

Chapter Four

Bruno Richard Hauptmann (1932), Public Outrage, and Criminal Justice

Bruno Richard Hauptmann, thirty-six years old, an illegal German immigrant in the United States, was executed in the electric chair at the New Jersey State Prison in Trenton on April 3, 1936. Hauptmann was pronounced dead at 8:47 P.M. by the doctor in attendance. He had been sentenced to die for the felony-murder of the twenty-month-old child of Anne Morrow Lindbergh and Charles A. Lindbergh, probably the most idolized couple in the United States.

Lindbergh, thirty years old when his child was kidnapped, was a daredevil pilot who had broken the time record for transcontinental flight and then captivated the world in May 1927 by becoming the first person to fly solo nonstop across the Atlantic Ocean, from New York to Paris. He was greeted on landing at Paris's Le Bourget Aerodrome in the middle of the night by more than a hundred thousand people. The 3,614-mile flight had taken thirty-three hours and thirty minutes: at one point, Lindbergh flew only five feet above the ocean waves so that their spray would keep him awake. His fragile single-engine craft, the *Spirit of St. Louis*, which had no sextant, no radio, and no port window, can be seen today suspended as a large mobile from the ceiling in the main gallery of the Smithsonian Institution National Air and Space Museum in Washington, D.C.

Lindbergh had a Swedish-American background. His father had been a congressman from Minnesota. His mother, separated from Lindbergh's father when Charles was fourteen years old, taught high school chemistry in upscale Grosse Point, Michigan. Lindbergh's good looks, his lanky frame that led to

the nickname Slim, his dignity, and his shy diffidence combined with an aloofness and a mere hint of disdain endeared him to the public. His wife, twenty-five years old at the time of the kidnapping, would later become a highly regarded poet and evocative writer. She was the daughter of Dwight Morrow, a J. P. Morgan banking company partner and one of America's richest men.

There were numerous delays that night before Hauptmann was executed, as his attorneys frantically sought to halt the proceedings. New Jersey's governor had postponed the execution twice, believing that others had been involved with Hauptmann and that, facing imminent death, he might trade his coconspirators' names for a life sentence. Gabriel Heatter, a prominent radio news broadcaster, was forced to improvise on the air for an extra hour until the signal was given inside the prison for the executioner to pull the switch, sending two thousand volts of electricity through Hauptmann's body. Among those with strongly imprinted memories of Heatter's radio broadcast more than sixty years ago is one of the present authors, who still can recall Heatter's sudden dramatic sign-off:

"Bruno Richard Hauptmann is dead," he intoned.¹

Hauptmann died proclaiming his innocence. His execution, like the killing of Lee Harvey Oswald by Jack Ruby years later, ended any possibility of hearing from the mouth of the alleged perpetrator what had happened. A desire for clear-cut resolution of murky circumstances is characteristic of notorious crimes. (Note most recently the attempt to elicit a "true confession" from James Earl Ray, the convicted assassin of Martin Luther King, Jr., before Ray died.)

There are strikingly different judgments about whether justice was served in the Lindbergh case. These differences are conveyed in the two following quotations, one expressing satisfaction that justice had been done, the other equally certain that the Hauptmann case made a mockery of the search for truth.

A lawyer, Francis X. Busch, in a burst of emotional tabloid-style prose, saw the case this way:

The kidnapping and killing of the Lindbergh baby stirred the emotions of the American public as no other crime has done in the last fifty years. From one end of the country to the other, fathers and mothers shared the anxiety of the beloved and distracted parents

1. There has been some mild slippage in that memory, however. In his autobiography, Heatter indicates that what he said was: "Ladies and gentlemen, Bruno Hauptmann is dead. Good night."

during the supposed negotiations for their child's safe return. When, after more than two years, the culprit was discovered and put on trial, the day-to-day proceedings in the little old courthouse at Flemington, New Jersey, claimed top priority in every newspaper and news radio program in the nation. This discovery, as the result of one of the most amazing investigations in criminal history, of an incredible concatenation of incriminatory facts and circumstances, the intelligent and forceful presentation of the technical and unusual aspects of the case to a law jury, and the celerity with which the appeal from the judgment of conviction was fully and dispassionately considered and disposed of by the court of last resort increased public confidence in the effectiveness of the judicial process.

Anthony Scaduto, a journalist, writing two decades after Busch, reaches a very different conclusion:

Richard Hauptmann was the victim of men who distorted truth and manufactured evidence and rushed him into the electric chair. That Hauptmann was made a scapegoat because of police frustrations, because of an obsession to punish someone, anyone, for committing such a foul act upon the child of the hero Lindbergh, upon Lindbergh himself, is evident. The proof is overwhelming. There was no conspiracy per se to convict Hauptmann, but Hauptmann was the victim of something more dreadful. He was the victim of individual perjurers who believed they were acting justly, morally—with God on their side—in twisting to make more perfect the case against the man they believed guilty. It was a classic instance of the weakness of the adversary system of justice.

These last sentiments are echoed by the crime writer Noel Behn: "I had become convinced," he observes, "that Hauptmann's trial was a raucous tragedy, that with few exceptions prosecution witnesses had either distorted the truth or committed flat-out perjury, that the state police had tampered with physical evidence, and, in many cases, suppressed vital information."

What, then, do we have here? Do we have the framing of an innocent man, at least innocent of the felony-murder charge? Or is this yet another implausible set of conspiracy theories of the kind that seem to arise in the wake of sensational and complicated cases in which loose ends inevitably hang out—as in the Kennedy assassination, the killing of Martin Luther King, Jr., and, as we shall see, the O. J. Simpson case?

The fact that much evidence pointing toward the railroading of Hauptmann was not entered into the trial record but uncovered many decades later complicates presentation of the details of the case. Hauptmann's attorney, Edward J. Reilly, was hired by the Hearst newspapers, who were certain

of Hauptmann's guilt. Reilly, often drunk, talked with Hauptmann in jail for less than an hour during the four months before the trial. Two years after the trial Reilly would be confined to a mental hospital and die there from the ravages of syphilis. We will not seek at first to compensate for Reilly's inadequacy, but generally will present the evidence as the jury heard it and reserve for later pages subsequent challenges to its accuracy.

The Crime and the Search for the Perpetrator(s)

On March 1, 1932, Charles A. Lindbergh, Jr., a handsome, pudgy child with blond ringlets, was taken from the upstairs nursery room of his parents' fourteen-room country house. The house had been built in a vaguely French-manor style and was situated amid dense woods and a meadow on almost four hundred acres of land in rural Hunterdon County in New Jersey, twenty-one miles southwest of Trenton, New Jersey's capital, and about sixty miles from New York City. The child's absence was discovered at about ten o'clock in the evening by Betty Gow, his Scottish nursemaid, when she went to check on him before retiring. She and Anne Lindbergh, who was three months pregnant, had put the child to bed at about six o'clock, after Betty Gow had sewn a high-necked flannel shirt for him and daubed it with Vicks VapoRub to treat his chest cold.

There was no sign of a struggle or of a forced entry into the nursery. Because of warping, one of the three windows in the room had not been secured. There was a clump of yellow clay on a trunk near the window, and the top crib sheet remained fastened with safety pins, suggesting that the child had been lifted from his bed. No one had heard the baby cry, nor had there been any barking by the family's black-and-white fox terrier, a matter later variously charged to its old age and amiable nature, to the fact that it was on the other side of the house, or to the noise of howling winds and rain that drowned out any other sound.²

One item in particular would continually bedevil those seeking to explain the Lindbergh kidnapping case. The Lindberghs never had stayed at their country house on a Tuesday evening that year: they always went to Anne Lindbergh's widowed mother at Day Hill, her nearby fifty-two-acre estate.

2. The disconcerting inability of those who investigated and those who wrote about the Hauptmann case to agree on facts is illustrated in a small way when Noel Behn says the dog was named Wahgoosh, Edward Oxford reports its name as Skean, and the FBI files identify it as Trixie.

This time they had decided not to move the infant because of the nasty weather and the fact that he still showed signs of his three-day-old cold. The kidnapper must have learned—somehow—that the Lindberghs would be in their own house this particular Tuesday and must have been told, or figured out, which room the baby slept in and when he might be unattended. It was also difficult to understand why the kidnapper had taken the child before the people in the house had gone to bed, after which he could have been more certain of not being interrupted, though he might have known that two bedrooms were close to the nursery. In addition, oddly, Lindbergh was at home that evening because he had failed to remember that he was one of the two guests of honor at a New York University alumni dinner for 1,800 persons at the Waldorf-Astoria Hotel to celebrate the school's hundredth anniversary.

After summoning the police, Lindbergh showed them part of a folding ladder that was lying about seventy-five feet from the house. Two other portions of the ladder, as well as a dowel pin and a chisel, were discovered nearby. The chisel apparently had been carried to pry open the nursery window. The slender, homemade thirty-eight-pound ladder was of an unusual design: the middle and top sections could be folded into the bottom part so that it could be carried easily. Marks on the outside wall showed where the ladder had been propped against the house. Rather inexpertly constructed, the ladder had broken, presumably when the kidnapper was carrying the extra weight of the Lindbergh child on his way down from the window. Other possible clues outside the house soon were eradicated as mobs of people descended on the estate once the news of the kidnapping became public.

An envelope, first opened in the presence of the police, had been left in the nursery. It contained a demand for \$50,000 in ransom money (the equivalent of about one and a half million dollars today) and instructed Lindbergh not to alert the police. The letter was marked by a distinctive set of symbols, two interlocking circles and an egg-shaped oval where they overlapped. The circles were outlined in blue, the oval was solid red, and three square holes were punched in a horizontal line into the three parts of the design. That symbol later was said to have been printed on targets used by German machine-gunners during the war. The ransom note, printed in large block letters, read as follows:

Dear Sir!

Have 50000\$ ready 25000\$ in 20\$ bills 15000\$ in 10\$ bills and 10000\$ in 5\$ bills After 2-4 days we will inform you were to deliver the mony We warn you for making anyding public or for notify the Police The child is in gut care.

Indication for all letters are singnature and three holes.

