

GOVERNOR HOFFMAN'S activities in the Lindbergh case, between the conviction and the execution of Hauptmann, have been most severely criticized. Now at last, having left office, he is free to tell his own story of those activities and explain why he delayed the execution. He began doing so, in Liberty last week, by quoting from Hauptmann's final message to him: "Believe at least a dying man . . . this case is not solvet." He did not affirm that he believed the "dying man's" protestation of innocence. As to that, he pointed out, he has never expressed an opinion either way. He did insist that Hauptmann had been convicted on circumstantial evidence "in my opinion largely doubtful"; that, whether Hauptmann was solely guilty, had one or more accomplices, or was innocent, weeks and even years of additional effort to get at the whole truth would have been justified; and that meanwhile Hauptmann, behind prison bars, could have done no harm.

He denied his critics' charges that, in taking a hand in the case as governor, he had aspersed "Jersey justice," defied the courts, or sought publicity. "It was my job and my conscience," he said. "I would follow the same course today." He then took notice of the whispered gossip concerning his visit to the Hauptmann death cell on the night of October 16, 1935. It was a fact, he said, that he had been accompanied by a woman in evening dress. Who this woman was, and the other facts about the visit, he now tells for the first time.

PART TWO—A CALL FROM WASHINGTON . . . AND THAT "MYSTERIOUS" WOMAN

EARLY in October, 1935, my desk in the executive office at Trenton was piled high with disorderly evidence of tax troubles, political troubles, and every other kind of "headache." Into this scene walked Colonel Mark O. Kimberling, principal keeper of the New Jersey State Prison, and in his calm, soft voice, which belies the power and the firmness of the man who practically organized the New Jersey State Police, he said:

"Governor, Hauptmann has asked to see you."

I lifted weary eyes from the pile of letters waiting signatures. "Me see Hauptmann, Mark?" I said. "What for?"

"I don't know exactly, Governor," he replied. "But he keeps asking for you."

criminal cases—had been on the trail of a man who had reached him by telephone early in the case and had represented that he could produce the kidnaped baby. Parker, as a matter of fact, had been asked by former Governor A. Harry Moore, upon the suggestion of George M. Hillman, Jr., Democratic state committeeman from Parker's county, to investigate the case, and there had always been the possibility that the "Old Chief" might supply the missing pieces in the Lindbergh puzzle.

When Hauptmann had been arrested, Parker had said to me, "Harold, they've got the wrong man." And later, when Parker dared to accuse in connection with the crime one Paul Wendel—a notorious former lawyer who at the time of his apprehension by Parker was a fugitive from justice on embezzlement and other charges—this man who had devoted his life to bringing criminals to justice was himself branded a criminal.

That will form another chapter in my recital. I would like to digress here, nevertheless, to make this statement: Ellis Parker was, and is, my friend. He sincerely believed, and he still believes, that he was trailing a man connected in some way with the Lindbergh crime. But

The Colonel left, and, giving but little thought to the unusual request, I plunged back into my job.

Several days passed, with new burdens of work piling up on me. But there were frequent mental flashbacks to that unusual request, "Hauptmann wants to see you."

New proposals for raising imperatively needed revenue—a haunting glimpse of a white face and troubled eyes looking through the iron bars of a cell—income tax, gross-receipts tax—the skeleton of what had once been a curly-haired baby—jobs, jobs, jobs—Flemington—heckling legislators—blue-uniformed police officers pushing back a mob—a hostile press—"Let the jurors through! Get back, there!"—economy before new taxes—"Give Hauptmann the chair!"—take care of the needy unemployed—"Hang that ladder around his neck"—balance the budget—two men in the shadows of Woodlawn Cemetery—make a speech for the senator—sables and summons—repeal the sales tax—a chisel and sleeping suit—"two cents for Hoffman"—"Extra! Hauptmann guilty!"

Sure—he was guilty. The twelve tried-and-true jurors, checked and double-checked, had said so, and they had heard the evidence. Justice Trenchard, the dean of the New Jersey bench, had tried the case and it must have been "according to Hoyle." The Court of Errors and Appeals, with its Supreme Court justices and its lay judges, who were all associates of Justice Trenchard, had solemnly affirmed the verdict, and the weighty opinion of affirmance had been written by seventy-year-old Justice Charles Parker. The lay judges and the Chancellor were later to hear Hauptmann's last appeal for life as members of the Court of Pardons. Guilty? Sure. Hope? None.

