

*Fulton's final involvement in the Lindbergh case came shortly after his visit to Panama. He wrote of the experience in detail for this book. Here, published for the first time, is his eyewitness report—the only one that has ever been written, to my knowledge—of that stormy meeting in Hauptmann's attic, and Governor Hoffman's embarrassing attempt to prove that Hauptmann had been convicted on false evidence.*

## NOTES ON WHAT HAPPENED IN HAUPTMANN'S ATTIC

On Wednesday, March 25, at three o'clock in the afternoon, William Conklin, the governor's secretary, telephoned me and said that a very important development was coming. He said that the governor was about to fire his big gun in the Hauptmann case and would be able to prove conclusively that Hauptmann had been framed. It was the governor's earnest desire that I come to New York at once in order to be present as the only representative of the press to witness this demonstration.

Mrs. Oursler and I got into the automobile and started for New York. At Taunton we telephoned home and found that Mr. Conklin had meanwhile telephoned back and said the governor would expect me at Room 2600 in the Hotel New Yorker at nine o'clock Thursday morning.

We spent that night at the Waldorf-Astoria and early the next morning I started for the hotel. I had been slightly delayed and did not reach the governor's suite until nine-fifteen. The door was opened by Mr. Donnegan, a New Jersey court reporter, who stated that the governor had not been able to wait but that he had been left behind to bring me to Hauptmann's house. We got into a taxicab and made the fastest ride I have ever made in an automobile up to Hauptmann's house at 222nd Street near the Boston Post Road. We went so fast that ours was the first car there. The next to arrive was a car containing Lloyd Fisher, counsel for Hauptmann, and Captain Maines, an inexplicable press agent who had been tied up with Huey Long and had one time worked for Bernarr Macfadden. The next car contained

Attorney General Wilentz, Prosecutor Hauck, and Koehler, the government wood expert and star witness for the state at the trial, and State Trooper Borneman.

The next car to arrive bore New Jersey license number 1. In that was Governor Hoffman. With the governor was Arch Loney, wood expert from the Department of the Interior, Leon Howage, who said he was a private investigator, and Professor Allan Hazeltine, a chemist, also Legay, his secretary, and several state police. No reporters as yet had appeared.

Led by Governor Hoffman, we mounted the stairs where we were admitted into Hauptmann's flat by a state trooper, not in uniform, on guard there. I think his name was Costa.

No one at this time, except Governor Hoffman and Lloyd Fisher, had any idea what this meeting was called for. I asked Fisher what to expect and he said: "This is a shot that will be heard around the world. We have unmistakable evidence that the state has framed Hauptmann and that the evidence of rail sixteen is of absolutely no value whatsoever."

Hauptmann's flat consisted of four rooms and bath. Three of the rooms were small — the living room or main bedroom was perhaps the size of the Sandalwood stage. There was no furniture in the apartment whatsoever.

Loney and Howage started immediately up into the attic. One enters this attic through a very narrow closet barely wide enough for me to stand in. There were four shelves arranged, not like steps, but one on top of the other about eighteen inches apart by which one mounted, then reached up with his hands and pulled himself through a narrow opening into the attic.

The first man up was Loney and when he stepped on the second shelf it crashed and broke. I made the remark that the steps in Hauptmann's ladders seemed to have the habit of breaking — which cost me a scowl from my friend, Governor Hoffman.

I followed Howage and Loney to the attic. They had with them a piece of board, state exhibit 226, from which rail sixteen was supposed to have been sawed off, and they placed this in position over the nail holes. Both Loney and Howage acted with

a self-conscious truculence as if they were Sherlock Holmes twins about to disclose the secret of a great mystery.

The attic at the ridgepole was only six feet high and it sloped sharply down so that for most of the time one was bent double. In the attic the air was stifling and there were nails protruding from the rafters which nearly cost the eyes of some of the less careful. Loney and Howage kept their own counsel and I could learn nothing of the coming revelation. Loney demanded vociferously to know why some extra pieces of lumber were lying on top of the unfloored rafters. His suspicious questions about this showed that they were prepared to suspect anything.

