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Writ of Certiorari.

New Jersey, to Wit: The State of New Jersey to Benjamin F. Turner, Director of the Department of Public Safety, City of Passaic, N. J.

(Seal)

Greeting:

We, being willing for certain reasons to be certified of a certain proceeding of Benjamin F. Turner, Director of the Department of Public Safety, City of Passaic, N. J., had on or about the twenty-ninth day of November, 1927, the twenty-first day of December, 1927, and the tenth day of January, 1928, in the matter of the trial of Richard O. Zober, on certain charges, and the dismissal of the said Richard O. Zober from the office of Chief of Police of the City of Passaic.

We do command you that the aforesaid proceedings, and all other matters and things touching and concerning the same, fully and entirely as before you they remain, be certified and sent to our Justices of the Supreme Court of Judicature, at Trenton, on the eighth day of February, instant, together with this Writ, that therein may be done what of right and according to the laws of the State should be done.

Witness, WILLIAM S. GUMMERE, Chief Justice of our New Jersey Supreme Court, at Trenton, this twenty-first day of January, A. D. 1928.

EDWARD J. KELLEHER,
Clerk.

FILBERT L. ROSENSTEIN,
FREDERICK S. RANZENHOFER,
WARD & MCGINNIS,
Attorneys.

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NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER, Prosecutor, vs BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., Respondent.	On Certiorari. Return to the Writ.

I, Benjamin F. Turner, Director of the Department of Public Safety, of the City of Passaic, N. J., do herewith send to the Supreme Court of the State of New Jersey, the judgment, various sets of charges and specifications, order, testimony, and all the proceedings had before me in the trial of Lambert DeGroot, Acting Chief of Police of the City of Passaic vs. Richard O. Zober, wherein I have determined the charges against Richard O. Zober, together with all the papers and things touching and concerning the same, as by the writ of certiorari sealed the 21st day of January, 1928, before the Hon. William S. Gummere, Chief Justice of the New Jersey Supreme Court, I am commanded to do.

I certify that I am the Director of the Department of Public Safety of the City of Passaic, N. J., and that the following are true copies of all proceedings, judgment, orders, testimony, etc. of the said trial, and that together they constitute the entire record of the proceedings in the above entitled cause.

Signed this 4th day of February, 1928, and sealed with the seal of the City of Passaic.

BENJ. F. TURNER,
Director of the Department of Public
Safety of the City of Passaic, N. J.

Passaic, N. J.,
November 16th, 1927.

To: RICHARD O. ZOBER:

Charges and specifications having been filed against you, I do direct you to appear and plead and be prepared for trial before me, the Director of Public Safety of the City of Passaic, at Police Headquarters Building, Passaic Street, corner of William Street, Passaic, N. J., on Tuesday, the 29th day of November, 1927, at 10:30 o'clock, A. M., which time and place I fix as the time and place for the trial upon said charges and specifications, and there is served upon you a copy of such charges and specifications.

BENJ. F. TURNER,
Director of Public Safety.

Passaic, N. J.,
November 16th, 1927.

To: The Director of Public Safety, City of Passaic, N. J.:

I, LAMBERT DE GROOT, acting Chief of Police of the City of Passaic, N. J., hereby make the following charges against Richard O. Zober, a member of the Police Department of the City of Passaic, and specify the matters and things hereinafter set forth with respect to said charges:

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CHARGE ONE.

1. Said Richard O. Zober did, between the 1st day of March, 1926 and the 26th day of October, 1927, violate a criminal law of the State of New Jersey, which is the 14th reason for which charges may be preferred against members of the Police Department of the City of Passaic, in pursuance with the Manual of the said Police Department, adopted by the Board of Commissioners, January 5, 1926.

SPECIFICATIONS UNDER CHARGE ONE.

1. Said Richard O. Zober did, between the 1st day of March, 1926 and the 26th day of October, 1927, engage in the business of buying and selling stolen automobiles, while a member of the Police Department of the said City of Passaic, N. J.

2. Said Richard O. Zober did, on or about the 27th day of March, 1926, purchase a stolen Cadillac car, which said stolen car was the property of one Leah Jacob, now married, and whose name now is Mrs. Kaufman, and that the said Richard O. Zober had the said stolen car in his possession, knowing the same to have been stolen, until on or about the 12th day of May, 1926, when he sold the said Cadillac car to John J. Labash.

3. That when the said car referred to in the above specifications, was purchased by the said Richard O. Zober, after it had been stolen from the said Mrs. Kaufman, the original motor number which was 63 J 2549 and original serial number which was 63 J 2549, had been changed, mutilated and defaced to read Motor number 63 J 2648 and serial number 63 J 2648. That the said Richard

O. Zober failed, after he had purchased the said stolen car upon which the original motor and serial numbers were partly removed, changed, defaced and mutilated, as hereinbefore set forth, and after the said stolen car was in his possession for more than ten days, to file in accordance with law, with the Commissioner of Motor Vehicles of New Jersey, a verified statement showing the source of his title, the proper motor and serial number, or distinguishing number, and if known, the manner and reason for such alterations or removal of said original numbers, the length of time such vehicle had been held, and the price the said Richard O. Zober paid therefor.

4. Said Richard O. Zober, whilst a member of the Passaic Police Department did, on or about the 23d day of June, 1926, purchase a stolen automobile, knowing the same to have been stolen, which stolen car was the property of one E. W. Rider, No. 65 Essex Road, Summit, N. J., the said car having been stolen on June 10th, 1926; that the said Richard O. Zober kept the said car in his possession from the 23d day of June, 1926 until he sold the same to Mathias Winters, on or about June 28th, 1926. That the original serial number on the said Rider car was No. 1505625, and Motor No. 1577686. That the original serial and motor numbers had been mutilated, destroyed, defaced and changed to read Serial No. 1431862 and Motor No. 1442628.

5. Said Richard O. Zober failed to file a verified statement with the Commissioner of Motor Vehicles, in accordance with Section 2 of the Laws of 1919, after he had purchased the said automobile mentioned in the last specification.

Return to Writ.

6. Said Richard O. Zober did, on or about the 16th day of July, 1926, purchase a stolen Buick automobile, the property of one Edith Chambers, now married, whose married name is Edith Bishop, knowing the said car was stolen. That the said Richard O. Zober, whilst a member of the Police Department of the City of Passaic, retained possession of said stolen car, until on or about October 25th, 1927, when the said Buick car was seized by a special auto inspector of the Motor Vehicle Department of New Jersey.

7. That when the said stolen car, mentioned in the last specification, was purchased by the said Richard O. Zober, the original motor and serial numbers were removed therefrom, and in their places fictitious numbers were substituted, to wit:

Original motor number 1578422. Fictitious Serial No. 1598769.

Original Serial Number 1548955. Fictitious Motor No. 1656585.

That the said Richard O. Zober, after the car had remained in his possession for more than ten days after he purchased the same, failed to file with the Commissioner of Motor Vehicles, a verified statement showing the proper motor number and serial number, the source of his title, and if known, the manner and reason for such alterations or removal of such original numbers, the length of time the said car was in his possession, and the price which the said Richard O. Zober paid therefor.

8. Said Richard O. Zober did, on or about the 10th day of July, 1926, purchase a stolen automobile, knowing the said car to have been stolen; that the said car was the property of one Kenneth R.

Perkins, and was stolen on July 9th, 1926. After the purchase of said car, said Richard O. Zober retained the stolen car in his possession until on or about the 14th day of October, 1926, when he sold the same to one Carrol D. Hipp.

9. That whilst the said stolen car was in the possession of the said Richard O. Zober between July 10th and October 14th, 1926, and for more than ten days after the car was in his possession, and upon which the original serial number and motor number had been defaced, destroyed, mutilated and changed, the said Richard O. Zober failed to file a verified statement with the Commissioner of Motor Vehicles showing the proper motor number and serial number, which were 1557417 and 1500738, respectively, the source of his title, and if known, the manner and reason for such alterations or removal of such original numbers, the fictitious serial number being 152055 and motor number being 1548247, the length of time the said car was in his possession, and the price which the said Richard O. Zober paid therefor.

The conduct of the said Richard O. Zober in the particulars aforesaid was in violation of the Criminal Laws of the State of New Jersey, and especially Chapter 114 of the Laws of 1919, Chapter 168 of the Laws of 1919, the Crimes Act of 1898, and the supplements and amendments thereto.

CHARGE TWO.

1. Said Richard O. Zober is incompetent within the meaning of the 10th reason for which, under the Manual of the Police Department of the City

of Passaic, N. J., charges may be preferred against him, and said incompetency was shown by his conduct between the 1st day of March, 1926, and the 26th day of October, 1927, as hereinafter specified.

SPECIFICATIONS UNDER CHARGE TWO.

1. There is here repeated Specification 3, under the First Charge. The said Richard O. Zober was incompetent in that he did not discover that said car was stolen, if in fact he did not know it, and was further incompetent in that he did not discover that the numbers had been changed, and was further incompetent in that he did not institute a proper investigation.

2. Said Richard O. Zober was incompetent in that he did not discover, if in fact he did not know, that the stolen car referred to in Specification 4, under the First Charge, was stolen, and in that he did not discover that the numbers had been changed and in that he did not make an investigation.

3. Said Richard O. Zober was incompetent in that he did not discover, if in fact he did not know, that the car referred to in Specification 6, under the First Charge was stolen, and in that he did not discover that the numbers had been changed and in that he did not make an investigation.

4. Said Richard O. Zober was incompetent in that he did not discover, if in fact he did not know, that the automobile referred to in the 8th Specification under the First Charge was stolen, and in that he did not discover that fictitious numbers had been placed upon said car, and in that he did not make a proper investigation.

CHARGE THREE.

1. Said Richard O. Zober was guilty of neglect of duty between the 1st day of March, 1926 and the 26th day of October, 1927, within the meaning of the 13th reason for which charges may be preferred against a member of the Police Department of the City of Passaic, under the Manual of the Police Department as hereinafter specified.

SPECIFICATIONS UNDER CHARGE THREE.

1. Between the times mentioned in the charge, said Richard O. Zober received in his possession four stolen automobiles which he purchased, being the four automobiles mentioned in the specificationes under the First Charge, the motor numbers of which said automobiles were changed or mutilated, destroyed or defaced, as set forth in the said specifications under the First Charge, and said Richard O. Zober retained said stolen automobiles in his possession for the length of time referred to in the specifications under the First Charge, and said Richard O. Zober neglected to make proper investigations to determine how and why it was that said numbers had been changed, and neglected to make proper inquiries of the persons from whom he purchased said stolen cars, and if the said Richard O. Zober did not discover that said numbers had been changed, mutilated or defaced, he neglected to make proper investigations of the automobiles which he purchased, which investigation was called for by the circumstances under which he purchased the same, and so neglected to start investigations which would have disclosed the fact that said automobiles had been stolen, and would have led to the recovery of said automobiles by the

persons to whom they belonged, and so in the manner aforesaid neglected his duties within the meaning of the 13th reason as aforesaid.

CHARGE FOUR.

Said Richard O. Zober was guilty of conduct between the 1st day of March, 1926 and the 26th day of October, 1927, subversive to good order and the discipline of the force.

SPECIFICATIONS UNDER CHARGE FOUR.

1. Between the 1st day of March, 1926 and the 26th day of October, 1927, said Richard O. Zober, whilst Chief of Police of the City of Passaic, did purchase the stolen cars referred to in the specifications under the First Charge, which said stolen cars were purchased by the said Richard O. Zober for the purpose of re-sale, and did thereupon hold in his possession said stolen cars for a considerable period of time, as stated in the specifications under the First Charge, although said stolen cars had mutilated or changed numbers, and did thereupon dispose of some of said stolen cars to members of the police force, i. e., the car mentioned in the 4th specification under the First Charge was sold to Matthew Winter, a patrolman in the Passaic Police force; that the conduct of the said Richard O. Zober as aforesaid, in conducting such business as aforesaid, whilst Chief of Police of the City of Passaic was subversive to good order and the discipline of the force.

2. Said Richard O. Zober, when called upon by a superior officer to make a statement with respect to the possession by him of the stolen cars, referr-

ed to in the specifications under Charge One, knowingly, falsely, in writing, represented to his superior officer that the car referred to in Specification 8 under Charge One had been sold by him to one William McGill, a member of the Police Department of the City of Passaic.

3. When called upon by his superior officer to account for his possession of the said stolen cars referred to in the specifications under the First Charge, said Richard O. Zober knowingly and falsely represented to such superior officer, in writing, that he had purchased said cars from one Bob Vordimiere, of Bogota, N. J.

CHARGE FIVE.

Said Richard O. Zober was guilty of conduct to the prejudice of good order and the discipline of the department, and such conduct as to bring discredit upon the charges, may be preferred against a member of the police department under the Manual of the Police Department of the City of Passaic.

SPECIFICATIONS UNDER CHARGE FIVE.

1. The conduct of the said Richard O. Zober, as set forth in the specification under the Fourth Charge, and his retaining said cars in his possession with mutilated and changed numbers, and disposing of said cars by sale, still with said mutilated and changed numbers, and the carrying on of the business of buying and selling stolen cars as hereinbefore set forth, was conduct of such a nature as to bring discredit upon the Department.

2. Said Richard O. Zober, when called upon by

a superior officer to make a statement with respect to the possession by him of the stolen cars, referred to in the specifications under Charge One, knowingly, falsely, in writing, represented to his superior officer that the car referred to in Specification 8 under Charge One had been sold by him to one William McGill, a member of the Police Department of the City of Passaic.

3. When called upon by his superior officer to account for his possession of the said stolen cars referred to in the specifications under the First Charge, said Richard O. Zober, knowingly and falsely represented to such superior officer, in writing, that he had purchased said cars from one Bob Vordimiere, of Bogota, N. J.

State of New Jersey, }
County of Passaic, } ss.:

Lambert DeGroot, of full age being duly sworn according to law on his oath deposes and says:

I am the person making the charges and specifications of charges against Richard O. Zober, who was Chief of Police of the City of Passaic. The matters and things set forth in said charges and specifications are true, to the best of my knowledge, information and belief.

LAMBERT DE GROOT.

Sworn and subscribed to before me }
this 16th day of November, 1927. }
Margaret G. Ginsburg,
Notary Public of New Jersey.
(Notarial Seal).

Return to Writ.

State of New Jersey, }
County of Passaic, } ss.:

Charles J. Monks, being duly sworn, according to law, upon his oath, deposes and says:

That on November 17th, 1927, at 9:40 P. M., he served a true copy of the annexed charges upon Richard O. Zober, which he delivered personally to him, at his home, in the presence of Officer Boyko.

CHARLES J. MONKS.

Sworn and subscribed to before me }
this 17th day of November, 1927. }
Margaret G. Ginsburg,
Notary Public of New Jersey.

Passaic, N. J.,
December 8th, 1927.

To: Richard O. Zober:

Charges and specifications having been filed against you, I do direct that you appear and plead and be prepared for trial before me, the Director of Public Safety of the City of Passaic, at Police Headquarters Building, Passaic Street, corner of William Street, Passaic, New Jersey, on Monday, the 19th day of December, 1927, at 10:30 o'clock in the forenoon, which time and place I fix as the time and place for the trial upon said charges and specifications, and there is served upon you a copy of such charges and specifications.

BENJ. F. TURNER,
Director of Public Safety.

Return to Writ.

Passaic, New Jersey,
December 8th, 1927.

To: The Director of Public Safety,
City of Passaic, New Jersey.

I, Lambert DeGroot, Acting Chief of Police of the City of Passaic, New Jersey, hereby make the following charges against Richard O. Zober, a member of the Police Department of the City of Passaic, and specify the matters and things hereinafter set forth with respect to said charges:

CHARGE ONE.

1. Said Richard O. Zober did, between the 1st of March, 1926 and the 31st of December, 1926, violate a criminal law of the State of New Jersey in that he did suborn, or engage in a conspiracy to suborn, the crime of perjury.

SPECIFICATIONS UNDER CHARGE ONE.

1. Said Richard O. Zober did, between the dates stated in the charge, authorize and request some person or persons unknown to obtain for him a registration for the year 1926 of a Cadillac car bearing the number 63 J 2648, said registration to be in the name of the said Richard O. Zober, without an application and affidavit signed by the said Richard O. Zober as required by law, knowing full well that the said person or persons aforesaid would cause some person other than the said Richard O. Zober to sign the name of the said Richard O. Zober to said application and affidavit and falsely swear before an officer authorized to administer oaths that he, the said person, was the said Richard O. Zober; that, in pursuance of such request

an application for the registration of the car aforesaid in the name of the said Richard O. Zober was made to the Department of Motor Vehicles of the State of New Jersey and said application was signed and the affidavit thereto signed and sworn to before an officer authorized to administer oaths by some person other than the said Richard O. Zober, and who, in his affidavit, knowingly and falsely swore that he was the said Richard O. Zober; that in accordance with said application as aforesaid, the Department of Motor Vehicles of the State of New Jersey did issue to the said Richard O. Zober a registration for said car in the name of the said Richard O. Zober, said registration being numbered P30852 and did deliver plates for such registration; that said Richard O. Zober received such registration and such plates well knowing the manner in which they had been obtained and did operate said car thereafter under said registration and said plates.

2. Said Richard O. Zober did, between the dates stated in the charge, authorize and request some person or persons unknown to obtain for him a registration for the year 1926 of a Buick coupe bearing the number 1596769, said registration to be in the name of the said Richard O. Zober, without an application and affidavit signed by said Richard O. Zober as required by law, knowingly full well that the said person or persons aforesaid would cause some person other than the said Richard O. Zober to sign the name of the said Richard O. Zober to said application and affidavit and falsely swear before an officer authorized to administer oaths that he, the said person was the said Richard O. Zober; that in pursuance of such request an application

for the registration of the car aforesaid in the name of the said Richard O. Zober was made to the Department of Motor Vehicles of the State of New Jersey and said application was signed and the affidavit thereto signed and sworn to before an officer authorized to administer oaths by some person other than the said Richard O. Zober, and who, in his affidavit, knowingly and falsely swore that he was the said Richard O. Zober; that, in accordance with said application as aforesaid, the Department of Motor Vehicles of the State of New Jersey did issue to the said Richard O. Zober a registration for said car in the name of the said Richard O. Zober, said registration being numbered P30941, and did deliver plates for such registration; that said Richard O. Zober received such registration and such plates well knowing the manner in which they had been obtained and did operate said car thereafter under said registration and said plates.

3. Said Richard O. Zober did, between the dates stated in the charge, authorize and request some person or persons unknown to obtain for him a registration for the year 1926 of a Buick Coach bearing the number 1431862, said registration to be in the name of the said Richard O. Zober, without an application and affidavit signed by the said Richard O. Zober as required by law, knowing full well that the said person or persons aforesaid would cause some person other than the said Richard O. Zober to sign the name of the said Richard O. Zober to said application and affidavit and falsely swear before an officer authorized to administer oaths that he, the said person was the said Richard O. Zober; that in pursuance of such request an application for the registration of the car aforesaid

in the name of the said Richard O. Zober was made to the Department of Motor Vehicles of the State of New Jersey and said application was signed and the affidavit thereto signed and sworn to before an officer authorized to administer oaths by some person other than the said Richard O. Zober, and who, in his affidavit, knowingly and falsely swore that he was the said Richard O. Zober; that, in accordance with said application as aforesaid, the Department of Motor Vehicles of the State of New Jersey did issue to the said Richard O. Zober a registration for said car in the name of the said Richard O. Zober, said registration being numbered P30576 and did deliver plates for such registration; that said Richard O. Zober received such registration and such plates well knowing the manner in which they had been obtained and did operate said car thereafter under said registration and said plates.

CHARGE TWO.

1. Said Richard Zober did, between the 1st of March, 1926, and the 31st of December, 1926, knowingly violate the law of the State of New Jersey known as "Motor Vehicle Act" requiring registration of motor vehicles.

SPECIFICATIONS UNDER CHARGE TWO.

1. Said Richard O. Zober did, between the dates aforesaid, receive a registration from the Motor Vehicle Department of the State of New Jersey of a Cadillac Car in his name for the year 1926, which said registration bore the number P30852 and did receive plates issued by the said Motor

Vehicle Department of the State of New Jersey upon such registration and did thereafter operate said car with such registration and such plates knowing that said registration had been obtained from the Motor Vehicle Department of the State of New Jersey upon an application and affidavit, neither the said application nor said affidavit being signed or sworn to by the said Richard O. Zober as required by the said statute.

2. Said Richard O. Zober did, between the dates aforesaid, secure and receive a registration from the Motor Vehicle Department of the State of New Jersey of a Cadillac Car in his name for the year 1926, and which said registration bore the number P30852 and did receive plates issued by the said Motor Vehicle Department of the State of New Jersey upon said registration and did thereafter operate said car with such registration and such plates knowing that said registration was to be and had been obtained from the Motor Vehicle Department of the State of New Jersey upon an application and affidavit, neither the said application nor said affidavit being signed or sworn to by the said Richard O. Zober as required by the said statute.

3. Said Richard O. Zober did, between the dates aforesaid, receive a registration from the Motor Vehicle Department of the State of New Jersey of a Buick Coupe in his name for the year 1926, which said registration bore the number P30941 and did receive plates issued by the said Motor Vehicle Department of the State of New Jersey upon such registration and did thereafter operate said car with such registration and such plates knowing

that said registration had been obtained from the Motor Vehicle Department of the State of New Jersey upon an application and affidavit, neither the said application nor said affidavit being signed or sworn to by the said Richard O. Zober as required by the said statute.

4. Said Richard O. Zober did, between the dates aforesaid secure and receive a registration from the Motor Vehicle Department of the State of New Jersey of a Buick Coupe in his name for the year 1926, which said registration bore the number P30941 and did receive plates issued by the said Motor Vehicle Department of the State of New Jersey upon said registration and did thereafter operate said car with such registration and such plates knowing that said registration was to be and had been obtained from the Motor Vehicle Department of the State of New Jersey upon an application and affidavit, neither the said application nor said affidavit being signed or sworn to by the said Richard O. Zober as required by the said statute.

5. Said Richard O. Zober did, between the dates aforesaid, receive a registration from the Motor Vehicle Department of the State of New Jersey of a Buick Coach in his name for the year 1926, which said registration bore the number P30576 and did receive plates issued by the said Motor Vehicle Department of the State of New Jersey upon such registration and did thereafter operate said car with such registration and such plates knowing that said registration had been obtained from the Motor Vehicle Department of the State of New Jersey upon an application and affidavit, neither

the said application nor said affidavit being signed or sworn to by the said Richard O. Zober as required by the said statute.

6. Said Richard O. Zober did, between the dates aforesaid, secure and receive a registration from the Motor Vehicle Department of the State of New Jersey of a Buick Coach in his name for the year 1926, which said registration bore the number P30576 and did receive plates issued by the said Motor Vehicle Department of the State of New Jersey upon such registration and did thereafter operate said car with such registration and such plates knowing that said registration was to be and had been obtained from the Motor Vehicle Department of the State of New Jersey upon an application and affidavit, neither the said application nor said affidavit being signed or sworn to by the said Richard O. Zober as required by the said statute.

7. Between the dates aforesaid, the said Richard O. Zober knowingly permitted an application to be made to the Motor Vehicle Department of the State of New Jersey for the registration of a Cadillac Car in his name for the year 1926, to which application there was not annexed an affidavit sworn to by him before any one authorized to take acknowledgments as required by the statute in such case made and provided, and did receive the registration granted by the said Motor Vehicle Department of the State of New Jersey for said car in his name under the number P30852, and did receive the plates issued in connection therewith, and did thereafter operate said car under such registration and with said plates knowing that said reg-

istration had not been obtained upon an application sworn to by him before any one authorized to take acknowledgments.

CHARGE THREE.

1. Said Richard O. Zober is incompetent and incapable within the meaning of the 10th reason for which, under the Manual of the Police Department of the City of Passaic, New Jersey, charges made be preferred against him, and said incompetency and incapacity is shown by his conduct between the 1st of March, 1926 and the 31st day of December, 1926, as hereinafter specified, and by his conduct and statements upon the 2nd of December, 1927, as hereinafter specified.

SPECIFICATIONS UNDER CHARGE THREE.

1. Said Richard O. Zober did, between the dates aforesaid, accept and receive a registration of a Cadillac Car in his name issued by the Motor Vehicle Department of the State of New Jersey under the number P30852 for the year 1926 upon an application which, to the knowledge of the said Richard O. Zober, had not been personally signed and the oath to which had not been personally sworn to by him, and did thereafter operate said car under said registration and plates issued therewith, and said Richard O. Zober should have known that the said Motor Vehicle Law of the State of New Jersey required, before such registration was issued to him, that there should be an application sworn to by him personally before someone authorized to take acknowledgments.

2. Said Richard O. Zober did, between the dates

aforesaid, accept and receive a registration of a Buick Coupe car in his name issued by the Motor Vehicle Department of the State of New Jersey under the number P30941 for the year 1926 upon an application which, to the knowledge of the said Richard O. Zober, had not been personally signed and the oath to which had not been personally sworn to by him, and did thereafter operate said car under said registration and plates issued therewith, and said Richard O. Zober should have known that the said Motor Vehicle Law of the State of New Jersey required, before such registration was issued to him, that there should be an application sworn to by him personally before someone authorized to take acknowledgments.

3. Said Richard O. Zober did, between the dates aforesaid, accept and receive a registration of a Buick Coach in his name issued by the Motor Vehicle Department of the State of New Jersey under the number P30576 for the year 1926 upon an application which, to the knowledge of the said Richard O. Zober, had not been personally signed and the oath to which had not been personally sworn to by him, and did thereafter operate said car under said registration and plates issued therewith, and said Richard O. Zober should have known that the said Motor Vehicle Law of the State of New Jersey required, before such registration was issued to him, that there should be an application sworn to by him personally before someone authorized to take acknowledgments.

4. Said Richard O. Zober did, upon the 2nd day of December, 1927, in proceedings before the Director of Public Safety of the City of Passaic

swear that for the purpose of securing the registration in his name of a Cadillac Car he did sign the oath to said application and did thereupon deliver said application, with said oath signed by him, to a person whom he knew would take such application and thereupon obtain the registration of said car in his name upon such application, although the said Richard O. Zober did not swear to such oath before any person authorized to take acknowledgments and knew or must be charged with knowing that to obtain such registration some such officer would be obliged to make his certificate that the said Richard O. Zober had appeared before him and personally swore to such oath.

5. Said Richard O. Zober did, upon the 2nd day of December, 1927, before the Director of Public Safety of the City of Passaic, swear that he delivered said application not sworn to as stated in the last preceding specification upon his understanding, which had been conveyed to him by others, that a Finance Company could fix it up, whereas the said Richard O. Zober knew or should have known that no Finance Company was authorized to or could violate the provisions of the statutes of the State of New Jersey.

CHARGE FOUR.

1. Said Richard O. Zober was guilty of conduct to the prejudice of good order and the discipline of the Department, and such conduct as to bring discredit upon the Force.

SPECIFICATIONS UNDER CHARGE FOUR.

1. Said Richard O. Zober did, between the dates aforesaid, accept and receive a registration of a

Cadillac Car in his name issued by the Motor Vehicle Department of the State of New Jersey under the number P30852 for the year 1926 upon an application which, to the knowledge of the said Richard O. Zober, had not been personally signed and the oath to which had not been personally sworn to by him, and did thereafter operate said car under said registration and plates issued therewith, and said Richard O. Zober should have known that the said Motor Vehicle Law of the State of New Jersey required, before such registration was issued to him, that there should be an application sworn to by him personally before someone authorized to take acknowledgments.

2. Said Richard O. Zober did, between the dates aforesaid, accept and receive a registration of a Buick Coupe car in his name issued by the Motor Vehicle Department of the State of New Jersey under the number P30941 for the year 1926 upon an application which, to the knowledge of the said Richard O. Zober, had not been personally signed and the oath to which had not been personally sworn to by him, and did thereafter operate said car under said registration and plates issued therewith, and said Richard O. Zober should have known that the said Motor Vehicle Law of the State of New Jersey required, before such registration was issued to him, that there should be an application sworn to by him personally before someone authorized to take acknowledgments.

3. Said Richard O. Zober did, between the dates aforesaid, accept and receive a registration of a Buick Coach in his name issued by the Motor Vehicle Department of the State of New Jersey under the number P30576 for the year 1926 upon an ap-

plication which, to the knowledge of the said Richard O. Zober, had not been personally signed and the oath to which had not been personally sworn to by him, and did thereafter operate said car under said registration and plates issued therewith, and said Richard O. Zober should have known that the said Motor Vehicle Law of the State of New Jersey required, before such registration was issued to him, that there should be an application sworn to by him personally before someone authorized to take acknowledgments.

4. Said Richard O. Zober did, upon the 2nd day of December, 1927, in proceedings before the Director of Public Safety of the City of Passaic swear that for the purpose of securing the registration in his name of a Cadillac Car he did sign the oath to said application and did thereupon deliver said application, with said oath signed by him, to a person whom he knew would take such application and thereupon obtain the registration of said car in his name upon such application, although the said Richard O. Zober did not swear to such oath before any person authorized to take acknowledgments and knew or must be charged with knowing that, to obtain such registration, some such officer would be obliged to make his certificate that the said Richard O. Zober had appeared before him and personally swore to such oath.

5. Said Richard O. Zober did, upon the 2nd day of December, 1927, before the Director of Public Safety of the City of Passaic, swear that he delivered said application unsworn to as stated in the last preceding specification upon his understanding, which had been conveyed to him by others, that a Finance Company could fix it up, where-

as the said Richard O. Zober knew or should have known that no Finance Company was authorized to or could violate the provisions of the statutes of the State of New Jersey.

State of New Jersey, }
County of Passaic, } ss.:

Lambert De Groot, of full age being duly sworn according to law upon his oath deposes and says:

I am the person making the charges and specifications of charges against Richard O. Zober, Chief of Police of the City of Passaic. The matters and things set forth in said charges and specifications are true, to the best of my knowledge, information and belief.

LAMBERT DE GROOT.

Sworn and subscribed to before me }
this 8th day of December, 1927. }
Geo. H. Rice,
(Seal) Notary Public of N. J.

State of New Jersey, }
County of Passaic, } ss.:

George Eckhardt, and John J. Potosnak, being duly sworn, according to law, upon their oaths, depose and say:

That on December 8th, 1927, at 1:45 P. M., they served a true copy of the annexed charges upon Richard O. Zober, which they delivered personally to him, at his home.

GEORGE F. ECKHARDT,
JOHN J. POTOSNAK.

Sworn and subscribed to before me }
this 8th day of December, 1927. }
Margaret G. Ginsburg,
Notary Public of N. J.

Return to Writ.

Notice.

DEPARTMENT OF PUBLIC SAFETY,

CITY OF PASSAIC, N. J.

In the Matter of the Charges against RICHARD O. ZOBER, Chief of Police.	Notice.

To: Richard O. Zober, Chief of Police.

Take Notice that you are directed to appear before me the Director of Public Safety of the City of Passaic, on Tuesday, the 10th day of January, 1928, at 9:15 o'clock in the forenoon, at my office at Police Headquarters, City of Passaic, to receive my judgment in the matter of the charges pending against you which I have heard.

BENJ. F. TURNER,
Director of Public Safety.

State of New Jersey, }
County of Passaic, } ss.:

George Eckhardt, of full age, being duly sworn according to law, upon his oath deposes and says that he served a copy of the within notice by leaving the same at the residence of Chief Zober with his wife. Service was made on Saturday, Jan. 7, 1928, at 8:30 P. M.

GEORGE F. ECKHARDT.

Sworn to and subscribed before me }
this 10th day of January, 1927. }

Notary Public of N. J.

Return to Writ.

Judgment.

DEPARTMENT OF PUBLIC SAFETY,

CITY OF PASSAIC, N. J.

In the Matter of the Charges against RICHARD O. ZOBER, Chief of Police.	Judgment.

At the beginning of the hearing there was presented an objection to my trying the charges against Richard O. Zober, Chief of Police, upon the ground that I was prejudiced.

Counsel for Chief Zober did not show me any law by which any person other than myself could hear those charges. I was advised by the City Counsel of the City of Passaic that there was no method by which such a challenge could be heard before me, and no means appointed by which the duty of hearing these charges could be transferred by me. Although I knew that the challenge made upon the ground of prejudice was not true, I was advised, by the City Counsel that there was no means provided by law for introducing evidence before me with respect to what the actual facts were.

I should have been glad to have been able to escape the duty of hearing the charges if I could

have done so under the law, but in view of the advice of the City Counsel it was necessary that either I hear the charges, or that no one should, and my duty to the City of Passaic would not permit me, under the circumstances, to permit the charges to remain unheard. I am not, and have not been actuated by any prejudice against the Chief of Police, and have conducted this hearing, and have examined the testimony and reached a conclusion so far as within my power, influenced only by my duty, and that duty has not been a pleasant one. It has not been pleasant to hear charges of the nature of these charges against the Chief of Police of Passaic.

I have carefully considered the testimony which has been typewritten, and also have considered the arguments of counsel which have also been typewritten, and I have reached the judgment I am now giving after a careful consideration of the testimony, and with the idea on my part, that I should give Richard O. Zober, Chief of Police, the benefit of any reasonable doubt.

I am advised by the City Counsel that it is not necessary for me, under the law to give the reasons for my judgment, or to refer in detail to the facts, nevertheless I think that fairness requires that I should indicate, to some extent, what has influenced me. I do not propose to attempt to refer to all of the matters contained in the very large record of this case. I shall, however, refer to a few which I think are important, and also indicate some of the matters which have not in anywise influenced my decision. The first set of charges were five in number; the second set of charges were four in number; there are various specifica-

tions in each charge. By consent of counsel for Chief Zober, all of the evidence taken is to be considered as having been taken with respect to each one of the charges contained in the first and second set.

The first and most important charge is that Chief Zober, between the first day of March, 1926, and the 26th day of October, 1927, violated a Criminal Law of the State of New Jersey, and the first, second, fourth, sixth, and eighth specifications under that charge present the question as to whether Chief Zober purchased and sold the stolen automobiles, knowing them to have been stolen, or in other words, whether he acted as a receiver and disposer of stolen property knowingly. There are certain facts which cannot be denied. On or about the 29th of January, 1926, a Cadillac car was stolen in Newark, New Jersey, this car is known as the Kaufman car; on or about March 27th, 1926, Chief Zober purchased that car for what he says was the sum of $1,600; and on or about May 12, 1926, he sold that car to one John J. Labash for $2,000; on or about April 12, 1926 a Buick car, a Master Six, known as the Chambers car, was stolen in New York City and on or about the 16th day of July, 1926, Chief Zober purchased that car for $1,100, as he says, and that car was in his possession and taken out of his possession on the 25th day of October, 1927; on or about June 10th, 1926, a Buick car was stolen in Summit, New Jersey, known as the Rider car, and on or about June 23, 1926, Chief Zober purchased that car for what he says was $1,100; and on or about the 28th day of June, 1926, he sold that car to one Mathias Winter, a patrolman in the Police Department, for $1,200;

on or about July 9, 1926, a car, which is known as the Perkins car, was stolen in New York City and on or about July 10, 1926 that car was purchased by Chief Zober for what he says was $750; on or about the 14th day of October, 1926 that car was sold by the Chief to one Carroll D. Hipp, for $850. Each of these cars had either mutilated or changed motor serial numbers.

A great deal of testimony was taken for the purpose of showing that these cars were, in fact, stolen and identified. It was necessary to bring witnesses from considerable distances, and a great many of the objections which were made during the course of the trial by counsel for Chief Zober, were made during the taking of that testimony, counsel in each instance as was their right, insisting upon legal proof but when it was all over there could be no question with respect to the facts, as I have stated.