Of course I had heard rumblings of doubt; but then, I had been too busy to follow the case and the trial very closely. In the press and upon the radio Hauptmann had been convicted before Flemington.

Every once in a while, when I was serving as Commissioner of Motor Vehicles, Ellis H. Parker, Chief of Detectives of Burlington County, had dropped in to see me. From the very beginning, Parker—grizzled old detective who had in more than forty years of service displayed an uncanny knack of ferreting out the guilty in hundreds of

the whole aftermath of this case was replete with hysteria. Ordinarily levelheaded people did unbelievably strange things. In their frantic efforts to prevent the execution of a man they believed to be innocent, and to bring to the bar of justice others they believed to be guilty, the Parkers may even have resorted to extralegal methods that cannot be condoned. Yet, in a case fraught with police brutality and blunders, "third degrees" and false arrests, and even "kidnaping" of other suspects, why should the aged Parker have been singled out to spend his few remaining years behind prison walls simply because he may have overstepped the bounds of the law in producing the notorious Wendel?

Then one morning there came a telephone call from Washington. It was from Charles Curtis, former Vice-President of the United States. I had, of course, known Charlie Curtis, for as Vice-President he had been the presiding officer of the United States Senate when I served as a member of the House of Representatives. My acquaintance with him, however, was limited to a few rather casual official and social contacts.

"Governor," he said, "are you looking into this Haupt-

execution? Here, word for word, is the inside story, now for the first time told

mann case?" I told him that I hadn't been especially interested. I mentioned, I think, that Hauptmann had been convicted in the Hunterdon County Court of Oyer and Terminer, and that the conviction had been sustained by our Court of Errors and Appeals, but that the matter would shortly be before the Court of Pardons, of which I was a member.

"I think," said Mr. Curtis, "that there are a lot of funny things about that case." He went on to tell me some of the doubts he had entertained, and he expressed the opinion that, as governor, I should go carefully into the matter before Hauptmann's final appeal for life was made. "I've read a lot of the testimony," he added, "and it doesn't seem to me that he was adequately represented—or that he got a very fair deal." He closed with a request that I "see Mrs. McLean."

The name of Evalyn Walsh McLean, who, in her endeavors to bring about the return of the Lindbergh baby, had been fleeced out of \$100,000, brought another picture, or series of pictures, to my mind.

I saw a man, the fabulous Gaston B. Means, sitting in a courtroom, on trial, and saying in effect:

"I was driving an automobile through Alexandria, Virginia, at an early hour in the morning. Under a street light at the edge of town a man stepped out into the roadway, and I stopped. He said to me, 'I am Number Eleven,' so I gave him the hundred thousand dollars."

Then I saw another man, the gray-haired erratic "Jafsie" Condon, sitting in a courtroom, in a witness chair, and saying in effect:

"I left Colonel Lindbergh sitting in the car and walked over to the appointed meeting place. There was a voice in the darkness: 'This is John.' So I gave him the fifty thousand dollars over the graveyard hedge."

One story sent the teller of it to the United States Penitentiary at Leavenworth, Kansas, and the other story, startlingly like the first, made the teller a public benefactor and sent Hauptmann to the death house.

I started to think more seriously about seeing Hauptmann. My mail, increasing each day, brought protests against the electrocution of Hauptmann upon evidence that was so largely circumstantial. Even the prosecution had admitted that there were a lot of things in the case that had not been explained. It would be important, I convinced myself, to learn how one man could conceive such an atrocious crime, executed successfully by himself, and baffle the police of the world searching for him for over two years. Yes, it would be a great and a necessary contribution to the science of crime detection and prosecution to learn by what process such a ghastly feat could have been accomplished.

In my mind, ever recurring, were those words of Colonel Kimberling: "Governor, Hauptmann has asked to see you."

Had the moment arrived when Hauptmann was about to "thaw"? Was he ready to tell a story of the Lindbergh kidnaping that had not yet been told? Was he, confronted by death in the chair just a few paces from cell 9, about to attempt to bargain to save his life?

