

The Handwriting Testimony in the Trial of Bruno Richard Hauptmann

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The trial testimony involving the kidnapping and subsequent death of Charles A. Lindbergh, Jr. was explored in some detail. The strategies used by the prosecution and the defense when questioning the document examiner experts were addressed and some of the more notable answers highlighted. Photos of the ransom letters and some court charts have been shown.

Introduction

At 10:00 PM on the night of March 1, 1932, Betty Gow, the nursemaid for Charles A. Lindbergh, Jr. went to his bedroom to check on his well-being. Finding that his bed was empty, she immediately ran to Mrs. Lindbergh and then Mr. Lindbergh to inquire about the baby's location. Thus began a saga of nearly three years length, which would result in the conviction of Bruno Richard Hauptmann for the kidnapping and murder of the Lindbergh baby.

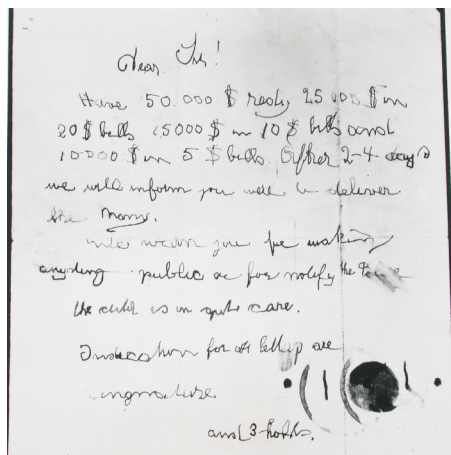


Figure 1. The “crib note,” which was actually left on the window sill in the baby’s room at the time of the kidnapping.

For the next several weeks, there was a series of ransom letters and other communications allegedly from the kidnapper or kidnappers (Figure 1). Ultimately, \$50,000 was delivered to the alleged kidnapper, but the baby was never returned. On May 12, 1932, a badly decomposed body was discovered by two men driving along a muddy road two miles from the Lindbergh house. These remains were later identified as those of the Lindbergh baby.

On September 19, 1934, Bruno Richard Hauptmann was arrested and eventually charged with the murder of the Lindbergh’s first child. When he was arrested, Hauptmann had on his person one of the bills used to pay the \$50,000 ransom. Jury selection at his trial for kidnapping and murder began on January 2, 1935. At the time, and for many years afterwards, this trial was referred to as “The Trial of the Century.”

Certainly the trial of Bruno Hauptmann was the most significant event to happen in the early years of the forensic document examination profession. As a result of the intense press coverage of this event and the testimony given by eight of the most prominent document examiners of that day, the public was made aware of the existence of the profession and the manner in which its practitioners could identify handwriting.

Court Participants

The prosecution of this case was in the hands of the New Jersey Attorney General David T. Wilentz. Wilentz was 39 years old at the time of

the trial. He was not a college graduate, but did attend the New York Law School to obtain his legal training. He was assisted by Anthony Hauck, Jr., the Hunterdon County District Attorney; Joseph Lanigan, from the State Attorney General's Office; and George K. Large, a former judge and Flemington, New Jersey attorney (Berg, 1998).

Bruno Hauptmann's original attorney was James M. Fawcett. According to Jim Fisher in his book, *The Lindbergh Case* (1987), one of the first actions Fawcett took in the case was to hire a document examiner named J. Vreeland Haring, who had an office in New York City. He identified Hauptmann as the writer of all of the ransom notes. In 1937, Haring wrote a book about the handwriting evidence in this case titled *The Hand of Hauptmann*. Fawcett was eventually replaced by Edward J. Reilly from New York. Reilly was hired by the Hearst newspaper corporation with the understanding that the Hearst papers would receive exclusive interviews with both Bruno and Anna Hauptmann. Known as the "Bull of Brooklyn" at the peak of his career, alcoholism had somewhat diminished Reilly's courtroom skills by the time of this trial. A series of lost murder cases had earned him the new nickname of "Death House Reilly." Reilly was assisted by Frederick Pope, Egbert Rosecrans, and C. Lloyd Fisher. Reilly frequently boasted both before and during the trial that he would produce a series of witnesses to counter all of the witnesses used by the prosecution. For the most part, these boasts turned out to be empty.

During the testimony of A. S. Osborn, the defense brought in eight handwriting experts to look at the evidence on their behalf. According to Fisher, these consisted of four New York City examiners — Charles Foster, Julia Farr, C. F. Goodspeed, and Hilda Braunlich. The other examiners were Arthur P. Myers from Baltimore, Rudolph Thielen from Germany, Samuel C. Malone from Washington, D.C., and John N. Trendley from East St. Louis. Without giving a specific reason, Myers and Malone later in the trial announced they no longer would be assisting the defense. One logical assumption is that they had identified Hauptmann as the writer of the ransom notes. In the end, only Trendley actually testified on behalf of the defense.

Bruno Richard Hauptmann was an illegal immigrant from Germany. He had fled his native land to avoid facing charges of burglary. Hauptmann had been employed as a carpenter;

however, shortly after the payment of the \$50,000 ransom, he began investing fairly successfully in the stock market.

The judge, Thomas W. Trenchard, had spent 28 years on the bench prior to the Hauptmann trial. He had a reputation of being a very fair judge and throughout the Hauptmann trial displayed a great concern for the well-being of the jurors.

The Document Examiners

Albert S. Osborn



The state's first handwriting witness was Albert S. Osborn. At the time of the trial, Osborn had been testifying "upwards of 30 years" and had testified in 39 states. He was 74 years old. Joseph Lanigan handled the qualifications and direct testimony for Osborn. After mentioning his books and asking Osborn to name some of the prominent cases he had testified in, Lanigan suddenly said "it is not material anyhow" and "offers the witness as to his experience and qualifications." This extremely brief qualifying period was typical of all of the handwriting witnesses. It was also typical that the defense offered no voir dire of any of these witnesses.

At the start of his direct testimony, Osborn told the judge he was hard of hearing and that he had an "apparatus" to help him hear better. The nature of this apparatus was never explained.

