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## The Lindbergh Kidnapping Revisited

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# THE LINDBERGH KIDNAPPING REVISITED

*John F. Keenan\**

THE AIRMAN AND THE CARPENTER: THE LINDBERGH KIDNAPPING AND THE FRAMING OF RICHARD HAUPTMANN. By *Ludovic Kennedy*. New York: Viking. 1985. Pp. x, 438. \$18.95.

On May 20-21, 1927, Charles A. Lindbergh flew across the Atlantic, nonstop, from Roosevelt Field in New York to Le Bourget airfield, near Paris. The flight changed forever life on this planet.

The event also changed forever the life of the pilot, Lindbergh. In his twenties he became a world hero. He married the intelligent and, by all accounts, charming daughter of Dwight Morrow, a man who cast his shadow across the national scene. The young couple's first child, Charles Jr., was born on June 22, 1930. Their lives, which seemed idyllic, suddenly were shattered by a tragic event. On the night of March 1, 1932, the infant son was snatched from his crib in the new family home in Hopewell, New Jersey, in the county of Hunterdon. On the windowsill in the baby's room was a letter demanding \$50,000 in ransom. The baby's decomposed body was discovered on May 12, 1932, in a shallow grave several miles away in the adjacent county of Mercer. The autopsy disclosed that the baby had suffered three fractures of the skull and that death was instantaneous.

Ludovic Kennedy has written an interesting and fascinating book about the Lindberghs, the crime, the man accused of the crime, and that man's trial. Mr. Kennedy's main thesis is that the accused, Bruno Richard Hauptmann, an immigrant German carpenter, was innocent and that the police and prosecution authorities conspired to frame him and have him executed.

The subtitle of *The Airman and the Carpenter* — "*The Lindbergh Kidnapping and the Framing of Richard Hauptmann*" — ensures that the reader cannot misunderstand Mr. Kennedy's view of the case. Ludovic Kennedy is proclaimed by the book jacket to be "one of Britain's foremost journalists and broadcasters." The cover's back flap suggests that "Kennedy is perhaps best known for three works which have resulted in pardons for innocent people falsely convicted of murder." Perhaps so, but this book will not make him four for four — not by a long shot! On the jacket cover, Mr. Kennedy unabashedly asserts that: "The principal purpose of this book is to demolish once and for all the long-held and now demonstrably absurd fiction that Richard

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Hauptmann had anything to do with the kidnapping and murder of the Lindbergh baby or with the subsequent extortion of \$50,000 ransom money.”

There are fine features in this book that command a thoughtful reader's attention. One thing the author can pride himself on is the excellent index at the end of the book, which provides an easy reference to characters and events in this tragic tale. Also, there is a most helpful chronology covering three pages. It sets forth the main occurrences in the case and the dates on which they took place. The detailed biographical background on the Lindberghs and the section on Hauptmann's early life in Germany also are well-documented and quite interesting. In another thoughtful book on this case, *Kidnap* by George Waller,<sup>1</sup> the reader does not get the benefit of the author's research because of the absence of these three helpful sections.

The main problem with Mr. Kennedy's contention of “frame and innocence” is that he is never able effectively to clear the first hurdle that any advocate of Hauptmann's innocence must do. The first hurdle is the defendant's undisputed possession of a significant portion of the ransom money and his unexplained lies concerning this possession. On September 16, 1934, Hauptmann passed a \$10 gold certificate at a filling station in the Harlem section of New York City. It was part of the ransom money. He was arrested on September 19, 1934, in his car in the Bronx and had on his person a \$20 gold certificate which also was part of the ransom.

It is undisputed that when first arrested he told the police that he had “about a hundred and twenty dollars” more of the now-out-of-date gold certificates at home. He did have gold coins in that amount at home.