The explanation of Chief Zober is that all of these cars were purchased by him from one Vordemeier, whom he met at the Brandenburg farm, outside of Passaic, and the circumstances surrounding the transactions as detailed by Chief Zober show beyond question, it seems to me, that the person or persons who stole the cars were in the business of stealing cars, and the person who sold the cars to Chief Zober was in the business of disposing of stolen cars, and that the transactions were part of the business of stealing and disposing of stolen cars, which has become a business throughout the country.

It therefore appears that Chief Zober has either knowingly helped in the disposal of stolen property, or has been used by thieves to dispose of stolen cars, and the question which I must determine un-

der the first charge is whether Chief Zober knew that the cars were stolen or whether he had no knowledge of that fact.

There is no direct evidence of knowledge on his part. The evidence is circumstantial, but I understand that I am permitted to consider circumstantial evidence.

I think that the most important thing to consider is Chief Zober's explanation, and whether it is reasonable.

The story told by Chief Zober is that he, accompanied by Officer William McGill, and Judge Davidson, went to the Brandenburg farm for the purpose of buying green goods, while there, he met Henry Brandenburg, the owner of the farm, and the first thing he knew a man came over toward him and Brandenburg and Brandenburg said, "Chief, here is Bob Vordemeier," and he then said, "whenever you are in need of a car"—and to quote the Chief, "Now I think he said he has got a friend or he is connected with the New Jersey Finance Corporation. He said they were taking in cars cheap, and lots of times you get a good buy." He then said that he said his car was all shot to pieces and that he would get a car some day." Then Vordemeier replied, "There is one now." He says the car was only 10 feet away, and he looked at it and that Judge Davidson told him he thought the car was too big for him. There was no more conversation, the result of which was that Vordemeier, about five days later, came with another man to headquarters and told the Chief that he had brought the car over. The Chief then says that he told Vordemeier that he did not want it, but Vordemeier said, "Go on, and use it." The Chief said that he looked the car over and took the car and

went up to Judge Davidson's office, drove the car to the Cadillac Garage, with Officer McGill and Judge Davidson and had it examined at the garage and was told by the mechanic that it was all right mechanically. To corroborate him, Henry Brandenburg was called and that his story is that he told Chief Zober that Vordemeier had a friend who could get him a car. He then says that he does not remember whether Vordemeier said that himself. He does not know which one said to Chief Zober that he had a friend who represented a Finance Company. He denies that he introduced Vordemeier as a man who represented an automobile Finance Company in Jersey City. If he said anything, he said that Vordemeier had a friend who was connected with a Finance Company in some way.

Dr. Leo Brandenburg, the brother of Henry Brandenburg, was also called. He happened to be at the farm at the time. He says that Vordemeier stated that he had a connection, or, he says, "was interested in a Finance Company, and that they sold repossessed cars, and that he had a chance to make a couple of dollars, and he had a connection where he could get cars for everybody desiring them. He thought the car had been purchased on that day.

Officer McGill was called. He knows only that he took Chief Zober and Judge Davidson to the farm and that there were three or four or five men standing together, talking together and shaking hands. He had no conversation and heard none. He corroborates Chief Zober with respect to the taking of the Cadillac car to the Cadillac Garage for examination.

When Captain Monks and the other detectives

from the Police Department were investigating the matter they questioned Officer McGill where he then was at Lamontville, New York; at that time Officer McGill told them that Chief Zober had asked him to drive him and Judge Davidson over to Jimmy Donohue's place in Garfield, that they wanted to look over a Cadillac car. He says now that, that was a mistake. It was either the truth, or a deliberate lie.

Judge Davidson corroborates Chief Zober. He says that the Bill of Sale was brought to him and that there was something the matter with it, and that he told Chief Zober, "You take this Bill of Sale back, tell themI want an original bill, manufacturer's Bill of Sale, together with all the assignments on it down to date." Chief Zober did so and another Bill of Sale was produced with respect to which there was something the matter but it was accepted. He says he told the Chief, "Chief, on its face this Bill of Sale looks all right to me. If you know the people it is all right. But on the face it looks all right.

A careful comparison of the testimony of the two Brandenburgs, Chief Zober, Judge Davidson and Officer McGill indicates that the stories differ in some important particulars. The original story of Officer McGill told to Captain Monks and the detectives that he was asked by Chief Zober to drive him to Jimmy Donohue's place to look at a car, was changed so that it would appear now from Officer McGill's testimony, under oath, that they did not go to Donohue's but that they went to the Brandenburg farm and that they did not go for the purpose of examining a car.

The stories told by these witnesses lack detail. No witness suggests that the name of the Finance

Company, which Vordemeier referred to was mentioned, and no one knew the name of the friend whom Vordemeier said he had who could get cars cheap; and no one inquired as to what his name was. Vordemeier died in May, 1927, and these facts were not discovered until October, 1927.

Chief Zober says that he acquired the other three cars through Vordemeier; Vordemeier in each instance bringing the car to Headquarters. He never inquired of Vordemeier as to the name of his friend although the name of the Finance Company, had been told him by Vordemeier, so Chief Zober says, he made no investigation to find out whether there was in fact such a Finance Company; not one of the Bills of Sale which was offered in evidence, which were given to Chief Zober, bears the name of any Finance Company or of Vordemeier, and no inquiry was made of Vordemeier as to why this should be. No inquiry was made of any of these persons whose names did appear upon the Bills of Sale. The testimony shows that the Bills of Sale were all false. Although Chief Zober had the Cadillac car examined by a mechanic for motor defects no request was made that the serial and motor numbers be examined.

Chief Zober swore that he paid for each one of the cars in cash. He took no receipts and there is no writing of any kind upon which the name of Vordemeier, or the friends of Vordemeier, or of any Finance Company appears. Before Chief Zober paid for any one of the cars, except the one that he kept himself, he had resold it at a profit and been paid by the purchaser. In one or two instances, the purchaser paid partly by check. Chief Zober had a bank account subject to check, but, in-

stead of depositing the checks of the purchasers in his bank account and drawing a check upon that account and turning the check over to Vordemeier, Chief Zober cashed the checks, and paid in cash. In no instance did Chief Zober make a personal application for licenses. He said that he signed applications for all four cars. He admits that the application for the Cadillac car, which appears to have been filed with the State Department of Motor Vehicles, is not signed by him, but he says that he signed such an application and delivered it to Vordemeier, also stating that he did not swear to it. He states they made his application in this way because of Vordemeier's statement that the Finance Company could obtain licenses in that way. What Chief Zober did, with respect to the three cars was that he acted as agent for the thieves in disposing of them, not paying for them until he had himself received the money from the purchasers. Chief Zober had been warned by Judge Davidson with respect to the purchase of the Cadillac car, when the second Bill of Sale was presented to Judge Davidson, that the Bill of Sale appeared all right upon its face, and that, if he knew the people, it would be all right. Notwithstanding this warning, Chief Zober made no inquiry, either with respect to Vordemeier or as to the names of his friends, or as to the Finance Company, depending, as he says, wholly upon the introduction of Henry Brandenburg.

I am not dealing with an ordinary purchaser of second hand cars. I am dealing with the Chief of Police. He knew that the business of stealing and selling stolen cars had grown greatly and it had become a business; so that laws have been adopted

to try and stop this business, both by the State and the National Government. Chief Zober knew that the purpose of the law, which requires who shall get in his possession a car with mutilated numbers should report it to the Department of Motor Vehicles was to prevent dealing in stolen cars. An inquiry by Chief Zober directed in any one of several directions would have brought out the truth. He could have inquired who the friends of Vordemeier were and so ascertain the truth by investigation at that source; he could have investigated any one of the bills of sale and could not have helped but immediately discover that the Bills of Sale were false; he could have adopted the ordinary precaution of having the cars examined with respect to the serial and motor numbers. He did none of these things. He did not adopt the ordinary precautions which an ordinary purchaser would take, let alone precautions, it seems to me the Chief of Police with his knowledge, would naturally think to take. There is no doubt that Chief Zober was dealing with thieves. These thieves were using Chief Zober to dispose of stolen cars. It is hard to believe that they would do such a thing unless they knew that they were absolutely safe, and they would not have thought that they were safe, unless they knew that the Chief had knowledge that the cars were stolen. The only other thought that they could have had would have been that Chief Zober was so incompetent as that he would not discover that the cars were stolen.

I have not attempted to cover all of the matters which have induced me to come to the conclusion which I have, upon this charge. I have not considered the testimony which was objected to that Henry Brandenburg had a stolen car in his posses-

sion, the questioning of Dr. Leo Brandenburg had a stolen car in his possession, the questioning of Dr. Leo Brandenburg upon the same subject, nor have I considered the testimony as to the reputation of Vordemeier, which was directly objected to, nor the testimony which was offered to show that Vordemeier never drove any car except a Ford.

All of that kind of testimony which was objected to, I have excluded from my consideration; I do not need it to come to my conclusion, if it be considered it merely strengthens the judgment which I have reached.

My judgment is that Chief Zober is guilty on Specifications 1, 2, 4, 6 and 8 of Charge One. Upon this charge no less a sentence can possibly be imposed except a dismissal from the Police Department, and my judgment is that upon these specifications of Charge One, Chief Zober is guilty and I hereby dismiss him from the Police Department.

I will now consider Specifications 3, 5, 7 and 9 of Charge One. These specifications are that Chief Zober, having possession of the cars I have already mentioned, with mutilated or changed motor or serial numbers, failed to report it to the Department of Motor Vehicles in accordance with Chapter 114 of the Laws of 1919.

I find Chief Zober guilty as charged in these specifications under Charge One.

The Chief having failed to comply with a statute of the State of New Jersey, designed for the purpose of preventing traffic in stolen automobiles, my judgment is that no less a sentence can be imposed upon him for this offense other than dismissal from the Police Department, and he will be dis-

missed from the Police Department under these specifications of Charge One.

Charge Two is, assuming that the Chief did not know that the cars referred to under Charge One, were stolen, his conduct as specified in the 4th specification under Charge One, in not discovering that the cars were stolen, and in not making proper investigation, indicated that he was incompetent within the meaning of the tenth reason for which, under the Manual of the Department, charges may be preferred against an officer of the Police Department.

I find Chief Zober likewise guilty of the charge. It seems to me that the manner in which he conducted the purchase and sale of these cars, without making any investigation whatever, assuming now that he did not know the cars were stolen clearly indicated incompetency.

The incompetency is of such a nature as that no less a sentence could be imposed upon him other than dismissal from the Police Department, and my judgment is that Chief Zober should be dismissed from the Police Department upon this charge. I make no finding under Charge Three because it is covered by other charges.

Charge Four is that he was guilty of conduct subversive of good order and the discipline of the force, within the meaning of Reason 17 of the Department, for which charges may be preferred against him.

The charge is that his purchasing and selling stolen cars in the manner in which he did purchase and sell the cars, was the conducting of a business subversive of good order and the discipline of the Department. Of course if my judgment upon the First Charge be correct, the conduct of Chief Zo-

ber also comes within Reason 17. But even if Chief Zober did not know that the cars were stolen it is my judgment that his conduct comes within Reason 17. Upon three different occasions between March, 1926 and October, 1927, Chief Zober took three cars, second hand, agreeing to pay a certain amount and held the cars until he had re-sold them at an increased amount, in one case to a member of the Police Department. This business was conducted at a time when it is urged that Chief Zober should not be held strictly to what he did with respect to investigating the cars, because he was so busy upon the strike which then took his full attention. All his transactions, both purchasing and selling were in cash. It was known to Chief Zober that there was a systematized business in the stealing of cars and in the disposal of them.

He took no precautions whatever. The result has been that three cars which turned out to be stolen, have been sold to purchasers in the City of Passaic, one of them a patrolman, a member of the Passaic Police Department, with the O. K. of the Chief of Police.

Such a business, conducted as Chief Zober has conducted it, is, in my opinion, subversive of good order and the discipline of the Police Department, and my judgment, therefore, is that he is guilty under Charge Four. I am basing my judgment under Charge Four, upon Specification 1, and make no findings upon Specifications 2 and 3.

I think the Chief is guilty under Specifications 3 of Charge 4, but that is covered by what I have already said under the other charges.

The conduct of Chief Zober was of such a nature, under Specification 1, of Charge 4, as that I think

no less a punishment could be imposed upon this charge than dismissal from the Police Department, Chief Zober is dismissed from the Police Department upon Charge 4.

Charge 5 is that Chief Zober was guilty of conduct to the prejudice of good order and the discipline of the Department, and conduct of such a nature as to bring discredit upon the Police Department. What I have said under Charge 4 applies under Charge 5. I think the conduct of Chief Zober in buying and selling these cars in the manner in which he did was of such a nature as to bring disgrace upon the Police Department, and I think that Chief Zober should have known that it was of such a nature, that it was likely to bring a police department in disrepute, as it has.

I find Chief Zober guilty under specification 1 of Charge 5. I make no findings under Specifications 2 and 3, although he is guilty, in my judgment, under Specification 3, but that has been covered in previous charges.

My Judgment is that Chief Zober should be dismissed from the Police Department upon this charge.

I now come to Charges 1, 2, 3 and 4, preferred after the hearing before me upon the charges which I have already dealt with.

I will make no finding under Charge 1, because I think that the matter to be covered under Charge 1 is sufficiently covered under Charge 2. Charge 2 is that Chief Zober between March, 1926 and October, 1927, knowingly violated the law known as the Motor Vehicle Act requiring the registration of Motor Vehicles. There are eight specifications under this Charge. I will first consider Specifica-

tion 7, for in my judgment Chief Zober is guilty under that specification upon his own story. The Motor Vehicle Act, of which Chief Zober had knowledge, required that to get a registration of a car it was necessary to make a written application, signed and sworn to by the applicant. The application for the registration of the Cadillac car is concededly not signed by Chief Zober. He says that he did sign an application, and handed it to Vordemeier and that Vordemeier took it away with him, and therefore Chief Zober received registration plates and licenses. He admits that he did not swear to the application before any officer. His excuse for doing so is that he believed, from what Vordemeier said, that the Finance Company could arrange the matter in some way. He cannot explain how the finance Company could violate the law of the State of New Jersey. He knows the form of affidavit which he says he signed and he knew that, that affidavit had to be taken by some officer who would falsely certify that Chief Zober had sworn to it before him.

Upon his own story he is guilty under Specification 7, of Charge 2, and I find him so guilty. In considering sentence, I must keep in mind the fact that the Motor Vehicles' Act requiring the registration of cars, has as one of its purposes, the suppression of crime, and for Chief Zober to violate such a law is a different thing from the violation of it by some one not charged with the suppression of crime. My judgment therefore is that, upon this specification of Charge 2, the sentence must be dismissal from the Police Department, and upon Charge 2, Specification 7, the judgment will be that Chief Zober should be dismissed from the Police Department.

Having found Chief Zober guilty under Specification 7, I shall not consider Specifications 1 and 2 of Charge 2. Specifications 3, 4, 5 and 6 charge Chief Zober with having obtained licenses and registration plates from the Department of Motor Vehicles upon application neither signed nor sworn to by him, in violation of the Motor Vehicle Act, Chief Zober states that the applications which were produced from the Department were signed by him. According to the testimony of Commissioner Dill, he had stated to Commissioner Dill that, with respect to at least one of the applications, he had not signed it and stated that he should have known better. The commissioner said, "I asked him whether he had signed the application therefore, and he said he did not." I said "You ought to know better than that" and he replied, "Yes, I ought to have known better." Chief Zober, on the stand, took the position that he had in fact signed the application for each one of the cars. His testimony on the stand is not consistent with what he said to Commissioner Dill, if he said it. He denied it. I believe Commissioner Dill.

To substantiate the claim that Chief Zober did not sign the applications referred to in the specifications which I am now dealing with, two handwriting experts were produced. They each testified that the handwriting was not of Chief Zober. The Chief produced no handwriting experts, nor did he produce any evidence other than his statement that he had signed the applications. I have examined the applications and also the signatures admittedly made by Chief Zober, and there is no question in my mind, but that the signatures look different. Chief Zober did not offer to take the

stand after the handwriting experts had been examined, and write his signature in the way in which it appeared upon the applications.

My judgment is that Chief Zober did not write his name upon these applications, and that he deliberately falsified when he said that he did. He is not, however, on trial before me for that falsification. I find him guilty, however, under the specifications which I am now considering of having obtained licenses and registration plates from the department of Motor Vehicles in violation of the law. For the same reason that I gave the sentence under Specification 7, I think that his guilt under the specifications which I am now considering requires that he be dismissed from the Police Department, and my judgment is that he be so dismissed.

Charge Three is that Chief Zober is incompetent and incapable within the meaning of the Tenth reason for which, under the Manual of the Police Department, charges may be preferred against him, and the specifications are to the effect that he received licenses and registration of the cars without having signed and sworn to applications. I have already found him guilty under Charge 2, of having knowingly received and used said registration and licenses, obtained in violation of the law. Specifications 1 of Charge 3 charges that, with respect to the Cadillac car, Chief Zober received license and registration plates in his name when he knew that he had not sworn to an affidavit, as is required by law.

He admits that he did not swear to the affidavit. If he did not know the law, he should have known it, and I find, if he did not know it, he is incompetent, and that his incompetency is of such a nature

as to require dismissal from the Police Department and I therefore find him guilty under Specification 1 of Charge 3, and he is dismissed from the Police Department upon that specification.

Specifications 2 and 3, under Charge 3, charge him with having received licenses and registration plates for two other cars, without having personally signed the applications and sworn to the affidavit, I find that he did obtain such licenses and registration plates without having personally signed the applications and sworn to the affidavit, and that if he did not know that the law required such personal signature on an affidavit, he should have known, and that he is incompetent, and that his incompetency requires that he should be dismissed from the Police Department. I therefore find him guilty under Specifications 2 and 3 of Charge 3, and he is dismissed from the Police Department upon those specifications.

Specification 4 of Charge 3, charges that Chief Zober stated that he signed the oath to the application for the registration of the Cadillac car, and delivered said application without being sworn to, to a person whom he knew would use such affidavit, not sworn to, to obtain the license and registration plates. He did not state before me, as appears by the record, and I find that Chief Zober should have known that such an affidavit, so signed by him, could only be useful if some officer falsely certified that Chief Zober had appeared before him and taken his affidavit, and that Chief Zober is guilty under Specification 4 of Charge 3, and that his incompetency under the specification requires that he be dismissed from the Police Department and he is so dismissed.

The Fifth Specification under Charge 3 charges

that the excuse that Chief Zober gave for the method in which he obtained the license and registration plates, under his name, without complying with the law was that he understood from Vordemeier that the Finance Company could fix it up in some manner. He cannot tell in what manner he thought the Finance Company could fix it up. This statement on the part of Chief Zober is, in my opinion, proof that he is absolutely incompetent to act as the Chief of Police and active law enforcement officer of the City of Passaic. I find him guilty under Specification 5 of Charge 3, and as his testimony indicates an attitude of mind which is absolutely inconsistent with his duties as a law enforcement officer, the sentence under this specification can be nothing less than dismissal from the Police Department.

Charge 4 is that Chief Zober was guilty of conduct to the prejudice of good order and the discipline of the Police Department, and such conduct as to bring disgrace upon the Police Department.

The specifications under Charge 4 are the same as the specifications under Charge 3, and my judgment upon those specifications are the same as my judgment upon the specifications under Charge 3. Conduct such as is referred to under Charge 3, which indicates that Chief Zober is incompetent, also indicates that he is guilty of conduct to the prejudice of good order and the discipline of the Police Department, because, if the Chief Law Officer of the City violates the law in the manner and for the reason which Chief Zober says he violated the law or permitted the law to be violated as specified under the specifications under Charge 3, that is certainly conduct which will bring disgrace upon the Police Department.

I make the same separate judgments with respect to the five specifications under Charge 4 as I made with respect to the five specifications under Charge 3, and my judgment is that the finding of guilty upon each of the specifications in which I found Chief Zober guilty under Charge 3, requires dismissal from the Police Department and Chief Zober will be dismissed from the Police Department for his guilt under such specifications.

After giving Chief Zober the benefit of every reasonable doubt, I can see no conclusion other than that I have stated, nor can I impose any less punishment than I have. My judgment is that each one of these specifications of which I have found Chief Zober guilty, standing alone not only justifies but requires dismissal from the Police Department and I therefore dismiss him from the Police Department of the City of Passaic.

BENJ. F. TURNER,
Director of Public Safety.

Reasons.

NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER, Prosecutor, vs BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., Respondent.	On Certiorari. Reasons.

The prosecutor, by Filbert L. Rosenstein, Frederick S. Ranzenhofer, and Ward & McGinnis, his attorneys, comes and prays that the judgment of Benjamin F. Turner, Director of the Department of Public Safety, City of Passaic, N. J., made on or about the tenth day of January, 1928, wherein and whereby Richard O. Zober was dismissed from the Police Department of the City of Passaic, may be set aside and for nothing holden for the following reasons, to wit:

First: Because the said judgment of dismissal is illegal and in violation of Chapter 152, P. L. 1917, page 360.

Second: Because the said judgment of dismissal is in violation of the provisions of the Manual of the Police Department of the City of Passaic, which provides, "The officers and men employed in the Police Department may be removed from their respective offices and places in said Police Department * * * only after written charges and a fair and impartial hearing upon such charges."

Reasons.

Third: Because the said judgment dismisses the prosecutor from the Police Department of Passaic, without his having had a fair trial upon the charges made against him.

Fourth: Because the said judgment dismisses the prosecutor without his having had a fair and impartial hearing upon the charges made against him.

Fifth: Because legal evidence in favor of the prosecutor was excluded at the hearing upon the said charges, and illegal evidence was admitted against him.

Sixth: Because the said judgment of dismissal was illegal and void.

Seventh: Because said Benjamin F. Turner, by said judgment, threatens to disturb the prosecutor herein, in the enjoyment of his position as Chief of Police of the City of Passaic.

Eighth: Because said Benjamin F. Turner, Director of Public Safety, was disqualified from trying the said Richard O. Zober, on the aforesaid charges and from rendering judgment thereon, for the reason that the said Benjamin F. Turner was so prejudiced and biased against the said Richard O. Zober as to foreclose him, the said Richard O. Zober, from a fair and impartial hearing or a fair trial upon said charges.

Ninth: Because the said Benjamin F. Turner was under a disability to preside and determine the said charges made against the said Richard O. Zober, for the reason that the said Benjamin F.

Turner was required as a material witness for the defense of the said Richard O. Zober.

Tenth: Because the said Benjamin F. Turner was under a disability to preside and determine the said charges against the said Richard O. Zober, for the reason that the matters alleged in the said charges occurred prior to May 17, 1927, the time when the said Benjamin F. Turner entered upon the duties of Director of Public Safety of the City of Passaic.

FILBERT L. ROSENSTEIN,
FREDERICK S. RANZENHOFER,
WARD & McGINNIS,
Attorneys for Prosecutor.

Testimony.

NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER, Prosecutor, vs BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., Respondent.	On Writ of Certiorari.

Taken on Tuesday, September 18, 1928, at four o'clock P. M., before GEORGE P. KELLEY, one of the Supreme Court Examiners of the State of New Jersey, pursuant to order, at the Court House at Paterson, N. J., in the presence of

FILBERT ROSENSTEIN, ESQ., and FREDERICK S. RANZENHOFER, ESQ., Counsel for the Prosecutor;

JOSEPH J. WEINBERGER, ESQ., Counsel for the Respondent.

(By stipulation the testimony was taken stenographically by the Examiner and signatures of witnesses waived.)

STIPULATION.

Mr. Weinberger: Reservation is hereby made, and consented to, that in the event it is necessary to cross-examine any of the witnesses, that right shall be granted to Merritt Lane, of counsel for

the City of Passaic, upon the condition that any subpoenaes to recall the witnesses, the expense of same shall be borne by the City of Passaic.

Mr. Rosenstein: I want to put one more condition in there, and that is a time limit.

Mr. Weinberger: Within a month from today?

Mr. Rosenstein: Within one month from the date hereof.

RICHARD O. ZOBER, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. You were appointed Chief of Police in the City of Passaic in 1924, were you not, Chief? A. Yes, sir.

Q. Prior to your appointment who was the Chief of Police? A. Chief Gustav Schmid.

Q. He resigned when? A. He resigned on April 30, 1924.

Q. Who was the Commissioner of Police of Passaic at that time? A. Abram Preskill.

Q. I believe his title is Director of Public Safety? A. Director of Public Safety, yes.

Q. What was your position at that time, Chief? A. Captain of Police.

Q. Did you become a candidate for the office of Chief of Police? A. Yes.

Q. That fact was pretty generally known, was it not? A. Yes, sir.

Q. Who else was a candidate for the position of Chief? A. Captain of Detectives, Benjamin F. Turner, and Captain of Police, Lambert DeGroot.

Q. And you were the successful candidate? A. Yes, I was.

Q. When, Chief? A. April 15, 1924.

Q. Upon your appointment did the members of your department signify in any way approval or signify their feeling as to your appointment? A. They did.

Q. How did they do it? A. I received a chain with diamond chips here from the superior officers; I received this watch fob with diamonds from the patrolmen.

Q. Did the members of the department come to you and express themselves in any way? A. They did.

Q. How, Chief? A. They all came in my office and shook hands with me, with the exception of Captain Benjamin F. Turner.

Q. They all came, with the exception of Captain Turner? A. Yes, sir.

Q. Was there a dinner tendered to you after your appointment, Chief? A. There was.

Q. Where did that dinner take place? A. Washington Restaurant, in Newark, New Jersey.

Mr. Weinberger: Just a minute. While you are at it, what is the purpose of this examination, may I understand, Mr. Rosenstein. Pursuant to what?

Mr. Rostnstein: Bias or prejudice.

Mr. Weinberger: Pursuant to an order?

Mr. Rosenstein: Yes, certainly.

Mr. Weinberger: Where is the order?

Mr. Rosenstein: On the writ of certiorari leave to take depositions is endorsed.

Mr. Weinberger: May I at this time, before this proceeding gets any further, object to the taking of any testimony, on the ground that it is improper, irregular, and

that all the testimony was taken stenographically at the trial held in Passaic when this defendant was tried and the charges were heard and he was removed from office, and any testimony now is extraneous to the issue and not evidential.

Q. When was that dinner tendered to you, Chief? I don't mean the exact date, if you can give us an approximate idea with reference to the time of your appointment as Chief. A. It was about six months after.

Q. Was Captain Turner present at that dinner? A. No, sir, he was not.

Q. Now, do you remember an occasion that happened on December 6, 1926, when you came to Police Headquarters at Passaic and some conversation occurred with Captain Turner? A. I do.

Q. Will you tell us what happened, Chief? A. We received a telephone call—in fact, I did not, but one of the officers received a telephone call that there was an accident on the corner of Paulison and Passaic Avenues, and the wagon went out at once. A few minutes after Captain Turner came in and he hollered, and he says, "Why isn't the wagon out?" I says, "One minute, Captain." I says, "I was here." I says, "The wagon went out as soon as the call came in." "Who are you?" he says to me, "you drunken bum," and I went back to him; he says, "You get out of here, I am boss here." He says, "I will get you yet." Then he walked out.

Q. Was anybody present? A. Yes.

Q. Who? A. Mrs. Fitchett and Mr. Weinberg.

Q. Is that Joseph or Harry? A. No; Mr. Wein-

berg. There was, in fact, more officers, Vanderbeck was one; he was in back of the desk.

Q. Chief, do you remember on June 15, 1927, in one of the newspapers of Passaic an article appearing criticizing you for not praising Officer Mead? A. Yes.

Q. And the article purporting to quote Captain Turner as blaming you for not praising Officer Mead? A. Yes.

Q. What had Officer Mead done? A. The night before there was an accident out in West Paterson, I understand two Passaic men struck an old man and left him lay there, left him laying on the street, and somebody got the number of the car, and later that night they picked up one man from Passaic and put him under arrest, and the newspapers came out at that time that Willy Mead was the officer, but it was not Willy, it was Johnny Mead. In the morning when I came in there was one man missing, and I spoke to the one man by the name of Huffmayer, who was arrested, who the other fellow was, and he told me, and I says, "Where can we get him?" He says, "If you get down to Newark before nine o'clock, he works in such and such an office, you can get the man," so I sent Mead and somebody else down and told them to use my own car and get him right away.

Q. Which Mead? A. John Mead.

Q. You sent Officer John Mead down to Newark in your car? A. No; I offered my car, but they took another car, did not take it.

Q. Did Officer Mead make the arrest in Newark? A. Yes, brought him right back.

Q. On the information which you had given? A. Yes.

Q. Now, that same day or about that same time did you have anything to do with the capture of some payroll bandits? A. I did.

Q. What was that? A. The same day, when he criticized me in the paper for not—

Q. When who criticized you? A. Captain Turner, or Commissioner Turner. I received a telephone call that a woman was held up down in Passaic, on Tenth Street, and that two men took a payroll away from her. At that time there was only two men up in the Detective Bureau, and I sent word up there right away and Officer Eckhart and Bednarcik went out, and I went out single-handed with my car, and on the way to Dundee I picked up Officer John O'Keefe, and I took him with me. We went down to the factory where the young lady was held up, and she was quite excited, and I said, "Get in the car," and from there we went to Carlstadt and into Hasbrouck Heights and came around towards Passaic—towards Garfield, rather—I seen two young men going across the street and into a field, and I says to the lady, "Do you think them is the two?" And she says, "No;" so we kept on a little ways, and I says to O'Keefe, I says, "We better look them over, I think," and I backed up my car at least two hundred feet and we went in the woods and they were gone, so we surrounded the woods and we could not find nothing, so I says, "You get in here and I will go up about 150 feet and you go right straight through;" and I was in there a hundred feet when I seen the two fellows dividing the money, so we two pulled our guns and placed them under arrest.

Q. At this time Captain Turner occupied what position? A. He was director of Public Safety.

Q. Did he praise you for the capture of the payroll bandits? A. No, he did not.

Q. Now, Chief, I show you a letter headed, "City of Passaic, Office of the Chief of Police," and bearing date July 20, 1927, and ask you what that is. Not the contents. Where did you get that, Chief? A. I got it off the desk.

Q. Was that the way in which you got orders from the Director of Public Safety, Benjamin F. Turner? A. He didn't give me no orders at all.

Q. I mean this sheet. A. Yes, that is the way I got it.

Mr. Rosenstein: I offer this letter in evidence.

Mr. Weinberger: I object on the ground that Chief Zober has testified that he picked it off the desk, and that is addressed to the commanding officer in charge of the department at the time.

(Paper marked Exhibit Prosecutor No. 1. It reads as follows:)

"City of Passaic, N. J.
Office of the
Chief of Police.
Passaic, N. J., July 20th, 1927.

"To the Commanding Officer or Officer in Charge of the Desk,
Police Headquarters,
Passaic, N. J.

From this Date (July 20th, 1927) on you are herewith instructed to permit no person who is not a member of the Police Department to be in the business office at Police Headquarters when Officers of the department are receiving instruc-

tions and orders from their superiors.

You are also instructed and ordered to see the doors of the said business Office are closed when each detail of Officers are there to receive orders, instructions and any other Police Business that is to be transacted.

You are also instructed to prevent and not allow any person or Police Officer who is not detailed to do duty behind the desk or in either of the rooms adjoining the said desk unless he or they have been assigned by the proper superior officer to do duty there.

Any violation of this order will be considered a violation of the Rules of this Department and the Officer so violating this rule will be treated accordingly.

By the Order
Benjamin F. Turner,
Director of Public Safety."

Q. Now, Chief, are you familiar with the handwriting of Benjamin F. Turner? A. I am.

Q. I show you a letter dated August 22, 1927, and ask you if you can tell me in whose handwriting that signature is. A. Benjamin F. Turner.

Q. When did you get that, with reference to the date that it bears? A. August 22 I got it, the same day.

Mr. Rosenstein: I offer this letter in evidence.

Mr. Weinberger: The same objection.

(Letter marked Exhibit Prosecutor No. 2. It reads as follows:)

"City of Passaic, New Jersey
Office of
Director of Public Safety.
August 22, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.
Sir:

From this date (August 22nd, 1927) on, you are herewith instructed by me to wear your uniform at all times both in Police Headquarters and on the public streets.

Benj. F. Turner,
BFT/DK Director of Public Safety.

Mr. Weinberger: Just withdraw my objection a minute. Who did you say handed you this letter?

The Witness: It was sent to me by Benjamin F. Turner. I say that is his handwriting. I got it the same day.

Mr. Weinberger: How did you get it, Chief?

The Witness: He sent it always over—I couldn't say who gave it to me.

Mr. Weinberger: Some officer?

The Witness: Yes, sir.

Mr. Weinberger: Letter to wear a uniform. Yes, that is all right. No objection to that letter.

Q. I show you a letter bearing date August 22, 1927, and ask you whose signature that is. A. Benjamin F. Turner.

Q. When did you get that letter, with reference to the date that it bears? A. August 22.

Q. How did you get that letter? A. It was sent to me.

Q. By a man in uniform, an officer in uniform? A. Yes, sir.

Mr. Rosenstein: I offer it in evidence.

(Letter marked Exhibit Prosecutor No. 3. It reads as follows:)

"City of Passaic New Jersey
Office of
Director of Public Safety.
August 22, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.

Sir:

I have received information that Police Officers, members of this department are in the habit of leaving this city without first having received permission to do so.

In view of this condition arising and existing, I herewith this date, August 22nd, 1927, create the following rule and regulation; that from this date on, any member of the Police Department of the City of Passaic, shall not leave this city without first having received the consent and permission of the Director of Public Safety. This rule will apply to the Chief of Police and every member of this department.

Benj. F. Turner,
Director of Public Safety."

BFT/DK

Q. I show you a letter bearing date September 2, 1927, Chief, and ask you whose signature that is. A. Benjamin F. Turner, September 2, 1927.

Q. How did you get that letter, Chief? A. It was sent to me. One of the officers.

Mr. Rosenstein: I offer the letter in evidence.

(Letter marked Exhibit Prosecutor No. 4. It reads as follows:)

"City of Passaic New Jersey
Office of
Director of Public Safety.
September 2, 1927.

Richard O. Zober,
Chief of Police,
Passaic, N. J.
Sir:

On June the 28th, 1927, in your absence while you were away on your vacation, I issued an order as follows:

June 28, 1927.

Commanding Officer or Officers,
the Officer doing Desk duty
or in charge of Telephone Switchboard.

From this date June 28, 1927, on will immediately upon receiving a telephone call, in reference to Crimes being committed, from citizens and complainants will immediately notify the Commanding Officer of the Detective Bureau of this Department.

Failure for not doing so will be considered a violation of the Police Department rules.

Signed: Director of Public Safety.

I herewith instruct you to comply with the same rule and that in the future when information is received at Police Headquarters from any person

in reference to a crime being committed or a violation of the laws of the State of New Jersey being violated, Federal Laws and City Ordinances or where an investigation is necessary; you will notify the Commanding Officer of the Detective Burcan or who ever may be in charge of the Detective Bureau; or in other words, I want the members of the Detective Bureau to be made aware of all matters of a police nature.

Failure to comply with this order will be considered a violation of the Police Department rules.

BENJ. F. TURNER,
Director of Public Safety."

BFT/DK

Q. I show you a letter bearing date September 9, 1927, and ask you whose signature that is. A. Benjamin F. Turner, September 9, 1927.

Q. Did you get that letter in the same way? A. Same way.

Mr. Rosenstein: I offer it in evidence.

