INDEX

Writ of Error.

THE STATE OF NEW JERSEY TO THE HONORABLE ROBERT V. KINKEAD, Judge of the Court of Quarter Sessions of the County of Hudson GREETING: Because in the judgment of the Court of Quarter Sessions of the County of Hudson, upon a certain indictment against WILLIAM BROMLEY, late of the Town of Kearney, in said County, wherein the said William Bromley was charged with the crime of obtaining money under false pretenses, pro ut the said indictment, whereof before you he hath been indicted and is thereof convicted by a certain jury of the County taken between the State of New Jersey and the sad William Bromley, as is said, manifest error hath intervened to the great damage of the said William Bromley, as from his complaint we have received information; we being willing in his behalf to correct the error in due manner, if any there shall be, and that speedy justice be done to him, the said William Bromley, command you that if judgment thereon given, then that you distinctly and openly send under your seal, the record and proceedings aforesaid, with all things touching and concerning the same to our Supreme Court of Judicature to be held at Trenton, New Jersey, on the 30th day of June 1926, and this writ, that the record and proceedings aforesaid being inspected, we may fur-

(Seal)

10 20 30 40

ther cause to be done thereupon, what of right and according to the laws and customs of New Jersey Court to be done.

WITNESS, WILLIAM S. GUMMERE, our Chief Justice at Trenton, this 10th day of June 1926.

10 EDWARD J. KELLEHER,
Clerk.

RICHARD DOHERTY,
Attorney.

Return.

The answer of Robert V. Kinkead, Esquire, Presiding Judge of the Court of Quarter Sessions, and within named, the record and pro-
20 ceedings of the Plaint whereof mention is within made with all things touching the same, I send to the Justices of our Supreme Court of Judicature at Trenton, N. J. at the day and year within contained in a certain Writ annexed as within I am commanded.

ROBERT V. KINKEAD,
Judge.

ATTEST:
30 JOHN J. MCGOVERN,
Clerk.
(Seal)

40

STATE OF NEW JERSEY: HUDSON COUNTY: To wit: Be it remembered, that at Court of Oyer and Terminer holden at Jersey City, in and for the said County of Hudson, on the First Tuesday of April, in the year of our Lord one thousand nine hundred and twenty-six, before Honorable 10
JAMES F. MINTURN, one of the Justices of the Supreme Court of Judicature of the State of New Jersey, and Honorable Charles M. Egan, Honorable Daniel T. O'Regan and Honorable Robert V. Kinkead, Judges of the Court of Common Pleas in and for the said County of Hudson, according to the form of the statute in such case made and provided, by the oaths of

1.	Thomas Shields	Foreman and
2.	Clinton S. Dow	13. Claude B. Ace
3.	John H. Cooney	14. Dennis Hanrahan
4.	William Geiger	15. Stanis J. Decry
5.	Archibald M. Henry	16. Mrs. Hannah Culver
6.	Louis F. Blumenthal	17. James J. McAvinney
7.	John Delan	18. Joseph P. Hurley
8.	William G. Foster	19. James F. Brady
9.	Max Deyne	20. Arthur C. Einbeck
10.	William Englehardt	21. Charles H. A. Muller
11.	Miss Sarah Drake	22. George Byrnes
12.	John F. Cahir	23. James Scanlon

20 30

good and lawful men of said County, duly empanelled, sworn and charged to inquire for the State in and for the body of the said County of Hudson, it is presented in manner and form following, that is to say, that the Bills following are true Bills.

THOMAS F. SHIELDS,
Foreman.

40

And the foregoing being presented to the said Court on the eleventh day of May, in the year of our Lord One thousand nine hundred and twenty-six, with Bills of Indictment Nos. 48 to 71 inclusive, it is ordered by said Court that the said Bill of Indictment so as aforesaid included as Bill No. 48 for Obtaining Money under False Pretense as charged upon William Bromley, he handed to the Court of Quarter Sessions for trial and disposal according to law, and said Bill is in words as follows:—

HUDSON OYER AND TERMINER.
April Term A. D. 1926.

Hudson County, to wit:—

The Grand Inquest of the State of New Jersey, in and for the body of the County of Hudson, upon their respective oath, Present, that William Bromley, late of the Town of Kearney, in the County of Hudson, on the first day of July, in the year of our Lord one thousand nine hundred and twenty-four, at the Town of Kearney aforesaid, in the County of Hudson aforesaid, and within the jurisdiction of this Court, not then and there being a duly and legally authorized agent of the Department of Motor Vehicles of New Jersey, and not being then and there duly and legally authorized to issue automobile drivers licenses; nor to collect and receive moneys for and in behalf of the said Department of Motor Vehicles of New Jersey, then and there wickedly and unlawfully, falsely and fraudulently, contriving and intending to cheat and defraud one

George Higdon Sr., of his moneys and property, did then and there falsely and fraudulently, knowing and designedly pretend to the said George Higden Sr., that he the said William Bromley could secure and obtain a legitimate automobile drivers license for him the said George Higdon, Sr., without taking the legal and proper examination and test as required by the Department of Motor Vehicles of New Jersey, whereas in truth and in fact, as he the said William Bromley then and there well knew, he was not a duly and legally authorized agent of the said department, and was not duly and legally authorized to issue or procure automobile drivers licenses; nor was he the said William Bromley authorized to collect and receive moneys for and in behalf of the said Department of Motor Vehicles of New Jersey, by color and means of which said false pretense and pretenses, he the said William Bromley did then and there wilfully and unlawfully, falsely and fraudulently, knowingly and designedly take, receive and obtain of and from the said George Higdon, Sr., a certain large sum of money, to wit: the sum of Ten dollars in lawful money of the United States of America, of the moneys and property of the said George Higdon, Sr. with intent then and there to cheat, injure and defraud the said George Higdon Sr. to the great damage of the said George Higdon, Sr., contrary to the form of the statute in such case made and provided, against the peace of this State, the Government and dignity of the same.

And the Grand Inquest aforesaid, upon their oath aforesaid, do further Present, that William

Bromley, late of the Town of Kearney, in the County of Hudson aforesaid, on the first day of July, in the year of our Lord one thousand nine hundred and twenty-four, with force and arms, at the Town of Kearney aforesaid, in the County of Hudson aforesaid, and within the jurisdiction of this Court, Ten dollars in lawful money of the United States of America, in all of the Value of Ten dollars, of the money and property of George Higdon, Sr., then and there being found, feloniously and unlawfully did steal take and carry away, contrary to the form of the statute in such case made and provided, against the peace of this State, the government and dignity of the same.

JOHN MILTON,
Prosecutor of the Pleas.

A TRUE BILL.
THOMAS SHIELDS,
Foreman.

PRESENTED
MAY 11TH, 1926 AND HANDED
DOWN TO THE COURT OF QUARTER SESSIONS.
John J. McGovern,
Clerk.

And afterwards to wit— to wit on the thirteenth day of May, in the year of our Lord One Thousand Nine Hundred and twenty-six at a Session of the Court of Quarter Sessions of the County of Hudson, aforesaid, being now of the Term of April, One Thousand Nine Hundred and twenty-six, in the said year, before the Honorable Robert V. Kinkead, Judge of the Court of Common Pleas in and for the said County of Hudson, who doth

constitute and hold the Court of Quarter Sessions, in and for the County of Hudson here cometh the said William Bromley, under the custody of his bondsman, Samuel Smith in whose custody he had before been committed for the cause aforesaid, who being brought herein in his proper Person by the bail aforesaid, to whom he had been committed, and having heard the indictment read and forthwith being demanded of and concerning the premises in the said indictment above specified and charged upon him how he will acquit himself thereof, he says he is not guilty thereof and therefore for good and evil he puts himself upon the Country and John Milton, Prosecutor of the Pleas who prosecuted for the State of New Jersey, doth the like.

Therefore, let said indictment be continued until June 1st, 1926, and let a jury come before the Honorable Robert V. Kinkead, Judge of the Court of Common Pleas in and for the County of Hudson, constituting and holding the Court of Quarter Sessions for said County, being now of the Term of April (1926) One thousand nine hundred and twenty-six of twelve good and lawful men of this State and resident in the County of Hudson, over the age of twenty-one years and under the age of sixty-five years by whom the truth of the matter may be better known, and who are not of kin to the said William Bromley, defendant, to recognize on their oath whether the said William Bromley be guilty of obtaining money under False Pretenses, as in the Indictment is charged against him, or not guilty thereof, because as well the said John Milton, Prosecutor of the Pleas of the Pleas

of the County of Hudson, aforesaid, who prosecutes for the State of New Jersey in his behalf, as in the said indictment have put themselves upon the same jury, and the same day is given to the parties aforesaid, at the same time and place.

10 At which time that is to say on the First day of June, in the year of our Lord, One Thousand Nine Hundred and twenty-six, at the City of Jersey City aforesaid in the County of Hudson aforesaid, before the Honorable Robert V. Kinkead, Judge as aforesaid, constituting and holding the Court of Quarter Sessions as aforesaid, here come as well the said John Milton, Prosecutor of the Pleas aforesaid, who prosecutes as aforesaid as well the said defendant under the custody of 20 his bail aforesaid, and who being brought to the bar in his proper person by said bail and the jurors of the jury by the Sheriff of the County of Hudson, aforesaid, for the purpose, chosen, empannelled and returned to wit:—Frank Gasteyer; John Creighton; Chas Hummell; Bernard Rouge, Jr.; William Koch; Wesley Des Gardine; Bernard Meurich; Robert Copeland; Irving Campbell; Albert De Feist; Harry Finch; Thomas 30 Ness, being called, came, who being chosen, tried and sworn to speak the truth and concerning the premises, and thereupon the trial of the said issue commenced before the said Court and jury at which days the evidence of the parties is submitted and the Attorneys were heard thereupon and the said issue after a Charge from the Court was submitted to the said Jury in charge of the said officers of the Court, being duly sworn for that 40 purpose, were taken to a private room to consider of their verdict, and afterwards to wit on

June 1st, 1926, the last aforesaid at the City of Jersey City aforesaid, the said jury returned to the Court in charge of said officers sworn as aforesaid to keep them in charge and then and there in the presence of the said John Milton, Esquire, Prosecutor of the Pleas as aforesaid and for the said defendant, do say that the said defendant is guilty of obtaining money under False Pretense. 10

Whereupon all and singular the Premises being seen and by the Court here fully understood the sentence of the Law is and is by the Court here considered and adjudged, that the said defendant William Bromley be and is hereby sentenced to be confined in State Prison at hard labor for a Maximum Term of Three (3) years and a Minimum Term of One (1) year and thence until the costs of prosecution are paid. 20

Judgment entered and signed this Tenth day of June 1926.

ROBERT V. KINKEAD,

30

40

Judge of the Court of Quarter Sessions, in and for the County of Hudson, N. J.

ATTEST:—

STATE OF NEW JERSEY
COUNTY OF HUDSON } ss.:

10

COURT OF QUARTER SESSIONS.
Holden in and for said County.

THE STATE
vs.
WILLIAM BROMLEY } Sur Indictment No. 48, Term of April, A. D. 1926 for obtaining money under False Pretense.

20

May 13/26 — The defendant being charged plead not guilty and he and his bail Samuel Smith, enter into a recognizance in the sum of Twenty-five hundred (2,500) Dollars, each conditioned that the defendant appear from day to day for trial.
Judge Kinkead.

30

June 1/26. — The defendant being tried by jury is found Guilty and he is continued on bail for sentence.
Judge Kinkead.

June 3/26. — The defendant being placed to the Bar he is ordered to be committed to County Jail for one (1) week.
Judge Kinkead.

40

June 10/26. — The defendant being placed to the Bar is sentenced to be confined in State Prison at hard labor for a maximum term of Three (3) years and a minimum term of One (1) year and thence until the costs of prosecution are paid.
Judge Kinkead.

10

June 10/26. — Writ of Error filed and bail fixed at $7500.00
J. C. Landwehr.

June 10/26. — Bail reduced to the sum of $2500.00
Judge Kinkead.

20

30

40

Request for Certification of Entire Record.

HUDSON COUNTY COURT OF QUARTER SESSIONS

10 STATE OF NEW JERSEY,
vs.
WILLIAM BROMLEY,
Defendant.
On Indictment.

TO THE HONORABLE ROBERT V. KINKEAD,

Judge of the Hudson County Court of Quarter
20 Sessions:

The above named defendant, having heretofore sued out and serving herewith a writ of error to review the Judgment upon the above mentioned indictment, hereby requests that the entire record of the proceedings had upon the trial of said indictment be certified and returned with the said writ of error.

Dated, June 10, 1926.

30 Respectfully,
RICHARD DOHERTY,
Attorney of Defendant.

Filed Clerk's Office
June 11, 1926.
Hudson County, N. J.
John J. McGovern,
Clerk.

40

Testimony.

HUDSON COUNTY COURT OF QUARTER SESSIONS

STATE OF NEW JERSEY,
vs.
WILLIAM BROMLEY,
10

Before

HON. ROBERT V. KINKEAD, Judge,
And a Jury.
Jersey City, New Jersey, June 1, 1926. 20

APPEARANCES:

HON. ALOYSIUS MCMAHON,
First Assistant Prosecutor of the Pleas,
and
LEWIS G. HANSEN, ESQ.,
Assistant Prosecutor, for the State.

GEORGE E. CUTLEY, ESQ., 30
for the defendant.

MR. MCMAHON: May it please the Court, the State desires to move the trial of the case of the State against William Bromley under indictment No. 48 April Term 1926, but before doing so I understand there is a change of plea desired on behalf of the defendant.

MR. CUTLEY: I move the Court to permit the withdrawal of the plea heretofore made 40
by the defendant and the defendant will no-

enter a plea of Not Guilty, for the purpose of moving to quash the indictment.

THE COURT: That may be done.

MR. CUTLEY: I now move on behalf of the defendant in the case of the State against William Bromley to have the indictment quashed on the following grounds:—

The indictment alleges "that William Bromley late of the Town of Kearney, in the County of Hudson, on the first day of July in the year of our Lord one thousand nine hundred and twenty-four, at the town of Kearney aforesaid, in the County of Hudson aforesaid, and within the jurisdiction of this Court, not then and there being a duly and legally authorized agent of the Department of Motor Vehicles of New Jersey, and not being then and there duly and legally authorized to issue drivers licenses nor to collect and receive moneys for and in behalf of the said Department of Motor Vehicles of New Jersey, then and there wickedly and unlawfully, falsely and fraudulently contriving and intending to cheat and defraud one George Higdon, Sr. of his moneys and property, did then and there, fasely and fraudulently, knowingly and designedly, pretend to the said George Higdon, Sr. that he, the said William Bromley, could secure and obtain a legitimate automobile driver's license for him, the said George Higdon, Sr., without taking of the legal and proper examination and test as required by the Department of Motor Vehicles of New Jersey".