It seemed very likely that the letter had been written by a person still steeped in a European culture (thus the dollar sign after the amounts) who at times used phonetic spellings (as in mony and singnature). Specifically, the writer probably was German (thus gut for good). Of course, the letter might have been dictated or it might have been a shrewd attempt to throw its recipients off the trail. Each succeeding ransom letter was filled with similar kinds of errors. Difficult words, though, tended to be spelled correctly, suggesting that the writer had looked them up in a dictionary.

Public outrage in the wake of the kidnapping was enormous, and there was deep sympathy for the parents, who received more than thirty-eight thousand pieces of mail during the weeks after their child was taken. Organized crime figures were among the first suspects, and Lindbergh hired several persons with presumed links to criminal gangs to try to obtain the return of his child. At the same time, a number of police forces, including local, state, and federal agencies, never well coordinated, picked at different aspects of the case. Overall responsibility lay with the superintendent of the New Jersey State Police, H. Norman Schwarzkopf, whose recognition for his work on the Lindbergh kidnapping case would be eclipsed by the exploits of his warrior son, also named Norman, who would command the coalition forces in Operation Desert Storm in the Persian Gulf War in 1991. The senior Schwarzkopf, a graduate of the U.S. Military Academy, had seen active service in the First World War as an artillery officer. Then, in 1921, when he was twenty-six, he had been named to head the newly formed New Jersey State Police Force.

Initial efforts to solve the Lindbergh kidnapping case took three major forms. First, there was the attempted liaison with organized crime. Nothing came of this, though several extortion plots were hatched by imaginative con-men that ate up a good deal of the time and energy of those seeking to locate the child. Second, there was a strenuous effort to trace the ladder by finding the original site where the wood had been milled and the resale companies to which it had been shipped. Evidence about the ladder that was painstakingly developed later would prove highly incriminating. The third approach focused on the household servants employed by the Lindberghs. The police zeroed in on a maid, twenty-eight-year-old Violet Sharpe. She had been seeing Finn Henrik ("Red") Johnson, a Norwegian working on the *Reynard*, a yacht owned by the millionaire Thomas Lamont. Sharpe had told Johnson before the kidnapping that she could not keep a date with him because the family unexpectedly would be remaining overnight at the Lindbergh house that Tuesday. She at first lied to her interrogators regarding her date

with Johnson, perhaps because she was being courted by the butler in the Lindbergh house and did not want him to learn of her dalliance. She was pressed incessantly by the police during a series of very tough sessions. On the evening of another scheduled interrogation, Sharpe opened a can of cyanide chloride that was used for polishing the household silverware, poured the crystals into a glass, added water, swallowed the mixture, and staggered down the stairs. By the time a doctor could reach the scene, she was dead.

Soon after the kidnapping, Lindbergh issued a statement that he wished to establish personal contact with the kidnappers. He said that he would make no attempt to apprehend them when and after they returned his child. The Lindberghs also released to the newspapers details regarding the baby's diet and his special needs if he became ill; his heartbroken mother pleaded for his abductors to take good care of him. The next ransom note, identifiable by the distinctive symbol on the bottom, assured the parents that a nurse was caring for the child and that the instructions about dietary requirements were being scrupulously followed.

Lindbergh was powerful—that is, he was rich, famous, and strongly opinionated—and by now he had become accustomed to having his own way. He made it very clear from the beginning that he was calling the shots in the kidnapping investigation. Understandably, his sole focus was on recovering his child alive. But the matter was not straightforward. The question that was never addressed, both out of compassion and because of Lindbergh's standing, was this: Would it not encourage further kidnappings if the ransom demand was met and the kidnapper permitted to go his way untouched? The year after the Lindbergh kidnapping, the governor of New York proposed a penalty against those who privately negotiated with kidnappers, arguing: "We cannot afford to consider the feelings or interest of an individual when it conflicts with the safety and welfare of the people as a whole." The New York measure did not succeed, but many years later governments, most notably the Israelis, made it plain—and with considerable success—that they would not negotiate with anyone who used kidnapped hostages as bargaining chips.

A second ransom note arrived four days after the kidnapping and raised the ante to \$70,000 on the ground that the situation had been made more hazardous because of the involvement of the police and the press. Meanwhile, in a quixotic endeavor, Dr. John F. Condon put a personal advertisement in the *Bronx Home News*, an afternoon newspaper with a circulation of about 100,000 that covered the borough north of Manhattan, saying that he would add \$1,000 of his own money for the kidnapper and would serve as the go-

between for the return of the baby. Condon forever after would be known as "Jafsie," a code name derived from the phonetic sound of his initials and would be used for his communications with the ransom-note writer. Condon was a physically impressive seventy-two-year-old former Bronx school principal; adorned with a gray walrus mustache, he was a bit of an eccentric and something of a windbag, but also a man with a strong social conscience. Why Condon presumed that the kidnapper would notice his advertisement in so obscure an outlet as the *Bronx Home News* would remain one of the more puzzling questions about the case, leading to speculation that he himself was part of the kidnapping scheme.

The advertisement elicited a letter to Condon with the same identifying insignia as that on the earlier ransom letters. It was addressed to "Mr. Doctor John F. Condon," a standard German form, and had such misspellings as "cace" (for case), "handel," and "gett." Condon, after first contacting the Lindberghs and receiving their authorization to enter into negotiations, put further notices in the local newspaper and talked to the kidnapper on the telephone, insisting that he heard a voice in the background say in Italian, "Statti zitto!" In English this would be "Shut up."

A first meeting between Condon and the person with whom he had been in contact took place in the Woodlawn Cemetery in the Bronx and lasted for an hour, with Condon allegedly pleading with the man, who identified himself as "John," to return the baby. Several times Condon asked the man what his mother would say if she knew that he was mixed up in a thing like this. John ignored the comment, said that the baby was being well cared for on a boat, and that he was one of a group of six who had planned the kidnapping for more than a year. He correctly identified the pins from the Lindbergh baby's crib that Condon had brought with him, and later he would send to Condon a package that held the baby's yellow Dr. Denton sleeping suit as proof that he had the child, though he complained that the demand for the garment had forced him to spend \$3 for a replacement. The police had released an inaccurate description of the suit to be able to weed out pretenders. Subsequently, Condon would brood over a passing question by John during their cemetery conversation: "Would I burn if the baby is dead?" he had asked.

Lindbergh's identification of the nightdress pushed forward plans to meet the ransom request. Despite Lindbergh's initial objections, federal agents and J. P. Morgan bankers prevailed upon him to have the serial numbers on the ransom bills recorded and \$35,000 of the ransom money made up of more readily identifiable gold-backed notes. The banknotes—5,150 bills—were

placed in a distinctive box in the hope that it could be identified later in the possession of the kidnapper.

On April 2, 1932—a month and a day after the kidnapping—Lindbergh drove Condon to another cemetery in the Bronx, Saint Raymond's, and waited in the car while the money was handed over. Lindbergh said that he heard someone say: "Hey, Doctor, over here!" in a distinctive voice—high, nasal and reedy, and with a strong accent. At the last moment, Condon had decided to hold back \$20,000, apparently thinking that the kidnapper had gotten too greedy; he did not realize that the money he withheld included a sizable portion of the more easily identifiable gold-backed notes. He told the other man that Lindbergh had been unable to raise more than the amount of the original demand. To find the child, Condon was told, he should locate "the boat Nelly," a twenty-eight-foot-long vessel said to be moored between Cape Cod and Martha's Vineyard. John said that there were two persons on the boat, and that both of them were innocent of knowledge of the kidnapping. Later, the police would be severely criticized for not having taken steps to follow the kidnapper once contact had been established. Their defense was that Lindbergh had insisted that they not do so.

The directions to find "the boat Nelly" prompted a wild and frantic effort as Lindbergh and others flew up and down the coast in amphibious planes looking for the vessel. The Coast Guard sealed off the area but the intensive search, increasingly fueled by desperation, produced nothing.

Then, on May 12, 1932—more than two months after the kidnapping—the badly decomposed body of a child was discovered in a shallow grave about four miles from the Lindbergh house. The left leg was gone from the knee down, both hands were missing, and most of the internal organs had been carried away by animals. The body was dressed in the flannel undershirt that Betty Gow had stitched. The sleeping suit was missing; presumably, the offender either had cold-bloodedly taken it when the baby died, presuming that it would prove useful for identification, or had returned to remove it from the body when evidence was needed to show that he truly was the kidnapper.

The child's body had been discovered by a truck driver delivering lumber who had stopped by the side of the road and walked about seventy-five feet into the woods to urinate. Identification was based on the child's teeth, his distinctive toes, with the little toe on his right foot curled up under the one next to it, and the remnants of clothing on the body. After the autopsy, Lindbergh had the child's body cremated so that its grave would not become a site of public desecration. Before that was done, the morgue owner allowed two

newspaper photographers to open the casket and take pictures of the remains. Lindbergh was told that the newsmen had broken into the morgue through a window; his embittered belief that they had done so is said to have seared itself onto his mind, reinforcing his belief that there was too much license and not enough discipline in the United States.

Now it became a question of waiting to see if the ransom money would turn up. A fifty-seven-page circular listing serial numbers had been sent to a quarter of a million banks and agencies throughout the country. A few bills soon surfaced and the police marked each location where they were discovered on a map, seeking to discern a pattern. Most of the first notes put into circulation were of lower denominations, and some were folded tightly in a distinctive manner, lengthwise through the center, then through the center crosswise, and crosswise again through the center. Such a folded note would fit into a watch pocket, a common feature of men's trousers at the time. Meanwhile, President Franklin Roosevelt, desiring to remove the United States from the gold standard in the face of a drain on U.S. gold reserves prompted by the Depression, issued an executive order directing that all gold coins, gold bullion, and gold-backed notes be deposited at a federal reserve bank before May 1, 1933. After that, at least technically, these bills would not be legal tender, though in fact they usually were accepted and exchanged for newer currency. But with many fewer of them about, the bills would be more likely to be noticed when passed.