(Letter marked Exhibit Prosecutor No. 5. It reads as follows:)

"City of Passaic New Jersey
Office of
Director of Public Safety.
September 9, 1927.

To Whom This May Concern:

Be it known that at twelve (12) o'clock noon September 12, 1927; Lieutenant Vander Hoven, Lieutenant of Police, John Freeland and Patrick J. McCarthy in their respective tours and hours of duty shall take charge of the desk in Police Headquarters and shall assume full command of the said desk and all business that shall be trans-

acted at the said desk and in the business office of Police Headquarters.

It shall be their duty to receive all Police information, complaints and assign all business to its proper channels. They shall inspect and assign and detail all the members of the Police Department in uniform and civilian clothes to their various duties. They shall have charge of turning out the various police individuals, squads and platoons when they are to go out on their duties and receive the said officers when they are reporting off duty and they are to report to and shall at various times answer and report to the Director of Public Safety.

They shall also arrange the assignment of posts and special details and shall take charge of the time book and all other books at the desk.

No member of this Police Department, shall go behind the said desk without receiving the consent and permission from either of the above said Lieutenants.

BENJ. F. TURNER,
Director of Public Safety."

BFT/DK

Q. I show you a letter bearing date September 12, 1927, and ask you whose signature that is. A. Benjamin F. Turner, September 12, 1927.

Q. Get it the same way? A. Yes.

Mr. Rosenstein: I offer this letter in evidence.

(Letter marked Exhibit Prosecutor No. 6. It reads as follows:)

"City of Passaic New Jersey
Office of
Director of Public Safety.
September 12, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.
Sir:

From and after the 12th day of September, 1927, at six (6) P. M. take notice that I require of you, that all written communication relative to Police Departmental matters together with written complaints of any kind or character, shall be forthwith delivered to my office as Director of Public Safety. It shall then be my duty to assign and distribute the action be taken in each particular instant.

I desire that this proceedure be followed out until further notice.

BENJ. F. TURNER,
BFT/DK Director of Public Safety."

Q. I show you a letter bearing date October 13, 1927, and ask you whose signature that bears. A. Benjamin F. Turner.

Q. When did you receive that letter, Chief? A. I received it October 14, 9 A. M.; I marked it up here.

Q. Is that pencil notation in your own handwriting? A. My own handwriting, yes.

Q. Did you get that directly in the same manner? A. Sent to me in the same manner, yes.

Mr. Rosenstein: I offer the letter.

(Letter marked Exhibit Prosecutor No. 7. It reads as follows:)

"City of Passaic New Jersey
Office of
Director of Public Safety
October 13, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.
Sir:

You are hereby instructed by me to vacate the present office that you are using now and transfer your office to what is known as room eleven (11) or in other words known as the, Captain of Police Office, on the main floor adjourning the main business office of this department. The furniture which is in your present office shall remain there and you shall keep your office open all hours of the day and night for the transaction of official business.

This order shall be effective dating from twelve (12) o'clock noon, October 14, 1927.

By Order of:
BENJ. F. TURNER,
Director of Public Safety."

BFT/DK

Q. I show you a letter bearing date October 14, 1927, and ask you whose signature that is. A. Benjamin F. Turner.

Q. When did you receive it, Chief? A. October 14, the same way.

Q. In the same manner? A. Yes.

Mr. Rosenstein: I offer the letter in evidence.

(Letter marked Exhibit Prosecutor No. 8. It reads as follows:)

"City of Passaic New Jersey
Office of
Director of Public Safety.
October 14, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.
Sir:

Beginning at twelve (12) noon, October 15th, there will be established on the desk in the business office of, Police Headquarters a book known as a blotter book.

You are herewith instructed that upon your arrival at, Police Headquarters and departure, you shall enter your name and the time of your arrival on the above said book and also when you depart from, Police Headquarters you shall enter your name and the time.

This rule shall apply at all hours of the day and night.

By order of
Benj. F. Turner,
Director of Public Safety."

BFT/DK

Q. Then, I direct your attention to June 13, 1927. At that time did you have an officer on your force by the name of William Buckley? A. I did.

Q. Was Officer Buckley transferred in his duty? A. Yes, sir.

Q. Can you tell us what the transfer was? A. He was doing desk duty; he was sent out on the street.

Q. By whose order was this done? A. Order of Commissioner Benjamin F. Turner.

Q. Were you consulted about making the trans-

fer? A. Didn't know anything about it until he was out on the street.

Q. Although you were then the Chief of Police? A. Yes.

Q. On June 14, 1927, Chief, did you have an officer by the name of Rudolph Weiss on the force? A. I did.

Q. Was any transfer made as to him? A. Yes.

Q. Can you recall what it was? A. He was transferred from Second and Passaic to Monroe and Second.

Q. On whose order was this done? A. Captain Benjamin F. Turner, the Director.

Q. Were you consulted by Commissioner Turner about that transfer? A. I was not.

Q. On June 17, 1927, did you have an officer by the name of Calvin on your force? A. I did.

Q. Was any order given to him? A. He was transferred.

Q. Was he transferred or was an order made as to his reporting? A. There was an order; he was changed.

Q. Who made the order? A. Benjamin F. Turner.

Q. Were you consulted about that? A. No, sir, I was not.

Q. On June 17, 1927, did you have an officer named Wynne on your force? A. Yes.

Q. Was he taken off night post at that time? A. Yes, taken on plain clothes.

Q. By whose order? A. Commissioner Benjamin F. Turner.

Q. Were you consulted about that change? A. I was not.

Q. On August 14, 1927, was there a man named Lieutenant Vanderhoven on your force? A. Yes.

Q. Did he go out on his vacation at that time? A. He did.

Q. By whose permission did he go? A. Director of Public Safety, Benjamin F. Turner.

Q. Were you told or informed or consulted? A. I didn't know anything at all until the morning when he was missing, and didn't show up, and I asked and he says he went on his vacation.

Q. Chief, you have already stated Officers Wynne and John Mead were members of the force? A. Yes.

Q. Did you also have three officers by the name of Lucas, Eelman, and Gillen? A. Yes.

Q. On August 23, 1927, were they sent out on special plain clothes duty? A. Yes, sir.

Mr. Weinberger: Let me make a general objection here to each one of those questions specifically, on the ground that they are very leading.

Q. By whose order was that done? A. Director of Public Safety, Benjamin F. Turner.

Q. Did you know about the order? A. No, sir, I did not.

Q. When did you first know about it? A. A day or so after.

Q. On September 6, 1927—

Mr. Weinberger: Same objection, as being suggestive to the witness and leading.

Q. On September 6, 1927, did you have an officer by the name of William Vanderbeck on the force? A. Yes.

Q. Was any change made with reference to the time of his hours or any change at all, Chief? A.

Yes, there was a change made. I will have to think that over first, to refresh my memory. (Examines papers.) No, I haven't got that in here. There was some change made, yes, sir.

Q. What change was made? A. Officer Vanderbeck started his vacation without my being notified.

Q. On August 4, 1927, was any change made in the office of the Captain of Police? Any change made about the vaults in the office? A. Yes; the combination was changed.

Q. How did that affect you, if at all? A. Why, I couldn't get any records no more. All these records were in the police vault. By changing the combination it was only the three lieutenants in the Police Department knowed the combination. The Captain of Police and myself did not know it.

Q. Were you given the new combination? A. No, sir.

Q. By whose order was that done? A. Director of Public Safety.

Q. In July or August of 1927 was anything done with reference to the assignment sheets? A. Yes, sir; the sheets were taken away from me and given to the men at the desk there.

Q. What do you mean by assignment sheets? A. That is the sheets where you station the men. Every month there is a change. That is done by me.

Q. Station the men? A. Yes; on their different posts during the month.

Q. Are you familiar with the manual of the Police Department of Passaic? A. Yes, sir.

Q. According to the manual, whose function is that? A. Chief of Police.

Mr. Weinberger: That is objected to before the answer goes in, on the ground that the manual speaks for itself.

Q. Chief, what is meant by the time book?

Mr. Weinberger: I object on the ground it calls for a conclusion on the part of this witness.

A. Keeping the time sheet of the members on duty daily.

Q. Is there a time book in the Police Department of Passaic? A. Yes, sir.

Q. What was your time book used for? A. That is marked present or absent or sick. If a man is on post he is marked present, when he was off through sickness he is marked sick; absent for other cause, absent.

Q. In whose custody was that book kept? A. Chief of Police.

Q. Was any change made with reference to that book? A. It was taken away from me and given to the men on the desk.

Q. Who took it away from you? A. Director of Public Safety.

Q. In May, 1927, did you have two officers by the names of Thomas Crawbuck and Patrick McCarthy as members of the force? A. Yes.

Q. Was any change made with reference to them, Chief? A. Yes, they were taken off and taken in his private office.

Q. Who did that? A. Director of Public Safety.

Q. Were you consulted about that? A. No, sir.

Q. That is all.

Mr. Weinberger: That is all, with the reservation made.

LIEUT. JOHN J. HOWARD, sworn by the Examiner, testified as follows:

Mr. Weinberger: Mr. Howard, just give me your address now on the record.

The Witness: R. F. D. No. 1, Paterson, New Jersey.

Direct-examination by Mr. Rosenstein:

Q. Lieut. Howard, you were a member of the Police Force of the City of Passaic, were you not? A. Yes, sir.

Q. From when to when? A. Well, I went in 1903 and came out in 1925.

Q. Do you remember the time when Chief Schmid retired? A. Yes, sir.

Q. And Chief Zober became his successor? A. Yes, sir.

Q. Do you recall whether or not Captain Turner went to Chief Turner to congratulate him upon his appointment? A. He did not.

Q. Do you know whether he was asked about it? A. He was, yes.

Q. Will you tell us about it? A. Well—

Mr. Weinberger: Of course, if it is based on hearsay, it is objected to.

Q. It is of your own knowledge, Lieutenant? A. Yes.

Mr. Weinberger: Were you present?

The Witness: Yes, sir.

A. He was asked by myself, being as Zober was made Chief, "Why don't you go down and shake hands with him?" And he says, "I won't do anything of the kind."

Q. When was that, Lieutenant, approximately? A. That was just—I think it was the following day.

Q. Now I direct your attention to December 6, 1924; at that time you were a Lieutenant of the force? A. I was.

Q. Do you recall an incident there with reference to a raid? A. Yes.

Q. Will you please tell us about the incident? A. On December 26, 1924, I went to Captain Turner and told him we were going out that night to make raids on the gambling houses. He says, "Very well," he says, "I would like to go along with you." I says, "All right, plenty of room." About one o'clock in the afternoon or a little after one I met Chief Zober downstairs and I says, "We are going out tonight on raids." He says, "All right, I would like to go along with you." I says, "Very well, come along." About four o'clock in the afternoon I told Captain Turner that Zober was coming with us. He says, "What the hell kind of a game is this?" He says, "You are going to take that bum along with you?" I says, "He is Chief of the Police Department, he is entitled to come if he wants to." "Well," he says, "I won't work with him," he says, "that is all." He says, "If you want to work with him you can work with him, but I will not."

Q. What happened, as a matter of fact, with reference to the raid? A. Why, that night we went out with Zober and myself, and Turner went up the street and stayed on the corner of the engine house there; he was supposed to go out with Milsy and he didn't go with him, even, I don't believe; but Zober and myself and Eddie Burpo went out.

Q. Lieutenant, do you recall an occasion of the

Chiefs meeting—the Chiefs of Police? A. Yes, there was a meeting downstairs.

Q. Did you have any conversation with Captain Turner at that time? A. There was a conversation I had with Captain Turner at that time, but I just really forget what that was now. It was something about the meeting being held downstairs, I know, but I just really can't recollect that.

Q. Do you recall anything about trying to bring the Chief and the Captain together? A. Oh, that was in the Police Headquarters.

Q. When was that, Lieutenant? A. That was the same day of the Chiefs Convention—or not convention, but just the Chiefs meeting downstairs.

Q. In the Police Headquarters? A. Yes.

Q. Tell us about that conversation. A. Well, I asked the Captain, I says, "Why don't you try and get together and patch this thing up?" He says, "I won't go and shake hands with that fellow," he says, "if I never had this job in my life." He mentioned then something about a drunken chief or something like that, I just really forget what it was.

Q. That is all.

MRS. MARION FITCHETT, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Mrs. Fitchett, where do you reside? A. I reside at 335 Lexington Avenue.

Q. Is that in Passaic, Lexington Avenue? A. Yes.

Q. Do you recall the month of December, 1926? A. Yes.

Q. Do you recall being at the Police Headquarters at that time? A. I do.

Q. Can you recall some conversation then held between the chief of Police, Mr. Zober, and Director, or, rather, Captain of Police, Turner? A. Well, the exact words I cannot recall, but the general conversation I do remember part of it very distinct.

Q. Will you please tell us what you recall? A. Why, they seemed to be in some argument, and out of it came this: "You dirty, drunken bum," by Captain Turner.

Q. Captain Turner called that to the Chief? A. Yes; "You dirty, drunken bum. I will get you."

Q. That is all.

ARTHUR D. BOLTON, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Ranzenhofer:

Q. Mr. Bolton, you are City Clerk of the City of Passaic? A. I am.

Q. Have you with you the records of the first meeting of the Commissioners of Passaic immediately after the election in 1927? A. I have the records of the minutes of June 21, 1927.

Q. June 21? A. June 21.

Q. Let me see it. This is an exact copy of it? A. Yes, sir.

Q. It is not the original? A. No; certified copy.

Mr. Ranzenhofer: I offer this in evidence.

Mr. Weinberger: What is that, Mr. Bolton?

The Witness: That is assigning the Po-

lice Department to the Director of Public Safety.

(Paper marked Exhibit Prosecutor No. 9. It reads as follows:)

"June 21, 927.

By Mayor John J. Roegner:

Resolved by the Board of Commissioners of the City of Passaic, that we have determined and hereby do determine that all of the executive, administrative, judicial and legislative powers, duties and authority relating to Police Department Officers, and all employees therein, Police Headquarters, Police Stations, and all property and apparatus used in said Police Department; the Fire Department, and all officers and employees there, and all fire houses and property and apparatus used in said department, the Fire and Police Alarm System; and all the apparatus used thereto, and the employees therein, Police Justice, Clerk of the Police Court, Interpreters, Supervisor of Buildings, Building Inspector and Assistants, Janitors of the Police Headquarters, Janitors of the Fire Houses, Street parkings, Bill Boards, Street Signs, all Special Officers, Matrons of Police Stations, supply of water for fire purposes, and all fire hydrants connected therewith, Public Theatres, Moving Picture Houses, Opera Houses, and other places of amusements, be and the same are hereby assigned and distributed into the Department of Public Safety, and Jitney Bus Department, Hacks and Taxis, issuance of Bus Permits and Taxi and Hack Licenses, and employees connected therewith, be and the same are hereby jointly assigned and distributed into the Department of Public Safety and the Department of Public Affairs, and that the

Director of said Department of Public Safety is hereby vested with all the powers, authority, rights and duties vested in or given by any statute, charter or ordinance relating to Police Department, Officers, and all employees therein, Police Headquarters, Police Stations, and all property and apparatus used in said Police Department; the Fire Department, and all officers and employees therein; and all fire houses, and property and apparatus used in said department. The Fire and Police Alarm System and all the apparatus used thereto, and the employees therein, Police Justice, Clerk of the Police Court, Interpreters, Supervisor of Buildings, Building Inspector and Assistants, Janitors of the Police Headquarters, Janitors of the Fire Houses, Street parking, Bill Boards, street signs, all special officers, Matrons of Police Stations, supply of water for fire purposes, and all fire hydrants connected therewith, Public Theatres, Moving Picture Houses, Opera Houses, and other places of amusements, and shall perform all the duties imposed by law with respect thereto, and that the said Director of the Department of Public Safety, jointly with the Director of the Department of Public Affairs, is hereby vested with all the powers, authority, rights and duties vested in or given by any statute, charter or ordinance relating to Jitney Department, Hacks and Taxis, issuance of Bus Permits and Taxi and Hack Licenses, and the employees connected therewith, and shall pointly perform all the duties imposed by law with respect thereto.

JOHN J. ROEGNER.

Adopted

Anton L. Petterson

Benj. F. Turner.

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Board of Commissioners on June 21, 1927,

A. D. BOLTON, City Clerk.

Dated June 26, 1928, Passaic, N. J."

Mr. Weinberger: There was one large department?

The Witness: Yes, sir.

Q. When was the first meeting of the Commissioners held right after the election? A. About ten days after.

Q. Do you recall the date? A. No, I do not.

Q. When was the election? A. May 10.

Mr. Weinberger: There was a meeting on the same day of the election?

The Witness: Organization meeting. May 17 they took office.

Mr. Weinberger: There was a meeting that day.

The Witness: Of the old board.

Q. On May 10 a meeting of the old board and on May 17 a meeting of the old board and the new board? A. On May 17.

Q. This resolution was not introduced until June 21, 1927? A. June 21.

Q. Have you any other paper that I have asked you to bring? A. No.

Q. Another copy of this? A. No.

THOMAS A. HOPKINS, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Mr. Hopkins, you are the Sergeant-at-Arms of the Passaic District Court, are you not? A. One of them.

Q. Have you held your office for how many years? A. About six years now.

Q. You are acquainted with Chief Zober here? A. Yes, I know him.

Q. You know him? A. Yes.

Q. You know Director Turner of Passaic? A. Very well.

Q. You remember the time when Director Turner was running for office as Director of Public Safety of Passaic? A. Yes, sir.

Q. I believe that was in April of 1927. A. Yes.

Q. Will you tell us what you know of Director Turner's attitude towards Chief Zober as you learned it both before and after the election?

Mr. Weinberger: I object if it is based on hearsay, unless the witness is familiar personally with the expressions made by the Director of Public Safety.

Q. You will tell, Mr. Hopkins, just what you know of your own knowledge, of course. A. Prior to the election, of course, I was very much interested in Commissioner Turner's election, and he told me on various occasions about Chief Zober and expressed his opinion very freely, and the language that was used, why, it is not exactly the kind that I use, but if you want me to repeat it, I will repeat it.

Q. Yes, I wish you would.

Mr. Weinberger: I object on the ground that, admittedly, what the witness is about to testify to took place some time prior to his election as the Director of Public Safety, and it is to remote and has no bearing on the issues involved.

A. Immediately after his election.

Q. Just a minute. Mr. Hopkins, when did these conversations occur, with reference to his election, I mean those that occurred before the election? A. Why, it was practically every day right up to the time of the election and after the election. I was in consultation with him all the time.

Mr. Weinberger: My objection goes to the question.

Q. All right, now, will you please tell what Commissioner Turner said in reference to Chief Zober, using the Commissioner's own language as nearly as you can recall it?

Mr. Weinberger: Will you please fix the date, if you can?

The Witness: Prior to the election, May 1927, and immediately following it, the day that Commissioner Turner took office, if you have the date there—why, I haven't.

Q. Now, will you please tell us what those remarks of Director Turner's were, in his own language, as nearly as you can recall? A. He said that if he never did anything else he was going to get this Dutch, no-good son of a bitch. Those are his own words.

Q. Did he say anything else about the Chief at that time? A. Yes. Told me about his—how he had the goods on him. He had been over to East Rutherford, these various resorts, and went on to tell me all about what the Chief—how the Chief was carousing around and all this, and of course I was believing him all the while. And after the election—

Q. What was his conversation after the election? A. The day that Commissioner Turner was sworn in, knowing my feeling for Commissioner Turner, I said, "Commissioner, if you have what you say you have, the goods on Chief Zober, when you get down there this afternoon you send for the Chief, you ask him, when he comes into your office, for his resignation; if he doesn't resign tell him you are going to suspend him the following morning. Those are the very words which I told him. He did not do it, as you know.

Mr. Weinberger: I ask that that statement be stricken out,—

The Witness: It is a fact. No one knows it better than you, Counsel.

Mr. Weinberger: —as being a voluntary statement on the part of the witness.

Q. All right, Mr. Hopkins, that is all.

Mr. Weinberger: At this time.

SAMUEL SCHWARTZ, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Mr. Schwartz, are you acquainted with Chief Zober? A. Yes, sir.

Q. How long have you known him? A. About fifteen years.

Q. Are you acquainted also with Director Turner? A. Yes.

Q. How long have you known him? A. About the same time.

Q. You are a good friend of both, are you? A. I was.

Mr. Weinberger: Where do you live, in Clifton? Where do you live?

The Witness: 160 Vernon Avenue.

Q. Do you remember the time when Mr. Zober became Chief of Police of Passaic? A. I do.

Q. Do you know whether or not there was any feeling between him and Captain Turner? A. Well, it was common gossip, everybody knew that.

Mr. Weinberger: I ask that that be stricken out.

Q. Did you know there was ill-feeling between them? A. Yes, sir, I did.

Q. Did you say anything about patching up the feeling that was between them? A. I tried to.

Q. When? A. Why, shortly after Chief Zober was made Chief.

Q. What did you do? A. I had some business with Captain Turner, and I went up to his office and he was sitting there with his elbows on the desk and his chin resting in his palms of his

hands, and he looked to me as if he was a very sick man, and I thought that was a very opportune time to try to patch up the differences between the Chief and himself, so I said to him, "Captain," I says, "you know that aggravation has killed more people than bullets or sicknesses." He says, "Just what do you mean?" "Well," I says, "You can't afford to be a sick man; you can't afford to die, you have a family that you are the sole support of, there isn't anybody else bringing any money in but yourself; why don't you and Dick make up, why don't you be friends? I am sure that if I went down to Dick and asked him to come up in the hall and meet you half way he would." He says, "Has that Dutch son of a bitch sent you up here?" I says, "No, I am up here on my own volition"; I says, "because I am your friend and I am his friend. I figure if you and the Chief could be friends, why, the department would benefit by it, you would benefit by it, and the entire community would." He says, "You go down and tell that son of a bitch that if it is the last thing I do in this world I am going to break him and I will get him right."

Q. Mr. Schwartz, will you please tell us what were some of the names Captain Turner applied to the Chief in that conversation? A. He called him everything that is rotten. He called him a Dutch bastard and a drunken bum, a son of a bitch, and lots of other words like it.

Q. Did he say anything about what the cause of his bitterness towards the Chief was? A. Yes.

Q. What did he say? A. He says, "Why couldn't he have refused to accept the job as Chief in my favor? I have only got a short time to go here

and I Will be eligible to a pension, and then I would have stepped aside for him. I could have got myself something from the Botany Mills or something like that." He says, "I needed the difference of the money better than he did. He could have easily done it." I said, "Listen, you have no reason to feel sore against Chief Zober. If you have any grievance against anybody, be sore against the Commissioner; he is the one that did the job. He made the job and let you slide by." He said, "The only one I will get even on is that Dutch bum."

Q. Mr. Schwartz, do you know anything else in the relations between the Chief and the Captain? A. Well, I knew they had always been at odds, that Turners would duck him, he wouldn't go—never faced him, never say hello to him; if they came in the Police Station at all he would come in through the garage way so as to dodge seeing the Chief.

PATRICK FITZPATRICK, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Where do you reside, Captain? A. 50 Henry Street, Passaic, New Jersey.

Q. You are a member of the Police Force of Passaic? A. Yes.

Q. What office do you hold? A. Well, I was appointed to Captain.

Q. Remember when Captain Turner was elected as Director of Public Safety? A. Yes, sir.

Q. After his election was any change made in the duties you were performing? A. Yes, sir.

Q. What duty had you been performing? A. I was doing desk duty.

Q. What change was made? A. I was transferred to the street.

Q. You were transferred to street duty? A. Yes, sir.

Q. Did you go to the Chief about the transfer? A. Yes, sir; I went to the Chief and I asked him what was wrong, and that I was being transferred, and he said he didn't know anything about it.

Q. That is all.

RUDOLPH WEISS, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Where do you reside? A. 60 Aycrigg Avenue, Passaic.

Q. You are a member of the Police Force of the City of Passaic? A. Yes, sir.

Q. You were a member at the time that Captain Turner became Director of Public Safety? A. Yes, sir.

Q. After the election of Captain Turner was any transfer made in your position? A. Yes; I was transferred from traffic duty—that is, not from traffic duty; from one post to another.

Q. Did you go to Chief Zober about the matter? A. Yes; a couple of days after I went in and asked the Chief why I was transferred. He said he did not know.

Q. Say whether he knew anything at all about the matter? A. Not a thing.

Q. He said he knew nothing about the matter? A. No, sir.

Q. That is all.

MEYER WEINBERG, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Where do you reside, Mr. Weinberg? A. 128 Park Avenue, Passaic, New Jersey.

Q. Do you know Chief Zober? A. Yes, sir.

Q. Do you know Captain Turner? A. I do.

Q. Do you recall being in the Police Headquarters of Passaic on December 6, 1926? A. Yes, sir.

Q. On that day did you hear a conversation between the Captain and the Chief? A. I did.

Q. Will you please tell us what it was? A. Why, I was standing in the corridor and Captain Turner came running out and walked down to the end of the hall, to the stairway there, and the Chief walked out behind him, and Captain Turner says: "A fine Chief of Police. A dirty, drunken bum." He says, "I will get you."

Q. Was anybody else there when that occurred? A. Mrs. Fitchett was standing right alongside of me.

Q. That is all.

HERMAN ZOBER, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Where do you reside, Mr. Zober? A. 34 Stewart Street, Passaic, New Jersey.

Q. You are a member of the Police Department of the City of Passaic? A. Yes, sir.

Q. You are the son of Chief Zober, are you not? A. Yes, sir.

Q. You were a member of the Police Depart-

ment of Passaic in May of 1927? A. Yes, sir.

Q. Do you recall the time when Captain Turner was elected Director of Public Safety of Passaic? A. Yes, sir.

Q. Did you have occasion to go to Mr. Turner and speak to him after his election? A. Yes, sir.

Q. About when was that? A. Well, the day he was sworn in.

Q. Will you tell us if you had any conversation with him and what that was? A. The day he was sworn in, as he entered the police station ready to go upstairs, why, I went up to him and I went to shake hands with him; I says, "Well, Commissioner, I want to congratulate you"; so he lift up his hand and said, "Never mind; I don't want you and I don't need you." I said, "Thank you, Commissioner," and I walked away; I saluted and walked away.

Q. That is all.

JULIUS BERZI, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Where do you reside, Mr. Berzi? A. 201 Third Street, Passaic, New Jersey.

Q. You are a member of the Police Department of Passaic? A. Yes, sir.

Q. You were a member in May, 1927? A. Yes, sir.

Q. Do you recall the time when Captain Turner was elected Director of Public Safety in May of 1927? A. Yes, sir.

Q. Do you know Herman Zober, the last witness on the stand? A. Yes, sir.

Q. Do you recall shortly after Commissioner Turner's election Herman Zober having a conversation with Commissioner Turner? A. Yes, sir.

Q. Will you tell us what the conversation was? A. Why, I just happened, I was up at the Police Station, and Herman Zober came through the garage and Commissioner Turner was just going to go upstairs, on the third step, and Officer Zober coming through the garage, and then he wants to shake hands with him.

Q. Who wanted to shake hands, Officer Zober? A. Yes, sir.

Q. With Commissioner Turner? A. Yes, sir.

Q. What did Officer Zober say? A. Well, he says, "Congratulations to you, Commissioner"; and Commissioner Turner said, "Never mind, never mind, I don't need you and I don't want you." I was about ten feet away from the Commissioner.

Q. That is all.

MICHAEL ROGERS, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Where do you reside, Mr. Rogers? A. 168 Quincy Street, Passaic.

Q. What is your occupation? A. Nothing at present.

Q. Do you know Commissioner Turner of Passaic? A. Sure do.

Q. Do you remember the time when he was elected Commissioner in May of 1927? A. Yes.

Q. Do you know Officer Zober? A. Yes.

Q. Do you recall any conversation that Officer Zober had with Commissioner Turner after the

Commissioner's election? A. Officer Zober, yes.

Q. Will you please tell what the conversation was? A. Well, I was a special policeman at the time; I was called up to the City Hall with the patrol wagon to get the flowers that Commissioner Turner received, and we got up there; so Dugan and Vanderhoven was told to go back; I went back to Headquarters and stayed there for awhile, and Commissioner Turner and a couple more came in, and I was three to five feet away from the Commissioner, and Herman Zober, when Herman Zober went over to shake hands with him, and he says, "I don't need to shake hands with you. I never asked you," and walked away, walked right upstairs.

Q. That is all.

C. EDWIN WILLIAMS, sworn by the Examiner, testified as follows:

Direct-examination by Mr. Rosenstein:

Q. Now, Mr. Williams, where do you reside? A. 25 Park Avenue, Passaic.

Q. What is your occupation? A. Newspaper reporter.

Q. For what paper? A. Passaic Daily Herald.

Q. How long have you been employed in that capacity? A. About three years on the Herald.

Q. Do you know Commissioner Turner? A. Yes.

Q. Do you recall the time when the Commissioner was elected to his office as Director of Public Safety in May of 1927? A. Yes, sir.

Q. Now, do you recall your newspaper published an article shortly after the Commissioner's elec-

tion in which he is reported as criticizing Chief Zober for not praising Officer Mead? A. Yes; I wrote the story.

Q. From whom did you get your information? A. Commissioner Turner.

Q. Did Commissioner Turner to you criticize Chief Zober for not praising Officer Mead? A. Just as the story appeared in the Herald.

Q. Do you recall that about that same day or shortly thereafter Chief Zober himself or with the assistance of an officer captured two payroll bandits? A. Yes; I wrote that story.

Q. You wrote that story also for the paper? A. Yes.

Q. Did you have an interview with Commissioner Turner with reference to that story? A. Why, I didn't have an interview with him in reference to the story, but I saw him right after it.

Q. What did he say, if anything? A. He didn't say anything.

Q. Said nothing at all? A. No. I didn't ask him to make a statement at that time which might praise the Chief for his capture, but I went up there on the chance that he would make one, and he did not.

Q. He did not? A. No.

Q. Did you ever hear Commissioner Turner call Chief Zober names?- A. Yes, sir.

Q. When? A. On numerous occasions before the present Commissioner was Captain of Detectives and since that time—since his election.

Q. And since the Commissioner's election? A. Yes, sir.

Q. What were some of the names he called the Chief? A. Why, I know that they were not very

complimentary to say verbatim what they were. I know one of them in particular: "A Dutch son of a bitch." He often referred to him as that. "That Dutch son of a bitch."

Q. That is all.

Mr. Rosenstein: We rest, reserving the right to put in, say, four witnesses later.

I, George P. Kelley, hereby certify that the within testimony was taken by me stenographically and transcribed into typewriting, and that the same is a true and correct transcript of my shorthand notes, according to the best of my skill and understanding.

GEO. P. KELLEY.

DEPARTMENT OF PUBLIC SAFETY.

In the Matter
of the
Hearing of Charges made by Acting Chief of Police Lambert DeGroot,
against
RICHARD O. ZOBER, Chief of Police of the City of Passaic.

Police Headquarters, Passaic, N. J.
November 29 and December 2, 1927.

Before City Commissioner BENJAMIN F. TURNER,
Director of Public Safety.

APPEARANCES:

For the City of Passaic: JOSEPH J. WEINBERGER, ESQ., and MERRITT LANE, ESQ.
For Chief Zober: FILBERT ROSENSTEIN, ESQ., FREDERICK S. RANZENHOFER, ESQ. and Messrs. WARD & MCGINNIS.

(The Commissioner swore George P. Kelley to act as the official stenographic reporter in this hearing.)

Mr. Lane: I move this hearing, and I am wondering whether counsel has any objection to the offer of a printed copy of the Manual of the Police Department?

Mr. Ward: No objection.

Mr. Lane: I would like to have it marked.

(Book marked Exhibit P-1).

Mr. Ward: Before any offer is made, however, we have a motion to make. After the matter having been moved we wish to make this motion before anything is done with reference to the charges.

The Commissioner: Proceed.

Mr. Rosenstein: This is a motion that divides itself into three parts:

Point 1: Richard O. Zober, Chief of Police of the City of Passaic, New Jersey, directed to appear and plead and be prepared for trial before Benjamin F. Turner, Director of Public Safety, does hereby challenge the right of the said Benjamin F. Turner to try him, the said Richard O. Zober, for the reason that trial of said Richard O. Zober by said Benjamin F. Turner would be in violation of the provisions of the Manual of the Police Department of the City of Passaic, in that "the officers and men employed in the Police Department may be removed from their respective offices and places in said Police Department—only after written charges and a fair and impartial hearing upon such charges," and also in violation of Chapter 152 P. L. 1917 page 360 that "No person, whether officer or employee in any such police department, shall be removed from office or employment therein, except after just cause, as hereinabove provided, and then only after written charge or charges of the cause or causes of complaint shall have been preferred against such officer or employee signed by the person or persons making such charge or charges and filed in the office of the municipal officer, officers or board having charge of the department, in which the complaint arises, and after the charge or charges shall have been publicly examined into by the appropri-

ate board or authority upon reasonable notice to the person charged; it being the intent of this act to give every person against whom a charge or charges for any cause may be preferred under this act, a fair trial upon said charge or charges"; and the said Richard O. Zober says that the state of mind of the said Benjamin F. Turner towards him the said, Richard O. Zober, as shown by the following enumerated acts, is such as will foreclose him, the said Richard O. Zober, of a fair and impartial hearing or a fair trial upon said charges:

(1) In the year 1924 the said Benjamin F. Turner was Captain of Detectives and the said Richard O. Zober was Captain of Police. The then Chief of Police, Gustave Schmidt, resigned, and both the said Benjamin F. Turner and Richard O. Zober, were rival candidates for the position of Chief, to which the said Richard O. Zober was then appointed.

(a) On the day that said Richard O. Zober entered upon his said office of Chief of Police of Passaic, to wit, April 15, 1924, every member of the Police Department shook hands with him but said Benjamin F. Turner, although the suggestion was made to him by fellow officers, refused to shake hands with said Richard O. Zober, the new Chief, or Gustave Schmidt, the retiring chief.

(b) On the occasion of the appointment of the said Richard O. Zober, to the office of Chief of Police of Passaic, a dinner was tendered to the said Richard O. Zober, to which the said Benjamin F. Turner, although invited to attend, refused to come.

(c) About August, 1924, Samuel Schwartz, a

friend of both Captain Benjamin F. Turner and Chief Richard O. Zober, sought out the said Captain Turner and asked him why he went around with bitterness in his heart toward Chief Richard O. Zober and suggested that he shake hands with him. Thereupon the said Captain Turner, referring to the said Zober as a son of a b, bastard, and other things, inquired why he should make up with him, and why couldn't he have let the said Turner be chief, since he needed the extra money more than the said Zober did, and that the said Zober could easily have refused, with the result that the said Turner would have been appointed and would have held the place only a few years; but that instead he had gotten the office over the head of him, the said Captain Turner, and that he was not through with him and that he would get even with him.

(2) On December 6, 1924, Captain Turner refused to go with John Howard and other members of the Passaic Detective Bureau, on a hunt for gambling houses, as theretofore arranged, because in the interval, Richard O. Zober, had notified said John Howard that he, the said Richard O. Zober, their superior officer and the superior officer of said Benjamin F. Turner, would accompany said detective party. Said Benjamin F. Turner said, "I do not want to work with the Chief. He does not speak to me, so I don't want anything to do with him." Said Benjamin F. Turner further said, "I want all of you fellows to come to the municipal building. As I will be waiting there for you men, and come right away." Said John Howard replied, "Captain, I cannot work that way. The Chief is our boss. That is not square to do

things like that. If you want to go with some of the men, I will go with the Chief." Said Benjamin F. Turner then said to send the other two detectives to him at the municipal building, and that said John Howard could go with the Chief, if he liked.

