the same "w" in the dictated writings, except there is this difference, that the dictated writings are more carefully made; that is, there is not so much the attempt to make them appear a "w" with the difference that is noted in some of the letters found in the ransom letters, notes; but there is this idea of form and the same similarity running through.

What is the next one?

Q. The next exhibit will be S-128, your number 7. Now proceed, please, with your illustration of S-128. A. This photograph illustrates the name of the city New York. In the left column are the examples taken from the standards or automobile registration cards, and in the center from the addresses on the envelopes in this case, and at the right from the dictation; and in my opinion, after a consideration of these writings of New York, as between the address on these ransom letter envelopes and the name New York as appearing in the dictated writings and the standard writings, the dictated writings more nearly resemble the New Yorks of the envelopes than do the standards.

That is, particularly in the writing of the letter "n," this letter "n," printed form, is made with the same movement as the script form and that is what gives it its appearance. (Writes "in" on board.) That is the "N" in "New York," as written in Exhibit S-72 in the fourth line, that is a script form of "N." In the printed "N" of "New York" in the Exhibit S-21, there is the same form of "N" in printed form. It is the angular capital. It is the same movement, and that is not an unusual form of "N" and the making of it is made in the script form movement.

Now, in the "Y's" of "New York" we have that same peculiar capital "Y," with the angular, rather triangular upper part as shown in the photographs. I have already illustrated those and will not do so again at this time. But what impresses me in this dictated writing is that it bears so close a resemblance, in many respects, to the writing on the ransom notes, particularly the "w" which has the printed form in the "New."

(Witness illustrates by writing "new" on chart.)

As shown in Exhibit S-74, fourth line, which is the next one?

Q. Yes, the next exhibit, S-129. A. This word is a simple little word "the." It is made with the uncrossed "T" in the "h" and the looped, "e" ending downward, but these "t's" as taken both from the dictated and ransom writings have a remarkable similarity, and I offer those as one of the lesser important comparisons, because in all comparisons we have the outstanding, the very significant, and then a number of smaller ones, such as might be termed straws, which indicate the current.

Q. I show you Exhibit S-130. A. In this illustration we have a very peculiar form of "x" found in the word "Bronx," Exhibits S-90 and S-88, the upper and the lower of the three shown in the photograph. At the right there are seven examples of the form of "ex" as found in the ransom notes. Some of these, the first one, resembles the word "box" which is spelled "p-o-x," resembles a "u," with the lower, after part dropped. The next one "expects" shows a peculiarity in the formation of this letter, it is made with a curved to the left upstroke and turns in a loop down to recede down toward a compound curve to the base line, where it again curves in a loop and turns upward and connects the upper part in a loop, ending in a downward curve to form the letter.

(Illustrating on chart) something after the type of a capital "H." And in the other examples of this same letter, the word "explain," exhibit 44, 5th line, "expenses" exhibit S-52, 20th line, and the word "next" exhibit 68, the second line, we have this same type of peculiar "x" but more fully expressed. For instance, in the word "next," we have this type of letter (illustrating on chart). It is the same movement, the same peculiarity of having this loop at the top. Now that form of "x" is found, not that form but the form of which this is a modification, was found in some writings, in some standard script copies, and it is made like an "H" (illustrating on chart) but without this loop at the top, and that is a modification in turn of another type of "x," the two being joined, but these are brought closer together.

Now this type of "x" as found in these words, in the ransom notes, has the loop at the top of the first part, which of course destroys the harmony, the rhythm in the writing of the copybook or standard "x," and that is an individualism, and important to that extent.

Q. In what words do you find that, Mr. Tyrrell? A. That is in the word "Bronx" in Exhibits S-88 and S-90 and in the ransom notes in Exhibits S-23, S-20, S-44, S-52, S-68 and S-52—if I have these numbers down correctly, and I think I have.

Q. Yes, correct. A. Now, there is another "x" in this name "Bronx" in Exhibit S-69, another of the automobile cards, and that is a peculiar "x"; it is a sort of a mongrel "x"—it is part German and part something else. The German "x" is made like or something like a capital "E" dropped below the base line. This "E" in the word "Bronx," as found in S-89, second line—the stroke indicated was written something as I have shown it on the board, and then the German finish was put to it, and a final "E"

written over it. So it carries out the idea of the "E" finish of that form of letter, and is not inconsistent with it but confirms it.

The next one.

Q. The next illustration? A. Was that the last one?

Q. That is your last photographic illustration. A. There is one other matter that I would like to direct attention to and that is the address on the little package as the ransom notes describe it. This parcel was directed to Dr. John E. Condon, 1974 Decatur Avenue, New York, N. Y.

Q. John E. or John F.? A. John E. it has it here.

Q. All right; go on. A. And it is written in capitals and lower—what we term lower case letters.

Q. From what is that taken? A. That is taken from S-53, this photograph, which is the wrapper.

Q. All right. A. Now this address was re-written at the left end of the package, that is, it was redirected to Dr. Condon, Mr. Condon, that is, there is an "Mr."

Q. Yes. A. (Witness writes on the board) Mr. Condon, 2974 Decatur Ave., New York, Mr. Condon, 2974 Decatur Avenue, New York, and that is in script writing. Now, I have looked through some of the writings of these standards and I find a remarkable duplication of this address on this package. I find the same letters, some of them peculiarly like, in Exhibit S-74. There is the name Connolly, and we have the "C" and the "on" similar to that of this Condon address. We have the "d" of the standards, the German made "d" as found in the automobile cards and the final "n" as shown in Exhibit S-97, third line, the word "an," and the open "o" familiar to found in the word "home," S-74 in

the third line and the familiar figures, these at the end of this parcel are somewhat longer and narrower and have smaller tops than the letters of the principal address on the package, they are made by the same person, and then we have the "D," this peculiar "D" that looks as though it was an amputated capital "P," that is this staff drops below the curve that makes the letter. You find the same thing in the automobile cards S-95.

And this "C" that is a peculiar "C," it leans forward so often in these writings, it does so in the signature of the defendant, and then forming the other letters, the German "A," the uncrossed "T" and the "u-r" at the end, and most peculiarly we have the word "after" and that "after" is reflected in the automobile card S-90, and then there is the word "New York." That "N" of New York finds practically its exact duplicate in S-88 of the automobile card. It is a very peculiar letter and it is made in a peculiar way and the two are made in the exact way and we have the "w" with the finish and the hyphen between the two words "New York," we have the slanting first part of the capital "Y," forming a crotch or angle, triangular letter, and the small "r" afterwards, of which I find examples in his standard writings, and the "k" of New York found in Exhibits S-86 and S-87, but in the one case with a different ending and in the other case with a somewhat different construction, being made with an up stroke with the independent part added, so that in my opinion there is a very strong similarity in this comparison as between this address on this little package. I think that was a slip on the part of the writer.

Q. All right. Now, will you resume the witness stand, please? A. (Witness resumed stand.)

Q. Now, Mr. Tyrrell, you have examined all of the automobile licenses of Bruno Richard Haupt-

mann? A. Yes, sir.

Q. You have examined this Haberland agreement in the handwriting of Hauptmann? A. Yes, sir.

Q. You have examined the 16 sheets of request writing in the handwriting of Hauptmann? A. Yes.

Q. You have examined all of the ransom notes? A. Yes.

Q. From your examination and comparison of the conceded writings and the automobile writings and the contracts of Bruno Richard Hauptmann, can you say positively who wrote the ransom notes? A. I think so.

Q. Yes? State it. A. The writer is identical. If the automobile registration cards and the request writings were written by Richard Bruno Hauptmann, then Richard Bruno Hauptmann also wrote the ransom notes.

Q. All of the ransom notes, sir? A. Yes, sir.

Mr. Lanigan: You may cross-examine.

Mr. Reilly: May we have a five-minute recess?

The Court: We will take a recess for five minutes and the jury may retire; come back promptly.

(At 11:28 a. m. a recess was taken until 11:37 a. m.)

The Court: The Clerk may poll the jury.

(The jury was polled and all answered present.)

Cross-Examination by Mr. Pope:

Q. Mr. Tyrrell, how long have you been engaged in the examination of questioned documents? A. Well, I started with the Northwestern Mutual Life Insurance Company—

Q. No, how long? A. Just a moment. I will explain this. You are getting it.

Q. How many years have you been engaged? A. The difference between 1883 and 1934.

Q. And how many years have you been engaged in examining what may be termed disputed handwritings? A. Well, my first case was in 1892.

Q. And you have been doing that kind of work since then? A. Yes.

Q. Did you ever attend any school or college or institution of learning for the purpose of qualifying yourself to examine disputed handwritings? A. No. My college was the experience—

Q. There is no such school or institution of learning that teaches the art of examining disputed handwritings, is there? A. No, that I know of.

Q. It is something which you acquire by study and practice? A. Yes, certainly in that way.

Q. Now in all of your experience in the examination of disputed handwritings do you generally find it to be true that the handwriting which you are examining is disguised or camouflaged? A. No.

Q. Have you ever examined a case in which there were ransom notes or an attempted extortion before? A. Yes.

Q. In how many cases? A. Oh, four or five.

Q. And in each one of these cases did you find evidences of an attempt to disguise? A. Yes—quite a decided attempt.

Q. Well, except in forgery cases, do not all disputed handwritings present an attempt to disguise? A. No.

Q. You examined the ransom note in this case, didn't you, very carefully? A. Yes, sir.

Q. From your examination of that do you think that the writer of that note attempted to disguise his handwriting? A. Yes.

Q. Is there any doubt in your mind about that? A. No.

Q. Would you say from your examination of the ransom note that it was written by the writer with his left hand or with his right hand? A. I couldn't say.

Q. Did you attempt to find out? A. Of whom would I ask?

Q. From your examination of the handwriting. A. Writing with the left hand, the legibility—

Q. No, just a minute, Professor. A. No—Just plain Mister.

Q. That is right. Just answer yes or no. It is quite easy for a handwriting expert to determine when a right hand writer uses his left hand, isn't it? A. No.

Q. From the formation of his letters and the general slant and the shadings? A. It depends much on the ability of the disguiser.

Q. There is a difference in the slant and in the shading when the left hand is used and the right hand, isn't there? A. Commonly, but not necessarily.

Q. Well then, if there is no difference presented in the slant and shading, then there is another attempt to disguise? A. I don't quite get that.

Q. Where a right hand writer uses his left hand and there appears to be no natural difference in the shading and in the slant, would you say that was an additional attempt to disguise? A. Well, that is only a fragment of a case such as would come to me, I don't think I could pass upon that.

Q. I see. Well, would that be an additional evi-

dence of an attempt to disguise? A. It would depend on what the comparison was made with.

Q. Made with his right hand writing and with his left hand writing? A. No, I don't get that; that isn't a comparison; a comparison is somewhat standard.

Q. Well then, you don't get me, so we will drop it. A. All right.

Q. Did you notice any marked difference between the writing of ransom notes and the subsequent notes that were sent to Dr. Condon and Mr. Lindbergh? A. Yes.

Q. Did they seem to be more natural? A. Well, they were less violent in their expressions of words and lines.

Q. Now returning to the ransom note, did you observe in that what appears as though the author of the ransom note had copied that from another writing? A. No, I didn't find evidences of that.

Q. When I used the word "copy," I do not mean that he traced the other writing or that he attempted to imitate the other writing, but that he had the other writing before him and copied from the other writing. A. Well, if he did, he used his own way of writing.

Q. Well, did you see any evidence of copying? A. If he used his own way of writing, there is nothing to see.

Q. Then there is nothing that you could discover as a handwriting expert that would tell you that the author of the ransom note probably copied it from another writing? A. No, there are too many of those little intimacies in this writing that are reflected in the ransom notes that the forger wouldn't think of.

Q. I am not speaking of forgery, sir. A. Imitator.

Q. Nor of imitators; I am merely talking of copying from a sample. A. Well, if I understand your

position, he would copy not only the subject but the writing, if that is your contention.

Q. No, that is imitating. Now, let us see if I can make it clear to you. I am not thinking of tracing nor am I thinking of an endeavor on the part of the author to imitate another's handwriting. The original may have been typewritten. What I ask you is if you discovered any evidence in the ransom note of a copying, a process of copying that letter from a form letter which he had before him. A. No.

Q. Aside from mental formation of letters, what other forms and efforts to disguise do dishonest writers use? A. Well, I don't know; I suppose it would depend upon the ingenuity of the disguiser.

Q. Well, I am asking you, sir, from your experience, what other methods of camouflage have you found used by writers who were trying to pull something over on somebody—if we may use that expression? A. I wasn't very successful in discovering where they got their inspiration.

Q. I am not talking about their inspiration; I am asking you what method they used in order to disguise their handwriting or to prevent detection. A. Well, sometimes they use pen printing.

Q. Yes. A. Sometimes they use a difference in the slant, a difference in pen-holding.

Q. Well, that is the formation of letters. I am asking you if they use any other method besides malformation of their letters? A. Yes, they would be likely to use anything that occurred to them that would destroy a pictorial resemblance to their own writing.

Q. For instance, like a transposition of words? A. Well, I have found a case or two where there was transposition of words.

Q. And the use of ungrammatical expressions? A. That is largely an educational matter.

Q. Well, an educated man desiring to disguise or camouflage his handwriting would use words that would hardly be attributed to an educated man sometimes, wouldn't he? A. Well, sometimes, but not necessarily. Usually when they do that, they overlook something else that is far more significant.

Q. Yes. In other words, where they slip in here and there an ungrammatical or crude expression, do they also slip in here and there some strikingly grammatical terms? Is that what you mean? A. No, no.

Q. Well, that would be overlooking something else, wouldn't it? A. Well, if it was that kind of a man.

Q. Well, when you are dealing with a forger or an extortioner, of course you are dealing with that kind of a man, aren't you? A. Well, not necessarily.

Q. Not necessarily? A. No.

Q. Well, from your experience have they sometimes endeavored to ward off suspicion by the use of ungrammatical expressions? A. Yes.

Q. Now, your examination of the questioned documents is not limited merely to the examination of the formation of letters, is it? A. No.

Q. You study the entire instrument, don't you? A. Yes.

Q. And particularly where you are trying to connect a series of documents you study the entire letters, don't you? A. Notes, you mean?

Q. Notes, or whatever you call them. A. Well, notes; distinguish them from letters—yes.

Q. And, do you try to connect up one with the other grammatical expressions and rhetoric which you find here and there, do you? A. Well, those would naturally come under consideration.

Q. Yes. A. If they were pronounced enough.

Q. Now, I want to call your attention to S-121, which is your number 1.

Mr. Pope: Do the jurors have these? I am very anxious—

Mr. Large: We put them back there.

Mr. Pope: I am very anxious that they have these as we go along. Give them number 1, will you?

Q. Do you have your number one there, Professor? A. Please.

Q. Now, in this exhibit you call attention specifically to the general formation of the capital "D," didn't you? A. Yes.

Q. I want to call your attention to the capital D's in the ransom note, as found beginning at the top, No. 1, No. 2, No. 3, in fact, every one of them, all the way down the line, as compared with the capital "D" under the dictated column on the right, the second one from the top. There is a dissimilarity there, is there not? A. Yes.

Q. There is also a dissimilarity in the "D" at the top of the dictated column, is there not? A. Was that the one you referred to previously?

Q. No, the one that I referred to previously was the second one from the top. A. Oh. Yes.

Q. Yes. Now— A. That is a dissimilarity in appearance.

Q. Well, of course, Mr. Tyrrell, all similarities are matters of appearance, aren't they? A. Not always; no, because of the variation.

Q. Well, one looks like the other, doesn't it?

Mr. Lanigan: Let the witness answer, please.

The Witness: Because of the variation.

Q. No. I say one looks like the other, doesn't it?

Mr. Lanigan: Let the witness finish his answer.

The Court: Yes.

A. In the case of a similarity—

The Court: The complaint is that the witness was not allowed to answer the question?

Mr. Lanigan: That is the complaint, sir.

The Court: Yes. Well, I am sure Mr. Pope will see to it that the witness has a fair chance to answer his question.

Mr. Pope: But may I also ask the witness, when I ask him a question that can be answered by a simple yes or no—

The Court: Oh, yes; oh, yes.

Mr. Pope: That does not call for any explanation.

