

STATE vs. HAUPTMANN.

FLEMINGTON, N. J., January 22, 1935.

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,

Mr. Lanigan,

Mr. Hauck,

Mr. Pescock,

Mr. Large,

For the State.

Mr. Reilly,

Mr. Fisher,

Mr. Pope,

Mr. Roscrans,

For the Defendant.

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

Mr. Wilentz: Mr. Bornmann, will you please take the stand.

LEWIS J. BORNMANN, recalled as a witness in behalf of the State:

Direct Examination by Mr. Wilentz:

Q. Mr. Bornmann, what is your title, sir? A. Detective, New Jersey State Police.

Q. You testified before, did you not? A. I have.

Q. I want you to take a look at Exhibit S-24 for identification, which is a chisel, and ask you whether or not, when you found this chisel, you put any identification marks on it. A. I did. I found this chisel on the early morning of March 2nd, about one o'clock, on the Lindbergh Estate at Hopewell, and placed my initials thereon.

Q. Is that the chisel you referred to as finding near the same spot where you found the ladder? A. Yes, sir, it is.

Mr. Wilentz: I offer the chisel in evidence.

Mr. Pope: Well, we object to the introduction of the chisel because there is no evidence connecting it with the crime. The only evidence in the case is that this particular implement was found somewhere on the grounds of the Lindbergh estate. There isn't any evidence to show that it was in any way connected with the alleged crime, nor is there any evidence to show that it was ever in the possession of this defendant. Therefore, we think it is incompetent, irrelevant and immaterial.

The Court: Will the stenographer repeat the answer of the witness.

(The last question and answer were repeated as follows: "Q. Is that the chisel you referred to as finding near the same spot where you found the ladder? A. Yes, sir, it is.")

Mr. Wilentz: The proof up to this time, may I indicate, your Honor, with reference to the chisel is as follows: that this chisel was found near the ladder—

The Court: Mr. Attorney General, I am satisfied that it is entitled to go in in evidence

and unless you desire to argue it will be admitted.

Mr. Wilentz: No. That is all.

Mr. Pope: May we have an exception?

The Court: Take your exception.

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

(s. s.) THOMAS W. TRENCHARD,
Judge.

(The chisel was received in evidence and marked S-210.)

By Mr. Wilentz:

Q. Mr. Bornmann, you have heretofore testified that you are the man that found the ladder and took it in the house. A. That is right.

Q. My recollection is then that you stated that you turned the ladder over to Mr. Kelly, the finger print man. A. Trooper Kelly of the Identification Bureau.

Q. Now, with particular reference to the side of this ladder that is cut in half here, I think that is a part of section Number, what is herein referred to as Section Number 1—do you know who cut that piece of wood in half? A. Yes, sir, I do.

Q. Who did it? A. I did it.

Q. Where? A. At the New Jersey State Police Training School, Wilburtha.

Q. In the presence of Captain Lamb? A. Yes, sir. In compliance with his instructions.

Q. In compliance with his instructions? A. Yes, sir.

Q. Was it done for investigation purposes? A. It was done for the purpose of further analysis.

Q. Further analysis? A. Yes, sir.

Q. And after cutting it you left it there in the possession of Lamb? A. Yes, sir; I did.

Q. Do you know who applied this other piece, I think there has been testimony—if you don't know, say so; if you do know, say so. A. Mr. Koehler.

Q. Mr. Koehler applied this white piece, fresh piece of white lumber here; is that it? A. Yes, sir; only for the purpose of holding the ladder together.

Q. All these references with reference to sections of the ladder and the ladder itself are to S-32 for identification. So that, Detective, these three sections comprising this ladder, S-32, is it substantially the same or is it the same with the exception of the changes that have herein been referred to, namely, the nails with their clips, having been taken out and put back, the one piece that you have just referred to, cut in half and then put together, as it was originally, these little white thumb tacks that have been referred to, the cut which Mr. Koehler testified to on Section 1 of the three sections of the ladder, with the exception of that and the numbers in writing, 1, 2 and 3, and the initials of the various troopers; is that the very same ladder that you found? A. Identically the same ladder.

Mr. Wilentz: We offer the ladder in evidence.

Mr. Pope: And, of course, we object to the introduction of the ladder in evidence for the reasons which have already been indicated to the Court. This ladder, as we understand it, is a piece of property that was discovered somewhere on the Lindbergh estate. Afterwards it was taken by the State Police to Wilburtha, the

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State Police School, or Station, and there it was entirely torn apart.