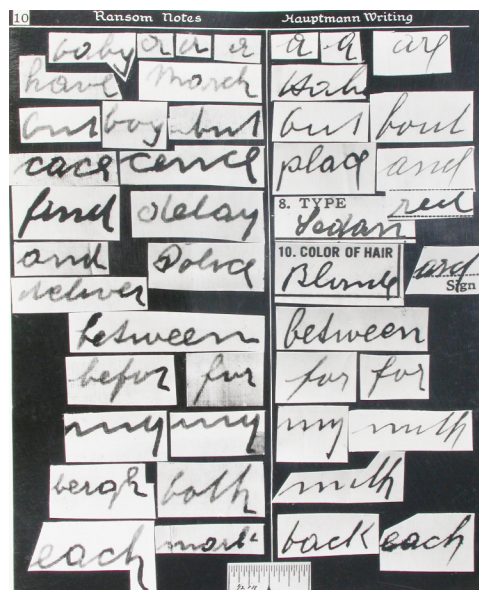
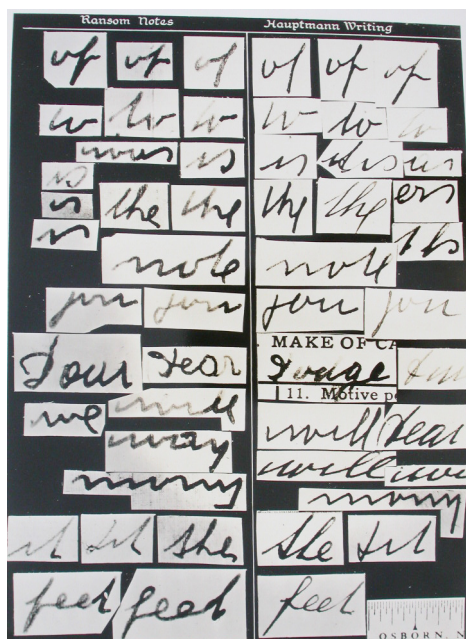
Osborn first saw the ransom notes in May of 1932 when he examined and photographed them. During the next 2 1/2 years, he was provided with the handwriting of over 100 people. His conclusion with respect to them was that "the writer of the ransom notes had not been found"

among these writers. Concerning Hauptmann's writing, his "opinion is that the ransom notes were all written by the writer of the various papers signed Richard Hauptmann." After stating this opinion, he was asked if he had examined the ransom notes to determine if they were all written by one writer. Osborn said they were. He stated that he decided that the notes were connected with each other in "seven or eight different ways." Although not directly related to the individual characteristics of the handwriting, some of these ways were: language, the use of words, peculiar spelling, references in the later letters to the amount of the ransom mentioned in the first letter and to not reporting the kidnapping to the police, and: "Most positively the ransom notes were connected to each other by a peculiar and ingenious device that appeared in the lower right-hand corner."

Osborn said that the image in the lower right-hand corner was made by "imprinting two overlapping circles with ordinary...writing ink." He experimented with some devices to duplicate the circles and believed that the bottom of a bottle or cup may have been used. There were also three holes in this area and he said these holes "connect these 11 letters with each other,

in my opinion, unmistakably." He felt the three holes on each document were "all punched from the same model or pattern." He found that on every letter the holes were punched in the same relation to each other and, with the exception of the last two letters, in the same relation to the edges of the paper. To assist in comparing the circles and holes between the ransom letters, Osborn had made transparencies of each letter.

Osborn felt that the similarities between the questioned and known writing must be the result of one of three possibilities: 1) written by the same writer, 2) due to accident or coincidence, or 3) intended imitation. He stated that without the large amount of writing on the notes, the questions, particularly the one about imitation, would have been difficult to answer. He proceeded to state that the questioned and known writings are connected by general characteristics, ordinary or usual characteristics, and unusual or rare characteristics (Figures 2, 3). Osborn also stated that the ransom notes were all written in a somewhat disguised hand. He then stated that parts of the request writings were also disguised and it was the same disguise as was used in the ransom notes.



Figures 2, 3. Exhibits used by Albert S. Osborn during his testimony.

Additionally, Osborn stated that the questioned writing had, in his opinion, three invented characters: "x," "T," and the "ht" being written when "th" was intended. This invented form of "x," resembling a double lowercase "e," was not found in the requested writing. Further, Osborn said that the questioned writing was not imitated writing, because "it is so skillfully done. It embodies so many characters, it embodies characteristics of so many different kinds, it embodies the forms of the same letter made in different ways...."

During this direct testimony, Osborn explained that "...the principle...upon which this matter of identification and handwriting is based, and that is, the presence or the absence of one characteristic may be accounted to accident or coincidence. But as the number increases, the probability of accidents or coincidence disappears and conviction is irresistible." When asked what evidence made him think that Hauptmann had written all of the ransom notes, Osborn replied: "(B)ecause in my opinion, the...physical evidence of connection between the admitted writings and the ransom writings and the request writings and ransom notes...is irresistible, unanswerable, and overwhelming."

The cross-examination of A. S. Osborn was handled by Reilly. He started his cross by pointing out a number of letters from the nursery note and asking if any of them appeared in any of the comparison charts used by Osborn. None of the particular letters that had been pointed out by Reilly had been used in the charts. However, Osborn later pointed out several words from the nursery note that he did use in his charts. Reilly tried to ask Osborn if he had looked at the known writing from Isadore Fisch (the alleged culprit in the kidnapping), but he wasn't allowed to pursue this line of questioning.

In a tactic used with several of the document examiner witnesses, Reilly tried to give Osborn the title of "Doctor" or "Professor." When Osborn stated that he was neither, Reilly said that he rated both. Reilly then said: "There have been so many titles given out in this case it won't do any harm to give you one." Osborn replied: "May I call you judge?" When Reilly began to ask how much Osborn was being paid, Osborn said: "I haven't counted up the days and I don't know whether I'm going to be paid for them or not, not all of them. There has been no arrangement whatever about compensation."

Reilly was trying to make a point that the hyphenated "New-York" found in several notes is characteristic of German writers, who hyphenate some of their own towns' names. He asked: "Have you ever examined any handwriting of Scandinavians?" Osborn replied: "Yes, I have examined the handwritings of every nation on earth." There was no specific follow-up by Reilly about this statement.