Having stayed up there perhaps twenty minutes, I descended again and went in what was the kitchen to wash my hands. There I found Wilentz, Fisher, and Hoffman.

They at once began to lay their several cases before me as if I were a judge.

Wilentz began to defend Condon. I said that I believed Condon was thoroughly honest, truthful, and reliable, and that I believed Hauptmann had killed the Lindbergh baby with his own hands. Wilentz was staggered to hear me say that because he had been led to believe that I was responsible for the entire proceedings and asked me if I had always maintained that position. To his amazement, Governor Hoffman and Fisher both confirmed this and said that was the opinion I had expressed from the beginning and had seen no reason to change it. Wilentz then said that he thought Condon still felt friendly to me. I told him, however, that I felt there were certain points in the case which Governor Hoffman was justified in having cleared up.

I recited to him the discrepancy, to me, in what Condon had said to me about the note's having been placed on the windowsill, whereas "John" had told him that he left it on the crib.

Wilentz evaded this and began to get angry. He turned to Governor Hoffman and said: "I consider this an outrageous proceeding and I am here only to protect state troopers against intimidation. If you think that son-of-a-bitch Hauptmann is innocent, why don't you turn him loose?" He said: "You are encouraging him in his son-of-a-bitch attitude of not confessing.

He knows Governor Hoffman is his friend and is relying on the governor to keep him from paying the penalty of his crime." The argument became heated and wordy although at all times they called each other by their first names. It was Dave and Lloyd and Harold. We then adjourned up to the attic again.

The spectacle of Governor Hoffman, five feet tall and weighing over two hundred pounds, getting himself up through that hole in the roof was one of agility and celerity.

There were twenty men in those narrow confines all bent over because they could not stand up straight. We were in there for four or five hours and my recollection is one of continuously moving backsides roaming around in the semi-gloom, with Governor Hoffman's the largest and fastest moving of them all.

We finally got the windows open, only to discover the place was surrounded with reporters and still no one knew what the purpose of this meeting was.

Finally the governor asked me to stand beside him and watch what was about to happen. As a matter of fact four things were about to happen. And like a good showman, Governor Hoffman had staged it so that the most important came last. In fact, in my opinion, the first three had practically no importance although the four seemed conclusive evidence — until the bubble was pricked so dramatically.

The first stage was when Howage produced rail sixteen and laid it in position about two inches away from the other board which was state's exhibit 226. It was fitted in position so that the nail holes in 226 and the rail sixteen were directly over the nail holes in the joist below. It was then that the theory of everything that was to be done became apparent. The governor's contention was going to be —

*a.* That instead of twenty-seven boards as now appeared on the floor including state's exhibit 226, there had actually been only twenty-six boards.

*b.* That board number twenty-seven, which was really state's exhibit 226, had been added to the floor by state police and New York cops.

*c.* That an end of this had been sawed off and destroyed.

*d.* That rail sixteen had then been detached from the ladder and carried into the attic and nailed to the joists.

*e.* That it had then been taken up and restored to the ladder.

*f.* That Kochler's testimony that the rail came from the same board as 226 was unreliable guesswork and untrue in fact.

*g.* That therefore the whole thing was a frame-up to hang the ladder around Hauptmann's neck, and that no board had ever been in there at all and that there was no relation to rail sixteen and that attic.

To prove this, he was going through four steps. With the rail sixteen in position over the nail holes, he then had Howage try to prove that by the very size and nature of rail sixteen it should be evident that the board from which it was made was a quarter of an inch less in width than 226, of which it was supposed once to have been a part.

Over this point there was an argument which lasted nearly an hour.

Loney and Kochler both measured the dimensions while the court reporter, Donnegan, took down everything that was said and done.

The end of this was that Kochler — a mild-mannered little man, appalled at the aura of antagonism surrounding him — and Loney, a bulldozing man who called Kochler an ignorant four-flushing son-of-a-bitch to me, disagreed. Kochler maintained that it was still a part of the original board and that the dimensions did not differ.