The evidence in the case is that the ladder has since its discovery been in the possession of many different people; that it has been in many different sections of the country, that it has been to Washington, among other places; that it was at one time in the possession of a man by the name of Dr. Hunter—wasn't it?

Mr. Fisher: Dr. Hudson.

Mr. Pope: That it has been entirely taken apart and that there has been an attempt to reassemble it.

Mr. Pope: The wood expert, whose name I have forgotten for the moment, testified that the ladder was taken apart, that all the nails were taken out of it and that the nails were given to a metallurgist. He took the nails to his laboratory and he had them in his possession for several weeks; that he afterwards returned the nails to the State Police. The wood expert testified that either he or some other person in his immediate presence reassembled the ladder, putting the nails back as they were handed to him, but that he was unable to testify that the same nails were handed to him or that they were placed back in the same location where they originally were; that he took the nails as they were handed to him to another person and he put them into holes in the ladder and reassembled it. The ladder has been cut in two, at least one of the uprights of one of the sections of the ladder has been cut in two as testified to by this witness. It has been materially

altered in that respect. But, sir, our understanding is that any property that is found at the scene of the crime which can be in any way connected with the defendant and the commission of the crime may be received in evidence provided it is shown to the Court that the property is in the same condition that it was at the time it was discovered, and providing the witnesses who have had possession of that ladder are brought into court and each testify as to what they did with it, how long it was in their possession and to whom they turned it over.

In other words, the entire history of the property must be traced and its custody in to each person, and what that particular person did with it, if anything, must be sworn to and it must be followed through each and every person down to the time it is produced and offered in evidence. And each person who had the custody of the property must come in court and testify that he made no alteration in it, that it is in the same condition or substantially the same condition that it was when he received it.

There is evidence here that this ladder was in the possession of some fingerprint experts. One of them, I believe, discovered several hundred fingerprints upon the ladder. It is quite evident from looking at it that the ladder is somewhat discolored and different in that respect from what it originally was.

We submit, sir, that the history and the custody of this ladder from the time it was discovered on the Lindbergh estate down to the time when it was produced in court has not been followed, has not been covered, has not been testified to, and we cannot assume, sir, that any man who had the custody of this ladder did not make some changes in it.

That man who had the custody of it must come in court: He must tell us whether he made any changes in it; if he made any changes in it what those changes were.

It must appear very clearly to the Court by all this testimony that there has been no alteration in it since it was first discovered. The only way that that can be done is for each man who had the custody of it to come in court and tell us what he did with the ladder, what condition it was in when he received it, to whom he turned it over and its condition at that time.

There is a still further and even a stronger objection yet. There is no connection between this ladder and the defendant here on trial. No one has even suggested that this ladder was ever in the possession of this defendant. No one has even suggested that he had anything to do with building it; and it is therefore immaterial, irrelevant, and we submit that it should not be introduced in evidence at this time.

Mr. Wilentz: Does your Honor want a reply?

The Court: I am wondering whether Mr. Pope has overlooked the testimony of an old gentleman to the effect that on March the 1st, I think it was, he saw the defendant in the possession of this ladder. Have you overlooked that?

Mr. Pope: I haven't overlooked any such testimony. I wonder if the Court is referring to the old gentleman, Mr. Hochsmith, or Hochmuth?

The Court: That is the gentleman.

Mr. Pope: Well, I do not want to say that that witness did not testify to that, but I certainly did not understand him to say that he saw the ladder in the car at that time.

The Court: Well, can there be—

Mr. Pope: Or this ladder.

The Court: Can there be any doubt about that?

Mr. Pope: I don't know. I am not sure about that.

Mr. Wilentz: I think we can agree—

Mr. Pope: But even if he did, even if he did testify to seeing the ladder in the car, he did not recognize this ladder; he did not say that it was this ladder.

The Court: No.

Mr. Pope: That was about eleven o'clock in the forenoon, as I understand it, somewhere around there, he saw a car go by. He may have testified that he saw something that looked like a ladder in the car; I do not remember that, your Honor; and I do not say that he did not so testify; but he certainly did not give any description of any ladder.

But, one of the particular reasons why we object to this ladder is because the State Police have testified that it was in the possession of a Dr. Hunter—Hudson—a fingerprint expert, and that he had it in his possession, that it was in Washington and different other places, and

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we say that this ladder should not be admitted in evidence until Dr. Hudson and the other men are brought here and testify what they did with the ladder, whether they made any alterations or changes in it, whether it is in substantially the same condition that it was when it was delivered to and by them surrendered to the State Police.