I decided to visit the death house. If Hauptmann was guilty, the chair was too good for him. If he was innocent, and could prove it, under no circumstances should his life be taken while I was governor of New Jersey. As to the propriety of my going, one of the highest judicial officers in the state assured me that such a visit would not conflict with any existing statute. Not only that; governors before me had visited the death house.

It was not until the night of October 16 that I found the opportunity. My recollection is that there had been a last-minute cancellation of an evening engagement. I know that it was not until after dinner on that evening that I thought of visiting Hauptmann that night.

From my suite in the Hotel Hildebrecht I called Colonel Kimberling. "Mark," I said, "I'm coming down to see that fellow. Will tonight be O. K.?" Getting an affirmative answer, I told him I would phone him again and give him the approximate time of my arrival.

And now another thought occurred to me. It concerned the woman in the evening gown—about whom so much conjecture has been spun. I made a long-distance phone call and finally succeeded in reaching her. She was

at a social gathering, but promised to break away at once and meet me within the hour at the residence of Colonel Kimberling, adjoining the State Prison.

I arrived there before she did. When I told her that I wanted her to accompany the Colonel and myself to the death house, she blushed, looked at her formal attire, and protested, "But, Governor, I simply can't go in there dressed like this."

Colonel Kimberling and I agreed with her, and he got her one of his overcoats. She put it on and it reached down to the tops of her satin slippers. Then three of us got in her car and drove around to the Third Street gate of the prison. Standing near the gate, where he had been stationed at Colonel Kimberling's direction, was Lieutenant Colonel George Selby, the deputy warden, who had served with me overseas as an officer in my regiment, the 114th Infantry. I made no particular note of the time. I believe it was a little after ten.

Once inside the prison gate, we turned to the right and entered, through a little door, New Jersey's death chamber. As the door opened, the beam from a prison guard's flashlight fell directly on the chair in which Hauptmann was later to die. Death Row is separated from the death chamber by an iron door.

I turned to the woman in the evening dress and Colonel Kimberling's overcoat. I told her to take a seat on a little bench near the electric chair and that I would call her when and if I needed her. She seated herself and waited. I shall now disclose her identity.

SHE was Mrs. Anna Bading, for years secretary to Ellis H. Parker. I had been given to understand that Hauptmann could not express himself very well in English, and had thought I might need an interpreter. And, of course, I had figured I might need a stenographer, particularly if he wanted to make a confession. My first thought, therefore, had been of Mrs. Bading. She was an expert stenographer, spoke German fluently, and could be depended upon to maintain the confidence that I thought essential to my plan.

That night Mrs. Bading had been attending an affair being held by the Eastern Star, which had honored her by selection as Worthy Matron of the chapter. Getting my phone call, she had raced in from Mount Holly, some fifteen miles distant, with no chance to change her clothes, stopping only long enough to pick up a stenographer's notebook and several sharp pencils.

Colonel Kimberling gave an order. The door opened. A quick turn to the right, and he stood before the bars of cell 9, saying softly to the man behind them: "Richard, the Governor to see you."

A guard turned another key and the grated cell door was opened to admit me. The key turned again and the guard left. I was locked inside with Hauptmann. Colonel Kimberling, saying, "Call me, Governor, if you want me," walked away to join the guard at the other end of the death-house corridor.



Left: The woman who went to the death house with Governor Hoffman (below).



Right: Col. Kimberling, who brought Hauptmann's message to the Governor.



I motioned to Hauptmann to sit down on his cot, and I sat down beside him, making at the same time a hasty survey of the cell. I can now remember only the convicted man, attired in a blue-gray shirt, open at the neck, and dark prison trousers; a stand with a pitcher and a basin; and a table covered with papers and books—a Bible, several works of philosophy and astronomy, and the paper-covered volumes containing the testimony taken at the Flemington trial. There were pictures of his "poor Annie" and his "Bubi."

I said something—just what I do not recall—designed to put him at his ease; but I did not then, or at any time during my visit, promise him aid or make any expression of sympathy or belief in his statements to me.

Hauptmann looked me in the eye and asked: "Governor, vy does your state do to me all this? Vy do they vant my life for something somebody else have done?"

"Well, you have been found guilty. The courts—"

"Lies! Lies!" He pointed to the record of the trial. "All lies! Would I kill a baby? I am a man. Would I build that ladder? I am a carpenter."