The largest deposit of ransom money—\$2,980—was made on May 1, the date that the bills were supposed to be turned in. The depositor signed the name J. J. Faulkner and provided an uptown Manhattan address. No such person lived at the address given, and no one ever came forth to reclaim the deposit after the newspapers reported the story. Who Faulkner might have been remains one of the tantalizing puzzles of the Hauptmann case: the handwriting on the deposit slip clearly was not the same as that on the ransom messages.

The mapping of the areas where ransom notes had surfaced showed a concentration in the Bronx, though some bills were recovered in places as distant as Maine and California. The police also put together a sketch of the kidnapper, based on descriptions by Condon and Joseph Perrone, a taxi driver who had been given a ransom letter to deliver to Condon's house. The sketch was shown to persons who had received ransom banknotes, including a movie-theater cashier in Manhattan who said that it matched the looks of a customer who had purchased a ticket from her. Her testimony, like much of the evidence against Hauptmann, conflicted with a plausible alibi: the night the

bill was passed at the movie theater was Hauptmann's birthday, and there were witnesses who insisted that he had spent the evening at home in their presence.

The case broke wide open on September 18, 1934, more than two years after the ransom had been paid. Gas station proprietors had been requested to write down the license plate numbers of customers who paid with gold-backed currency. A Bronx filling station owner, thinking the gold certificate a customer had given him might be counterfeit, had penciled 4U-13-41 in a margin on the back, then added the state initials, N.Y. A bank officer, handed the bill by a teller who wondered if it should be accepted, found the serial number on the ransom currency list. He notified the police.

The license number was for a dark blue 1930 Dodge registered to Richard Hauptmann, living at 1279 East 222nd Street, on the second floor of a house in the Bronx. Hauptmann was a carpenter, and his apartment was ten blocks from the lumber mill that had been identified as one of the places that had sold the kind of wood from which the kidnap ladder was constructed. He also lived near the cemetery where the ransom money was paid. Hauptmann had no arrest record in the United States, though he had entered the country illegally. He had been caught twice as a stowaway on a ship, but succeeded on a third attempt, hiding in a coal bunker and then walking casually off the ship when it arrived in New York in 1923, allegedly on his twenty-fourth birthday. He had no passport and only a few cents in his pocket.³

Hauptmann had served as a machine gunner in the 177th Regiment of the German army during the last stages of the First World War and had been slightly wounded twice. Two of his three older brothers were killed in combat. After being demobilized, Hauptmann had been arrested for a series of burglaries, all committed within a six-day period, as well as an armed robbery. One burglary, done with a friend who had been in Hauptmann's regiment, involved using a ladder to enter a second-story window in the home of the burgomaster in a nearby town and stealing cash and a silver pocket watch. The robbery was of food from the perambulators of two housewives. Hauptmann brandished a gun at the women, shouting: "We'll shoot! We're radicals!" He had spent three years of a five-and-a-half-year sentence in prison for these crimes. His attorneys would claim that the offenses were only reflections of desperate postwar

3. The ship on which Hauptmann stowed away has been variously identified as the S.S. *Portia*, the S.S. *Hannover*, and the S.S. *George Washington*. A check in the *New York Times* of ship arrivals in the city on the day of Hauptmann's twenty-fourth birthday and a few days on either side indicates that none of the named ships came into port at that time.

times in a poverty-stricken country, of the fact that Hauptmann could not obtain work.

The decision was made by the New York and New Jersey police not to arrest Hauptmann in his home. Nine police officers in three cars followed him when he left early on the morning of September 19, hoping that he might lead them to coconspirators. Then, fearful of losing him in traffic, they surrounded his car and took him into custody. Another gold note was found in his wallet, apparently lying flat, though some sources indicate that it was folded in the same distinctive manner as many of the recovered bills had been. The police tore apart Hauptmann's apartment, in time recovering a hidden hoard of ransom money and, vitally, though considerably later, a floor plank in the attic from which eight feet of wood had been sawed—wood that, it would be claimed, had been used to fashion one of the rungs of the kidnap ladder.

The interrogation of Hauptmann was pitiless. He was questioned without an attorney by relays of officers for twenty straight hours. He maintained stolidly that he had been given the money for safekeeping by a friend, Isidor Fisch, a fur trader who had returned to Germany and died of tuberculosis in the charity ward of a Leipzig hospital. Wits skeptical of this explanation would ridicule it ever after as a "Fisch story." Hauptmann's wife, the police determined, was unaware of the kidnapping; Hauptmann had not told her about the existence of the ransom money. He willingly provided dozens of handwriting samples. The samples duplicated the misspellings in the ransom requests, such as "rihgt" for "right." But during his trial, Hauptmann would claim that he had merely written the words the way the police had spelled them for him. He also said, and there was subsequent proof of his claim, that the police had beaten him severely: "They turned the lights out so that I couldn't see who was hitting me. They punched me and kicked me. They strapped me to a chair and kicked me in the chest and stomach." The strategy used by the police was to call in a doctor who examined Hauptmann and declared officially that his body was unmarked, then to beat him afterward.

The police also found Dr. Condon's telephone number penciled on the door trim in an unlighted attic closet. Hauptmann disingenuously said that, though he didn't remember writing it, he might have put the number there because it was his habit to scribble down things that interested him and that he probably saw the number in the newspaper.

The seemingly strong case against Hauptmann encountered a detour when Condon was asked to pick the person he had met in the cemetery out of a lineup. He focused on Hauptmann but then stated: "I would not say that he is

the man." Condon's failure to provide positive identification stunned the police, and he was not invited by the prosecutor to testify before the grand jury when an indictment was secured. Later, at the trial, Condon would maintain that he had merely wanted Hauptmann to relax and that he presumed that in a subsequent person-to-person talk he could cajole him to confess and to name his accomplices.

Hauptmann was charged in the Bronx with extortion, a crime carrying a maximum sentence of twenty years. During his interrogation, according to an FBI agent's report to headquarters that was disclosed much later, the district attorney directed an outburst against Hauptmann that conveys the intensity of the feeling against him:

Your wife is being held in the Women's jail with a lot of prostitutes. She is separated from your baby. It has no one who loves it, to take care of it. It may die of undernourishment. Your wife is hysterical. She will probably become an imbecile over



Bruno Richard Hauptmann, in the center looking at the camera, during an extradition hearing in the Bronx. AP/Wide World Photos

the shock of this. If you have any speck of manhood in you, you will come clean on this. . . .

But I can see you're just an animal. You don't care what happens to your wife and baby. . . . You're the lowest human being I have ever had before me. . . . The other night down at the police department, a mob were trying to get at your wife to hang her.

Hauptmann's wife, who had not been detained in the women's jail, now secured a lawyer for him, and Hauptmann remained adamant that he had been given the money by Fisch and had spent a portion of the cache because Fisch owed him \$7,000; he had loaned Fisch money for stock market speculation. The Bronx grand jury indicted Hauptmann on the extortion charge after hearing from thirty-two witnesses, including Albert S. Osborn, the country's leading handwriting expert who, after initial hesitation, said that he was certain that Hauptmann had written the ransom note. Hauptmann told the grand jury that on the day of the kidnapping he had worked as a carpenter at the Majestic Hotel in Manhattan. The records for the hotel first were reported missing and later were said to have been altered. The job foreman, who initially testified otherwise, subsequently declared that Hauptmann had not worked at the Majestic on the day of the kidnapping. When the grand jury indicted Hauptmann, his bail was set at \$100,000 and he was placed under a twenty-four-hour suicide watch that would continue throughout his trial.

New Jersey sought to have Hauptmann extradited so that he could be tried on a capital charge in connection with the death of the Lindbergh child. Possession of the ransom money was considered sufficient grounds for the extortion case, but it was a considerably more complicated matter to place Hauptmann in New Jersey and to tie him to the child's death. Control of the case in New Jersey was assumed by the attorney general, thirty-eight-year-old David T. Wilentz, who had come to the United States from Latvia with his parents when he was six years old. Wilentz, opposed to capital punishment, had been appointed attorney general in 1933 and had never prosecuted a criminal case, although he often had served as a defense counsel.

The first step was to secure a grand jury indictment in New Jersey. Wilentz chose to do so in Hunterdon rather than Mercer County, where the body had been discovered, because he believed Hunterdon citizens were more likely to favor the prosecution. Once again, Dr. Condon was omitted from the roster of those who testified before the grand jury.

Unresolved questions about the cause of death and the location of the alleged homicide nagged at the prosecution's grand jury presentation. If the child had been killed during the kidnapping itself, either accidentally or with

criminal intent, then the crime of murder or that of felony-murder (a death ensuing from the commission of a statutory felony) took place in Hunterdon County. If the death had occurred in Mercer County, where the body was discovered, then that was where the case should be tried. The coroner had declared that a skull fracture had been the cause of death. But it was uncertain whether death had ensued when the kidnapper dropped the child after the ladder broke or from a blow that had been inflicted after he had gone some distance from the Lindbergh house.

Besides, a peculiar quirk of New Jersey law required that if a crime was the result of a conspiracy, the state would have no right to try Hauptmann unless all those who participated in the conspiracy were joined with him or it was shown that he himself had struck the blow that killed the child. These legal requirements had the prosecution walking on juridical eggshells as it tried to frame a satisfactory charge.

Wilentz carefully crafted an indictment alleging felony-murder, but mentioned no specific felony. Subsequently, the felony would be pinpointed as burglary, based on breaking and entering the house and the theft of the child's sleeping garment. Kidnapping was not alleged. That offense had carried a death penalty in New Jersey until 1928, when the law was amended to decree a sentence of thirty years to life. Nor was kidnapping one of the enumerated felonies that would support a charge of felony-murder and the possibility of a death sentence. Extortion was not mentioned in the New Jersey indictment, since that offense had occurred in the Bronx. Besides, the prosecutor did not want to foreclose the possibility of a later trial for extortion should the felony-murder prosecution falter.

In the archaic legalese of the time, the twenty-three-member Hunterdon County grand jury returned the following indictment on October 9, 1934:

The grand inquest for the State of New Jersey in and 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 statute in such case made and provided and against the peace of the State, the government and the dignity of the same.