That was point number 1.

Point number 2 was the next attacked — and a great point they made of it.

Howage pointed out that only two of the twenty-six boards in the floor had any nails driven into them from the top surface. The nails are all driven in from the side as the board is placed in position. But in 226 and in rail sixteen, there were twenty-four nail holes driven in from the top. It was, therefore, their opinion that the cops, not being good carpenters, had ignorantly nailed down this fake board known as 226 and also driven the holes

through rail sixteen through the top because they did not know any better.

Howage said to Koehler — "Do you know how many surface nails there are in the twenty-six boards? Now wait a minute — don't look!"

At this Wilentz flew into a rage. He had been seated on the open unfloored joists of the Celotex ceiling of the floor below — dapper, slight, quiet, he had said nothing — but now he turned on Howage like a wildcat.

"I want to know for Christ's sake who the hell you think you are!" he shouted. "I'll be goddamned if you're going to talk to Koehler that way. Who do you think you are to give him rules not to look? Who gave you the right to lay down rules here? Who are you anyway and what are you doing here?"

Howage retorted — "I was only trying to —"

And Wilentz cut in — "I don't give a goddamn what you were going to do. I said before this was an outrageous proceeding. But you're not going to talk to Professor Koehler that way because he doesn't have to stand for it and I'm not going to let him stand for it. If you have any questions to ask, I'll answer them."

Howage said — "I prefixed that with 'please'" (which he had not).

Wilentz said — "I don't give a damn if you said 'please' or not. It was what you said after 'please' that I object to."

Howage crept around to where I was seated and said — "I don't want discord, but he can kiss my ass!"

Loney then took up the case for Governor Hoffman. He pointed out that the ridgepole was in the center, that there were thirteen boards on each side of the ridgepole, the ridgepole being immediately in the center of one of the boards, and that this was a symmetrical argument. That there had been originally only twenty-six boards in that room and that the twenty-seventh board had undoubtedly been added to it for the purpose of framing Hauptmann.

This constituted the second point in the evidence. The nail holes being driven from the top were quickly disposed of by

Professor Koehler, who said that it was the first board laid and that all the others were placed against it and that it was the common practice of all carpenters to nail down the first board from the top with many nails and that was why the nail holes were in the top of that board whereas the others were driven in the side.

Wilentz stood under the ridgepole and counted the boards on either side of him and maintained that there were thirteen boards on either side and a twenty-seventh board in the middle and that symmetry proved *that* instead of the other contention. Both sides disagreed on this.

Thus ended the second hour that we spent in this seething attic. By this time everybody was covered with dust and dirt, suits were ruined, we were covered with bruises and were getting ready to take off our trousers — having taken off coat and vest.

Howage now came out of his exile to offer the third point in the program.

This had to do with the mark of the saw left in the board next to 226. He had made an extensive moulage consisting of a boxlike arrangement about two feet long by a foot wide to demonstrate what had happened. He also had a piece of flexible compo-board to insert into this incision to show that the saw had been entered on an acute angle. Yet, the end of 226 when put in position showed that what had once been part of it had been sawn off straight.

The effect of this was to establish that the nick from the saw had merely been made by a state trooper to carry out the framed-up evidence and that he had been dumb enough to do it on a slant instead of straight.

This evidence seemed very convincing to Governor Hoffman. It was utterly unconvincing to me. In days of manual training I could never keep a saw straight under any circumstances and anyone knows that no matter how tightly the saw is held, it will wiggle one way or another. It was demonstrated by Wilentz with the flexible piece of compo-board that you could face it right, center, or left — proving absolutely nothing.

Yet Governor Hoffman continued to believe in the value of

this evidence. This took a third hour — and then we came to the really important disclosure of the day.