Mr. Lanigan: I think that has been the characteristic answer to date.

Mr. Pope: If there is any explanation desired, the gentlemen who represent the State will see that it is brought out.

Mr. Lanigan: May we return to the question, please?

Mr. Pope. He answered my question. He said yes or no, I have forgotten what it was.

Mr. Lanigan: Let us see what the record shows.

(The Reporter thereupon read as follows: "That one looks like the other, doesn't it? A. Because of the variation—

"Q. No, I say one looks like the other, doesn't it?")

Q. When you use the word similarity, you mean that one letter looks like the other, don't you? A. That there is, yes. I will answer your question yes or no.

Q. Now I want you to refer to the "Dear" in every one of these examples in the ransom note: Do you observe that the capital "D" and the "e" are disconnected in every one of them except possibly the fourth one from the bottom? And the one above that you meant to include—pardon me for not saying yes or no.

Q. I hardly thought that was, but you may be right. All right, we will take those two, then. A. Yes, the "e" is separated from the "D."

Q. Separated from the "D." Now, with the exception of the one where the printed "D" is used in the dictated writing over on the righthand side, the "D" and the small letter following in each instance is connected, is it not? A. The "D"?

Q. The capital "D" and the "e" or the "o"? A. It is at least in one instance.

Q. Well, it is connected at the top, isn't it? A. It may be, I am not so sure about that top.

Q. Well, take the next one, then— "Dodge"— no, "Dear," "Dear Sir"— it is connected, isn't it? A. Yes.

Q. And the next one down. A. That is not a "D" Mr. Pope, that is—

Q. What is that? A. "T."

Q. Well, it is intended for a "D-e-a-r S-i-r," isn't it? A. Yes.

Q. Yes. Well, then it is connected, isn't it? A. Well, but a small "d" isn't a capital "T."

Q. I didn't ask you that. It is connected, isn't it? A. The character is connected.

Q. All right. You think that is a "D" but it is evident that the writer intended "T"— You think it is a "T" but it is evident that the writer intended it for a "D," isn't it? A. Yes, if he spelled the word—

Q. Yes. Now, take the next one below, the "D-e-a-r"— that is connected, isn't it? A. Yes.

Q. Those instances of connection which I have just pointed out are marked dissimilarities, are they not? A. Yes.

Q. Now, then, referring to the capital "S" in the word "Sir"— take the one at the top, the ransom note. May I have your chalk a minute? I am not very much of a handwriting expert, but I think perhaps I can help you a little bit. A. You may be an artist in disguise. I don't know.

Q. Now, this capital "S" is made like that, isn't it, in the first "Sir" (illustrating on chart)? Not exactly, but I mean in a general style. A. No, not exactly; no, not exactly, that is right.

Q. See if I can do it better than that, more exactly— isn't that it? (Writes on chart.) A. Let's take that sheet off.

Q. No. That is good enough. A. Mean because—

Q. No, I want to use that. A. All right.

Q. Is it not made in that general form? A. Yes, only the—

Q. That is all. Yes.

Mr. Lanigan: Let the witness answer, please.

A. Yes. Only—
Q. Now, take the next one.

The Court: Of course, there seems to be more or less contention here that the witness ought to be, within reasonable limits, permitted to answer his question and make reasonable explanation about it. Now, of course, I understand the rule to be, and counsel, I think, will agree, that if in attempting to amplify his question within a limit, his answer becomes irresponsive, the thing to do then is to move to strike out the irresponsive part; otherwise, I do not see how we can get along very well in the examination of handwriting experts. Now, I suggest that counsel endeavor to work along those lines.

Mr. Pope: But, if your Honor please, may I— I am trying very hard to frame all of my questions so that they may be answered with a simple yes or no.

The Court: Then—

Mr. Pope: And, being a cross-examining counsel, am I not entitled to that?

The Court: If you will indicate to the witness that you wish a yes or no answer, he will very likely do that and you may do that in your question.

By Mr. Pope:

Q. Well, I want a yes or no answer, Mr. Tyrrell, whenever yes or no will answer the question. Your counsel will give you an opportunity to explain. A. And when it does not, I may say I cannot answer it that way.

Q. That is it, exact. A. We agree.

Q. Now, I call your attention to the capital "S" in the second "Dear Sir" on that same page, and is not that "S" made somewhat like this (writing on chart)? A. Yes.

Q. Now, referring to the S's in the dictated handwriting at the right of your illustration, there are one, two, three, four, five of them; they are all dissimilar, are they not? A. No.

Q. Dissimilar to the ones that I have pointed out? A. Yes.

Q. Yes. Now, take the third "S." That seems to be made by beginning a straight line down like that, then coming up like that, and making a curve, and then around like that, doesn't it (writing on chart)? A. Yes.

Q. And that is dissimilar from the other "s's" on the right, isn't it? A. Yes.

Q. Now the next "s" below is an abbreviation of the first "s" at the top of the column of ransom notes, is it not? A. Yes.

Q. And that also is dissimilar, isn't it? A. Yes.

Q. Now the next "s" in "Dear Sir," with the exception of the last "Dear Sir" in the ransom note, there is no continuation of the down loop, is there, in any of the dictated writings? No continuation of whatever you call that (indicating)? A. May I have the question again?

The Reporter (reading): "Now the next 's' in Dear Sir, with the exception of the last Dear Sir in the ransom, there is no continuation in the down loop"—

Mr. Pope: Don't say down loop; the final loop to the right.

A. Of the letter "s", Mr. Pope?

Q. Yes, capital letter. A. Do I answer correctly if I say that the last two have no continuation?

Q. Yes, that is right. I think that is about all I have with that.

Q. It is not unusual for a writer to sometimes make a printed form of a "D" is it? A. Not unusual for some writers.

Q. The next one that I want to call your attention to is your number 2 and it is marked State's Exhibit Number 22. Now, in this exhibit you called attention to a number the letter y's, small letter "y" did you not, in this exhibit? A. Yes.

Q. Well, I call your attention first to the ransom y's and then to the standard y's, the first one appears in the word "ready" does it not in the ransom note? A. Yes.

Q. And is not that "y" made by starting to make what might be a letter "v" but chopping off the tail? A. Letter what, sir?

Q. "Y" in the word "ready." A. Starting off to make the letter what?

Q. The letter "V." A. Or an "i."

Q. An "i"? A. Yes.

Q. This one here (indicating). Or an "i." And then the author finishes the curl in this fashion, does he not, by drawing it up and bringing it down to the right around underneath? A. Yes.

Q. And there is the same general effect in the second word, looks like "money." A. No.

Q. There he has completed the work "v" however, before he drew the line down underneath, hasn't he? A. Yes.

Q. And the third— A. Pardon me. May I interrupt just a minute?

Q. Yes. A. Not as you have drawn it.

Q. Exactly. I am not a handwriting expert, you know. He made it more like this, you mean? Take the third word. That looks to me like "notify." That is an entirely different form of "y," isn't it, made, however, in the same general way? A. Yes.

Q. And then you come to the fourth word "notify." That is still another form of "y," isn't it? A. Yes.

Q. And then the word "baby" under that. That is different from any of the other y's, isn't it? A. No.

Q. Well, it is different in form, isn't it? A. No.

Q. Is that "baby"? Do you take that to be "baby"? A. Yes.

Q. Well, that "y" is made by continuing from the "r" and making a curl up and then starting well over to the left of the loop and bringing it down underneath, isn't it? A. There is no "r" in that name.

Q. I know. I say he starts to make "y" by forming what looks like an "r," a small "r." A. Oh, you mean includes part of the "b"?

Q. Yes. A. In the connection, the "b" to the downstroke of the first part of his "y" resembles a flat type "r."

Q. That is right? A. Yes.

Q. And then the tail they put on at the bottom. A. Yes.

Q. So that is different from any of the other y's, isn't it? A. No; it is the same as "money" that you referred to in the first place.

Q. Well, now, I will leave the jury decide that. A. It begins in the same way.

Q. Now, what is the next word there, above "cemetery," under "baby"? A. Under "baby"?

Q. Yes. A. That is "baby."

Q. Is that intended to be "baby"? A. Well, that is what the context reads.

Q. I see. Well, that "y" is somewhat different from the other y's in that column, is it not? A. Yes.

Q. Now, then, go over to the standard writing. In the standard writing, take in the word "pay"— there Hauptmann makes a "y" by making first a sort of a "v" and then puts a tail on to it, which looks somewhat like a "j," doesn't he? A. Yes.

Q. And in the word below it he does the same thing, only the "j" is not quite to pronounced there? A. Yes.

Q. And the same with the word "July," below it? A. Yes.

Q. Now, going to the dictated handwritings, the first letter there seems to be "robbery"— the first word? A. Yes.

Q. There he makes the ordinary conventional loop at the top of his "y," and then just simply breaks off the stem, doesn't he? A. I don't see any loop in that "y," Mr. Pope.

Q. Well, you call it a "v"? A. Yes, it is a "v" top; it isn't a loop top.

Q. Well, you mean it isn't perfectly round? A. No. A loop is a noose.

Q. Well, a curl then, or a curve, whatever you call it. I don't know what you call it. A. No, it isn't a curve; it is an angle.

Q. All right; call it an angle then. A. Two sides of a triangle.

Q. The point is, sir, that after making the first curve, loop, angle, or whatever you call it, for his "y" he finishes his "y" by making just a straight down stroke, doesn't he; he chops it right off? A. Yes.

Q. You don't find any such "y" as that in the ransom notes, do you? A. Yes.

Q. Where? A. In the word "boy."

Q. Where is that? A. Exhibit S-65 and the 16th line.

Q. I see it. That "y" is made by making first the lefthand stroke of the letter "v," the printed "v"? A. The printed "v".

Q. Look. A. Yes.

Q. He starts to make it like that, doesn't he? (Writing on chart.) A. Yes.

Q. Then he starts this way to make his final stroke by writing it down and when he gets to the bottom he gives it just a little bit of a tip to the left, doesn't he? A. That is the pencil did it, or the pen did it.

Q. Why, of course, he couldn't do it with his finger nail? That is a barb that sometimes occurs at the end of the stroke.

Q. All right. Call it whatever you want to, that is what is there, isn't it? A. Yes.

Q. So that is not like the "y" in "robbery" is it? A. Not at that point.

Q. No; now, how about the word "by," over on the right, the third one, that is chopped off the same way, isn't it? A. Yes.

Q. Now, the second "by" on the line there, there he brings his "y" down and he brings up a sharp loop, doesn't he, on the tail of the "y"? A. A turn, not a loop, a turn.

Q. A turn. All right. Is that what you call a turn? A. Yes.

Q. All right, then, I will call it a turn.

Q. Now then, referring to the fourth word in the dictated handwriting, it looks like "afary"— I don't know what it is meant for, but that is what it looks like. A. Afery.

Q. Afery? A. Afary.

Q. Now, there the "y" is made with the sharp "V" with a top and the stem comes down and it

turns around rather sharply and goes up again, doesn't it? A. It has a rounded turn.

Q. Rounded turn? A. Yes.

Q. And it goes quite well up to the bottom of the letter "r," doesn't it? A. Yes.

Q. Now that is unlike any of the others, isn't it? A. No.

Q. You don't think so, eh? A. (No answer.)

Q. You don't think so? A. Well, unlike is a large and rather comprehensive term.

Q. Well, I will say dissimilar, then. A. In respects, yes.

Q. Yes, and the letter "y" in the word "maybe" at the lower righthand corner is still another form of "y," isn't it? A. Yes.

Q. And it is dissimilar? A. From what comparison, Mr. Pope?

Q. Dissimilar to the other "y's"? A. Of which of that same column?

Q. No, in the ransom note? A. Not altogether.

Mr. Lanigan: I think counsel should indicate which ransom note— there is such a mass of them.

Mr. Pope: The one that he uses, "Ransom" on this chart.

Mr. Lanigan: Well, designate which one it is.

By Mr. Pope:

Q. Any of the y's in the column that you have marked at the top "Ransom." A. As to finish, yes.

Q. Yes.

The Court: Mr. Pope, what exhibit is that that you hold in your hand?

Mr. Pope: This is the witness's No. 2 and the State's Exhibit No. 122.

Q. I next want to call your attention to your Exhibit No. 3 and the State's Exhibit No. 123. When you were demonstrating this exhibit, you laid great stress upon the small "d" in the word "child," didn't you? A .Yes.

Q. Did you find the word "child" in any of the standard or dictated writings? A. I think the word "child" was— the term "boy" was used, as I recall it.

Q. But in the dictated writings did you not find a copy of the letter from which you took the word "child," which you had at the top of your column under the word "Ransom"? A. That is from the ransom letter, yes.

Q. And in the dictated letters you found a copy of the ransom letter, didn't you? A. No, I don't recall.

Q. You don't recall? A. No. I used this illustration for a different purpose.

Q. Yes. But at any rate if you found the word "child" in any of the dictated writings, you did not show it up on your photograph here? A. No.

Q. Or use it for comparison? A. This chart or photograph was used to illustrate the dropping of one part of the letter "h."

Q. And also the peculiar character of the letter "d"? A. Well, I referred to that, but the chart itself wasn't arranged with that purpose in mind.

Q. I see. But the one thing that you desire the jury to pay attention to is the formation of the letter "d" in "child." A. Yes.

Q. You illustrated that on the chart, didn't you? A. Yes.

Q. Now, I want you to compare that letter "d" with the final "d" in the name "Richard" in the second column, taken from the automobile license card. A. Yes.

Q. They don't look anything alike, do they? A. They have a partially, at least similar movement. The "o" of the "d" of the automobile signature is so written that its conclusion is much higher than its oval and extends upward to where the stroke finishing the letter begins.

Q. All right. You come down here and show that on the chart, if you can. A. (The witness illustrates on the chart.)

Q. What you have placed on the board now represents the "d" as you conceive it to be in the word "Richard," isn't it? A. As I recall it.

Q. Well, you are quite right, you have got a good memory. A. That is part of my business.

Q. Now then, so the letter "d"— and let the jury see how you make it in the word "child." A. (Witness writes a "d" on the chart.)

Q. Well, I think I can do better than that. A. Well, perhaps you can, because you have a copy before you.

Q. (Mr. Pope writes a "d" on the chart.) A. Well, I can do better than that (witness writes a "d" on the chart.)

Q. Now, let me call your attention first to this discrepancy. On none of the "d's"—

Mr. Lanigan: I clearly think this, if your Honor please, is outside the line of cross-examination. Mr. Pope's artistic ability I don't think is the test here. I think—

The Court: I have not observed anything

that I think is outside of legitimate cross-examination.

Mr Lanigan: All right, sir.

Mr. Pope: I thought you were going to say, sir, you had not observed anything artistic.

The Court: No.

Q. Let me call your attention to what I conceive to be not quite correct. In your first "d" of the word "Richard," this line, whatever you call that line, is not joined to the final stem, is it? A. No.

Q. No. That should be, shouldn't it? A. Just point to it, please.

Q. Yes, right here. In other words, you have left a gap here. There is no gap in the signature, is there? A. Yes.

Q. Between the loop and the "d"? A. Between the oval of the "d" and the "d"?

Q. Yes. A. Yes.

Q. You can see that, can you? A. Yes.

Q. Your eyes are better than mine. A. They are expert eyes.

Mr. Wilentz: I move that that be stricken out about "your eyes being better than mine."

The Court: I will allow it to stand.

Q. Is this a correct photograph of the word "Richard" as I hold it in my hand? A. Yes.

Q. Will you look at my word "Richard" and tell me if the loop of the "d" doesn't join the stem? A. It is the same photograph that I hold.

Q. Does it join the stem or not? A. It does not.

Q. It does not join the stem? A. No, sir.

Mr. Pope: Well, we will have to leave that for the jury, too.

Q. Now, then, coming to this "d" here that you have illustrated on the board, this is yours, is it? A. That is the one that I drew not so awfully good.

Q. Now, in your profession, what do you call this part of the letter "d"? A. The oval.

Q. The oval. All right. Now is there any similarity at all between the oval in the "d" which you have copied from "Richard," the standard handwriting and the oval of the "d" from the word "child"? A. Well, they are both oval.