The indictment represented a high-risk strategy for the prosecution. If a trial jury was convinced that others were involved in the kidnapping or responsible for the killing, or that the death of the child occurred after March 1,

1932, or by accident, it could reject the prosecution's theory of the case and vote to acquit or to recommend mercy, a recommendation that the judge by law was prevented from denying. Besides, preempting a trial for extortion in the Bronx could have proven to be a wrong-headed and premature tactic. Hauptmann likely would have been convicted of that charge and might have implicated others in the kidnapping. Nonetheless, on the basis of the Hunterdon County indictment, the governor of New York signed an extradition order turning Hauptmann over to the New Jersey authorities. In calmer times, critics would find severe deficiencies, if not outright perjury, in the extradition hearing. But whatever errors there were in the Bronx proceedings, once Hauptmann had been transported to New Jersey these became so much water under the constitutional bridge.

The Trial

The trial of Bruno Richard Hauptmann⁴ in the small courtroom in Flemington, New Jersey, began on January 2, 1935. Eighty people could comfortably be seated; two hundred were jammed into the court. Three hundred news reporters and more than one hundred cameramen covered the trial. Forty-five direct telegraph lines ran from a room above the court, and special teletype machines were connected to Berlin, Paris, Melbourne, and Buenos Aires. The trial was the first to be broadcast live; one of the commentators was Samuel Leibowitz, the defense attorney in the Scottsboro case. On one day more than twenty thousand people lined up in biting winter cold in the hope of getting inside the courtroom, or at least catching a glimpse of the major participants. As George Waller, an early chronicler of the case, noted: "A phrase that hardly seemed inflated traveled from mouth to mouth, and back again: this was to be the trial of the century." H. L. Mencken, a mordant iconoclast, would blasphemously label the trial "the greatest story since the Resurrection," while Edna Ferber, a novelist covering the case, conveyed the emotions the hate-filled mob surrounding the courthouse produced in her: "It made you want to resign as a member of the human race."

The jury was composed of eight men and four women from diverse backgrounds and with an average age of about forty. Jury members were paid \$3 a

4. Hauptmann preferred the name Richard after he came to the United States, and that is what his wife called him. Prosecutors, however, called him Bruno because that usage played into the antipathy toward Hitler and the German people.

day (payment had risen to \$5 daily sixty years later at the O. J. Simpson trial). They were sequestered two to a room on the top floor of the four-story, fifty-room Union Hotel, located across the street from the courthouse. Jurors could easily hear what the broadcasters were saying in the studio on the floor below them, and they constantly were exposed to comments such as "Kill the German" and "Burn Bruno Burn" from people in the streets as they made their way to and from the courtroom. They were shielded during meals in the hotel dining room by a flimsy screen, but those on the other side of the screen often talked loudly in order to make their observations audible to the jurors.

Wilentz proved to be a talented prosecutor. When questioning defense witnesses, he was initially casual, almost indifferent, first putting them somewhat at ease, but then ferociously pinpointing inconsistencies in their stories. Hauptmann sat stolidly through it all, expressionless, exuding an air of confidence and unconcern, though on rare occasions he would burst out with accusations of "Liar!" during the testimony of a prosecution witness.

This time, Dr. John Condon stated that the man who had identified himself as John in the Bronx cemetery most certainly was Bruno Richard Hauptmann: he vividly remembered the darkish blond hair, the deep-set blue eyes, the high cheekbones, small mouth, pointed chin, and, of course, the heavy accent. He had not been certain at the time whether the accent was German or Scandinavian.

Then Albert S. Osborn, the nation's leading handwriting expert, and his son, Albert D. Osborn, who collaborated with him, testified that the similarity between Hauptmann's handwriting, particularly his spelling, and the ransom notes was beyond any possible question. The Osborns also maintained that in his application for a driving license Hauptmann had made some of the same spelling errors, and that the handwriting on the driving application was the same as that in the ransom notes.

The evidence offered by Arthur Koehler, a wood expert—or in fancier terminology, a xylogonomist—went a long way toward convicting Hauptmann. Koehler, employed by the U.S. Department of Forestry at its Madison, Wisconsin, laboratory, had disassembled the ladder and analyzed each segment of it. He wrote to every lumber mill in the country asking if it had processed wood of the particular type and cut used to construct the ladder. He then visited numerous mills to try to find a match between the ladder wood and what they sold, seeking to pinpoint the site that had a plane that cut a distinguishing pattern into the wood. Ultimately, Koehler traced the wood to a McCormick, South Carolina, mill and from there to a number of lumber-

yards, including one near Hauptmann's house. The most impressive piece of wood evidence was the claim that Hauptmann, a bit short of material to finish the ladder, had removed a board from his attic and used it for what became known as Rung 16. Displaying blown-up pictures, Koehler sought to convince the jury of the exact match between that ladder segment and the piece missing from the Hauptmann attic.

The defense tried to undermine this evidence by challenging the prosecution's failure to document meticulously who had control over the ladder as evidence from the time it was discovered to the time that it was exhibited in court, implying that what eventually was displayed may have been faked.

Hauptmann was the first witness the defense called to the stand. He underwent six hours of direct examination by Reilly and eleven more of cross-examination by the prosecutor. He remained adamant that he had received the ransom money from Isidor Fisch and denied emphatically that he had kidnapped the Lindbergh child and that he had met with Condon. Hauptmann claimed that the considerably improved lifestyle that he had enjoyed following the date of the ransom exchange was the result of sound investments made by him and Fisch in the stock market. But he did very poorly on some phases of the cross-examination. Wilentz ripped into his tale of stock market success and entered into the record some of Hauptmann's personal papers, which showed that before the kidnapping he had also misspelled words such as "right" (rihgt) and "boat" (boad). Only once did Hauptmann lose his poise. He seemed to smile when Wilentz observed that, though dunning letters showed he was hard up for cash, he didn't make any effort to determine how much money Fisch had left with him. The interrogation then took this turn, with Wilentz speaking first:

"This is funny to you, isn't it?"

Hauptmann stopped smiling. "No."

"You're having fun—smiling at me . . ."

"No."

"You think you're a big shot . . ."

Hauptmann, angrily and contemptuously: "Should I cry?"

". . . bigger than everybody, don't you?"

"No—but I know I am innocent!"

The prosecutor next accused Hauptmann of being proud of his willpower. "You wouldn't tell if they murdered you?" he said. Hauptmann's answer was spat out, the most emotional moment in all his time on the witness stand.

"No," he said, and then added: "I am innocent. That keeps me the power to stand up!"

Wilentz's summation to the jury was both venomous and vile. The most jolting aspect of his remarks involved a focus on Hauptmann's ethnicity: "What type of man would murder the child of Charles and Anne Lindbergh?" the prosecutor asked rhetorically and then provided an absurd answer: "He wouldn't be an American. No American gangster and no American racketeer ever sank to the level of killing babies. Ah, no! An American gangster that did want to participate in a kidnapping wouldn't pick out Colonel Lindbergh."

Wilentz's tone became more impassioned as he proceeded; rather than concentrate on the evidence, he relentlessly portrayed Hauptmann as a snake, a piece of vermin, "an animal lower than the lowest form in the animal kingdom"; seemingly, the defendant's demeanor, with a hint of arrogance, and a categorical refusal to give ground regarding his innocence in the face of Wilentz's attack, had instilled in the prosecutor a hatred that carried him well beyond the requirement of his job, which he failed to remember was to seek justice in a fair and impartial manner. Surrounded by the blinding glare of public attention and the near-universal belief in Hauptmann's guilt, neither Wilentz nor others who might have been able to take a principled stand were willing to do so. Wilentz, one newspaper reporter noted, was "beating himself to pieces with his own desperate conviction of Hauptmann's guilt."

In New Jersey in 1935, judges were permitted to comment more openly than in most states regarding their beliefs about evidence, a practice also followed in England. Thomas W. Trenchard, the impressive-looking seventy-one-year-old judge at the Hauptmann trial, made full use of this prerogative. He would carefully outline a defense position and then ask scornfully: "Do you believe that?" Not only the words, but his manner of saying them—which would not be reflected in the trial transcript—were significant. Trenchard's emphases made the sentence more in the nature of "Do *you* believe *THAT*?" Of Condon's testimony, the judge said: "Upon the whole, is there any doubt in your mind as to [its] reliability?" Of the defense idea that an underworld gang might have done the kidnapping, he asked mockingly: "Now do you believe that? Is there any evidence in this case whatsoever to support any such conclusion?" Typical was Trenchard's observation: "If the ladder was not there for the purpose of reaching the nursery window, for what purpose was it there?"

The trial had spanned more than six weeks. In New Jersey at the time jurors

could be made to remain where they deliberated until they reached a verdict or reported that they were hopelessly deadlocked, even if they had to discuss the case through the night. The Hauptmann jurors asked the chief constable to obtain a magnifying glass, arousing all forms of speculation regarding why they wanted it. Then they returned to the court after eleven hours and fourteen minutes, a return heralded for serious cases such as this by the customary tolling of the 125-year-old bell in the courthouse steeple.

The jury's verdict was that Hauptmann was guilty. There was no recommendation, as there could have been, that the defendant receive a sentence of life imprisonment instead of death. Rumors had it that the initial ballot had been seven for death and five for life imprisonment; those in the minority had gradually been persuaded to adopt the majority position.

Hauptmann's subsequent appeal to the New Jersey appellate court raised issues that continue to plague those who study the case. His attorney argued that the trial court had not established its jurisdiction over the matter since no adequate proof had been offered that the child's killing had taken place in Hunterdon and not Mercer County, where the body had been discovered. The appeal disputed the legality of the felony-murder charge, arguing that it was verbal gymnastics to say that the house had been entered with the intent to steal a sleeping garment of no proven value. It was further claimed that there had been no proof of jimmying the window nor even that the window had been the point of entry. Nor was intent to steal the garment established, since it had been returned to its owners. Finally, no proof had been offered that it was Hauptmann who had committed the alleged burglary.