When asked if he had ever made a mistake, Osborn replied: "I don't pretend to be infallible, but I intend to be careful." Reilly then asked a series of questions about cases where he alleged the facts were found to be contrary to Osborn's testimony. Osborn didn't remember having been involved in any of the cases Reilly mentioned. After a series of these exchanges, Osborn finally brought it to an end with: "If you want to know if cases have been decided against my view, I don't hesitate to say that they have." He then went on to talk about the different degrees of difficulty in his cases, but that some "...are very plain in which a difference of opinion can be accounted for only on the ground of indifference or dishonesty."

Elbridge W. Stein



The next handwriting expert to testify was Elbridge W. Stein. Stein lived in New Jersey, worked in New York, and had been practicing for "upwards of 30 years." He was 62 years old at the time. The direct was again handled by Lanigan. His qualifying of Stein consisted of asking what studies he had made of handwriting, some of the notable cases he had testified in, and how many times and in what locations he had testified. Stein said that he had received cases

from 27 states, Canada, and Alaska. Again there was no *voir dire*.

When explaining the basis for his opinion, Stein said: "Specifically my opinion is based upon numerous similarities, always keeping in mind the differences, because there are some differences." When he started going through his many charts for the jury, he started with the misspelled words, like "note" for "not," "the" for "they," "were" for "where," "cane" for "can," "bee" for "be," "ouer" for "hour," "tit" for "did," and "anyding" for "anything." Next, he discussed the transposition of some letters in words, like "righ" for "right" and "hte" for "the." Stein emphasized that one misspelling might not be very significant, but when considered altogether, these misspellings connected the writer of the ransom notes to Hauptmann. He also pointed out that there were misspellings in the ransom letters that weren't in the known Hauptmann writing and vice versa. He also highlighted several variations in the formation of the letters "y" and "t" in the ransom letters and how each of these variations was found in Hauptmann's known writing. Stein stated that he had never seen "New York" written with a hyphen by any writer of any nationality, except for the ransom notes and Hauptmann's writing. He then stressed the fact that both the ransom letters and Hauptmann's writing had "New York" written with a hyphen and without a hyphen.

The last questions put to Stein in the direct testimony concerned the "crib note" and the letter dated March 4. He was asked if he had examined these and why. He replied that he checked them to see if they "...belong to the same original sheet." His opinion was: "I think there is quite some evidence showing that these two pieces of paper, as they stand now, were originally one sheet of paper and folded with the diagonal - with the horizontal fold, at the time that they were together." Stein was the only document examiner to be asked this question or to make any comment about this.

The cross-examination of Stein was handled by C. Lloyd Fisher. He started by asking Stein to share the names of some of the famous cases in which he had testified, which Stein did. Fisher pointed out a particular case in New Jersey in which he and Albert D. Osborn had both been involved and next asked if Albert S. and Albert D. were partners. Stein replied that they were not partners: "Their work is entirely independent

of each other." This working relationship between Albert S. and Albert D. would be probed further when Albert D. testified. Fisher suddenly dropped this line of questions and asked about Stein's education. Stein said that he was educated to teach, which he did in Pennsylvania for four years. Then he began to study handwriting at Zenerian College in Columbus, Ohio, and stayed for two years. He then went to a commercial school in Pittsburgh to teach handwriting. While there, he became interested in document work. Fisher asked what examination he had to undergo, what qualifications he had to submit, and to whom to prove that he was an expert. Stein said that, "...you have to comply with the law. And that, as I understand it, in almost every jurisdiction, is to the satisfaction of the trial court that you are qualified." About this time, the judge interrupted to remind Fisher that he had already conceded that Stein was qualified as an expert.

Stein had some very pointed answers to some of Fisher's questions. When asked if he had seen Hauptmann write any of the exemplars, he said: "Not a single scratch of the pen on any of them." When asked: "Under what conditions can the best specimen of test writings be taken from the suspect?" Stein said: "Before he is suspected at all." After describing how best to take requested writing, Stein was asked how one would keep the man doing the writing calm. Stein replied: "I don't know how you'd do that unless you gave him a sedative of some kind." Fisher then said, "...is a person who writes by request, while in custody likely to write self-consciously and somewhat unnaturally or is he likely to write a perfectly natural hand?" Stein said: "That depends whether or not he is guilty or not."

Two different times, Stein said that he recognized Albert S. Osborn as an authority in the field. Fisher then took some passages from Osborn's *Questioned Documents* (1929) and tried to get Stein to disagree with them. He was not successful. Fisher then asked a line of questions about what Stein knew about the manner in which the request specimens were taken and what instructions Hauptmann was given. Stein said he knew "not a thing" about that. Then Fisher took a chart showing the misspellings in the notes and the request writing and asked if Stein would be able to tell if Hauptmann was instructed to misspell those words in the samples. Stein replied that he would not be able to determine that. Fisher then went through a

long list of fairly lengthy words and asked if they appeared in the ransom notes and if they were spelled correctly. Stein admitted that they were. Fisher then made a point of how unusual it was that these lengthy words were spelled correctly, while the short ones like "the" and "be" were misspelled. Fisher asked if Stein saw anything unusual about that spelling pattern, and Stein's entire answer was, "No."

Fisher asked a long series of questions that were also asked of most of the handwriting experts. Fisher pointed out certain letters on Stein's charts and implied that the letters from the ransom notes did not look like those from Hauptmann's writing. Stein admitted in some cases that he was correct and disagreed with other instances. Fisher then asked why Stein did not include certain letters and numerals in his charts. Specifically concerning some numerals that were not included, Fisher said, "...they didn't look like the ransom figures, is that it?" Stein replied: "Well, that may be true, that they did not."