Q. I ask you if there is any similarity between them? A. In movement.

Q. You mean in the method of using one's hand when they make it; is that what you mean? A. Yes; that is movement.

Q. Well, I am not talking about movements; I am talking about similarities between the ovals. A. Well, movement produces similarity.

Q. I didn't ask what produced similarities. I ask you if there is any similarity between the oval in this "d" in the word "Richard" and the oval in the "d" in the word "child." A. As you view it, no.

Q. Well, as you view it, is there any similarity? A. Yes.

Q. Then I will let it go at that. A. Thank you.

Q. Now I ask you if there is any similarity between— do you call this the stem (indicating)? A. Yes.

Q. All right. Is there any similarity between the final stem of the small "d" in the word "Richard" and the final stem of the small "d" in the word "child" as you have drawn it upon the board? A. Yes.

Q. There is. Aside from the fact that they were both made with a piece of crayon and that they are

both intended to represent the final stem of the letter "d" is there any other similarity? A. In their pattern, finish.

Q. You think they are similar, do you? A. The finish of the "d" of the signature "Richard" is the same movement used to finish the "d" of the word "child."

Q. All right. In other words, the final stem of the letter "d" in both instances was made with a downward stroke of the pen. That is what you mean, isn't it? A. And an upward stroke and a short turn.

Q. And an upward trend at the end? A. An identical movement.

Q. So in that way there is what you might call a slight similarity? A. Yes, I think—

Q. But they are very dissimilar in form, are they not? A. Now that is a question of quality.

Q. Well, I will strike out the word "very" if you don't like it. A. Yes.

Q. There is. Now then, taking the other— you may go back, sir. A. Thank you.

Q. Referring to the other word "Richard," under the heading dictated on your chart "Standard Writings" in the middle column, every one of those are dissimilar, are they not? A. No, the four are practically identical.

Q. They are— I mean they are dissimilar from the "d" in the word "child," which you expressed. A. Yes.

Q. Yes. Now I believe you also called attention to the method of making the small "h"? A. Yes.

Q. And you directed attention to the letters "the" in the ransom note and "there." A. Yes.

Q. Correct. I want you to look as the "h" in the word "Richard" as shown on the bottom of automobile signature in the center column. A. Yes.

Q. Now, disregarding the "ard" for the moment,

the letter "h" is fully formed and completed, is it not? A. (Nodding negatively.) May I ask for a little information?

Q. Certainly, glad to have you. A. Yes, if you take the first part of the "a" and assign it to the down stroke, you would have an "h".

Q. No, but I say, disregarding the a-r-d, the letter "h" is fully completed, is it not? A. Oh, if you deflate you get something that isn't there, of course.

Q. All right, then, we will take the next one then. Now, the letter "h" has been completed there before the writer started to form the small "a," hasn't it? A. Well, I don't think so.

Q. Well, just look again, now just follow me. A. Yes.

Q. What do you call that little rigamajig that is at the bottom of the small "h", what do you call that thing? A. Perhaps a rigamajig.

Q. Well, we will call it a rigamajig then. Did not the writer start his "h" and then make this— can I call that a loop? (Writing on chart.) A. No, call it an upstroke.

Q. Upstroke. And then he turned over slightly, didn't he? In some instances he started very sharply to go down? A. In all instances there.

Q. All right, then he started to go down like that, didn't he (indicating)? A. No, he started in in line with the upstroke.

Q. Well, it would be more like that (indicating)? A. Well, that is more like what he did.

Q. And then he went up like that, didn't he, to the right? A. Yes.

Q. In other words, before he put the "a" in there, he wrote it as if it was "Rich" and then simply going to make it "i-r-d," didn't he? A. No, as if he were going to make it R-i-c-h-e-r-d.

Q. All right; R-i-c-h-e-r-d. And then he formed

the "a" by drawing a loop over the top, didn't he? Or part of a loop? A. Yes, that is the way a German "a" is made.

Q. So that he did, in each instance, fully complete the letter "h," didn't he, before he started to make his "a"? A. He wrote enough to make an "h."

Q. All right; put it that way. Wrote enough to make an "h," and that is dissimilar to the h's in the ransom note, isn't it? A. Because there is an example of that kind that precedes an "a."

Q. Now referring to your Exhibit 124, you referred to the open "e"— that is your No. 4— and the "y."

Mr. Pope: Have you this one? Please let the jury have this, No. 4, will you. That is your No. 4.

(Mr. Hauck handed photographic copies to the jurors.)

A. May I see your copy?

Q. No. 4 (showing the witness). A. Yes. It begins with the word "you."

Q. What? A. It begins with the word "you."

Q. Yes, that is right. Now I understand you to say on your direct examination that in many instances the writer of the ransom note used a "y" which looked like a "j"? A. Yes.

Q. Made a "y" that looked like a "j"; and that you found some of those in the dictated handwriting? A. Yes.

Q. Of course you do not know what instructions the writer was given when he wrote the dictated handwritings, do you? A. No.

Q. Now, referring to the first "y" in the ransom note at the top of the column, the lefthand "y", do

you find any similar "y" in either the dictated or standard writings? A. Yes.

Q. And will you tell me which one? A. There is a— you refer now to the distinguishing feature of the small upstroke, if I get it right.

Q. (Examining counsel indicates to the witness.) A. Oh, the first. Yes, that is the capital "y".

Q. Yes. A. Oh, yes.

Q. Now, where do you find any "y" which looks like that, please? A. In the word "yes," in the column at the right taken from Exhibit S-89 in the 4th line.

Q. That is slightly similar, is it? A. I would say it was quite similar.

Q. Well, in your opinion is the "y" in the ransom note made first by making a "V"? A. Making a what?

Q. A. "V." A. Yes, it appears to be.

Q. And then bringing the tail onto it? A. Making, then finishing with a "j" part. That is what you mean?

Q. Finishing with a "j" part. A. Right.

Q. Then it goes up and joins the "o-u" on the same line? A. Yes.

Q. Now, the "y" in the standard writing is dissimilar, isn't it, in this respect (illustrating on board) that the upstroke or finishing stroke of the "y" leaves the stem and goes over to the right, doesn't it? A. In the one you have drawn, yes.

Q. And in the picture, doesn't it? A. No, the other has the loop.

Q. On my photograph it hasn't? A. Oh.

Q. Oh, I am not looking at that; I am talking about this one at the top, this one that you compared. A. Yes. Well, there are four comparisons. Of course, you have a choice.

Q. Now, the next one, the next "y" in the stand-

ard handwriting, the second one from the bottom, is made by making the long stroke or the finishing stroke of the "y" and then bringing the left stroke of the "y" over against it, isn't it? A. I don't know that it was; that would be making it backwards.

Q. Well, now, look at the shading, look at the shading on it? Now, follow me. A. I am looking at the shading.

Q. Now, follow me. This is the beginning stroke of the "y" or the final stroke (pointing to chart)? A. Well, we ought to distinguish which you mean.

Q. Well, we will call it the final stroke of the "y." Now, does not the writer there begin lightly and, as he goes down, does he not shade in the second "y"? A. Yes.

Q. Yes. And then when he starts to make—

The Court: Mr. Pope, we are about to take a recess now.

Mr. Pope: May I ask just this one question?

The Court: Yes.

Q. And then when he makes the first stroke of the "y," does he not make a heavy shaded stroke over against the stem? A. That is what appears, but it doesn't necessarily indicate that he made the stroke you designate first.

Q. Oh, I don't care which one he made first. A. Oh, well.

The Court: We will take a recess now. The people will remain in the courtroom quietly until the jury has passed. The jury may now retire.

(At 12:31 p. m. the jury retired.)

The Court: The prisoner is now remanded to the custody of the Sheriff and he may retire. We will take a recess now until 1:45.

(At 12:33 p. m. a recess was taken until 1:45 p. m.)

AFTER RECESS.

(1:48 P. M.)

(The jury was polled and all jurors answered present.)

The Court: Counsel may proceed.

JOHN F. TYRELL resumed the witness stand.

Cross-Examination (continued).

By Mr. Pope:

Q. Referring to State Exhibit S-124 and which is your chart No. 4—

Mr. Pope: Will you see that the jury gets the copy of the chart that they had this morning.

(Copies of chart handed to the jury.)

Q. One of the things that you called special attention to was the prevalence of the open "u"—open "o," open at the top? A. Yes.

Q. And did you consider that of some significance? A. Some, not much.

Q. Not much significance? A. No.

Q. As a matter of fact, almost every writer in

writing a number of words were the letter "o" occurs a number of times will make many of them with an open top, will he not? A. Every writer? No.

Q. I didn't say every. I said almost any writer. A. No.

Q. No? You think not? Well now, referring to the letters "o" in the ransom note, are they not what you might term wide open "o's" at the top? A. Yes.

Q. And the "o's" in the dictated writing, while they are open, they are more closely drawn together, are they not, or closed at the top? A. In some instances.

Q. In some instances. I think that finishes with that one, sir. Now, taking up your Exhibit No. 9—I think it is No. 5, it has two markings on it. That is the one I mean. A. No. 5.

Q. It is State's Exhibit No. 125.

Q. In this exhibit I understood you to direct attention to the small "d." A. Yes.

Q. Is that one of the purposes of this exhibit? A. Yes.

Q. Now, referring to the word "did" in the ransom note shown at the lower lefthand corner of this diagram, the first words I take it to be, or to be intended for "did you," but it looks more like a "dit" I think you said than a "did." A. Well, "tit you," t-i-t.

Q. T-i-t, but from the context it was intended to mean "did you?" A. Yes.

Q. Well, now will you just look at the capital "D" then in that "Dit," "Dit you?" A. Capital, sir.

Q. The capital "D". A. You mean initial.

Q. Yes, the first "D". A. The initial letter.

Q. Yes, the first letter. Is that meant for a capital "D", did you think? A. No.

Q. Was it meant for a small "d"? A. Presumably; if that is the pronunciation it resembles a small "t".

Q. A small "d"? A. "T" as in tit.

Q. I know, but I am now asking you if you examined the context and if you concluded that that was intended for "did you"? A. Yes.

Q. All right. Then whether it is spelled properly or not, it was intended to be d-i-d? A. Yes.

Q. "You"— A. Misspelled then.

Q. Misspelled. Then do you say that it is unreasonable to assume that the three letters there are intended to be d-i-d, even though they look somewhat like a "t"? A. Presumably.

Q. Presumably d-i-d? A. Would be the English spelling of it.

Q. Yes. A. As it stands, it is t-i-t.

Q. Then it is rather striking, isn't it, that the author of this ransom note sometimes made his d's to look like t's? A. Yes.

Q. Yes. Well, that being so, just compare those two letters with the standard writing in the word "Dodge," of which you have three instances directly opposite? A. Yes.

Q. The d's there are very plainly and very clearly formed, are they not, both the capital "D" and the small "d,"— "D-o-d"? A. Both the initial "D" and the capital "D".

Q. Well, both the initial "D" and the small "d," D-o-d. A. Using the term "initial" as indicating the first letter.

Q. Yes, that is what I mean. So there the two d's are strikingly dissimilar, are they not? A. Yes.

Q. Now, using this same exhibit, will you look at the small "h" in the ransom note in the word "there" and then the next word looks like t-h-e-r-s and in the following word t-h-e-r, you will see three

instances there of a small "h," do you not? A. Yes.

Q. Now, do you notice that the "h" is fully and well formed in each instance? A. Yes.

Q. So that the author of the ransom note did not experience any difficulty in making the small letter "h" in these instances which you show on the photograph, did he? A. No.

Q. He made it very well, didn't he? A. Yes.

Q. And on this exhibit you did not show a corresponding t-h-e-r-e or t-h-e-r-s, or t-h-e-r from any of the dictated handwritings so that they might be compared with the ones which you point out, did you? A. In another exhibit.

Q. Well, would you mind telling me what exhibit that is, or perhaps I will come to it; I will come to it. Now, turn to your No. 6. The principal purpose for which you used this exhibit, I believe, was to point out the spelling of the word n-o-t-e and the formation of that word— your No. 6 is State's Exhibit S-126. A. May I see it?

(Mr. Pope hands witness an exhibit.)

Q. Am I right— is that your number 6? A. (Nodding affirmatively.)

Q. You directed especial attention to the spelling of the word n-o-t-e in this exhibit, didn't you? A. Included it, yes.

Q. Yes. Among other things? A. Yes.

Q. And was there anything very singular about the spelling of that word which struck you as being unusual or of significance? A. Well, there is a similar incorrect spelling— n-o-t-e for n-o-t.

Q. Yes. And that might well have been one of the methods used by the author of the ransom notes to camouflage, might it not? A. No, I don't think so. I think it was an unconscious incorrect spelling.

Q. And what makes you think that it was an unconscious incorrect spelling? A. Because of its phonetic quality— note for not.

Q. Well, phonetically "note" and "not" are two entirely different words, aren't they? A. Yes, but a German phonetic pronunciation would be "note"— "I did note do that."

Q. Then it is your idea from studying these exhibits that the ransom notes and the other notes which accompany the ransom notes as exhibits in this case were probably written by a man of German extraction? A. Yes.

Q. Now, I will come to that in a little while. Now, just look at the e's, the small letter e's in the ransom note, as you show them on your exhibit. With the exception of the first one to the left, which is rather incomplete, those e's are made with a rather pronounced curl and opening at the top, are they not? A. A downward turn, downward inclination to the "e".

Q. I don't know what you call it, but I simply call it a loop at the top, just an open loop. A. Pardon me; what is the number? My numbers are different.

Q. I will show it to you. You may look right on here with me. You see in the words "will be" under the word "ransom"— A. Yes, I have my own.

Q. You, see, there are two open loops there aren't there? A. Yes.

Q. And then in the word "note," under the word "ransom" to the right, first one— A. Yes.

Q. —open "e"? A. Yes.

Q. And the next one is a little bit blotted, isn't it? A. Yes.

Q. But it has been intended for an open "e"? A. Yes.

Q. And so on with the next one; it is quite pronounced. A. The fourth one, yes.

Q. Yes; and the fifth one? A. Yes.

Q. Still more so? A. Yes.

Q. And the sixth one fully as much? A. Yes.

Q. And the seventh one? A. Yes.

Q. And the eighth one? A. Yes.

Q. Much more than any of the rest of them? A. Yes.

Q. Now turn to the dictated handwritings. May I have your crayon a minute? You haven't got a piece that won't come off on my fingers, have you? A. No. If you will let me have a piece of paper, I will fix it for you.

Q. Oh, never mind. I will wash it off. A. (Witness hands examining counsel a piece of crayon.)

Q. Now these e's that I have called your attention to are made rather in that fashion, aren't they (illustrating)? A. One of them, probably not quite so—

Q. Well, several of them. A. No.

Q. It is not intended to be a reproduction of them, but it shows the wide open loop at the top? A. If you would leave out the upstroke it would be a closer resemblance.

Q. All right, I will leave out the upstroke. Does that suit you better (illustrating)? A. Yes, that's better.

Q. All right. Now the e's in the Hauptmann writing are made after this fashion, aren't they (illustrating)? A. Some of them.

Q. With a long, a very narrow loop? A. Yes.

Q. Yes. A. In the dictated, you refer to?

Q. Yes. And, some of them have the final tail of the "e" coming down straight and stopping abruptly? A. One has, yes.

Q. Now, that is a dissimilarity, isn't it? A. No. It is reflected in the ransom note.

Q. Those that I have called your attention to

you wouldn't call them similarities, would you? A. Yes, the last one particularly.

Q. That is your idea of it, is it? A. Particularly the last one.

Q. Well, now, just refer to the next, to your Number 7 and State's Exhibit S-127, and very briefly just compare the e's in the word "are" of the ransom note, in the word "are," and the e's in the word "are" of the dictated writings, as well at the top and to the left of the page as at the bottom to the left of the page. Those e's are about the same as they were in the other exhibit, are they not, the same general formation in the ransom note? A. Yes.

Q. And there is the same dissimilarity in the dictated notes, is there not? A. The— yes, it is.

Q. And in— A. They show— that you quoted.

Q. Yes, that I quoted. A. Yes.

Q. And in the dictated note, the small "e" there has a tendency to represent the letter "l," doesn't it? A. In one instance.

Q. Well, in one, two, three, four, five— six instances, I see there under the term "Dictated." A. Would you call those "l's"?