Hauptmann's appellate attorney also argued that the evidence strongly supported the conclusion that no single person alone could have done all the things involved in the kidnapping, a conclusion reached then and now by virtually every person who has closely examined the evidence. In addition, there was a picking away at the reliability of the evidence; for instance, when Hauptmann had been shown the ladder and asked if it was his, he had contemptuously shaken his head: "I am a carpenter," he said, then sarcastically noted that the ladder looked "like a music instrument." There also was an objection to the daily appearance of Lindbergh in the court, constantly offering the jurors a vivid picture of a bereaved father whose sorrow had to be redressed.

Unimpressed, the New Jersey appellate court unanimously rejected Hauptmann's appeal. The evidence, it ruled, though circumstantial, was so conclusive in so many different ways, that it left no room for reasonable doubt.

The only two openings left to Hauptmann were an appeal to the eight-member New Jersey Board of Pardons and an appeal to the U.S. Supreme Court. The Board of Pardons was chaired by Harold G. Hoffman, who had been elected governor two years earlier at the age of thirty-six, making him the youngest state chief executive in the nation and a much-mentioned possible candidate for the presidency or vice presidency. Hoffman believed that Hauptmann had not acted alone and that much of the evidence used against him was tainted, but he was not permitted by law to commute Hauptmann's term by himself as governor, a right granted most state executives.

Besides the governor, the Board of Pardons was made up of five judges, a retired butcher, and a newspaper publisher. The panel rejected Hauptmann's appeal by a seven-to-one vote; the one holdout was the governor. After that, Hoffman secretly visited Hauptmann in prison late one night, hoping for a confession but getting none. Nevertheless, he granted Hauptmann a thirty-day reprieve (which would lengthen into two months because rescheduling the execution at the end of the reprieve had to be to a time at least a month later). During that period, Schwarzkopf and other investigators, though sorely displeased, were ordered to investigate much more strenuously what Hoffman saw as loose ends in the case. This quest for additional evidence so spurred New Jersey's best-known crime hunter, Ellis Parker, a close associate of Hoffman's, that Parker arranged a bizarre kidnapping and torturing of Paul Wendel, a disbarred attorney with a history of mental troubles, to force Wendel to sign a confession saying that he had killed the Lindbergh baby. Wendel signed the "confession," but by saving laundry receipts and etching his initials on the wall where he had been held captive he was able to prove his story of abduction. Parker and his collaborators went to jail.

During this time, too, Samuel Leibowitz was hired to try to get the "true story" from Hauptmann. He made three visits to him in his cell, painstakingly pointed out each item of evidence that he had failed to address satisfactorily, and impressed on Hauptmann that he was utterly doomed if he did not confess. None of this swayed Hauptmann from his protestations of innocence. Neither did an offer from a newspaper of \$75,000 to be given to his widow and young son if Hauptmann would write out for the paper the details of the kidnapping and death of the child, a story that it promised to publish only after Hauptmann was executed.

Meanwhile, in December 1935, the Lindberghs left the United States for a life of exile in England, where they believed they would be granted more privacy and where there had never been a reported kidnapping for ransom. In

contrast, between 1929 and 1934, more than two hundred people (some sources say several thousand) had been kidnapped in the United States. The *New York Herald Tribune* thought that Lindbergh's departure was a judgment, almost biblical in nature, on American ways:

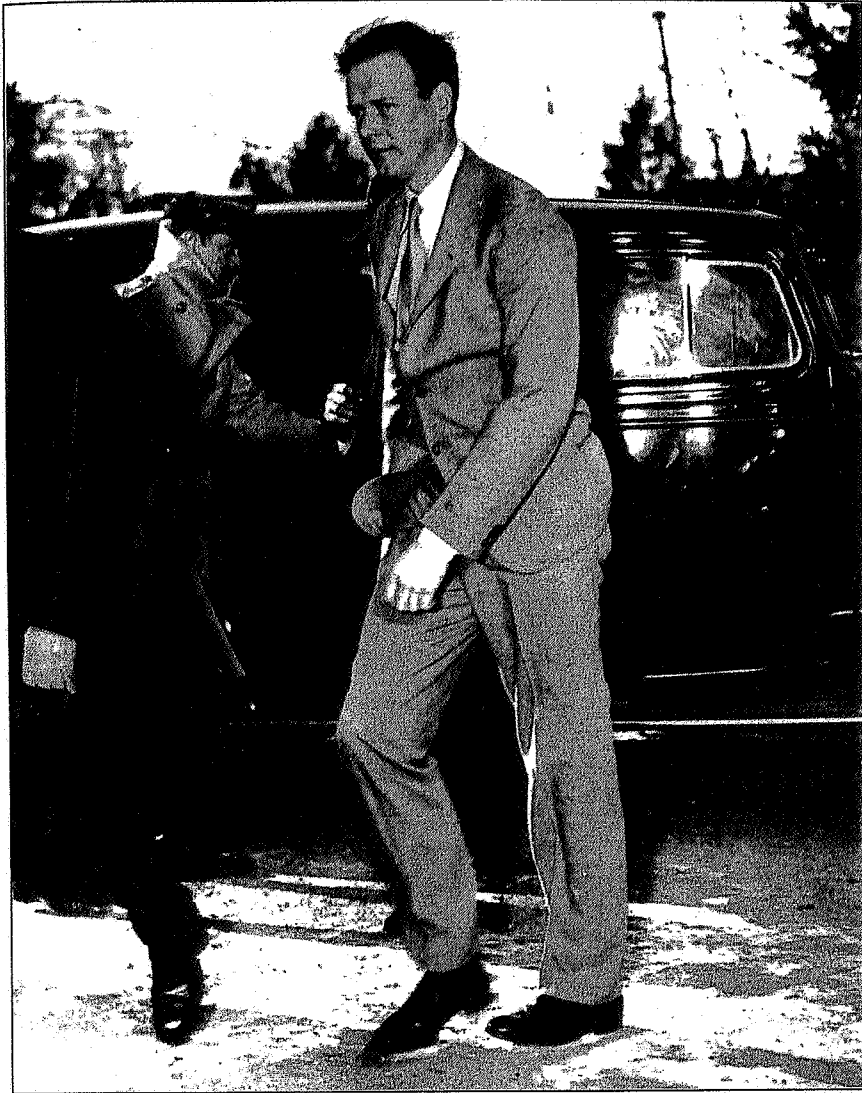
The departure of Colonel and Mrs. Lindbergh for England, to find a tolerable home there in a safer and more civilized land than ours has shown itself to be, is its own commentary upon the American social scene. Nations have exiled their heroes before; they have broken them with meanness. But when has a nation made life unbearable to one of its most distinguished men through a sheer inability to protect him from its criminals and lunatics and the vast vulgarity of its sensationalists, publicity-seekers, petty politicians and yellow newspapers? It seems as incredible as it is shocking. Yet everyone knows that this is exactly what happened.

Albert Einstein, like Hauptmann an immigrant from Germany, agreed, though without generalizing the blame to the entire country. The kidnapping, he told an interviewer, was "a sign of lack of sanity in social development." The most pointed and poignant comment was that of Anne Morrow Lindbergh: "Fame," she observed, "is a kind of death."

Time finally ran out for Hauptmann. On April 3, 1936, he was taken to the execution chamber at the New Jersey State Prison. His attorney read the 109-word statement that Hauptmann had written. "I am glad that my life in a world that had not understood me has ended," it began. He proclaimed again that he was "an innocent man," and said that his death would not be in vain if it served to help abolish capital punishment, especially a death penalty inflicted on the basis of only circumstantial evidence.

Hauptmann's head had been shaved and his trousers slit at the ankles so that electrodes could be set in place. There were fifty-five witnesses. At 8:44 P.M. the executioner sent 2,000 volts of electricity through Hauptmann twice in the space of sixty seconds; then, to be sure, another 1,000 volts were sent in the second minute. Hauptmann's body became rigid, his lips jarred apart, and his hands clenched the sides of the electric chair. Wisps of smoke rose from his head. Then the doctor stepped up and officially pronounced him dead. Four years less one month and two days had gone by since the Lindbergh baby had been stolen from its crib.

New Jersey law at the time decreed that no religious service could legally be performed over the remains of a person executed. But Hauptmann's body was



Charles Lindbergh, perhaps the most admired of all Americans of his time, returning to the courtroom during the Hauptmann trial. Some thought his daily presence at the proceedings unduly influenced the jury against Hauptmann. AP/Wide World Photos

taken to New York, where two ministers offered prayers before the corpse was cremated.

Was Hauptmann Guilty?

Over the ensuing years, the case against Hauptmann has come under heavy fire as additional information has been uncovered, much of it found in the 33,391 pages of material secured through the Freedom of Information Act from the internal FBI files. The adulation of Lindbergh, the anti-German sentiment of the Hitler period, and the extraordinary public pressure for revenge no longer control considerations of the case. Operating in calmer times, revisionists have provided powerful reasons to seriously doubt that justice was served in that Flemington, New Jersey, court almost two-thirds of a century ago.

It is incontrovertible that Hauptmann was in possession of the ransom money, possibly all or virtually all of it. But his "Fisch story" explanation, however suspicious, could have been true. The ransom money evidence was buttressed by testimony repudiating Hauptmann's alibi that he was at work on the day of the crime, the eyewitness testimony of Condon, the taxi driver, and two New Jersey men who said they saw him at the crime scene, as well as the powerful earwitness testimony of Lindbergh. Add to these the incriminating evidence of the ladder with Rung 16 traced to Hauptmann's attic and the handwriting analyses, and Hauptmann was doomed, particularly since he lacked funds to follow up exculpatory evidence satisfactorily and his lead attorney often performed in a lackadaisical and perfunctory manner.

The strong, persisting belief that the kidnapping could not have been done by one man alone underlay the challenge to the verdict by Governor Harold Hoffman. But the governor too was caught in political turmoil. Going as far as he did and insisting that he only wanted to be more certain before a man was killed very likely cost Hoffman any hope he might have entertained for higher political office.

But uneasiness about the Hauptmann verdict persists. In later years, a pair of writers—Noel Behn and Anthony Scaduto—published new material questioning aspects of the case against Hauptmann. But both made the serious mistake of believing that they also were obligated to show who actually had committed the crime. The scenarios they offered were singularly farfetched, detracting considerably from the overall credibility of their material.