John F. Tyrell



The third document examiner to testify was John F. Tyrell. Tyrell worked in Milwaukee, Wisconsin, and had been in the business for more than 40 years. Lanigan asked nine qualifying questions and there was no voir dire. In his direct testimony, after identifying the evidence, Tyrell said that he compared the ransom notes to each other and determined that they were all prepared by one writer, although the writing on the first one and the first four lines of the second displayed "an extravagant disguise." He then proceeded to go through a series of illustrations of letters from the first note and how similar letters were

found in the later notes. As with the earlier witnesses, he pointed out the lack of the "t" crossing (Figure 4). Tyrell also pointed out the two types of requested writing — one that resembled the ransom letters and the other which was "very angular and compact." After stating that he had compared all of the known writing samples with each other, he said, "...there is pictorially a greater difference between specimens of these dictated writings than there is between the ransom writings and some of the dictated writings."

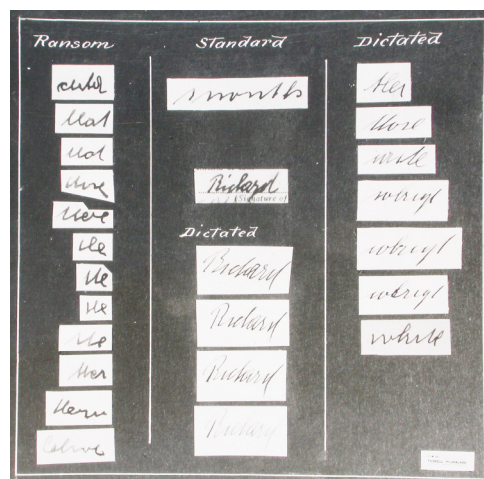


Figure 4. Exhibit used by John F. Tyrell during his testimony.

The cross examination was handled by Frederick Pope. As with the previous witnesses the cross examination began with questions that would have been more proper in a voir dire. Tyrell stated that he started his questioned document work in 1883, but his first case was in 1892. Pope made a point of mentioning that there was no school or college that taught someone to become a document examiner. Tyrell said that he had worked four or five cases in which there were ransom notes and in all of them there was evidence of an attempt to disguise the writing. Pope asked: "Would you say from your examination of the ransom note that it was written by the writer with his left hand or with his right hand?" Tyrell responded: "I couldn't say." Hope said: "Did you attempt to find out?" Tyrell said: "Of whom would I ask?"

Pope constantly interrupted Tyrell in his answers and the judge called him on it a few times. Pope also asked the judge more than once to instruct the witness to answer "Yes" or "No,"

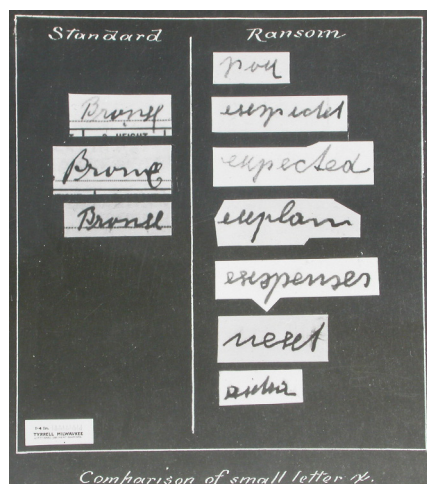


Figure 5. Exhibit used by John F. Tyrrell that evoked several defense questions regarding differences.

even though Tyrrell had apparently been doing that. Pope went through a series of letters in Tyrrell's charts and tried to call attention to what Pope considered to be differences (Figure 5). Tyrrell would not agree with what Pope was saying. Regarding questions on several letter formations, Pope said: "What do you call that little rigamajigg that is at the bottom of the small 'h.' What do you call that thing?" Tyrrell responded: "Perhaps a rigamajigg."

As was done with several of the handwriting witnesses, Pope made a point with Tyrrell of trying to get him to admit that he did not know what instructions had been given to Hauptmann when he prepared the requested standards. This technique was used to reinforce the contention of the defense team that Hauptmann had been instructed to deliberately misspell certain words in the requested standards that he had prepared and, thus, the misspellings that agreed between the ransom notes and the requested writing could not be used for identification purposes. Pope repeatedly implied that the misspellings in the ransom notes were an intentional disguise, but Tyrrell said they were the result of ignorance.

For the first time with any of the handwriting witnesses, Tyrrell was shown a number of postcards from different parts of Germany that had hyphens between "New" and "York." Somewhat surprisingly, there was no redirect on this point to show that these hyphens may have been added later and were not actually present when the original writing was placed on these

documents. Pope asked Tyrrell if he was a graphologist or did any work as a graphologist. Tyrrell replied: "Not consciously." Tyrrell was the only handwriting expert used by the state to be asked this type of question.

Pope finished his cross by asking about a case Tyrrell testified on in Milwaukee. In that case, Tyrrell had testified that the defendant had written the questioned checks and the defendant was convicted. The next day, another man confessed to forging the checks. Pope said: "So that you made a serious mistake in that case didn't you?" Tyrrell replied: "Well, I don't know. They were both confined in jail at the same time. There was always some little doubt in my mind." There was no further clarification of what happened in this case. The defense repeatedly tried to show that the document examiners testifying for the state had made errors in earlier cases.