Without that we have a break in the link, we have a missing link in the chain, showing the custody and possession of this ladder from the time it was found until the day it is brought into court.

Now, I have never known of a case, your Honor, where the State has ever been permitted to introduce in evidence any property which they say was in some way connected with the crime without first showing the custody of that property from the time it was discovered down until the time it was introduced in court. And without showing by each of the people that had the custody of it that they have made no alteration in it.

The Court: Mr. Pope, did not this witness, who is now on the stand, say that this ladder was in the same condition as when found, with the exception of certain things that were designated?

Mr. Pope: How can this witness say, your Honor—

The Court: I am not undertaking to say how he can say it. I am suggesting to you that it seems to me that he did say it and, if so, I am wondering whether or not that does not open the way for the admission of the ladder.

Mr. Pope: That doesn't alter the rule of evidence, your Honor, because this witness says so. After all, you know, your Honor is the one that must determine that question; it is a Court question. This witness might say that the sun is shining outside, but you would not have to believe that when you know it isn't.

This witness cannot testify—here is a very important inquiry in this case. We do not want to disclose it at the present time, but here is a very important question in this case: We have a right to know that every one of those cross rounds or cross pieces in that ladder, which has been taken apart, according to the evidence, put back together again, are in exactly the same position that they were in when they took it apart, that the third round is in the proper place, that the second round is in the proper place.

Neither this witness nor anyone else can testify to that, except the people who have had it. We know that Dr. Hudson took this ladder apart; we want to know whether Dr. Hudson put it back in the same position that it was when he received it.

We have a right to examine him and we have a right to have him produced. We have a right to have every man produced and to subject every man to cross-examination who has had the custody and possession of this ladder since it was found. And until that right is afforded us, we respectfully submit that the ladder should not be admitted in evidence.

The Court: I think I will hear the Attorney General.

Mr. Wilentz: If your Honor, please, the

name of Dr. Hudson I do not recollect at all.

We have proven the possession of this ladder from the very time it was found upon the Lindbergh premises, within a short time after this crime was committed, up to the moment it came into this courtroom. Yes, there have been changes in that ladder made from time to time, for the very purpose, and with the intention that it could some day be brought into this very court room to help a Court and jury pass upon the innocence or guilt of a person charged with the crime in question. But we have explained those changes.

This ladder went from Bornmann to Kelly, from Kelly to Lamb. Kelly then took it from Lamb and took it to Washington; stood there and watched it; put it in a safe at night; brought it back the next day, or that day, back to Lamb again. Then the wood expert comes in. He has it. He returns it to Lamb. It remains with Lamb until it comes to this Court, each witness testifying that he brought it back in the same condition as he got it, with the exception that Kelly put the thumb screws in there with the numbers on.

Kelly marked Section No. 1, Section No. 2, Section No. 3. Koehler cut a piece of the wood for experimentation and investigation purposes. Bornmann cut it in half for the same purpose. Koehler then put that together. The man who took the nails out put numbers on them to make sure they would go back as they should.

The middle clasps are there, so that we have the same ladder, the custody of it traced right to the very day it has gone into this court room, if your Honor, please, and every moment of it explained—no question about any Dr. Hudson,

he is not in our case—and we have explained every change.

Now, what is the purpose of an exhibit of this kind, if your Honor, please? Why, a gentleman down in Texas was shot or killed and the person who shot him shot him through his coat, he had one of these long tail things and the widow that she would give his clothes away, so some handy man in the town got his coat and it was a little too long, so they cut it off somewhere around the bottom, and then he saw this bullet hole and he patched it up, and he was walking around the street with it one day when the prosecuting attorney thought he would need that coat, so he got the coat and the defense objected that it was changed, and it was changed, and it was patched, and it was patched, but for the purpose of the case, if your Honor, please, to show where the bullet hole and other things that were necessary to help a jury, the Court thought that it ought to be admitted, and it was admitted.

The point I am trying to make is that what we have exhibits here for is to try to help, and if those exhibits do not mislead the Court and the jury, if they haven't been changed to such an extent to be misleading, if your Honor, please, then they are admissible.