The big trouble for Hauptmann was that he failed to mention that he had secreted \$14,600 more of the ransom money in the garage of his home at 1279 222nd Street in the Bronx. Ultimately, he would contend that he was holding the money for a man named Fisch who had gone to Germany and died before Hauptmann was arrested. But the point is that Hauptmann had been spending ransom money, was arrested with ransom money, and when first confronted, immediately lied about the money.

The ransom of \$50,000 in gold certificates had been turned over by a character named “Jafsie” Condon on behalf of the Lindberghs on April 2, 1932, at St. Raymond's Cemetery in the Bronx to a man claiming to be the kidnapper and who no doubt was the kidnapper.

The cabdriver named Perrone had been innocently instrumental in arranging for the payment of the ransom. He identified Hauptmann as the man who had given him written instructions concerning the ran-

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1. G. WALLER, *KIDNAP* (1961).

som money. Mr. Kennedy attacks this identification by Perrone as "deeply corrupt" (p. 177).

The ransom note was handwritten, as were other writings from the kidnapper. When arrested, Hauptmann was asked to give handwriting samples, a perfectly understandable police procedure. Handwriting experts identified Hauptmann as the writer of the kidnap notes. These experts, a father and son named Osborn, come in for much of Mr. Kennedy's scorn.

Mr. Kennedy ridicules the experts who testified that the wood which was used to build the ladder employed in the kidnapping came from Hauptmann's home. He argues, as did defense counsel at trial, that the testimony of three witnesses placing the defendant in New Jersey in the area of the crime on March 1, 1932, was willfully false. He attacks a movie cashier's testimony that on November 26, 1933, she had received a \$5.00 bill (part of the ransom) as payment for a \$.40 movie ticket from a man she identified as Hauptmann. He contends that venue did not lie in the county where the trial took place and that the prosecution summation was unfair.

The fact is that very little of what Mr. Kennedy urges is new or has not been argued before. The Court of Errors and Appeals of New Jersey unanimously affirmed Hauptmann's conviction on October 9, 1935.<sup>2</sup> All of the major points raised by Mr. Kennedy were considered by the court on the appeal and addressed in its decision. The United States Supreme Court denied certiorari.<sup>3</sup> Hauptmann was executed on April 3, 1936.

To the end, Hauptmann insisted on his innocence. It is no doubt that consistency of position that aroused Mr. Kennedy's interest in the case. Books are not written proclaiming the factual innocence of Speck, Ruby, Sirhan, Manson, or Hinckley.

But where there is no confession, no apprehension at the scene with the smoking gun, no video or audio tape, no ultimate acknowledgment of guilt, then books abound. Thus was the case with Sacco and Vanzetti, Hiss, the Rosenbergs, and Lee Harvey Oswald. So also is it with Bruno Richard Hauptmann. None of them confessed and all of them have become martyrs or victims to some observers. And books are the natural fallout. The authors of these books cannot acknowledge the guilt of the victim/martyr. Rather the investigators, the prosecutors, the witnesses, the judges, and even the defense counsel involved must become the villains. They are second-guessed. Their motives, their personalities, their techniques, their rulings are all put under a retrospective microscope. That is what *The Airman and*

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2. State v. Hauptmann, 115 N.J.L. 412, 180 A. 809 (N.J.), cert. denied, 296 U.S. 649 (1935).

3. Hauptmann v. New Jersey, 296 U.S. 649 (1935).

*the Carpenter* really is — a series of second guesses and hindsight criticisms, many of them awfully bitter and very vicious.

The decision of the New Jersey Court of Errors and Appeals in *Hauptmann* is extremely thorough and is carefully reasoned. The court covered just about everything that Mr. Kennedy does in his book concerning the question of Hauptmann's guilt. The court wrote, "The state's direct case against him was strong . . ." <sup>4</sup> There really does not seem to be any question that Hauptmann was a participant in the crime; the evidence of that is truly overwhelming.

If Mr. Kennedy had chosen to limit his thesis to two propositions, this reviewer believes he would have presented a far stronger case and a much more objective view. The two contentions on the defendant's behalf that are most supportable are: (1) that Hauptmann had an accomplice or accomplices; (2) that media coverage of the trial was so outrageous and so uncontrolled as to deprive Hauptmann of the fair trial he was guaranteed under the U.S. Constitution.