I soon realized that I was to hear no confession, that I was to listen to no terms of a proposed bargain. Not once in the hour that I spent in death-house cell 9 did Hauptmann beg me to save his life. He did ask for more investigation. His most earnest plea was for the use of the "lie detector." "Vy won't they use on me that," he asked, "and on Doctor Condon also use it? They haf too some kind of drug, I haf heard. Vy don't they use on me that drug? And on Doctor Condon use it too?"

I hold no brief for Hauptmann. But this thing I am bound to say: that his story and his unanswered questions put new doubts in my mind and aided in fashioning a firm resolution to search out, within the limits of my resources and my ability, the truth—and the whole truth—in this mysterious, challenging case.

Here was no cringing criminal pitifully begging for mercy, but a man making a vehement claim of innocence, bitter in his denunciation of the police and the prosecution and their methods. And bitter, too, in his exhortation

"Could a man do for dollars," he asked, "vat Reilly haf done to me? Only once, for about five minutes, did I haf a chance to explain my case to him, really. Sometimes he came to see me, not often, for a few minutes. How could I then talk to him?"

I looked through the bars to the heavy steel door that led to the death chamber. Cell 9 was right next to that lethal room. The electric chair, through the steel door, was only about fifteen feet from where I was sitting beside the man who was destined to sit in it. When the door opened, that chair, covered with a piece of white muslin and resembling a seated ghost, could be seen by the occupant of Hauptmann's cell. At least six men, at night, had shuffled past the German carpenter, some of them silent, some sobbing, some shrieking, to be strapped in that chair.

I wondered if they—

But Hauptmann kept on talking: "Vy did they take from me all my shoes? When I was arrested they took, among many things, all my shoes. Vot for I could not imagine, but now I haf found out. Because they haf a footprint." He went on to say that there had been a footprint of a woman in the mud outside the nursery window at Hopewell, according to the testimony. It has been shown that that print was made by Mrs. Lindbergh.

"But," he said, "there was, too, a footprint of a man, who, according to the prosecutor, climbed the ladder to get the unfortunate child. It is to me a riddle, for, said the prosecutor, it was many feet and all soft earth from this window to where the ladder was found—how could it haf been but one footprint? Vy did they not produce at the trial the impression of which they cast a model? Vy? They cannot say that my foot has become larger or smaller. So too the footprint which was found in the graveyard from where Doctor Condon swore that he gave to John fifty thousand dollars. Also here my shoe certainly did not fit. Vy did they not produce here the plaster model that was made?"

HE spoke about the phonograph record that was made after Condon met "John," and upon which the aged negotiator is supposed to have recorded his conversation. "Does any one think," he queried, "that these footprints and this record haf been held back out of pity for me? Oh, no. For me, no pity!"

"Is it not true that in every case when a person is arrested they take his fingerprints? So they did vith me. A few days after, two New Jersey state police came to me in Bronx Prison and vanted further prints. I told them these had already been taken. These men replied the ones they took haf not been clear enough, so they take very firmly about six sets. Then one or two days later they came again with the statement that still there are several spots not plain enough. So they took more—and also the sides of my hands, which they did not take before, and then especially the joints of the fingers and the hollow parts of my hand.

"Then at the trial, when my counsel asks about fingerprints the prosecutor say simply, 'There are no fingerprints.' If that is so, no fingerprints on the ladder, on the letters, on the window sill, in the room, vy would they vant so many times my fingerprints?"

"I can only think they haf fingerprints, but they are not like mine, so they say they haf none. But they invent another story. They say I haf worked vith gloves. Is this not a worthless lie? Because since in that room they found no other fingerprints—not of the parents, or the child's nurse or the other servants—can this statement be possible? It is even said that Mrs. Lindbergh and the nurse Betty together pulled down the window which was stuck, but there are no fingerprints found on the window frame. Do the parents, then, ven they go to the room to take joy in their child, and all the servants, also wear gloves?"

The prisoner spoke about an expert from New York (Dr. Hudson) who took many fingerprints from the ladder. "But," he said, "there were nowhere any of mine. The jury would not believe this expert because he would not say anything to convict me."

(I was later to learn that these fingerprints were

and the negatives were held in the possession of the State Police. J. Edgar Hoover, Director of the Federal Bureau of Investigation, has since stated to me that these photographs were never sent to Washington for a check against the prints of thousands of known criminals in the United States.)