(3) On December 6, 1926, Benjamin F. Turner, entering Police Headquarters, and being addressed by the said Richard O. Zober, then Chief of Police, remarked to him, in the presence of other members of the Police Department, and of other people, "Who are you, you drunken bum?"

(4) Upon the election of said Benjamin F. Turner as Commissioner of Public Safety, in May, 1927, Herman Zober, son of said Richard O. Zober, offered to shake hands with said Benjamin F. Turner. The said Benjamin F. Turner, however, refused, saying, "I don't want you and I don't need you."

(5) On or about May 17th, 1927, when Benjamin F. Turner was inducted into office as Commissioner, a number of floral pieces were sent to him at the City Hall. Upon this occasion Richard O. Zober sent his son and another police officer with the patrol wagon to the City Hall to bring the floral pieces to the Commissioner's office in the Police Building. Commissioner Turner refused to permit Zober's son and the other police officer to touch the flowers and sent for a fire-engine tender to take the flowers to his office in Police Headquarters.

(6) During the month of August or September, 1927, said Benjamin F. Turner, in conversation, referred to said Richard O. Zober, as a son of a b.

(7) On or about June 15, 1927, the said Benjamin F. Turner, as Director of Public Safety, in a newspaper article, publicly criticized said Richard O. Zober, Chief of Police, for not publicly commending one John Meade, a police officer and personal friend of said Benjamin F. Turner, for arresting a man who had caused an accident, as to which said Richard O. Zober had given said Meade the necessary information. On the same day, when said Richard O. Zober, Chief of Police, personally captured two payroll bandits, said Benjamin F. Turner, Commissioner as aforesaid, refused to commend said Richard O. Zober, although newspaper reporters asked him for a statement.

(8) Ever since the said Benjamin F. Turner became Director of Public Safety of Passaic, to wit, since May, 1927, he has systematically humiliated the said Richard O. Zober and has stripped him of every vestige of authority.

(A) He has done this by written orders.

(a) On August 22, 1927, the said Benjamin F. Turner made an order directed to said Richard O. Zober. "From this date on, any member of the Police Department of the City of Passaic, shall not leave this City without first having received the consent and permission of the Director of Public Safety. This rule will apply to the Chief of Police and every member of this department."

(b) On the same date, said Benjamin F. Turner made an order directed to said Richard O. Zober. "From this date (August 22nd, 1927), on, you are herewith instructed by me to wear your uniform at all times, both in Police Headquarters and on the public streets."

(c) On August 31, 1927, said Richard O. Zober, acting on a complaint from a citizen, raided the premises at No. 117 Columbia Avenue, Passaic, New Jersey. Said Benjamin F. Turner inquired of said Richard O. Zober where he received his information for the raid. Said Richard O. Zober declined to inform him, because he had promised to treat the complaint as confidential. On September 2, 1927, said Richard O. Zober made a report of said raid to Benjamin F. Turner, and on September 2, 1927, said Benjamin F. Turner issued the following order to said Richard O. Zober:

"On June the 28th, 1927, in your absence which you were away on your vacation, I issued an order, as follows: 'Commanding Officer or Officers, the officer doing desk duty or in charge of telephone switchboard. From this date, June 28, 1927, on, will immediately upon receiving a telephone call, in reference to crimes being committed, from citizens and complainants, will immediately notify the Commanding Officer of the Detective Bureau of this Department. Failure for not doing so will be considered a violation of the Police Department rule.

Signed: Director of Public Safety.'

I herewith instruct you to comply with the same rule, and that in the future when information is received at Police Headquarters from any person in reference to a crime being committed or a violation of the laws of the State of New Jersey being violated, Federal Laws and City Ordinances or where an investigation is necessary, you will notify the Commanding Officer of the Detective Bureau or whoever may be in charge of the Detective

Bureau, or in other words, I want the members of the Detective Bureau to be made aware of all matters of a police nature.

Failure to comply with this order will be considered a violation of the Police Department rules."

(d) On September 9, 1927, the said Benjamin F. Turner made an order in writing addressed "To Whom This May Concern." This order placed three lieutenants in charge of the desk in Police Headquarters with authority to assume full command of the desk and all business that shall be transacted in Police Headquarters. They were further ordered to receive all information, complaints and assign all business to its proper channels, to inspect, assign and detail the members of the Police Department in uniform and civilian clothes and to report to the Director of Public Safety. They were further ordered to arrange the assignment of posts and special details and take charge of the time book and all other books at the desk.

This order further contained a provision that no member of the Police Department shall go behind the desk without receiving the consent and permission from either of the aforementioned lieutenants.

All of the aforesaid order stripping Richard O. Zober, Chief of Police, of all power and duties, contrary to the provisions contained in the Manual of the Police Department of the City of Passaic.

(e) On September 12, 1927, said Benjamin F. Turner made an order directed to said Richard O. Zober, ordering all "written communications relative to Police Departmental matters together with written complaints of any kind or character, to be forthwith delivered to the office of said Benjamin

F. Turner, as Director of Public Safety, whose duty it would then be to assign and distribute the action to be taken in each particular instant."

(f) On October 13, 1927, said Benjamin F. Turner made an order directed to said Richard O. Zober, "You are hereby instructed by me to vacate the present office that you are using now and transfer your office to what is known as room eleven, or in other words known as the Captain of Police Office, on the main floor adjoining the main business of this department. The furniture which is in your present office shall remain there and you shall keep your office open all hours of the day and night for the transaction of official business."

(g) On October 14, 1927, said Benjamin F. Turner made an order directed to said Richard O. Zober, "Beginning at twelve noon October 15th, there will be established on the desk in the business office of Police Headquarters a book known as a blotter book. You are herewith instructed that upon your arrival at Police Headquarters and departure, you shall enter your name and the time of your arrival on the above said book and also when you depart from Police Headquarters you shall enter your name and the time.

This rule shall apply at all hours of the day and night."

(8-B) Said Benjamin F. Turner has stripped said Richard O. Zober, Chief of Police, of his authority by various shifts in the department, made without consulting or informing said Richard O. Zober.

(a) On June 13, 1927, Officer William Buckley was taken from desk duty and transferred to traf-

fic duty. This was an order of Commissioner Turner and without consulting Chief Zober.

(b) On June 13, 1927, Officer Rudolph Weiss was transferred from duty at Second and Passaic Streets to Second and Monroe Streets. This was an order of Commissioner Turner and without consulting Chief Zober.

(c) On June 17, 1927, Officer Calvin was ordered by Commissioner to report at eight P. M.

(d) On June 17, 18, 1927, Officer Wynne was taken off night post by Commissioner Turner.

(e) On August 14, 1927, Lieutenant Vanderhoven started vacation without a word to Chief Zober, but acting on permission of Commissioner Turner.

(f) On August 23, 1927, Officers Wynne, John Meade, Lucas, Eelman and Earls were sent out on special plainclothes duty. This was done on order of Commissioner Turner, without the knowledge of Chief Zober. Officer McCarthy was sent to Sergeant Callahan to fill the positions of the above mentioned officers.

(g) On September 6, 1927, Lieutenant Vanderhoven said to Desk Officer William Vanderbeck, "From now on I will work from 7 a. m. to 4 p. m." This was without knowledge of Chief Zober, but on order of Commissioner Turner.

(h) On October 4, 1927, the combination on the vaults in the office of the Captain of Police, and now also of the Chief of Police, in which the records of the Police Department are kept, was changed by order of Commissioner Turner, and

Chief Zober could no longer have access to said records.

(i) In July or August, 1927, said Benjamin F. Turner took away from the said Richard O. Zober, the assignment sheets, which sheets were the means of assigning the men of the department to their various posts, a function which belongs to the Chief of Police according to the Manual of the Police Department, and gave this duty to Lieutenant Vanderhoven.

(j) The said Benjamin F. Turner took away from the said Richard O. Zober the time book, which book was the means of checking the presence of the men of the department each day, and gave the said time book and the function of checking the men, to the three lieutenants at the desk.

(k) During the latter part of the month of May, 1927, the said Benjamin F. Turner assigned Officers Thomas Crawbuck and Patrick McCarthy as aides in his office, without consulting the said Richard O. Zober, or even notifying him of such action.

Point II:

And for a second ground of challenge, the said Richard O. Zober says that the said Benjamin F. Turner is under a disability to preside and determine the aforementioned charges made against him, the said Richard O. Zober, for the reason that the said Benjamin F. Turner is required as a material witness for the defense of the said Richard O. Zober.

(l) The said Benjamin F. Turner is cognizant of all the facts recited under Point I of this chal-

lenge, showing that the state of mind of the said Benjamin F. Turner is such that he cannot grant to the said Richard O. Zober, a fair and impartial hearing or a fair trial upon said charges.

(2) The said Benjamin F. Turner was the Captain of the Detective Bureau of the City of Passaic during the period when the acts complained of in the aforesaid charges occurred; and the said Benjamin F. Turner knows the respective functions of the Chief of Police and the Detective Bureau in reference to investigating stolen automobiles, and other matters relating to the conduct of the said Police Department and the said Detective Bureau.

Point III:

And for a third ground of challenge, the said Richard O. Zober says that the said Benjamin F. Turner is under a disability to preside and determine the aforementioned charges made against him, the said Richard O. Zober, for the reason that the matters alleged in the said charges occurred prior to May 17, 1927, the time when the said Benjamin F. Turner entered upon the duties of Director of Public Safety of the City of Passaic.

(Signed) Richard O. Zober.

This sir, is the challenge of the defendant, and we are here and ready now to offer testimony to substantiate the facts set out in this challenge.

Mr. Lane: There is no practice of challenging the jurisdiction nor the right of the Commissioner to preside at a trial of this kind, and there is no practice with respect to taking any testimony upon such a challenge. That matter is one which

will have to be, I submit, reserved to the respondent upon an appropriate application by certiorari for a determination of this charge, and I move that the trial proceed.

The Commissioner: Proceed, gentlemen.

Mr. Rosenstein: We ask for an exception to the ruling of the Commissioner.

The Commissioner: Granted.

Mr. Lane: Now, I re-offer, in order that there may be no error,—I re-offer by consent the Manual of the Police Department in the printed form.

(Book marked Exhibit P-1.)

MRS. LENA JACOB KAUFMANN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mrs. Kaufmann, where do you live? A. South Orange, 324 Scotland Road.

Q. Did you own a Cadillac sedan car? A. I owned an Imperial limousine car which was stolen.

Q. When did you own that car? A. It was purchased in December, 1924.

Q. Do you remember or have you a memorandum of the motor and the numbers of that car? A. No, sir.

Q. How long did you have the car? A. Thirteen months. It was stolen in January, 1926.

Q. When did you next see the car? A. Only here a few weeks ago, at a garage.

Q. Can you remember the date? A. About three weeks ago, I imagine.

Q. Where? A. At a garage over here.

Q. Who was with you when you saw the car? A. My chauffeur and a detective.

Q. You purchased the car from whom? A. From Charlie Fisher of the Cadillac Company.

Q. I show you a bill of sale from the Uppercu Cadillac Company to Lena Jacob. Was that your name at that time, Lena Jacob? A. Yes.

Q. I now ask you whether that is the bill of sale which you received with the car. A. Yes, sir. Where is that date on this here? That is right.

Mr. Lane: I offer that.

(Paper examined by defendant's counsel.)

(Paper marked Exhibit P-2.)

Mr. Ward: We object. We wish a ruling.

Mr. Lane: "We object" is not a reason.

Mr. Ward: We object on the ground that the document has not been properly proven and is not connected with the car in question, or a car, at least, upon which we are concerned in these charges.

Mr. Lane: Well, we cannot prove the whole case at one time. This witness has tied that bill of sale up to that car.

The Commissioner: Proceed.

(Paper marked Exhibit P-2.)

Mr. Ward: The objection is overruled.

The Commissioner: Overruled, I should say.

Mr. Ward: We ask an exception to your Honor's ruling.

Q. Can you tell me where the car was at the

time it was stolen? A. On Fourth Street near Bridge Street in Newark.

Q. Was the theft reported to the police? A. Right away.

Q. To what police department was it reported?

Mr. Ward: We object unless the witness has personal knowledge.

A. I couldn't tell you. I think my chauffeur would be able to.

Q. The chauffeur told you? A. Because I was not in the car at the time.

Q. Did you identify the car when you saw it two or three weeks ago? A. Yes, sir.

Q. As your car? A. Yes, sir.

Q. How did you identify it? A. My initials are still at the door.

Q. Your initials still appear on the door of that car? A. Yes, sir.

Q. What are those initials? A. L. J. K.

Q. You have not seen this car this morning, have you, yet? A. No, sir.

Q. How much was paid for the car? A. Either fifty-two or fifty-three hundred, I am not quite sure.

Q. Was it insured? A. Yes, sir.

Q. Did the insurance company settle for the loss? A. Yes, sir.

Q. Tell me about when it was settled for, the loss. A. Sixty days after it was stolen.

Q. Have you got your registration card? A. No, sir; that was all turned over to the insurance people.

Q. Did you have the car registered? A. Yes, sir.

Q. With the Secretary of State for the year 1926? A. Yes, sir.

Q. Do you happen to remember your registration numbers or not? A. No, sir, I do not.

Q. That is all.

Cross-examination by Mr. Ward:

Q. Did you buy the car yourself? A. No.

Q. Or someone else? A. My husband bought it for me.

Q. Your husband bought it? You were not present when it was bought? A. Yes, sir. I was not married at that time.

Q. As a matter of fact, you don't know how much was paid for it, do you? A. No.

Q. That is simply something that has been told to you? A. Yes, sir.

Q. So far as this bill of sale is concerned, you don't know anything about the bill of sale, do you? A. No.

Q. Excepting that you had it in your possession? A. That is all.

Q. That is all, isn't it? A. That is all.

Q. At the time the car was purchased, what was your name? A. Lena Jacob.

Q. Jacobs at that time; is that correct? A. Yes, sir.

Q. And the initials on the car were not the initials of you at that time, were they? A. Well—

Q. The initials, the last initial, the last letter, is K? A. Yes.

Q. And your name was Jacobs? A. Jacob at that time, yes.

Q. When were you married, Mrs. Kaufmann? A. December 30, 1924.

Q. When do you say this car, this particular car that you had in your possession, disappeared? A. In 1926, in January.

Q. January, 1926? A. Yes, around the middle of the month.

Q. When this car disappeared you did not do anything about collecting the insurance, did you? A. No, sir; they reported it to the insurance people.

Q. You did not even report it to the insurance company yourself, did you? A. My husband.

Q. You don't know anything about that? I mean, so far as you personally are concerned? A. Yes, sir.

Q. That is correct, isn't it? A. That is correct.

Q. And you simply know what has been told you about that? A. Yes, sir.

Q. And you simply know what has been told to you so far as the amount paid by the insurance company is concerned; that is correct, isn't it? A. Yes, sir.

Q. You have no personal knowledge? A. No.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Mrs. Kaufmann, your last name is Kaufmann? A. Yes, sir.

Q. This car was bought about ten days before you were going to be married, wasn't it? A. Yes, sir.

Q. Therefore, the initials L. J. K. were put on the car? A. Yes, sir.

Q. Now, this bill of sale that counsel says you know nothing about, you got the bill of sale, didn't you? A. My husband got it.

Q. Were you there at the time the car was purchased? A. No, sir.

Q. Did you see the car before it was purchased? A. Yes, sir.

Q. How long before the car was purchased did you see it? A. Just a few days before.

Q. A few days before. Was there any talk with respect to how much was going to be paid for the car? A. No, sir.

Q. At the time or at any time with the man in the company? A. No, sir.

Q. How do you know that your husband reported—is your husband here now? A. No; he is out of town.

Q. How do you know that your husband reported it to the police? And the insurance company?

Mr. Ward: We object to that, because that would be purely hearsay, Mr. Commissioner. She says she did not report it herself.

Mr. Lane: I withdraw that question.

Q. Did you hear your husband report it? A. No, sir.

Q. That is all.

Mr. Ward: We ask that there be stricken from the record all of the evidence of the last witness concerning the purchase of the car and the price of the car, the report to the insurance company with reference to the loss of the car, and the settlement of the insurance company with the witness with reference to the amount of the car or any settlement that may have taken place.

Mr. Lane: I have no objection to it being stricken. We will have the man who made the settlement. It is only wasting time, that is all.

The Commissioner: Yes. Proceed, Mr. Ward.

Mr. Ward: Do I understand that your Honor rules that the evidence is stricken out?

The Commissioner: I am going to rule this way, Mr. Ward, that I am going to allow everything to go in. Then if there is any question, you know as a well learned attorney, where to seek redress. And you understand that this is not an iron-bound trial. It is an investigation, and I am going to permit everything to go in.

Mr. Ward: You see, Mr. Commissioner, of course there are some things we would like to do and some things we wouldn't like to do, and we have, of course, to make these objections. There is no reflection upon you at all.

The Commissioner: It will be carefully noted.

Mr. Ward: Yes, we wish to have it noted.

The Commissioner: Yes.

RANDOLPH A. YOUNG, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. 74 Leventhal Avenue, Irvington.

Q. Were you employed in January, 1926, by Mr. and Mrs. Kaufmann? A. Yes, sir.

Q. As what? A. Chauffeur.

Q. Do you know the sedan Cadillac car that they had? A. I do, yes, sir.

Q. Was that car stolen?

Mr. Ward: I object to that.

Mr. Lane: We will withdraw it.

Q. In January, 1926, were you driving the car? A. I was, yes, sir.

Q. Where did you last see it? A. When it was stolen from me?

Q. Yes. A. On Broad and Orange Street.

Q. Tell us what happened. A. Why, I just went into a drugstore there and got some aspirin and a cup of coffee and came out and the car was gone.

Q. What did you do? A. I immediately went right back and called up the Police Headquarters.

Q. Police Headquarters of what? A. Newark, New Jersey.

Q. What report did you give to Police Headquarters of Newark?

Mr. Ward: We object to that.

Mr. Lane: On what ground?

Mr. Ward: On the ground it is hearsay.

Q. Go ahead. Tell me what that report was.

Mr. Ward: We object.

The Commissioner: It will be noted, Mr. Ward.

Mr. Ward: Yes, but we wish, of course, your ruling.

A. Why, I just called up and told them I left my car and I came out and it was gone.

Q. Did you see that car again at any time? A. No, sir; not until, well, about a week and a half ago, when I saw it up in Passaic.

Q. Where did you see it again? A. Saw it in the garage.

Q. Whose garage? A. I don't know the name. I just can't recall.

Q. Where? A. Around on one of these streets. I am not familiar with the town here, so I don't know.

Q. Neither am I. Who was with you? A. Mrs. Kaufmann, and I don't know the man from the Detective Bureau, I believe.

Q. Do you know who the man from the Detective Bureau was? A. Yes, I know him.

Q. What is his name? Point him out. A. Standing right up there in the rear of the room. The gentleman back by the door.

Mr. Lane: Get his name on the record.

The Commissioner: Detective Edward Boyko.

Q. Did you identify the car at that time? A. Yes, sir.

Q. How did you identify it? A. Why, I identified it by the initials on the door, which are plain—you could still see them—and I identified it by two scratches that are on the door that was dug into the paint and aluminum body, that was done when the car was in my possession.

Q. How long had you been driving the car before it was stolen or before it disappeared? A. Well, I had been driving the car since it was bought, I just can't say how long that was.

Q. When was it this car was stolen? A. It was stolen January, 1926.

Q. Of this year? A. In 1926. Might be a little bit mixed up on the date.

Q. Did you ever see the bill of sale for that car? A. No, sir.

Q. I suppose you don't remember the motor numbers, do you? A. No, sir.

Q. Nor do you remember the registration numbers? A. No, I don't remember that, either.

Q. Do you know the car was registered? A. Oh, yes, I know that.

Q. In 1926? Cross-examine.

Cross-examination by Mr. Ward:

Q. Registered in 1925, too, do you know that? A. No, sir, I do not.

Q. I beg pardon? A. I can't say I do, in 1925.

Q. You were the chauffeur who drove the car from the time it was bought, were you not? A. Yes, sir.

Q. One particular car, a Cadillac car? A. Yes, sir.

Q. You have been a chauffeur how many years? A. I have been a chauffeur about fifteen years.

Q. Been familiar with cars all that time? A. Quite familiar, yes.

Q. And familiar with Cadillac cars? A. Yes; I worked for the Cadillac people.

Q. Worked for the Cadillic people. You identified this particular car by reason of the initials that were on it? A. I did, yes, sir.

Q. Which were not very plain, I understood you. I think you said you could still see them. A. You can still see initials on the car, yes.

Q. But by that you mean they are partly obliterated? A. No; they are under the varnish.

Q. I see. A. But the varnish is transparent, and you can see right through.

Q. But they are covered by something, are they not? A. No; the initials wasn't covered up by anything.

Q. Covered by the varnish? A. By the varnish, yes.

Q. Having worked for the Cadillac people, you knew where, of course, the numbers on the Cadillac cars were? Yes, sir; some of them.

Q. That is the serial number? A. There is no serial number.

Q. There is no serial number? A. If there is, it is the same as the motor number.

Q. Now, are you sure about that, having worked for the Cadillac people? I will withdraw that. A. To the best of my knowledge I do, yes.

Q. I will withdraw that. You worked for the Cadillac people for how long? A. Oh, just for a couple of years, repairing cars.

Q. During that period of time you came in contact with how many Cadillac cars? A. That is kind of hard to say; quite a few.

Q. Well, can't you give us any idea about how many a week or how many a month, so we can get some idea? A. I would say I worked on possibly five or six a week.

Q. Five or six a week on an average? A. Yes, sir.

Q. And you don't know whether or not there is a serial number on a Cadillac car? A. I said that if there is a serial number it is the same as the motor number.

Q. That is what I say, you don't know as a matter of fact, whether there is a serial number? A. No.

Q. And you do, however, know there is a motor number? A. Yes, I know that.

Q. Yet you did not know what the motor number of this particular car was? A. No, I did not.

Q. And you worked on this car from December, 1924, until January, 1926. Did you wash that car and oil it, grease it? When you shake your head you mean what? A. Yes. I never stood and studied the number on it.

Q. You never had any occasion to study the number on it at all? A. No, sir.

Q. Of course, when you were driving the car in question, the car that belonged to Mrs. Kaufmann, you knew it was initialed, didn't you? A. Yes, sir.

Q. You knew where to look for that and where your number would be? A. Yes, sir.

Q. I mean, the scratches about which you speak, that were means of identification. Those scratches were, of course,—the place of those particular scratches were known to you—the place was known to you? A. Yes, sir.

Q. I suppose you knew under what particular circumstances the car had been scratched, didn't you? A. Yes, sir.

Q. You were thoroughly familiar with that? A. That is the reason I knew where to look for the scratches.

Q. Yes, indeed. That is all.

Redirect-examination by Mr. Lane:

Q. You did not buy that car for a small part of its value, did you?

Mr. Ward: I object to that.

Mr. Lane: I won't press it. Will you

wait, because the car is outside and I might want you to identify it again, so do not go.

CHARLES E. FISHER, JR., being first duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Fisher, where do you live? A. 449 Mt. Prospect Avenue, Newark.

Q. What was your business in December, 1924? A. Cadillac automobiles.

Q. In what capacity? A. Salesman.

Q. Did you sell or did you have anything to do with the sale of a Cadillac sedan to Mr. Kaufmann, a bill of sale of which was given to Lena Jacob? A. I did.

Q. What did you have to do with it? A. Sold the car to Mr. Kaufmann.

Q. How much was the purchase price of that car? A. Fifty-three hundred.

Q. Did you have anything to do with the bill of sale for the car? A. Yes, sir.

Q. I show you a bill of sale, which is marked Exhibit P-2, and ask you whether that is the bill of sale. A. It is.

Q. I notice that there is a certain motor number on that car, or in the bill of sale, rather. Did you know of your own knowledge whether that motor number which appears upon that bill of sale is the motor number which appeared upon the car when that left your possession?

Mr. Ward: You are referring to something there.

A. I do.

Mr. Lane: Bill of sale.

Mr. Ward: No; he was referring to something else, some paper he held in his hand. I would like leave to cross-examine him upon that before he gives his evidence.

Mr. Lane: All he says is he knows.

Mr. Ward: He referred to something else, if I had a chance.

Mr. Lane: Go ahead and cross-examine.

Cross-examination by Mr. Ward:

Q. As a matter of fact, Mr. Fisher, you don't know of your own knowledge, having examined the number, what the number was upon this car, do you? A. Only from the invoice that I made at the time the car was delivered.

Q. Yes. In other words, you gained your information from some other source than from the source of an actual examination that you yourself made? A. From the invoice.

Q. Yes, but what I mean is, you did not look at the car itself? A. The number from the car.

Q. No, indeed. That is all of the knowledge you have? A. Yes.

Q. From the invoice? A. Correct.

Redirect-examination by Mr. Lane:

Q. Have you the invoice here? A. Yes, sir.

Q. Produce it. A. (Paper produced by witness.)

Q. That invoice comes from the custody of the Cadillac Company? A. Yes, sir.

Q. And is a part of their files? A. Yes, sir; a duplicate of the original.

Q. And these marks in lead pencil, what are they? A. They are figures pertaining to cost, and so forth, of the clerical department. The figures here are the duplicate of the original invoice as rendered to Mr. Kaufmann.

Q. And this number up here? A. Is the number taken from the car.

Q. Not by you, by somebody else? A. Correct.

Mr. Lane: We offer that invoice.

Mr. Ward: One moment, if you will permit me, Mr. Lane.

Recross-examination by Mr. Ward:

Q. You say this is a duplicate of the invoice? A. Correct.

Q. Where is the original, Mr. Fisher? A. I told you Mr. Kaufmann has it. Returned to him stamped paid when the car is paid for.

Q. Well, now, where has this been? A. Been in our files at the office.

Q. Has there been something added to it since it was made? A. No, I don't think so.

Q. These figures that we have here in lead pencil? A. Well, that is a costing operation after the invoice or original is rendered; the duplicates are stamped and the costing is worked out, and that is what those figures are.

Q. Well, by whom is the invoice made? A. By one of fifteen or twenty clerks of the Uppercu Cadillac Corporation. I can't remember.

Q. You haven't charge of this particular invoice, have you? A. No, sir.

New Jersey State Library

Q. That is part of another system; you are merely a sales agent? A. Salesman.

Q. And you, as a matter of fact, have no knowledge of this invoice, have you? A. Always when we deliver a car we take them with us.

Q. But you have no particular recollection of this particular invoice? A. Only carrying it with me when I delivered the car, as we always do.

Q. What I mean is this, Mr. Fisher: As a matter of fact, as you always do, you carried an invoice with you on this occasion? A. Yes.

Q. And you don't know whether this was the invoice or not now? A. I believe it was.

Q. Naturally? A. Surely.

Q. But you have simply gone to the files of the Cadillac people, haven't you? A. And gotten the duplicate.

Q. And gotten the duplicate that you believe to be the duplicate of the invoice? A. Of the original invoice.

Q. Of the original invoice, and that duplicate even in your opinion has been changed with reference to these lead pencil marks?

Mr. Lane: I object to the word changed.

Q. I should say, added to, numbers? A. Added to is correct.

Q. So, even though this may be the invoice, even though you may think it to be the invoice, all of that matter has been added to it, has it not? A. Yes.

Q. Since it was delivered to Mr. Kaufmann? A. It has not been changed.

Q. No, not changed, but added to it? A. Correct.

Mr. Ward: We object.

New Jersey State Library

Redirect-examination by Mr. Lane:

Q. Have you got any other papers? A. I have the original bill from the Cadillac Motor Car Company in Detroit covering the job to us, as invoiced to us, with the number and so forth.

Q. Let us see that. A. (Witness produces paper.)

Q. This is an original bill from the Cadillac Company to your concern? A. Correct.

Mr. Ward: I object to the characterization by counsel.

Q. Have you anything else in connection with this sale? A. I have the original acknowledgment of the factory order.

Mr. Ward: Pardon me for the interruption, but I ask that the last answer be stricken out, inasmuch as it was the characterization of counsel and the mere answering by the witness.

The Commissioner: No, it will stand, Mr. Ward.

Mr. Ward: Our objection will be noted.

A. That is an acknowledgment of our order to the factory for the automobile.

Q. Now, these papers—anything else? A. There is a notation of the draft covering that car, and there is the draft as paid by us covering that particular car, and engine number. Here is the original contract with Mr. Kaufmann for the car, signed.

Q. You have given me an original sealed copy of a contract.

Mr. Ward: We object to that.

A. Correct.

Mr. Lane: Wait until I get through. I have not offered it yet.

Mr. Ward: Do not answer until I have a chance.

Q. Dated September 13, 1924. Do any numbers appear upon that?

Mr. Ward: We object to that question on the ground it is a characterization of the document that has been handed to counsel. It is what counsel concludes it to be, and that is usurping from you, Mr. Commissioner, what you are to decide.

The Commissioner: Proceed.

Mr. Ward: That is overruled, as I understand it?

The Commissioner: When I say "Proceed," Mr. Ward, that is understood. You understand that.

Mr. Ward: Of course, you understand our position.

The Commissioner: Yes.

Mr. Lane: We are wasting an awful lot of time on immaterial things.

A. It carries the original car number on it, but not the original motor number. Well, it is the same thing.

Q. What do you mean by car number? A. Motor number.

Q. The motor number. That is right. Now, these papers which you have shown me, you have

produced from what place? A. From the Upper-cu Cadillac Corporation.

Q. What place in their organization? A. Well, the original contract comes from the New Car Department, delivery file. The invoices come from the office.

Q. Now, do you remember or recognize that dealer's original and dealer's copy as the contract which was made? A. I do.

Q. And your name appears there as the salesman, does it not? A. Correct, yes.

Mr. Lane: Now I offer in evidence this complete file from the Cadillac Company.

Mr. Ward: I would like to examine first.

Recross-examination by Mr. Ward:

Q. This original dealer's copy is the order? A. Correct.

Q. It is not the bill of sale? A. No.

Q. Order for what? A. For one Cadillac automobile.

Q. From whom to whom? A. From Mr. Kaufmann to me or my company.

Q. So it is not, then, the bill of sale from the Cadillac Company? A. No, sir.

Q. To the Kaufmanns? A. No, sir.

Q. You said something about your signature being upon it. It is upon the first page, at the bottom of the first page? A. On the left-hand corner.

Q. Do you remember what the motor number was? A. Only from reference, as you have it there, "63 J 2549."

Q. But you are now, of course, depending upon the number that is upon this paper which we call dealer's copy? A. Correct.

Q. So that as a matter of fact, Mr. Fisher, when you sold this or received this dealer's copy of the original order, you did not know what number there was upon that car? A. Only from the copy.

Q. Only from the copy itself, and not from any examination you made of the car? A. No, sir.

Q. You do not, do you? A. No, sir.

Q. Now, the other papers to which you referred were the invoices, I believe, and what were they, these two I have in my hand? A. One is a draft, notice of a sight draft, and the other is a cancelled draft, I believe. Is that correct? You have them there. (Examines papers.) That is a notice of shipment and draft at the bank, and there is the cancelled draft, the amount covering the invoice.

Q. Is this the motor number of the car upon it? A. No.

Q. I am now referring— A. This number down here (indicating).

Q. It has not, however, any motor number? A. No, sir.

Q. And the second is what, Mr. Fisher? A. Cancelled draft.

Mr. Ward: May these simply be marked so we may use them? Will you have them marked for identification?

Mr. Lane: I offer the whole file at one time.

Q. The first paper to which I referred was the original dealer's copy? A. Yes.

Q. Marked upon the back of the order? A. Yes, sir.

Q. Is that the paper to which I refer—Cadillac

Motor Car Company, Detriot, Michigan, December 12, 1924, number 9256; that is correct? A. Yes, sir.

Q. Now, that has no serial number or no motor number? A. No, sir.

Q. No car number? A. No.

Q. Of any kind upon it? A. No, sir.

Q. Then we come to the third paper—I will withdraw that. The second paper is marked 6 in the center in large type or in red type? A. Yes.

Q. To identify it? A. Yes, sir.

Q. Now, the third paper is marked, "Cadillac Motor Car Company, Detroit, Michigan, December 12, 1924, number 9256," and is marked in the center in large red type "1." That has no motor number upon it, has it? A. No, sir. Invoice number on it.

Q. Just the invoice number. Now, these invoices were for the sum of $7,486.50? A. Correct.

Q. The fourth paper that we have, which is part of this exhibit offered or, at least, offer made, is marked, "Cadillac Motor Car Company, 10-16-24, entered 10—there is a hole there—24; sales order number 11"? A. Correct.

Q. From where did you get that? A. Office of the Uppercu Cadillac Corporation.

Q. You don't know from where they got it, from your own knowledge? A. From the factory.

Q. Do you know that of your own knowledge? A. I did not see the postman bring it in, but he generally does.

Q. You did not see it delivered, either, did you? A. No, sir.

Q. You did not see it handed over by anybody to your company? A. No, sir.

Q. You are assuming that it came from the Cad-

illac Motor Car Company? A. Yes, sir.

Q. That is correct, isn't it? A. Yes, sir.

Q. From the fact it was in your office and brought here by you? A. Correct. That is it.

Q. Was it typewritten, do you know, when it was brought in, or didn't you see it brought in? A. I don't know; I didn't see it brought in.

Q. When did you first see it? A. Yesterday afternoon at four o'clock.

Q. You don't know whether any changes have been made on it or not? A. No, sir. I have not made any and I have carried it.

Q. Of course not, Mr. Fisher, but I mean before yesterday afternoon, and you carried it; you don't know whether any changes were made? A. No, sir, I don't know.

Q. Now, from your own general knowledge of orders such as this, it is an order, I presume, isn't it? A. Let me see it. (Examines paper.) That is an acknowledgment of an order from the Cadillac Company, Detroit.

Q. Are they completely filled in or typewritten when you receive them, your company? A. As you see that.

Q. Ordinarily? A. Just as you see that.

Q. Well, I mean there is nothing that is done to them ordinarily? A. No, sir.

Q. And they are simply carbon copies? A. Correct.

Q. It is an acknowledgment of order, that is correct, isn't it? A. Well, that is an original duplicate that was not made out by our company in Newark. That was made out by the Cadillac Motor Car Company in Detroit, undoubtedly being a duplicate of the original.

Q. As far as you know? A. Correct.

Q. But what I want to ask you is this: Ordinarily, so far as your knowledge goes, is an acknowledgment of an order such as this complete in itself and completely typewritten? When I say typewritten, I mean matter that is added to it outside of the printing is typewritten? A. As that is.

Q. Well, we will leave this out for the moment. Ordinarily are the spaces that are left blank— A. Some are and sometimes—

Q. —are originally blank? A. Sometimes there is ten lines filled in, sometimes there is twenty-five lines filled in.

Q. Will you note that there is something on this paper that is not in typewriting or is not a duplicate, apparently?

Mr. Lane: May I ask if it is the purpose of counsel to charge the Cadillac Company with having substituted invoices, *et cetera*, in this case?

Mr. Ward: No, Mr. Lane. But we are simply here to protect our client in every way that we can, and, as I asked the Commissioner's indulgence in that respect, I think he understands that we are here only for this purpose.

(Question repeated by stenographer.)

A. Yes, sir.

Q. You don't know when that was put on there, do you? A. No, sir.

Q. So that we may identify that more fully, that is form 3878 in the left-hand corner, is it not? A. Correct.

Q. The next paper which is now offered is Cadillac Motor Car Company, Detroit, Michigan, December 11, 1924, invoice number A-39861. That is correct, isn't it? A. Correct.