The indictment then goes on to negative

the fact that Bromley was a duly and legally authorized agent of the Department of Motor Vehicles; that he "was not duly and legally authorized to issue or procure automobile drivers' licenses, nor was he, the said William Bromley, authorized to collect and receive moneys for and in behalf of the said Department of Motor Vehicles of New Jersey".

In no place, however, does the indictment negative the pretence or the alleged false pretence that Bromley could secure and obtain a legitimate automobile driver's license for Higdon without taking the proper examination. They negative the fact that he was a duly authorized agent of the department, that he had a right to collect any fees, that he could not issue any license, but they do not negative the false pretence in the case—that he did not secure and obtain a legitimate driver's license. That is the gravamen of the offense, and in this indictment it has not been negatived.

On that ground, I ask your Honor to quash the indictment.

THE COURT: Do you want to say anything as to that?

MR. HANSEN: I do not know your Honor. The State relies on the fact that this man held himself out as a duly authorized agent of the Department of Motor Vehicles and obtained money under the color of that pretence.

THE COURT: I will deny your motion, and you may have an exception.

ROBERT V. KINKEAD, J.

MR. CUTLEY: I will say, then, your Honor, I do not think the indictment even says that, that he obtained it under false pretence.

THE COURT: As you read it through, it did say that; it said there was false pretence.

MR. CUTLEY: It said he was not authorized to collect and he was not authorized to issue. It negatived the fact that he was a duly and legally authorized agent, "nor was he, the said William Bromley, authorized to collect and receive moneys", and says: "by color and means of which said false pretence and pretences, he, the said William Bromley, did then and there wilfully and unlawfully, falsely and fraudulently, knowingly and designedly, receive and obtain of and from the said George Higdon, Sr. a certain large sum of money, to wit, the sum of ten dollars". Now, that is not the false pretence alleged against him.

THE COURT: I will let the indictment stand.

MR. CUTLEY: I take an exception.

ROBERT V. KINKEAD, J.

MR. HANSEN: I now, may it please your Honor, move the trial of the case of the State against William Bromley, on the charge of false pretences, indictment No. 48 April Term, 1926.

MR. MCMAHON: If your Honor please, the plea was withdrawn. He ought now to plead to the indictment.

THE COURT: Yes.

(Plea of Not Guilty entered).

A jury was empanelled, declared satisfactory to the defense and to the State, and sworn.

Mr. Hansen opens for the State.

GEORGE W. HIGDON, sworn as a witness, testifies:

DIRECT EXAMINATION BY MR. HANSEN:

Q. What is your name? A. George W. Higdon.

Q. Where do you live? A. West Englewood, New Jersey, 77 Salvage Avenue.

Q. Where did you live on or about the first of July, 1924? A. 173 Laurel Avenue, Kearney, New Jersey.

Q. Kearney? A. Kearney or Arlington.

Q. About that time did you own an automobile? A. I bought one about that time, yes.

Q. Did you get your license plates? A. Later I did.

Q. On or about July 1, 1924 did you obtain a driver's license? A. It was between the first and fourth.

Q. Between the first and fourth of July, 1924 did you obtain a driver's license? A. Yes.

Q. How did you get that license? A. I was very much in a hurry to get away, as I had sold my home and had to give possession, so I went to police officer, met him on the street and—

Q. What was his name? A. Echroff; and I asked him if there was any way he could help me. In the mean time—

MR. CUTLEY: I object.

MR. HANSEN: He has not testified to anything the police officer told him.

THE COURT: Go ahead.

Q. Continue? A. In the mean time I had applied for my plates and a temporary permit so I could drive along with a licensed driver; I had to do this in order to move my automobile, and Mr. Caufield, I believe, in the Commissioner's office in Kearney, told me—

MR. CUTLEY: I object to what he told him.

THE COURT: You can't tell what he told you.

WITNESS (continuing): I was refused an examination pending a period of ten days.

10

MR. CUTLEY: I move to strike that out.

THE COURT: Why?

MR. CUTLEY: Unless Bromley was present and said something.

THE COURT: This is preliminary, I suppose, showing how he came to go to Bromley. I will allow it.

MR. CUTLEY: I take an exception.

ROBERT V. KINKEAD, J.

20

WITNESS (continuing): This was unsatisfactory to me, so then I went to Mr. Echroff and asked him—

MR. CUTLEY: I object to what he said to Echroff.

THE COURT: You can't tell what you said to anybody, but what you did.

30

WITNESS (continuing): That is what I did, I went to Echroff and asked him if he could help me to get a license, he said he could not but he knew a man who could.

MR. CUTLEY: I object.

THE COURT: You can't tell the conversation. As a result of your conversation with Echroff, did you get a license?

40

THE WITNESS: No.

Q. How did you come to meet the defendant Bromley? A. By introduction from Mr. Echroff.

Q. He introduced you to him? A. Yes.

Q. And that was after you had asked him about obtaining a license? A. Yes.

10

BY THE COURT:

Q. As to Echroff, is he connected with the Department of Motor Vehicles? A. No, he is a police officer.

BY MR. HANSEN:

Q. And Bromley was at that time a police officer in the same precinct.

Q. After Echroff introduced you to Bromley, did you see Bromley? A. I did.

20

Q. Where did you see him? I saw him—

Q. Where, at his house? A. No, at the cigar store near the Arlington depot.

Q. Is that where the introduction took place? A. Yes, sir.

Q. Just what was said by Echroff when you were introduced by him? A. When Echroff introduced me to Mr. Bromley, he introduced him as a man who could obtain a license for me, and Bromley agreed that he could.

30

Q. What were Mr. Echroff's words? A. He told Mr. Bromley Higdon was a friend of his and he would like to have him help me to obtain a license, or words to that effect.

Q. What else did he say? A. I think that is about all.

40

By The Court:

Q. Did Echroff say anything to you about Bromley's ability to get you a license? A. Yes; he told me he could get me a license, that Bromley was in the Department of the Commissioner of Highways.

Q. Do you mean Motor Vehicles? A. Yes, connected with them in some way, and could obtain me a license.

Mr. Cutley: I move to strike that out. I object to the question and move to strike out the answer.

The Court: You can't object now; what his answer would be was just as apparent at the outset as it was at the finish. Motion denied.

Mr. Cutley: I take an exception.

Robert V. Kinkead, J.

By Mr. Hansen:

Q. After Echroff said what you have narrated, what did Bromley say? A. He said he would obtain me a license, and after some discussion as to the amount and how quickly I could get it—

Mr. Cutley: I object.

Q. Just state what was said? A. I told him I had to get away, I had to give possession of my house and must have the license the following night or must continue to hire a licensed chauffeur to drive me to where I was taking my invalid wife.

By The Court:

Q. What did Bromley say to you? A. He said he would obtain a license for a sum, which was paid.

By Mr. Hansen:

Q. What was the sum? A. My memory is ten dollars.

Q. He said he could obtain a license for you if you would give him ten dollars? A. Yes.

Q. Did he say what that ten dollars was for? A. He said that was for the accommodation; that he was not alone in this matter, that he had to see somebody else, but he would deliver the license at the cigar store the following afternoon.

Q. Did you know at that time what the usual fee was for obtaining a driver's license? A. I did not.

Q. Did you find out afterwards? A. I did not until 1925.

Q. What was the usual fee? A. Three dollars.

Q. And he said he would deliver the license at the cigar store next afternoon? A. Right.

By The Court:

Q. That is the driver's license? A. Yes, automobile driver's license.

Q. Now, when he said he had to see somebody else, did he specify whom he had to see? A. No; he said he had to go to headquarters in Jersey City, at the main office of the Commissioner of Highways, or Bureau of Motor Vehicles rather, and obtain the license there, which would take him to the following day, as he could not see them that day.

Q. He said that when he told you the fee was ten dollars? A. Yes.

Q. Did he say what he was going to do with any part of the ten dollars? A. I don't recall if he did, at this time.

By Mr. Hansen:

Q. Now, after telling you he would secure a license for you and deliver it at the cigar store next afternoon, was anything further said at that time? A. No.

10 Q. You paid him the ten dollars, did you? A. Yes.

Q. You paid him the ten dollars and left him with the understanding that you would meet him next day? A. No, I was to call at the cigar store and receive a package he would leave for me.

Q. Did you call at this cigar store? A. I did.

Q. And did you obtain your license? A. I did.

Q. (Card shown witness) I show you a card, which purports to be an automobile driver's license No. 559803, issued to George W. Higdon, 177 Laurel Avenue, Kearney, and ask you if that is the card that was delivered to you? A. That is the card. 20

Q. And it was left there at the cigar store, was it? A. It was.

Q. Did you use that license during the year and drive on it? A. Yes; I used that from July, 1924 to 1925.

30 Q. You did not see Bromley the day you got this license, did you? A. No.

Q. Did you see him any time after that? A. I did.

Q. When did you see him? A. I saw him a few weeks after that, when I asked him to obtain a license for my son.

Q. You wanted to get a license for your son, too? A. Yes.

40 Q. Did he get that license? A. Yes.

Q. Did your son pay him any money?

Mr. Cutley: I object to that.

The Court: Objection sustained.

Q. As a matter of fact, he did get a license for your son? A. Yes.

Q. Did you see him again? A. No.

Q. You did not have him get any other licenses for any other of your relatives, did you? A. No. 10

Q. And I understand you to say you used this license during 1924? A. I did.

Q. Did you have occasion to renew it in 1925? A. I did.

Q. (Card shown witness) I show you auto driver's license No. 491024, issued to George W. Higdon, at Englewood, N. J. and ask you if that is the license you got in 1925? 20

Mr. Cutley: Objected to as immaterial what he might have done in 1925.

The Court: I suppose it will be connected up.

A. Yes, this license was issued to me at Englewood, New Jersey, in 1925.

Q. Did you use that license? A. I did.

Q. Was that license subsequently revoked? A. They were both taken up by Commissioner Dill, at the Court House or Police Station at Englewood. 30

Q. When was the first time you knew anything about taking up of the license? A. When I received a summons from Judge Dill to meet him at the police station at Englewood.

By The Court:

Q. What part of 1925 was that? A. That I don't recall; it was early in 1925. 40

By Mr. Hansen:

Q. Did you apply for your 1925 license at the beginning of 1925? A. My memory is that I did. I didn't have to apply, I had a new one issued on the old one.

10 Q. At the time you were applying for your 1925 license, you were of the impression that your 1924 license was a legitimate license? A. I was always of that impression.

Q. And it was not until you received a summons from the Motor Vehicle Department that you found out it was not a legitimate license?

Mr. Cutley: Objected to as a conclusion.

The Court: I think your question assumes too much. All this witness can testify is that his 1925 license was taken up by the commissioner.

20

Q. But when the 1925 license was taken up, that was the first time you had any information of any trouble with either one of the licenses? A. That is correct, I did not know anything to the contrary; I had been assured the license was all right that I had gotten for myself.

30 Q. I understood you to testify that it was after you obtained your license in the cigar store you met Bromley, and it was at that time you secured a license for your son? A. That is true.

Q. Did you tell him at that time that you had received your license? A. I don't think I found it necessary to tell him, I was operating the car at the time.

Q. You were operating the car then? A. Yes, I was driving the car.

40

Q. At any rate, it was some time after you obtained your license in the cigar store that Mr. Bromley met you and did get a license for your son? A. Yes.

Q. And you were driving a car at that time? A. Yes.

Q. You say you received a summons from the Commissioner of Motor Vehicles some time in 1925? A. I did.

10

Q. To go where? A. To the police station at Englewood.

Q. Did you go there? A. I met him there, yes.

Q. Was it at that time you were told your license was no good?

Mr. Cutley: I object to that.

Mr. Hansen: Question withdrawn.

20

Q. Were you told at that time that your license was no good?

Mr. Cutley: Objected to.

The Court: Objection sustained.

Q. Did you give the license up to Commissioner Dill?

Mr. Cutley: Objected to as immaterial and incompetent whether or not he gave up the license in question.

30

Mr. Hansen: Question withdrawn.

Q. What happened to your 1924 license? A. Judge Dill took it up along with my 1925 license.

Q. He took them both up? A. Yes, at the same time.

Q. You did not get them back, did you? A. A short time afterward I took an examination and obtained a license in the regular way, out in Orange.

40

CROSS EXAMINATION BY MR. CUTLEY:

Q. You say you got that license at a cigar store? A. Yes.

Q. Was Bromley there when you got it? A. No.

10 Q. Who gave it to you? A. A man named Waldheim.

Q. Between the time you first spoke to Bromley and the time you received your license from Waldheim, how much time elapsed? A. About twenty-four hours, approximately.

Q. And you did not see Bromley then until you had a conversation with him about your son? A. I didn't see him any more until then.

Q. And that was a few months afterwards? A.
20 A few weeks afterwards.

Q. Which one is the 1924 license? A. This one (indicating card.)

Q. As a matter of fact, didn't you get that May 9, 1924? A. No.

Q. What date did you get it? A. I could tell you if I had an old calendar to refer to but I don't recall now; between the first and fourth, I fix that by having to give possession of my house
30 on the fourth.

Q. Did you look at this license that you got? A. I casually glanced at it.

Q. Did you look at the date of it? A. No, I didn't recall that date until Judge Dill called my attention to it.

Q. When did you get the 1925 license? A. I don't recall the exact date I went to Birtwhistle's office in Englewood to get it.

40 Q. How is it you can recollect what the date was 1924 for one and not the other? A. Because

there was nothing to fix the date in my mind; in 1924, what fixed it in my mind was that I had sold my house and had to move away.

Q. And you moved away on the fourth? A. Yes.

Q. On the holiday you moved? A. Yes. 10

Q. Positive about that? A. Yes.

Q. And you can't assign any reason why you can't think of the date you got your 1925 license? A. No, because there was nothing of any consequence to impress it on my mind.

Q. Was it around Easter or New Year's? A. Oh, it was probably a few days before New Year's.

Q. Was it after Christmas or before Christmas? A. Naturally after, it was after Christmas.

Q. It was after Christmas? A. I should think 20 so.

Q. Do you mean you should think so or do you know? A. I don't know but I am confident it was after Christmas.

Q. Was it after New Year's? A. It may have been but I am not positive.

Q. Why are you so positive about 1924 and not about 1925?

MR. HANSEN: I object, he has told about 30 that several times.

THE COURT: He said there was nothing to impress the 1925 date on his mind.

Q. How long did you live in Arlington? A. About ten years.

Q. You knew Bromley, didn't you? A. Casually I knew him, I don't think I ever shook hands with him.

Q. You knew he was a police officer in that 40 town? A. Yes.

Q. And you knew that for ten years? A. No, I don't think I did.

Q. You saw him in uniform? A. I presume I did.

Q. Do you mean you presume you saw him or you did see him in his uniform? A. Absolutely what I say.

Q. Did you or not? A. I presume I did.

Q. What do you mean by that? A. The usual presumption with the meaning that is usually applied, speaking in English, I think that is a perfectly plain answer.