Herbert J. Walter



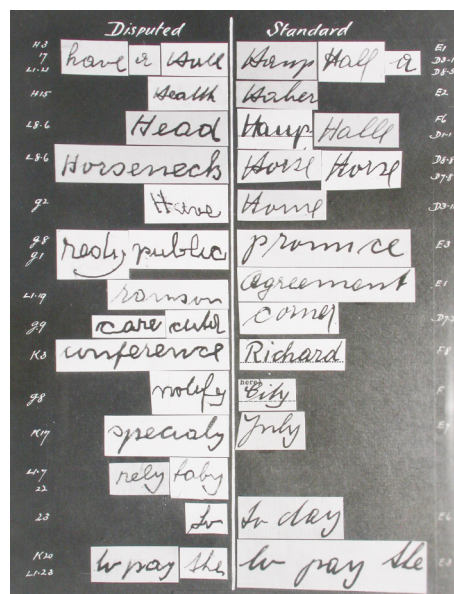
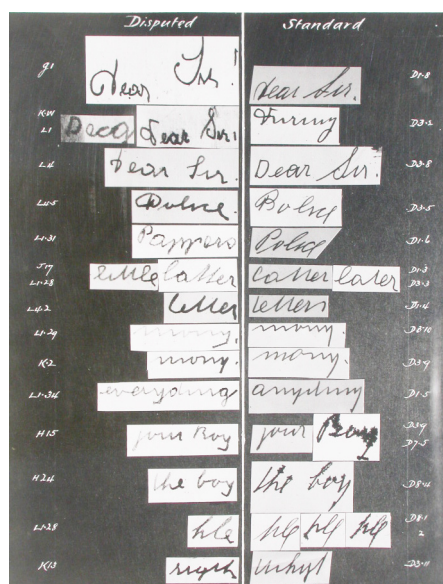
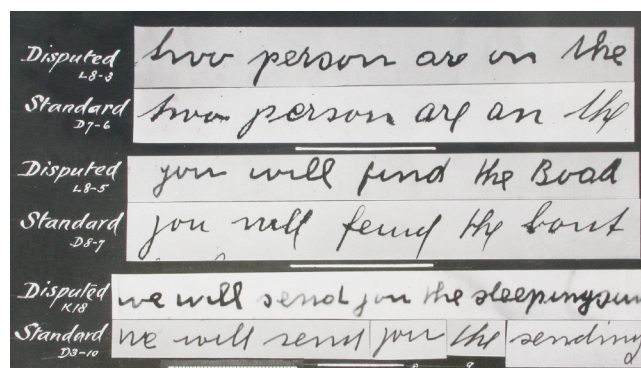
Joseph Lanigan handled the direct of Herbert Walter. Walter's total qualifications consisted of stating that he worked in Chicago and had been an examiner of questioned documents for 25 years. Walter later characterized himself as an "expert penman." After identifying all of the documents he had examined, Walter stated: "In my opinion, the same person who wrote the requested writings and conceded writing, those signed Richard Hauptmann, is the same person who wrote all of the ransom notes."

Lanigan, who was apparently aware the jury might be tiring of this handwriting testimony, asked Walter to limit his testimony to one

illustration and to "do it in 10 minutes." Walter said: "That is rather unusual, to have to rearrange my testimony at a moment's notice, also somewhat difficult." Lanigan didn't reply, and just moved on. Walter began his explanation of his examination by talking about natural variation in handwriting (Figure 6). He also mentioned the obvious disguise in the nursery note and the first four lines of the second note. He said, "...there was a progressive improvement in the handwriting as the notes continued to be received." The first specific characteristics he referred to concerned proportions of the letters, which he said agreed in the notes and Hauptmann's writing. He then mentioned "i" dots, "t" crossings, slant, size, alignment, and

margins. He said that both the ransom note writing and the conceded writings display a very wide range of variation.

Knowing that the defense was claiming that the ransom note left in the nursery and those that followed may have been written by two different writers, Walter was asked if he compared all the ransom notes to each other. He said: "I reached the conclusion the ransom notes were the handwriting of one person." The cross examination was handled by Mr. Rosecrans, who elicited an admission from Walter that the comparison of characteristics is the basis of his science. Rosecrans asked if it is difficult to copy characteristics. Walter said that copying the forms of some letters may not be difficult, but



Figures 6, 7, and 8. Exhibits used by Herbert J. Walter to explain his findings.

copying the execution is more difficult. Then Rosecrans reversed himself and said: "Isn't it a fact that it is rather a simple matter to copy characteristics?" He then had Walter use a crayon to copy the word "two" from Hauptmann's writing. Rosecrans pointed out how similar the two words are and how easily Walter copied Hauptmann's writing. Walter disagreed with that characterization. Rosecrans then said that someone who was skilled in copying "would make a good deal better job of it, wouldn't they?" Walter admitted that he "probably would." Rosecrans then said that a clever German copyist would be able to do an even better job and Walter agreed that they might. This line of questions was part of the defense claim that the ransom notes were actually written by someone who was imitating Hauptmann's handwriting. Rosecrans then said that if, "...a clever German copyist were to have sufficient of the writing of Hauptmann...he would be able to do a pretty good job of copying, wouldn't he?" After clarifying that he was referring to all of the ransom notes, Walter said: "In my opinion, impossible."

Asked questions about the exactness of handwriting identification, Walter admitted that it wasn't as exact as mathematics or astronomy. But he then said, "...I think it is just as reliable as fingerprinting. Fingerprinting may be forged." He then agreed that sometimes experts on handwritings disagree. Lanigan asked one question on redirect: "Did you testify in the Al Capone case in Chicago?" Walter said: "Yes."

Harry M. Cassidy



Harry Cassidy was an employee of the Chesapeake and Ohio Railroad Company located

near Richmond, Virginia. He came to this trial with 20 years experience as a document examiner. After asking a few questions about where Cassidy had testified previously, Lanigan tendered him as an expert. Again, there was no voir dire. After considerable technical testimony concerning the handwriting examinations of the previous witnesses, Cassidy's testimony developed into some humorous responses. Additionally, his humble, self-effacing manner of answering questions probably made him a likeable figure to the jury.

During his testimony, Cassidy stated that he had examined the original ransom notes on December 20, 1934, and determined that they were all written by the same person. His opinion about the writer of the notes was: "(T)he same person who wrote those request writings and those standards...is the same person that wrote all those ransom notes." When asked if he had prepared any charts, Cassidy replied that, "...I have got a bag full of them here." Then he said: "There won't be a thing that I can show that hasn't already been shown. I have been in the courtroom part of the time and my evidence has been shot all to pieces, it has been absorbed." After this statement, Lanigan tendered him for cross. Cassidy then suggested that Lanigan might want to enter some of his charts into evidence. When he then tried to introduce the charts, Pope understandably objected. As a result, Lanigan continued with his direct questioning using Cassidy's charts. Cassidy began with his chart displaying the misspellings found in the ransom notes. After discussing this chart, he made a surprising statement: "Now, if this was one of those ordinary anonymous letters, like I handle every day or every few days down there in Virginia on the road, I wouldn't hesitate to say that the same person wrote both of those sets of writing. I wouldn't care if they was written on the typewriter, because...the possibility or probability of two people spelling all those words wrong in the same way is so improbable that I would say that it is entirely negligible. Now, that's my honest opinion, and I am giving it to you; but this is a serious case here. It is too important to decide it, I would say, just on that alone. I would decide an ordinary case on the strength of those eight misspelled words, but I don't feel like I should do it in a case of this importance."