Then, in 1985, Ludovic Kennedy tackled the Hauptmann case, spurred to

the task after seeing Anna Hauptmann movingly proclaim her husband's innocence during a 1981 television program. Kennedy had written three earlier books on miscarriages of justice that resulted in official government pardons to men he demonstrated had been falsely convicted. The book that resulted from his probes into the Lindbergh case led the *New Statesman* to say that he had "proven beyond doubt that Hauptmann was innocent," a view echoed by the *Christian Science Monitor* in much the same words: "Kennedy presents a strong and believable case for Hauptmann's innocence."

For Kennedy, the emotions surrounding the kidnapping of the Lindbergh child drove the verdict: the crime, he observes, "was not only known in detail but had shocked and outraged almost everyone in the country, filling them with a deep personal loathing of the perpetrators and a desire, almost an obsession, to see them caught and destroyed." When Hauptmann, an illegal German immigrant, was found with the ransom money, Kennedy believes, he became a ready-made object for previously unfocused rage and disgust. "No one was of a mind to doubt."

Kennedy demonstrates that the identifications of Hauptmann were highly suspect. One of the two eyewitnesses placing Hauptmann near the kidnapping scene was eighty-seven-year-old Amandus Hochmuth, a Hunterdon County man who swore in court that he could identify Hauptmann as the person in a car carrying a ladder who had driven by his house on the day of the kidnapping. Later, it would be discovered that Hochmuth was partially blind because of cataracts. When he came to the governor's office to collect the \$1,000 that was his share of the reward money, Hochmuth identified an eighteen-inch-tall vase with flowers on top of a file cabinet ten feet from him as a woman's hat. Noting the puzzlement of those in the room, he changed his answer: it was a bowl of fruit "sitting on a piece of furniture."

The other New Jersey eyewitness was Millard Whited, illiterate and very poor, and uniformly regarded by his neighbors as a chronic liar. When first questioned the day after the kidnapping, Whited said that he had seen nothing suspicious in the neighborhood. Seven weeks after that he made a formal statement to the police restating his lack of any information regarding the kidnapping. He changed his story after the police told him that he had a good chance to receive a share of the \$25,000 reward money. Now he identified Hauptmann as having ridden by on the day of the kidnapping with a ladder in his car. The police also had given Whited \$150 in cash and \$35 a day for expenses and showed him two photographs of Hauptmann before he was asked to pick him out of a lineup.

The other two eyewitnesses, from the Bronx, also offered hardly ironclad stories. Condon had refused to identify Hauptmann, though he singled him out in a fourteen-man lineup that contained thirteen burly policemen and one very bedraggled suspect who had been continuously questioned and deprived of sleep—and was the only person in the lineup who spoke with an accent. The taxi driver who said that Hauptmann was the man who had paid him to deliver a ransom note to Condon had similarly identified a variety of people and was at first declared by Schwarzkopf to be a totally unbelievable witness, since he initially had said that he could not see the man well enough to know him were he to see him again.

Kennedy's skepticism about the reliability of the eyewitness testimony finds support in the work of two New York newspapermen who at the time of the Hauptmann trial carried out a crude experiment. Using photographs of nine famous people, they interviewed a group of Lindbergh's neighbors. They asked if the neighbors had seen any of the people in the photographs in the vicinity at the time of the kidnapping. A picture of the head of the federal National Recovery Administration drew responses such as "I remember him all right. He was coming up the road dressed as a tramp," and "Isn't that the Whatley fellow, the English butler of the Lindberghs?" The neighbors also identified New York Mayor Fiorello LaGuardia as a man driving near the Lindbergh estate with a ladder on the back of his car.

Besides his reservations about the eyewitness sightings, Kennedy also doubted that two years after it had happened Lindbergh, who had been sitting in a car some eighty to one hundred feet distant, could say with any assurance that he recognized a voice that he had heard saying, "Hey, Doctor, over here!" Yet Lindbergh's identification as well as his daily attendance at the trial, jurors would later say, was very important in impelling their verdict.

The writing in the attic that Hauptmann granted might have been his, though he had no memory of having penciled Condon's number on the door in a dark closet, also proved to be a spurious piece of evidence against him. Three newspapermen who had covered the trial each independently said years after that the telephone number had been placed there by a reporter from the New York *Daily News* who wanted to create an eye-catching story for the next edition of his paper.

There also was serious concern that the rung of the ladder said to have come from Hauptmann's attic involved evidence manufactured by the police. For one thing, experts on wood later testified that closer examination showed that there was a mismatch between the specimen and its possible use as Rung

16. It was pointed out that the place from which the piece of wood in the attic had come had not been noticed during nine earlier examinations of the site, though it surely would have been obvious. After their initial searches, the police had rented Hauptmann's apartment for several months, providing ample privacy and opportunity to manufacture evidence. Why, Hauptmann's later defenders would ask, would Hauptmann have ripped up the attic floor in a rented apartment when he had plenty of satisfactory pieces of lumber in his garage that he could have used?

Disputes have also arisen over the Osborns' assertion that the ransom notes and the samples of Hauptmann's writing matched. For one thing, it is noted that the senior Osborn hesitated about reaching that conclusion until he learned that the ransom money had been located on the Hauptmann premises. In addition, comprehensive and sophisticated reviews of handwriting analysis have since concluded that it is a very imprecise endeavor and have argued that such testimony ought not be admissible in a criminal trial. (In 1971—thirty-five years later—the son and grandson of the Osborns who testified at the Hauptmann trial, as well as four other “experts,” would say that there was not “the slightest question” that writing said to be that of another flying celebrity, Howard Hughes, was genuine. The third-generation Osborn added that “it was impossible as a practical matter, based on years of experience, that anyone other than” Hughes could have written the letters in question. Another handwriting expert insisted that the chances were less than one in a million that someone other than Hughes might be the writer. Not long after, Clifford Irving confessed that he had forged the letters.)

Hauptmann's alibi that he had been employed as a carpenter at the Majestic Hotel collapsed when the defense could not produce records that might have indicated his work there on the day of the kidnapping. The records later were found, though they obviously had been doctored in an attempt to demonstrate that he had not started work until near the end of the month. As did so many other prosecution witnesses, the timekeeper at the Majestic came under some heavy police pressure to testify against Hauptmann.

Later consideration also disputed the medical judgment that the Lindbergh baby had died from a fractured skull. The body was so badly decomposed, it was said, that the crude autopsy was totally inadequate. It was performed by the funeral home owner with the coroner, a medical doctor, looking on; the doctor's hands were so riddled with arthritis that he could not do the autopsy himself and feared that he would lose his job if this became public knowledge. Finally, evidence was suppressed by the prosecution. The footprint under the

window where the ladder was said to have been raised and the footprint found where Hauptmann allegedly had stood in the Bronx cemetery never were introduced into the trial.

The huge discrepancy in resources and talent available to the state and to the defendant emphasized the extreme disadvantage suffered by an impoverished and despised person accused of a heinous crime. A suggestion offered at the time still has merit: "In a case like Hauptmann's," Arthur Reeve, a criminologist, declared, "the best attorney available should have been appointed by the court and have been granted the time and funds necessary to meet the points raised by the state in order that the defendant's guilt or innocence should be established beyond any reasonable doubt."

"So ended the brief life of Bruno Richard Hauptmann," Kennedy concludes, "guilty beyond a doubt of appropriating monies not his (yet part of which he believed was due him); but of kidnapping, extortion and murder as ignorant, and innocent, as you and I." Perhaps. A careful scrutiny of the Lindbergh case leads us to a different conclusion. We suspect that having brilliantly exonerated several other persons who had been declared guilty, Kennedy was too determined to establish Hauptmann's innocence. Our reading of the record would endorse only the judgment that, whatever else, the untainted evidence against Hauptmann did not support a verdict of guilt beyond a reasonable doubt of the charge against him.

The Death Penalty and Other Criminal Justice Issues

Tension is created in the criminal justice system when a defendant such as Hauptmann steadfastly declares his innocence, though circumstantial evidence might point, even very strongly, to his guilt. As Louis Seidman has noted: "Both critics and defenders of the Hauptmann verdict share a common failing: they cannot tolerate ambiguity and overestimate the ability of institutions operating under great pressure to act upon the truth." There always is the possibility that the defendant truly is innocent, an unnerving prospect for those seeking to put him to death. That tension was heightened in the Hauptmann case because of the exalted status of the Lindberghs and the enormous wave of public horror at the crime, particularly since the victim was a child, a circumstance that almost invariably arouses protective emotions.

Hauptmann may have been guilty—the evidence is very strong that he was guilty of something—but it is clear that a good argument can be made that he was not legally guilty of the offense for which he was executed. Most trial

courts and appellate tribunals today would look much more critically at the highly questionable stretching of the felony-murder doctrine. At the time, though, the idea of derailing the process of moving Hauptmann toward a date with the electric chair carried altogether too much political peril. Whatever its ideals, the criminal justice system, when severely pressed, is too likely to adjust its ways to mollify public outrage.

The Death Penalty

The course of capital punishment has followed an erratic pathway in the United States, with states dropping the penalty from their statute books, then reinserting it years later. Appeals courts, particularly when confronted with evidence that the penalty is applied unreasonably and most often to the detriment of minorities and the poor, have put brakes on how death is to be determined by trial courts and juries. At the moment, the trend in the United States in keeping with public opinion is strongly toward much greater use of capital punishment, and this in the face of the disappearance of the penalty in virtually all nations of the world.

The 1930s, when Bruno Richard Hauptmann was executed, was the decade with the highest number of executions in the century except for the 1910-1920 period. Maybe the Hauptmann case gave pause to the death-dealing drive in New Jersey: there had been six executions there in 1935, two plus his in 1936, but there was none in 1937. By 1938, however, the level had risen to seven. New Jersey abolished capital punishment in 1972 but reinstated it ten years later. No one has been executed in the state since 1963, though there are several persons now on death row awaiting the outcome of appeals.