Q. Here is what I want you to say, which is probably the truth, didn't you know Bromley was a sergeant in Kearney? A. Yes, I had general knowledge of it.

Q. And didn't you know that because you saw him with his sergeant's uniform on? A. No, I don't think that is the way, I think I was told.

Q. Did you ever see him with any police uniform on? A. I think I did.

Q. How many times? A. I haven't the slightest idea how many times.

Q. Why didn't you get your license when you applied to Caufield? A. Caufield told me I would have to wait ten days before I could be examined at all, and I asked for an examination right away.

Q. You knew Bromley was a police officer? A. Yes.

Q. You had no idea he was connected with the State Motor Vehicle Department? A. I was told he had some connection with them.

Q. But you knew his official status in the town of Kearney, didn't you? A. I don't think I knew anything definitely about his official status.

MR. CUTLEY: Is that your answer to my question?

MR. HANSEN: That is all he can answer.

Q. You knew the license fee was three dollars? A. I did not; I never had had a Jersey license, the license I had had previous to that was a Massachusetts license.

Q. What is the cost there? A. I don't recall; one dollar I think. There we did not have to take an examination.

Q. Having applied to the proper party in the first instance, to Mr. Caufield, what was your justification for applying to some other outside person? A. I didn't figure I was applying to an outside person, I figured I was applying to an officer of the law or some police officer.

Q. And that is why you went to Bromley? A. No; because I was referred to him by Mr. Echroff.

Q. And he told you sergeant Bromley could do it? A. I think he told me Bill Bromley; I think he spoke of him familiarly as Bill Bromley; but I don't remember correctly.

Q. And you met him at the cigar store? A. I did, or outside in front of the cigar store.

Q. Did Bromley say he was connected with the Motor Vehicle Department? A. My memory is that he did.

Q. What did he say? A. I don't recall; it is vague, it is quite a long time ago; I think he knew or said he knew somebody there to whom he could apply to issue the license immediately.

Q. He told you he knew somebody? A. He did.

Q. But he did not convey to your mind that he was connected with the department? A. Yes, he did.

Q. What did he say? A. I don't recall.

Q. Did he say: "I am an officer of the Motor Vehicle Department"? A. I don't think he did in those words; if he did, I don't recall.

Q. Did he say he could issue a license? A. No, he did not.

10 Q. Did he say he could collect money for the State of New Jersey, for the Motor Vehicle Department? A. He did.

Q. He said that? A. He conveyed to me in some way that he had to have money, that it was not altogether his, he was to halve it with somebody else.

Q. You knew if anybody was going out of his way to help you, he wasn't going out of his way 20 for you for nothing? A. I may have been confused in my answers, but when he obtained my license I don't think he told me anything like that; I just took everything for granted.

By Mr. Hansen:

Q. You paid him the money? A. Yes.

Q. And what did he tell you? A. He told me he could obtain my license.

Q. You did not know whether or not he did 30 know anybody who could issue the license? A. No.

By Mr. Cutley:

Q. Did you fill out a card for Bromley? A. I did, I filled out a card similiar to the ones I have filled out since.

By Mr. Hansen:

Q. Did Bromley give you that card to fill out? A. Yes.

40

By Mr. Cutley:

Q. Did you pay the ten dollars to Bromley? A. I did; my memory is I did.

Q. Where? A. At the time of the first meeting.

Q. Well, you say your memory is you did; do 10 you mean you paid him then or after you got your license? A. No, I paid him before.

Q. Have you any doubt of whether you paid him? A. None whatever.

Q. Where did you pay him, the first time you met him? A. The first time I met him.

Q. And did he tell you he would leave the license in the cigar store for you? A. He did.

By Mr. Hansen: 20

Q. When was it that he had you fill out this card? A. When I met him the first time.

Q. That was similiar to what you had filled out before, was it? A. That looked like a card that I filled out down at the Motor Vehicle Commissioner's office.

By The Court:

Q. What conversation did you have with Bromley the first time you met him, about his connection with the Motor Vehicle office? A. I don't recall all the detailed conversation at that time as to his connection with the motor vehicle office. I recall that Echroff introduced me to him or introduced him to me as Mr. Bromley, or as Bill Bromley, that's my best recollection, he could obtain a license because of some connection he had with the Motor Vehicle Department. 30

40

BY THE COURT:

Q. That was the first time you met him? A. Yes.

Q. That was when you were applying to Bromley to get your license? A. That is right.

10 MR. HANSEN: I offer these two cards in evidence.

Received and marked exhibits S-1 and S-2.

WILLIAM J. DEARDON, sworn as a witness testifies:

DIRECT EXAMINATION BY MR. HANSEN:

20 Q. Mr. Deardon, what is your occupation? A. Chief clerk Motor Vehicle Department.

Q. How long have you been acting in that capacity? A. Since 1918.

Q. What are your duties in that office? A. To supervise the filing of all records, and generally to supervise the whole office in connection with the issuing of licenses.

Q. Mr. Deardon, you were instructed to bring with you, as witness for the State in this case, 30 the records showing the issuing of the year 1925 license to one George Higdon, and the record showing the ratification of that license; have you these records with you? A. I have (produces papers).

Q. What do these records indicate? A. The records show that George W. Higdon had applied for an automobile driver's license, which was issued, and shortly after it was issued we found it had been applied for in exchange for a license 40 which had been fraudulently issued.

MR. CUTLEY: I move to strike out the last part, "which had been fraudulently issued".

THE COURT: I will allow it to stand.

MR. CUTLEY: I take an exception.

ROBERT V. KINKEAD, J.

WITNESS (continuing): Our records showed 10 that this license number had never been sent out from our office for issue.

Q. (Card shown witness) I show you what purports to be automobile driver's license No. 559903, purporting to be 1924 license issued to George W. Higdon, and which has been marked in evidence as exhibit S-2, and ask you whether the records that you have with you from the department show if that license was ever issued? A. That license 20 was never sent out from our office for issue.

Q. You have no records, as I understand, in your office in the State Department of Motor Vehicles, showing the issue of any license to George W. Higdon for the year 1924? A. We have not.

A JUROR: May I ask a question?

THE COURT: You may. 30

BY THE JUROR:

Q. From whose office was this card obtained? A. Do you mean of the original issue?

Q. Was that card procured from your office? A. No.

BY MR. HANSEN:

Q. You have no record showing this card was ever issued from your office? A. No; I have 40 the original of that number right here.

Q. You have the original of that number which was never sent out? A. It was never sent out for issue.

Q. Was it on stationery procured from your department? A. No.

Q. You have the original license No. 559803 with you? A. Yes (produces card).

Q. And that would be the official license if it had been issued, wouldn't it? A. Yes.

MR. HANSEN: I will offer that in evidence. Received and marked Exhibit S-3.

THE WITNESS: I might explain that these licenses are made out on the typewriter in duplicate, the original goes to the applicant and the copy to our file, so the one you see on the docket is the original and the other is a copy.

Q. Are there any other copies of that license printed, as far as the Department is concerned? A. No.

Q. Just the original and the copy? A. Right.

Q. Now, I understand you to say in May, 1925 your department revoked the 1925 driver's license which had been issued to Higdon, is that correct? A. Yes.

Q. What was the charge? A. Driving on a license fraudulently obtained.

Q. When was his 1925 license revoked? A. February 11, 1925.

Q. Did the State Department ever receive any money for any license issued to George W. Higdon for 1924? A. No.

Q. What was the license fee at that time? A. Three dollars.

Q. Was the defendant William Bromley in any

way connected with the State Motor Vehicle Department at that time? A. No.

Q. You would know if he was, wouldn't you? A. I would, as all the records go through our office and all the employees are registered there.

Q. Do you know of your own knowledge whether he was connected in any way, shape or manner, with the department which would give him the right to accept a fee and issue a driver's license for any applicant? A. No.

BY THE COURT:

Q. Did he have any right to collect any money for the purpose of obtaining a license for anybody? A. Not from our department.

Q. Was any authorization given by your department to him? A. No.

MR. HANSEN: I will offer in evidence the records of the Department with respect to the revocation of the 1925 license, and the application.

BY A JUROR:

Q. What was the limit of the number of licenses issued during 1924; that is, how far away from the last license was this one that has the number of this purported license? A. That would be hard to tell offhand because we had at that time nearly eighty agencies operating, so some numbers would be left over, probably down to 10,000, and some over in the hundreds—the 100,000's or 600,000's; these numbers were not sent out—due to one copy not being received when first shipped and afterwards supplying the other copy too, they were never sent out.

Q. Then these copies which you have were obtained, possibly, after that purported license was issued? A. I think they were obtained in March, when we first opened our shipment, or in November, and when we found copies missing we immediately notified the printer and had duplicates sent in.

Q. Then there is a possibility of a bogus license being issued from copies you had in your office? A. Copies were not delivered until March.

Q. Then somebody had something to work on to issue a bogus license? A. I do not understand.

Q. I mean to say, you did not have these copies in your office at the time this bogus license was issued? A. Before they came in, in March,—the bogus license was not issued till July, I believe, according to the testimony.

By Mr. Hansen:

Q. I think the gentleman's question is directed to this situation, that when you first got your shipment in 1923 of the 1924 licenses, you found out you only had one of this particular number? A. Yes.

Q. And you did not know at that time who had the copy? A. No, we did not. When they came direct from the printer's office it was not taken out by anybody in our department.

Q. It was not taken out by anybody in your department, but you do not know if anybody obtained possession of these copies in the mean time, do you? A. No, I don't know that; I know they were never delivered to us.

Papers received and marked exhibit S-4.

Cross Examination by Mr. Cutley:

Q. Have you got any record of when the second order for printing was sent in for those licenses? A. I haven't that record here, but they were received, I think, on March 25th.

Q. When did you first notice there was any discrepancy between the amount of the order and the amount received by you? A. When we began to ship them to our agents.

Q. And from your memory now, you testify you received them about March? A. I think I can be exact on that, about March 25th.

Q. You must have known that before the first of the year 1924, did you? A. We did.

Q. How long before? A. Before the first of December, when we went to ship the stuff out.

Q. So it was four months afterwards when you discovered there was a shortage and that some were missing or lacking in the original order? A. Yes.

Q. Do you know whether, under the rules of the department, it is necessary in all cases to take a test and examination? A. Yes.

Q. There is no possibility that that can be waived by the inspector? A. It can't be waived according to our rules.

Q. Have you read the law on the subject? A. Yes.

Q. Assuming an inspector knew you were a driver and you had driven that automobile previously, and had had previously issued a license to you, would it be necessary to put you through the test all over again? A. No, I can renew my license after first being examined; after I am examined in 1926 and receive a license, I can renew that in 1927 without examination.

Q. If New York inspectors knew you could oper-

ate a car, and you came over here, would you have to go through a test? A. Yes.

MR. HANSEN: I object to this line as not proper cross-examination.

THE COURT: I will allow it.

10 MR. CUTLEY: I guess that is all.

LESTER GILBERT, sworn as a witness, testifies:

DIRECT EXAMINATION BY MR. HANSEN:

Q. Mr. Gilbert, you are connected with the Motor Vehicle Department of the State of New Jersey? A. Yes.

20 Q. In what capacity? A. Chief examiner and chief inspector.

Q. How long have you been so connected? A. Since September 15, 1915.

Q. During the year 1924 was the defendant, William Bromley, connected in any capacity with the Department of Motor Vehicles? A. No, sir.

MR. HANSEN: That is all.

30 BY THE COURT:

Q. I show you exhibits S-1 and S-2, purporting to be driver's licenses issued to George W. Higdon for the years 1924 and 1925, and ask you if you ever saw those licenses before? A. No, sir.

Q. Were they ever issued by your department, do you know? A. I can't say. It is impossible to say, they look exactly like the licenses issued by my department.

Q. Do you know anything about the issuance of 40 them? A. No, sir; I have no connection whatever with the issuance of licenses; I am an examiner only.

Q. Did you ever see those licenses before? A. No, sir.

WILLIAM WALSH, sworn as a witness, testifies:

DIRECT EXAMINATION BY MR. HANSEN:

Q. Where do you live? A. 44 Ridgewood Avenue, Newark

Q. What is your business? A. Helper on a D. L. & W. Trucking Company truck. 10

Q. What was your business in 1924? A. Working in the Trucking Company.

Q. Where were you living at that time? A. 44 Bidgewood Avenue, Newark.

Q. Do you know the defendant Bromley? A. Yes, sir.

Q. Did you meet him anywhere about April, 1924? A. Yes, sir.

MR. CUTLEY: I object to that as irrelevant 20 and immaterial on this issue.

THE COURT: I suppose he has a right to ask what he has so far; I think you are anticipating trouble.

Q. Under what circumstances did you meet him in April, 1924? A. To get me a license.

Q. Did he get you a license?

MR. CUTLEY: I object to that. 30

THE COURT: Yes.

MR. HANSEN: It seems to me, this man Bromley is charged with issuing a phony license to the complainant Higdon, and, to help the State's case, we are producing eight or nine other witnesses, subpoenaed by the State, to testify along similiar lines as given by Mr. Higdon—not to show or satisfy this jury that Bromley must be guilty of this offence because he issued licenses to other men, but to 40 corroborate the story of Higdon. Bromley may get on the stand and deny that he ever

got him a license. I think if it is shown that he got licenses for eight or nine other people, that would be corroborative of Higdon's testimony.

THE COURT: Your evidence would show that Bromley was habitually doing things similiar to the thing for which he was indicted in one specific instance. If you have any proof that corroborates the testimony of Higdon that Bromley issued a license to Higdon, I will permit that.

MR. HANSEN: In view of your Honor's ruling on that point, the State will withdraw this witness and refrain from calling eight or ten other witnesses who were subpoenaed to testify on similiar lines.

THE STATE RESTS.

MR. CUTLEY: Your Honor, I move for the quashing of this indictment, or the direction of a verdict on the grounds I raised on my original motion to quash the indictment; and on the further ground that it appears here, taking the State's testimony as it is, Higdon went to Bromley; that he knew Bromley was a police officer, and had some talk with somebody who said he could get a license. It has not been proved that Bromley gave him the license, although it has been proved he left it at some place where it would be found. It seems to me the direction of a verdict is inevitable.

THE COURT: I will deny your motion.

MR. CUTLEY: I take exception.

ROBERT V. KINKEAD, J.

Mr. Cutley opens for the defense.

RAYMOND RINALDI, sworn as a witness, testifies:

DIRECT EXAMINATION BY MR. CUTLEY:

Q. Where do you live? A. 3512 Boulevard, Jersey City.

Q. Do you know the defendant Bromley? A. Yes.

Q. How long have you known him? A. Since 1924.

Q. How did you come to become connected with him? A. I heard through another party that the man was looking to get licenses, and the man gave me his name and I looked for his name in the telephone book, and I called him and said I heard he wanted a license, and he said he would like to get a license, and then I met him in Jersey City, on the Boulevard. I got a license for him.