Q. Now, you know nothing about them excepting having gotten it out of the files yesterday? A. Correct.

Q. When it was put in the files or by whom or under what circumstances you don't know, do you? A. I don't know.

The Commissioner: Any further questions, Mr. Ward?

Mr. Ward: If you please, sir, yes.

Q. On this last paper that I have in my hand the word "Kaufmann" is written. A. I wrote that on this morning.

Q. You wrote that on there this morning, did you? A. Yes, sir.

Q. So that that has been added by you since you have taken it from the files? -A. Yes, sir.

Mr. Ward: We object to the offer.

(Paper marked Exhibit P-3.)

Redirect-examination by Mr. Lane:

Q. How long have you been connected with the Cadillac Company? A. Twenty years.

Q. You are familiar with their general practice in business? A. Yes, sir.

Q. Are these papers which you have produced in accordance with your general practice? A. Yes, sir.

Q. And produced from the file where you would expect to get them, according to your general practice? A. Yes, sir.

Q. I do not suppose anything, to your knowledge, at least, has been changed or altered for the purposes of this case? A. Not a bit, sir.

Q. Have you any knowledge as to the resale value of this car on January, 1926? A. No, sir.

Mr. Ward: Your Honor—

Mr. Lane: He said, "No." That ends it. That is all.

Mr. Ward: That is all.

CHARLES GRAY, being first duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Gray, where do you live? A. Bloomfield Avenue, West Caldwell.

Q. In December, 1924, what was your business? A. I was employed by the Uppercu Cadillac Corporation as manager of the New Car Equipment Department.

Q. Did you know of the sale of a car to Mr. Kaufmann—Lena Jacob? A. Yes.

Q. Did you examine that car before it went out of your place? A. Yes, sir.

Q. Did you take the motor numbers? A. Yes, sir. Before it went out.

Q. Before it went out? A. Yes, sir.

Q. Did you make a memorandum at the time? Yes, sir.

Q. Have you that memorandum with you? A. Yes, sir.

Q. Will you produce it? A. (Paper produced by witness.) J-2549.

Q. Now, this memorandum which you have shown me, is that in your handwriting? A. Yes, sir.

Q. Is that made by your checking as cars are checked out? A. Yes, sir.

Q. In the ordinary course of your business? A. Yes, sir.

Q. Refer to the memorandum and tell me what the motor number of that car was at the time it left your factory, or your place of business. A. J-2549—63-J-2549.

Mr. Lane: For the information of the Commissioner, let me say that agrees with the number on the bill of sale.

Q. Now, is there any difference between the serial number and the motor number of a Cadillac car? A. They are both the same.

Q. They are both the same? A. Yes, sir.

By the Commissioner:

Q. No serial at all? A. No, sir.

Cross-examination by Mr. Ward:

Q. Did you get this number yourself? A. Yes, sir.

Q. Whereabouts? A. On the crankcase.

Q. Pardon? A. From the crankcase on the motor.

Q. From the crankcase on the motor? A. Yes, sir.

Q. Whereabouts in the crankcase? A. On the right-hand side of the motor at the rear—on the slogan side where the cylinders are attached.

Q. By the way, what particular position do you

fill in this organization? A. I have charge of the New Car Equipment Department. We receive the cars from the freight yard and they come to us and they are cleaned and equipped altogether, ready for the road and for delivery.

Q. Is that part of your duty, to take the number? A. Yes, sir, to keep track of all the cars that come in right to the present day.

Q. That is the part of the duty that is assigned to you, to take the number of each particular car that comes in; that is correct? A. It was never assigned. It is the responsibility I took on my own shoulders.

By the Commissioner:

Q. Is that a blank which you have to which you referred? A. This is a copy of it all.

By Mr. Ward:

Q. Is this blank supplied to you by the company—by the agency? A. Well—

Q. I mean the blank upon which this appears. A. It is a blank I make up myself.

Q. Was it supplied to you by the company? A. Yes, sir.

Q. That was part of your duty? A. Yes, sir.

Q. And it was understood it was part of your duty? A. It has never been understood by anybody other than myself. As I say, it is something I introduced myself as keeping the records, so that whenever required in a case like this.

Q. So, that was something you introduced yourself? A. Yes, sir, years ago.

Q. Something that was not the practice before you introduced it? A. Well, I introduced it.

Q. How many men have you under your charge, Mr. Gray? A. Six under me.

Q. Do any of them take the numbers, or do you take or keep that particular part of the work to yourself alone? A. I take care of it myself.

Q. It is something in which you specialize, in other words? A. Yes, sir.

Q. If I may use that word. Is that the record of incoming cars or outgoing cars? A. Well, I have both. I put it on here and I also put it on here as the car is delivered and to whom it goes to; also the transmission, the generator, the key and so on, put it on there.

Q. Is that your own particular system, too? A. Yes, sir.

Q. Something that was originated with you, or origninated with you with this company? A. Yes, sir.

Q. And something that you keep yourself individually? A. Yes, sir.

Q. I guess that is all.

Redirect-examination by Mr. Lane:

Q. Have you got a memorandum of the other numbers, the transmission number and key number? A. Yes.

Q. Was that made at the time? A. Yes, sir, the same day.

Q. At the time of the delivery? A. Yes, sir. Well, the same day this was taken.

Mr. Lane: Well, I offer that.

Mr. Ward: We object to it.

Mr. Lane: That gives you the whole history of the car.

Q. You have already said that was made at the time by you? A. Yes, sir.

(Paper marked Exhibit P-4.)

Q. In how many places does the serial number or motor number appear on a Cadillac car? A. Two places.

Q. Well, where are those places? A. One is on a plate under the hood on the front part of the cowl, with all these patent numbers on, and also on the crankcase.

Q. I think that is all.

Recross-examination by Mr. Ward:

Q. What did I understand you to say the number was, the serial number shown there? A. 63-J-2549.

Q. 2549? A. Yes, sir.

Q. 6-J, or 63-J, rather? A. Yes, 63.

Q. The 63 you have left off of this? A. The model number is on the top.

Q. You have left it off? A. No, sir; it is on the top there. It is all included.

Q. Model 63? A. Yes, that is the model.

Q. Is that also on the other paper? A. Not on here, no.

The Commissioner: I could not see it.

(Examines paper.)

Q. That is all.

Redirect-examination by Mr. Lane:

Q. In order that there may be no mistake here, the 63 is nothing but a model number, isn't it? A. That is the model number.

Q. There are any number of numbers of 63 model? A. Yes, sir; and also they have their serial letter before them, too.

Q. That is all.

Mr. Lane: I ask that the paper—take the stand again for a moment, Mr. Gray.

Q. Mr. Gray, you could not, of course, testify with respect to the numbers of the car without looking at this memorandum from which you have testified, could you? A. No, sir.

Q. It is impossible for you to do it, of course? A. Yes, sir.

Q. Made at the time? A. Yes, sir.

Mr. Lane: I offer so much of the memorandum which the witness has testified to, headed "Detroit Cadillac Motor Car Corporation," as appertains to this car.

Mr. Ward: We object on the ground it is irrelevant and incompetent.

The Commissioner: All right.

(Paper marked Exhibit P-5.)

WALTER N. LINDBERG, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. Detroit, Michigan.

Q. What is your business? A. Employe of the Cadillac Motor Car Company.

Q. In what capacity? A. Special representative.

Q. Have you produced from the files of the Cadillac Company in Detroit the records which pertain to Cadillac car which had the motor number 63-J-2549? A. I have.

Q. Will you produce those records and tell me what the assembly numbers on that car were? First, to whom was the car shipped? A. Shipped to the Uppercu Cadillac Corporation, Newark, New Jersey. The motor serial number is 63-J-2549, generator number is 98104451.

Q. Just take it a little slower. A. The transmission 63-J-26817.

Q. What other numbers are there for identification purposes? A. Why, that is all, except what they call the unit number and secret numbers that we have.

Q. What are the secret numbers on this car? A. The secret number on 63-J-2549 is 26550.

Q. That is the only number? A. Yes, sir.

Q. That is the only number that you had not given us before? A. Yes, sir.

Q. Is there a number on the lock, the transmission lock? A. Yes, there is the key number, is P-235.

Q. Are there any other secret numbers on that car? A. That is the only one, the 26550.

Q. That is all.

Cross-examination by Mr. Ward:

Q. You know nothing about this particular car, Mr. Lindberg, do you? A. No, sir.

Q. You are simply referring to that record that you have in your hand? A. Yes, sir.

Q. And you do not suppose you ever saw this car? A. No, sir.

Q. Now, with reference to the secret number 26550? A. Yes, sir.

Q. That is put in some place upon the car and the secret of that is held by your company alone, do I understand? A. Yes, sir.

Q. Do I understand that to be correct? A. Yes, sir.

Q. So that, aside from the serial and motor numbers—or, may I say, are the serial and the motor numbers the same? A. Serial and motor number is the same.

Q. In a Cadillac? A. Yes, sir.

Q. Or with a Cadillac? A. Yes, sir.

Q. Aside from those numbers you have a secret number that your company deems necessary to have? A. Yes, sir.

Q. To trace any particular car? A. Yes, sir.

Q. And in order to identify, positively identify, any particular car you would refer to the secret number; is that correct? A. Yes, sir.

Q. That is the purpose of the secret number, isn't it? A. Yes, sir.

Redirect-examination by Mr. Lane:

Q. One moment, the records that you have been testifying to are records kept in the ordinary course of the Cadillac Company, are they not? A. Yes, sir.

Q. Have you a record there which will show to whom the car bearing the motor number 632648 was sold, or, rather, 63-J-2648? A. Yes; 63-J-2648 was shipped to the Fallweek Automobile Company at Evansville, Indiana.

Q. When? A. On December 5, 1924.

Q. I don't suppose you know what later happened to that car? A. No, we have no record.

Q. Have you a record there of the secret number which was on that car? A. Yes, sir.

Q. What is the secret number on that car?

Mr. Ward: May I ask, is that concerned in these charges, Mr. Lane?

Mr. Lane: Very much so, because the mutilated number on this car is 63-J-2648.

A. 63-J-2648, the secret number of that is 26619.

Q. Will you give me the transmission lock number on that car? A. The transmission 20293—that is 63-J-20293.

Q. The generator? A. The generator number is 98104473.

Q. The key number? A. The key number is P-60.

Q. That is all.

Recross-examination by Mr. Ward:

Q. And that information, of course, you are simply gaining from the record or from the papers that you have in your hand? A. Yes, sir.

Q. May I ask you, are there books kept? Counsel asked you if there are records kept in the regular course of business. Are there books kept and these entries made therein? A. Yes, sir, in our car record department. These are the original sales—shipping orders.

Q. Well, do you mean there are books and then records are taken from the books? A. This is the original?

Mr. Lane: The books are made from these.

Q. Do I understand that these papers are papers that are compiled from the books when your cars are shipped? A. No; the books are compiled from these papers.

Q. The books are compiled from these papers? A. Yes, sir.

Q. How are these papers made up?

The Commissioner: Want to see them, Mr. Ward?

Mr. Ward: If you please, sir.

Q. How are they made up? A. They are made up—

Q. I will withdraw that. What is your department? A. Parts and service and car records.

Q. And car record? A. Yes.

Q. You mean by that the record of the cars that are made? A. Yes, record of all cars that are made and shipped.

Q. Is this with reference to the last car about which you were asked, or the first, do you know? A. This is the last one.

Q. Now, will you give me the first place—this is the first? A. No; this is the first.

Q. Where is the number there, Mr. Lindberg, please, so as to save time? A. 63-J-2648.

Q. Oh, that is the second one. I am referring now to the first. A. 63-J-2549.

Q. How would you identify that paper so that we may get it on the record? A. By the motor number.

Q. Just by the motor number upon that particular paper? A. Yes, sir.

The Commissioner: Do you want those marked, Mr. Lane?

Mr. Lane: No, I think not, unless counsel for the other side want to insist upon it. I do not wish it.

Mr. Ward: No, we do not insist upon that. We do not want to inconvenience the party, but, of course, our objection goes to the evidence, not to the paper.

The Commissioner: All right.

A. These are permanent records of the Cadillac Company, and I have copies here that I can leave here, that is, certified copies.

Mr. Ward: That would be perfectly all right.

Mr. Lane: I offer the records, and with the consent of counsel these are to be substituted.

Mr. Ward: Yes, indeed.

HARRY M. SHEDD, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Shedd, where do you live? A. 604 Park Avenue, Elizabeth.

Q. What is your business? A. I am in charge of the Automobile Underwriters Detective Bureau of New York City.

Q. In October, 1927, did you see a Cadillac sedan with the motor 63-J-2648? A. Without referring to my papers I would not like to be confined to that motor number. I examined a Cadillac car on the 26th day of October.

Q. Refer to your papers and tell me when you examined the car and where and in whose possession the car was at the time. A. I have the notes now.

Q. Motor number was 63-J-2648? A. I found the car with that number on it, yes, and I examined a car with that number.

Q. Where? A. Well, I don't know just the street, but I was taken there by Mr. Labash, the undertaker, having called at his office previously, and he took me down to show me that car in his possession.

Q. It was in the possession then of Mr. Labash? A. Yes, I think that is the name.

Q. Labash? A. Labash. I see the gentleman here.

Q. When you looked at that car and saw the motor number did you observe anything with respect to it? A. I found the motor number and the serial plate changed, not original numbers applied by the factory.

Q. Could you tell that by inspection? A. Yes, sir.

Q. I show you a photograph and ask you whether you can identify that photograph as a photograph of the number of the car as you saw it. A. They are the numbers on a car, but I did not see this photograph made, sir.

Q. No, but is that a correct representation of what you saw, when you first saw the number? A. These are numbers there on a Cadillac car in Mr. Labash's possession.

Q. How could you tell that the numbers had been changed? A. Well, I am thoroughly familiar with the way Cadillac and the other manufactur-

ers number their cars, having been to the factories and having for the last sixteen years examined cars for the Department of Motor Vehicles and for police departments throughout the United States, and for a great many occasions in the State of New Jersey, constantly engaged in that business for sixteen years.

Q. Now, using this photograph which I will mark Exhibit P-6 for identification, will you point on that photograph of the number anything which to us would indicate or which you think to us would indicate a changed number? A. Well, the shape of the numbers are not right. Figure 6, the stroke is not right, and the full faced 8, they lay the larger portion of the loop on the top rather than on the bottom, and the 8 stamp was evidently applied upside down.

Q. The figure 6, what is there with reference to that? A. The figure 6 shows a heavy stroke, and the misstroke, and it may be it was over something, but I don't know. I could not tell you that from the photograph, because it is too small.

Q. Now, did you investigate to determine whether or not that motor number 63-J-2648 was the correct motor number of that car? A. Yes, sir.

Q. What investigation did you make? A. I took the component part numbers of the car which I will enumerate; I took the transmission, generator, the body, and the secret number in two places on the following day with the Cadillac factory—dictated a wire to them and caused to be dictated a wire to them and received direct their answer, stating—

Mr. Ward: I object to that.

Q. Will you tell me what numbers you found on the car other than the motor number, that is, the numbers that were not changed? A. Body number, generator number, transmission number, and unit number, the unit number being the secret number.

Q. What was the secret number you found? A. I will have to refer to my—

Q. Of course, refer to it. A. (Examining paper) The unit number was 26550.

Q. Was that unit number on the car not defaced? A. No, sir, it was not.

Q. That is, it was not defaced? A. No, sir.

Q. That was the unit number or secret number? A. Yes, sir.

Q. Did you take off the transmission number? A. Did I view it?

Q. Yes. A. Yes.

Q. What was the transmission number? A. Transmission number was 63—26817.

Q. Had that number been defaced? A. In my opinion, no.

Q. Did you take off the generator number? A. Yes. The generator and starter is the same thing there.. This is on that.

Q. What was it? A. 98-104451.

Q. Did you have the key, so you could get the key number? A. No, sir; I did not have the key. I took the key number. I have not noted that here. I attempted to get the lock number and I did not have the keys myself. I did not know who it belonged to at that time.

Q. Now, do you know Mr. Zober? A. Yes, sir, I know Mr. Zober.

Q. Did you have a conversation with him with

reference to this car? A. Not after I examined the car, I did not.

Q. Well, before you examined the car? A. Well, I did not have any conversation with him with reference to this particular car, no, sir.

Q. Not with reference to the particular car? A. No, sir.

Q. Did you ascertain from Mr. Labash from whom the car had been purchased? A. Yes, sir.

Q. What was the condition of the car when you saw it? A. The car was in very good shape.

Q. Are you familiar with the retail values of second-hand cars? A. Not so familiar, no, sir. I do not handle that end of it.

Q. After you found the secret numbers, did you check up to find out what the real motor number of that car should have been? A. Yes, sir.

Q. With whom did you check it up? A. Cadillac factory.

Mr. Lane: For the information of the Commissioner, I want to say that the secret numbers and the transmission numbers given by this witness agree with the numbers that should be on 2549.

The Commissioner: That is what Mr. Lindberg said.

Mr. Lane: Yes. That ties these two cars together.

Cross-examination by Mr. Ward:

Q. Mr. Shedd, you live in Elizabeth? A. Yes, sir.

Q. Have you charge of the Underwriters Bureau of New York? A. Automobile Underwriters Detective Bureau, yes, sir.

Q. Detective Bureau? A. Yes, sir.

Q. You came out here when? A. October 26, or on or about that time.

Q. About October the 22nd? A. 26th.

Q. I beg pardon, the 25th? A. 26th.

Q. That was the first time you have been here? A. I have been here lots of times.

Q. When you have been here with reference to any particular stolen car? A. Oh, yes; I have been here years past, but I have not been here lately, just prior to that.

Q. Well, now, Mr. Shedd, you have specialized, you say, for sixteen years in the identification of cars and numbers; that is true? A. Yes, sir.

Q. You are familiar with secret numbers? A. Yes, sir.

Q. Upon cars? A. Yes, sir.

Q. Where they are to be found? A. Yes, sir.

Q. Where did you gain your knowledge? A. I was Inspector of Motor Vehicles Department and I am still a special inspector and do all classes of work for the New Jersey Motor Vehicle Department. I sold cars years ago, and I have repaired cars, and I have been in the present position I hold since 1916. I organized it.

Q. You have more or less specialized in that work, haven't you? A. Nothing else, except the tracing of stolen cars.

Q. Nothing else but the tracing of stolen cars? A. Yes, sir, for the last eleven years.

Q. You have gained much knowledge with reference to numbers and where they are to be found? A. I have had considerable experience.

By the Commissioner:

Q. How many companies do you represent, Mr.

Shedd? A. Well, you mean—

Q. Your organization. A. Why, 130—it was 130 to 132—it varies. 130, now.

By Mr. Ward:

Q. Companies, I understand? A. Yes.

Q. Somewhat difficult, isn't it, at times to ascertain whether or not a number has been changed? A. Oh, yes, we have found them that way. They are very cleverly changed.

Q. You have found them that way in your vast experience? A. I have found them that way.

Q. When did you begin to specialize in this particular work? A. 1916. I have done nothing else since—tracing stolen cars.

Q. And you have learned a lot, then, about it? A. I hope so.

Q. Learned something every day about it? A. Yes, sir.

Q. Something new turns up every day? A. Well, quite often.

Q. What brought you to Passaic? A. I was—you mean on this particular?

Q. Yes, sir. A. Why, I received a telephone message.

Q. From whom? A. I don't know from whom I received a message, or received it from my assistant, telling me that Director Turner's office wanted to get in touch with me at Passaic.

Q. That was before anything was known about these stolen cars, wasn't it, as far as you know? A. I knew something about them before that.

Q. Oh, you did? A. Yes, sir.

Q. So then, you got in touch with Commissioner Turner? A. I did.

Q. When was that? A. October 26.

Q. Did you hear from him directly over the telephone before then? A. No, sir.

Q. Aside from this call that you have told? A. No, sir, not with reference to this case, no, sir.

Q. Did you speak to Commissioner Turner before you went to look for this car? A. Oh, yes.

Q. Where did you see him? A. I saw him in his office.

Q. Pardon? A. In his office.

Q. Here in this building? A. Yes, sir.

Q. Had a talk about the matter with him? A. Yes, sir.

Q. Had you any information about this car? A. No. Commissioner Turner said it was rumored Chief Zober had a car which might be something wrong with, and he wanted me to find out the truth of the matter, and I told him I would go and speak to the Chief. And I went and saw the Chief.

Q. It had been rumored? A. Yes.

Q. It had been rumored. Did he tell you how long it had been rumored? A. No, sir.

Q. Tell you the Chief had had the car for a year? A. No.

Q. Did you ask him? A. I did not.

Q. Why not? A. Well, I preferred to get a statement from the Chief himself.

Q. Didn't you want to get all the information you possibly could from every source? A. I did afterwards, but not prior to interviewing the Chief.

Q. Well, then, so far as you knew, Commissioner Turner knew that it had been rumored, or told you that it had been rumored, that Chief Zober had a car that had been stolen? A. He asked me

——

Q. Did he tell you that, Mr. Shedd? A. He did not say it had been stolen, no.

Q. Well, what did he say about it? A. He said he had heard rumors Chief Zober had a car that might not be all right, and asked me to examine it.

Q. Did he tell you when he had heard these rumors? A. No, sir.

Q. Did you ask him when he had heard these rumors? A. No, sir.

Q. Did Commissioner Turner go with you to Chief Zober to inquire about the matter? A. No, sir, he did not.

Q. So that, all that Commissioner Turner said at that time was that? A. Yes, that is all he said at that time with reference to the car or Chief Zober.

Q. That was with reference to a Buick car? A. Yes, sir.

Q. Did he tell you how long Chief Zober had had the car? A. No, he did not, to my knewledge. I don't remember that he told me that, and I do not think he did.

Q. Then you went to Zober after that, did you? A. Yes, sir.

Q. Whereabouts? A. I went to the Chief's office.

Q. In this same building? A. Yes, sir.

Q. The Commissioner was upstairs and the Chief downstairs; is that it? A. Yes, that is it.

Q. Did you ask Commissioner Turner to go with you? A. No.

Q. When you saw Chief Zober he took you down to the place where his car was, didn't he? A. No; the Chief sent me down with—

Q. I beg pardon? A. With his son, I think—with the Chief's son.

Q. And there you saw the Buick car, didn't you? A. It was not just that way, no. I saw the car, because I rode down in it.

Q. You saw another Buick car? A. I saw another Buick car, and we examined the car which was registered in the name of the Chief's son, which I found all right.

Q. Yes. You went down to the Chief's home riding in the Chief's car, as I understand it? A. Yes, sir.

Q. And then you examined the car belonging to the son of Chief Zober? A. Yes, sir.

Q. And you found that to be all right? A. Right.

Q. How long did your examination take, Mr. Shedd? A. Well, of which car?

Q. The son's car. A. Oh, it did not take five minutes.

Q. Do you recall what the Chief said to you at that time?

Mr. Lane: I object to that as not material and not cross-examination.

Mr. Ward: It is all part of the charge, sir, the charges that have been made against Chief Zober.

Mr. Lane: It is not cross-examination of this witness. If you want to call the witness as your own witness, that is another matter.

Mr. Ward: No; he came up here with refence, he said, to a car, and in the course of his investigation whatever he did is evidential, whatever he did with reference to finding this car, this Cadillac car.

Mr. Lane: This Cadillac car is not the

one you are inquiring about.

Mr. Ward: I know it is not the one that I am inquiring about, but it is part of the investigation that was made. It seems to me that everything that Mr. Shedd did at that time, in fairness to the Chief, and I know we all desire to be fair, and anything that was done at that time is evidential.

Mr. Lane: I withdraw the objection. Go ahead.

(Question repeated by stenographer.)

A. The Chief was not there when I first went, but he arrived later, in another car.

Q. How much later? A. I guess we had been there about five or ten minutes.

Q. Then, do you recall what was said? A. Yes.

Q. The Chief mentioned his car, didn't he? A. No. I had already told the son that I wanted to examine the car we came up in, because I had the license number there as being the one under suspicion, and the Chief arrived while we were examining it.

Q. Yes. So you were examining that car at that particular time? A. Yes, that is right.

Q. And you found that there was something the matter with the numbers of that car; that is correct, isn't it? A. Yes.

Mr. Lane: Found it was a stolen car. Why don't you say so?

Mr. Ward: One moment, I will conduct, as long as I am able, my own examination in my own way.

A. I was not about to say that.

Q. I am asking you, Mr. Shedd. You found

there was something the matter with the number, didn't you? A. Yes.

Q. From your vast experience of sixteen years you thought there was something the matter with the numbers of Chief Zober's car? A. I knew it the minute I looked at them.

Q. That is so, isn't it? A. I knew it the minute I looked at that.

Q. Yes, and you knew it because of the experience that you had had in detecting or examining numbers? A. I knew it for two reasons.

Q. You knew it because of the experience that you had had in specializing in this particular matter; that is true, isn't it? A. Yes, supplemented by the fact—

Q. All right. A. —that I knew who made the plate.

Q. Then you told the Chief that his car, the number, had been tampered with? A. Yes.

Q. That is true? A. Told him that he had a fictitious plate on, and the fictitious plates, motor and serial, not made by the Buick Company, counterfeits.

Q. Now, by fictitious plate you mean the plate on the car, you do not mean the ordinary State plate? A I do not mean the State plate. I refer to the motor and serial plates.

Q. What is that plate? A. They are made out of aluminum on Buick cars, strip aluminum.

Q. Where are they?

Mr. Lane: I object. The witness is going to testify with respect to this car, and it is a waste of time going into details and repeating it when he testified on direct to

all that is being told, brought out now by counsel.

The Commissioner: How does that strike you?

Mr. Ward: It strikes me that if this gentleman was here upon a particular enterprise, that whatever he did at that time is competent and should be brought in.

The Commissioner: Yes, but is there any question about the two cars? What are we dickering on now, the Buick or the Cadillac?

Mr. Ward: The Buick, sir.

Mr. Lane: He has not testified to the Buick at all.

Mr. Ward: The aluminum numbers.

Mr. Lane: On your cross-examination, and not on my direct.

The Commissioner: Why not wait and use your cross in the proper manner?

Mr. Ward: I think it is a proper manner. Everything that was done in conjunction with this first car, and this was evidently done in conjunction with the first part—it was part of the enterprise.

The Commissioner: Well, go ahead. Proceed.

Q. The Chief told you, didn't he, that—I will withdraw that. When you informed the Chief that there was something the matter with the numbers upon the Buick car, the Chief told you there were other cars, did he not? A. Just one car mentioned, that a party by the name of McGill had bought one from the same people, a Buick.

Q. Any other? A. No. I asked him about others and he said, "No others," except I asked him about a Cadillac and he said he did not have a Cadillac, he only had a Paige.

Q. Did he tell you where to find McGill? A. No, he did not. I did not ask him at that time, because that was late at night and I had secured the numbers and I wanted to verify from the factory and make an identification.

Q. I think we were inquiring about the particular type of plate to which you referred. About how long are they? Just describe them in a general way. A. I have the original plate which was taken from his car.

Q. Can you describe that, please? A. I will have to look at it to see how long it is. It is about four inches, I think. (Producing plate.) It is close enough. About four inches.

Q. When do you say this was? A. October 26, I think.

Q. I mean, you said late at night. A. No; I said it was getting late. It was not late—

Q. You said late at night. A. I did not say late at night. I said it was getting late and night.

Q. You were late and night; that is the expression? A. Yes, and I wanted to identify—

Q. Well, as a matter of fact, it was only about four o'clock, wasn't it? A. When I first went up, yes, but before we got through and had the car put away it was dark—getting dark.

Q. How long did it take you to examine these two cars? A. Well, the first car did not take very long, but the second car probably took about ten to fifteen minutes.

Q. You had an assistant with you, didn't you? A. Yes.

Q. Was that all that you did the first time? A. The only car we examined except the Cadillac. We went down and saw the Cadillac, which I have testified to.

Q. But the Chief told you about the Cadillac, didn't he? A. The Chief did not tell me about the Cadillac.

Q. Did not the Chief tell you that a man by the name of Labash had the Cadillac? A. No, sir. I asked the Chief if he ever handled any other car, but he said, "No, only there was a man, McGill, bought one from some people," and I asked him if he ever handled a Cadillac, and he didn't, no, and I asked him any others, and he said no; the only one he had outside was a Paige.

Q. How did you find out about the Cadillac? A. Well, I heard it rumored.

Q. How did you find out? A. I heard rumors that there was a Cadillac.

Q. From whom? Mr. Turner? A. No, sir.

Q. From whom? A. Well, am I required to answer that, your Honor? That is secret information in the investigation, and I don't like to disclose it,

> The Commissioner: I am in a little quandry in that respect myself. I am not empowered with all the powers of a trial judge, and I don't know whether I could compel you to answer or not, for I would have to seek a little advice on the subject. I am just simply a layman acting as Director of Public Safety. Use your own judgment. That is the best I can tell you.

A. I refuse to answer unless compelled to.

The Commissioner: How do you feel, Mr. Ward?

Mr. Ward: I think your Honor is empowered to direct him to answer, and I would request that you direct him to answer.

The Commissioner: Well, what have you gentlemen from the other side got to say in that respect?

Mr. Lane: Well, I think the Commissioner has the right. If the Commissioner desires, I think the Commissioner has a right to compel the witness to answer the question. It is within the discretionary power of the Commissioner.

The Commissioner: I have that right?

Mr. Lane: Yes, sir.

The Witness: May I be heard and cite my reason for not answering the question? This is an investigation and there will probably be other investigations. This may take another turn and I may be required to testify in other proceedings later which have nothing to do with the dismissal of Chief Zober or the trial of Chief Zober, and it will defeat the ends of justice from a criminal standpoint if I am obliged to do so, unless I give my information.

Mr. Ward: Only in the ends of justice as far as Mr. Zober is concerned.

Mr. Lane: I shall interpose an objection to the question upon the ground that it is wholly immaterial from whom he got the information. He said he did not get the information from the Commissioner. It is wholly immaterial from whom he got it,

and it is not in the ends of justice that the information should be divulged, and it is immaterial, anyhow, and is not proper cross-examination.

The Commissioner: With that in view, Mr. Ward, it might defeat the ends of justice, and I will let the witness in this matter use his own discretion. Proceed.

The Witness: I refuse to answer that last question.

Mr. Ward: I am, of course, associated here, sir, and, as I understand, when you rule in that way it is not necessary for me to make my objection on the record, that will be done?

The Commissioner: Mr. Kelley will.

Mr. Ward: So I understand that.

The Commissioner: Certainly, Mr. Ward.

Q. Well, what time did you get through with your investigation on that particular night? A. I have no idea. It was pretty late.

Q. What time did you go up there? A. I guess we got to Mr. Labash's around 5:30 or 6 o'clock.

Q. That night? A. Yes, sir.

Q. The same night? A. Yes, sir.

Q. After you had seen the Chief? A. Yes, sir.

Q. Did you tell the Chief you were going up to see Mr. Labash? A. No, sir.

Q. Didn't tell him? A. No, sir.

Q. Ask the Chief to go up with you? A. No.

Q. Did you tell the Chief it was a stolen car and you were going to take him where you thought it might be found? A. No, I never told anybody.

Q. Did you tell the Chief that? A. I didn't tell

him the car was stolen at that time, no, sir.

Q. But you left the house about as it was going on toward night and getting on in the day toward night? A. Getting dark, yes.

Q. Then you went on up to Labash's? A. Yes.

Q. You saw this particular car, the Cadillac car? A. Mr. Labash took me around where he stores it.

Q. Did you make known your mission to Labash? A. Yes, sir.

Q. Did you find the secret numbers? A. I did.

Q. Those numbers were in such a place that it would be difficult to find them, were they not? A. Only one, difficult to find.

Q. Only one? A. Yes.

Q. But how many numbers did you find on that car? A. The generator, transmission, the body, and the unit.

Q. The transmission, did you say, and the body as a unit? A. No.

Q. Bear with me a little bit. I have not studied it for sixteen years. Did you say there was a difference between transmission and the body numbers? A. The body number is different from the transmission, and the transmission is different from the body, and the unit is different from both of them, and the generator is also different.

Q. What was the last? A. Generator, the generator and starter are combined.

Q. Where did you find the body number? A. I refuse to answer that unless compelled, because the body number, I say, is one of the secret numbers.

Q. So that is one of the things that the ordinary

person would not know? A. There is one body number that they should see, but it is not the one.

Q. One of those numbers that you looked for to convince you with reference to this car was a number in a certain place that you refuse to disclose or the place you refuse to disclose, at least, at this time? A. Yes, at this time.

Q. And you were able to find it because of your sixteen years of exeperience; is that correct? A. I presume that is it.

Q. That was the body number? A. There is a secret—

Q. I asked you about the body number. A. I said I did not want to tell you where I found the body number, because the body number on this was the secret body number.

Q. Well, Mr. Shedd, it is because you get confidential communications from these different companies that you are able to know where these numbers are; that is true, isn't it? A. That is true, and that is why I safeguard it.

Q. It is confidential between you and the companies who make the car? A. Yes.

Q. That referred to the body number?

Mr. Lane: No, to one of the body numbers.

Q. One of the body numbers? A. Yes.

Q. You have given four numbers. I believe you mentioned four numbers altogether, did you not? A. I didn't enumerate them.

Q. Transmission number? A. Generator number.

Q. The unit number and the body number? A. Yes, that is right.

Q. There were four altogether? A. Yes, sir.

Q. So the body number was one that you say you do not care to disclose at this time? A. The body number there on that car I do not want to disclose where I found it.

Q. And the transmission number, where was that? A. Well, that is on the transmission.

Q. Well, whereabouts on the transmission? A. The edge of the trnasmission, right near the edge, where it bolts together.

Q. What was that? A. That was the transmission number.

Q. What was the number? A. (Examining paper) The transmission was 63-26817.

Q. Let me repeat that. A. 63-26817.

Q. That was as you got it? A. Yes.

Q. Was that all right? A. That number is O. K.

Q. So that of the four numbers, one you refuse to tell us about or tell us where it was located, and the transmission number you say you found O. K? A. Yes, sir.

Q. Now, what about the unit number which is a secret number? Find that O. K? A. We found the unit number O. K., yes.

Mr. Lane: Found all the numbers except the motor number.

Mr. Ward: Now, Mr. Lane!

Mr. Lane: I think we are wasting time.

Mr. Ward: Of course, not me—

The Commissioner: Slow way of doing it, John.

Mr. Lane: Not unless you want to be slow, Mr. Ward.

Mr. Ward: No.

Q. The unit number, what about that? A. Do

you want to know what it was, what the unit was?

Q. Yes. A. All right, I will tell you.

Q. Was that all right, first? A. Yes, that was all right.

Q. Where was it? A. That is a secret number, sir.

Q. And the generator number, was that all right? A. Yes, sir.

Q. Well, was there any number about that car that was not all right? A. There were two that were not all right.

Q. Two aside from the four? A. Yes.

Q. What two? A. Motor and serial number, which are both the same, but are located in different places.

Q. Where were they? A. The motor number is on the right-hand side of the motor just below the oil filler. The serial number is affixed to the dash on the left side of the dash as you face the front of the car.

Q. And they were the same? A. That is the same. One was stamped and the other was engraved. It was not a Cadillac number, but had been made with an engraving tool.

Q. What do you mean by stamped? A. I mean all of the plates of the Cadillac are made from dies which are placed over the plate and struck with a hammer to give the impression. In this particular case the dies had been used on the motor, but an engraving tool had been used to scribe the number on the plate and the plate was on the dash. The motor number was on the motor.