Cassidy's next chart had words of letters from the ransom notes and request writings. After

explaining the labeling on the charts, he said: "I will just leave it here and if anybody don't believe how many stars is in the skies they can count them." After going briefly through another chart and again giving his ultimate opinion, Cassidy said: "Now I don't feel that this jury is required to have the patience to listen to me any further." Lanigan asked how many other charts he had and Cassidy said there were nine of them adding: "I paddled around in water making these photographs until I was afraid I was going to get web-fingered, but I did it, and there they are and you can have them." This time, when Lanigan offered the remaining seven charts into evidence, there was no objection.

Fisher began his cross-examination by asking about the misspellings, specifically spelling "not" as "note" and how it was sometimes spelled correctly. He implied that this was an indication of intentional disguise. Cassidy replied: "No, I wouldn't say that...I do the same thing myself...I have a terrible time spelling 'occasion.' I can spell it two or three different ways." Fisher then proceeded to ask about someone imitating Hauptmann's writing and spelling habits. He asked if an imitator could even deceive experts like Cassidy. Cassidy agreed that might be possible to do so for a short letter: "But, gee whiz, when you talk about 14 letters, it looks like to me it would be almost an impossible task, Mr. Fisher." Fisher asked if one sample of Hauptmann's writing would be sufficient to show someone how to misspell words like Hauptmann did. Cassidy replied: "Well, if they had one specimen and all these misspelled words occurred in it, I guess one specimen would be sufficient. One well will make a river if it is big enough." Fisher then said that his understanding was that Cassidy was not present when the request writings were written. Cassidy responded: "I wasn't present when Washington crossed the Delaware but I've got a pretty good idea he got over on the Jersey side."

After further exchange of questions and answers, Fisher eventually said: "Just one or two questions from your test, now Mr. Cassidy, and then I'm all through here — thank God." Cassidy replied: "You and me both." In describing part of a "d," Fisher referred to the loop. Cassidy asked if he meant the loop or the oval. Fisher says: "The oval, whatever you call it." Cassidy said: "I believe that is the technical name for it....There are lots of experts listening to me and I like them to know that I know something about it, you understand."

Wilmer T. Souder



Wilmer T. Souder was the chief of the identification laboratory of the Scientific Staff of the National Bureau of Standards, which operated under the Department of Commerce. He had been with them for 19 years. The Bureau he operated was the Weights and Measures Division. Souder's interest in handwriting and typewriting had actually been spurred by Albert S. Osborn, who had sent some instruments to the Weights and Measures Division while Souder was working there in 1911 and 1912. Souder had a Bachelor's degree and a Masters from the University of Indiana and a Ph.D. in physics from the University of Chicago. He stated that he had examined about 60 cases per year for the previous two or three years. Once again, Lanigan handled the direct questions and there was no voir dire.

When Souder was first called into the case, he actually went to Lindbergh's house and looked at the letters that had been received up to that time. After Lanigan had Souder identify the ransom notes, the request writings, and the collected writing, Souder stated: "It is my opinion; these three sets of documents were written by the same individual." Souder went through his first chart, discussing all the characteristics being illustrated without one interruption. The second chart was then introduced and he explained it without any interruption. After that chart, he was tendered to the defense for cross, which was handled by Pope.

As he had been with Tyrrell, Pope was very argumentative, cutting Souder off in the middle of answers and asking that some or all of certain answers be stricken. He did not like Souder being able to explain any of his answers. In a classic

illustration of the adage that you should never ask a question you do not know the answer to, Pope asked if Souder had taken any special classes in handwriting during his education. Souder said that he had taken a special course at Northwestern University Law School in Chicago that looked at the problems of identification. Souder estimated the number of documents he had looked at as 8,000. Without explaining where all those documents came from, he later said that he had examined about 30 documents that were written by the defendant. Pope elicited from Souder that he had no knowledge of how the known writing samples were taken. During his cross, Souder defined "discrepancy" as an "... absolute and positive differences which cannot be reconciled." Then he said, "I found none." Pope ran through a number of characteristics and tried to get Souder to admit they were different between the ransom notes and the known writing. Souder did agree that some of them were not exactly the same, but never admitted there were discrepancies.

Pope wound up his cross by asking about the controversy in the document field over the authorship of the Junius letters. Pope never did get the dates for the letters correct. However, Souder said that he was not competent to answer the question anyway, so Pope was not allowed to pursue this line of inquiry. It is somewhat interesting that this is the only witness who was asked about this controversy.

Albert D. Osborn



At 38 years of age, Albert D. Osborn, the son of Albert S. Osborn, testified that he had been studying in the field for 20 years and continuously engaged in the examination of

questioned documents for 15 years. He had testified in 15 states. His direct testimony was handled by Lanigan and there was no voir dire. Osborn stated that he had looked at the writing of between 200 and 300 people. He said his first job was to determine if all of the ransom notes were written by the same person. He said, "...there is no question but they are all written by the same hand." The issue of how many writers were involved in the ransom notes had become increasingly important during the prosecution of the case. The defense hoped to show that the "crib note" had been written by a different writer from the remaining ransom notes. Thus, even if Hauptmann could be identified as the writer of all of the remaining ransom notes, if he had not written the crib note, the strongest charge that could be supported against Hauptmann was that of extortion, not kidnapping and murder. Osborn's opinion about the writer of the ransom notes was: "In my judgment the writer of the standards and other writings, Bruno Richard Hauptmann, wrote all the ransom notes."

On cross, Fisher again made a point of getting Osborn to admit that there were no schools that taught handwriting examination, and it was simply a matter of gaining experience. He also mentioned that there was no test administered by the state to qualify as an expert in the field. Fisher also pointed out that handwriting experts had made mistakes on cases, particularly mentioning Tyrrell's situation. Fisher then asked about the professional relationship between A. D. Osborn and his father, A. S. Osborn. The younger Osborn admitted that he and his father had discussed the case together, but that they did not discuss A. D. Osborn's testimony and that A. S. Osborn had never seen A. D. Osborn's charts. He then stated that Wilentz had specifically requested that the experts not speak to each other.