Q. Did you receive the license for him? A. I believe I did.

Q. And you handed over the card to Bromley? A. Yes, sir, I did.

BY THE COURT:

Q. You mean you got this 1924 license that was issued to Higdon? A. Yes, sir.

Q. When did you get it? A. He got it from another party.

Q. Who was the other party? A. I decline to answer.

THE COURT: You have taken the stand and if you decline to answer you will find yourself over in the county jail. Do you think you can refuse to answer what you know? You have offered yourself as a witness and the Court asks you who the party was from whom you got that license.

THE WITNESS: I decline to answer.

THE COURT: Very well, sir, you are in custody of the Court and the Court will deal with you when you leave the stand.

CROSS EXAMINATION BY MR. HANSEN:

10 Q. Do I understand you to say you decline to answer where you got the license? A. Yes.

Q. On what ground? A. On the ground that it will incriminate me.

BY THE COURT:

Q. Did somebody advise you to answer that way? A. No, sir.

Q. How is it going to incriminate you more than the testimony you have given? The Court 20 is not asking you any questions for the purpose of laying you open to criminal prosecution, but the Court is not going to allow you to protect somebody else by such an answer as that. Whom did you get the license from? A. I decline to answer.

Q. On what ground? A. On the ground I have stated.

Q. That it will incriminate you? A. Yes.

THE COURT: How can it incriminate you? 30 You have already told us you got this license; you have incriminated yourself as far as you can. What you are trying to do is to save somebody else from being incriminated. Now the Court tells you, you are not incriminating yourself by answering that question, and the Court warns you that you are in contempt of court if you refuse to answer it, and the Court will deal with you on that basis. Are you going to answer it? 40

THE WITNESS: No, sir.

THE COURT: Have you finished, Mr. Hansen?

BY MR. HANSEN:

Q. What is your occupation? A. Mechanic.

Q. Where? A. Working for myself.

Q. Where is your place of business? A. I have no place of business, I go round, I do odd jobs.

Q. You know who you got this license from, 10 don't you? A. I know him by sight, that's all.

THE COURT: You may take this man into custody.

WILLIAM BROMLEY, sworn as a witness, testifies:

DIRECT EXAMINATION BY MR. CUTLEY:

Q. Where do you live? A. 90 Johnson Avenue, Kearney. 20

Q. How old are you? A. Forty-eight.

Q. Are you married? A. Yes, sir.

Q. Got a family? A. No.

Q. What was your occupation up to March of last year? A. Sergeant of police, in Kearney.

Q. How long have you been on the force? A. Twelve years.

Q. You have not been a sergeant since the time of this indictment? 30

MR. HANSEN: Objected to as immaterial.

Q. Do you know this man, Higdon, who was on the stand this morning. A. Yes.

Q. How long have you kwown him? A. I didn't know him to speak to; I have known him seven or eight years just to see him going back and forth.

Q. Did you ever meet him when you were in uniform? A. Yes. 40

Q. Did you ever talk to him? A. No, I don't think so.

Q. How did you come to get in touch with him about his license? A. Another officer came to me and told me a fellow named Higdon wanted to see me, that he lived in Laurel Avenue. I said: "What does he want?" He says: "I don't know". I went to see Mr. Higdon and he told me he was going to move and he would like to get a license, as he couldn't drive without it. I said I would see a friend of mine and see what I could do for him, and I told him he would have to pay ten dollars, that it cost me ten dollars apiece to get them. I says: "They are good licenses, as far as I know, I think they are good". He asked me to get him one and I got him one.

Q. Whom did you get it from? A. From Mr. Rinaldi.

Q. Had you gotten others from him, too? A. Yes.

Q. How much did you pay Rinaldi? A. Ten dollars.

Q. What did you get for yourself? A. Nothing.

Q. How were you interested in Higdon? A. Well, somebody came to me as a friend and I thought I was doing a favor.

Q. Did Echroff send him to you? A. No, he didn't send him to me, he told me Higdon wanted me.

Q. Did you deliver the license to Higdon? A. I think I did.

Q. Or did you leave it at the cigar store for him? A. I think I went to the cigar store and I think I left it with Mr. Waldheim, and while I was there Higdon came in for a second and got a card I had for him that I had to turn in for each license.

Q. Well, what did you do? A. I had to make the applicant fill out his card and sign his name.

Q. You got a lot of licenses, didn't you? A. Eight or nine, something like that.

Q. Not more than that? A. No.

Q. What was your idea in helping people out? A. Maybe I was a fool for doing it; I was just doing a favor; it was a common thing to get licenses that way.

Q. Did you know Caufield? A. Yes. The Motor Vehicle Department agent in Kearney.

Q. Why didn't you go to him to get the licenses? A. He didn't want to appear as he had to issue them. Caufield used to get people their licenses, too. There was one occasion that he sent the man to me and asked me if I would take him over and get him a license; he called me up on the phone and my wife answered it.

Q. Did you take the man somewhere? A. Caufield sent the man to me, to my house; he came there and I got him to fill out a card, and I think a couple of days later he got his license.

Q. And do you mean to say you got no money for yourself out of all this business? A. I got no money at all.

Q. Why not; you were entitled to something for moving around? A. Didn't you often do a favor for somebody for nothing?

Q. Well, I never did fifty for nothing.

CROSS EXAMINATION BY MR. HANSEN:

Q. Is this man Caufield the man that introduced you to Higdon? A. No; he was the Motor Vehicle agent.

By Mr. McMahon:

Q. He is a policeman in Kearney? A. No.

The Court: Echroff that was.

Q. You got only ten licenses? A. Maybe eight or ten.

10 Q. Didn't you get fifty or a hundred of them? A. No, sir.

Q. Do you remember being in my office? A. Yes.

Q. You were in there a couple of times? A. I was in there five or six times.

Q. Yes, and you had a long conversation with me about a lot of things in this case? A. Yes.

Q. And what you told me at that time was the truth? A. Yes, it was.

20 Q. You went from Kearney to West Newark Avenue to see this man Raymond Rinaldi, to get this license for Higdon, didn't you? A. Rinaldi brought that license to me.

Q. Rinaldi testified he gave it to you on Newark Avenue? A. I am testifying for myself.

Q. When did you get in connection with Rinaldi? A. When Higdon wanted the license he came to my house.

30 Q. Rinaldi did? A. Yes.

Q. And every time you wanted to get some one a license, would Rinaldi have some mental telepathy about it and come to your house? A. No, I called him up.

Q. Do you know whether Rinaldi was connected with the Motor Vehicle Department or not? A. He told me he could secure them and that they were good, legitimate licenses.

40 Q. Did you know what his business was? A. No.

Q. Did you know what his telephone number was? A. No.

Q. Did you know where he lived? A. Yes.

Q. Where? A. Boulevard.

Q. What part of the Boulevard? A. I don't know the names of the cross streets up there or I could tell you; I could ride to the house. 10

Q. How many times have you called him up on the phone for licenses? A. Five or six times.

Q. And you knew his telephone number? A. Yes.

Q. And you do not know it now? A. The Western Slope is the number, that's where I called up.

Q. The Western Slope, is that it? A. Yes.

Q. And was Rinaldi always there when you called up? A. No. 20

Q. And did you always undertake to get licenses in twenty-four hours? A. I told him it would take forty-eight hours.

Q. And that was the longest time, forty-eight hours? A. Well, I don't want to limit it; sometimes it was a day, sometimes two days and sometimes three days.

Q. And did you always get every license you got from Rinaldi? A. Yes, in 1924. 30

Q. Do you remember telling me downstairs in the office, that you got these licenses from Lester W. Gilbert? A. No, sir; I said I took people to Mr. Gilbert's home.

Mr. McMahon: I move to strike that out as not responsive.

The Court: Strike it out.

Mr. McMahon: I will repeat the question. 40

Q. (Repeated by stenographer) Do you remember telling me downstairs in the office, that you got these licenses from Lester W. Gilbert? A. I said I got some from Mr. Gilbert and some from Mr. Rinaldi.

Q. Didn't you just testify now that all the licenses you ever got were gotten from Mr. Rinaldi? A. In 1924.

Q. You were only discussing with me the 1924 licenses? A. No, I think Mr. Cutley will vouch for that; you asked me if I could remember anybody I took to Mr. Gilbert's in 1924, and I said, no; I could in 1923, I think.

Q. You had been getting licenses in 1923, had you? A. Yes, a few.

Q. Didn't you tell me downstairs that all the business you ever did was with Mr. Gilbert, an authorized agent of the State of New Jersey? A. No, sir.

Q. The man who was on the stand here this morning? A. No, sir.

Q. You did not tell me that? A. I did not, for 1924.

Q. We were only discussing the 1924 licenses, weren't we? A. Yes; and when I told you that, I told you that in 1924 Mr. Rinaldi told me that the licenses came from the chief inspector. In 1923 I had people that I took over to Mr. Gilbert's home myself and got them their licenses.

Q. Did you take any in 1924 ? No, sir; not to Mr. Gilbert's home.

Q. And Mr. Rinaldi, now you say, told you he got the licenses from Mr. Gilbert? A. The chief inspector.

Q. The licenses he got for you in 1924 he got from Mr. Gilbert? A. Yes.

Q. Where did he tell you that? A. In my home.

Q. Where is your home? A. Ninety Johnson Avenue, Kearney.

Q. How much did you give Mr. Rinaldi for these licenses? A. Ten dollars.

Q. In every case? A. No.

Q. In many cases you got more than ten dollars? A. I got as high as fifteen dollars.

Q. And you gave the fifteen dollars to Rinaldi? A. No; I gave Rinaldi ten dollars for some and eleven dollars for some.

Q. And the other you kept for yourself? A. Yes.

Q. Didn't you tell me downstairs that you were making a little money for these licenses? A. I said I took some for gasoline.

Q. Didn't you tell me downstairs that you got money from every license you issued? A. No, not every one. I don't see any difference; if I got it from one, why should I deny the other?

MR. MCMAHON: I move to strike that out.

THE COURT: Strike it out.

MR. MCMAHON: I repeat the question, please answer it.

THE WITNESS: What is it?

Q. (Repeated by stenographer) : Didn't you tell me downstairs that you got money from every license you issued? A. No, I don't remember telling you that.

Q. You made quite a business of issuing these licensss? A. No, I did not; everybody I got them for came to me.

BY THE COURT:

Q. How long have you known Rinaldi? A.

Since some time in 1924; he came to my house and introduced himself and said he was sent there.

Q. By whom? A. The chief inspector.

Q. The chief inspector was who? A. Mr. Gilbert is supposed to be, he said chief inspector.

Q. Did you ever go to Gilbert and say: "Did you send Rinaldi to me"? A. No, I did not.

Q. Did you ever find out whether it was crooked? A. No; I knew it was a common thing to get a license that way and I thought everything was all right.

Q. Why did you suppose Gilbert sent Rinaldi to you? A. I wasn't bothering with Mr. Gilbert any more.

Q. And you presumed instead of dealing with Gilbert in getting these licenses, you would just have to deal with Rinaldi? A. Yes.

Q. Do you know who Rinaldi is or anything about him? A. I found out later about him, I found out the fellow was all right, as far as I could see.

Q. What did he do for a living? A. He told me he was doing different jobs for people. At that time, he did not tell me what he had done for a living, I only found that out later.

Q. What do you mean? A. Doing jobs for people and things around a house, I didn't know that until after the trouble.

Q. What kind of jobs would he do around people's houses? A. I don't know what he does, rightly.

By Mr. Hansen:

Q. How long had you been doing business with him? A. Since the spring of 1924 till around August, any odd times I would call him up.

By Mr. McMahon:

Q. That is for a period of four or five months? A. Well, I would say around four months.

Q. And you say the highest price you got for any license was fifteen dollars? A. Yes.

Q. Did you get Mrs. Chesney her license? A. Yes, I did.

Q. What did you charge her? A. I think it was fifteen dollars.

Q. Wasn't it twenty-five dollars? A. Yes, I think maybe it was, maybe I am wrong there.

Q. That is the only instance in which you are wrong though, is it?

(No response).

Q. Well, you gave that twenty-five dollars to Rinaldi? A. No, sir.

Q. You gave it to whom? A. Ray Rinaldi got eleven dollars of that.

Q. And you got fourteen? A. No, the Motor Vehicle agent in Kearney got eight dollars.

Q. And Rinaldi got eleven? A. Yes.

Q. And you got the difference? A. No; the Motor Vehicle agent in Kearney got eight dollars out of it.

Q. That is Caufield? A. Yes.

Q. And Rinaldi got eleven? A. Yes.

Q. And how much did you get? A. You can figure that.

Q. You got the difference? A. Yes.

Q. Is that the only license you got money out of? A. Well, I don't know just how much, I got money out of some and got nothing out of others, I don't know those I got money out of.

Q. Do you remember Higdon getting this license? A. Yes.

Q. You knew he wanted to move? A. Well, I

only know the man told me he did.

Q. He said he was moving to Englewood? A. Yes.

Q. And wanted a license in a hurry? A. Yes.

Q. And he told you he had made application and could not get one for ten days? A. He would have to wait.

Q. Yes; and he showed you a ten day permit that he had? A. Yes.

Q. And you told him you could get him the license quickly? A. Well, I told him I thought I could within a day or two.

Q. And you did? A. Yes.

Q. Do you remember what time of the year that was? A. It was in the spring of the year.

Q. What do you call the spring of the year? A. Well, I think I call the spring of the year in May, something like that.

Q. Something like May? A. Yes.

Q. And how long have you been a sergeant of police? A. About five years.

Q. How long have you been on the police force? A. Twelve years.

Q. As a policeman, is it your duty to keep an absolute record of everything you observe? A. No, I don't know as it is.

Q. Do you go into court and testify in your cases without knowledge of your cases? A. No.

Q. If an incident happened, you pull out your watch and note the time it happened, do you? A. Yes.

Q. And you have been trained to take care of details, when and where things have happened? A. Yes.

Q. Have you any record or memorandum or anything that will show us when you got this license for Higdon? A. I can remember it by the spring of the year, that's all.

Q. Why do you fix it as the spring of the year; you did business with Rinaldi up to August, you say? A. I knew it was one of the early licenses I got from Rinaldi.

Q. You had an account with Rinaldi, didn't you, on those licenses? A. No; if I wanted one for John Jones or somebody, I would call him up, and he would come up and get the card from me, and then brought the license.

Q. Did you always have to pay Rinaldi before you got the license? A. Yes.

Q. You had in your pocket, when Mr. Higdon called on you, another application for a permit or license, hadn't you? A. I can't remember that.

Q. Didn't you ask him to make out an application for a license when he asked you about it? A. I told him he would have to fill out a card.

Q. Whatever it was, he filled out some paper for you? A. A regular form.

Q. What did you do with that card? A. Turned it in to Rinaldi.

Q. Where did you get those cards? A. Why, we got them off Mr. Caufield.

Q. And you had a supply of them in your pocket all the time? A. No; I sometimes had one, sometimes two, and sometimes none.