Q. Well, they looked pretty good? A. The motor number looked bad. On the Cadillac, you are talking about?

Q. Yes, referring to the Cadillac. A. The Cad-

illac motor number looked bad. The plate number looked good. It was a good counterfeit.

Q. It was a good counterfeit? A. The plate number was a good counterfeit, but the motor number was bad.

Q. You are giving your opinion as an expert on numbers? A. As to the numbers.

Q. You are giving this evidence as to whether they were good or bad based upon your experience of sixteen years? A. I don't care to answer that, because I have not qualified in this particular hearing as an expert.

Q. Don't you consider yourself qualified? A. I don't know whether I am qualified or not.

Q. Do you consider yourself qualified? A. I consider I am competent to examine those things.

Q. That is, practically qualified, isn't it? A. I don't know—your own construction.

Q. So that we now have six numbers on the Cadillac, have we not? A. Yes, we have six numbers all told. Only got four good ones.

Q. Out of six numbers only one of them looked bad? A. One of them looked very bad, which is the designating number. In a factory they designate it.

Q. When did you get up to Mr. Labash's? A. That evening, the same evening.

Q. What time? A. I don't know what time. It was after dark.

Q. I know it is hard to fix a time. After dark, and I was hungry.

Q. How long were you there? A. Probably altogether an hour, both at his place of business where we saw him, and at the garage where he took us to make my examination, I should say about an hour.

Q. You and your experts both examined these numbers, you and your assistants both examined these numbers? A. Yes, sir.

Q. How long did it take you both to examine these numbers? A. Oh, not very long after we got there.

Q. How long do you think? A. Oh, I don't know. I would not fix the time. I did not pay any attention to time. Time meant nothing.

Q. Why, you were hungry, you were anxious to get away, you were not paying any attention to the time? A. No. I was hungry, but I didn't pay any attention to time.

Q. You can't give us an idea? A. No; I couldn't tell you any idea how long I was there. A sufficient time to make a thorough examination.

Q. Now, at the time that you went down with the Chief's son to the home of the Chief, as I understand, who was with you? A. Well, the Chief's son and I rode in a car alone, I think.

Q. Was your assistant with you then? A. No, I think he drove—I don't know whether I had my car that day or he had his car, but he drove in another car.

Q. Who else was there? A. Mr. Gardner.

Q. Who else was there during the period of time that you were talking to the Chief? A. Mr. Schwarz. He introduced himself as such. I don't know the gentleman personally.

Q. Anyone else? A. The Chief.

By the Commissioner:

Q. What was Schwarz's name? A. I think he said Max Schwarz, but I am not sure. He said his name was Mr. Schwarz. I am pretty sure that

is the name; I am not positive. He said he was a friend of the Chief's.

By Mr. Ward:

Q. Anyone else, Mr. Shedd? A. I don't remember anybody else excepting Mrs. Zober coming—I presume it was Mr. Zober,—a lady out there.

Q. You mean Mrs. Zober? A. I presume it was Mrs. Zober. I presume she came from the house. I don't know.

Q. Now, when you had your conversation with Commissioner Turner you say he told you there was something, did you say suspicious? A. No; I said he said that Chief Zober had a car which it was rumored there might be something wrong with—he asked me to examine and learn what the true state of affairs and find out what it was all about, or words to that effect.

Q. Now, had you come up about a Cadillac or about a Buick? A. No, sir.

Q. About neither? A. No.

Q. You had not come up about the Cadillac? A. No.

Q. You had not come up about the Buick? A. No.

Q. But you had come to Commissioner Turner's office? A. Yes.

Q. And Commissioner Turner had requested you to, or at least told you that Chief Zober had a car about which there were rumors? A. Yes.

Q. Did you ask him what the rumors were? A. No; I didn't ask him what rumors.

Q. Why not? A. Because I listened to the man. I had respect for his position and I thought he knew exactly what he was doing and hoped I could find out the state of affairs as they actually exist-

ed if I went to the Chief, and I went to the Chief and asked him, and he was very frank with me in taking the matter up.

Q. You mean the Chief was very frank? A. Yes; he told me, and he asked me out to the house. This was all after I had interviewed Commissioner Turner.

Q. With reference to your conversation with Commissioner Turner, didn't you ask him what the rumors were? A. No.

Q. Didn't you ask him anything about any cars? A. No.

Q. And when the Commissioner told you that there were rumors about a car that the Chief had, did you ask him even the make of the car that the Chief had? A. I did, and I asked him for the license number.

Q. Did he tell you that? A. He found out the license number for me. I don't know whether he knew it before or whether he sent and got it for me. In about two or three minutes I got it. I don't know just how I got it. So I knew the license number of the car that I was supposed to look at.

Q. How did he send out and get it for you? A. I don't know.

Q. Well, I mean— A. I don't know whether he sent out or whether he knew it.

Q. What was it that he did through which the license number was gotten? A. I don't know. I don't remember how it was done.

Q. Did he 'phone or did he— A. I don't know. I don't remember that. I remember asking for the license number, and I obtained it. How, I don't remember, but I went down and saw the Chief and I thought that was the thing to do, and got direct information.

Q. You thought that was the thing to do? A. Yes.

Q. You thought it was the thing to do to talk to the Chief, didn't you? A. Yes, sir.

Q. To act on the information you got from the Chief? A. Yes.

Q. And you say the Chief was very frank with you? A. When I spoke to him in the office he was frank.

Q. You said he was. A. Yes, he was in his office, yes.

Q. And you had the Cadillac in mind at that time, didn't you? A. No, I didn't know a thing about a Cadillac at that time, that he had it, no.

Q. But you knew about a Cadillac at that time? A. I knew about a Cadillac in Passaic, yes.

Q. How long after leaving the Chief's home did you go to Mr. Labash's place? A. I don't know. It was—

Q. Did you go there directly? A. No; I came here to the building, to Police Headquarters.

Q. So that after you had seen Chief Zober and talked to Chief Zober you then returned to this building? A. Yes, sir.

Q. You talked to Commissioner Turner? A. No, sir; I asked for him and he was not here, he had gone.

Q. Then did you go to Labash's immediately from here? A. I did.

Q. And you had your examination and your talk with Labash after that? A. Yes, sir.

Q. Did you return to the building then? A. I think not, but I am not sure. I think not.

Q. Isn't your recollection clear about these things, Mr. Shedd? A. No; I don't know whether I returned to the building that night or not. I

think that I went to the restaurant and then home, that is my idea of the matter, but I don't know whether I returned to the building or not.

Q. Did you see the Commissioner, Mr. Turner, afterward? A. No, I did not see the Commissioner.

Q. Have you ever seen the Commissioner since then? A. Yes, I saw the Commissioner since that.

Q. When? A. Why, I think it was the day after that, in the afternoon, on October 27, in the afternoon.

Q. You are quite sure of that, are you? A. Yes, I am sure of that, because I have something to fix that day in my mind.

Q. You are sure? A. I have something to fix that particular day.

Q. Where did you see the Commissioner then? A. I met the Commissioner at the Armory in Passaic.

Q. Is that where Commissioner Dill was also? A. Yes, and there is where I was.

Q. Do you recall telling Commissioner Dill that Commissioner Turner had sent for you? A. I told you that a while ago.

Q. And did you recall—do you recall telling Commissioner Dill that Chief Zober had been very frank about all these cars? A. I did not say that, sir.

Q. Well, when you left Chief Zober you had certain information about certain cars, didn't you? A. Not when I left him, no.

Q. Well, you had the information about the Buick, the two Buicks? A. Well, one Buick did not enter into it, because it was all right.

Q. You had the information about the other

Buick? A. Yes, the one that the Chief had licensed.

Q. You had gotten that from your examination and from the Chief? A. Yes.

Q. And the Chief told you where he had bought it, didn't he? A. No. He—

Q. Didn't you ask him? A. Oh, yes, I asked for the bill of sale.

Q. He did tell you where he bought it? A. Yes, he told me he bought it from Vordemeier. I told him before he showed the bill of sale who the purported original seller would probably be, before he handed it to me, and that was correct.

Q. Was that all? A. Well, the Chief first said it was in the bank, and then he went out and said, "No, I have it home." And he brought the bill of sale out and showed it to me.

Q. Was that all that was said? A. No. Several things said and told him, too.

Q. What else was said that you recall? A. I told him a car with changed numbers under the Motor Vehicle Act it should not be driven, so he said, "All right, where do you want to put it?" I said, "It ought to be put in some garage." It was put in a garage in the name of Commissioner Dill.

Q. Did you stop any other place besides coming here to the Police Building? A. Yes, we took the car to a garage and put the car away.

Q. Did you get any information there? A. No.

Q. Did you get any information at the Police Building when you came here? A. With reference to what?

Q. With reference to the Cadillac car? A. I refuse to answer.

Q. You refuse to answer? A. Yes.

Q. You refuse to tell whether or not the Detec-

tive Department told you anything? A. I refuse to tell who told me unless compelled to by process of law.

Mr. Ward: I would request that the Commissioner direct the witness to answer.

The Commissioner: I do not see where it has any bearing, and it only furnishes you with the information, Mr. Ward. I do not see where anything will be accomplished by that at all. For that reason, why, just as I said before, the witness may suit himself; if he wants to answer the question or not, he may do so.

Mr. Ward: And you refuse to direct him to answer, then?

The Commissioner: Yes.

Q. Did you speak to Mr. Cunningham? A. Which Mr. Cunningham?

Q. The detective. A. In the Police Department?

Q. Yes. A. When?

Q. The time to which we are just, or which we are just talking about? A. I came up to the building here and I met several people. I had a talk with several people in this building. Just whom I refuse to answer, whom I talked with, so that this can be gained by process of elimination, but I won't answer.

Mr. Ward: I request the Commissioner to direct the witness to answer.

The Commissioner: The same condition prevails.

The Witness: I will not answer.

Q. Did you speak to Detective Monks? A. I

don't know whether he was here at that time or not.

Q. Well, did you learn whether or not these gentlemen had this information for a year? A. I never learned anything about that.

Q. How long did you learn they had any information with reference to a Cadillac? A. When I came over here that night I found out about the Cadillac.

Q. You inquired about a Cadillac that night, didn't you? A. Yes.

Q. And you heard certain rumors about it, didn't you? A. I heard about a Cadillac in the office of a public official in Passaic, but I didn't know who it was, and I heard it for a long time.

Q. When you interrogated these men whose names you now refuse to give, didn't you ask them how long ago it was that this public official had had the Cadillac? A. I didn't ask anybody about the Cadillac, sir.

Q. That night? A. No.

Q. So, according to you, that night you did not receive any information at all about the Cadillac? A. I received a lot of information by listening that night.

Q. You have just answered both ways. Now, which do you mean, Mr. Shedd? A. I don't know what you refer to.

Q. Did you or not receive any information about the Cadillac car that night? A. I did.

Q. When? A. I refuse to answer where and when.

Mr. Ward: I ask it. This is very important, sir.

Mr. Lane: I object to it. It is wholly immaterial.

Mr. Ward: I wish to be heard, as in justice to the—I was addressing my remarks to you, sir.

The Commissioner: I will listen to you, Mr. Ward, if you will go ahead.

Mr. Ward: What I wish to say is this: I feel this is very important. It is the very point upon which this charge has been laid, and we have been foreclosed with reference to inquiries about other cars and other conversations, and upon objection of counsel we have been confined to this particular Cadillac. Now, I feel that we are entitled to know all about this Cadillac, just what information was received, just what was done.

The Commissioner: Well, that is what I said in the start; we want to know everything, but the question that arises in my mind, have I a right to force a witness in this case to divulge that?

Mr. Ward: Counsel agrees that you have, sir.

The Commissioner: Then, as I told you before, Mr. Ward, this is not a criminal trial; it is an investigation, and for that reason I am not going to lend myself to interfere in the defeat of the ends of justice in any manner that may arise in this matter. Mr. Shedd may have gotten his information from a source that if it became publicly known here would defeat him and interfere with him in his other pursuits in certain lines, and for that reason I let Mr. Shedd use his own good judgment in that

manner, and you may have the objection recorded.

Q. Now, my question is directed as to when you received this information.

Mr. Lane: I object to that, if the Commissioner pleases, and I desire to state my objection. This entire line of examination is wholly beside the mark, although we have sat here and listened to it. The question in this case before you is whether the Chief had stolen cars in his possession and whether the Chief did not comply with the law with respect to those stolen cars. Now, all of this questioning as to where this information came from is wholly beside the mark.

The Commissioner: Proceed, Mr. Ward. May I interrupt you at this time? How about an adjournment?

Mr. Lane: I prefer to have this witness finished.

Q. Did you derive any information at the Police Station when you returned here? A. I shall refuse to answer any question pertaining to how I received information about any of the cars from now on.

Mr. Ward: Well, here again, sir, I ask that your Honor direct him.

The Commissioner: Mr. Kelley is making a note of it.

Q. How soon after you derived your information did you go to Labash? A. I refuse to answer that. It all happened in the same day.

Mr. Ward: I think we are entitled to that, sir.

The Commissioner: I refuse.

Mr. Ward: Why all this secrecy, Mr. Commissioner?

The Commissioner: It has been understood. This is the third—I think the fourth time—you have referred to it. Why not proceed and get along and let us get some use out of the valuable time that is going on here. Now proceed, Mr. Ward.

Mr. Ward: This is a matter, Commissioner, of more importance to the Chief than to anyone else. It is more important that his rights be preserved here—

The Commissioner: Very important matter, I realize that more than anybody else in the City of Passaic, and you do not have to impress that on my mind, Mr. Ward. I recognize it thoroughly. I am asking you to proceed.

Q. Did you confer with any members of the Detective Bureau of the City of Passaic after you returned from Chief Zober's home?

Mr. Lane: I object to that as immaterial. That does not indicate that Chief Zober had or did not have a stolen car in his possession.

Mr. Ward: Any information or any actions on that part of anyone, according to counsel, would not be relevant in a case of receiving stolen goods.

Mr. Lane: I do not think where the detective gets his information helps to determine whether the car is stolen or not.

Mr. Ward: It is based, hypothecated, upon many things, the witness's description and otherwise.

Mr. Lane: I object to the question.

The Commissioner: Proceed.

Q. Did you make more than one visit to Labash's home that night or that day? A. I don't think so. I think we found him in the first time, but I am not sure.

Q. Did you see the car on more than one occasion? A. Never saw it but once.

Q. Have you seen it since? A. No, sir.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Mr. Shedd, as I understand your testimony, when you asked Chief Zober on this occasion as to whether he had ever had a Cadillac car, he said no? A. No.

Q. And when you asked him if he had had any other cars, he said no? A. No; he said only a Paige.

Q. And you subsequently discovered, did you not, that he had had four cars, each of which was stolen?

Mr. Ward: I object. These questions are very leading.

Q. Each one of which had changed numbers? A. Well, I didn't examine only the Cadillac and the Buick.

Mr. Ward: I wish to interpose an objection upon the ground the question was leading and is pure conclusion on the part of counsel.

Mr. Lane: I am now examining Mr. Shedd, and I am cross-examining him on the item that you brought out, which was not cross-examination of me, and I will lead him with respect to that and also in order to save time.

Q. You discovered that he had had the Cadillac in his possession, at any rate, at one time? A. I discovered that, because Mr. Labash said he bought it from the Chief.

Q. Then, you did not consider his answer with respect to that car, at least, was quite frank, did you? A. No, I did not.

Mr. Ward: I object to this witness's conclusion as to that.

Mr. Lane: You have asked him about it.

Mr. Ward: It went to his credibility.

Mr. Lane: As to whether Zober was frank, it went to his credibility?

Mr. Ward: You have no right to attack the credibility of your own witness.

Mr. Lane: The frankness of Zober goes to the credibility of the witness on the stand? Do you mean that?

Mr. Ward: I mean to say that I had the right to ask certain questions as going to the credibility of this gentleman.

Mr. Lane: Which may go to the credibility of Zober, but not to the credibility of Shedd.

A. Perfectly all right.

Q. These numbers which counsel has designated as being O. K., what you mean by that is that

the numbers have not been changed? A. Were unchanged and same as placed on there at the factory, according to my best information.

Q. And the truth was that the numbers did not hook up with the motor number and the serial number, did they? A. Well, I wired the Cadillac factory—

Mr. Ward: Is it necessary for me to constantly object to these leading questions?

The Commissioner: John, you can object all you wish, and as I said in the start, we will proceed.

Mr. Ward: Well, counsel are rather taking the stand themselves.

Mr. Lane: I am examining him on your cross-examination. You brought it out.

The Commissioner: It goes in. That is what you want.

Q. Now, one other thing. Showing you P-6 for identification, would you say that it required very much of an expert to indicate that those numbers had been changed? A. Well, anyone familiar with the reading of motor numbers would probably discern it instantly, but anybody who was not familiar might not.

Q. Would it require anybody who was familiar with motor numbers to know an 8 was upside down? A. That is a matter of opinion, Mr. Lane. I could not answer that.

Q. Did you know whether the police have information as to where the so-called secret numbers are? A. Some police departments have and some have not.

Q. That is all.

Recross-examination by Mr. Ward:

Q. You have been asked with reference to these four Buicks, or certain Buicks, aside from those that you saw.

Mr. Lane: I did not say anything about four Buicks.

Mr. Ward: Three, I think you said.

Mr. Lane: No. I didn't say anything about three Buicks.

Q. Four cars. Counsel asked you about four cars, that you learned had been stolen.

Mr. Lane: I did not even say that.

Q. Well, counsel asked you about four cars which were the subject matter of some conversation or about which you learned, after having talked to Chief Zober. You recall just being asked that, do you not? A. I recall your objecting to that.

Q. Yes, you recall my objecting, and you remember being asked about it, do you not? Now, you distinctly have in mind, have you not, the four cars about which counsel asked you? A. I personally did not make an examination or interrogate anyone about any cars except a Buick and a Cadillac.

Q. Which was the Buick? A. The Buick was a Buick that Chief Zober had in his possession, and the Cadillac was the Cadillac that Mr. Labash had.

Q. About which you have told us? A. Yes.

Redirect-examination by Mr. Lane:

Q. Just one more question. Did Mr. Labash—

Mr. Ward: Pardon me.

Harry M. Shedd—Redirect.

By Mr. Ward:

Q. You were shown a picture upon which, or which you said indicated the numbers of the car in question. Now, although you were not present when that picture was taken, that plainly indicates that all the grease and oil were removed from around these numbers? A. I removed the grease and oil around them originally.

Q. When was that? A. The night I called to make the examination.

Q. That is all.

The Commissioner: We will stand adjourned now until two o'clock.

(Recess.)

Afternoon Session, 2 P. M.

JOHN J. LABASH, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Labash, where do you live? A. At 40 Monroe Street, Passaic.

Q. What is your business? A. Funeral director.

Q. Did you purchase a Cadillac sedan car from Mr. Richard Zober, Chief of Police of Passaic? A. I did.

Q. When did you purchase that car? A. May 12, 1926.

Q. How much did you pay for it? A. $2,100.

Q. You have not the car at the present time, have you? A. No, sir.

Q. When did you last have the car? A. Well, in

the—of course, I don't know exactly the date, but about October 26 or 27, somewheres about that.

Q. What happened then? A. Why, the detectives, I think, Conogan and Boyko, came down and taken the car, told me they were taking it to a City Garage or somewheres in the City, Howe Avenue.

Q. Were you present when any representative of the insurance people, Mr. Shedd, examined the car? A. Yes, sir.

Q. Remember about when that was? A. That was about quarter to six, somewheres around there, that evening.

Q. That same evening? A. I don't know just exactly the date.

Q. That same evening? A. That is the evening he came to my office, yes, sir.

Q. Did you go down with him and look at the car? A. In person, yes, sir.

Q. Did you see him looking at the numbers? A. I stood there all the time.

Q. Did you have your bill of sale there at the time? A. Not at that time.

Q. Did you subsequently produce your bill of sale? A. Well, no. They just told, Mr. Shedd told me that he was directed to investigate my cars, and I accepted him with courtesy. I didn't know what his intentions was at the time or his business, and the cars were out at that time, so I told him that he may wait a few minutes and the car will be in, and Mr. Shedd thought he would be around the next day, and I told him while he was here he might just wait a few minutes, and I am sure they would be back within fifteen minutes. Mr. Shedd wasn't—Mr. Shedd done so and the cars

came in, and on my orders, I ordered my son to take the car into the garage, and there Mr. Shedd and my son helped him to examine the cars.

Q. Now, I show you a bill of sale and ask you whether that is the bill of sale you received for this car? A. Yes, sir.

Mr. Lane: I offer it.

Mr. Ward: May we see it, Mr. Lane?

(Examines paper). All right.

(Paper marked Exhibit P-7).

Q. Have you got your check that you used for the— A. I had it with me, but after Mr.—I destroyed it.

Q. To whom was the check drawn? A. I drawed it to Richard O. Zober.

Q. That is all.

Cross-examination by Mr. Ward:

Q. Mr. Labash, on May 12 you bought this car and you bought it openly and without any effort on your part, or as far as you could see, on the part of Chief Zober, to conceal any facts; that is true, isn't it? A. I don't get you.

Q. I mean, when you bought this car you bought it in a perfectly open and proper manner? A. Yes, certainly, and I advertised I bought a car from Richard O. Zober, because everybody knew the car, he had driven the car, and the car my friends knew, and also I was proud that I could buy a car of that kind.

Q. You knew Chief Zober had driven that car for sime time? A. I had seen him driving it for, I wouldn't say some time, but it was a short time.

Q. You wanted to purchase it? A. Well, I, through a friend of mine across the street, a neighbor of mine, Mr. Hyman—

Q. Well, suffice to say, you did want to purchase it? A. Yes, I was in the market to buy a car.

Q. You went to the Chief? A. After I learnt he wanted to sell that car, it was just that type of car that I need for my business, and I inquired whether the car was for sale.

Q. You paid $2,100 for it? A. Well, I inquired and the Chief told me at that time he had not made up his mind yet whether he wanted to sell the car or not.

Q. Did you pay $2,100 for it? A. $2,100, yes.

Q. You have been reimbursed in that sum, have you not? A. Yes, sir.

Q. So far as $2,100 is concerned you are whole? A. Yes, sir.

Redirect-examination by Mr. Lane:

Q. Who reimbursed you? A. The Chief himself.

By Mr. Ward:

Q. May I ask, was it $2,100 or $2,000? A. $2,100.

Q. $2,100? A. $2,100.

Q. That is all.

By Mr. Lane:

Q. By the way, do you know what the mileage had been run on the car at the time you got it? A. No, I don't. I can't say, because when I bought the car, of course, I had listened to the motor itself, and after I thought I was satisfied I bought it.

Q. That is all.

Recross-examination by Mr. Ward:

Q. When you bought it who took the car, the bill of sale, to the—what was done in having the bill of sale assigned to you? A. I gave a deposit of a hundred dollars and then a $2,000 check, and Mr. Zober went to Mr. Martin's office.

Q. Who is Mr. Martin? A. John F. Martin, the man that gives out license plates, connected with the State.

Q. He is connected with the Motor Vehicle Bureau? A. Yes, sir.

Q. You went there with the bill of sale? A. Yes, sir.

Q. And the car? A. Yes, sir.

Q. And had it transferred from Chief Zober to yourself? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. That was done at the Motor Vehicle Bureau? A. Yes, sir.

Q. Do you know who handled the matter personally? A. Who handled what?

Q. Who handled the transfer? A. Why, if I remember right—

Q. The assignment? A. I am positive that when we walked in there, Mr. Martin was there and the Chief tendered me the bill of sale and I told him I was buying this car, and Mr. Martin looked it over; I asked him if everything is all right, he said, "Yes," and I said, "Well, I have my license plates for the car," which they were given to me.

Q. Where was the car then? A. Outside in the front, right in front of the place.

Q. When you said, "I am buying this car," did you indicate where the car was outside? A. No; only meaning that we have the bill of sale, and the Chief was right there with me, and he signed the bill of sale there in the presence, I think, of Mr. Dwyer.

Q. You say that the money was paid back to you that you paid out for the car. Who paid you back this money? A. The Chief himself.

Q. Chief Zober? A. Yes, sir.

Q. That is all.

WILLIAM EDWARD DUCEY, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Ducey, where do you live? A. 200 Greenwood Street, New York.

Q. Did you formerly live in Jersey City? A. Yes.

Q. Where in Jersey City? A. 77 Sipp Avenue, 64 Sipp Avenue.

Q. Where were you living in March of 1926? A. 77.

Q. In Jersey City? A. Yes.

Q. Where were you living during the entire month of March? A. 77.

Q. I show you what purpots to be a bill of sale, Exhibit P-7, of a car, motor 63-J-2648 from the Union Motor Sales Company to Howard E. Sullivan, with an assignment from Howard E. Sullivan to William E. Ducey of Jersey City, in the County of Hudson, and another assignment from William E. Ducey to Richard Zober, and ask you whether

the assignment of the bill of sale— A. I never seen a bill of sale before.

Q. Wait a minute—on the back of this bill of sale, whether that is your signature or not. A. No, sir, it is not.

Q. Did you ever own a Cadillac sedan car? A. No, sir. I never owned a car.

Q. Did you ever sell a Cadillac sedan car to Mr. Zober, Chief of Police? A. No, sir. I never seen him.

Q. That is all.

Mr. Ward: No questions.

CHARLES O. FULLER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Fuller, where do you live? A. Trenton.

Q. With what state office are you connected? A. Secretary of State's office.

Q. Have you produced here the record of the Secretary of State to show the notarial certificates which were in existence in 1926? A. I could not get all of them here, because there is no list of them made. They are merely issued by the Governor. We went over these lists that we were subpoenaed, and saw that those names was not on our list. I have brought a George O. Johnson that we have on our list.

Mr. Ward: This is not an answer to any question.

A. Impossible to get all of those records here, because there is nothing, only in sheets as they come in.

Q. Have you made an investigation of the records to determine whether certain names which were sent you as notary public during the year 1926 were in fact such notary publics? A. Yes.

Q. You have made the investigation? A. Yes, sir.

Q. Give me the names that were sent to you and tell me whether or not they were notary publics in 1926?

Mr. Ward: I object to the question.

A .Frederick J. McAvoy.

Mr. Ward: I object to the question. It is incompetent.

The Commissioner: Go ahead.

A. Frederick J. McAvoy. We find nothing in our list.

Q. That is to say, to show he was a notary public? A. To show he was a notary public. He is not there in the list at all. William Morris. He is not on the list at all. We find a Gearge O. Johnson of Seabright. Those are the only three.

Q. Were those the three names that were sent you? A. Three names, yes, sir. I have the correspondence here. (Produces letter).

Q. Did you give me the first name of McAvoy? A. Fred J. McAvoy.

Q. William— A. William Morris. And you ask for George Johnson, and we have a George O. Johnson.

Mr. Ward: Of course, we object to this, sir.

Mr. Lane: Make an objection to the whole line, as far as I am concerned.

Mr. Ward: Yes.

Q. Now, have you produced the records here to show the granting of registration, first, to cars—

A. That does not come under our department. That is under the Motor Vehicle Department.

Q. Oh, that is right. A. We only have the notaries.

Q. That is all.

Mr. Ward: No questions.

R. EARL LEONARD, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Leonard, where do you live? A. 72 Oak Lane, Trenton.

Q. With what department are you connected? A. Department of Motor Vehicles.

Q. Have you investigated your records to determine to whom license was granted for the Cadillac Imperial Sedan motor number 63-J-2648? A. I have.

Q. Will you tell me to whom such a license was granted?

Mr. Ward: I object, if the Court please. The record speaks for itself.

Q. Have you got the record? A. I have.

Q. Produce it.

Mr. Ward: Is that the original record, Mr. Leonard?

The Witness: Yes, sir. (Produces record). That was the number, 2648.

Q. 2648, yes. I want to offer these in series. Have you the records of the registration of this car, when the change was made of the registration of this car from William E. Ducey to someone else? A. I have no record of any transfer.

Q. Have you the record of granting of license to Richard O. Zober for this car?

Mr. Ward: May I ask—well, I withdraw it.

A. I have, sir. (Produces paper).

Mr. Lane: I offer the record, which is dated March 29, 1926, and is issued at the office of George Zimmerman in Carlstadt, N. J., to Richard Zober for this car, Cadillac sedan.

Mr. Ward: No objection.

(Paper marked Exhibit P-8.)

Q. Will you tell me what those three X's under the 1515 means? Do you know? A. No, I couldn't tell.

Q. You don't know, of course, whether that is Mr. Zober's signature or not? A. I do not.

Q. But that is the card upon which the license registration was issued for that car? A. Yes, sir.

Q. Now, have you the card here showing the registration of car number 63-J-2549 to Jacobs, I believe? A. Lena Jacobs?

Q. Yes. A. (Witness produces paper.)

Mr. Lane: I offer that.

Mr. Ward: No objection.

(Card marked Exhibit P-9.)

Q. Now, have you the card here showing the issuance of a license to Mr. Zober for the Buick Coach, serial 1431862? A. Yes, sir. (Produces paper.)

Mr. Ward: Is that the first one mentioned in the charges, the first Buick?

Mr. Lane: I don't know whether it is the first or not. It is one of the Buicks mentioned in the charges. I offer that.

Mr. Weinberger: It is number 4.

Mr. Ward: No objection.

(Card marked Exhibit P-10.)

Mr. Lane: That shows the issuance of a license under that number by Henry M. Butler, I think, 14 Cortlandt Street, New York City.

Q. Have you the license in the name, or the registration in the name of Rider, for a car, Buick Coach, serial number 1505625? A. No, I have not. Must be a difference in the numbers.

Q. Have you been taking the serial number or the motor number? The motor number is 1577686. A. I have that one, sir.

Q. Have you another registration for the number 1431862? A. Yes.

Mr. Ward: Which one is that?

Mr. Lane: The same car. The numbers I am now giving are the fictitious numbers. The other numbers are the original numbers. I offer that.

Mr. Ward: No objection.

(Card marked Exhibit P-11.)

Mr. Lane: That shows the granting of registration to Mathias Winter of the car which is referred to in Exhibit P-10.

Q. Now, have you the registration of the Buick coupe 2628, serial 1520255? A. Yes, sir. (Produces card.)

Q. This is the one to Mr. Hipp. Have you the registration to Chief Zober, the same car? A. Yes, sir. (Produces card.)

Q. Well, now, see if you haven't another one, 1520255 in the name of Richard Zober. A. No. No, it is not there.

Mr. Lane: I offer two registrations, one for 1926 and one for 1927 of the Buick coupe, serial number 1520255, to Carroll D. Hipp.

Mr. Ward: No objection.

(Cards marked Exhibits P-12 and P-13.)

Q. Have you looked to ascertain whether you have a registration in the name of Kenneth R. Perkins for serial 1500738? New York license—never mind, then. Have you produced the registration in the name of Richard Zober for the Buick car 1598769, serial number—engine number 1656585 for the year 1926 and 1927? A. Yes, sir. (Produces paper.)

Mr. Lane: I offer them.

Mr. Ward: No objection.

(Papers marked Exhibits P-14 and P-15.)

Q. You have also produced, have you not, the registration of the Cadillac serial number 63-J-2648 for 1926 and 1927, John A. Labash? A. Yes, sir.

Mr. Lane: I offer those.

(Papers marked Exhibit P-16 and P-17.)

Q. Now, have you investigated the records of your office for the purpose of ascertaining whether or not there has been received from Richard O. Zober, Chief of Police, during the years 1926 and 1927, any statement or certificate of any possession by him of any cars with mutilated or fictitious numbers, or any such statement as that?

Mr. Ward: I object to that. I don't know the method of keeping the records down there. I do not suppose—I ask Mr. Lane to interrupt at this time to ask if there is any book in which there is any such thing kept.

The Witness: There is maintained a file. There is a file.

Mr. Ward: There is a file maintained. Then, we object to the evidence of the witness.

Mr. Lane: The objection would come with great force, but Mr. Zober knows whether he filed any such certificate or not. Do you say he did?

Mr. Ward: We object to it. We object to any evidence of that kind unless the original evidence is produced.

Q. I press the question. Have you examined the files? A. May I make a statement? The Commissioner himself was served with a subpoena. I think he will be here with that information.

Q. Did you, in fact, search the files? A. I did not.

Q. I won't press the question, then, from you. That is all.

Mr. Ward: No questions.

THOMAS J. BROGAN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. Paterson, New Jersey.

Q. What is your business? A. Cadillac dealer, motor cars.

Q. Where? A. Paterson, Passaic, and Ridgewood.

Q. How long have you been in that business? A. Sixteen years.

Q. Do you know the values of second-hand cars? A. Cadillacs, I do.

Q. That is what I mean. Have you examined the car that now bears the serial number 63-J-2648, known as the Kaufmann car? A. Yes, sir.

Q. Can you tell me what that car would be worth second-hand in March, 1926?

Mr. Ward: I don't know as Mr. Brogan has a sufficient knowledge. I am not questioning that he has.

Mr. Lane: Suppose you cross-examined him on that.

Cross-examination by Mr. Ward:

Q. Have you bought and sold cars second-hand, Cadillac cars? A. We have not purchased second-hand; we have sold them.

Q. How many? A. How many? Let me see, this was in 1926. For the whole year?

Q. Yes. A. 250.

Q. I mean, did you personally sell them or come in contact with the sale of them? A. Yes.

Q. You know what their value was? A. I have a very good idea of their value, yes.

Mr. Ward: I think he is qualified.

Redirect-examination by Mr. Lane:

Q. You are all the time making allowances on cars, aren't you? A. Yes.

Q. Taking them in? A. Yes.

Q. Unfortunately? A. You bet.

Q. Can you tell me in March, 1926, approximately what that car would be worth? A. Between $2,600 and $2,800, it all depends on the condition of it.

Q. Have you seen the car recently? A. Yes, I have.

Q. What condition is that car in? A. For the year it is in very bad condition, I would say.

Q. That is now? A. Yes.

Q. In very bad condition. We will assume, then, that it must have been in fair condition in 1926? A. Yes, we will assume that.

Mr. Ward: No questions.

THOMAS A. McHUGH, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. You are an officer of the Newark Police Department? A. Yes.

Q. What officer? A. Present Detective Sergeant.

Q. Have you produced the record of the Police Department which will show whether or not there was a report of a theft of a Cadillac car in January, 1926? A. Yes, sir.

Q. Do you find such a report? A. Yes, sir.

Q. What is the report?

Mr. Ward: I object on the ground it is irrelevant and immaterial. Merely a report. I object to it upon that ground.

The Commissioner: It is reported to the police. I do not see where there would be any harm in letting the report of the police come in in a matter of this kind. Proceed.

A. On January 29, 1926, I was patrolman detailed as clerk of the Bureau of Records in Newark.

Q. Read it. A. At 1:25 p. m. I received a telephone call of a stolen automobile. The man on the other end of the wire, when asked who owned the car and who was reporting it, gave the name of Ary, and last name Kaufmann, and his address as 124 Johnson Avenue. The time of the theft was placed at 1:15 P. M. of that same day, on Washington Street near Broad. There are several streets come together at that one point, and that is the way he gave it. The description of the car

was a Cadillac Suburban, license number E-14194 N. J., motor number 63-J-2549, serial number—

Mr. Ward: Do I understand that this book is offered?

Mr. Lane: That portion of it that I am having read.

Mr. Ward: To that we object, of course.

The Commissioner: Proceed.