After Osborn had testified that he had never seen New York written with a hyphen prior to this case, Fisher showed Osborn a number of postcards, letters, and envelopes with the city New York written with a hyphen between them. Presumably, these were the same documents that Pope had used in his cross examination of Tyrrell. Fisher suggested to Osborn that he look at all those letters, envelopes, and postcards and determine if they were written by different people. Osborn replied: "I wouldn't answer that question off-hand. That is the way the bank

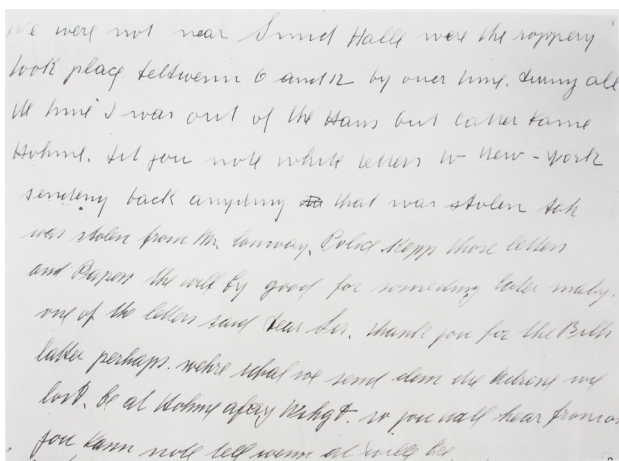


Figures 9. Chart used by Albert D. Osborn to explain his findings to the court.

tellers do it and I spend about half of my time examining their mistakes. I don't do it the same way." Fisher then asked Osborn to examine the documents using the same ability as a bank teller. Before Osborn could reply, there was a sustained objection.

Fisher raised the standard questions about when was the best time to take handwriting samples and in what manner. He also got Osborn to say that he was not present when the handwriting standards were taken. Then there was a long line of questions about whether the officers could have dictated the misspelled words to Hauptmann, to which Osborn continually replied that he could not believe that the officers would do something like that. During a line of questions about the misspellings, which all the examiners had heard (Figures 9 and 10), Osborn said he believed that the reason for spelling the difficult words correctly and misspelling the short words, was that the writer had looked up the long words, but didn't look up the short ones.

As the next-to-last witness on the handwriting, nearly everything that could be said or heard about the writing had already been said or heard. In response to Fisher's question about the final "x" being an unusual character, Osborn said: "I think you ought to think so by now." When asked about the possibility of someone copying a sample of Hauptmann's writing to create the ransom notes, Osborn said: "I think that is a probability that is so far-fetched that it is absolutely ridiculous." Fisher continued: "Is it a possibility, Mr. Osborn?" Osborn replied: "Well, it is a possibility that the sun won't rise



Figures 10. One of the dictated exemplars provided by Hauptmann.

tomorrow morning, but I feel it will." Apparently the prosecution team had learned something from Pope's cross examination of Tyrrell, because Lanigan came back on his redirect of Osborn and asked him if he knew when the hyphens on the postcards and letters had been inserted. Osborn did not.

Clark Sellers



Clark Sellers, from Los Angeles, had been practicing for approximately 20 years. Among the prominent cases he mentioned having been involved in were a jewel robbery case for Mae West, the estate of Rudolph Valentino, and the death of Jean Harlow's husband. He was also a lecturer at the University of Southern California. Sellers had the very difficult task of being the last of the eight handwriting experts to testify in

this case. There was very little that had been left unsaid by the preceding seven witnesses on the subject. Sellers distinguished himself from the other witnesses by giving extremely well-worded explanations about how we form our handwriting habits and how those habits are used to identify handwriting. He also gave a very lengthy and easy-to-understand explanation of disguise and the difficulties that a person faces when trying to disguise their handwriting.

As had become the norm with the handwriting experts, Sellers first expressed an opinion about the common authorship of the ransom notes: "I am convinced that each one of these ransom documents were [sic] written by the same writer." His opinion concerning the identity of this writer was expressed as: "I am convinced absolutely that the person who wrote these writings, the conceded writings and request writings in this case, which have been submitted to me as being the genuine writings of Bruno Richard Hauptmann, is the same writer who wrote each one of these ransom notes and who addressed the envelopes in which they were sent, and who addressed the wrapper in which the sleeping suit was returned." Sellers talked about how difficult it would be for someone else to simulate Hauptmann's writing and how they would need samples of both his disguised and his undisguised handwriting to copy from.

To help the jury better understand how he had reached his conclusion, Sellers gave the following analogy: "Handwriting is identified in exactly the same way as an automobile is identified, that is by finding a group, a sufficient group of characteristics, and the absence of fundamental

dissimilarities; but once you have made the identification, if it is correct there is no use of you going further and examining all the other automobiles in the world to see whether that one might be yours too. In other words, I think it is possible, if you identify correctly a handwriting, to say not only that one person wrote it but that no one else did. And that is exactly what I am saying here about the handwriting in these ransom letters. I am not only saying that Mr. Hauptmann wrote them, but I'm saying that no one else did, and I haven't examined all the handwriting in the world either." Sellers also compared identifying handwriting to identifying a person through the peculiarities of their appearance.

Sellers was the only witness who explained the purpose for his illustrations in this manner: "These photographs were made merely for showing my reasoning processes, not all of the things I took into consideration, but they just briefly give you some of the ways in which I think handwriting should be examined in order to come to a correct conclusion, and this demonstration is not made for the purpose of showing you only the characteristics that I took into consideration." Sellers summed up his direct testimony with the following comments: "In examining these documents (Figures 11, 12, and 13), I have also kept in mind an important thing, and that is the dangers of error, what might lead to error, such as mistaking a national characteristic for an individual characteristic; such as coming to a conclusion on too few characteristics, or such as having too few standards or too small an amount of disputed