Now, we respectfully submit, then, if your Honor, please, that we have proved the custody of this ladder, and the testimony is positive that in this court room stands the ladder substantially as it was the night it was found on that Lindbergh Estate, and there is the testimony that this defendant came with a ladder that very day around that corner of Lindy's Lane—that is the testimony.

So that, if your Honor, please, we have spent so much time on it, I submit to you very respectfully—

Now, if, perchance, some of the arguments with reference to this ladder have escaped the Court—not the arguments, but some of the testimony—may I submit to your Honor, your Honor's observations each time this ladder was offered? Or isn't it necessary?

The Court: I think I have those pretty well in mind.

Mr. Wilentz: Well, then it won't be necessary.

Then without taking any more time about it, may I just respectfully submit to your Honor that the first time your Honor did suggest, very properly, that we show a little further the custody, which we then did, and then with reference to the nails and such other changes as your Honor thought we might be able to show, and so we rest with that explanation.

Mr. Pope: Now may I just correct one erroneous idea that the Attorney General has. The State Police, I think it was Mr. Kelly, the State Police who was on the stand, testified under cross-examination that this ladder had been placed in the possession of Dr. Hudson for examination for the purpose of finding out if there were any fingerprints on the ladder. So it was in the possession of Dr. Hudson. Koehler has had it in his possession. We submit that we don't know that this ladder is in the same condition that it was when Dr. Hudson received it, we don't know that in its present

condition it may not be deceptive to this jury. There is one cross found on this ladder that we question very materially. We don't know and we don't believe that that was in that position when the ladder was originally found. There are some things about it that lead us to doubt that that was the piece of wood that was on the ladder.

The only way to satisfy this Court that that ladder is in substantially the same condition that it was the day it was found is to bring before you the witnesses that have had the custody of it and let them tell you what they did to it. We submit that it was in the possession of Dr. Hunter—Dr. Hudson—I can't remember the name, but the man who used it and who searched it for fingerprints. I think the testimony was that he found some five or six hundred fingerprints on the ladder.

The Court: I feel constrained to admit this ladder in evidence, and it will be admitted.

Mr. Pope: May we have an exception?

The Court: Yes.

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

(s.s.) THOMAS W. TRENCHARD,
Judge.

(The ladder, previous marked S-32 for identification, was received in evidence and marked State's Exhibit S-211.)

Q. Now, Officer, there was a loose dowel pin you testified to as having been found on the premises. I

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want to ask you whether or not that is the dowel pin? A. Yes, sir. This is the dowel pin.

The Court: What did he say to that, it was?

Mr. Wilentz: He said, "Yes, that is the dowel pin found on the premises that night."

The Court: The doll pin?

Mr. Wilentz: The dowel pin.

The Court: The dowel pin.

Mr. Wilentz: Any objection?

Mr. Pope: It is objected to for the same reasons we have already discussed and presented to the Court with respect to the ladder.

The Court: It will be admitted.

Mr. Pope: Then may we have an exception.

The Court: Yes.

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

(s.s.) THOMAS W. TRENCHARD,
Judge.

(The dowel pin was received in evidence and marked State's Exhibit S-212.)

Mr. Wilentz: Will your Honor give me just a moment?

(Counsel for the State and defense conferred.)

Mr. Wilentz: That is all, Officer.

Mr. Reilly: Wait a minute.

Mr. Pope: Are you through?

Mr. Wilentz: Yes.

Cross-Examination by Mr. Pope:

Q. Mr. Bornmann, I understand you to say that you are a sergeant? A. No, sir.

Q. Detective? A. Detective.

Q. Well, you are one of the detectives connected with the State Police? A. Yes, sir; that is correct.

Q. And are you connected with the Wilburtha Station? A. Assigned there for special duty.

Q. I see. Now, when this ladder was found to whom was it turned over? A. It was turned over to Trooper Kelly of the Identification Department.

Q. And then it was in Trooper Kelly's possession? A. Yes, sir; it was first.

Q. And in your possession? A. No, sir; not in my possession.

Q. Were you present when the ladder was examined for fingerprints? A. Yes, sir. Upon bringing it into the Lindbergh residence it was tested for fingerprints.

Q. That is by Trooper Kelly? A. Yes, sir; in my presence.

Q. And it was afterwards examined for fingerprints by Dr. Hudson, wasn't it? A. That I can't testify to.

Q. Do you mean that you were not present when Dr. Hudson was examining it? A. Dr. Hudson was not there at that time; no, sir.