Q. No, they are meant for e's, but I say they rather have a tendency to represent more truly the "l" than they do the "e," do they not? A. No.

Q. You can't see that? A. See what?

Q. You can't see that dissimilarity that I have pointed out to you? A. Dissimilarity? You were speaking of the form of the letter.

Q. Yes, I am speaking of the form of the letter; I am asking you if the letters "e" in the words "are," under the head "Ransom," are not of this general type that I have here on the chart with a large round loop at the top? A. Yes.

Q. And the letter "e" in the word "are" and "were" under the word "Dictated" immediately to

the right of the ransom note letters. Do those e's not look more like this elongated "e"? A. Oh, you mean they are narrower than the others, is that it?

Q. Narrower at the top, looks more like an "l," doesn't it? A. No. They look more like a compressed "e."

Q. Like a compressed "e," is that what you want to call it? A. Yes.

Q. Then in that respect they are quite dissimilar, aren't they? A. To that extent.

Q. Now, take No. 8, which is State's Exhibit 128— I am shortening this. This letter in this exhibit, I understood you to call attention to the formation of the letter "N" in New York? A. Yes.

Q. Now I want to ask you to refer to the letter "N" in the standard handwriting to the left of your exhibit taken evidently from the automobile license, the letter "N" in New for New York. Do you see any similarity between that letter "N" and any of the letters in the ransom note? A. Only the beginning part of the "N" of the fifth example.

Q. Only the beginning part of the fifth example. Well, may I ask will you point out to me, 1, 2, 3, 4, is that the one you mean? A. You are speaking of these?

Q. No, speaking of the standards. A. As compared with the ransom.

Q. Oh, I see. I see what you mean. Well, you are referring now to the letter "N" in the fifth— A. Example.

Q. —example, "New York" under the caption "Ramson"? A. Yes.

Q. And you think that that letter corresponds with the letter "N" in New York in the first column or known as the standard, do you? A. No.

Q. It is vastly dissimilar, isn't it? A. Not vastly.

Q. Well, I suppose vastly is a relative term. I will say quite dissimilar. A. In part.

Q. Do you think that there is any similarity between the second "N" in New York under the standard? A. And what else?

Q. Compared with any of those in the ransom column. A. It is a different type of letter, sir.

Q. Yes, a different type of letter; and the third one is also a different type of letter, isn't it? A. Yes.

Q. Now, the fourth one, is the fourth one, the one that you thought compared with some of the n's in the ransom note? A. No.

Q. Well, will you show me what other "N" does compare with the "N" in the ransom note besides the one you have already referred to? A. Not in this exhibit.

Q. Nothing in this exhibit. All right. Now you used this exhibit for still another purpose. Where is that chart that you had this morning with New York on it? I especially want that. Will you find the one that you had with New York on it?

Mr. Pope: You won't need these; I will take them. (Taking photographs from the jurors.)

A. Is that the one (indicating)?

Q. That is the one, yes. Just put it up there so we can all see it. A. (Placed on easel to the right of jury.)

Q. One of the peculiarities or features of the standard handwriting as well as the dictated handwriting which you have pointed out to the jury was the use of the dash or hyphen between the word New and York in New York. A. Yes.

Q. And I believe you said that that was to your mind significant? A. Yes.

Q. Were you here when Professor Osborn was testifying? A. Yes.

Q. And when the other gentleman— Mr. ———

Mr. Fisher: Stein.

Q. Mr. Stein was testifying? A. Yes.

Q. And did you hear them testify that that was very significant, the use of the dash between New and York? A. I heard them say it was significant.

Q. Yes. A. It had an identifying value.

Q. An unusual— A. Well, I didn't hear him say it was so very unusual; I heard him say quite uncommon.

Q. Did you hear Mr. Osborn testify that he had never known anyone to use that form of writing "New York" before? A. No, I didn't hear it.

Q. It was the first time he had ever come across it? A. I didn't hear him testify that way.

Q. I see. Well, would you say to this jury that the use of the hyphen between "New" and "York" is unusual? A. Uncommon; it is not in common use.

Q. Well, have you ever seen it before written that way? A. No, I haven't.

Q. In all of your experience you have never seen "New York" written with a hyphen between the "New" and the "York"? A. No.

Q. By German writers? A. No.

Q. By Scandinavian writers? A. I have never seen it written that way. Of course, I live in Wisconsin.

Q. I show you an envelope, which is postmarked "Denmark," or has a mark— perhaps you can tell better than I can, "Leipsig," that is it. I call your attention to "Bronx, New York." Do you see that same form of writing on that address, with the hyphen between the "Bronx" and between "New"

and "York"? A. There is in this specimen a hyphen.

Q. In this specimen.

Mr. Pope: I ask to have that marked for identification.

The Reporter: D-12 for identification.

(The envelope referred to was marked Defendant's Exhibit D-12 for identification.)

Q. I now show you another envelope postmarked Grand Central Annex. Do you see the hyphen there between the "New" and "York"? A. There is a hyphen between "New" and "York."

(The envelope was marked D-13 for identification.)

Q. Still a third one; do you see the hyphen there? A. Yes.

Q. And that is postmarked— A. Washington.

Q. D. C.? A. D. C.

(The post card was marked Exhibit D-14 for identification.)

Q. And another one postmarked New York Station T— observe the hyphen there between "New" and "York." A. The exhibit shows a hyphen.

Q. And still another post card, New York Station "T"— see a hyphen there between the New and York? A. Yes.

Q. By the way, that is not a German writer, is it? A. It is a foreign writer.

Q. But not German. And here is still another one marked "New York, Station T."

(Post card is marked D-15 for identification.)

Q. See the hyphen there? A. Yes.

Q. And that is not German either, is it, not German script? A. It is a foreign hand.

Q. Is it? A. Yes.

(A letter is marked D-16 for identification.)

Q. Well, now I show you another post card, this one is post marked New York, too. That is good plain old garden variety of American handwriting, isn't it? A. No, it is Americanized foreign hand.

Q. Oh, you think it is? A. Yes.

Q. Well, it has a hyphen, hasn't it? A. Yes.

(Post card is marked D-17 for identification.)

Q. Now I show you one from— will you tell me where that comes from— Schwarbenhaben? It comes from Germany, doesn't it? The stamp is a German stamp. A. Schwabiskamm from Schwaben.

Q. And you see the hyphen there, do you not? A. There is a hyphen there.

Q. And that is typical German writing, isn't it? A. Foreign writing.

Q. Isn't it typical German writing? A. Some of it savors very much of German writing.

Q. Well, do you want to commit yourself or don't you? Is it or not typical German writing? A. Some of the characters are.

Q. You know German writing when you see it? A. Yes.

Q. You have studied it many, many years. A. Yes.

Q. I ask you the plain question, is or is not that German writing?

Mr. Wilentz: Just a moment.

Q. (Continuing.) The whole thing.

Mr. Wilentz: Just a moment. I don't want to object, but may I suggest to the witness that it is not necessary for him to answer that question if he has not had sufficient time to study it.

Mr. Pope: There are only two words in "New York"—

The Court: One moment.

Mr. Pope: Pardon me.

The Court: I would suppose that if the witness wants time to examine that document for the purpose of answering the question, he ought to be permitted to take time.

Mr. Pope: He may do so.

The Court: Don't you think so, Mr. Pope?

Mr. Pope: Yes, sir; he may do so.

The Court: Yes.

Mr. Wilentz: You mean by that, if your Honor please, further, that that time need not necessarily be now.

The Court: Well, the witness probably in

his examination will indicate what his wishes are in respect to that, in order to satisfactorily answer the question.

Mr. Wilentz: Thank you, sir.

The Court: Now, suppose you reframe your question again and the witness will make such answer as he chooses.

Mr. Pope: All right; I will reframe the question.

The Reporter: Post card marked Exhibit D-18 for identification.

(Post card referred to by Mr. Pope marked Defendant's Exhibit D-18 for identification.)

By Mr. Pope:

Q. I ask you to look at this envelope, which has on it the word "Miss," Miss, and the words "New York," "U. S. A.," with a hyphen between "New" and "York." Tell me if you can tell us is that a typical example of German handwriting? A. Where is the rest of this address?

Q. I am only asking you to identify what you see there. A. This is like one of the games they used to play, when a boy would cover up part and guess at the rest.

Q. I am only asking you, Professor, to testify to the words "New York, U. S. A."

Mr. Wilentz: Now, just a moment, if your Honor please. I think that what the witness is attempting to say and apparently isn't saying is that it isn't a fair test; and may I sug-

gest to the witness, if that is what he means, to say so.

Mr. Pope: Now the Prosecutor has told you what to say, so you may answer the question.

Mr. Wilentz: Well, whether the Prosecutor has told him or not it is not a fair test, if your Honor please, and that is the Prosecutor's statement.

The Court: Well, the witness will make such answer as he can and wishes to make.

Mr. Pope: The question has no force now, your Honor, and it is withdrawn.

The Reporter: Envelope marked D-19 for identification.

(Envelope tendered by Mr. Pope marked Exhibit D-19 for identification.)

Q. I show you another envelope. This one is typewritten and it comes from the Netherlands. You see the dash or the hyphen between the "New" and "York" there, don't you? A. The typewritten address.

Q. Yes, and the dash is very plain there in the hyphen, is it not, between the "New" and "York"? A. The typewritten—

Q. The typewritten hyphen, yes, certainly. Typewriters make hyphens, do they not? A. It depends on the operator.

Q. Well, did you ever see a typewriter that was built without a hyphen to be used whenever you wish to use a hyphen?

Mr. Wilentz: I object to the question as not material and not proper, whether a typewriter has a hyphen or not.

The Court: Mr. Pope, I think you are going too far.

Mr. Pope: Well, I suppose that is true, but the witness argued with me about a typewriter having a hyphen.

Q. I ask you also if you see a typewritten hyphen between the word "New York" and "City" in that address? A. Yes.

Q. So there are two hyphens in the address there, aren't there? A. Evidently a separation.

Q. Whether they are separations or not, Doctor, they are hyphens, aren't they? A. Yes.

The Reporter: D-20 for identification.

(The envelope was marked Exhibit D-20 for identification.)

Q. Now I show you a post card which comes from— well, it comes from the Deutschland somewhere— and I ask you if you observe the hyphens between the "9" and the "Th" for 9th Street and between "Brooklyn" and "New York"? A. Yes. It comes from Wulfrath. Yes, it has a hyphen between the "9" and the "th," a separation.

Q. That is right. And there is also a hyphen after the word "Brooklyn," isn't there? A. No, that is a dash.

Q. All right. A dash. Call it a dash then. A. There is no word following it.

Q. Then there is a hyphen between "New" and "York," isn't there? A. A mark there for a hyphen.

Q. Yes. And the same way in this one which I am showing you— hyphen between "New" and "York."

(The post card from Wulfrath was marked D-21 for identification.)

Mr. Pope: I think we have enough of these exhibits, haven't we? We have more here, but I think that is plenty to demonstrate our point.

Pardon me just a minute. I may be able to save some time.

By Mr. Pope:

Q. Your next exhibit was your Number 9 and it was State's Exhibit 129.

(Addressing counsel for the State:)

Will you let the jury have Number 9?

You used this exhibit, I think, among other things to point out the fact that the small "t" was not crossed in any of the instances shown on the exhibit. A. No.

Q. That was one of your purposes in using it, wasn't it, to direct attention to the "t" not being crossed? A. No. It was a part of one purpose.

Q. Part of one purpose. Very well. Now, is it unusual to find writers who make t's without crossing them. A. Unusual? It is unusual.

Q. Is it? A. But not rare.

Q. Not rare. And is it unusual to find writers who make i's without putting the dot over them? A. More unusual, more rare, but there are instances.

Q. Yes. And doesn't that depend very largely upon how rapidly the writer is writing, whether he bothers to cross his t's or dots his i's? A. Well, of

course, that depends upon the writer somewhat. A very careless writer might slight "I" dots and "T" crossings, but he would put some in.

Q. One that was hurrying? A. If he was accustomed to using them.

Q. Now I want you to take this ransom note on this exhibit, your No. 9, State's Exhibit 129, and I want to direct your attention to a letter that you seem to pass over, the small "h." You spoke about that once before. A. Which exhibit? Have you the same one?

Q. Yes, in the word "the," t-h-e. The writer did not have any difficulty in forming the "h," small "h" in those cases, did he? A. Apparently not. They are fluently made.

Q. Fluently made and are perfectly made, aren't they, judging the writer's ability to write? A. To which particular instance do you refer, Mr. Pope?

Q. The "the," t-h-e, two or three of them there. A. Oh, there are a number of them in the illustration.

Q. I referred to the small "h" in each instance at the top of the line, under the heading "Ransom," in the words "the." You have one, two, three, four— you have four examples. On the next line you have one, two, three, four examples— that is eight examples of the small "h." The writer didn't have any difficulty in making the "t-h," did he? A. He didn't appear to have.

Q. No. And he didn't appear to have any difficulty in getting the "t" before the "h" in the proper place, did he? A. No.

Q. Now, Doctor, did it occur to you in your examination of these handwritings that probably, or possibly, the writer was trying to disguise his handwriting or to camouflage it by putting his "g" before the "h" and his "h" before the "t"? A. No. I think it was an unconscious habit, or—

Q. That is what you think, but it might well have

been camouflaged too, mightn't it? A. Well, that isn't what I think.

Q. Well, I didn't ask you what you think. I say it might well have been one of his methods of disguise? A. I can only testify to what I think.

Q. You don't want to answer that question?

Mr. Wilentz: I submit the question is answered.

The Court: I think it is answered.

Q. Have you ever seen an instance in a disputed handwriting, such as a ransom note or extortion, where the writer of the note has attempted to disguise his identity by the misuse of letters? A. Yes.

Q. That being so, the writer in this case might have attempted to disguise his identity by the misuse of the letters "h" and "t," might he not? A. I don't think so. That—

Q. Of course, you don't think so, but I am asking you.

Mr. Wilentz: He is trying to answer your question. Just a minute, please.

Mr. Pope: Well, that isn't an answer to my question.

The Court: Well, let him finish the answer and we will see about that.

Mr. Wilentz: What is your answer, sir?

A. I said I thought not, because it occurred—

Mr. Pope: I object to what the witness thinks.

Mr. Wilentz: Wait until he finishes.

Mr. Pope: He may express his opinion, of course.

The Court: Let him answer the question.

A. I am endeavoring to make my opinion be what I think.

Mr. Wilentz: Answer the question, please.

A. In my opinion it occurs too naturally and the instances are too specified— that is, they occur in particular places and at intervals, and in my opinion these are accidental inclusions.

Q. Now we have your opinion, haven't we? That is your opinion, isn't it? Now will you answer my question? You have just told me that you have known of instances where writers have misused letters in the formation of words for the purpose of disguise. I now ask you if in this instance the writer might also have used the wrong formation of his words for the purpose of disguise? A. I have already answered that question.

Q. And that is as far as you care to go, is it? A. It is complete.

Q. Yes, all right. Now did it occur to you that the misuse or the misplacement of the letters "h," "g" and "t" in these letters was an evidence of illiteracy on the part of the writer? A. Not necessarily illiteracy.

Q. Well, lack of education, then? A. Well, I don't know. It probably was lack of training in the arrangement of the words, or it might have been some peculiar lapse of that individual in transposing.

Q. Well, would it not have a tendency to indicate lack of education more than anything else, and

experience in writing? A. Perhaps experience in writing rather than education.

Q. You would not expect to find that method of forming the words that I have referred to in the handwriting of a business man or a man of, for instance, high school education or of good grammar school education, would you? A. No.

Q. No. So that if these letters were written by a man of education, or a man with a high school education, or a good grammar school education, and those letters appeared in there misplaced in that way, that would be an additional indication of camouflage, wouldn't it? A. It would depend on whether he was writing in his mother tongue and in the tongue in which he was educated.

Q. What do you mean by that? A. Why he might be able to spell the word perfectly correctly in his mother tongue and incorrectly in the language of his adoption.

Q. But these ransom notes are all written in English, aren't they, misspelled English some of them. A. Yes.

Q. There is no attempt to write any of the words in any of the ransom notes that you discovered in the German mother tongue, is there? A. Yes.