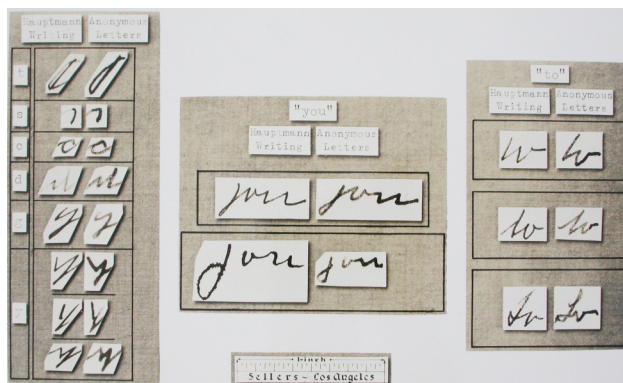
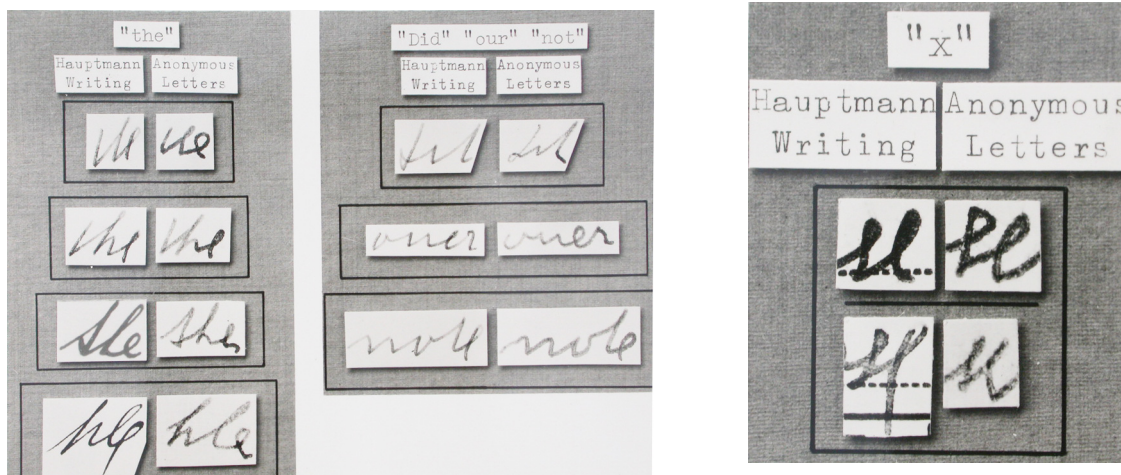


Figure 11. Chart used by Sellers.



Figures 12 and 13. Clark Sellers' exhibits presented in court.

writings...it is, I say, so convincing to my mind, that he might just as well have signed each and every one of them."

To begin his cross examination of Sellers, Pope attempted to contrast the identification of someone's appearance with the identification of their handwriting by saying that identifying the appearance would simply be a matter of common observation, whereas identifying the handwriting would be a matter of skill and practice. During the back-and-forth of this line of questions, Pope suddenly asked Sellers if he had ever studied fencing. When the judge asked Pope if that was material, he replied that it was not and moved on with his questioning. Pope then referred to the construction that Sellers had made of the name Hauptmann taken from individual letters found in the ransom notes. He asked Sellers if he had found the name Hauptmann written as a complete word in any of the ransom notes and Sellers replied no (Figure 14). As had happened repeatedly with the cross examination of the

handwriting witnesses, the defense asked one question too many. Pope asked Sellers if he had attempted to reconstruct the name Hauptmann from the writing of any other German immigrants. Sellers replied that he had done exactly that with two other German immigrants one of whom was a young girl and the other of whom was the German consul.

During a series of questions about the pressure used on the writing instrument in the questioned writing, Sellers commented that due to the shading of the writing, it was possible in some instances to determine the angle at which the pen was held by the writer. Pope then produced a document that Sellers apparently had not seen before, and asked him if all the writing on that document was prepared by one person. Pope said: "I'm asking for your snap judgment on it." After an objection to the question and a series of interchanges between Pope, the judge, and Mr. Wilentz, Sellers said: "Of course, my best opinion can't be given under the circumstances. If a man

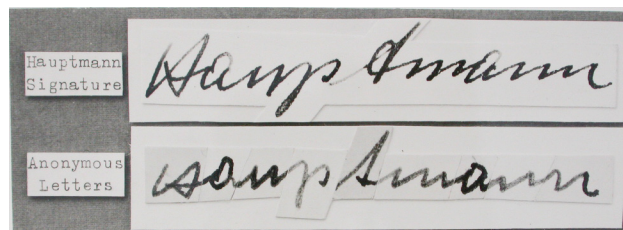


Figure 14. Hauptman signature comparison chart by Clark Sellers.

brought a document — if you brought this document to my office and laid it on my desk, or a set of documents, and said to me, ‘Mr. Sellers, I want to know...right now, were these all written by the same person?’ And I attempted to tell you, you’d say I was a fake and take up your papers and leave, because you’d know that I was attempting to do something that was unreasonable. And I don’t now, or cannot, in either in fairness to myself or in fairness to you or to this jury or to the court answer a question involving this amount of writing.”

John Trendley

In a chapter titled “The Phantom Experts,” Fisher (1987) stated John Trendley was 67 years old at the time he testified for the defense in the Hauptmann trial. During his testimony, Trendley made a rather startling revelation when he proclaimed that he had made “a specialty of imitating or forging people’s handwriting,” a skill he used to fool other documents examiners, including Albert S. Osborn and John Tyrrell, who had opposed him in past cases. It is interesting that nothing was said about this during cross examination of Osborn and Tyrrell. Under cross examination, Lanigan got Trendley to admit that he had given diametrically opposing opinions on the same case prior to and after the lunch break. He also admitted that, on another case, he had told the prosecution one thing about a signature and given the defense an opposite opinion about the same signature.

Conclusion

The intense press coverage of this trial made the world aware of handwriting experts and how handwriting was identified. The forensic document examination profession was given some limelight by the eight outstanding expert practitioners who proved to be excellent ambassadors for the field. The press, some of the jurors, and even Hauptmann himself recognized that the testimony about the handwriting was some of the most important and persuasive of the entire trial.

Acknowledgements

All of the trial quotes of the eight government witnesses were taken from transcripts of the

actual testimony given during the trial. These transcripts and all of the photographs in this paper were graciously furnished by Jack Harris.

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