Q. I don't mean the night at the Lindbergh estate, sir; I mean afterwards. A. If he came later I had no knowledge of it.

Q. You have no knowledge whatever of Dr. Hudson examining this ladder for fingerprints? A. No, sir; I had other details.

Q. Well, do you know Dr. Hudson? A. No, sir, I do not.

Q. Did you ever see him at the State Police barracks or headquarters? A. No, sir, I did not.

Q. Were there any photographs taken of the ladder, fingerprints on the ladder? A. That you will have to take up with the Identification Bureau.

Q. Well, I am asking you if you saw any. A. I have no knowledge of it, no, sir.

Q. You have no knowledge of it? A. No, sir. That is a different department altogether.

Q. Then you really didn't have the custody of this ladder, did you? A. I have testified that I turned it over to Trooper Kelly that night.

Q. Yes. And from that time on you had nothing to do with it? A. Yes, sir, after it came back to Wilburtha I had considerable to do with it.

Q. Well, how long a time elapsed between the time you turned it over to Trooper Kelly that night and its return to Wilburtha and into your personal possession? A. It was not in my personal possession; it was in—

Q. Well, your custody. A. Not in my custody, no, sir.

Q. Then whatever you had to do with it? A. From Trooper Kelly it came to Captain Lamb. It was in his custody.

Q. Well, what do you mean when you say, "It came back to Wilburtha and then I had considerable to do with it"? A. I worked on it with Mr. Koehler at various times.

Q. Well, now, how long a time elapsed between the night it was discovered on the Lindbergh estate and its return to Wilburtha, when you worked on it with Mr. Koehler? A. Approximately three months, when it was returned to Wilburtha.

Q. And during those three months it had been where? A. In the possession of Trooper Kelly.

Q. Well, where is the Identification Bureau? A. Trenton.

Q. Then it had been in the Identification Bureau so far as you know during that interval? A. Trooper Kelly will have to testify where he had it.

Q. So that when you are testifying here today, you can only account for the ladder during that period that it was in your custody? A. That is correct.

Mr. Pope: That is all.

Mr. Wilentz: That is all. Thank you, sir.

Your Honor, please, during the course of this trial Mr. Reilly reserved to himself the right to examine some witnesses—cross-examine, I should say—with reference to Mr. Osborn particularly there was some question about an examination of somebody's handwriting other than the defendant's. I think that we can agree and do agree that that can be deferred even after the defendant's case, but with reference to the cross-examination, or further cross-examination of Agent Sisk and the presentation by Trooper Kelly of the instruments necessary for some exhibition of testing fingerprints, I think those two things counsel wants—

Mr. Reilly: Yes.

Mr. Reilly: May we have an exception?

The Court: Yes.

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

THOMAS W. THURGOOD (L. S.)
Judge.)

(The paper referred to was received in evidence and marked State's Exhibit S-234.)

Mr. Wilents: Take the witness.

Mr. Reilly: I think I have finished temporarily with the Inspector.

Mr. Wilents: That is all, Inspector.

LEWIS J. BORNMAN, recalled.

The Court: I want to interrupt you just a moment.

I have a note here from one of the officers in which he complains that he is unable to keep the aisle open which leads to that department where the secretaries have to go to, to come in and out. Of course everybody ought to understand that it is essential to keep that aisle as well as other aisles open, and that aisle must be cleared through the center.

Just how it shall be cleared, I don't know. I don't know whether those people can find other places or not. If they cannot find

other places in the courtroom they will have to retire.

Mr. Wilents: I think, if you Honor please, it is cleared now.

The Court: Is it cleared now? Very well, you may proceed.

Direct Examination by Mr. Peacock:

Q. Mr. Bornmann, do you know where the defendant Hauptmann lives in New York or did live? A. Yes, sir.

Q. Where was it? A. 1279 East 222nd Street, Bronx.

Q. On September 26th, 1934, were you at his home? A. Yes, sir, I was.

Q. And for what purpose? A. For the purpose of searching for evidence.

Q. Did you make a search for evidence? A. Yes, sir.

Q. Did you make a search of the attic of the defendant's home at that time? A. I did.

Q. How did you get in? A. Why—

Q. Pardon me. Were you going to say something?

The Court: Will you let me have your name, please, I missed that?

The Witness: Lewis J. Bornmann.

The Court: Now you may proceed, Mr. Peacock.

Q. How did you gain entrance to the attic?
A. Entrance is gained by going to the small linen

closet leading off the hall. It is necessary to climb through this linen closet to the attic.