I want to say that I have never known a more dramatic moment than when this demonstration was made. It seemed to make all these other preceding lesser matters more important. It seemed convincing evidence that Hauptmann had indeed been framed. I want to record here that seeing this and believing it as I did and as anyone would, I still did not believe for one moment in Hauptmann's innocence. I believed only that the state had been foolish in framing a man who was already guilty. But I did believe it was a frame-up. This is what we saw.

The governor asked us all to sit down. He then pointed out the importance of rail sixteen and how they had produced the original nails by which 226 was nailed to these joists and had shown the nail holes in rail sixteen and laid it on the joists so that the nail holes in the joists and in rail sixteen coincided to a hair. Now he said — "Gentlemen, the jury did not see this. The jury heard about it. But I have these original nails in my possession here and I want to fit them into these nail holes."

He produced the nails. They were black eight-penny nails, square headed, about two and three quarter inches long. The board itself is a quarter of an inch thick so that the nails — which it had been testified to by Koehler were flush — would have to go in about two and one half inches.

Governor Hoffman had prepared a bundle of little white sticks, about the size of soda straws, cut to the length of the eight-penny nails. One by one he began dropping these little white sticks in the nail holes — but they went in only one half an inch and there they stuck! You couldn't make them go any farther. At the governor's invitation, I tried, but they met unyielding resistance.

The answer seemed self-evident. The thing was framed and the police had not taken the trouble to drive the nails all the way. All they wanted was holes that would match in order to convince the jury.

I have never seen such consternation in my life. Wilentz was

pale and so was Hauck. There was no answer that could be made. There the thing was! The nails did not go into the holes. And thereby was demolished all the evidence that linked the ladder with Hauptmann's attic. The temperature in that room, which had seemed 120 degrees, suddenly felt like zero. I felt a chill down my back. Nobody said anything — there was nothing to say. Hauck did say to one man in a low voice — "This is pretty God-awful. We had a strong enough case without this."

But finally Wilentz found his voice. He said to Hoffman — "Harold, this place has been in the hands of the defense for months. These boards could have been tampered with. I will not be satisfied until those joists are opened and the nail holes examined to see if they have been filled up with plastic wood, plaster of paris, or something else."

So the man accused of framing Hauptmann, now accused the governor of framing the state. The governor behaved very well in his hour of triumph. He said that if there was anything like that going on, he wanted to know it as much as anyone else.

But Loney and Howage were openly victorious. They called Koehler a son-of-a-bitch with every other breath — though not in his hearing — said that he was a laughingstock in the lumber trade; said that he had said the board was from the top of the tree when it was really from the bottom because there was no sap in it; and the talk became desultory.

Meanwhile Governor Hoffman took State Trooper Borneman — who had found 226 originally together with some New York cops, downstairs into a room and closed the door. What happened there was that he accused Borneman of having faked the evidence and framed Hauptmann.

Wilentz was present. Borneman denied it. Borneman said the board was there and that he had not driven any nails in any nail holes. Wilentz insisted on examining the joists. So a carpenter was sent for and again the sound of sawing was heard in the attic of Bruno Hauptmann. It was a groaning, horrible sound as those joists were sawn off — six of them — and as they were double, that made twelve nail holes to be examined. The question was where and how they should be examined.

Wilentz made the point that if a foreign substance was found in there he wanted it analyzed by a competent chemist.

So a scientific laboratory was demanded. Koehler wanted to take it to Yale. That looked like a stall to me. I suggested Columbia University and Koehler reluctantly consented.

We decided to take the joist pieces down to Columbia then and there and have them opened up.

As we left the house, the reporters and cameramen made a rush for us; while they were thus busily engaged, I slipped around back and got in Lloyd Fisher's car. We were about to leave — Hauck, Wilentz, Loney, and Koehler had already left in Wilentz's car — when suddenly I saw the governor looking around, haggard and worried. He came over to our car and asked where Loney was. When he learned that Loney had gone with Wilentz, he became deeply concerned. He said he didn't know this fellow Loney, he had never met him before this morning, God knows what will happen now that Wilentz has got hold of him.