A. The serial number in the Newark Police Department is 1,318; it is entered as Detective Bureau complaint number 686.

Q. Now is it the practice of the Newark Police Department to send out bulletins of stolen cars? A. When this here record comes in there is five typewritten copies made; one goes to the Stolen Automobile Squad for investigation; one goes to the Chief of Police; and one Commissioner; and one the newspaper; and one goes to the telephone operator who sends it out throughout the surrounding towns.

Q. Is Passaic one of the surrounding towns?

Mr. Ward: I object.

A. I can't answer that. I do not send it out.

Q. I show you what is called an automobile bulletin. Can you tell me whether you know what that is? A. I knew nothing about that. That does not come under my department, members of the Detective Department. That comes under the Automobile Squad. They send out their own bulletin.

Q. Who was in charge of the Automobile Squad? A. Captain Hallan.

Q. Was he in 1926? A. Yes.

The Commissioner: You are the Record Bureau, aren't you?

The Witness: Yes, sir.

Q. That is all.

Cross-examination by Mr. Ward:

Q. Mr. McHugh, what is that that you have in your hand? There has been offered in evidence— A. That is a complaint book in which all complaints that are made to the Police Department in the City of Newark are entered in.

Q. Complaints about what? A. Of thefts and loss of stolen articles recovered, that is, found; for instance, on the street.

Q. That book is a part of the records of what department, in the Police Department? A. The Bureau of Records, comes under directly the Captain of Detectives.

Q. That is a distinct department, isn't it? A. Well, they had no official head heretofore. The Captain of Detectives is the head of that department.

Q. The Captain of Detectives is the head of that department? A. He is responsible for this department.

Q. Yet that record is kept, that book is kept, by whom? A. Well, just how do you mean that?

Q. Is it kept by a sergeant or one of the detectives? A. Do you mean who enters these records?

Q. Yes. A. Why, there are civilian clerks who can take these complaints, and also the patrolmen sign them acting as clerks at different times.

Q. Acting as clerks in what department? A. In the Bureau of Records.

Q. Has the Detective Department anything to do with that record? A. The Detective Department?

Q. Yes. A. I don't know just how to answer that question. I will try to explain it. If you were to telephone a robbery to Police Headquarters, the operator would put it on the Detective Bureau and the clerk in charge there, which I was on this day, would take a report of it and make a record of it, a memorandum record for investigation, also for the different officials, and I would enter it in this book, the original record in which I would send out to different departments, and in this particular department was the Automobile Squad. That record was sent down there for further investigation—for investigation.

Q. Let me see. First it would come into the Detective— A. No, it would come to the operator and the operator would give it to the Bureau of Records.

Q. What did you say about the Detective Bureau? A. The clerk in charge there makes a typewritten copy of what the record is, the man's name and address.

Q. From whom does he get it? A. From whomever telephones it in or comes in to report the robbery.

Q. One that comes in over the 'phone, in other words, the person in charge of the Detective Bureau gets it, am I correct in that? A. The person in charge of the Detective Bureau is a Captain. The man that is detailed to this work is a clerk. Whether he be a civilian clerk or a patrolman assigned there, when he gets the report he makes a typewritten copy of the reported article and sends it out to whichever department will investigate it.

Q. Now, in this case you take a stolen automobile, for instance, into what department do those reports go? A. To Captain Halloran's department, stolen autos.

Q. Aside from the Record Department of which you have made mention, then there is some report goes to this, I think you called it, the Automobile Squad? A. Stolen Auto Squad.

Q. He gets a record of it, does he? A. Yes.

Q. Who else gets a record of it? A. He gets a record of it—the Captain of that department gets a record of it. He assigns one.

Q. You mean of the Stolen Auto Squad? A. Whatever department it is that requires investigation.

Q. I mean, in the case of an automobile. A. Well, it is the Captain of the Stolen Auto Squad gets the record. He assigns a detective to investigate it, and he expects a report as Captain after the investigation is completed.

Q. Then, is there any entry made in that book in the Department of Records with reference to the report or reports that may be made on stolen automobiles? A. You mean the first report or the final report?

Q. I mean having— A. Final report, no. The Captain of the Automobile Squad has those records in his own office.

Q. So that, so far as the record is concerned, it ends with the report of the theft; is that correct? A. Ends—

Q. As far as that particular book is concerned? A. That particular book, it ends here.

Q. Which is a book of the department records? A. Yes, sir; the car is picked up and we are noti

fied, that there has been a recovery of it, we check in this here book that the car has been recovered, and we cross it off on the files.

Q. How many reports of stolen automobiles do you get during each day, on an average? A. Well, I can't answer that. I have to go to a lot of explanation. They have a shift trick, what we call it; you work seven hours one day, six hours the following morning, and then you work all the following night, so I could not answer that question, because I don't work every day.

Q. Can't you give us any idea? A. So I could not give you any idea of it, no. Some days you might get one; some days you may get ten.

Q. How many were sent out on an average a day, can you give us any idea of that? A. I can go over this book.

Q. If it won't take you long.

Mr. Lane: We object to taking the time to go over that book for that purpose. It is not proper cross-examination.

Mr. Ward: Well, I don't want to take up the time, but I would ask this witness to step aside and stay here and make his computation and go back so he may answer.

The Commissioner: If you so desire it will be done.

Mr. Lane: Are you through with him except that?

Mr. Ward: Yes.

Redirect-examination by Mr. Lane:

Q. One thing is quite certain, isn't it, that there are quite a number of automobiles stolen and dealt in? A. Yes.

Q. Sold and resold? A. I don't know anything about that part. That is not my business.

Q. That is all.

The Commissioner: Do you want the gentleman to wait?

Mr. Ward: If he will, and just make that computation.

Mr. Weinberger: Count them. Go ahead.

HARRY M. SHEDD, JR., being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Shedd, where do you live? A. 604 Block Avenue, Elizabeth, New Jersey.

Q. What is your business? A. I am working for the Union Adjusting Bureau, New York City.

Q. As representative of the Union Adjusting Bureau of New York City did you adjust the loss on the car of Kaufmann, serial number 63-J-2549, Cadillac Imperial sedan? A. I did not adjust that loss, but I am working for that adjusting company which handles the losses for that company and I have the records here.

Q. Will you produce the records? A. We have here the policy of insurance of Mrs. R. E. Jacob Kaufmann, policy National Union fire insurance policy.

Q. Is that the original policy? A. Yes.

Mr. Lane: I offer it.

A. It is number 8010.

Mr. Ward: I object to it as immaterial and irrelevant.

(Paper marked Exhibit P-19.)

Q. Have you the proof of loss? A. Yes, we have the proof of loss and—in the amount of $4,000.

Q. Have you the record showing payment? A. We wrote to the home office for the draft on that, but we have not received that as yet.

Q. Do you know what it was adjusted at?

Mr. Ward: I object.

A. It was adjusted—

Mr. Ward: I object to that. That surely is not evidence. That is purely hearsay. Some record of it he himself says for which he has written but has not received.

Mr. Lane: That does not make it hearsay.

Q. Do you know, I asked you? A. Our records show we paid $4,000.

Mr. Ward: One moment. I think that evidence is improper. As far as he has gone, it shows on the face of it it is improper for him to give any conclusion.

The Commissioner: Proceed.

Q. Do you know, outside of the records to which you have referred, how much was paid on this loss? A. No; the only thing we have is out record right here of the file.

Q. Is there anything in the record which you have got which shows the amount that you paid? A. That is incorporated in the proof of loss, giving the amount we will pay.

Q. And you have the proof of loss? A. Yes.

Mr. Lane: Produce the proof of loss.

(Witness produces.)

Q. Was this produced from the files in your office which were kept in the regular course of your business? A. Yes, sir.

Mr. Lane: I offer the proof of loss.

Mr. Ward: I object to it as irrelevant, incompetent, and immaterial. That is, for the purposes for which it is offered.

Q. By the way, have you got the key of that car? A. Yes.

Q. Produce it. A. (Witness produces key.)

Q. Where did you get that key? A. It was in our files in New York.

Mr. Lane: I offer the key.

Mr. Ward: We object. Your Honor, we are piling up evidence in this way. Here is a key that is found in the files of an office, and this witness is permitted to testify this is the key of this particular car, with nothing else being added on, tacked on.

Mr. Lane: Suppose you take the key and go down and open the car.

Mr. Ward: I would gladly do that if I—

Mr. Lane: We will do it for you.

Mr. Ward: We will ask you to do it for us. The objection is noted.

(Key marked Exhibit P-21.)

Q. Let me see the number on that key. I don't know what it is. You can read those things better that I can. A. P-235.

Mr. Ward: No questions.

THOMAS A. McHUGH, recalled.

Further cross-examination by Mr. Ward:

Q. I understand the officer now is ready to tell about his computation. A. On the 29th there was seven automobiles, on the 30th there were four.

By Mr. Lane:

Q. That is two days? A. Yes.

Q. I suppose you might find, if you examined other days, more or less? A. Usually when it rains.

WILLIAM B. DILL, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Commissioner, you are the Commissioner of Motor Vehicles of the State of New Jersey? A. I am.

Q. And Custodian of the Records, of course? A. Yes.

Q. Have you examined the records of your office to ascertain whether or not during the years 1926 or 1927 Richard O. Zober filed with your department any statement showing the source of the title, proper motor and serial numbers or distinguishing numbers with respect to any cars which had mutilated, damaged, or fictitious numbers? A. I have.

Mr. Ward: I object, if the Court please, on the ground it is incompetent to prove a record in that way. It is not incumbent upon us to establish the existence of any rec-

ords. The mere fact—and this, of course, in no way reflects upon the Commissioner—the mere fact he may have examined, may have made an examination, does not establish the fact that there is nothing of the kind indicated in the question.

The Commissioner: Proceed.

Mr. Lane: I will take any course that counsel suggests is a better way.

Mr. Ward: We are not here to suggest.

Mr. Lane: Do you want me to bring the Commissioner's office up here?

Q. Have you made such an examination? A. I did.

Q. Do you find any such statements of any kind? A. I do.

Q. Which ones? Where are they? A. The assistant Chief Clerk of the Department is here with the records.

Q. What is his name? A. Earl Leonard.

Q. Then you may step aside. Does he know all about it? A. He does.

Mr. Ward: May we make him our witness?

Mr. Lane: Just a minute.

R. EARL LEONARD (Recalled):

Direct-examination by Mr. Lane:

Q. Now, you testified that you made examinations, a few moments ago. The Commissioner says that you have the records now. Have you the records? A. That is to the title of the cars that

were registered, I think that is the way your question was propounded.

Q. No. Then we are talking at cross purposes. A. I have here the proofs of registration of all the cars we were requested to bring.

Q. Did you make any examination or—I am not referring now at all to proofs of registration, or rather to applications for registration; I am referring to statements under the Motor Vehicle Act in connection with mutilated, damaged, or fictitious numbers.

Mr. Dill: Counsel, I made an investigation on that.

Mr. Lane: That is what I am trying to find out.

Mr. Dill: I thought you referred to registration.

WILLIAM B. DILL, recalled.

Direct-examination by Mr. Lane:

Q. What I am referring to, Commissioner, are the statements which are required by the Motor Vehicle Act from persons who find themselves in possession of cars with mutilated, damaged, or fictitious numbers, which they have got to file, giving the source of their title and all that sort of business. A. I made such—

Mr. Ward: May I cross-examine briefly?

Cross-examination by Mr. Ward:

Q. Is there a record of that, Commissioner, kept by your office? A. There is.

Q. That record is in your office now? A. It is.

Mr. Ward: Then we object to the Commissioner's evidence.

Redirect-examination by Mr. Lane:

Q. What form of record is that? A. The law requires that the reports shall be in shape of a statement duly sworn to.

Q. Yes. Now, have you kept those records down there? A. They are kept alphabetically in the names of the persons submitting them.

Q. Is there any other record than the statements themselves? A. No record other than that.

Q. So that you have got to go over the statements to find out whether there are any there or not? A. Precisely.

Q. That means a search of those statements? A. Yes.

Q. In your office. And you have made such a search? A. I have.

Q. Do you find for the year 1926 or 1927 any from Richard O. Zober?

Mr. Ward: I object on the ground that it is incompetent.

The Commissioner: Proceed.

A. I do not.

Q. Commissioner, in the year 1926 was there any law upon the subject or any rule of your department upon the subject as to where applications for license for cars should be made, with reference to the residence of the person asking registration or the location of the car?

Mr. Ward: I object to that on the ground it is irrelevant in this case, what the rule of

the department may be, unless it was brought to the knewledge of the defendant or to his attention.

Mr. Lane: I will withdraw it.

Q. Commissioner, did you have a conversation at any time with Richard Zober with respect to whether or not he had personally signed the affidavit which appears upon Exhibit P-8, Exhibit P-10, and Exhibit P-15, which are your registration applications, two of them made at Carlstadt and one of them made in New York? A. I did.

Q. When did you have that conversation? A. It was at the Passaic Armory, and I rather incline to believe that it was on October 27.

Q. What was said between you and the Chief with respect to that? A. Well, it is rather a long story. Do you want me to tell it in my own way?

Q. Yes. A. I asked him whether he had signed the application for the car that had been delivered to him. As a matter of fact, he told me that when the car was delivered to him immediately following the purchase it was delivered with the registration certificates and plates. I asked him whether he had signed the application therefor, and he said he did not. I said, "You ought to know better than that. You know that your signature and affidavit is necessary," and he replied, "Yes, I ought to have known better."

Q. That is all.

Recross-examination by Mr. Ward:

Q. Commissioner, will you please tell us what occurred at the Passaic Armory on the day mentioned by you at the time this matter was first

called to your attention, I believe it was on October 27? A. I think that was the date. I am inclined to believe it was on the second Thursday in the month. You want me to tell you?

Q. Yes, tell us, if you will, what occurred. A. I had finished my hearings at the Armory and was about to adjourn for the day. I walked out of the little room that I use as a court-room, and saw Chief Zober and Judge Davidson standing there. I approached them and greeted them cordially as friends, and said, "What can I do for you?" I had no concept of what had transpired the night previous. And he then stepped into my room, and Mr. Shedd was there representing the Underwriters' Detective Bureau, and for the first time I learned then that Chief Zober's car had been seized the evening before.

Q. Yes. What was said about that by anyone, that you recall, in Chief Zober's presence? A. Mr. Shedd proceeded to tell that he had been telephoned the day previously while engaged in some business for the Motor Vehicle Department at Keyport, urged to come to Passaic at once.

Q. Made by whom? A. He did not say by whom, but he said that he thought the telephone had come to him from Police Headquarters; didn't know whether it was Commissioner Turner or who had 'phoned to him, but the message recounted that upon his arrival at headquarters he was to see Commissioner Turner, and as a result of the talk that he had with Turner he seized Zober's machine, for having mutilated numbers.

Q. Pardon me, but right at that point—Zober was present there, was he not? A. Yes, he was.

Q. What else did Shedd say, if you recall? A. Well, he said he seized the car because it had

motor numbers that were mutilated and serial number mutilated and that he had every reason to believe was a stolen machine.

Q. Did he tell you or not at that time that Zober had told him of other cars that Zober had, and which zober had been in possession? A. He told me there were other cars. He told me of the car in the possession of the undertaker in Passaic, and the undertaker came in a short time afterwards.

Q. Did he say whether or not Zober had told him that? A. He did not—I cannot recall, Counsellor. He may have done, but I cannot recall.

Q. Will you go on, please, from that point, telling us what you do recall, as near as you can? A. When Inspector Shedd reported having taken the car I asked Chief Zober where he obtained the car and he said he had purchased it, as well as the car in the possession of the undertaker, from a man who lived in Bogota, and I asked him what this man's business was, and he said he dealt in cars and he inclined to the belief that he might be selling cars for an insurance company, and I asked him whether or not he could locate him, and he said he thought he could. I said, "Will you endeavor to do so today?" He said, "I will go after him tonight," and then in the presence of the undertaker I said, "You must make restitution to this man," and he said, "I will gladly do so." So I refused to permit Mr. Shedd to seize the undertaker's machine until the fact that it had been a stolen car was clearly established.

Q. Do you recall anything else that Mr. Shedd said with reference to when he learned about the Cadillac car, that would be the Labash car? A.

I cannot, but Mr. Shedd had in his possession some memorandum in a search of the applications that are in evidence here, and I imagine they were secured the night before through his Trenton representative, our office remaining open twenty-four hours the day round for dissemination of such information as police authorities or other officials may want to acquire.

Q. Is there anything else, Commissioner, that you recall that Chief Zober said? A. Well, there was a conversation to and fro. I arraigned the Chief for being so careless as to take cars with registration that he had not personally applied for, and he admitted that he ought to have known better than to have done so.

Q. Did he try to evade, apparently try to evade, any of your questions, or did he answer them freely? A. He talked with the utmost freedom. It was an open discussion, a sort of an open forum. Newspaper men were there, Judge Davidson was there, the undertaker was there, my court clerk.

Q. Do you recall, Commissioner, whether or not at that time Chief Zober said, in words or in effect, "I told Mr. Shedd there is something wrong with my car; there may be something wrong with other cars I have sold"? A. I don't recall his ever having said so.

Q. That is all.

KENNETH R. PERKINS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Perkins, where do you reside? A. 170 East 17th Street, Brooklyn, New York.

Q. Were you the owner of a Buick 26-28 coupe? A. Yes, sir.

Q. In July of 1926? A. Yes, sir.

Q. From what concern did you purchase that car? A. From the Buick Motor Car Company direct, Broadway and 55th.

Q. In New York? A. Yes, sir.

Q. Now, as evidence of your ownership in that car did you receive the papers which I now show you? A. I did, yes, sir.

Mr. Lane: I offer them. I believe that is the only thing they have equivalent to a bill of sale over in New York.

(Papers marked Exhibit P-22.)

Q. Did you have that car registered in your name? A. Yes, sir.

Q. Have you your registration card here? A. It was turned in to the insurance company. I think it is there with the papers.

Q. How long did you have the car? A. Just a little less than four months.

Q. Then what happened? A. The car was parked on 52nd Street west of Fifth Avenue one afternoon and stolen from that point.

Q. On what day was that? A. I think that was July 9, 1926.

Q. Did you notify anybody of the theft? A. I notified the West 47th Street Police Station.

Q. Did you see the car after? A. I saw the car here three weeks ago.

Q. How did you identify the car? A. By four identification marks that were put in an affidavit by me at the time the car was stolen; one was a dented dash pan and the radiator in the front, a dent on the left front fender, and there were two

additional accessories put on the car that are not part of the original equipment, and they were scuff plates on each running board, and double bumperettes in the rear instead of single bumperettes.

Q. Where was the car when you identified it? A. In the garage here on Howe Avenue.

Q. Who was with you when you made the identification? A. Captain Monks, Sergeant Cunningham, and Mr. Sneath, an insurance adjuster.

Q. Have you seen the car outside here today? A. I walked by the front of the building and there was a car there similar to it without license numbers, with scuff plates and double bumperettes which I believe to be the car.

Q. How much did you pay for the car? A. About fifteen hundred dollars. It is $1,470 with the few accessories, about $1,500.

Q. Was it insured? A. It was insured.

Q. Was the loss settled by the insurance company? A. Within sixty days, very promptly.

Q. For how much? A. About, it was thirteen hundred and something. I had depreciation on there of $65 for the three or four months in which I had the car.

Q. That is all.

Cross-examination by Mr. Ward:

Q. When did you buy it, Mr. Perkins? A. I bought the car March 9, 1926.

Q. You had it until July? A. Until July 9, it was stolen, yes.

Q. Now, when you came to identify it you identified it only by four things that you have mentioned; is that correct? A. Well, model and color, of course.

Q. You knew its particular model? A. Yes.

Q. You knew your car was, of course, a Buick of a particular model and particular color, to start off? A. Yes, sir.

Q. But the other methods of identification were by a dented dash pan? A. That is it.

Q. That was one? A. Yes, sir.

Q. The second, by a dented left fender? A. In the front.

Q. And the fact that your Buick had two scuff plates? A. Metal plates on the step, step plates —scuff plates they call them.

Q. What was the fourth? A. The fourth was double bumperettes in the rear. The car was equipped with a single bar and I had double bars put on it.

Q. That is the way you knew it was your car? A. Yes.

Q. That is all.

EDWARD M. DAVIS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. You are connected with the Department of Police of the City of New York? A. Yes, sir.

Q. Have you produced here a report of a stolen Buick car, serial number 1520255, motor number 1548247? A. 1557417.

Q. I beg pardon; I have given you the fictitious number. Motor 1557417? A. Yes.

Q. When was the theft of that car reported? A. It was reported on July 9, 1926.

Q. By whom? A. By Kenneth R. Perkins.

Q. What is the custom and practice in the Police Department of New York in respect to sending out notice of the stolen cars?

Mr. Ward: I object. We certainly are not bound by anything of that kind, sir.

The Commissioner: It would be interesting to know, wouldn't it?

Mr. Ward: Lots of things I have learned today I did not know before.

The Commissioner: Go ahead, Officer.

A. Well, we receive a description of the car and verify it through the State License Bureau, the Bureau of Information at Police Headquarters, and then we send out a general alarm, an alarm is transmitted all over the entire five boroughs.

Q. Was that done in this case? A. Yes, sir.

Q. What kind of a description of the car did you get in this case? A. Buick coupe, painted dark gray, 1926 model, licensing number 6-N-5686, motor number 1557417.

Q. That is all.

Cross-examination by Mr. Ward:

Q. May I ask you what your official capacity is in the Police Department, Officer? A. Acting Detective Sergeant.

Q. In what particular department? A. New York Police Department, Twelfth Squad.

Q. What bureau? A. Twelfth Squad at the present time. At the time this case was reported I was in the Ninth Squad.

Q. I don't quite understand what you mean. What do you mean by Twelfth or Ninth Squad?

A. There is two different squads. I was transferred since the time this case was reported.

Q. Were you connected with the Detective Bureau; is that it? A. Yes, sir.

Q. You are not a uniform man? A. No, sir.

Q. And connected as you were with the Twelfth Squad at the time you received this report— A. Ninth Squad.

Q. I beg pardon. You received this report, did you? A. Yes.

Q. How many men were there in that Squad? A. About 21 or 22.

Q. How were they designated? A. First, second, and third grade detectives, lieutenant, commander.

Q. Was there any other designation given this squad? A. Ninth Squad, Detectives.

Q. What was their work? A. Well, to investigate crimes, suppress crimes, make an arrest.

Q. Now, in the course of your work, can you give us an estimate of how many automobiles were reported as stolen on an average daily? A. In that precinct?

Q. Yes. A. About two or three every day.

Q. Beg pardon? A. Two or three or four every day.

Q. Can you give us any idea of how many were reported in the City of New York? A. No, sir.

Q. You have no idea? A. No, sir.

Q. How many precincts were there in the City of New York at that time? A. That is a hard question for me to answer.

Q. You cannot tell us that? A. No, sir.

Q. When you received your reports, from whom would you receive them? A. From the complainant.

Q. With reference to a stolen automobile? A. From the complainant.

Q. And that would be referred directly to the Detective Bureau, would it? A. Yes. He must come to the Detective Bureau to make his complaint.

Q. Then it would be taken up by the Detective Bureau? A. Yes, sir.

Q. And acted upon accordingly. You would make every effort to recover his car? A. Yes, sir.

Q. That is all.

HERBERT HAUSER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Hauser, where do you live? A. 225 West 68th Street, New York City.

Q. What is your business? A. I am head demonstrator employed by the Buick Motor Car Company.

Q. Do you know about the sale of the car to Mr. Perkins, serial number 1500738? A. That is about the sale when it occurred, when the gentleman came in the salesroom and bought the car, or through the delivery of it?

Q. Delivery of the car. A. Yes, sir.

Q. At the time of the delivery of that car did you know what the serial and motor numbers were? A. Yes, sir, by looking at the records.

Q. Did you know the other numbers on the car, also? A. Just the motor and frame numbers, we call them, motor and serial numbers.

Q. Did you check the numbers? A. Yes, sir.

Q. Well, now, what numbers were on that car at the time it left your establishment? A. Serial number 1500738 and motor number 1557417.

Q. Now, did you take the front axle or the body number or the generator number? A. No, sir.

Q. You did not do that? A. No, sir.

Q. That is all.

Mr. Ward: No questions.

CHARLES B. CRAWFORD, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Crawford, where do you live? A. 329 West Witherbee, Flint, Michigan.

Q. What is your business? A. I am connected with the Sales Department of the Buick Motor Car Company in Flint.

Q. Have you produced here the records from that company showing the person to whom and the various numbers, assembling numbers that were on the car 2628 Buick coupe, serial 1500738, motor 1557417? A. Our records—

Mr. Ward: One moment. I object to his referring to anything he has in his hand unless I have an opportunity to examine him.

Q. Have you produced the record there, what I ask, with respect to that car? A. I have the record of that car, yes.

Q. Now, what records are they What are the records? A. The records in our factory contain

the eight component part numbers together with point of shipment and date of shipment. We do not show delivery, the retail delivery of the car.

Q. Are those the things which you have produced, the records kept in the ordinary course of your business? A. They are.

Q. Under whose supervision? A. Under my supervision.

Q. And they are part of your general business? A. Yes, sir.

Q. Now, I will ask you to refer to the record of that car 1500738, motor 1557417 and tell me what the record shows were the various assembly numbers. A. Car with frame 1500738, motor 1557417, is a model 26-28, transmission number 1533715, starter 116435, body 4006, generator 116541, front axle 930931, rear axle 1567619. It was shipped to West New Brighton, New York, with the order of the Buick Motor Company of New York, December 10, 1925.

Q. Do you know the key number? A. There is no record kept of the key number, or was no record kept at that time.

Q. Have you made any investigation to determine to whom car number 1520255, serial number, was shipped? That is the fictitious number of this car. A. I have no record of that serial number.

Q. Have you the record here for your car number 1505625, serial, motor 1577686? A. I have.

Q. Will you tell me what the other assembly numbers on that car were when it left your factory? That is the Rider car. A. The car with frame serial 1505625, motor 1577686 is a model 26-40, transmission number 1586757, starter 133797,

body 14625, generator 142348, front axle 1009449, rear axle 1585109.

Q. To whom was that car shipped? A. It was shipped to Summit, New Jersey, with the man of the Buick Motor Car Company of New York, January 29, 1926.

Q. Have you produced your record showing car with the assembly numbers of a car with the serial number 1548955, motor number 1578422? A. I have.

Q. Will you tell me what the assembly numbers were on that car as it left the factory?

Mr. Ward: I would like to ask this witness, sir, before I assume he has knowledge —I would like to know. I would like to cross-examine him for a moment.

The Commissioner: Go ahead.

Cross-examination by Mr. Ward:

Q. What is it you have in your hand? A. This is called our packing slip. This is the original of our packing slip.

Q. With what department are you connected of the Buick? A. I am connected with the Sales Department.

Q. You are not connected with the Packing Department? A. No, sir.

Q. Is that a separate department in itself? A. There is no Packing Department.

Q. Well, the slip that you have in your hand, by whom is that kept? A. That is kept in our Traffic Department.

Q. By whom? A. By whom? Clerks there.

Q. Yes. Who gets the information that is on the

slip, or don't you know? A. I don't understand that question.

Q. I mean, for instance, these different serial numbers: Who gets the particular numbers to put upon that slip? A. You mean where are the records taken?

Q. No; I mean who are the persons who get the records or take the numbers? A. Take the numbers? The numbers are taken in the production of the car.

Q. By whom? A. By half a dozen different men.

Q. In what department? A. In the Production Department, the assembly lines.

Q. Under the supervision of whom? The superintendent of the Production Department? A. Yes, of the particular department in which they work.

Q. Then that is handed over to someone else, isn't it? A. Yes, sir.

Q. To whom is it handed over? A. It is turned over—copies are made in triplicate.

Q. In triplicate? A. Yes. One is kept in the Production Department, two go with the car to the Traffic Department, where the numbers are checked as the car is loaded, one copy goes with the car and the other has the destination put on it and is filed in the Traffic Department.

Q. Who does the checking in the Traffic Department? A. There are several men do that work.

Q. Do I understand that you are the head of that department? A. No.

Q. So, there is someone who supervises that particular work aside from yourself; that is correct, isn't it? A. Yes, sir.

Q. Someone to whom those who check up these numbers are accountable? A. Yes.

Mr. Ward: I think under the circumstances, sir, we would object to this gentleman referring to memorandum.

The Commissioner: Go ahead. Proceed.

Mr. Ward: The objection will be noted.

Redirect-examination by Mr. Lane:

Q. I offer the records in evidence.

Mr. Ward: I object to the offer. The objection will be noted.

A. I have not finished on this one.

Q. You had not started this last car? A. Frame serial—

Mr. Ward: Of course, our objection goes to this one.

A. Frame serial 1548955 with motor 1578422 is model 26-48, transmission number 1597757, starter 149748, body 6276, generator 151895, front axle 1009819, rear axle 1615722. This car was shipped to Buick Motor Car Company in New York February 1, 1926.

Q. Were those all of the numbers you were asked to locate? A. I was given three motor numbers, three fictitious motor numbers.

Q. Which are those? A. Motor 1458247—

Mr. Ward: I object to that on the ground that whatever he was given, of course, is not evidential.

Mr. Lane: I consent that it be stricken out.

Q. Just give me the numbers. Strike out the word fictitious.

Mr. Ward: I even go farther than that, Mr. Lane. Now, I object to the question.

A. Motor—

Mr. Ward: I object to the question.

The Commissioner: Well, as I said before, Mr. Ward, you can get on the record there by the regular procedure. Why waste the time. Go ahead and let him. You can get your objection there.

Mr. Ward: I do not mean to waste the time, sir.

The Commissioner: You have made your objection and it is noted.

Mr. Ward: I cannot assume always, if your Honor please, that you are going to rule against me, you know.

The Commissioner: As I said before, Mr. Ward, I do not want to keep anything out; I want everything to go in.

Mr. Ward: No, sir. I am sincere in entering these objections.

The Commissioner: Excuse me. I will proceed. I am not going to waste any time.

(Papers marked Exhibits P-23, P-24, and P-25.)

A. Motor 1458247.

Q. You have been asked to locate three other numbers and to tell, I think, to whom the cars were shipped, or something of that kind. A. Yes, sir.

Q. Now, will you tell me the three numbers that you were asked to locate and to whom the cars were shipped? A. Motor 1458247, motor 1656585, motor 1442628.

Q. Take the first one. What is the number? A. Motor 1458247.

Mr. Ward: Do I understand this is in the charges? I have not been able to inform myself.

Mr. Lane: It is the Perkins Buick coupe. Instead of being 1458247, as Mr. Crawford says, it should be 1548247. Let us pass that one and go on.

Q. Have you got 1442628 there? A. I have.

Q. Give me that one. That is the Rider Buick coach. A. Motor 1442628 was sent—

Mr. Ward: Pardon me. Whereabouts is this?

Mr. Weinberger: On page 2, number 4. Look at the top of page 3, fifth line.

Mr. Ward: Thank you.

Q. Yes? A. Was assembled into model 26-25X, with frame 1403798. The car was shipped to Eagle Pass, Texas, for General Motors Export Company, August 12, 1925.

Mr. Ward: Is that in the charges, Mr. Lane?

Mr. Weinberger: Yes.

Mr. Lane: It is the Rider car.

Mr. Weinberger: It is the fictitious number on the Rider car.

Q. Have you got motor number 1656565? A. I have motor 1656585.

Q. Yes. Where was that? A. That was a model 2647 with frame 160041, was shipped to the Buick

Motor Company of New York, April 28, 1926.

Q. Give me the other assembly numbers on that car. A. Yes, sir. The last car carried transmission 1670334, starter 218772, body 46656, generator 221164, front axle 1067908, rear axle 1676511.

Q. Now, those are the only numbers that you have got that you were asked to look at? A. They were, yes.

Q. You took the motor numbers and not serial numbers? A. I was not given the serial numbers.

(Papers marked Exhibits P-26 and P-27.)

CARROLL D. HIPP, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. 76 Passaic Avenue, Passaic.

Q. Did you purchase a car from Mr. Zober about October, 1926? A. I think it was a little before that, 1926.

Q. Well, I show you a bill of sale and ask you whether those are the papers, the bill of sale which you got at the time you purchased the car. A. Yes, sir.

Mr. Lane: I offer them.

(Paper marked Exhibit P-28.)

Q. How much did you pay for the car? A. $850.

Q. Cash or check? A. I paid cash, but a check was paid to Mr. Zober through my father-in-law.

Q. You haven't got the car now, have you? A. The car was taken by the detectives.

Q. When? A. As far as—I think it was the evening of November 4, on a Friday evening, about eight o'clock.

Q. Did you apply for your own registration? A. I did, in the presence of Mr. Zober. He went with me at the time it was applied for.

Q. Have you got the key of your car? A. I have not.

Q. At the present time where is it? Do you know? A. It was taken with the car at the time the detectives took the car.

Q. That is all.

Cross-examination by Mr. Ward:

Q. You gave, Mr. Hipp, cash to your father, was it? A. My father-in-law.

Q. What is his name, by the way? A. William P. Latham.

Q. You gave him $850? A. That is correct.

Q. Then, when did you get the car from Chief Zober? A. I got the car—I was under the impression about the middle of August, but the simple reason that, as I recall, I went away on a vacation about the last week in August.

Q. So you think it was about the middle of August, 1926? A. I think so.

Q. At the time you got the car you got this bill of sale that has been offered in evidence and is shown to you, P-28? A. I did, yes, sir.

Q. At the time you got the bill of sale, Mr. Zober went with you, did he not, up to the Motor Vehicle Department? A. He did.

Q. Where was it located at that time? A. It is on, I believe, Prospect Street. I am not sure.

Q. Was it there that this bill of sale from him

to you was executed? A. The bill of sale was handed over in Chief Zober's office here.

Q. Yes, that is the original? A. Yes, the original.

Q. But I mean the second that we find on there. A. Yes.

Q. That was executed where? A. In the office of Mr. Martin on Prospect Street, the Motor Vehicle Department.

Q. By the way, is that Mr. Martin's signature there? Was he the gentleman to whom you just referred? A. I don't know whether he—that is the gentleman whom I referred, Mr. J. Edward Martin; that is right.

Q. Was he in charge of that department, do you know? A. Yes.

Q. Then after that, in November, 1927, the car was taken from you by the detectives, you said? A. Correct.

Q. And the sum of money which you paid for it was returned to you by Mr. Zober, was it not? A. Not the exact amount.

Q. Well, how much was returned? A. $550.

Q. $550 was returned? A. Correct.

Q. That is all.

JOSEPH C. BELL, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Bell, where do you reside? A. 8 Melrose Place, Montclair, New Jersey.

Q. What is your business? A. Automobile business.

Q. Are you connected with the Glidden Buick Corporation of New York? A. I am.

Q. In what capacity? A. Vice-president.

Q. I show you what purports to be a bill of sale for a motor car purporting to be made by your company on the 9th day of March, 1926, and ask you whether that bill of sale ever was made by your company. A. No, sir; it was not.

Q. Do you know a man named Hemming? A. No.

Q. Is that your seal of your corporation? A. No, it is not. Here is a copy.

Q. You have the seal in court, have you? A. Yes.

Q. We will make a copy of it on a piece of paper.

(Witness stamped the seal on the stenographer's note paper, sheet number 81.)

Q. What has been marked on the stenographer's notes is the seal? A. Yes, sir.

Q. Is that right?

Mr. Ward: I object to the question.

A. Yes, that is the seal.

Mr. Ward: As I said, sir, I do not like to continue objecting. Do I understand from you that—I do not wish to take up the time—I understand these objections will be overruled?