Q. What word? A. Uns.

Q. What? A. The word "uns."

Q. How do you spell that? A. U-n-s, meaning us, and substituted for the English word "us", there is another word—

Q. Well, that might be disguised too, mightn't it?

Mr. Wilentz: Just a minute.

Mr. Pope: He has answered my question.

Mr. Wilentz: He says there is another word.

Q. All right. Is there another word? A. Best danks, the German expression best danks.

Q. Where does that occur? A. In one of the letters acknowledging some information.

Q. That is your interpretation of the context? A. Well, the exhibit speaks for itself.

Q. And what did it mean in that instance? A. Thank you.

Q. In the context? A. Thank you.

Q. Can you point that out to me? A. Best thanks.

Q. And the exhibit that is in? A. Yes.

Q. I wish you would.

Mr. Wilentz: Supposing you proceed. We will try to find it.

Mr. Wilentz: Mr. Pope, the witness apparently has the information you seek.

Mr. Pope: All right.

By Mr. Pope:

Q. Now, can you tell me what exhibit that appears in? A. It is in Exhibit S-23, line thirteen, the words "best dank"—"for information about it we are interested to send your baby back in god health."

Q. In what kind of health? A. "In god health," according to the spelling.

Q. That is "good health," isn't it? A. It is spelled g-o-d.

Q. Well, that depends whether the last whirl is an "o" or part of the "d," doesn't it? A. No. It depends on whether two e's are included or not.

Q. I see. All right. That is all with that now. I have one or two other questions that I want to ask you, which do not have to do particularly with the

exhibits. You told me this morning that among the methods used by writers of ransom notes and notes of this character, trying to get money out of people, they often used ungrammatical expressions for the purpose of concealing their identity and preventing detection. A. In some cases.

Q. Yes. I want to know, did you read the letter in evidence marked S-24. A. Yes.

Q. And did you pay any attention to the composition, the rhetoric of that letter? It is the first letter, I think, that was mailed to Dr. Condon. Now, I want to call your attention to the splendid English, as I call it, in that letter: "If you are willing to act as go-between in Lindbergh case, follow strictly instructions." You notice the use of the words "strictly" and "instructions"? A. I notice the words, "Please follow strictly instruction."

Q. Yes. Well, that is well phrased, is it not? A. Not particularly.

Q. Not particularly well? Now then, take the next word and change the word "handle," which is evidently a mistake, and change it from "handle" to "hand," "hand enclosed letter personally to Mr. Lindbergh," that is good phrasing, isn't it? A. Yes, but "handle enclosed letter personally—"

Q. I am trying to take out of this—

Mr. Wilentz: Please, just a minute.

Q. I am trying to take out of this letter, sir, the words which we think are there for the purpose of disguise and put the word in that belongs there for the purpose of examining the phraseology of these letters. A. That is the royal "we," is it, you mean yourself?

Q. Yes, the royal "we," that is right. Now, "Hand the enclosed letter personally to Mr. Lindbergh," that would be good phrasing, wouldn't it?

Mr. Wilentz: But that is—I object to it because it is not the phraseology of this note.

Mr. Pope: No, of course it isn't, but we are trying to demonstrate to the jury by an examination of the phraseology of these notes where they have been disguised, how they have been disguised, and eliminating these disguises we have here a series of notes that were written by a well-educated man and later on by a very good business man, that is what our effort here is in the cross-examination.

Mr. Wilentz: Well, if your Honor, please, that is not the fact in the first place, and in the second place, if we are going to use this note for the purposes of this effort, then the note ought to be read correctly, particularly with all the misspellings, every word like "strictly instruction," which counsel uses as a basis for the question; let it appear that "strictly" is s-t-r-i-c-l-y; let it appear that "please" is spelled p-l-e-a-s; let it appear that "hand" is not "hand," but "handle," h-a-n-d-e-l; let it appear that "enclosed" is i-n-c-l-o-c-e-d; let it appear that "personally" is p-e-r-s-o-n-a-l-y, then if some comfort can be made out of it, then all right.

Mr. Pope: We admit that all of those mistakes were made for the purpose of disguise. Now we are trying to eliminate those mistakes, to show the jury that they are disguises, that is all.

Mr. Wilentz: Now, if your Honor, please, as to that we don't want counsel's admission that these are made for the purpose of disguise,

because we deny through our experts, we know nothing about it, we rely upon the experts, and their contention is that it is not a disguise, and therefore we neither ask nor want nor accept the admission.

The Court: Well, I understand all of that. Now the question that Mr. Pope desires to put is what? What is your question?

Mr. Pope: I am merely calling the witness's attention to the phraseology of these letters, if we could eliminate what we contend are disguises and they were read as they were intended to be understood.

The Court: Well, haven't you already asked him that question at least a half a dozen times, substantially in that form?

Mr. Pope: Yes, and he said that that is one method. Now I want to take up the letters and I want to analyze them.

The Court: Well, are you going to take up all of these letters?

Mr. Pope: No.

The Court: And analyze all of them?

Mr. Pope: No, sir, I am not.

The Court: You have already taken up two or three of these, and analyzed those, haven't you?

Mr. Pope: No, I have only taken up two of them in the one letter.

The Court: Would it be satisfactory to two or three of these phrases, and analyzed those, haven't you?

Mr. Pope: In each letter?

The Court: No. In that letter.

Mr. Pope: Well—

The Court: You see, we must have some regard for the passing time, Mr. Pope.

Mr. Pope: I know, but I think—

The Court: I am not trying to limit you at all.

Mr. Pope: I realize that.

The Court: I am trying to see whether or not we cannot agree upon some procedure that will be satisfactory to you and satisfactory to the State and still save what time we can.

Mr. Pope: Yes.

The Court: Now, if you will frame a question, I will rule upon it.

Mr. Pope: I will frame a question now.

The Court: Very well.

Mr. Pope: All right, sir.

Q. Now, I call your attention to letter S-43. A. That is not the same letter, Mr. Pope.

Q. Well, that is the letter which starts out "Dear Sir: Mr. Condon may act as go-between and you may give him the $70,000." I don't know what your number is. A. May I see your—

Mr. Pope: Let him have the original letter, if you have it there.

Mr. Wilentz: Yes, here it is, right here.

Q. Now, I would like to call your attention to the phraseology of that letter: "Mr. Condon may act as go-between." You see that? A. Yes.

Q. Do you notice the very careful use of the word "may" instead of the careless use of the word "can"? A. Yes.

Q. And in the next sentence, "You may give him the $70,000." You notice the use of the word— A. "May" occurs.

Mr. Wilentz: Now, just a minute. That is not one sentence; it is only a part of it.

The Court: Let him have the entire sentence, Mr. Pope.

Mr. Pope: That I did. That is one sentence.

The Witness: It is two sentences, your Honor.

Q. Certainly. "Mr. Condon may act as go-between." That is one sentence. A. Period. "You may give him the $70,000."

Q. That's right; that is the second sentence. A. Yes.

Q. Now, those two sentences are perfectly

phrased, are they not, in splendid English. A. Splendid common English.

Q. Well, the use of the word "may" there, shows rather meticulous care, doesn't it, instead of the word "can"? A. Well, it shows the use of a correct word; I don't know how meticulous it is.

By Mr. Pope:

Q. And it shows the experienced good English scholar, doesn't it?

Mr. Wilentz: Well, if your Honor, please, I object to this as being argumentative. It is a very simple statement and I don't know just how meticulous it can be identified as being.

The Court: Mr. Pope, we have gone a long way on this—

Mr. Pope: I won't press it, sir.

Q. Now then, take the next sentence: "Make one packet"—p-a-c-k-e-t, instead of "package" or "bundle."

Mr. Wilentz: That is not the finish of the sentence, may I submit.

Q. The word "packet" is the use of a word in very good phrasing, isn't it? A. Packet is an appropriate word for some objects.

Q. Yes. Now you notice—I thought it was in this letter. Going a little further down in that same letter you notice the phrasing, "After we have the money in hand we will tell you where to find your boy." A. Yes.

Q. The use of the term "in hand"—would that

not indicate that that was written by a hand of business experience? A. No. It is equivalent to the German "imhant."

Q. I didn't ask you what it was equivalent to. A. Well, I am telling you what I thought it was.

Q. I am asking you if you didn't think it was indicative— A. Well, there are various grades of business men.

Q. But that is a common use in business writing, isn't it—"in hand"? A. It is sometimes used, yes.

Q. Yes. A. It might be picked up anywhere.

Q. Now take up the next letter, S-48—I think you have it there. I will go through these very rapidly. It begins, "Mr. Condon, we trust you will note in your home"—do you see it? A. I have it.

Q. You have the word n-o-t-e for "not" there, haven't you? A. Yes.

Q. Now just look in the next line: "It is too danger." A. "It is thu danger."

Q. How is the word "too" spelled there? A. It is—

Q. T-o-o, isn't it? A. No.

Q. What? A. It is—

Mr. Wilentz: The answer is no.

Q. Isn't that meant for two o's?

Mr. Wilentz: The original question was "what is," not what it is meant for.

Q. Isn't that two o's there? A. No, it isn't two o's.

Q. You think it is n-o there? A. No, it is a "t" and a repeated mark similar to a "t" and an o. It is another case of—

Q. Then you think it is t t-o? A. Well, it might be.

Q. But there are three letters in it, aren't there?
A. These "t's" are not crossed.

Q. All right. Now, look at the word "frankfurter." A. Oh, had you finished with this first one?

Q. Yes, you think it isn't "two." I think it is, that is all.

Mr. Wilentz: I move that be stricken out, if your Honor, please.

Mr. Pope: We will let the jury decide.

The Court: Strike it out.

Mr. Wilentz: We will let Mr. Pope testify for the defense.

A. I thought this question was as to the English of this phrase here.

Q. No, I merely wanted to direct your attention, sir, to the misspelling of the word "not," n-o-t-e, and then the spelling of the word "two dangerous," t-o-o. You may pass that, sir. A. The words?

Q. Come down to the word "frankfurter," empty frankfurter stand. A. Pardon me, the word isn't "dangers" it is "danger."

Q. That is right. A. "It is so danger."

Q. Yes, that is right, they left the "ous" off for the purpose of disguise, didn't they?

Mr. Wilentz: I object— Oh, I will withdraw the objection. Will you answer the question, Mr.—

A. No.

Q. You think not? A. No.

Mr. Wilentz: Just let him answer the question.

Mr. Pope: He says no, he is answering.

A. It is a matter of ignorance.
Q. Matter of ignorance? A. Yes.
Q. A man who says, "You may do this," and "You may do that," is ignorant, is he? A. No, I didn't say that.

Mr. Pope: No, I don't say so either.

Mr. Wilentz: I move that be stricken out, if your Honor, please.

The Court: Strike it out.

Mr. Pope: I ought not to say that, sir, I apologize, it came out unconsciously.

Q. Now turn to the word—go to the word "frankfurter" there, "frankfurter stand," "empty frankfurter stand." Do you find it? A. Yes.
Q. How is it spelled? A. F-r-a-n-k—double-hyphen—f-u-r-t-h-e-r—"frankfurther stand."
Q. Now, you wouldn't expect a German to write "frankfurter" that way, would you? A. Well, he might, if he is trying to write in English.
Q. But that is German, isn't it? A. Well, the word "frankfurter" is German, but "frankfurther" is something else.
Q. That isn't English, is it? A. No. It tells "frank" to go on.
Q. Then it is neither English nor German, is it? A. (No answer.)
Q. It is neither English nor German then in its spelling, is it? A. Well, it is a sort of a mongrel.
Q. No. I ask—

Mr. Wilentz: He has answered you.

Q. Is it either English or German in spelling? A. I have answered you, if you please.

Q. I know you have answered it, but I want you to answer right.

Mr. Wilentz: Well, he has just stated he has answered it. That is not my statement.

Q. Then would the fact that the German writer had spelled the German word "frankfurter" wrong be an additional attempt to disguise? A. No, I don't think that it is an attempt to disguise.

Q. You don't think so? A. No, not there. I think it is a bit of ignorance.

Q. Ignorance? A. Yes.

Q. Or lack of education, which? A. Well, what is the difference?

Q. Well, some people are ignorant and are still educated.

Mr. Wilentz: I move that be stricken out, if your Honor, please.

The Court: Yes.

Mr. Pope: Well, he asked me the question.

Mr. Wilentz: I know, but I move to strike it out anyway.

The Court: It may go out.

Q. Now, going a little bit further in that note, "This notice will tell you where to find me." Do you find the term there "act accordingly"? A. Yes.

Q. That is good phrasing, isn't it? A. It is rather direct.

Q. Yes, and businesslike. A. Well, it apparently means business.

Q. And "accordingly" is spelled correctly, isn't it? A. Yes.

Q. And did you notice in the next letter, the fourth letter—

Mr. Wilentz: What one is that?

Mr. Pope: That is the one that says, "Our men failed to collect the money." It is S-52.

A. Pardon me, Mr. Pope—

Mr. Pope: "There are no more conferences," and so forth.

A. In that word just above "accordingly" there is another of those German words.

Q. Well, you tell the Prosecutor about that. A. I thought you might have overlooked it.

Q. No, you may tell me if you think I have overlooked it. A. This notice n-o-t-i-c-e will tell you where to find uns.

Q. Where to find uns that means us. A. In German.

Q. "Act accordingly." A. Yes.

Q. So that is part German and part English. A. Yes.

Q. But it is very good phrasing at that, isn't it? A. Well, it is quite understandable.

Q. Now you think that this writer who could spell "accordingly" so well would fall down on spelling the word "not" unless he was attempting to disguise? A. Well, it depends on where he got his information for the spelling of that word "accordingly."

Q. Well, I asked you if you thought he was copy-

ing it from another letter. You said you didn't think so. A. Well, another letter and a dictionary might be two things.

Q. There isn't any evidence that the writer of this note had a dictionary before him, is there? A. I don't know. I wasn't there when these letters were written.

Q. But I ask you, sir, as a handwriting expert, and a man of years and years of experience, if it is not significant to you that the writer of this note misspelled the little three letter word "not," perhaps one of the first that he ever learned to spell and spelled the word "accordingly" correctly? A. It is significant.

Q. Yes. Now turning over to the next letter, you saw in the next letter the word "hazardous," didn't you, S-52, "those arrangements too hazardous for us." A. Yes. These are not numbered.

Mr. Wilentz: Is it all right if I show him the original?

Mr. Pope: Yes, it is. It is about the third or fourth line.

A. What is the question, Mr. Pope?

Q. I say, do you see in there the words, "too hazardous for us." A. Yes.

Q. And spelled correctly, isn't it? A. No.

Q. How is it spelled? A. T-o for t-o-o.

Q. How is the word hazardous spelled? A. Hazardous is spelled correctly.

Q. Yes. So that the writer of these notes that fell down on the word "not," spelled correctly the word "hazardous." A. And fell down on the word "too."

Q. Well, maybe he did and maybe he didn't. I will look at that word "too."

Mr. Wilentz: Well, the answer is that he did.

Mr. Pope: I will look at it and see. You are right. "To."

Q. Well, that is not unusual, though, either, is it? A. Well, it doesn't indicate a superior education on the part of the man that wrote "hazardous."

Q. No, but may it not indicate an effort to disguise? A. No.

Q. Is there no significance at all in the fact that this writer was able to spell correctly the word "hazardous" and incorrectly the word "too"—t-o-o, to?

Mr. Wilentz: Just a minute. The question has been answered five times, if your Honor, please.

The Court: I think it has.

Mr. Pope: It hasn't been answered before.

The Court: I think it has been.

Mr. Pope: Not this question.

The Court: Well, put your question and let him answer it.

A. You can read it. Do you want my answer?

By Mr. Pope:

Q. Yes. A. The fact that "hazardous," an unusual word, was correctly spelled, would indicate, in view of the fact that the small word "too" is misspelled, that the writer got his information as to how

to spell that second word from what he considered an authority on spelling.

Q. Then you think that it wouldn't indicate any intelligence on his part? A. I think it would indicate remarkable intelligence to know where to look for it.

Q. Yes. All right. Now, the next ransom note —no, that is No. 52—the same ones are a little further on. I want to call your attention to the word "transfer"—"circumstances will not allow us to make a transfer like you wish." See it? A. Yes.