As to the question of an accomplice, it does seem highly unlikely that one person alone, without support or help, could have climbed the ladder to the infant's bedroom, gotten into the room to snatch the child, climbed back down the ladder with the child and moved the ladder and the child away from the side of the house. The mere performance of the physical acts strongly indicates the presence of an accomplice or accomplices. So the investigating authorities reasonably hypothesized from the very beginning. Moreover, apparently a second man was present on the night the payment of the ransom was negotiated at Woodlawn Cemetery in the Bronx and the night it was actually paid at St. Raymond's Cemetery.

But the existence of an accomplice, if there was one, does not establish Hauptmann's innocence or create a reasonable doubt as to his guilt. Recall that the mysterious Isidor Fisch, whom Hauptmann blamed for his possession of the ransom money, did not leave for Europe until December 6, 1933. Fisch died in Leipzig on March 29, 1934, six months before Hauptmann's arrest. There are many mysteries in the world, and why Hauptmann did not announce the identity of his accomplice(s) (if such existed) remains one of them, apparently never to be solved.

The strongest case that the author makes for a reversal — not for Hauptmann's factual innocence or the theory that he was framed — relates to the circuslike atmosphere in which the trial took place. The trial was held in the small town of Flemington, New Jersey, the county seat of Hunterdon County. Flemington, where the trial began on January 2, 1935, had a population of about 3000. Half a century ago, before television, between 400 and 500 reporters and photographers

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4. *State v. Hauptmann*, 115 N.J.L. 412, 420, 180 A. 809, 816 (N.J.), *cert. denied*, 296 U.S. 649 (1935).

descended on the little village. They built an airfield on the edge of town just to fly film out for publication in the next-day papers. The Hearst press sent two hundred correspondents. Alexander Woolcott, Damon Runyon, Dorothy Kilgallen, Edna Ferber, and Walter Winchell were but some of the media members in daily attendance. Sam Leibowitz, the famous criminal defense lawyer and later a New York state judge, gave radio broadcasts each evening summarizing and editorializing his view of the day's events in court. Inexplicably, a movie news company somehow managed to get a camera and microphone into the courtroom right next to the jury box. Ostensibly, this was done without the court's knowledge or approval. In addition, this occurred over four decades before any state statutes allowing cameras in the courtroom existed.

Famous Americans came to court each day. Celebrities like Ginger Rogers, Jack Benny, Lynn Fontanne, Jack Dempsey, Elsa Maxwell and, of course, Colonel Lindbergh were among those present.

Through all this, the jury stayed at the Union Hotel right across from the courthouse on the other side of Main Street. Press and celebrities also lived there.

Between the hotel where the jury was quartered and the courthouse, hucksters plied their goods and wares. Miniature replicas of the kidnap ladder were sold as souvenirs. Autographed photographs of Colonel Lindbergh, the "Lone Eagle," were hawked — the signatures were forged. One heartless soul even offered "certified locks of Baby Lindbergh's hair" at \$5.00 per packet. In an atmosphere like this, it is hard to believe that Hauptmann received a fair trial as that concept was enunciated in *Sheppard v. Maxwell*<sup>5</sup> and *Estes v. Texas*.<sup>6</sup>

Had Mr. Kennedy settled for the important proposition that the Barnum and Bailey-like conditions under which the jury was forced to operate deprived Hauptmann of the fair trial to which he was constitutionally entitled, the message would have been more compelling, albeit less sensational. In his description of the atmosphere and setting of the trial, Ludovic Kennedy is to be congratulated for doing a superb job. He just does not convince this reviewer that the defendant was demonstrably innocent or that there was a "framing of Richard Hauptmann" as he so stridently proclaims.

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5. 384 U.S. 333 (1966).

6. 381 U.S. 532 (1965).