The Gallup Poll began surveys of public opinion on the death penalty in December 1936 in the wake of the unprecedented level of public attention directed toward Hauptmann's execution. At that time, 61 percent of those questioned supported the death penalty and 39 percent were opposed. Since then, the pattern of responses on the question has oscillated. The percentage of those favoring capital punishment declined through the 1950s and early 1960s. Support reached its lowest point in 1966 with only 42 percent approving, and peaked in 1988 when 79 percent of Americans expressed support. In the 1990s the pro-capital punishment sentiment has hovered near 70 percent.

When capital punishment was reestablished in New Jersey in 1982, kidnapping was included among the offenses that could be tied to a felony-related charge of capital murder. In New Jersey criminal law a statute dating back to

1898 allowed what is called a *non vult* (literal meaning: not willed) plea in a murder case. If the defendant so pleads and admits guilt, and the prosecutor permits, the defendant will not be executed. It was in regard to this provision that Hauptmann was continually pressed to confess and thereby to save his life. The *non vult* plea no longer exists: it was declared to be unconstitutionally coercive for capital cases in 1972. There has been another change. State law at the time of Hauptmann's trial in New Jersey allowed a jury to decide guilt and punishment in one verdict. Now the determinations must be by separate actions.

Felony-Murder

Legal scholars today typically take exception to the doctrinal legitimacy of the criminal charge that led to Hauptmann's conviction and execution. They maintain that it was the circumstances of the case—the hysterical need to find and punish a scapegoat—that led the prosecutors, the trial court, and the appellate court to ignore the obvious inadequacy of the evidence to uphold a felony-murder conviction.

There was no reliable proof that placed Hauptmann in New Jersey on the night of the kidnapping, and it was a very considerable stretch to tie the theft of the sleeping garment to the allegation that Hauptmann also was responsible for the child's death. Clarence Darrow, the attorney who had saved Leopold and Loeb from the hangman's noose, put this matter succinctly: "Just the fact that Hauptmann had the ransom money on him," he stated, "doesn't prove that he had anything to do with the murder." Also, the burglary, even if it had been alleged or proven, could be said to have been completed before the death of the child occurred, thus removing its eligibility to support the crime of felony-murder.

Had Hauptmann's case been tried forty-five years later he could not have been executed for felony-murder, since a New Jersey law enacted in 1982 specified that the death penalty could be imposed only on those who committed the murder themselves or who paid another person to do so. Hauptmann's position also would have been stronger had he been able to have counsel prior to the police interrogation, as he could now, and had he been allowed to learn all the details of the police investigations. In addition, partly in response to the Hauptmann case, New Jersey governors in 1947 were given the right to grant executive clemency on their own rather than having the decision made by the Board of Pardons.

In a particularly thoughtful appraisal of the use of the felony-murder doc-

trine in the Hauptmann trial, James E. Starrs, a law professor, calls it an example of “prosecutorial shenanigans,” marked by “overreach and unpersuasiveness.” He notes that the “blunderbuss” indictment against Hauptmann was a juridical subterfuge that would not pass muster today. Hauptmann could not have been indicted for stealing the child, since such a “theft” would not qualify under New Jersey law as larceny, the essential element of burglary. Starrs believes that it was nothing more than wordplay to insist that stealing the child’s nightdress rather than the child was sufficient to sustain a charge of burglary.

The felony-murder doctrine has been controversial ever since its creation—“an unsightly wart on the skin of the criminal law,” according to some legal scholars. In the United States, the felony-murder rule can lead to the conviction for murder of, say, two robbers who literally scare their victim to death: the victim dies from a heart attack presumably brought on by his confrontation with the felons. In a case where one robber kills the victim, much to the other’s horror, the second robber—called a nonslayer participant—can be held responsible for the murder. An arson of a barn that takes the life of a transient sleeping hidden in a corner (unbeknownst to the arsonist, who has searched the site) could become a death-eligible homicide under the felony-murder doctrine. Those seeking to demonstrate the truly illogical reach of the felony-murder doctrine are wont to cite cases in which a law enforcement officer kills a fleeing felon and the felon’s accomplice is charged with the murder on the ground that the death would not have occurred had not the pair been engaged in a felonious act.

The Federal Kidnapping Law

The most prominent criminal justice consequence of the Lindbergh case was the passage of a federal kidnapping statute on June 22, 1932, just a month after the child’s corpse was discovered. First labeled the Cochran Bill, after its sponsor, but soon and ever after known as the Lindbergh Law, the measure set a penalty of death for kidnapping and stipulated that if a child was not returned three days (later lowered to a single day) after a presumed kidnapping, the FBI was authorized to assist in the search. After seven days, there would be an assumption that the victim had been taken across a state line and the FBI could assume jurisdiction. Objections in Congress to the measure had focused on the bill’s encroachment on state rights and the concomitant centralization of too much power in the federal government.

The idea to make kidnapping a federal offense had largely been instigated

by the fact that St. Louis was a favorite site for organized-crime kidnappings and that victims often were immediately moved across the state boundary into Illinois, where there were many organized-crime strongholds. The 1934 amendments also escalated the possible penalty for kidnapping "for ransom, reward, or otherwise" to death. There was a further proviso in the 1934 enactment indicating that a sentence of death should not be imposed if, prior to its imposition, the kidnapped person had been liberated and was unharmed. In time, kidnappings, the notable crime of the Lindbergh period ("a very dangerous way to raise money," in Paula Fass's words) became much less common.

More generally, the Lindbergh Law prefaced a series of enactments that over the years would reflect special legislative concern to protect young children. "We get hit in the gut by those cases in which a child is the victim," Fass, a history professor at the University of California, Berkeley, has observed, "and that makes it much easier for laws to get passed." Besides the Lindbergh Law, she specifies what is known as Megan's law, mandating release of information about sexual offenders, which grew out of the sexual murder of Megan Kanka in northern New Jersey, and the so-called three-strikes laws, decreeing sentences of twenty-five years to life for persons convicted of a third offense. The three-strikes laws were passed after the murder of Polly Klaas in California. But there can be another, though rare side to this situation. In Massachusetts, the initial second-degree murder conviction of Louise Woodward, a nineteen-year-old au pair from Britain, for the death of her eight-month-old charge so impressed a legislator with its unfairness that he changed his vote in favor of reinstating the death penalty, sending the measure down to defeat. Woodward shortly after had her conviction reduced to manslaughter and was sentenced to time spent in custody—279 days.

Life after the Deaths

The Lindberghs would have five more children. They returned to the United States in April 1939, after having lived peacefully for more than three years in England and France. Lindbergh became sympathetic to the Hitler regime, receiving from Hermann Goering, Hitler's deputy, the Service Cross of the German Eagle with the Star, the highest decoration the Third Reich could award a civilian. Before the December 1941 Japanese attack on Pearl Harbor, Lindbergh was the leading crusader for American isolationism and appeasement, much to the chagrin of his early admirers. His incessant theme was that the United States ought to protect its own borders, not waste resources on a

fraternal European quarrel. Germany, Britain, France, and Italy, he maintained, had too much in common to be at war: they should be encouraged to unite to prevent white civilization from being overrun by the yellow and black hordes in the Soviet Union, Africa, and Asia. In an infamous speech in Des Moines, Iowa, on September 11, 1941, Lindbergh blamed the British, the Jews, and the Roosevelt administration for pushing America toward war. Harold Nicolson, an Englishman and close friend of Lindbergh until they split over their different ideological positions, would blame the kidnapping for Lindbergh's tolerance of fascism. "The suffering which that dreadful crime entailed upon . . . himself and those he loved pierced his armor. He identified the outrage to his private life first with the popular press and by inevitable association with freedom of speech, and then with freedom. He began to loathe democracy."

His political views were used to keep Lindbergh from reclaiming his Air Force Reserve commission during the Second World War, but he nonetheless made outstanding contributions to the design of American fighting aircraft and, though a civilian adviser, flew several combat missions in the Pacific theater of war, allegedly in the process of testing aircraft. After the war, he was forgiven, almost, for his isolationist stand. He died of lymphatic cancer on August 26, 1974, at the age of seventy-two on Maui in the Hawaiian Islands, where his family had a home. Anne Morrow Lindbergh celebrated her ninety-first birthday in 1998.

Harold Hoffman, in part because of his role in the Lindbergh case, failed to win reelection as governor in 1938. In 1954, largely through the investigative work of Schwarzkopf, Hoffman was found to have embezzled \$300,000 from a state agency he headed. He died six weeks later, on June 5, 1954, of a heart attack in a hotel room that he maintained in New York City.

David Wilentz and Anna Hauptmann, in addition to Anne Morrow Lindbergh, were hardy survivors among those closely involved in the Lindbergh kidnapping case. Wilentz served as New Jersey's attorney general until 1944, then entered private practice. He became the most influential figure in the state Democratic party organization, "a personality of near legendary importance," a later governor would say. He died in July 1988 at the age of ninety-three. His son would become chief justice of the New Jersey Supreme Court.

In 1981 Anna Hauptmann unsuccessfully petitioned the New Jersey courts to reopen her husband's case and to reverse the earlier decision on the ground that it violated his civil rights. Her case was based on material presented in Kennedy's book, in many instances supported by evidence obtained from the FBI files. Mrs. Hauptmann argued that the prosecutor, in collaboration with

the police and others, had suppressed evidence, suborned perjury, manufactured evidence, knowingly presented false evidence, and otherwise violated her husband's civil rights. The court dismissed the action on the ground that a prosecutor, even if he had done what was claimed, was immune from a civil action.⁵ Other of Anna Hauptmann's claims, such as those alleging illegal search and seizure, were dismissed on the ground that they were personal to Hauptmann, and still others because the statute of limitations had expired.

Anna Hauptmann died in New Holland, Pennsylvania, on October 10, 1994, less than four months after O. J. Simpson was accused of murdering his former wife and her ill-fated friend. Her ashes were scattered over the cemetery in the German town where she had grown up. A local newspaperman observed that Anna had never remarried, had not changed her last name, had never lost her belief in her husband's innocence, and refused to say the words "with liberty and justice for all" when she recited the pledge of allegiance at public gatherings.