Q. Does the significance of the use of the word "transfer" in the context there appeal to you? A. Yes, as a misspelled word.

Q. But it shows intelligence in the use of American words, doesn't it? A. Well, I don't know that it shows—

Q. "Circumstances will not allow us"—

Mr. Wilentz: Just a minute.

A. (Continuing.) —a tremendous lot of intelligence. The phrase is "circumstance will note allow us to make a transfer licke"—l-i-c-k-e—"you wish."

Q. That is right. That is literally. That is literally, isn't it? A. Yes, sir.

Q. The way it is literally. And yet if that author were not trying to disguise his handwriting, but was writing freely and honestly, and with no trouble about being caught, might he not have written it "Circumstances will not allow us to make a transfer like you wish"? A. Provided he possessed the ability.

Q. Yes, provided he possessed the ability. A. Yes; and the writer didn't.

Q. Then that would be good phrasing, wouldn't

Q. Yes. Well, of course, you are not attempting it? A. Yes, if he did it the way you suggest.

to tell this jury that the writer of these notes didn't try to disguise his identity, are you?

Mr. Wilentz: Just a minute. That is just what the witness has said many times.

The Court: I think he has said that there was an attempt to disguise identity, particularly in the original ransom notes. Did he not?

Mr. Pope: Yes, yes.

The Court: Yes.

Mr. Pope: In all of them for that matter.

The Court: Well, I do not know about that, but I did notice what I said.

Q. Now further on in that letter there, the next to the last paragraph, "Let us know in the New York American." May I call your attention to the phrasing, "We can't do it otherwise because we don't like to give up our safety." A. Just a minute. What is that number?

Q. That is No. 52. A. In what line?

Q. Well, mine is typewritten and my lines don't agree with yours: "Let us know about that in the New York American. We can't do it otherwise, because we don't like to give up our safety place or to move the baby." A. Yes, the words following "New York American"?

Q. That is right. A. "We can't do it other ways because we don't like" l-i-c-k-e "to give up our" o-u-e-r—

Q. Yes. A. —"safety place" p-l-a-s-e "or to move the baby"—

Q. Yes. Now, do you notice the phraseology

there, disregarding the false spelling? It is good phrasing, isn't it, and businesslike? A. Well, it is just ordinary phrasing.

Q. Yes, certainly. But it is not an evidence of ignorance. It is rather an evidence of intelligence, isn't it? A. Well, a degree of intelligence.

Q. Yes. All right. Put it a degree. And you say a degree of intelligence because there is some misspelling: is that the reason you use the word "degree"? A. In part.

Q. I see. A. Peculiar spelling.

Q. Now then, just refer to the next letter, S-61. That is a very short letter and this one I want to direct your attention to particularly. Do you remember that letter? A. I have it.

Q. Was there anything striking about the phraseology of that letter to you? A. Much the same as the others.

Q. Did you notice the very terse, business man writing in that letter? A. Terse, business man?

Q. Yes, in phraseology. A. The sentences are short.

Q. Yes. Now, for instance, "It is not necessary to furnish any coat," that is terse, isn't it? A. It is note necessary—

Q. Never mind the misspelling. A. Well, I do.

Q. Well, you may, but I don't. A. I do.

Q. "It is not necessary to furnish any coat," put it that way, that is very terse, isn't it? A. It is note necessary to furnish any coat?

Q. Yes, and you and Mr. Lindbergh know our program very well, that is very terse and short and right to the point, isn't it? A. Yes.

Q. Yes. "We will keep the child on our safe place until we have the money in hand." You notice that the use of the word "in hand"— A. Yes.

Q. That is very businesslike, isn't it? A. Well, yes.

Q. That sounds like a good business man writing a letter to another good business man, does it not? A. Yes, it is.

Mr. Wilentz: Your Honor, may I object?

Q. The deal—

Mr. Wilentz: Since Mr. Pope is indicating his views about business men, may I suggest that it is the State's opinion that it is a letter of one kidnapper to the father of the child.

Mr. Pope: Now, I ask—

Mr. Wilentz: It is twice stated that "in hand" is a business man's letter.

Mr. Pope: Now, there is no question pending; the witness answered the question. That remark or speech from the Attorney General was uncalled and I respectfully ask the Court to instruct the jury to disregard it.

The Court: Yes, the jury will disregard the remark just made by the Attorney General. Now, Mr. Pope, haven't you been already over this very topic that you are now examining upon?

Mr. Pope: Yes, I think after I have finished with this very short letter, I am through with that branch of the examination.

Q. Now, then, just following on after the word "in hand," "but if the deal is not closed until the 8th of April, we will ask for 30,000 more," that

terse, isn't it? A. What is there remarkable about it?

Q. Well, I am going to let the jury determine that, Doctor? A. Thank you.

Q. What is remarkable about it? I just asked you if that isn't terse and businesslike? A. Perhaps both of us agree to that.

Q. Yes, surely.

Mr. Pope: I think that there are other questions along that line, but we will reserve them for argument to the jury.

Q. By the way, Mr. Tyrrell, is that right, Mr. Tyrrell? A. Tyrrell is right.

Q. Are you a graphologist? A. No.

Q. Did you ever study or practice graphology? A. I never practiced it.

Q. Well, do you do work as a graphologist? A. Pardon?

Q. What? A. I didn't.

Q. Do you sometimes do work as a graphologist? A. Not consciously.

Q. Not consciously. I want to ask you one more question about the use of the hyphen. Is it not a fact that most of the European writers, whose writing you have yourself examined, in addressing places in the United States of America, like New York, New England, or other instances where there are two words, will use a hyphen between the words? A. They will, if they use a word that they think is a compound word.

Q. I just have two other exhibits I want to show. I want to show you an envelope which comes from Leipzig. A. (Witness examines envelope.)

Q. You notice the use of the hyphen in the address in that letter? A. There is a hyphen there.

Q. Between New in New York? A. No, there

is no hyphen there, it is between Bronx-New York.

Q. That is right, Bronx and New York. A. Yes.

Q. But there is a hyphen between Bronx and New York there, isn't there? A. Yes.

Mr. Pope: Will you mark that? For the purpose of identifying this on the record, this is an envelope from I. Fisch, Leipzig.

The Reporter: D-22 for identification.

(Envelope marked Exhibit D-22 for identification.)

Q. I now show you another postcard, which came from New York, I think, somewheres, White Sulphur Springs; do you notice the hyphen between York and N. Y. there? A. There is no York and N. Y. there.

Q. (Examining counsel indicates to the witness.) A. Oh; that is the word "City." You had some other exhibit in mind possibly.

Q. Oh, City. Yes, you are right. Well, York and City. I thank you for correcting me. You notice the hyphen, don't you? A. Well, I think possibly—where was that mailed from?

Q. White Sulphur Springs, wasn't it? A. New York, yes; New York-City.

Q. Yes. A. Yes, that is a compound word.

Q. That is a postcard from Isidor Fisch, to New York City. A. (No answer.)

The Reporter: D-23 for identification.

(Postcard marked Exhibit D-23 for identification.)

By Mr. Pope:

Q. I will ask you, generally, is not German writing a form of script writing? A. German script writing is script writing.

Q. I ask you, isn't German writing a form of script writing? A. Well, all writing is script.

Q. I suppose it is. A. Writing with a pen—termed that way.

Q. Now, I believe that you said you came from Milwaukee; you told us that? A. You believe correctly, sir.

Q. What? A. Yes.

Q. Mr. Tyrrell, do you remember about ten years ago being a witness in—I think it was—the Municipal Court— A. Yes.

Q. —of Milwaukee? A. Yes.

Q. Whatever it was—in a case brought in an indictment against Gordon Morgan? A. Don't recall it.

Q. Who was charged with forging, with allegedly forging a document, in which you appeared as the handwriting expert for the State. A. I remember a case of that description.

Q. Yes. Perhaps I can refresh your recollection. The particular defendant that I am referring to—if I do not happen to have his name correctly—is this: This man was convicted and sentenced to prison and, after he was convicted upon your testimony—

Mr. Wilentz: Just a minute.

Q. —a man by the name of Herman Eckert confessed that he himself had written the checks and the case was reopened and Morgan was discharged.

Mr. Wilentz: Just a minute.

Mr. Pope: Wait a minute, until I finish the question.

Q. Do you remember—

Mr. Wilentz: Please don't answer the question until I have a chance to object.

The Court: Do you remember the case to which I am now referring—you may answer that, yes or no.

The Witness: Yes.

Q. And in that case you testified that the forged checks were in the handwriting of the defendant, didn't you?

Mr. Wilentz: Just a minute, I object to the question as not being material in this cause. This gentleman's qualifications were admitted and conceded.

The Court: Well, Mr. Attorney General, I am not so sure that that is exactly so. The qualifications of the preceding expert were expressly admitted. When I put the question to Mr. Pope he declined to admit the qualifications of this expert. I considered that he was qualified and I directed the examination to proceed, but you see there is a reservation there and apparently he is entitled to press this question.

Mr. Wilentz: If that is your Honor's view I withdraw the objection.

Mr. Pope: It also goes to the credibility of the witness, of course, or it may, I mean.

The Court: There is clear authority for your putting this question. You may proceed.

(Question repeated by the Reporter.)

A. Yes.

Q. And the defendant was convicted, wasn't he? A. Yes.

Q. And this man Eckert afterwards confessed that he had forged the checks? A. Next day.

Q. So that you made a serious mistake in that case, didn't you? A. Well, I don't know. They were both confined in jail at the same time. There was always some little doubt in my mind.

Q. I see. That's all.

Re-Direct Examination by Mr. Lanigan:

Q. On re-direct one question, please: Mr. Tyrrell, these many matters that have been called to your attention by Mr. Pope, do they in any way affect the opinion you have heretofore given as to the identity of the writer of the ransom notes? A. They do not.

Q. That is all. Thank you.

Re-Cross Examination by Mr. Pope:

Q. You are called here as a witness for the State for the purpose of identifying this witness, aren't you?

Mr. Wilentz: I object to that as being an unfair question.

The Court: I think there is no doubt at all but what he appears here as a witness for the State.

Mr. Pope: For that purpose.

The Court: No, not for any special purpose, but he appears here to testify for the State, so that I see no reason for admitting your question, Mr. Pope.

Mr. Pope: I won't press it.

The Court: No, no, I suppose not.

The Witness: I am excused, your Honor?

The Court: You appear to be excused.

Mr. Lanigan: Yes, the State is finished with the witness.

Mr. Reilly: Before calling the next witness may we have a little air for five minutes?

The Court: Why, yes.

(Informal discussion between Court and counsel off the record at side bar.)

The Court: Now then we will take a recess for five minutes and the jury may retire.

(At 3:16 p. m. the jury retired and a short recess was taken.)

(After a short recess. The jury was polled and all jurors answered present.)

Mr. Lanigan: Herbert J. Walter.

HERBERT J. WALTER was sworn as a witness on behalf of the State:

Direct Examination by Mr. Lanigan:

Q. Your residence? A. I live in Chicago, my office is located at 100 North LaSalle Street, Chicago.

Q. Your profession? A. I haven't stated my name yet.

Q. The stenographer has your name, it is in the record —— first. Your profession, please? A. Examiner of questioned documents, generally termed handwriting expert.

Q. Over what period of time? A. Twenty-five years.

Mr. Rosecrans: I admit the qualifications of this witness. Mr. Lanigan wouldn't put him on if he wasn't qualified as a handwriting expert.

The Court: Yes.

Q. Now, you have examined the so-called ransom notes? A. You have them here? Are they all here?

Q. Yes. A. Yes, I have examined them.

Q. When did you last examine them? A. The beginning of the year.

Q. I show you the request writings of Bruno Richard Hauptmann and ask you if you have examined them. A. Yes.

Q. I show you the conceded writings, the automobile licenses and promissory note of Bruno Richard Hauptmann, which have been offered in evidence and ask you to identify those. A. Yes.

Q. Have you examined the request writings, the

genuine writings and the ransom notes? A. I have.

Q. All of them? A. Yes.

Q. What was the purpose of the examination? A. To determine whether or not, in my opinion, the same person who wrote the request writings and the conceded writings wrote the ransom notes.

Q. Have you reached a conclusion concerning them? A. Yes.

Q. What is your opinion? A. In my opinion the same person who wrote the request writings and conceded writings, those signed "Richard Hauptmann" is the same person who wrote all of the ransom notes.

Q. Give me one illustration, please. A. I have several.

Q. Give me one. A. (Produced by the witness.)

Mr. Lanigan: It is offered.

The Reporter: S-131.

(Book of photographs received in evidence as State Exhibit S-131.)

Q. I show you exhibit S-131. That correctly portrays what? A. Some ransom note writing and some request writing of Richard Hauptmann.

Q. Now give me succinctly all the reasons and illustration which lead you to the opinion you have expressed. A. This is only part of my preparation in this matter.

Q. Limit your testimony for the present purpose to that, if you can. A. It is going to be difficult.

Q. Give me what you believe to be a sufficient amount of illustrations to make the comparison. A. (Documents produced by the witness.)

Mr. Reilly Have you copies for us?

The Witness: Yes.

Mr. Lanigan: Let me have copies for Mr. Reilly. Have you some for the jury?

The Witness: Yes, I have additional specimens here (producing copies).

The Reporter: S-132.

(Book of photographs received in evidence as State Exhibit S-132.)

The Witness: A complete set?

Q. How many have you got? A. I have a set of four illustrations; six of each.

Q. Limit it to one illustration and do it in ten minutes, if you can. A. That is rather unusual, to have to rearrange my testimony at a moment's notice; also somewhat difficult.

Q. Let me have your illustrations for the jury. A. Of this particular illustration?

Q. Yes, of this particular illustration. (The specimens were distributed to the jury.) Now proceed, please. A. May I have— I also have a big bromide enlargement. I would like that.

Q. Yes. Will you bring that, please? Where is it? A. Captain Snook was to have it.

Q. Well, proceed on what you have now, please. Where do you want this, Mr. Walter? A. I would like one on the easel.

Q. All right, sir. I guess the jury can see that. I will retain these here. Proceed, please. A. Can you all see this?

Mr. Lanigan: It is offered.

(The bromide enlargement was received in evidence as State's Exhibit S-133.)

The Witness: May I have a pointer, please?

Q. There you are, sir (handing pointer to witness). A. In my examination of these ransom notes, I took into consideration that handwriting by the same person will vary under different circumstances and conditions of writing.

A writer does not always write the same, and a writer may have several forms of some letters of the alphabet. I also took into consideration that handwriting may be disguised and, in my opinion, the handwriting in the ransom notes is an attempted disguised handwriting, particularly in Exhibit S-18, the nursery note, and in S-20, the second note, in regard to the four top lines of the second letter in which in my opinion the writer has taken particular pains to disguise his handwriting.

I noticed also that there was a progressive improvement in the handwriting as the notes continued to be received. In my examination of these handwritings I took into consideration several things. My opinion is not based on one characteristic alone; I took into consideration the proportion of the writing, that is, the proportionate size of the letters in relation to each other.

In the ransom notes I observed that, taking the small "m" or "n" or "o" or some small minimum letter of that nature as a standard of one space, like the capitals or the tall, or extended letters, as "l," "b," "h," "k" or "f," were two spaces in height, and that the lower descending letters, like the "y" or the "g" or the "q," descended below the base of the writing about one space. This proportion in the

writing is quite uniformly observed in all of the ransom writings.

In my examination of the conceded writings and the request writings, I found similar proportions to the letters.

In my examination of the ransom notes I noticed a scarcity of "i" dots and "t" crossings— the similar scarcity of "i" dots and "t" crossings in the request writings. In the conceded writings there were more "i" dots and "t" crossings. In my examination of the ransom notes I took into consideration the slant or angle of the writing, noticed that it varied from vertical to right forward slanting. I took into consideration the size of the writing in the ransom notes. The size of the writing varies. I considered the alignment of the writing, that is, the relation of the writing, lines of writing to a real or imaginary line under the writing. The writing alignment was uneven. The spacing between the lines of writing was not uniform. I noted that the writer had a considerable variety in the forms of the letters that he used. I examined the writings in regard to the margin of the writing or the placing of the letters on the paper. In the ransom notes there is a space between the writing and the left hand edge of the paper. In the request writings there is also a similar uneven margin at the left hand side of the writing. The ransom notes, many of them, commenced up near the top part or edge of the paper. This is also true of the request writings. Examining the request writings I noticed a variation in the direction or slant or the angle of slant of the writing.