So again I had a fast ride downtown. We caught up with them and followed them just to be sure that Wilentz did not take the evidence to a dentist, drive holes deeper into the board and then fill them up with plastic wood. (These are the actual suspicions which the men entertained of each other in this case and I think they were utterly unfounded on both sides — although they knew each other better than I knew them.)

We arrived at Columbia University and went to the Michael Pupin Physical Laboratory building. There we were taken to Professor Pegrim. He was interested but a little frightened that Columbia's name would be drawn into it. Hauck had already said he thought I had no right to be present. I said I was there by invitation of the governor and that the governor would have to put me out. He said he was only kidding. I said I thought it was a bad time for him to be kidding and that shut him up. A few minutes later the governor's party arrived and here were the same twenty of us in Pegrim's office.

He took us up into a large laboratory and produced an iron blade, a chisel, and two hammers. The blocks of the joists were unwrapped. They had already been numbered and now they were

initialed by Governor Hoffman and Hauck. Wilentz had gone home in either dismay or disgust, I don't know which, but he looked pretty sick the last time I saw him. Koehler and Loney used the tools. I have never seen a clumsier exhibition than the two of them gave in trying to bisect those first two nail holes, but finally the virgin wood was cut open and we could see the nail holes and we were more confused than ever.

The grain of the wood and the clumsy way in which the wood had been split together combined to make the thing a puzzle. Koehler said the nail went all the way down and Loney said it went only an inch and you could believe either one of them. The governor decided to believe Loney and so it was recorded that the first nail hole examined was only one inch in depth and therefore his theory was already confirmed.

Then the next one was opened. About this, there was no question whatsoever. The nail hole was the full depth of the nail. There was no possible argument about it. There was a foreign substance in that nail hole.

The most charitable explanation, and the one everyone seemed disposed to accept, was that nails had been put in and out of those holes so often during the investigation that they had rubbed enough so that dust from the sides was packed at the bottom one and a half inches to two inches in depth. This substance had to be removed, but the full mark — the full shell of the nail hole — was painfully apparent. This was true of every one of the other holes. Each contained some fibrous dust which had packed so tightly that the nail could not go through; but the full track, which showed that the nail had once been there, was plain — even to having some rust specks from the nail itself.

So the score stood eleven to one — and there was no doubt that one was as Koehler had represented it.

The big cannon cracker had fizzled. It just wasn't so. And with that discredited, the other three points seemed very insignificant indeed to me — although the governor now began to enlarge upon them as having been always more important than this one.

We had been on the job since eight-thirty that morning. It was

now five in the afternoon. We had eaten nothing. We were dirty. I got back in the car with the governor, drove down to Fifth Avenue and 57th Street. There he and I got out. We chatted for a few minutes, shook hands, and I went back to the hotel.



THE NUMBER of Macfadden magazines which Fulton now supervised had reached thirteen with the addition of two monthlies, the *Voice of Experience*, and *Famous Detective Cases*. These and other titles came and vanished with bewildering frequency, so that now when Fulton was asked how many magazines he edited he answered: "I don't know. When I left the office it was thirteen."

To this work load he added a lecture tour (including a trip to the University of Colorado, where he conducted a writers' workshop with Robert Penn Warren, Martha Foley and others) and late in the year he supervised the start of a new radio show, a weekly dramatization of his *Anthony Abbot* stories. In addition he had completed the two books he started on his trip to Palestine, and managed to contribute a number of articles to the Macfadden magazines.

It was also in this year (1936) that Fulton, the agnostic, became a bishop. A mail-order racket in California "ordained" clergymen upon their forty dollars and filling out application papers. Fulton sent the money and the papers, listing Dora Macy as organist of his church, and Anthony Abbot as usher, and promptly received three "degrees": Ordained Minister, Doctor of Divinity ("empowered to officiate at marriages, funerals and baptisms") and Bishop at Large of the United States of America. His article in *Liberty* — "You Can Be a Bishop for \$40" — and the succeeding publicity brought on a court investigation and the racket was stopped.