Q. What was the size of that closet? A. It is 28 inches deep, 23½ inches wide, and has a small door 18½ inches wide with a lock.

Q. And where was the closet located in the house? A. It is located between two bedrooms, rear bedroom and what is known as the nursery bedroom.

Q. And how did you get from the closet up into the attic? A. It was necessary to remove the shelves and climb up.

Q. And where were the shelves located in the closet? A. As you open the door there are three shelves spaced apart.

Q. And how wide were those shelves? A. They are made of 1 x 12, what is known as shelving, 22 and a half inches wide,—

Q. Who was with you— A. Long.

Q.—this day? A. On the 26th, I was accompanied by Police Carpenter Cramer, Enkler and Detective Tobin of the Bronx.

Q. Now, did the three of you remove those shelves to get into the attic? A. Yes, sir, we did.

Q. Now, when you got into the attic what did you find? A. We first made a search for money, we didn't find any money and during this search I found that all the floor boards were not of the same length, that is the one in the south west corner, a portion of it had been removed.

Mr. Reilly: I move to strike that out as calling for a conclusion, there was one board, he can describe the boards that were there, but the conclusion one had been removed, was missing, I say is objectionable, he can't testify to that.

The Court: Well, Mr. Reilly, he may have seen evidence that it had been removed. I do not know about that.

Mr. Reilly: And may he say what he saw, Judge?

The Court: Yes, he may say what he saw, that is the best way, I think.

By Mr. Peacock:

Q. Now, Mr. Bornmann, referring to Exhibit S-215, will you show to the jury where that board was missing that you—

Mr. Reilly: Now, I object to that word "missing." Let him tell us what he saw.

Mr. Peacock: I withdraw that question.

Q. Referring to Exhibit S-215, show the jury the condition that you found in that attic. A. Well, this is the south west corner, this is the south side, and this is the west side (indicating) and the end board, approximately 8 foot if it had been removed—

Mr. Reilly: Now, I object to that as calling for a conclusion; he can say there was no board there.

Q. Well, there was no board there, was there?
A. There was no board, and upon examining it further, I found that there were nail holes still in the beams, and between the 7th and 8th beam here there was a small quantity of saw dust.
Q. Now, where was that saw dust? A. That

was between the 7th and 8th beam, right down in here, laying on the plaster.

Q. Referring to the end of the piece of rail that still was on the floor, is that what you mean?
A. Yes.

Q. In between the two beams at the end of this rail? A. In between this 7th and 8th beam; it was also on this adjoining board there, a small indentation made by a saw where, when this board had been sawed off, the saw went into it.

Mr. Reilly: I object to that, where the board had been sawed off.

The Court: Well, there seems to be some little justification for that sort of an inference, doesn't there, Mr. Reilly?

Mr. Reilly: There might be an inference, Judge, but it is not such an inference that a guilty conclusion can be drawn from it. This board might have been well nailed down with that saw cut in it, and I take it that we are only concerned in—

Mr. Wilents: Well, he doesn't say anything to the contrary. Mr. Reilly's statement may be so, that it may have been nailed down with the saw mark in it, but the fact remains that there is a saw mark.

Mr. Reilly: Yes.

Mr. Wilents: That is all the witness has testified to.

Mr. Reilly: Yes, the fact there is a saw mark, yes, sir.

Mr. Wilents: That is all that he is testifying to.

Q. Now, with regard to the saw mark, show the jury on the picture just where the saw mark was.
A. The saw mark—

Mr. Peacock: The jury can't see, Mr. Reilly.

A. The saw mark is about a quarter of an inch into the other board (indicating).

Q. How deep was that saw mark, Mr. Bornmann? A. Approximately a quarter of an inch.

Q. Now, did Mr. Enkler and Mr. Cramer do anything to the remaining board in the attic when they were there with you? A. No, sir. After examining that board I then removed about nine feet of this (indicating).

Q. Referring to the board at the end of the pointer on the Exhibit S-215? A. Yes, sir.

Mr. Wilents: The southwest board.

Q. That is the southwest board? A. Yes, sir; coming east here (indicating).

Q. And what did you do with that board? A. I had Police Carpenter Cramer remove the cut nails from it.

Q. And what— A. And I then took that board down to the second floor and locked it in a bedroom.

Q. Did you have the key to that closet? A. It was in the custody of a policeman, a uniformed man on duty.

Q. Then what further was done with that board? A. I made a report to Captain Lamb as to—