VARIOUS THINGS DONE BY THE PROSECUTION TO HINDER AND HOLD UP THE DEFENSE: (Things never before done so far as I know)

1. The State was procuring an up-to-the-minute copy of the record. They were using the Stenotype system and complete copies of the testimony up to within fifteen minutes of any given point in the testimony was available. The cost of this was tremendous- - amounting to over $24,000.00. John Van Blarcom and the man with the Stenotype contract called me one day and told me that they were willing to give me a copy of the testimony, since they knew I couldn't pay for it, with the thought of course that with the transcript before us, we would be able to stretch out the cross-examination and thus run up the testimony, and there would be more pages of it, and they were being paid on a page basis. Despite the fact that it would not have cost the prosecution a penny, and despite the fact that the prosecution themselves had this service, Wilentz refused to permit Van Blarcom to give me a copy.

2. Examination of handwriting exhibits... We were never permitted an adequate opportunity to examine the ransom notes or other handwriting exhibits. The one and only time that our side of the case, either counsel or experts, were permitted to see the notes was for a single half-day in the Hotel Hildebrecht, when the notes were brought to a suite in the Hildebrecht and accompanying the notes were Joe Lannigan, Bob Peacock, Lt. Snook of the State Police, Hausling of the State Police - I think one of the State's handwriting experts (although I am not quite sure about that), and two or three more state representatives. They stayed in the room with our experts who were examining the notes; our experts were not

permitted to have copies of the notes, and so far as an opportunity to compare was concerned, or to study them, there wasn't any. This is contrary to all accepted practice.

5. Next, it was impossible for counsel to have a fair conference with Hauptmann. At no time during his incarderation in the Flemington jail was there ever a single occasion when I could sit down and talk with this man out of ear-shot of a policeman. I repeatedly asked them to withdraw and they would go no further than a door not more than twenty feet away, and refuse to close the door. Even whispers could be overheard by these policemen. I was obliged, in connection with many important questions I wanted to ask Hauptmann, - anything that I wanted to keep secret - to resort to writing the question on a pad, while I talked about something else, and then he in turn would write the answer. - - - There was some talk that there was a dictaphone in the immediate vicinity of Hauptmann's cell, and one person who claimed to know, always insisted that there was one there in a small lunch-box. I never saw it and have never believed there was any there. John Curtiss, the Sheriff, would of necessity know if there had been any wires in the cell and he has sworn to me on a number of occasions, that there wasn't, and I personally would have noticed the lunch box if it had been there because I always kept a sharp look-out.

4. The refusal to permit defense to view physical features of the case - for instance -

(a) The refusal to permit an examination of the Hauptmann home. I repeatedly sought this permission and on one occasion Wilentz agreed that I should get in. I went to New York with Sam Bodine and John Schenck - one a lumber man, and the other a foundry man - whom I thought might by their very appearance, impress the jury. The State Police in charge of the house would not let me in. I called Schwartzkopf and Wilentz and they kept passing the buck all day and I never did get in. The first time I tried to call Wilentz, some one at his house answered that he was sick in bed with tonsilitis and could not talk. I threatened to call the press and tell them the whole story, and then he very promptly appeared at the phone, and in a voice as strong as mine, started to make excuses. The next week Wilentz agreed with me that before he left on Friday, he would give me a written authorization to go in the house the next day. That night he left immediately at the conclusion of the testimony, I was unable to see him and I couldn't contact him all that evening.

(b) The refusal to permit defense to visit the Lindbergh house and surrounding territory. I made application to Schwartzkopf for permission to visit the Lindbergh house, a number of times both before and during the trial here, but never got that permission. After the trial, and while the appeal was pending, I again made application to Schwartzkopf. He then advised me that the property

had been turned over to an organization, and that the State Police and the Lindberghs had nothing to do with it, and was awfully sorry he couldn't give me permission. I assumed from that that I could just drive up there and go in, at least on the grounds. I did drive there and to my amazement, there were two state policemen on duty at the end of the lane, there was a sign reading "State Police - Substation". Apparnetly, Schwartzkopf had deliberately lied to me. I have never yet visited the Lindbergh home - inside or outside.

5. The matter of crowding the prosecution table with notables - for example, General Ryan, Breckenbridge, Lindbergh himself, ex-Attorney General Stephens, and any other influential and well-known people, whose presence at the table necessarily could well imply a sympathy with the state's case. I have never known that to occur before in the trial of any criminal case. Although Lindbergh testified less than an hour, he was at the state's table every single hour of the trial.

6. The crowded condition of the court room by people admitted on subpoenas signed by Wilentz, and the special passes he had engraved. We had agreed with Justice Trenchard not to continue the practice of passing out subpoenas. They had an effect of increasing what already was a very sympathetic audience so far as the State was concerned. Through the years I have learned that the attitude of an audience in the court room impresses a jury more or less, and that an exceedingly sympathetic audience indicates a verdict in favor of the side

the crowd sympathizes with. I have always considered this a very vital factor in the case.

7. The unlimited expenditure of money by the state, as opposed to no money on behalf of the defense - for example the payment of over $33,000.00 for handwriting experts alone, where the defense had no money for that purpose.

The refusal of the State to print the record on appeal. It was agreed by the State through Wilentz that this should be done and an Order had been ~~xigned~~ presented to the Court. When Wilentz found out that a couple of dollars were being contributed to the defense fund, he raised particular Hell and we had to pay for the printing of the record, something like $6000.00 - money which could have been spent in investigation. Likewise Wilentz tried like the very devil to get us to pay for the stenographic copy of the record which had been furnished us under the court's order at the conclusion of the trial before they knew there would be any defense money available. I have never known of a case where an Order has been made directing the State to bear the costs in an instance like this, and that order later being rescinded.

8. The use of at times, six assistant Attorney Generals, and on top of that, the employement of George K. Large of Flemington, at a price of $8000.00.

Numerous other things which for the moment have escaped my mind were done by the State in what I consider a highly unethical manner, and which did much to prevent a proper preparation and trial of the case.