In some of the documents,—

Q. That is the request writing? A. Yes,— as in Exhibit 72 for identification, for instance, the commencement of that writing shows the writing merely vertical, a round, somewhat open kind of writing. Without any lessening or slackening of the speed on

the fifth line, the writing changes to a more compact style of writing and a right forward slant or direction to the writing. It seemed to be no effort and the writer seemed to have no difficulty in changing from the top method of writing to that carried out lower on. This was also observed in the conceded writings, the writings in the licenses. The body part of those documents was filled out in a somewhat vertical style of writing, non-varied, and then the signature writing more nearly resembled the writing in the lower part of the document, S-72, showing that the writer of the conceded writing and the writer of the standards had a considerable range of variation in the forms of his letters, in the size of his writing, and in the slant or direction of the writing.

Now, in coming to a conclusion on this matter I took in consideration the handwriting in all of the ransom notes; I examined the ransom notes to determine whether or not in my opinion they were all written by one or more writers. I reached the conclusion the ransom notes were the handwriting of one person.

I made a similar careful examination of the standard handwriting, the conceded writing and the request writings. Then I compared the request and the conceded writings with the writings in the ransom notes and, in my opinion, there is sufficient evidence resulting from that examination for me to conclude that all of those writings were written by one and the same person.

In order to illustrate some of the reasons for my conclusion, I prepared some illustrations and, among them, is the enlarged photograph that we have on the board here.

Q. All right, sir. Now, will you please proceed with that? A. Yes.

Q. What can I help you with? A. That is quite all right.

Q. All right. A. The word "Disputed" on this photograph refers to the ransom writing or the writing in one or other of the ransom notes. The word "Standard" refers to either the request writing or the conceded genuine writing of Mr. Hauptmann.

Dealing with the first two lines of writing on this illustration, "two person are on the." That is taken from one of the ransom notes. Then from one of the request writings we have "two person are on the," for comparison. Here we have five words written in a consecutive manner. They not only show in my opinion a remarkable similarity in the forms of the letters, but the execution or manner of writing, in my opinion, is similar. The proportions of the letters, in my opinion, are the same. The similarity between the letter forms can be observed. Compare the word "two" in the top line with the word "two" in the second line.

The t's are of similar formation, the "w" has two rounding tops like a small "n" to commence with, the "o" is wide open at the top and ends to the right with a small stroke. The small "p" does not rise above the top of the small "e." In one case the small "p" commenced with an upstroke in the ransom notes, in the request writings there is no upstroke but there is the separation between the "p" and the "e," in the word "person."

In comparison of the rest of the writing in that word, it shows in my opinion the similarity. There is a difference between the "e" in "person" in the ransom note and the "e" in "person" in the request writing. In the request writing it is a regular round hand form of the small "e." That is really not a difference.

Lower down in some other request writings, in the word "find,", spelled f-e-i-n-d, we have a similar form of "e" that we have in the word "person." Also, in the word "send" in request writing, we have

that letter "e." The word "are," the small "a" is made in the similar manner, the "r" is similar in form to "a," the "e" ends in a downward direction in both cases. In the comparison, the word o-n in the ransom writing is spelled o-n and in the ransom writing it is spelled a-n.

Comparing the words "on," in the ransom writing it is spelled "on," in the request writing it is "an." The next two words "the" in the ransom note and "the" in the request writing, you will notice there is a difference in the angle of slant, in the request writing compared with the angle of slant of "the" in the ransom writing. That angle of slant is also divergent when it is compared with the angle of slant in the words "two persons are on," showing that the writer of the request writing has the ability to change the slant or direction of the writing and do it fluently and easily as shown in this word "the." Referring to the next two lines below in the ransom note, you will find "the boad," spelled b-o-a-d. In the request writings you will find—spelled f-e-i-n-d, the bout. Comparing the words "you" in the disputed writing, the ransom note, this "y" is one of the characters that look something like a small "y," but it looks more like a foreign capital "J." In the request writings it is in my opinion a small "j" or an abbreviated small "j" and not a "y."

The small "o" is open at the top. The "u" terminates to the right in a similar manner.

Compare the word "will." There is a difference in the commencement of the "w," but the "l" ends down in the same manner. Notice the similarity of slant between the word "find" in both cases.

Observe in the word t-h-e the "t" commences at the top, downward in both cases, and the "e" ends in a downward direction. The "t" and the "h" are about the same height. In the word "boad" and in the word "bout" b-o-u-t, we have similar form of

small "o." In this connection there are other things to consider beside the forms of the letters.

The illustration shows that the writing is practically the same size and a very similar slant. There is also the lateral spacing. It will be observed that in the sentence "two person are on the," that the spacing between the words of that line is very similar. Both lines are practically the same length, writing the five words. The same is true of the next two lines: "You will find the boad," taking up about the same lateral spacing for the writing of those words, similar spacing in between words. That is a characteristic that must be taken into consideration.

Dealing now with the last two lines in the ransom note, "We will send you the sleeping suit,"—below that from the request writing I have the words "We will send you the"—not having the word "sleeping suit" but wishing to compare some of the letters, I put in the word "sending."

Compare the word "we"; both "w's" commence at the top and go downward; the "e's" end in a similar manner; the "w" is similar except for the commencing upstroke in the request writing, and the lack of that stroke in the ransom writing.

The word "send"; compare the word "send," in the ransom writing the "s" is separated from the "e" —in the request writing the "s" is joined. This may be a natural variation.

Compare the words "you" spelled j-o-u; in the ransom writing the "j" is separated from the "o" but joined in the request writing. Notice the "o" again is open at the top in a similar manner.

Compare also the word t-h-e, in both cases commencing and ending in a similar manner.

Observe the small "s" in "sleeping suit" and the "s" in "sending," and the connection between those two letters. Observe the "n" in sleeping and the "n" in sending. Notice on the righthand side the angu-

lar connection from the "n" to the "g" in the ransom writing and from the "n" to the "d" in the request writing. Notice in the word "sleeping suit" the wide open top to the small "g" and the wide open top to the "g" in "sending" in the request writing.

In my opinion the combination of similarites between the ransom writings and the request writings shown in this illustration indicate beyond any possible doubt they are by the same person.

Q. Now which will you have, Mr. Walter, which of these? A. Using more illustrations?

Q. Yes. A. One more or—?

Q. One more, just one.

Mr. Lanigan: I offer this in evidence.

M. Hauck: It is in.

Mr. Lanigan: All of them?

Mr. Hauck: No, not all of them.

The Court: There seems to be no objection to it. It will be admitted.

The Reporter: S-134.

(Bromide enlargement received in evidence as State's Exhibit S-134.)

Court Crier Hann: Can the jury see that?

Mr. Pope: If your Honor please, may we ask that the easel be turned around just a little bit more so as to take the glare off so we can see it?

The Court: Yes, certainly. Shift it around

a little so that the lawyers may all see as well as the jury.

Mr. Pope: A trifle more.

Mr. Lanigan: Can you see that? (To the jury.)

A Juror: There is a glare.

Mr. Lanigan: The jury says there is a glare now. Mr. Pope may have my seat.

The Court: Well, I suppose it is a question of light.

Mr. Hauck: Can you put those lights on?

The Court: I don't know what to suggest about it. Of course counsel are entitled to see this chart. Maybe you can line up there somehow.

Court Crier Hann: Is that all right?

The Witness: It is for the jury to say. We want it so that the jury can see.

(At this point the Kleig light was turned on in the court room.)

The Court: I don't know whether that is going to do any good or not. Do you think that will do some good in your experience?

The Witness: I don't think it will, your Honor.

The Court: No, I think you had better put that out.

Q. Proceed, Mr. Walter, please. A. On the left side of this enlarged photograph under the word "disputed" we have words taken from the ransom writings. On the right hand side under the word "standard" we have words taken from the request and conceded writings. The first three lines on the left hand side show the words "Dear Sir" three times and part of the word—"Deca—" Decatur. On the right hand side we have "Dear Sir" written upwards and the word "during." As I mentioned in my examination of this matter I took into consideration the natural variation.

In my examination of these writings, request, conceded and ransom notes I noticed a considerable variation in the forms of the letters. Referring now to the standard writings "Dear Sir," written twice, and the word "during." We have three different forms of the capital "D." The form at the top is similar, in my opinion, to the form used in the words "Dear Sir," taken from the original ransom notes, Exhibit S-18. In the second specimen on the left hand side, "Dear Sir," the "D" has a little horizontal stroke to the right. In the word "during" we have a "d" with a similar little horizontal tick. In part of the word "Decatur," a print form of "D" has been used, although the rest of the name is script writing. In the request writing we have a similar example. The "D" is a print "D" and the rest of the word is script writing. Comparing the capital "S" in "Sir" in the ransom writing we have a capital "S" written three different ways. The first illustration and the old illustration is the old roundhand style of capital "S." The middle illustration is an Americanized form of the capital "S."

In the request writings we have no specimens of the roundhand form of the capital "S," but we do get the Americanized form of capital "S" and in my judgment there is a strong similarity between the "S" in "Sir," the third example on the right under the "Standard" writing, request writing, and the "S" in "Sir," the second example of the ransom writing, showing the writers to have at least that form of the letter in common and the form of printed "D" is used by both. Notice also the termination of the small "r," small letter "r," in both the request writing and the ransom notes. It ends downward. You will notice in the request writing that the small "r" although written by the same person varies somewhat in the first example of "Dear Sir"; the "r" in "Dear" has little or no shoulder. It looks like a small "i" and in the next word it has—in the next word "sir," it has a well-formed shoulder. In the word "during" it is well formed. In the word "Dear" also and in "Sir" below that, to the right, not so well formed a sample of the letter.

So that in this examination we must take into consideration the fact the genuine handwriting by the same person will vary. Now the question is, do the letters, forms of the letters and the manner of writing in the request writing come within the range of variation and writing ability of the writer of the ransom notes. In my opinion they do.

Referring to the next two examples, the word "police" in the ransom notes and the word "papers," spelled p-a-p-p-e-r-s, and the word "police" written twice in the request writing on the right hand side. You will notice that the writer of the ransom notes uses two forms of the capital "P." The first form is a straight stroke, with that peculiar character placed over it. In the request writing we have a "p" made with a straight stroke and a peculiar character placed on top of it. In the word "pappers" and "po-

lice" we have the second form of the capital "p" showing that the writer of the ransom notes and the writer of the request writings makes two forms of the capital "P" in a similar manner.

In regard to the alignment, notice the word "police" in one of the ransom notes, and the word "police" written by request. Notice the downward trend or the alignment of the writing is the same. That is an unconscious characteristic. Notice the termination of the "e" in the police in the ransom writing and in the request writing. In the request writing one small "o" commences with an upstroke; the other one does not have an upstroke. In the ransom note in the word "police" the "o" commences with an upstroke and the "o" is open at the top as it is in the request writing. There is a little difference in the request writing; the "o" in "police" is separated from the small "l"; it is joined together in the ransom notes.

Referring to the next two lines below, "little," "latter," in the ransom writing, and below that the word "letter"; in the request writing, "latter" "later" and "letter." These examples show the initial or commencing small "l," the small "l" used at the beginning of words. In the ransom writing, that on the left, in the word "little," the "l" commences down near to the base line. We have a well-formed loop. In the word "latter" the "l" commences about the height of the small "a"; we have loop there. In the word "latter," request writing, the "l" commences about the height of the small "a." In the word "later" it commences down closer to the base line.

Referring to spacing characteristics, note the wider spacing between the "a" and the "t" in "letter," in the ransom writing, and similar wide spacing in the word "latter" and "later" in the request writing.

Referring to the example just below that, the word "letter"—ransom—and request. They both commence at the top and go down, without any upward going loop. Notice the termination of the small "r" in "latter," ransom writing, and "later," request writing.

Referring to the next two examples, the word "money," taken twice from the ransom writing; the word "money" taken twice from the request writing.

I have mentioned that usually the small "o" is wide open at the top in the ransom notes and in the requested writing. Occasionally the writer of the ransom notes and the writer of the request writings does close the small "o," but they are the minimum in number.

In the request writings the word "money," we have one of the rare examples of the small "o" that is closed. Another example is open, as it is in the ransom writing. You will also notice that "o" in the word "money," the second "o" opposite this marked D-39, has a different slant or direction to the other three letters in the word, whereas in the example just above, the direction is the same. That, of course, is a natural variation. I draw your attention to the size of the writing in those four words, also their slant, or direction of the writing.

You will see a little difference in the first example, the word "money," in the termination of the small "y." It has a stroke leading to the left. The other examples do not show that, but in the word "City" in the registration card we have an example of the small "y" that has this leading stroke to the left.

Referring now to the word "everyding" in the ransom writing and the word "anyding" in the request writing, I draw your attention to the size of the writing, the slant or direction of the writing, the similarity in the top part of the small "y" in "every-

ding" and in "anyding" in the request writing. Notice the similarity in the letters "in" in both examples. Next below that we have two lines "your boy," "the boy," from the ransom writing, "your boy," "the boy" from the request writings. It will be seen that both the writer of the ransom notes and the writer who wrote the request writings uses a capital "Y" and a small "v" when writing about the boy.

In my opinion there is a similarity between the writing in the request writing and in the ransom notes shown in the words y-o-u-r, y-o-u-r, in both cases, written like a small "j," the "y" is written like a small "j" and the "r" terminates in a downward direction. Compare the word "the." In the word "boy," in both instances, it commences in the same manner, the "e" ends in the same way. Compare the top part of the "y" in the ransom writing and the top part of the "boy" in the request writing, notice the finished tick in the part of the "y" in the standard writing and the hook in the ransom writing, the "o" open in a similar manner, the small "b" in "boy" commences about the same place; notice the connection from the capital "B" to the "o" in the ransom writing and the capital "B" to the "o" in the request writing.

The next illustration below that shows the writing of the word "the" in the ransom notes, in one instance the word "the" is spelled h-l-e, or h-t-e. In the request writings, in one of them, that similar spelling is used three times, h-l-e.

Next below that is the word "right," r-i-g-t-h, in the ransom writings; and the word n-i-h-g-t in the request writing, showing the similarity in writing the small "h." Taking all of these things into consideration, similarity in the forms of the letters, similarity in their connection, similar variation in the slant and in the size of the writing, in consideration with all the other characteristics in the writing, the

request writings, the conceded writings, and the writings in the ransom notes, I am obliged to reach the conclusion that all of these writings were written by one and the same person.

And in coming to a conclusion I have endeavored to discover whether the similarities that I found were sufficient on which to base a conclusion. I have been forced to conclude that they were. I have kept in mind that handwriting will vary and that handwriting may be disguised, but I find in the handwriting of Mr. Hauptmann, in the conceded writing and in the request writings, when compared with the handwritings in the ransom notes, an amount of similarity and a kind of similarity that forces me to reach a definite conclusion that one and the same person wrote all of the ransom notes, the request writings and the conceded writings.

Q. Now, Mr. Walker, you have additional bromides? A. Yes.

Q. Which do you want next, sir? A. Are you using all of these?

Q. I will use just one.

Mr. Lanigan: I desire to offer these in evidence. Is there objection?

The Court: If there is no objection they will be admitted.

(Two bromide enlargements received in evidence and marked State Exhibits S-135 and S-136, respectively.)

Mr. Lanigan: They will be marked in evidence and counsel may cross-examine.

Cross-Examination by Mr. Rosecrans:

Q. Your science is based upon the similarity of characteristics principally, isn't it? A. Similarities and differences, both.

Q. Yes, but you compare the characteristics in, for instance, the disputed writing with the characteristics in known writing, don't you? A. Yes.

Q. And that is the basis of your science principally? A. A weighing of the similarities and the differences and deciding which preponderate.

Q. Well, you call them characteristics, don't you? A. Yes.

Q. That is, they show—writings show characteristics. A. Yes, general and individual.

Q. Now, you have pointed to this word "two" this I take it is the writing of Mr. Hauptmann? A. The request writing, yes. Would you like the pointer, counsel?