For Further Reading

Two comprehensive reports of the Lindbergh kidnapping are George Waller, *Kidnap: The Story of the Lindbergh Case* (New York: Dial Press, 1961), and Jim Fisher, *The Lindbergh Case* (New Brunswick, N.J.: Rutgers University Press, 1994). Waller's book is used in William A. Prosser, "The Lindbergh Case Revisited: George Waller's 'Kidnap,'" *Minnesota Law Review*, 46 (1961):383-391, as a sounding board for a vigorous and colorful critique of authors who find fault with the Hauptmann verdict.

Revisionist examinations of the trial include Gregory Ahlgren and Stephen Monier, *Crime of the Century: The Lindbergh Kidnapping Hoax* (Boston: Branden Books, 1993), who argue that the baby was killed when Lindbergh accidentally dropped it while playing one of the practical jokes that characterized his behavior. After that, everything was an attempt to cover up his guilt. The book is correctly said by a reviewer to have "not one shred of evidence to support the notion . . . and plenty of evidence to show it as preposterous as it is poisonous."

Noel Behn in *Lindbergh: The Crime* (New York: Atlantic Monthly Press, 1994) offers the equally bizarre idea that the child was killed out of envy by Anne's

5. *Hauptmann v. Wilentz*, 570 F. Supp. 351 (D. N.J., 1983). The U.S. Supreme Court plans to reexamine the traditional legal position of prosecutorial immunity during its 1998 session. The case, *Kalina v. Fletcher*, involves a suit brought by a man who was jailed based on allegedly false statements by a prosecutor seeking an arrest warrant.

eldest sister Elisabeth three days before its absence was announced. Behn claims that his informant had obtained affidavits from servants in the Lindbergh household supporting his position, but these, alas, were thrown away by a janitor when they became waterlogged during a storm. He also maintains that Jacob Nosovitsky, who often used the initials J.J. as part of his numerous aliases, wrote the later ransom notes after he had obtained a copy of the original one. Nosovitsky, it is claimed, passed the money to Fisch, who then gave it to Hauptmann. Theon Wright's *In Search of the Lindbergh Baby* (New York: Tower, 1981) insists, quite unbelievably, that the body found in Mercer County was not that of the Lindbergh child.

Anthony Scaduto, *Scapgoat: The Lonesome Death of Bruno Richard Hauptmann* (New York: Putnam, 1976), and, most especially, Ludovic Kennedy, *The Airman and the Carpenter: The Lindbergh Kidnaping and the Framing of Richard Hauptmann* (New York: Viking, 1985), both indicate the considerable flaws in the police work and the shortcomings and fabrication of some of the evidence on which Hauptmann was convicted. But Scaduto's claim that Paul Wendel was the actual kidnapper seems very farfetched.

Anthony K. Dutch, *Hysteria: Lindbergh Kidnap Case* (Philadelphia: Dorrance, 1975), argues that the emotional reactions to the kidnapping overcame rational judgment, a view echoed by Helen M. Hughes in "The Lindbergh Case: A Study of Human Interest and Politics," *American Journal of Sociology*, 42 (1930):32-54. Hughes illustrates how the case was used by the Communist and German media to further ideological ends.

Sidney B. Whipple, who covered the trial for the United Press, reconstructs the evidence in *The Story of the Lindbergh Kidnapping* (New York: Blue Ribbon Books, 1935) and *The Trial of Bruno Richard Hauptmann* (Garden City, N.Y.: Doubleday, 1937). The latter includes extended quotations from the trial transcript as well as a copy of the indictment. John Brant and Edith Renaud, *The True Story of the Lindbergh Kidnapping* (New York: Kroy Wen Publications, 1932), offer a fairly flimsy early examination of the case. The tools of his trade are employed by Dudley D. Schoenfeld to support a highly speculative analysis of Hauptmann's personality in *The Crime and the Criminal: A Psychiatric Study of the Lindbergh Case* (New York: Covici-Friede, 1936). To be read with considerable caution is John F. Condon's *Jafsie Tells All! Revealing the Inside Story of the Lindbergh-Hauptmann Case* (New York: Jonathan Lee, 1946).

The three best studies of Charles Lindbergh's life are Kenneth S. Davis, *The Hero: Charles A. Lindbergh and the American Dream* (New York: Doubleday, 1959); Walter S. Ross, *The Last Hero: Charles A. Lindbergh*, 2nd ed. (New York: Harper and Row, 1976); and A. Scott Berg, *Lindbergh* (New York: Putnam, 1998).

A good brief overview of Lindbergh's life and career can be found in Perry D. Lockett, *Charles A. Lindbergh: A Bio-Bibliography* (New York: Greenwood Press, 1986). Wayne S. Cole details Lindbergh's prewar noninterventionist stand in a sympathetic treatise, *Charles A. Lindbergh and the Battle against American Intervention in World War II* (New York: Harcourt Brace Jovanovich, 1974).

Anne Morrow Lindbergh depicts the anguish of the kidnapping in *Hour of Gold, Hour of Lead: Diaries and Letters of Anne Morrow Lindbergh, 1929-1932* (New York: Harcourt Brace Jovanovich, 1973). Books about her writing career also contain material regarding her reactions to the kidnapping and death of her child. Particularly solid is Dorothy Hermann, *Anne Morrow Lindbergh: A Gift for Life* (New York: Tichnor & Fields, 1992), pp. 86-112 and 146-160. For another first-rate overview of the kidnapping case see Joyce Milton, *Loss of Eden: A Biography of Charles and Anne Morrow Lindbergh* (New York: HarperCollins, 1993), pp. 209-275, 287-347, and 475-479.

A comprehensive collection of legal and other writings on capital punishment is Bryan Vila and Cynthia Morris, eds., *Capital Punishment in the United States: A Documentary History* (Westport, Conn.: Greenwood, 1997). See also William J. Bowers, Glenn L. Pierce, and John F. McDevitt, *Legal Homicide: Death as Punishment in America, 1964-1982* (Boston: Northeastern University Press, 1984), and Mark Costanzo, *Just Revenge: Causes and Consequences of the Death Penalty* (New York: St. Martin's, 1997). A comprehensive legal analysis is provided in Leigh B. Bienen, "The Proportionality Review of Capital Cases by State High Courts after *Gregg*: Only 'The Appearance of Justice,'" *Journal of Criminal Law and Criminology*, 87 (1996):130-314. C. Ronald Huff, Arye Rattner, and Edward Sagarin's *Convicted but Innocent: Wrongful Conviction and Public Policy* (Thousand Oaks, Calif.: Sage, 1996) examines possible errors of justice in capital cases. On the same subject see Hugo Adam Bedau and Michael L. Radelet, "Miscarriages of Justice in Potentially Capital Cases," *Stanford Law Review*, 40 (1987):21-179, later expanded, with Constance E. Putnam, as *In Spite of Innocence: Erroneous Convictions in Capital Cases* (Boston: Northeastern University Press, 1992).

An excellent review of the felony-murder doctrine as it affected the Lindbergh case is James E. Starrs, "The Prosecution of Bruno Richard Hauptmann: An Imitation of Falconry," *Journal of Forensic Sciences*, 28 (1983):1083-1107. On the felony-murder rule in general see Norval Morris, "The Felon's Responsibility for the Lethal Acts of Others," *University of Pennsylvania Law Review*, 105 (1956):50-88, and George P. Fletcher, "Reflections on Felony-Murder," *Southwestern University Law Review*, 12 (1981):413-429.

Other noteworthy material on the Lindbergh case can be found in Gabriel Heatter, *There's Good News Tonight* (Garden City, N.Y.: Doubleday, 1960), pp. 65–80; and Edward Oxford, “The *Other* Trial of the Century,” *American History*, 30 (July 1995):18–27, 66–69. Paula S. Fass discusses the moral issue of paying ransom in terms of the Lindbergh case in *Kidnapped: Child Abduction in America* (New York: Oxford University Press, 1997), pp. 95–131. See also Ernest K. Alix, *Ransom Kidnapping in America, 1874–1974* (Carbondale: Southern Illinois University Press, 1978). On the kidnapping laws that emerged in the wake of the Hauptmann case, see Robert C. Finley, “The Lindbergh Law,” *Georgetown University Law Journal*, 28 (1940):908–942.

A solid account of the excesses of the trial and an analysis of whether Hauptmann would have had constitutional protection forty years later is Louis M. Seidman, “The Trial and Execution of Bruno Richard Hauptmann: Another Case that ‘Will Not Die,’” *Georgetown University Law Journal*, 66 (1977):1–48. An excellent critique of handwriting analysis is D. Michael Risinger and Michael J. Saks, “Science and Nonscience in the Courts: *Daubert* Meets Handwriting Identification Expertise,” *Iowa Law Review*, 82 (1996):21–74.

Arthur Koehler tells of his work to identify the ladder in “Technique Used in Tracing the Lindbergh Kidnapping Ladder,” *Journal of Criminal Law and Criminology*, 27 (1937):712–724. A thorough and strongly supportive review of Koehler’s work is Shirley A. Graham, “Anatomy of the Lindbergh Kidnapping,” *Journal of Forensic Sciences*, 42 (1997):368–377. The expert evidence in the trial is thoroughly examined in terms of what is now known in a series of articles in the *Journal of Forensic Sciences*, 28 (1983):1035–1107. The second-guessers largely concur with the state’s witnesses, though Michael Baden, who came to play a prominent role in the trial of O. J. Simpson, indicates that the autopsy work “left much to be desired.”

Transcripts of the case and court decisions include the following: *State v. Hauptmann*, 180 Atl. 809 (1935), is the opinion of the New Jersey Court of Errors and Appeals that affirmed the trial court verdict. The U.S. Supreme Court denied certiorari in *Hauptmann v. New Jersey*, 296 U.S. 649 (1935). *Hauptmann v. Wilentz*, 570 F. Supp. 351 (1983), is the decision in the post-execution civil rights case brought by Anna Hauptmann. The full transcript of the Hauptmann trial can be found in volumes 1373–1376 (1935) of the records of the New Jersey Court of Errors and Appeals and in the library of the Northwestern University School of Law. There are also very extensive holdings on the case in the Lindbergh Archives at the New Jersey State Police Museum and Learning Center in West Trenton.