Q. You were always armed with at least one? A. No, not always.

Q. When Higdon met you, you had one? A. Yes.

Q. Prepared to do business with him then and there? A. No; I just happened to have one.

Q. Did you speak to him about what the State fee for a license to drive was? A. In the matter of Mr. Higdon, I told him what I had to pay for these licenses.

Q. Did you tell him whom you had to pay it to? A. I told him I had a friend who said he was in with the chief inspector.

Q. Did you tell him you were in with the chief inspector? A. I did not.

Q. Didn't you tell him you were connected with the Motor Vehicle Department? A. No, sir, never.

Q. The most you said was, you had a friend connected with the Motor Vehicle Department? A. No, sir.

Q. What did you tell him? A. He asked me if I could get him a license; I says: "I think I can". He asked me if they were good, and I said they were good legitimate licenses. He says: "Can I have one for tomorrow night?" and I says: "George, I'll try, I'll do my best, if I can get hold of this fellow I'll try and get you one"; and when I got home that night I called Rinaldi up and he came next morning and got the card from me, and brought the license next evening.

Q. You had the ten dollars before you called him up; suppose he couldn't have got it? A. Well, I would have given it him back if I hadn't got it.

Q. You say you only casually knew this man Higdon? A. I knew he was a town man.

Q. Did you know him well enough to call him "George"? A. Yes, I knew his name.

Q. You saw him write his name? A. Yes, on the card.

Q. And you had to know his name to get the license? A. Yes.

Q. And you knew him well enough to call him "George"? A. I knew the people round the place called him "George".

Q. And you called him "George"? A. There was hundreds, I knew all the names, Joe or Jack or Jimmy, and so on, and they knew me to speak to and I did them, but I didn't know their names.

Q. You did not take this license to Mr. Higdon's house, did you? A. No, I took it where I met him.

Q. But you knew where he lived? A. Yes.

Q. You did not volunteer to take it to his house? A. I asked him where I should leave it.

Q. And he said: "Leave it here tomorrow night"? A. With Mr. Waldheim.

Q. You were testifying there was some discussion, when Mr. Higdon asked you to get this license, as to whether they were good or not? A. He asked me were they good licenses, and I said "Just as good as any other".

Q. How did you know that? A. Because I was in the habit of getting licenses from this source before.

Q. You never looked into the records of the State Department to see whether they were issued by the State or not? A. Well, for years I had done it.

Q. How many years had you been doing it? A. 1922, 1923 and 1924.

Q. How long had you been dealing with Rinaldi? A. 1924 only.

Q. You had to give up three dollars in 1922 and 1923, to the State of New Jersey to get a license? A. Yes, and ten dollars.

Q. To the State of New Jersey? A. Well, I didn't—it was given.

Q. To whom? A. Mr. Gilbert.

Q. You gave him ten dollars? A. No, but I have a witness here I took over there and he gave ten dollars.

Q. What do you mean by a witness? A. I have witnesses here who were taken to the Dispatch Building and had to give ten dollars for their licenses.

Q. And when you saw Gilbert getting ten dollars you thought you could get it yourself? A. Well, maybe I would have.

RE-DIRECT EXAMINATION BY MR. CUTLEY:

Q. Did you get any part of the ten dollars? A. Yes, sir.

RE-DIRECT EXAMINATION BY MR. MCMAHON:

Q. Did you get any part of the ten dollars? A. Of what ten dollars?

Q. That you say Gilbert got? A. No, sir.

BY THE COURT:

Q. When was the last license that you procured, Mr. Bromley, what was the date of the last license you procured for anybody? A. I think it would be early in August.

Q. Of 1924? A. Yes.

Q. Who was that through? A. From Rinaldi; 1924 licenses were all procured from Rinaldi.

Q. How are you so sure you did not get any from Gilbert in 1924? A. I never went to the man's place in 1924.

Q. How are you so sure about that? A. I am positively sure, I am confident.

Q. When was the last time you had dealings with Gilbert? A. In 1923.

Q. Positive of that? A. Yes.

Q. And when you were dealing with Rinaldi in 1924, your assumption was that he was dealing with Gilbert in your place? A. Yes.

Q. Wasn't Rinaldi cutting into your profits, wasn't it more profitable for you to deal directly with Gilbert? A. I didn't want to bother going over ther.

Q. You were making a little something on the side, weren't you? A. I would make a few cents.

Q. Did you want to give that up? A. I didn't care much.

Q. Wasn't it more profitable for you to deal with Gilbert direct than to deal with Gilbert through Rinaldi? A. If I had been in it to make money, it would have been, yes.

Q. Well, you were not in this thing for your health alone, were you? A. Well, I wouldn't call it making money.

Q. How many licenses did you have issued prior to your dealing with Rinaldi how many licenses did you procure? A. Through Mr. Gilbert?

Q. Through Mr Gilbert or from anybody, prior to the time you were dealing with Rinaldi? A. Just three or four, that's all.

Q. Whom was this license for that Mr. McMahon cross-examined you about, where you got twenty-five dollars? A. That was in 1924.

Q. Through Rinaldi that was? A. Yes.

Q. Are you sure you did not have more licenses before 1924? A. Just three or four licenses.

Q. And you dealt with Gilbert on those occasions? A. Yes.

Q. Did you get any money from Gilbert? A. No, sir, never got any.

Q. Did you get any from the people for whom you got the licenses? A. Sometimes a fellow would give me a couple of dollars for helping them apply; sometimes, if he was a good friend of mine, I would get nothing.

10 Q. If somebody would come to you and ask you to get a license, like this man Higdon, why didn't you put him directly in touch with Rinaldi instead of dealing with Rinaldi yourself? A. Well, I don't know that I can answer that; I thought Rinaldi was dealing right with them and everything was o. k.

Q. Again I ask you, wasn't it more profitable for you to deal directly with Gilbert than dealing with Gilbert through a third party? A. Yes, sir, 20 it would have been.

Q. And you saw the negotiating of these applications for licenses was on the increase? A. Yes. Well, in 1923 I turned down a lot of people.

Q. You saw the applications for licenses were on the increase, when they saw you had some connection with the Motor Vehicle office? A. Yes, one would tell the other.

Q. Then when you saw a chance for profit, why 30 was it you did not deal directly with Gilbert in 1924? A. Because Rinaldi told me the chief didn't want to be bothered and he was going to do with him all the business.

Q. Are you sure you did not deal directly with Gilbert in 1924? A. Positively sure.

By Mr. McMahon:

Q. How did you meet Mr. Gilbert first? A. I had a letter of introduction from—

Q. From whom? A. From a man named Mullen, of Lyndhurst.

Q. Where did you go with that letter of introduction? A. To Mr. Gilbert's home.

Q. When was that? A. In 1923.

Q. What part of the year in 1923? A. Well I think it was around June or July, I aint just 10 sure.

Q. Why did you interest yourself in getting a license for anybody at that time? A. I don't know, it was a regular thing, you could do it, there was no harm in it, I didn't see no harm in it.

Q. You went to Gilbert's house at that time? A. Yes.

Q. Where was his house? A. 19 Columbia Avenue. 20

Q. What kind of a house was it? A. It was in a row of brick houses.

Q. How many rooms were in the house? A. I think four or five.

Q. How many families lived in the house? A. I don't know whether any lived up or down; there was a basement.

Q. You were in the house? A. Yes.

Q. And a great many times? A. I was in it 30 three or four times.

Q. Wasn't it one or two times? A. Well, I will say three times.

Q. That is the most you were in there? A. Yes.

Q. What kind of room did you enter as you went in? A. The first room you meet is a parlor.

Q. There was no hall? A. Yes. I think there is a little hall goes to the dining room. 40

Q. Who else was in the house when Gilbert lived there? A. I never saw anybody there.

Q. Do you know if Gilbert was married or single? A. I don't know.

Q. Did you ever meet his wife? A. No.

Q. Did you ever meet a lady there? A. On one occasion.

Q. Did you ever see a lady there? A. Yes, on one occasion.

Q. Do you know whether that was Mrs. Gilbert or not? A. No.

Q. And you say there were four or five rooms in the house? A. Well, I didn't know what was upstairs.

Q. You were bringing customers to Mr. Gilbert? A. Yes.

Q. And got ten dollars apiece from some of them? A. Yes.

Q. And there was some curiosity on your part, going to his house and seeing where he lived? A. No.

Q. What kind of furniture was in there, in the parlor? A. I don't think there was a parlor-suite in there, I think there was just chairs there.

Q. That was all, chairs? A. And there was a piano there.

Q. You are sure there was a piano there? A. I think so.

By Mr. Cutley:

Q. Bromley, are you sure that it was Gilbert you saw? A. Yes, pretty sure.

Q. Is there any doubt in your mind? A. Well, this man resembles him.

Q. From the chair where you are, perhaps it is so, but did you pass Gilbert and me, talking, downstairs, and you did not know him?

Mr. McMahon: I object to that.

The Court: I think I will allow it.

A. The man——of course, he isn't the man I seen first, and ——.

Q. I want you to tell the truth. Did you know that the Gilbert whom we are talking about was the Gilbert you saw downstairs talking to me? A. Yes, I am pretty sure it was him.

Q. Didn't you ask me if it was him or not? A. It was so long since I seen him.

Q. I will ask you another question, whether any of the licenses that you got from this man Gilbert —did you ever hear of any trouble coming from them? A. Not a bit.

By The Court:

Q. Is the Gilbert who testified in court this morning the man you mean? A. Yes, I think it is; it resembles him quite some; I haven't seen him since 1923.

Q. Well, is he the man? A. Yes, I think he is.

By Mr. Cutley:

Q. If it is not the man, say no?

Mr. McMahon: He has answered.

The Court: Yes, he says that is the man.

Mr. Cutley: That is all. That is the defendant's case.

Rebuttal.

LESTER GILBERT, recalled in rebuttal, testifies:

DIRECT EXAMINATION BY MR. MCMAHON:

Q. You testified you were chief examiner in the Department of Motor Vehicles? A. Yes.

Q. Do you know this man Bromley? A. I have no recollection of meeting him prior to the last trial, although it is possible, I meet so many people.

Q. Did he ever pay you ten dollars for a license? A. Never in his life, never did anybody pay me ten dollars for a license; I never issued a license to anybody; my business consisted entirely in examining people, o. k'ing their papers so they could go and get a license.

Q. Referring specifically to the 1924 licenses, there is a card in evidence here, I think exhibit S-2, did you have anything to do with the issuance of that license to George W. Higdon? A. Nothing whatever.

Q. Did you get any of the proceeds for obtaining that license? A. I did not know anything about the license being issued.

Q. Did you ever issue any phony license? A. I never issued any phony or any other license.

BY THE COURT:

Q. Do you know this man Rinaldi, who was on the stand here in court? A. Yes, I do.

Q. Did you ever do business with him? A. No, sir, never.

Q. Did Mr. Rinaldi ever ask you to issue a license for anybody? A. No, sir, he never did.

Q. How did you know him? A. I knew Rinaldi

the fourth of July week, that is the first time I met him that particlar year.

Q. What year? A. 1924.

Q. Where did you meet him? A. I met him at a shooting club; we were all shooting down at Secaucus. He was introduced to me then, and when his name appeared in this business I remembered I had met him, and I went to him to find out what he knew about the business. That is all I knew of him.

Q. Where was your office? A. I had no office. My office was in Trenton; I used to go to the Secretary of State's office.

Q. Where was the office here in Hudson County? A. For issuing licenses?

Q. Yes? A. In George Gannon's office, in Cap Walter's office in Union Hill, and one in Bayonne, Jerry Hill.

Q. Were you ever in those offices alone? A. No; I only occasionally went into those offices.

Q. Did you ever see Rinaldi around those offices? A. I never did.

Q. You say you had nothing to do with the issuance of any license? A. Nothing whatever.

Q. And all you could do was to o. k. the preliminary papers, and on your o. k. the man could get his license? A. The man could go anywhere in the State and get a license on my o. k.

Q. Did you ever o. k. anybody Rinaldi brought to you? A. Never.

Q. Did you ever o. k. anybody Bromley brought to you? A. If he says I did—Bromley never brought to me anybody in his life; I would remember if he did; I think. The way it went was this; they would receive a letter from the Secretary of State authorizing me to issue an examina-

tion to the bearer of the letter. Now, who brought the man to me I wouldn't know because I would only see the bearer of the letter. That letter asked me to give them an examination, which I did; that was common practice throughout the entire state. It was my duty as an inspector to do those things, and I did. I generally on those matters made an examination at once, unless my superior, the Secretary of State or the Commissioner, asked me to do otherwise through a letter.

Q. Did you ever see this man Bromley before? A. I don't remember seeing him, I can't recollect him, no.

Q. Where do you live? A. At 19 Columbia Avenue, Jersey City.

Q. Is it a single man's house? A. I board and live upstairs.

Q. Are you married? A. No, sir; I live upstairs, but I go downstairs on account of having a room upstairs.

Q. You have heard this man Bromley describe the place with a pretty fair degree of detail as to where you were living? A. Yes, sir.

Q. And with a fair degree of accuracy, would you say? A. Yes, sir.

Q. What is your explanation of that? A. He described it fairly well; there was no piano there as I remember it, though.

Q. Then you are assuming this man was in your room? A. It is possible he may have been there with somebody, but he had no conversation with me; it is possible somebody brought him there.

Q. He says Rinaldi brought him there and gave you ten dollars? A. That is a mistake. Nobody

ever gave me ten dollars. If he is a police officer, he knows better because I never saw a police officer that would give much money to anybody.

Q. What would this man be doing at your home? A. For an examination.

Q. Would you see them in your home? A. I have held them in my home, at the home of the applicant, I have held them at the Secretary of State's office, and I have driven often six or seven miles, on order of the Secretary of State to make such examination for people who couldn't get to the examination point.

Q. What was the examination point? A. Asking them several questions concerning the law, sometimes make them write them, sometimes not, according to their ability to write.

Q. Does not each applicant, before a license is issued, have to drive a car? A. Yes, sir.

Q. Would you have the car there? A. They would have the car outside, either at their own home or at the Secretary of State's office, anywhere, at any particlar point.

By Mr. Hansen:

Q. Do you know of your own knowledge, as a member of this department, how this fake or phony license could have been issued? A. The only thing I could say about them, which I have learned through my investigation, is that they disappeared through the process of printing—some part of these licenses—and when it became known by the Department that they were not together, as they should have been, there was enough attention; my department got in touch with the printer, from what I have learned, and in time they issued others.

Q. That is the only explanation you can give as to how these other licenses were able to be issued? A. I can't give any other.

Q. You have had nothing to do, in all your experience as a motor vehicle inspector, with issuing fake licenses? A. Nothing whatever.

Q. Or any license? A. No, sir; I never issued any license, that is done by the agents.

Q. And you say you never got any license for anybody? A. Never.

(No cross-examination).