Q. No, that's all right. You pointed to that "o" as appearing in various of the writings. A. Yes, it is a common characteristic, in the request writing and in the ransom notes.

Q. I suppose it is rather difficult to copy characteristics, isn't it? A. Depends upon what they are.

Q. Well, I mean, a person's handwriting is judged by characteristics. A. It is not difficult in some cases to copy the forms of the letters, but it is more difficult to copy or imitate the execution or the manner of writing.

Q. Yes. It is difficult to copy the characteristics, as you call them. A. In a natural free-writing manner, yes.

Q. Isn't it a fact that it is rather a simple matter to copy characteristics? A. Have you tried it?

Q. Will you try it for me? A. No, I can't do it.

Mr. Rosecrans: Will you turn that map around?

Court Crier Hann: This way?

Mr. Rosecrans: Upside down.

Q. Now, I have a piece of crayon for you, Mr. Walter. Will you kindly copy that word "two" in Hauptmann's writing for me? A. I am not a good copyist.

A. To get this result?

Q. Just take your time and make a careful copy. A. Will I make a tracing of the one underneath? That would be easier.

Q. I don't mean that. I don't mean that. I ask you to copy this Hauptmann writing, the word "two." Take your time. A. (The witness complies.)

Q. (Reversing the position of the chart.) Now will you look at what you have done for me and tell me if the characteristic "o" is not found in what you have done? A. I endeavored to imitate an object to the best of my ability.

Q. And you are not an expert penman, are you? A. I am an expert penman, but not an expert imitator.

Q. But you never practiced imitating people's handwriting, of course? A. No.

Q. So that what you did there was done more as an amateur? A. Yes, impromptu.

Q. You took no particular pains to do it? A. No.

Q. But the "o" as you made it has the same opening at the top, doesn't? A. Naturally; because I tried to copy an "o" with an opening in it.

Q. True. It had the same characteristic then?

A. It hasn't the same characteristic. It has an opening at the top.

Q. Well, you don't write the same "o" in your hand twice, do you? A. No person does anything twice exactly alike.

Q. All right. But the "o" as you made it has the same characteristic as the "o" in the standard writing of Hauptmann, hasn't it? A. It has a characteristic opening.

Q. Yes. A. At the top.

Q. And the "h" has the same characteristic lines, hasn't it? A. The "h"?

Q. Yes. A. Which "h"?

Q. Or the "t" then. A. Oh.

Q. The first letter. A. Oh.

Q. T-w-o. The same characteristics are shown there, aren't they? A. I don't observe them, not very strongly.

Q. Well, you don't think that looks very different, do you? A. I think there is considerable difference myself. One is an actual writing and the other is an enlargement of a pen and ink writing.

Q. Well, if a person were skilled in copying, which you say you are not, they would make a good deal better job of it, wouldn't they? A. Probably would, yes.

Q. And if a person were skilled in German writing, German script, they would be able to make a still better job of it, wouldn't they? A. Of this word "two"?

Q. Don't you find German characteristics among the writing? A. Yes—aren't we dealing with the word "two" just now?

Q. Yes. A. Yes.

Q. You would be, a German would be able to do it better? A. Better than I have done it here?

Q. Yes, a skilled German? A. Probably.

Q. That, of course, would apply to any word that we happen to pick out? A. Perhaps.

Q. Now, Mr. Walter, the average American has a vocabulary of about 500 words? A. I couldn't say.

Q. Well, you know that the average American, with the ordinary secondary school training has a very limited vocabulary? A. I will take your word for it.

Q. And you would expect one, an alien, who has been in this country only about ten years, to have a still more limited vocabulary if he had the same educational training? A. Well, he would have a similar vocabulary in his own language.

Q. Yes, but using English words he would have a quite limited vocabulary, wouldn't he? A. Not if he interspersed his own vocabulary with the English words.

Q. Well, you find that in many instances here? A. I find misspelling in the words, yes, with a foreign flavor.

Q. Well, look at that chart, for instance. Can you point out many German misspellings or characters, German misspelling? A. Yes, the word "boad," b-o-a-d.

Q. That is, the disputed writing; I am talking about the Hauptmann writing. A. Now, in the fourth line down, the word "find" is spelled in a peculiar manner.

Q. Well, are you sure of the letters in that word? A. No, I am not sure. I am sure of the small "f" and the small "e" and the small "d" but the letters in between, why, various conclusions could be put on those.

Q. Well, take the last line, "We will send you the sending"—you don't find any German influence there, do you? A. No, nothing outstanding, no.

Q. So if a clever copyist, a clever German copy-

ist, were to have sufficient of the writing of Hauptmann, this defendant, or anyone else, he would be able to do a pretty good job of copying, wouldn't he? A. You mean one line?

Q. Oh, no, not one line. A. All of the ransom notes?

Q. Yes. A. In my opinion, impossible.

Q. Well, presuming that Hauptmann only had a vocabulary of three or four hundred words, it wouldn't be very difficult to accomplish that copying, would it? A. We are dealing with variations in handwriting, when we are copying somebody else's handwriting, not his vocabulary.

Q. Yes, but your science, of course, is based principally on characteristics. A. Handwriting characteristics, their identification.

Q. And if you have sufficient samples, such as a diary, contracts introduced in evidence here, and letters of a defendant or any person who had a limited vocabulary, a clever forger or a clever imitator would have no great difficulty, would he? A. I think he would run into—

Q. In presenting those characteristics? A. You mean all of the writings and all of the characteristics in these fourteen ransom notes?

Q. Yes. A. I think he would have one terrible time.

Q. Now, of course, you are testifying or you made these maps from similar characteristics which are quite apparent, haven't you? A. They are apparent when they are shown, but they have first to be discovered.

Q. You heard here this morning and this afternoon Mr. Pope point out to another witness that there were many instances of dissimilarity? A. Oh, yes, you will find that in genuine writing.

Q. So that when you made these charts you, of

course, picked out characteristics which were similar? A. Endeavored to, yes, in order to illustrate some of my reasons.

Q. You don't really mean to say that all of the disputed writings, that is, the ransom notes and the standard writings of Hauptmann are similar, present similar characteristics in every word and every letter, do you? A. Oh, no, there are differences between them.

Q. There are many dissimilarities? A. Oh, yes.

Q. So coming back again—and I don't want to keep you very long—if a clever penman, a clever forger had sufficient of the handwriting such as diaries, letters, contracts of the defendant or any other person with a limited vocabulary, couldn't he make a pretty good job of copying the characteristics of that handwriting? A. To a limited extent, we will say a line or two or a few lines, perhaps, yes, but in fourteen notes, such as we have here and some of them two pages of writing, in my opinion, no.

Q. You have testified in a good many cases, haven't you? A. Yes.

Q. In these cases you have been opposed by other experts? A. Sometimes.

Q. Well, I presume in most cases you have been opposed by other experts? A. No, not most cases, infrequently.

Q. When you have been opposed by other experts, you took it for granted that the other expert was honest in his opinion, didn't you? A. In some cases, yes.

Q. Well, for the large part? A. Yes, mostly, yes.

Q. Your science isn't exact? A. In some respects, yes.

Q. Well, you wouldn't compare it, for instance, to mathematics? A. Or astronomy, no.

Q. Or for instance to the science of fingerprinting? A. Oh, yes, I think it is just as reliable as fingerprinting. Fingerprinting may be forged.

Q. Doesn't it depend in a great degree upon your opinion or the opinion of the expert? A. And the reasons that he gives for his opinion.

Q. True. It is comparable to medicine, isn't it? A. In what way?

Q. Well, that the experience of the physician and his opinion from what he observes, what he learns, count? A. In regard to the qualifications of the expert, yes.

Q. There is nothing exact about the science of medicine, is there? A. There doesn't seem to be sometimes.

Q. The doctors disagree often in court? A. Sometimes they do.

Q. And you experts on handwriting disagree, don't you? A. Sometimes.

Q. I show you a letter, evidently written in German, and ask you if you think the writer of that letter was a pretty good penman. A. I think he was a pretty good penman, a pretty good writer.

Q. Did you look through it? A. (The witness re-examines paper submitted by examining counsel.)

Q. Yes. A. Yes, he writes a neat, fluent, well-molded handwriting.

Q. You note that that is the handwriting of Isidor Fisch, don't you? A. I see a name "Isidor" and below "I. Fisch, Leipzig," in the lower left corner.

Mr. Rosecrans: That is all.

Mr. Lanigan: Are you going to have it marked for identification?

Mr. Rosecrans: Yes.

The Reporter: D-25 for Identification.

(Letter referred to marked Defendant's Exhibit D-24 for Identification.)

Re-Direct Examination by Mr. Lanigan:

Q. Did you testify in the Al Capone case in Chicago? A. Yes.

Mr. Lanigan: That is all.

Mr. Wilentz: Mr. Morton Clemmer Maish.

MORTON CLEMMER MAISH, sworn as a witness on behalf of the State.

Direct Examination by Mr. Wilentz:

Q. Where do you live, sir? A. Wyoming, Ohio.

Q. Wyoming, Ohio, and what is your business? A. Manufacturer of Baby Alice Thumb Guards.

Q. Baby Alice Thumb Guards? A. Baby Alice Thumb Guards.

Q. For how many years have you been engaged in the business of manufacturing Baby Alice Thumb Guards? A. Since 1927.

Q. I want to show you a thumb guard which is marked in evidence in this case as Exhibit S-16, and after you have seen it, now tell me if you have seen that before? A. I have.

Q. Has that been exhibited to you by the State of New Jersey? A. It has.

Q. And having seen it then and looking at it now, will you tell me whether or not that is a Baby Alice Thumb Guard? A. This is a Baby Alice Thumb Guard.

Q. Now will you please tell me the nature and kind of material that goes to make up this and your other Baby Alice thumb guards? A. It is known to the trade as monel metal.

Q. Monel metal? A. Monel metal.

Q. What is monel metal? A. Monel metal as I understand it is a mixture of approximately 30 per cent copper and 70 per cent nickel.

Q. Does monel metal rust? A. Monel metal does not rust.

Q. Does it corrode? A. It corrodes to a very slight extent.

Q. Would a metal—withdraw that. Would this metal, S-16, exposed to the elements for a few months say, show any more rust or corrosion than what it does indicate? A. No.

Q. It would not. Am I to understand then, sir, from your testimony that if this metal and this thumbguard, S-16, were permitted to remain in a roadway, open and exposed to the elements, such elements as we would have in the months of March, say, in New Jersey and April—am I to understand that it is your opinion it would not exhibit any different color and condition than it does now?

Mr. Pope: Object to the question, because this witness is not qualified—

Mr. Wilentz: I will withdraw the question. I think it is already answered.

Q. Are you the only manufacturer of Baby Alice thumbguards? A. Yes.

Mr. Wilentz: You may have the witness.

Cross-Examination by Mr. Reilly:

Q. Where do you come from? A. 727 Burns Avenue, Wyoming, Ohio.

Q. Isn't there a firm out west that makes thumbguards in Milwaukee? A. I know of no firm in Milwaukee that makes thumbguards.

Q. Well, do you know of any firm in the United States that makes thumbguards? A. Several.

Q. Well, give us a list of them. A. A man by the name of Jackson in Marion, Alabama, has made a thumbguard of wire. A man or a concern in Hartford, Conn.—I do not know the man's name, but they call the name of the thumbguard the Safety Thumbguard, The Keydell Company in Detroit, Michigan, has made a thumb guard. A guard is manufactured in Chicago by the name and put out by the name of the "Nosuk" N-o-s-u-k Thumb Guard.

Q. And—? A. And there is one guard made by a former employee of mine, put out under the name of the "Reflex" Thumb Guard.

Q. And does it resemble this? A. Not to any great extent.

Q. Do any of them resemble this? A. No.

Q. Is this patented? A. Yes.

Q. Now, when do you say this thumb guard was made? A. I couldn't tell exactly when that thumb guard was made.

Q. Well, when did you first see this? A. To recognize it as such, the first time I saw it was last evening, in the headquarters of the Prosecutor.

Q. In other words, you were brought on here to Trenton, State Police, is that right? A. Yes.

Q. And shown this thumb guard? A. Yes.

Q. And then you say it was one that was made by your concern? A. Yes.

Q. Now do you make these yourself or do you have men making them? A. Both. I have made them personally and I also have employed men to make them for me, men and boys.

Q. What test did you make personally regarding rust? A. Personally regarding rust, the first sample of monel wire that I obtained I made a ring to put on my finger.

Q. How many years ago was that? A. That was in 1929.

Q. Well, since then what tests have you made personally? A. No particular tests.

Q. You are relying on somebody that makes the wire? A. Yes.

Q. That it contains the ingredients you think it contains? A. Yes.

Q. Were you ever in Jersey at Hopewell in your life? A. No.

Q. You never placed any one of your thumb guards in this portion of the country, especially Hopewell? A. No.

Q. In the month of March, 1932? A. I did not.

Q. And allowed it to remain out in the elements in a path over which thousands of people walked for a month, did you?

Mr. Wilentz: Just a minute—well I won't press it.

Q. Did you? A. I did not.

Q. And then come along and pick up the mud-guard as is shown to you now (laughter in court-room)—or thumb guard—I have difficulty with my voice and I am trying to—you can hear me, can't you? A. Yes.

Q. I am not concerned with those people out there at all—only with the jury and you, and the General.

Mr. Wilentz: And include the Court.

Mr. Reilly: Oh, the Court is in, very much in.

Q. You have made no tests in this part of the country, have you? A. No.

Q. I suppose the test you made was when you decided that you might like to buy this particular kind of wire? A. Yes.

Q. And so some chemist or company sent you a piece of wire that you made into a ring; is that correct? A. Yes.

Q. What did you do; wet it? A. I wore it continually over a period of time to determine if it would corrode or poison or cause any sores on my—

Q. Because it didn't turn green on your finger, you thought it was a good wire? A. I did.

Q. But you have made no tests in this part of the country or any other part of the country since then? A. No

Q. You have never taken one of these thumb guards and left it exposed in a dirty road for a month or more? A. No.

Q. Walking over it continuously, have you? A. No.

Q. You are giving us then your opinion that this will not rust, because a piece of wire sent to you by a manufacturer of wire was made into a ring by you and did not rust your finger in 1929; is that right? A. Naturally.

Mr. Reilly: That is all.

Re-Direct Examination by Mr. Wilentz:

Q. You accepted that wire and that copper that

you speak of after having tested it and believing that it would not rust, isn't that it? A. I did.

Q. Yes. And you sell your Baby Alice thumbguard with that in mind, do you not? A. I do.

Q. And of course it isn't your business to sprinkle Baby Alice thumbguards along highways, is it? A. Hardly.

Q. But whether somebody walks on it or whether he doesn't, am I to understand from your testimony that your product doesn't rust, and that is your opinion? A. Yes.

Q. Now you came down to New Jersey, did you not—I withdraw that. The first suggestion about your coming to New Jersey to testify was made by you, was it not? A. Yes.

Q. You offered to come down, did you not? A. I did.

Mr. Wilentz: Thank you, sir.

Re-Cross Examination by Mr. Reilly:

Q. Were you looking for an ad for your thumbguard? A. I was not.

Q. Well, let's get right back to this and this will be the last question I will ask you: What you have testified to here about the test is about the ring on your finger, is that right? A. (The witness nods affirmatively.)

Mr. Reilly: That is all.

Mr. Wilentz: That is all, and thank you, sir.

(Copy of portion of portion of Walter exhibit marked D-25 for identification.)

(Photograph reproductions of charts offered in evidence and by consent marked respectively Exhibits S-137, S-138, S-139, S-140, S-141, S-142, S-143, S-144, S-145, S-146.)

The Court: It is the usual recess time, I think we had better recess.

Mr. Lanigan: All right.

The Court: Let the people in the courtroom remain just as they are for a moment. The jury may retire. Come in tomorrow morning at ten o'clock.

The prisoner is remanded to the custody of the Sheriff and may now retire. The Court will now take a recess until 10:00 o'clock tomorrow morning. The people may retire.

(The further trial of the case was adjourned until tomorrow morning, Wednesday, January 16, 1935, at ten o'clock.)

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