I am quoting Hauptmann faithfully, telling just what he said to me. He went on:

"Among my carpenters' tools they found a chisel which looks in part like the one found at the Lindbergh place near the ladder. That my chisel is ground differently, is a different size, and has quite a different handle, made no difference. They simply said, 'No, this is Hauptmann's chisel,' and the jury believed them. They do not believe me when I say that my chisel set is an entirely different one from the one they found. For my set was a Stanley set, one fourth inch to one and one half inch. They must have taken out some sizes and put among them others like the one they found, except the three-quarter-inch chisel. For the one they found is a Bucks Brothers chisel."

(The chisel found on the Lindbergh estate was made, it was estimated at the factory, about thirty years ago, long before Hauptmann entered the United States.)

"At the trial," he continued, "much weight was given to my letters to Pincus Fisch, the brother of Isidor Fisch. Ven I write letters to Germany I write them first in pencil and then copy them in ink—not just the same but much similar. I always saved these pencil letters, and I saved carefully the letters Pincus Fisch sent to me."

"In my first letter I had written everything to Pincus Fisch as Isidor had told me, and did not then know he was lying to me, for I always believed him. When I received my first letter from Pincus it made me think something was queer, and for this reason, and also because it was a case of death, I decided to carefully preserve all our exchange of letters, for, I thought, Pincus Fisch will hold me responsible for the things Isidor said were his in this country."

"So all of these letters—I think six or seven—I have saved and put in a large envelope in my desk from which the police took them." Hauptmann rose from the cot and picked out a volume of the Flemington testimony. "But when we ask for these letters at the trial I received the answer, 'Ye have none.' God in heavens! All the letters were together. One of the letters I never could get clear, for it said that shortly before Isidor died he called for me and seemed to want to say something about me. But he was too weak or did not want to. So he took to his grave that which would be of great help to me now."

"Also Pincus wrote me to keep Isidor's death secret if it were necessary but I did not then know why that should be necessary, and I did not do so. No, you did

Vilentz say that he did not have these letters, when my letters answering them were there? No, these letters did not fit into the state viewpoint, so they had to disappear. But they took precautions and had the Fisch family and the nurse come to America. They surely expected that I would insist more on these letters and say what was in them. But even I could recall only in parts the contents and the jury would not have believed me, I was obliged to say nothing. For if I told you I had remembered, would not the Fisch family, who were paid for coming here, have said the opposite upon the suggestion of the prosecutor?

"For what else was the family brought here? So Pincus Fisch was not called to the stand, and so, too, the nurse was not called. Thus all direct evidence which might have freed me disappeared."

(There are now in my possession copies of the letters referred to by Hauptmann, supporting his claim, certified by German police officials of Leipzig. The copy of the pencil draft of Pincus Fisch's letter verifying the fact that Isidor, in his last moments, kept calling for Hauptmann and "wanting to tell us something about you," together with other important material secured from Germany, will have a place in a subsequent chapter.)

The "most hated man in the world," prison pallor in his cheeks, looked me directly in the eye as he answered my questions. Often he prefaced his answers with, "I am glad you have asked me that." It may be said that I did not ask him the right questions—but I think I did. He did not hedge an answer. Most of the replies were simple and direct; some were not altogether satisfying, but they formed the basis for subsequent investigation.

Hauptmann, too, asked questions: Why didn't the state do this or that? Why didn't Reilly do so-and-so? And so frequently, "Why did they do that to me?"

But I got in my questions—questions about the piece of wainscoting from the Hauptmann closet bearing the penciled notation of Doctor Condon's phone number; the cardboard box in the broom closet; the ladder; the floor board in the attic; the testimony of Koehler, the wood expert; the handwriting; Hochmuth; Whited; Rossiter; Hauptmann's past record in Germany—

Once in a while Colonel Kimberling walked by to open the steel door and say a word or two to Anna Bading. And Hauptmann continued to answer those questions.

The famous "Fisch story" about the ransom money—not as Hauptmann tried to tell it in the Flemington court room, but as he told it to Governor Hoffman—will be one of the amazing disclosures in next week's installment of the former governor's narrative. Another will be Hauptmann's own reply to Koehler, the wood expert.