THE STATE RESTS.

THE DEFENSE RESTS.

Mr. Cutley sums up for the defendant.

Mr. McMahon sums up for the State.

Charge.

The Court charged the jury as follows:

THE COURT: Gentlemen of the Jury, William Bromley is on trial before you charged with obtaining money under false pretences. The indictment which has been returned by the Grand Jury of our county against this defendant reads as follows—

"The Grand Inquest of the State of New Jersey, in and for the body of the County of Hudson, upon their respective oath, present, that William Bromley, late of the Town of Kearney, in the County of Hudson, on the first day of July, in the year of our Lord one thousand nine hundred and twenty-four, at the town of Kearney aforesaid, in the County of Hudson aforesaid, and within the jurisdiction of this court, not then and there being a duly and legally authorized agent of the Department of Motor Vehicles of New Jersey, and not being then and there duly and legally authorized to issue automobile driver's licenses nor to collect and receive moneys for and in behalf of the said Department of Motor Vehicles of New Jersey, then and there wickedly and unlawfully, falsely and fraudulently contriving and intending to cheat and defraud one George Higdon, Sr. of his moneys and property, did then and there falsely and fraudulently, knowingly and designedly pretend to the said George Higdon, Sr. that he, the said William Bromley, could secure and obtain a legitimate automobile driver's license for him, the said George Higdon, Sr. without taking a legal and proper examination and test as required by the Department of Motor Vehicles of New Jer-

sey, whereas, in truth and in fact, as he, the said William Bromley, then and there well knew, he was not a duly and legally authorized agent of the said department and was not duly and legally authorized to issue or procure automobile driver's licenses, nor was he, the said William Bromley, authorized to collect and receive moneys for and in behalf of the said Department of Motor Vehicles of New Jersey, by color and means of which said false pretence and pretences he, the said William Bromley, did then and there wilfully and unlawfully, falsely and fraudulently, knowingly and designedly, receive and obtain of and from the said George Higdon Sr. a certain large some of money to wit, the sum of ten dollars in lawful money of the United States of America, of the moneys and property of the said George Higdon, Sr. contrary to the form of the statute in such case made and provided, against the peace of this State, the government and dignity of the same".

Now, that is the count in this indictment on which this defendant is tried, for obtaining money on false pretences.

There is a second count, which the Court charges you to ignore. The second count charges the defendant with grand larceny, and there is no proof in this case that the defendant committed grand larceny. So, gentlemen of the jury, the Court is permitting this case to go into your hands on the charge against the defendant of obtaining money under false pretences, and the Court instructs you that you may ignore the second count charging the defendant with the crime of grand larceny.

This defendant, gentlemen, is presumed by our law to be innocent. The burden of proof is cast upon the State to establish his guilt to your satis-

faction beyond a reasonable doubt. A reasonable doubt is that state of the case which, after an entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. If, after weighing and considering all the evidence in this case, you have such reasonable doubt as the Court has indicated of the guilt of the defendant, then you are bound under the law to resolve that doubt in favor of the defendant and find the defendant not guilty.

Now, gentlemen of the jury, the Court is going to discuss the facts briefly with you, and if, in such discussion of the facts, the Court says something that is not in accordance with your recollection of the testimony, you will disregard what the Court says and be governed by your own recollection. Your own recollection, and your recollection alone, will govern you when you come to consider the testimony, because on the facts in this case, and on the facts alone, you will determine the guilt or innocence of this defendant.

From the evidence in this case, it appears that one George Higdon made application for an automobile driver's license, apparently some time in the month of May or June, 1924—some time prior to July—and he was told by the agent to whom he applied that he would have to take an examination, as the Court recalls his testimony, and there would be a delay of about ten days. Higdon said he was desirous of moving his invalid wife out to Englewood and he desired to drive her out in his machine, and he went to Bromley and asked Bromley if he could get him a license, and

Bromley said he could. Now, Higdon said Bromley made some statement to him about his connection with the Department of Motor Vehicles, and Bromley said he could get this license. Bromley, as the Court recalls his testimony, says he assured Higdon that the license he would get him would be a good and legal license.

Now, gentlemen, there is the issue in this case. Did Bromley tell this man that he was connected with the Department of Motor Vehicles in some way, and that because of that connection he could get Higdon this license without the usual formality of an examination? If he did, gentlemen of the jury, the Court instructs you if you decide that question in the affirmative, the defendant Bromley would be guilty, and that should be your verdict.

The defendant Bromley has taken the stand in his own defense and says he told Higdon he would get him a good and legitimate license. He said he assumed that the license he was to get Higdon was a good license because he had procured many similiar licenses in the past, and there had never been any question about them. He said that ten dollars, which he got from the complaining witness, Higdon, he in turn turned over to the man Rinaldi, who has taken the stand here today. Rinaldi, on the witness stand, said that he met Bromley at the corner of Newark Avenue, Jersey City, and got from him—I do not recall whether he said he got from Bromley the ten dollars, but he said he got Bromley the license; and Bromley says he brought that license back to the Waldheim store for the complainant.

Now, a number of things have happened during the course of the trial which you must dismiss

from your minds if you are to be fair in this case. For instance, this man Rinaldi has been committed by the Court to the county jail for his refusal to answer a question which the Court asked him. You will recall the Court asked him from whom he obtained the license which he got for Bromley, and Rinaldi saw fit to refuse to answer the question. That is not to prejudice you against the defendant, because Rinaldi was one of the defendant's witnesses. Rinaldi will have to stand on his own ground, but so far as the defendant Bromley is concerned, you must dismiss from your minds Rinaldi's connection with the case, except so far as the testimony he gave. The Court charges you that it would be unfair for this jury to presume that Bromley was guilty merely because the Court committed one of Bromley's witnesses to the county jail.

You may feel, gentlemen of the jury, in this case that Bromley was acting for somebody else, you may or may not feel that way about it. You may feel there is somebody connected with this case outside of this trial, but you are not concerned with that; you are to decide the innocence or the guilt of this defendant, William Bromley, who is on trial before you, and when you have decided that and decided it honestly, you have done the duty for which you were summoned here as jurors in this case.

The case is an important case, members of the jury, important to this defendant and important to the State of New Jersey, and the Court cautions you to decide the case on the evidence as it has been adduced here before you, and on that

evidence alone. You must keep your minds free from passion or prejudice of any kind, and decide the case cold-bloodedly on the facts adduced here before you, you are summoned from your various walks in life to serve as jurors. If you, during your term here as jurors, will resolve that each verdict you bring in will be a fair and honest verdict, which you have decided according to the evidence with the light that the Almighty gave you, then you will be doing your duty, and that is all this Court, and the County of Hudson, and the State of New Jersey, can ask or expect of you.

(The jury retire).

Mr. Cutley takes a general exception to the charge.

ROBERT V. KINKEAD, J.

Motion for Arrest of Judgement.

STATE VS. WILLIAM BROMLEY.
(On motion to Arrest Judgment.)
ROBERT V. KINKEAD, J.
Jersey City, New Jersey,
June 10, 1926.

APPEARANCES:

HON. RICHARD DOHERTY,
attorney for defendant William Bromley.

MR. DOHERTY: If your Honor please, I beg to move for arrest of judgment in this case of the State vs. William Bromley.

The defendant relies upon the following grounds on motion to arrest judgment:

1. The indictment does not charge any public offense.
2. The indictment does not allege that the defendant made any pretence inconsistent with the facts set forth in the indictment.
3. The pretence alleged to have been made by the defendant is not negatived by the indictment.
4. The pretence alleged to have been made is absurd and incredible and bore no rational tendency to deceive.
5. The pretence was a mere statement of opinion.
6. The pretence was a mere statement of a future possibility.
7. The pretence was a mere statment of the defendant's conception of statutory requirements.

8. Neither the inducement nor negation of the indictment sets forth that the defendant was not a duly designated agent of the Commissioner of Motor Vehicles, nor that he was not a duly appointed inspector of the Department of Motor Vehicle Registration and Regulation.

9. Neither the inducement nor negation sets forth that the defendant was not duly and legally authorized to collect and receive money for and in behalf of the Commissioner of Motor Vehicles, nor that he was not so authorized to receive and collect the same for and in behalf of the Department of Motor Vehicle Registration and Regulation.

10. The indictment does not allege that the defendant falsely pretended that he was a duly and legally authorized agent of the Department of Motor Vehicles, or pretended duly and legally authorized agent of the Department of Motor Vehicles, or pretended that he was duly and legally authorized to issue automobile driver's licenses, or pretended that he was duly and legally authorized to collect and receive money for and in behalf of the Department of Motor Vehicles of New Jersey.

11. The allegation of the indictment that the defendant well knew that he was not the authorized agent of the department, and was not authorized to issue or procure driver's licenses, and was not authorized to collect and receive money for the Department of Motor Vehicles, did not constitute either a negation of the alleged pretence that the defendant could procure and obtain a legal

automobile driver's license without examination and test, nor was such allegation sufficient to impute to the defendant knowledge of the falsity of the alleged pretence.

12. The indictment fails to allege facts to establish that George Higdon, Sr., therein named, was induced to give the defendant money through the alleged pretence.

The Court denies the motion.

Mr. Doherty, on behalf of the defendant, excepts.

ROBERT V. KINKEAD, J.

Certificate of Entire Record.

HUDSON COUNTY COURT OF QUARTER SESSIONS

STATE OF NEW JERSEY, *vs.* WILLIAM BROMLEY, *Defendant.*	On Indictment For False Pretense.

I, ROBERT V. KINKEAD, Judge of the Hudson County Court of Quarter Sessions, do hereby certify that the foregoing is the entire record of the proceedings had upon the trial of the above mentioned indictment, and is returen with the bill of exceptions signed and sealed in the cause. Dated July 12th, 1926.

ROBERT V. KINKEAD, J.

Assignment of Errors.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, *Defendant-in-Error,* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	In Error.

The plaintiff-in-error sets down and assigns as reason for the reversal of the judgment of the Hudson County Court of Quarter Sessions, the following:

1. The trial court erred in refusing to quash the indictment although duly moved thereto.

2. The court erred in refusing to strike out the following testimony offered on behalf of the State by George W. Higdon:

> "I was refused an examination pending a period of ten days."

3. The trial court erred in refusing to strike out the following testimony offered by the State through the witness George W. Higdon:

> "Q. Did Echroff say anything to you about Bromley's ability to get you a license? A. Yes; he told me he could get me a license, that Bromley was in the Department of the Commissioner of Highways.
>
> "Q. Do you mean Motor Vehicles? A. Yes, connected with them in some way, and could obtain me a license."

4. The court erred in refusing to strike out the testimony offered on behalf of the State through the witness, William J. Deardon, as follows:

> "Q. What do those records indicate? A. The records show that George W. Higdon had applied for an automobile driver's license, which was issued, and shortly after it was issued we found it had been applied for in exchange for a license which had been fraudulently issued."

5. The court erred in refusing the motion for the direction of a verdict at the close of the State's case.

6. The court erred in charging the jury as follows:

> "Now, Higdon said Bromley made some statement to him about his connection with the Department of Motor Vehicles, and Bromley said he could get this license. Bromley as the Court recalls his testimony, says he assured Higdon that the license he would get him would be a good and legal license. Now, gentlemen, there is the issue in this case. Did Bromley tell this man that he was connected with the Department of Motor Vehicles in some way, and that because of that connection he could get Higdon his license without the usual formality of an examination? If he did, gentlemen of the jury, the Court instructs you if you decide that question in the affirmative, the defendant Bromley would be guilty, and that should be your verdict."

7. The court erred in denying the motion made for arrest of judgment.

RICHARD DOHERTY,
Attorney for Plaintiff-in-Error.

Specification of Causes.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY. *Defendant-in-Error,* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	In Error.

The plaintiff-in-error specifies as causes for the reversal of the judgment of the Hudson County Court of Quarter Sessions, the following:

1. The plaintiff-in-error suffered manifest wrong and injury in this: The trial court refused to quash the indictment although duly moved thereto.

2. The plaintiff-in-error suffered manifest wrong and injury in this: The court refused to strike out the following testimony offered on behalf of the State by George W. Higdon:

> "I was refused an examination pending a period of ten days."

3. The plaintiff-in-error suffered manifest wrong and injury in this: The trial court refused to strike out the following testimony offered by the State through the witness George W. Higdon:

> "Q. Did Echroff say anything to you about Bromley's ability to get you a license? A. Yes; he told me he could get me a license, that Bromley was in the Department of the Commissioner of Highways.

"Q. Do you mean Motor Vehicles? A. Yes, connected with them in some way, and could obtain me a license.

4. The plaintiff-in-error suffered manifest wrong and injury in this: The court refused to strike out the testimony offered on behalf of the State through the witness, William J. Deardon, as follows:

"Q. What do those records indicate? A. The records show that George W. Higdon had applied for an automobile driver's license, which was issued, and shortly after it was issued we found it had been applied for in exchange for a license which had been fraudulently issued."

5. The plaintiff-in-error suffered manifest wrong and injury in this: The court refused the motion for the direction of a verdict at the close of the State's case.

6. The plaintiff-in-error suffered manifest wrong and injury in this: The court charged the jury as follows:

"Now Higdon said Bromley made some statement to him about his connection with the Department of Motor Vehicles, and Bromley said he could get this license. Bromley, as the Court recalls his testimony, says he assured Higdon that the license he would get him would be a good and legal license. Now, gentlemen, there is the issue in this case. Did Bromley tell this man that he was connected with the Department of Motor Vehicles in some way, and that because of that connection he could get Higdon this license without the usual formality of an examination? If he did, gentlemen of the jury, the Court instructs you if you decide that question in the affirmative, the defendant Bromley would be guilty, and that should be your verdict."

7. The plaintiff-in-error suffered manifest wrong and injury in this: The court denied the motion made for arrest of judgment.

8. The plaintiff-in-error suffered manifest wrong and injury in this: The court authorized the jury to find that the plaintiff-in-error represented himself as having official connection with the Department of Motor Vehicles when there was no evidence whatever that the plaintiff-in-error made such representation.

9. The plaintiff-in-error suffered manifest wrong and injury in this: The court permitted the jury to pass upon the guilt of the plaintiff-in-error when there was no evidence whatever to sustain the same.

10. The plaintiff-in-error suffered manifest wrong and injury in this: The guilt of the plaintiff-in-error was not established by the weight of the evidence.

Attorney for Plaintiff-in-Error.
Attorney for Paintic-inError.

Exhibit S-1.

(White Card) Front.

Auto Driver's License. No. 419420
Issued to George W. Higdon
Street Address: 79 Selvage Ave.
City or Town: W. Englewood N. J.
Age 51 Weight 188
Color W Color Hair Blk.
Sex M Color Eyes Br.
Height 5-6 Fee $3.00
Signature of Licensee G. W. Higdon.
This license expires December 31, 1925.
This certificate must be carried by the licensee when operating a motor vehicle.
HIGDON GEORGE W. CA 15-7-1-24-M938

Back.

State of New Jersey
Department of Motor Vehicle Registration and Regulation.

In pusuance of "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the vioation of the provisions of the act and penalities for said violations." Approved April 8, 1921.

IN TESTIMONY WHEREOF, I have set my hand

and seal of office the Dec. 31, 1924 day of A. D. 1925.

Signed Wm. L. Dill,
Commissioner of Motor Vehicles.

Secretary of State of New Jersey
Seal
Of the Department
Of
Motor Vehicle
Registration
and
Regulation.
M. Birtwhistle,
Agent.

Exhibit S-2.

Yellow Card. Front
CA 35-7-1-23-M600 No. 559803
Issued to George W. Higdon
Street Address 177 Laurel Avenue.
City or Town Kearney.
Age 51 Weight 188
Color White Color Hair Black
Sex Male Color Eyes Brown
Height 5-6 Fee $3.00
Signature of Licensee G. W. Higdon.
This Registration expires December 31st, 1924.
This certificate must be carried when Vehicle is operated.
Not good for 1925.

Exhibits.

(Back:)

State of New Jersey
Office of Secretary of State.
Department of Motor Vehicle Registration and Regulation.

In pusuance of "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the vioation of the provisions of the act and penalities for said violations." Approved April 8, 1921.

IN TESTIMONY WHEREOF, I have set my hand and seal of office the May 21, 1924 A. D. 1924.

Signed Wm. L. Dill,
Commissioner of Motor Vehicles.

George Krieger Agent.
54 14th Street.

Exhibit S-3A.

CA 35-7-1-23-M600. No. ~~559801~~
Auto Driver's License. ~~559802~~
559803
~~559804~~
~~559805~~

Issued to
Street Address
City or Town
Age Weight
Color Color Hair
Sex Color Eyes
Height Fee $3.00
Signature of Licensee:
This Registration expires December 31, 1924.
This certificate must be carried when Vehicle is operated.

Exhibits.

(Back:)

State of New Jersey
Office of Secretary of State.
Department of Motor Vehicle Registration and Regulation.

In pusuance of "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the vioation of the provisions of the act and penalities for said violations." Approved April 8, 1921.

IN TESTIMONY WHEREOF, I have set my hand and seal of office the day of A. D. 1924.

Signed Wm. L. Dill,
Commissioner of Motor Vehicles.
Agent.

Exhibit S-3.

CA 35-7-1-23-M600. No. ~~559801~~
Auto Driver's License. ~~559802~~
559803
~~559804~~
~~559805~~

Issued to
Street Address
City or Town
Age Weight
Color Color Hair
Sex Color Eyes
Height Fee $3.00
Signature of Licensee:
This Registration expires December 31, 1924.
This certificate must be carried when Vehicle is operated.

Exhibits.

(Back:)

State of New Jersey
Office of Secretary of State.
Regulation.

In pusuance of "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the vioation of the provisions of the act and penalities for said violations." Approved April 8, 1921.

IN TESTIMONY WHEREOF, I have set my hand and seal of office the day of A. D. 1924.

Signed Wm. L. Dill,
Commissioner of Motor Vehicles.

Secretary of State of New Jersey
Seal
Of the Department
Of
Motor Vehicle
Registration
and
Regulation.
Agent.

Decision.

NEW JERSEY SUPREME COURT.

No. 4, October Term, 1926.

THE STATE OF NEW JERSEY, *Defendant-in-Error.* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	DECISION.

Submitted October 16, 1926; Decided January 28, 1927.

On writ of error.

Before GUMMERE, Chief Justice, and Justices TRENCHARD and MINTURN.

For the pliaintff-in-error, Richard Doherty.

For the defendant-in-error, John Milton, Prosecutor of the Pleas.

PER CURIAM:

This is defendant's writ of error bringing up a conviction on an indictment found by the grand jury of Hudson County.

The indictment charged in effect that the defendant obtained money from George Higdon by false pretence, the misrepresentation alleged being that the defendant could secure and obtain a legitimate automobile drivers' license for him without his taking a legal and proper examination and test as required by the Department of Motor Vehicles of New Jersey, which representation was averred to be false, and known to the defendant to be false.

The defendant claims that the court erred in refusing to quash the indictment upon a motion made before the trial was moved, and in the denial of motion in arrest of judgment upon the same grounds now to be considered.

We think that the indictment, as we have indicated, in effect, charges the obtaining of money by false pretences. We think that there was no failure (as claimed by the defendant) to negative the pretences stated in the indictment. We think that it, in effect, alleges that the property was obtained by means of the false pretences alleged. We think the indictment, in effect, avers that the defendant could not lawfully obtain a legal license. We think that it, in effect, exhibited a pretence which, in the circumstances stated, had a tendency to induce the person defrauded to part with his money.

It is argued that the indictment failed to charge, and that the evidence failed to establish, any public offense. We think that it charged a criminal offense and that the offense charged was proved.

We fail to find any error prejudicial to the defendant in permitting testimony of a communication made by a third party to the complaint, certainly none raised on this record.

We find no error (as claimed by the defendant) upon the part of the judge in submitting the case to the jury upon an issue not within the indictment and upon a theory having no support from the evidence. We think that a careful reading of the charge will disclose that the matter was fairly presented to the jury.

It is next argued that the verdict was against the weight of the evidence. We do not think that it was. The fact is we think that the defendant's own testimony reasonably supports his conviction.

The judgment will be affirmed, with costs.

Rule on Affirmance of Judgment and Order of Remittitur.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, *Defendant-in-Error.* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	ON ERROR. TO HUDSON QUARTER SESSIONS.

This cause having been duly submitted to this Court at the October term, A. D., 1924, by John Milton, Prosecutor of the Pleas of the County of Hudson, counsel for the State of New Jersey, and Richard Doherty, counsel for the plaintiff-in-error, and the Court having considered the same and having examined the records and proceedings of the Hudson Quarter Sessions in the said cause, and finding no error therein;

It is hereby ORDERED and ADJUDGED that the judgment of the Hudson Quarter Sessions in the above-entitled cause be, and the same is hereby affirmed with costs;

And it is further ORDERED that the record of the said cause be forthwith remitted to the Hudson Quarter Sessions, there to be proceeded with according to law.

Entered

On motion of JOHN MILTON,
Prosecutor of the Pleas,
Counsel for the State of New Jersey.

Writ of Error.

THE STATE OF NEW JERSEY, to wit: THE STATE OF NEW JERSEY.

[SEAL.] *To the Chief Justice and Associate Justices of our Supreme Court of Judicature of the State of New Jersey,* GREETING:

10

Because in the record and proceedings and also in the giving of judgment in a certain plaint, which was in our said Supreme Court of Judicature, before you, between William Bromley, plaintiff-in-error, and the State, defendant-in-error, manifest error hath intervened to the damage of said William Bromley, plaintiff-in-error, as is said and we being willing in that behalf, that the error, if any there be, should in due manner be corrected and full and speedy justice be done to the plaintiff-in-error, do command you, that you distinctly and openly send under your hand and seal, the record and proceedings aforesaid, with all things touching and concerning the same, to our Judges of the Court of Errors and Appeals in the last resort in all causes, at Trenton, on the third day of March next, together with this writ, that the record and proceedings aforesaid being inspected, we may cause to be further done therein, for correcting that error, what of right and according to the laws of the State of New Jersey ought to be done.

20

30

Witnss: EDWIN ROBERT WALKER, ESQ., our Chancellor and President Judge of our said Court of Errors and Appeals, at Trenton, this eleventh day of February, 1927.

JOSEPH F. S. FTIZPATRICK,
Clerk.

40

RICHARD DOHERTY,
Attorney.

Assignment of Error.

NEW JERSEY COURT OF ERRORS AND APPEALS.
~~NEW JERSEY SUPREME COURT~~

THE STATE OF NEW JERSEY, *Defendant-in-Error.* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	IN ERROR.

10

And now comes the plaintiff-in-error, William Bromley, by Richard Doherty, his attorney and says that in the record in the giving of the judgment there is manifest error in this:

20

The Supreme Court, by its judgment, affirmed the conviction and judgment of the Hudson County Court of Quarter Sessions, whereas in law and right it should have reversed the same.

RICHARD DOHERTY,
Attorney of Plaintiff-in-Error.

30

40

Specification of Cause for Reversal.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY, *Defendant-in-Error.* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	In Error.

10

And now comes the plainitff-in-error, William Bromley, by Richard Doherty, his attorney, and says that in the record in the giving of the judgment there is manifest wrong and injury in this:

20 The Supreme Court, by its judgment, affirmed the conviction and judgment of the Hudson County Court of Quarter Sessions, whereas in law and right it should have reversed the same.

RICHARD DOHERTY,
Attorney of Plaintiff-in-Error.

30

40

New Jersey Court of Errors and Appeals

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* WILLIAM BROMLEY, Plaintiff-in-Error.	On Error to Supreme Court.

BRIEF FOR PLAINTIFF-IN-ERROR.

Statement.

The plaintiff-in-error, a police sergeant of the Town of Kearny, was indicted, ostensibly, for obtaining money under false pretenses, in connection with a transaction whereby an applicant for an automobile driver's license obtained the same through the plaintiff-in-error without taking the usual examination. The indictment, by way of inducement, recited (a) that plaintiff-in-error, (hereafter called defendant), was not a duly and legally authorized agent of the Department of Motor Vehicles of New Jersey, (b) was not duly and legally authorized to issue automobile drivers' licenses, (c) nor to collect and receive money for, and in behalf of the said Department of Motor Vehicles of New Jersey.

The single pretense charged was that "he could secure and obtain a legitimate automobile driver's license for complainant without taking the legal and proper examination and test as required by

the Department of Motor Vehicles of New Jersey.''

The negation was (a) that defendant knew he was not a duly and legally authorized agent of the Department, (b) that he was not duly and legally authorized to issue or procure drivers' licenses, (c) that he was not authorized to collect and receive money for, and in behalf of, the said Department of Motor Vehicles of New Jersey. Thus, the indictment strangely negatived the inducements, instead of the pretense.

Indictment, p. 4.

A motion was seasonably made to quash on the ground of the indictment's failure to negative the pretense (p. 13), which was met by the Prosecutor's announcement that the State abandoned the case as to the pretense alleged, i. e., the legitimacy of the license, and that the State proposed to sustain the indictment by proof of false personation.

> Mr. Hansen: ''I do not know, your Honor. The State relies on the fact that this man held himself out as a duly authorized agent of the Department of Motor Vehicles and obtained money under the color of that pretense'' (p. 15, ll. 30-40).

Only the testimony of the complainant was offered to inculpate the defendant as to any representations made by him. As to pretending the legitimacy of the indictment, the testimony was as follows:

> ''He said he had to go to Headquarters at Jersey City at the main office of the Commission of Highways, the Bureau of Motor Vehicles, rather, and obtain the license, which would take him to the following day'' (p. 21, ll. 25-35). ''I was always of the impression that the 1924 license was a legitimate license'' (p. 24, l. 10). ''I did not know anything to the contrary, I had been assured the license was all right that I had gotten for myself.''

His testimony as to false personation was as follows:

> ''I don't recall what Bromley said as to his connection with the Motor Vehicle Department; my memory is vague, it is quite a long time ago; I think he knew, or said he knew, somebody there to whom he could apply to issue the licenses immediately (p. 39, l. 30). He told me he knew somebody, but conveyed to my mind that he was connected with the Department; I don't recall what he said. I don't think and don't recall that he said 'I am an officer of the Motor Vehicle Department' (p. 30, l. 1). He did not say he could issue a license. As to collecting money for the State of New Jersey, for the Motor Vehicle Department, he conveyed to me in some way, that he had to have money, that it was not altogether his, he was to halve it with somebody else (p. 30, l. 15). I may have been confused in my answers, but when I obtained my license, I don't think he told me anything like that; I just took everything for granted'' (p. 30, l. 20).

In his own behalf, the defendant admitted having received the money from complainant for undertaking to get him a license which he obtained from a man named Rinaldi; that the latter had often obtained licenses for him in like circumstances, and the defendant believed that they were good, legitimate licenses (p. 44, l. 19; p. 50, l. 10); that he turned over to Rinaldi the money he received from complainant, keeping nothing for himself (p. 44, ll. 20-30); that complainant filled out a regular application for the license and signed the same (p. 45, ll. 1-5); that he was merely doing the complainant a favor; that it was a com-

mon thing to get licenses that way and he had previously gotten eight or nine; the Kearny agent of the Department and the Chief Examiner formerly issued licenses in that manner on applications brought to them by the defendant (p. 45, ll. 15-25; p. 48, ll. 1-40). He knew the practice to be a common thing and thought everything was all right (p. 50, ll. 10-15). Defendant received $10 from the complainant on the occasion of their single interview, and busied himself in obtaining the license which was afterwards delivered to the complainant.

In its charge, the court ignored the pretense alleged in the indictment and submitted the case to the jury solely on the substituted theory of the false personation as to which the case was wholly barren of evidence.

A motion made in arrest of judgment was denied (p. 73).

Specification of Errors and Causes.

1. The indictment should have been quashed because of the failure to negative the pretense alleged, and sufficiently charge an offense.

2. The motion in arrest of judgment should have been granted on the grounds stated.

3. The court submitted the case to the jury upon an alien issue not created by the indictment, in support of which there was no evidence.

4. The court plainly charged that the allegation of falsely pretending the legitimacy of the license would be sustained by proof of false personation.

5. The court's charge authorized the jury to ignore four essentials of the crime charged—(a) the intent to defraud, (b) knowledge of the falsity of the representation, (c) the obtaining of the money and (d) obtaining it by color of the pretense.

I.

The indictment was defective in structure and failed to charge a crime.

The failure to negative the only pretense alleged was fatal.

> *Cunningham* vs. *State,* 61 N. J. L. 666;
> *State* vs. *Riley,* 65 N. J. L. 624;
> *State vs. Murphy,* 68 N. J. L. 325.

In the Riley case it was said:

> "It is well settled in this state that in an indictment for obtaining money by false pretense, every misrepresentation relied on for conviction must be set out with sufficient particularity to apprise the defendant of the case he must meet, both the representation and its falsity must be pleaded in due form."

In the Murphy case, it was held that the allegation of falsity must be certain and specific and that an indictment wherein it is negatively pregnant must be quashed.

According to the *per curiam* of the Supreme Court, it lapsed into the error of deeming that the employment of the formula, "falsely and fraudulently, knowingly and designedly, pretend," served the purpose of an express negation. Such a formula and that of "by color and means of which said pretense the defendant obtained the

money, etc.'' are nugatory in the absence of indispensable allegations.

19 Cyc, 430 and cases cited.
Byard vs. *Holmes,* 34 N. J. L. 296.

By the indictment, the defendant's express opinion of the legitimacy of the indictment is made the gist of the offense. A mere opinion, an expressed conception of law, or the supposition that certain facts exist, does not constitute a false pretense.

State vs. *Tomlin,* 29 N. J. L. 13;
State vs. *Thatcher,* 35 N. J. L. 445;
State vs. *Cass,* 52 N. J. L. 77.

The indictment did not exhibit a pretense which, under the circumstances stated, had an apparent tendency to defraud, and such an indictment should be quashed.

Roper vs. *State,* 58 N. J. L. 420;
State vs. *Vanderbilt,* 27 N. J. L. 328.

An indictment cannot be aided by any assumptions of the complainant's ignorance of the law, and the defendant's conversance therewith, so as to dispense with the necessary allegations that the complainant was imposed upon and that the defendant's representation was conceived in fraud.

State vs. *Solomon,* 97 N. J. L. 252.

Where the falsity of a pretense can be shown only by proof of a specific fact, that fact ought to be set forth in order to comply with the constitutional requirement that the defendant shall be informed of the nature and cause of the allegations against him.

State vs. *Luxton,* 65 N. J. L. 605.

II.

The motion in arrest of judgment should have been granted.

Supplementing the objection that the indictment failed to negative the pretense and to charge a crime, it was brought to the court's attention on the motion in arrest of judgment, that it also misdescribed the statutory department in charge of motor vehicle registration, and the identity of those who are entitled to act in respect of licenses, examinations, etc.

In the inducement, and in the negation of the inducement, it was alleged that the defendant was not an authorized agent of, nor authorized to collect money for, the *Department of Motor Vehicles of New Jersey.* The statutory title is *Department of Motor Vehicle Registration and Regulation.*

Cum. Sup. Comp. Stat. Motor Vehicles, 135-54, p. 1982.

The indictment likewise assumed that an *agent of the Department of Motor Vehicles* is authorized to issue registration certificates and drivers' licenses, whereas, under the statute, such power is conferred upon one *designated by the Commissioner of Motor Vehicles to be the agent of such Commissioner.*

The designation of the public department in the inducement and the supposed negation thereof were essential and, when undertaken to be made, should have been expressed accurately.

Linden Park Horse Ass'n vs. *State,* 55 N. J. L. 557.

It was not a matter "unnecessary to be proved," and therefore negligible under Section 33 Crim. Proc. Act 2 Comp. Stat. 1831.

On the contrary, according to the announcement of the Prosecutor, at the outset of the trial, (p. 15, l. 31), it was the gravamen of the offense and should have appeared in the indictment to bar subsequent proceedings.

> *State* vs. *Spear*, 63 N. J. L. 179;
> *Braeutigam* vs. *State*, 63 N. J. L. 38;
> *State* vs. *De Lorenzo*, 80 N. J. L. 500;
> *State* vs. *Cooney*, 72 N. J. L. 76.

Motion to arrest is proper when indictment does not contain allegations of all the essential elements of the crime, and the objection goes to the substance of the charge.

> *Meade* vs. *State*, 53 N. J. L. 601.

III.

The evidence failed to establish guilt under either

(a) the offense which the indictment hinted, or

(b) the injected charge of false personation; and the conviction was therefore against the weight of evidence.

The complainant's narration of his dealings with the defendant was as follows:

> "I don't recall what Bromley said as to his connection with the Motor Vehicle Department; my memory is vague, it is quite a long time ago; I think he knew, or said he knew,

> somebody there to whom he could apply to issue the license immediately" (p. 29, l. 30). "He told me he knew somebody, but conveyed to my mind that he was connected with the department; I don't recall what he said.
>
> I don't think and don't recall that he said 'I am an officer of the Motor Vehicle Department' " (p. 30, l. 1).
>
> "He did not say he could issue a license. As to collecting money for the State of New Jersey, for the Motor Vehicle Department, he conveyed to me in some way, that he had to have money, that it was not altogether his, he was to halve it with somebody else" (p. 30, l. 15). "I may have been confused in my answers, but when I obtained my license I don't think he told me anything like that; I just took everything for granted" (p. 30, l. 20).
>
> "I don't recall all the detailed conversation at that time as to his connection with the Motor Vehicle Office, I recall that Echroff introduced me to him or introduced him to me as Mr. Bromley, or as Bill Bromley, that is my best recollection, he could obtain a license because of some connection he had with the Motor Vehicle Department. That was the first time I met him, when I was applying to Bromley to get my license" (p. 31, ll. 30-40).

From the above it will be perceived that the defendant made no representation whatever as to the legitimacy of the license, or that he was an authorized agent of any public department. The testimony would be observed to be concerning legitimacy of the following:

> "I was always of the impression that the 1924 license was a legitimate license. I did not know anything to the contrary, I had been assured that the license was all right that I had gotten for myself." This attributes no false pretense to the defendant.

The testimony as to false personation was:

> "I don't recall what Bromley said as to his connection with the Motor Vehicle Department; my memory is vague, it is quite a long time ago; I think he knew or said he knew somebody there to whom he could apply to issue the license immediately. He told me he knew somebody, but conveyed to my mind that he was connected with the department; I don't recall what he said." This attributes to the defendant no pretense of being a duly authorized agent of the Department of Motor Vehicles.

The complainant's suggestion that his gullibility was such that Bromley's silence on the subject conveyed to his mind that he was connected with the department, may be well taken *cum grano salis.* It was himself who put the entire matter in motion and sought out the facility for circumventing the statute. His testimony is:

> "I was refused an examination pending a period of ten days. This was unsatisfactory to me so I went to Echroff and asked if he could help me to get a license. He said he could not but knew a man who could" (p. 19, l. 25).

From this testimony it appears that the complainant had formed "impressions" before his meeting with the defendant, and that it is wholly unwarrantable to attribute to the conduct or statements of the defendants the complainant's impression that the license was legitimate, and, likewise, the impression that Bromley was connected with the department through his statement that he knew somebody there who would issue the license immediately.

It is a valid defense to an indictment for false pretenses that entrapment was practiced on the

defendant which involved a knowledge on the part of the complainant that the pretense was false.

Cunningham vs. *State,* 61 N. J. L. 67.

Even the representation of obtaining immunity when made in the extortion of money from a wrongdoer, must be sufficient to deceive an ordinarily prudent man.

State vs. *Worman,* 88 N. J. L. 463.

IV.

By the charge of the court the case was submitted to the jury on the baseless theory that there was evidence of false personation, and that such evidence was ample to sustain a conviction for falsely pretending the legitimacy of the license.

The following comprehends all that was said by the court concerning the evidence sufficient to convict:

> "Now, Higdon said Bromley made some statement to him about his connection with the Department of Motor Vehicles, and Bromley said he could get this license. Bromley as the Court recalls his testimony, says he assured Higdon that the license he would get him would be a good and legal license. Now, *gentlemen, there is the issue in this case.* Did Bromley tell this man that he was connected with the Department of Motor Vehicles in some way, and that because of that connection he could get Higdon his license without the usual formality of an examination? If he did, gentlemen of the jury, the Court instructs you *if you decide that ques-*

tion in the affirmative, the defendant Bromley would be guilty, and that should be your verdict."

The court was unwarranted in the statement that Higdon had testified that Bromley represented a connection with the Department of Motor Vehicles. Reference is made to the former reproduction of Higdon's testimony on this point. The court erred in its recollection that Bromley had assured Higdon that the license would be a good and legitimate license. The defendant's testimony was:

> "I says 'they are good licenses, as far as I know, I think they are good,' he asked me to get him one and I got him one" (p. 44, ll. 15-20).

Having referred to these two elements of personation and legitimacy, the court informed the jury "there is the issue in this case," and thereupon instructed the jury that if Bromley had told complainant that he was connected with the Department of Motor Vehicles, and that through that circumstance he could get complainant a license without the usual formality of the examination, he was guilty under the indictment. By this treatment of the case, the jury was instructed that defendant was on trial for the offense charged in the indictment as well as for an offense outside of it, and that proof sustaining the latter would support a conviction of the former.

Allegata and *probata* must correspond.

State vs. *Riley,* 65 N. J. L. 624;
Harris vs. *State,* 58 N. J. L. 436.

It was error for the court to assume that Higdon testified that Bromley made a statement to

him about his connection with the Department of Motor Vehicles, and to base upon such false assumption, an authorization of a conviction of the offense charged in the indictment. These assumptions are not cured by a general charge that the jury is the judge of the facts.

Smith vs. *State,* 41 N. J. L. 598;
Kohl vs. *State,* 59 N. J. L. 445.

V.

It was prejudicial error to omit to instruct the jury as to the five statutory essentials of the crime.

According to the statute, the offense of obtaining money under false pretenses consists of (a) the making of a pretense, (b) knowledge of the falsity of the representation, (c) obtaining money, (d) obtaining it by color of the pretense, (e) intent to defraud.

Nowhere in the charge did the court define the crime or state the statutory essentials. That such omissions were fatal is now beyond question in this State.

Sharp vs. *State,* 53 N. J. L. 511;
State vs. *Riley,* 65 N. J. L. 192.

On an indictment for embezzlement by a public officer, under a statute making intent to defraud an element, the indictment was quashed for failure to allege such intent.

State vs. *Lyon,* 45 N. J. L. 272.

Where a particular intent is essential to the criminality of an act, such intent must be alleged and proved according to the terms of the statute.

State vs. *Malloy,* 34 N. J. L. 410.

In the *Sharp* case, *supra,* a conviction of false pretense was set aside because the charge ignored the essentials of intent to defraud and knowledge of the falsity of the representation.

As heretofore pointed out, the jury was directed to convict if it decided in the affirmative the single question whether Bromley told complainant that he was connected with the Department of Motor Vehicles in some way, and that because of that connection he could get Higdon his license without an examination. Accordingly, the jury was authorized to discard every element of the crime, save that of the pretense. The elements thus ignored were the intent to defraud, the obtaining of the money, so doing by color of the pretense, and the defendant's knowledge of the falsity of the representation. The error was aggravated by the total lack of evidence that the defendant had at all represented himself as being connected with the department.

In the syllabus to *Bindernagle* vs. *State,* 60 N. J. L. 307, it is laid down as a primary duty of the trial court to define the elements of fact necessary to constitute a crime. An instruction which purports to set out all the essential elements constituting the offense will be held to be prejudicially erroneous unless it adequately does so, or such elements are set out in other instructions.

McIntosh vs. *State* (Neb.), 12 A. L. R. 798.

Sustaining the same principle are

State vs. *Fitzgerald,* 50 N. J. L. 475;
Burnett vs. *State,* 60 N. J. L. 255;
14 R. C. L. 782;
Spears vs. *People,* 220 Ill. 72, 4 L. R. A. (N. S.) 402;
Smith vs. *Clark,* 37 Utah 116, 26 L. R. A. (N. S.) 953.

The judgment of the Supreme Court and the conviction and judgment of the Hudson Quarter Sessions should be reversed.

Richard Doherty,
Attorney of and of Counsel
with Plaintiff-in-Error.

Pandick Press, Inc., 22 Thames St., New York, U. S. A.

New Jersey Court of Errors and Appeals

THE STATE OF NEW JERSEY, *Defendant-in-Error,* *vs.* WILLIAM BROMLEY, *Plaintiff-in-Error.*	IN ERROR.

BRIEF FOR DEFENDANT-IN-ERROR.

Facts.

William Bromley, a police officer of the Town of Kearny, procured what he represented to be a license to drive an automobile in the State of New Jersey for one George W. Higdon and collected from him the sum of Ten Dollars as the license fee for said license. At the time of the meeting Bromley represented to Higdon that he was connected with the Department of Motor Vehicles of the State of New Jersey and could procure for him a license without any delay, and asked him to meet him the next day when he would deliver him a license. This paper which was handed to Higdon by Bromley was not a license issued by the Department of Motor Vehicles, gave Higdon no authority to drive an automobile through the highways of the State of New Jersey and was spurious, the Department of Motor Vehicles through its representative testifying that the license was never issued by the Department or by anybody representing it and that the license was stolen from the printer in the course of the printing. One of the representations made by Bromley at the time of procuring the Ten dollars was that

he could obtain a legal license for Higdon without Higdon taking a proper examination and test as required by the Department of Motor Vehicles of the State of New Jersey.

POINT I.

The Court did not err in refusing to quash the indictment.

The indictment in effect charged the obtaining of money by false pretense and there was no failure to negative the pretense stated in the indictment, and it further stated a pretense which in the circumstances alleged had a tendency to induce the person defrauded to part with his money.

POINT II.

The Court did not err in refusing to grant the motion in arrest of judgment.

This motion was based on the same reasons urged for the quashing of the indictment. This point has no substance and should be dismissed for the same reasons.

POINT III.

The indictment charged a criminal offense.

The offense laid in the indictment, to wit: that of obtaining money by false pretense, was amply proved in this case. The complaining witness was certainly cheated and robbed of his Ten dollars by the representation of the defendant that

he could procure a legal and lawful license for him. He had a right to rely on his statement that he was connected with the Motor Vehicle Department; he was furthermore a Sergeant of Police in the Town of Kearny, a public official. The connection the defendant claimed with the Motor Vehicle Department was certainly one of the inducing causes to part the complaining witness from his money. The representation was that because of his connection with the State Department he could procure a legal license to drive a car without the necessity of an examination or test. The argument in the defendant's brief on this point is certainly captious when he tries to argue that the representation made by Bromley did not intimate that his connection was an official connection or other than a capability to influence somebody in authority to issue a license in violation of the departmental requirements. The facts proven were that Bromley did not go to anybody in authority to obtain the license, and in his own testimony stated that he procured the license from some person to him not known to have a connection with said department. There is no substance in this point.

POINT IV.

The Court did not err in permitting the testimony of a communication made by third party to the complainant.

There is nothing in this record indicating any error prejudicial to the defendant in permitting testimony of a communication made by a third party to the complainant. Assuming the questions asked by the Court and objected to by this defendant were improper, the motion made by the

defendant to strike out the testimony came too late. He waited until two questions were asked and answered before he made any objection. He was evidently speculating on the answers and when he found the answers were not to his advantage he moved to strike out not the first question asked by the Court but the second question. We submit that this objection came too late to be of any avail to this defendant.

POINT V.

The verdict is not against the weight of the evidence.

The testimony of the defendant Bromley, himself, that he procured a license or what he claimed was a license from Rinaldi with whom he was doing business for some time whose street number he did not know, whose telephone number he did not know, whose business he did not know and did not know if he was connected with the Department of Motor Vehicles or not and was procuring licenses for other persons at various sums ranging from $25.00 down to $10.00, and who had been engaged in this business for the years 1922-1923 and 1924 and was a trained policeman, trained to obtain and record facts as he testified was certainly sufficient evidence of itself alone to sustain the verdict.

The judgment should be affirmed.

Respectfully submitted,

JOHN MILTON,
Prosecutor of the Pleas.

Pandick Press, Inc., 22 Thames St., New York, U. S. A.

(1088)