Mr. Lane: I do not think that is at all fair, and I say now it is not fair.

Mr. Ward: I simply want to know.

Mr. Lane: If you have any objections, I suggest that you make them. That is what counsel should do. The idea of saying that

you are assuming anything is going to be overruled before the Court acts is pretty absurd.

Mr. Ward: I am asking the Court that. As I say, I dislike to keep constantly jumping to my feet, perhaps holding up the proceedings. I do not wish to do that.

Mr. Lane: I suggest, Mr. Commissioner, if counsel has an objection to make, he make it.

Mr. Ward: All right, I object to the question just asked.

The Commissioner: Proceed.

Mr. Lane: I also suggest that that objection is not worth anything, because there is no ground stated.

Q. Now, I ask you again whether on this bill of sale that is your seal? A. No, sir, it is not.

Q. You are the vice-president of the company, and you know your own seal when you see it? A. Why, this is very much larger.

Q. Did your company ever sell that car to Mr. Hemming? A. No, sir.

Q. That is all.

Cross-examination by Mr. Ward:

Q. What is the number of the car? A. I don't know.

Q. How do you know it was not sold to Hemming? A. Because Mr. Earle was not with us at that time, the man who signed that bill of sale.

Q. To whom was the car sold? A. I don't know.

Q. As mentioned in this bill of sale? A. I haven't any idea.

Q. You haven't any idea at all? A. Absolutely not, not according to that bill of sale I have none.

Q. Well, have you according to anything else? A. No, except testimony previously heard here.

Q. Then, as a matter of fact, you don't know what number is contained in that bill of sale or what car the number was, do you? A. No, I do not.

Q. You have no idea of it at all, have you? A. No, sir.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Take a look at the bill of sale and look at the number and then tell me whether you can say whether that car was sold by your company that is referred to in that bill of sale. A. No, sir; the car was never sold by our company. Mr. Earl H. Glidden was not president of our company at this time.

Q. Take the motor number of that car, do you know whether the motor car with that motor number such as that was ever in your possession? A. No, I could not state that. I can state the signature, that is all.

Q. That is all.

GEORGE O. JOHNSON, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Johnson, where do you live? A. Sea Bright, New Jersey.

Q. Are you a notary public of the State of New Jersey? A. I am.

Q. What is your name? A. George O. Johnson.

Q. I show you a bill of sale marked Exhibit P-28 and ask you whether the signature "George Johnson" purporting to be the signature of a notary public of New Jersey, made on the 10th day of July, 1926, is your signature. A. It is not my signature.

Q. Is that your seal? A. It is not my seal.

Mr. Ward: No questions.

ERNEST W. RYDER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Ryder, where do you live? A. 65 Essex Road, Summit, New Jersey.

Q. Did you, in the month of May, 1926, purchase a Buick car? A. On May 1st, from the Buick Motor Company.

Q. Did you at the time you purchased that car receive a bill of sale from the company? A. I did.

Q. I show you a bill of sale and ask you whether that is the bill of sale you received. A. Wasn't some more papers attached to it?

Q. Is that the bill of sale? There were more papers, yes, several more. A. Yes, that is it.

Mr. Lane: I offer that bill of sale.

Mr. Ward: No objection.

(Paper marked Exhibit P-29.)

Q. How much did you pay for that car? A. $1,628.40.

Q. Is that the bill for it? A. That is the bill for it, yes, sir.

Mr. Lane: I offer the bill.

(Paper marked Exhibit P-30.)

Mr. Ward: I object.

The Witness: I have a cancelled check, but it is not for that exact amount, because there was something—there was a difference there on a turn-in proposition. Want to see the check?

Mr. Ward: No, indeed.

(Check marked Exhibit P-31.)

Q. How long did you have that car before something happened—from May 1 to June 10—then what happened? A. It was stolen from my garage on the night of June 10th.

Q. Did you report it? A. Reported it to the Police Headquarters in the morning of the 11th.

Q. Which Police Department? A. Summit Police Department.

Q. When did you see the car next? A. It was about three or four weeks ago, in Passaic.

Q. Where? A. At a garage, I don't know just the location of it.

Q. Who were present when you saw the car? A. There were several detectives that I can recognize here, Detective Monks or Captain Monks.

Q. How did you identify it? A. The Chief of Police, Murphy, was there with me from Summit.

Q. How did you identify the car? A. By the bill of sale and my keys, a slight scratch which

was on the outside of the mudguard, the left-hand mudguard.

Q. Did you have your key with you at the time? A. When I saw the car?

Q. Yes. A. Yes.

Q. Did the key that you had with you unlock the car? A. Fitted perfect, both the transmission and the door. There were two keys. They both fitted the car.

Q. Have you your registration cards for 1926 and 1927? A. I have for 1927, but not for '26.

Q. This car was not registered in '27, was it? A. No.

Q. Was the car insured? A. No, sir.

Q. Did you report it to the police? A. I said that I reported it to the police.

Q. Have you the car in your possession now? Was it returned to you? A. Yes.

Q. You have it now in your possession? A. Yes, I have.

Cross-examination by Mr. Ward:

Q. When you came down to identify it, you identified it, you say, by your bill of sale? A. The bill of sale I had with me and the keys of the car. When the car was stolen it was practically—

Q. What do you mean, a complete bill of sale? A. The numbers on the bill of sale.

Q. Then, all of the keys? A. Yes.

Q. So that when you saw the same number and found the car that was in your bill of sale, of course, you knew it was yours? A. Yes, I believed it was my car, yes.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Do you know whether the number on the bill of sale was the same number as was on the car when that car was first found? A. I think that one or two of the numbers had been changed. They were not exactly like the numbers that were originally on the car.

Q. What you mean is that there are other assembly numbers there? A. Which I didn't know anything about.

Q. Which you didn't know anything about, but which checked with your real numbers? A. Checked with the real assembly numbers, yes.

Q. The numbers of your bill of sale, the serial numbers, and the engine number, those were the numbers which had been changed? A. Those are the numbers which had been changed. Of course, they would not agree with the bill of sale.

Q. That car, by the way, is downstairs now, is it? A. Yes, sir.

Recross-examination by Mr. Ward:

Q. Do I understand you, then, Mr. Ryder, that you took this car with the changed numbers and took it as yours? A. I did not take it; it was given to me.

Q. Well, it was given to you? A. Yes, as my property.

Q. You took it as your property with the changed numbers upon it? A. I took it as it was.

Q. And you took it as it was, and when you say that, you mean that the numbers were different from the numbers in your bill of sale? A. Possibly so, yes. Possibly there was.

Q. Beg pardon? A. They evidently were different. Those particular numbers were different.

Q. You knew them to be different? A. Yes.

Q. And you took it? A. Yes, When it was handed to me, yes.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. They were mutilated. Did you see the numbers? A. Well, they were inspected by one or two of the detectives who were there. I did not exactly see the numbers on the car, excepting the little plate that was on the outside, and that looked as though it had—one of the numbers had been mutilated.

Q. Have you done anything with respect to the mutilated numbers? A. I have not, no. The car has been in the possession of the Buick Motor Car at Summit ever since.

Q. They are the original sellers of the car? A. Yes, sir.

Q. That is all.

Recross-examination by Mr. Ward:

Q. Where was it they got it? A. Who got it?

Q. The Buick, the Summit Motor Company? A. What do you mean, when they got it?

Q. As I understand you, you came to Passaic, did you? A. Several weeks ago, yes.

Q. When was that? A. Several weeks ago.

Q. Will you tell us about when? A. Well, I don't remember the date; maybe three or four weeks ago.

Q. At that time was the car turned over to you

or not? A. Yes, sir; it was turned over to me at that time.

Q. You took it where? A. To the Buick Motor Station in Summit.

Q. You have kept it there ever since? A. It has been there ever since.

Q. Have you kept it there? A. It has been there ever since.

Q. Have you—do you know? A. I don't know what you mean by keeping it there. It has been there ever since.

Q. Have you stored it there ever since then? A. Since when?

Q. Since you took it there three or four weeks ago. A. It has been there in the Buick Summit Station.

Q. Has it been there with your consent? A. Naturally, it has been there with my consent, naturally.

Q. Has it been used by you? A. No, sir.

Q. Have you reported any mutilation of any numbers on your car? A. To the Buick Motor people. They inspected the car.

Q. Have you reported any mutilation— A. To whom?

Q. To the Motor Vehicle Inspector? A. No, I have not.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Left that to the Buick Motor Car of Summit? A. Yes, they are going to take care of the whole thing.

Q. You are not Chief of Police or a policeman, are you? A. Not exactly.

Q. That is all.

Mr. Ward: Of course, I object to all comments made as to the conclusion as to what this man has done.

The Commissioner: Yes. Are you through with the witness?

Mr. Ward: Yes. Just one moment.

Q. In whose name was this Buick car registered? A. Originally?

Q. Yes. A. In my name.

Q. And do you know in whose name it is registered? A. I don't know.

Q. Do you know whether or not there has ever been any change in the registration of this car? A. I do not, not since it has been out of my possession.

Q. That is all.

FRANK E. MONTGOMERY, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Montgomery, where do you live? What is your business? A. I reside at 36 Western Avenue, Morristown, New Jersey. I am in business at 180 Park Avenue, Summit.

Q. As what? A. The Buick agent.

Q. What is your position with that company? A. At present I am the proprietor.

Q. Did you sell a car, a Buick coach, to Mr. Ryder? A. I did.

Q. Tell me when and what the motor number

and serial number on that car were, at the time you sold it. A. I delivered it on May 1, 1926. The motor number at the date of my delivery was 1577686, frame number, otherwise known as serial number, was 1505625.

Q. Now, did you keep track of any other numbers on the car at that time? A. I do not.

Q. Have you seen the car since? A. I have.

Q. When did you see it? A. Approximately three weeks ago.

Q. Where? A. At my place in Summit.

Q. Is the car there now? A. It is not. I drove it here this morning.

Q. Well, has it been there ever since? A. It has.

Q. Did you examine the numbers on it? A. I have.

Q. What did you find with respect to the numbers? A. I find that the motor number has been substituted, but at the time of my examination there was no frame number on it at all, it had been detached.

Q. What do you mean by motor number substituted? A. Well, this is the one that I took off of it, and that is not the one that was on it when I delivered the car.

Q. You mean this is the one that was on the car when you— A. When it came back to my place.

Mr. Lane: I offer that to identify it. It is a piece of lead or aluminum with a number 1442628 on it.

Mr. Ward: Before it is admitted, may I ask the witness—may I interrogate the witness?

The Commissioner: Certainly, Mr. Ward.

(Alunminum plate marked Exhibit P-36).

Cross-examination by Mr. Ward:

Q. Do you personally know what number was on this car when it was delivered to Mr. Ryder? A. I do.

Redirect-examination by Mr. Lane:

Q. You know that from your own personal observation? A. Absolutely.

Q. Know it not to be the same as you took off? A. I do.

Q. Now, did you examine any other numbers on that car to see whether or not they had been changed, such as transmission numbers? A. I did.

Q. What did you find the transmission numbers and the other numbers on the car that you took back to be? A. From my report that I got verbally from the factory, the rest of the numbers are correct.

Mr. Ward: I object to that.

Q. Well, did you?

Mr. Ward: I object to that, if your Honor please.

Mr. Lane: I consent that it be stricken out.

Q. Did you ascertain what you call the rest of the numbers were? A. I did. I have them here as I took them off from my own inspection of the car.

Q. That is what I want. Now, give them. A. Body number 14625, front axle number 1909449, rear axle, 1585109, transmission number 1586757, starter number 13379. Now, there is a serial num-

ber ahead of that, which, of course, means the type of generator—has nothing to do with the number of that. Also on the generator. The generator number was 142348.

Q. You were familiar with the value of second-hand cars? A. Buick cars particularly.

Q. What was the value of that car in June of 1926? A. From thirteen to fourteen hundred dollars.

Q. Have you taken any steps to report the mutilation of the numbers to the Commissioner of Motor Vehicles? A. I have not as yet, because I cannot—

Mr. Ward: I object to the reason.

Q. For what reason?

Mr. Ward: I object to that, what reason

Q. Why haven't you?

Mr. Ward: I object.

The Commissioner: Go ahead and answer the question.

A. Simply I want to make sure of myself, that the numbers belong on the car, before I reported it to the Commissioner, otherwise it would be invalid.

Recross-examination by Mr. Ward:

Q. With what license plates are you driving now today? A. My own dealer's plates.

Q. From Summit to Passaic? A. Yes, sir.

Q. What was the value of the car when you sold it originally? A. $1,620.

Q. $1,620? A. Yes, sir.

Q. That included a trade, didn't it? A. No;

that is the delivery price equipped, at that time.

Q. Was there any trade involved in this transaction? A. There was.

Q. But the purchase price of the car at that time, as I understand it, was $1,628? A. Well, the twenty-eight—the extra eight dollars for a few little incidentals Mr. Ryder wanted.

Q. $1,620? A. Which is the standard stock price of the car delivered factory equipped.

Q. Do I understand you to say that the car has not depreciated to more than the amount of $1,300 or $1,400 from May 1, 1925, to June 10, 1926? A. He did not give any specified date as to the date in 1926.

Q. Well, I will ask you, then, Mr. Montgomery. If it is not true that the car depreciates generally in value about fifty per cent. the first year? A. No, it is not right.

Q. About what percentage of depreciation has it the first year? A. Approximately a third, at the end of twelve months.

Q. Well, then, upon this car it would have been approximately how much? A. After the period of twelve months after delivery?

Q. Yes. A. One-third off, about $570 off.

Q. Which would bring it down to how much? A. Well, add it up yourself, you have your figure.

Q. I am asking you to add it up. You can add it up as well as I.

Mr. Lane: You can as well as he.

Mr. Ward: I am asking him to do it.

Mr. Lane: I object to it as wholly immaterial, because if the car was purchased by Chief Zober three months after it was

bought from the Buick Motor Company and one day after it was stolen—

Mr. Ward: He has stated a certain price, and I have a right to examine the witness. He now is evidently arriving at a different conclusion from the one he arrived at originally.

Q. Five weeks after the car was stolen I said it was worth thirteen to fourteen hundred dollars. Twelve months afterwards I said it was worth about a third off the original price.

Q. Five weeks after? A. That is what this gentleman asked me.

Q. What would you consider it worth one year after? A. One-third off, just what I told you.

Q. How much would it be worth a week after? A. About, oh, approximately ten or fifteen per cent.

Q. Isn't it true that a car depreciates the very moment that it is considered a second-hand car, twenty-five per cent? A. Mentally, but not physically.

Q. Do you mean the car has a mentality and depreciates? A. Only mentioning buyers.

Q. Isn't it a fact that the very moment your car rolls out of your shop that the commission is charged against the car; isn't that true? A. That has nothing to do with its depreciation.

Q. Hasn't that something to do with the depreciation? A. Not in our business.

Q. Of a new car? A. Only mentally.

Q. Of course, I knew that Buick cars are good cars, because I drive one. A. That is a compliment.

Q. Now, you gave certain numbers, body number

and front axle number and rear axle number without going into detail. Where did you get those numbers? A. Off the car at my place the day it was brought there.

Q. Well, do you mean when it was returned? A. That is it.

Q. After it was brought back by Mr. Ryder? A. That is it.

Q. That is correct? A. That is correct.

Q. So that, as a matter of fact, you don't know what the car bearing these particular numbers had as a serial number at the time it left your place? A. I do not. That is what I am waiting for.

Q. No; that is just it. That is all.

Mr. Lane: For the information of the Commissioner, may I ask that the numbers which have been given by Mr. Montgomery

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Mr. Ward: I do not think we should attempt to argue or sum up at this time.

Mr. Lane: I propose to state what I started out to state, that the numbers which Mr. Montgomery has given check up with the numbers which Mr. Crawford from the Buick Company says were on that car bearing that serial and motor number when it left the factory, and ties up this car to the Ryder car.

Mr. Ward: All of which is argumentative and has no place at this time.

Mr. Lane: It is not argument. It is stating what has been testified to.

Mr. Ward: Yes, it is a statement of argument.

Mr. Lane: Statement of fact.

Mr. Ward: Whether it is a fact or not, it is an argument.

Mr. Lane: Cannot be argument and fact both.

Mr. Ward: Then I am assuming that whatever you argue is not a fact, is that it?

Mr. Lane: Correct.

By Mr. Lane:

Q. Is that the original bill of sale for this car issued by your company? A. It is, sir.

Q. That is all.

MATHIAS WINTERS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Winters, you are a member of the Police Department of the City of Passaic? A. Yes.

Q. You have been such a member for how long? A. Six and a half years.

Q. Did you, on or about the 28th of June, 1926, purchase a Buick car from Chief Zober? A. Yes, sir.

Q. I show you a bill of sale and ask you whether this is the bill of sale which was given to you at the time you purchased the car? A. Yes, sir.

Mr. Lane: I offer it.

(Paper marked Exhibit P-33).

Q. How much did you pay for the car? A. $1,200.

Q. How did you pay for it? A. $200 in cash, and I gave a thousand-dollar check.

Q. Your own check? A. No, sir; it was on a Saturday and I couldn't get the money from the bank, so I went to my neighbor and he gave me a check.

Q. Was that check to Chief Zober? A. No; it was made out to me.

Q. What did you do? Endorse it to the Chief? A. Well, I gave the check.

Q. Let me see that check. A. I gave the check to the Chief. (Produces paper).

Q. Who is William McGill?

Mr. Weinberger: A police officer.

The Commissioner: A police officer, member of this Department.

Q. Why is his name on the back of that check, do you know? A. I don't know. I couldn't tell you. All I know I gave the Chief the check and $200 in cash; that is all I know. I have not seen the check until this morning. I went over to my neighbor and I asked him for the check in case I have to produce it, that is all.

Q. The check is dated June 28, 1926, for $1,000. When was the $200 in cash paid? A. Right there, same time I gave him the check.

Q. How is it you gave him part cash? A. I had only $200 in the house at that time; it was Saturday, and I couldn't go to the bank on a Saturday, the banks are closed.

Q. Why in the world didn't you wait to pay him until Monday? A. Why, the car is supposed to be cash.

Q. Supposed to be a cash transaction? What? A. That is what I was told.

Q. Who told you it was to be a cash transaction? A. Well, the Chief's son came over and brought the

car over to me and said that it cost him $1,200 cash. That is the only way I could make it.

Q. How long before the purchase of this car by you had you been negotiating for the purchase of that car? A. Oh, a couple of weeks. During the strike, up on Dayton Avenue there was a car for sale, and I asked the Chief what he thought about that car, so he says, "How much do they want for it?" I says, "$600." and he told me it was a little too much for that old car, and I says, "I hear you got one from the finance people," I says, "I ain't in a hurry," I says, "I wish you would get me one"; so a couple of weeks later I got that car.

Q. So you told him about two weeks. Did you tell him about what you would pay for a car? A. I didn't mention a price at all.

Q. Well, now, let me understand you. You say you were talking of buying a car for $600? A. Yes, it was an old car standing up on the street.

Q. Yes; and the Chief told you that— A. Well, that was too much money.

Q. Yes; and then you suggested you heard he got cars from the finance company? A. No; it was this way. I says "I hear you bought one from the finance people." I says, "I ain't in a hurry, in case you get one for me and can get one later on."

Q. Did you tell him how much you would be willing to pay for it? A. I didn't mention no price at all.

Q. That was about two weeks before you bought the car; is that right? A. Oh, it was longer than that.

Q. Well, then, how long was it? I thought you said two weeks. A. Four or five weeks, probably.

Q. About four or five weeks before you got the car? A. Yes, sir.

Q. How did you know he had gotten the car to sell to you? A. Well, I saw the car and I said, "That's the kind of a car I would like to have."

Q. Where did you see the car? A. Well, I seen the car over here.

Q. Where? A. In the front of the police station.

Q. How did you know it belonged to the Chief? A. Well, I heard. I heard it here on the street.

Q. Heard it on the street? A. Yes.

Q. And you then went to the Chief and spoke to him about the car? A. Yes; I told him, I said that was one that would suit me, something like this, I could get it. And he said, "Of course, if you want this you can have this."

Q. You were willing to pay $1,200 for that car? A. That is what I paid for it.

Q. Who fixed the price? A. Well, his son told me that is what it cost and I paid for it; that is all. I didn't bargain with it none.

Q. He told you that is what it cost? A. Yes.

Q. Why, I thought you said that he was getting it from the finance company. A. Well, he said that is where he buys them.

Q. He told you that is where he bought them? A. Yes.

Q. From the finance company; is that right? A. Through a friend, yes.

Q. From a finance company through a friend? A. Yes, sir.

Q. Did he tell you what the finance company was? A. No, I didn't ask that.

Q. Did he tell you who the friend was? A. No, I didn't ask it.

Mr. Lane: I offer in evidence this check. (Paper marked Exhibit P-34).

Q. You had a savings account, didn't you? A. A savings account, yes.

Q. Well, you could have gotten this thousand dollars on a Monday, couldn't you? A. Well, not quite all, no. I must tell the truth. I couldn't get that much.

Q. That is all.

Mr. Lane: May I be excused for a moment?

The Court: Yes. We will take a recess of five minutes.

Cross-examination by Mr. Ward:

Q. Officer Winters, as I understand it, you came to the conclusion that you wanted a car yourself in the Spring of 1926; is that right? A. Yes, sir.

Q. And you asked Chief Zober if he could get you a car? A. Yes, sir.

Q. You first contemplated a car and you thought the price was too high; is that right, the car you mentioned something about $600? A. Yes.

Q. Too high for that particular kind of a car? A. Yes, sir.

Q. And the grade of car? A. Yes, sir.

Q. Now, do you recall exactly what day of the week it was that you got the car in question, the car that was sold you for $1,200? A. June the 26th, if I ain't mistaken. It was on a Saturday.

Q. On Saturday. At that time you gave him $200 in cash, as I understand it? A. Yes.

Q. And this check which you have produced here

and which has been marked in evidence? A. Yes, sir.

Q. For a thousand dollars? A. Yes, sir.

Q. And the car that was turned over to you, how was that turned over to you? A. Well, I took my boy along, he is a good chauffeur, you know, and he drove the car from the Chief's house to my house, and Monday we went up and we got the bill of sale in Mr. Martin't office.

Mr. Ward: Has that bill of sale been offered in evidence?

Mr. Lane: Yes, there it is.

Mr. Weinberger: This is it right here.

Q. Where was this bill of sale given to you? I refer to Exhibit P-33. A. Over here in Mr. Martin's office, Motor Vehicle Department's office.

Q. The car was driven up there by whom? Who drove the car? A. The car wasn't up there then. I had the car home in the house.

Q. You had the car in front of your house? A. Yes.

Q. But the paper was prepared up at the Motor Vehicle Bureau? A. Yes, that is where I got it.

Q. Was it after you had got this bill of sale that you paid the money or before? A. No, I paid it before.

Q. Paid it before and then you went up and this bill of sale was made up? A. I got this on Monday, I think.

Q. There was no effort made on the part of Chief Zober to hide this car from anybody or from you, was there? A. No.

Q. And whereabouts did you first see it? A. Well, I saw him driving that car right here in

front of the place, and he stopped me and I even see Officer Crawbuck back the car in the garage? That is where I saw it first.

Q. That is all.

FREDERICK ZIEGLER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Sergeant, you are sergeant in the Summit Police Department? A. Yes.

Q. Did you receive the report of the theft of a car from Mr. Ryder on or about the 10th day of June, 1926? A. Yes, sir.

Q. Have you the record of that report here? A. Yes, sir.

Q. Will you produce it and read what the record says? A. (Witness produces a book).

Mr. Ward: Is this an offer of the record, Mr. Lane?

Mr. Lane: Yes.

Mr. Ward: We object to it as irrelevant and immaterial.

Q. Go ahead. A. June 11, 9:40 A. M., call from Mrs. Ryder, 65 Essex Road, reported that the car was stolen off her garage, a Buick two-door redan, Master Six, dark blue, 1926, registration U-22985 N. J., serial number 1505625, engine number 1577686.

Q. That is all.

Mr. Ward: No questions.

WILLIAM N. HAVENS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Havens, where do you live? A. 58 Delaware View Avenue, Trenton, New Jersey.

Q. What is your business? A. Investigator.

Q. For whom? A. Automobile Underwriters' Detective Bureau.

Q. Did you see a car which bore a license, or, rather, a serial number 1431862 and a motor number 1442628? A. Yes, sir.

Q. Where did you see that car? A. At the Police Garage in Passaic, New Jersey.

Q. About when? A. 4:20 p. m. October 27, 1927.

Q. Did you examine it to determine whether that serial number and motor number were fictitious or not? A. I did.

Q. What examination did you make? A. I made a thorough examination of the car and its component parts and saw that the serial and motor numbers were fictitious and then proceeded to take various component parts.

Q. What component parts did you take? A. I took the body—

Q. Give me the numbers are you took them. A. First it bore registration P-7564 N. J., 1927. That was the registration on the car. It was a Buick 26-40, coach. The body number 14625, front axle number 1009449, transmission 1586757, starter 13379, generator 142348, door lock B-265, mileage 6,265 miles.

Q. Now, you say that the serial number 1431862 and motor number 1442628 were fictitious, and

how could you tell that? A. From their appearance.

Q. What was the difference in the appearance of the numbers that you saw with the original numbers? A. Why, you could see in the background where there had been pressed by dies, which is unusual on a Buick serial or motor number. The alignment was not perfect, as you will find on the Buick plate, and they had corresponded with other numbers that I had examined before, previously examined.

Q. I show you a photograph and ask you whether you would say that that is a photograph of the fictitious motor number, I think it is? A. That is the motor number.

Q. The fictitious motor number on that car? A. It is, and the irregularity is very noticeable on the 4's.

Mr. Lane: I ask that it be marked for identification.

(Photograph marked P-35 for identification.)

Q. Of course, at the time you took those numbers off, you did not know, or did you know, what the true numbers, serial and motor on that car were? A. I did not.

Q. You could tell, could you, that there had been fictitious numbers, serial and motor, without knowing what the real serial and motor numbers were? A. Yes, I could.

Q. Did you afterwards check up to ascertain what the real motor and serial numbers on that car were? A. I did.

Q. What method did you pursue to do that? A. I communicated with the Buick Motor Company

under certain component parts which gave me the correct serial and motor numbers, which later led to Mr. Ryder as the original owner.

Q. And the others are the numbers that Mr. Crawford, I believe, has testified to?

Mr. Ward: I object to the question.

Mr. Lane: Withdraw it.

Q. Now, did you examine the Perkins car? A. No, I did not.

Q. You had nothing to do with that? A. No. I examined the car in possession of the Chief, and the Labash car.

Q. The Cadillac? A. The Mathias Winters. Those are the only three.

Q. You did not examine the 2648 Buick coupe, motor number 1656585? A. I did.

Q. That is the one I want. Where did you examine that car? A. In front, I believe, of the residence of Chief of Police Richard O. Zober.

Q. What did you find with respect to the serial and motor numbers on that car? A. Found that they were fictitious.

Q. How did you ascertain that they were fictitious? A. By the general character of the numbers itself, as explained in the case of the Winters car.

Q. I show you a photograph and ask you whether that is the photograph of either the serial or motor number, and if it is, of which? A. It is the motor number, the changed motor number or the fictitious motor number on the car in the possession of Mr. Zober.

Q. Now, is there anything, and if so what, to indicate that that is a fictitious number, simply by looking at it? A. Well, the general character of

the numbers being different from the regulation Buick number.

Q. How about its consistency with itself, alignment and so forth, general impression that that number gives you? A. Very irregular.

Mr. Lane: I ask that it be marked for identification.

(Photograph marked P-36 for identification.)

Q. Did you take the assembly numbers of that car at that time? A. Yes, sir.

Q. What assembly numbers did you take and what were they? A. Well, we first took the registration P-8777 N. J. 1927 on October 26, 1927, at 4:30 p. m. in front of the residence of Chief Zober. It is a Buick coupe, model 26-48. The changed numbers, serial 1598769, motor 1656585, front axle 1009819, rear axle 16015722, transmission 1597757, starter 149748, generator 151895.

Q. Now, again at the risk of my friend stating it is argument, which is not the fact, I say those numbers check with what Mr. Crawford said were the numbers on Buick serial number 1548955 and motor number 1578422.

At the time you made this examination, Mr. Havens, I suppose you did not know what the real motor and serial numbers on that car should be? A. I did not.

Q. And I suppose you made the same investigation that you did with respect to what I have called the Ryder car? A. I did.

Q. Do you say you examined the Cadillac car? A. I did, yes.

Q. When did you examine that car? A. October 26 at 6:25 p. m.

Q. What did you find with respect to that car? A. It bore New Jersey registration O-9422 at the time I examined, 6:25 p. m. October 26, in the possession of John J. Labash, Cadillac model 63, Imperial Surburban sedan, serial number—changed serial number 63-J-2648, the change in that number being the last three figures. The original 2 of the 2648 was the original Cadillac 2, which is peculiar in itself.

Q. Was there anything to indicate on the face of it that that number had been changed? A. Yes, it really was concave; there was file marks. It is an inaccessible place. There was evidence of filing. And the number itself was, from our experience, an ordinary hardware die, that is, dies you can buy in the hardware store; and the 8 was put on with a small loop at the bottom and the large at the top, which is the reverse from the usual position.

Q. You took the other assembly numbers on the car? A. I did, yes.

Q. What were they? A. Body number 357, transmission 63-26817, starting motor 98-104451, unit number 26550. It was also marked on the plate "Custom Built Fisher Body." Key P-235, mileage 22,040 miles.

Q. Those are the only cars you examined? A. Those three, yes.

Cross-examination by Mr. Ward:

Q. Where did you see the first car, Mr. Havens? A. I first saw it across the street here. I did not

make an examination of it, until in front of the Chief's residence.

Q. That is a car the motor number of which was shown you, P-35 for identification? A. That is the one.

Q. (Showing photograph to witness) That is the first car, isn't it? A. No, no. It is not the one.

Q. What car did you first examine? What was the number? A. Number of the car I first examined was—had changed numbers—serial 1598769, changed motor 1656585, car registration P-77 N. J.

Q. What kind of a car was it? A. 2648 Buick coupe.

Q. What numbers were changed upon that? A. Serial and motor.

Q. The serial or motor number? A. The serial and motor.

Q. What numbers of the serial number were changed? A. Well, I can tell you in what way they are different. They were all changed. It was an entirely new plate.

Q. Well, have you seen any picture that shows the numbers as they appeared? A. No, I don't think I have.

Q. This picture I show you— A. Yes, I did. I think the one 1656585, that was this one right here, I think. This is the one.

Q. What is this picture? To what does this picture apply that I am showing you, Exhibit P-35 for identification? A. That applies to a car found in the possession of Mathias Winters, examined at the Police Garage on October 27, 1927, at 4:20 p. m.

Q. This we will call the Winters' car? A. Yes.

Q. That is not the Ryder car? A. That is the car that was stolen from Ryder.

Q. That is the same one? A. Yes, sir, the car stolen from Mr. Ryder.

Q. Now, Mr. Havens, what is your occupation? A. Investigator for the Automobile Underwriters' Detective Bureau.

Q. You have been for how long? A. Nine years.

Q. You have specialized in this particular branch of work, have you not? A. That is my constant duty, yes, sir.

Q. In other words, you have specialized in the identification, or at least, in the recognition of the changing of motor numbers and all of that? A. We do that work, yes, sir.

Q. How long have you specialized in that? A. I have been doing that for nine years.

Q. And taking the number on the Ryder car—the Winters car—you say that the—is that the model number? A. No, that is the motor number.

Q. Motor number? A. Yes.

Q. What was there on that particular number to have excited your suspicion? A. Well, the 4's, to begin with, and the 6 is below the 2's, which are on either side. Then, what does not show in the picture is the impression of an arc on the back of each number caused by imperfect dies going in there and creating an impression or scarifying, you might say, roughing of the metal, which you do not find on a regulation Buick plate.

Q. When you first saw this number, was it in the condition in which it is shown in this picture, or was it dirty? A. Well, let's see which one this is.

Q. That is the Ryder car and Winters car. A. Well, it was legible.

Q. Yes, but it was pretty well covered with dirt and grease? A. Not particularly so, no.

Q. Well, did the white stand out as it does in this number, as we see it in this picture? A. Well, I can't say as to that. It was noticeably an aluminum plate. I think that brings it up perhaps a little brighter, as a photograph would.

Q. The same as it does on this shaft here? A. Yes, the steering column.

Q. Now, the thing that excited your suspicion as an experienced investigator was the fact that these two 4's were out of line, and then I think you said the 6 also? A. The 6 is below the top alignment of the 2's, which is on the side, but not that line. It was the general character of it and the impressions at the back of the numbers which do not show in the photograph.

Q. Well, in order to see what was peculiar on the plate, it was necessary to remove the plate itself? A. No. It was on the face of the plate, but back of the number itself. Those numbers are perforated.

Q. Do you recognize that as a number (indicating Exhibit P-32.)? A. Yes, sir.

Q. I think you said it would take an experienced eye to detect? A. No, I did not.

Mr. Lane: I did not hear him say that.

Q. I think you have said, have you not—if you have not said it, of course you can deny it if you desire to—

Mr. Lane: You do not have to put in his mouth something he did not say, do you?

Mr. Ward: I want him to tell the truth, that is all.

A. I will try.

Q. You said the alignment was not perfect, didn't you? A. I did.

Q. And you were referring to the plate itself and not to the photograph? A. Oh, no, I am referring to the number on the plate.

Q. I mean the number on the plate itself. A. That is right.

Q. The number as we see it before us on Exhibit P-32? A. Yes.

Q. Can you show us anything else on that plate aside from the lack of alignment that would arouse your suspicion? A. Yes.

Q. What? A. Well, it is badly battered, it is not the right color.

Q. You just bent it a moment ago, didn't you? A. I did not mean that. Along the line there there is a lot of little marks, imperfections which —color is not the regulation Buick color; the Buick plate is much shinier than that.

Q. The color of the plate itself? A. Yes. Of course, that has more of a lead composition.

Q. Do I understand you would say this plate is not a Buick plate? A. I would, yes, sir, emphatically.

Q. You would say it is not a Buick plate? A. I say it is not a plate furnished by the Buick Motor Company.

Q. In other words, it is not your assertion that these numbers are simply out of alignment, but it is your assertion that in your opinion the plate itself— A. The whole thing is not a Buick plate. The plate itself, the irregularity of it, the lack of alignment and the character of the letters and the material and color of the plate itself is not Buick regulation plate.

Q. Did you take into consideration what might have been done in removing this plate to the back of it? A. I do not think the plate was removed when my suspicions were first aroused.

Q. Do you see any mark upon it that would result from moving the plate? A. Not particularly, no.

Q. Do you see any at all? A. Under the word "Buick" it is elevated one place and a trifle thinner on the other edge of the plate, which may have resulted from something pried underneath, I don't know. But that would not show on the face of it at the time I first examined it.

Q. Did you examine the car or the place where the plate was after the plate had been removed? A. Yes, I have. This is the plate that was on Mathias Winters' car?

Q. Yes. A. Yes, I saw where the plate was removed from.

Q. And the condition that you observed with reference to that part of the motor where the plate had been was only observable after the plate had been removed; that is true, isn't it? A. I am wrong. I never saw this plate. I never saw this after it was removed, no. This remained intact when I last saw it.

Q. It was on the car? A. It was on the motor, yes. I saw a frame plate removed, but not that one.

Q. When was it you saw it? A. 4:20 p. m. October 27.

Q. You are sure about that? A. I very positively am, yes.

Q. With reference to the other car you have described here—we all have described it—I think we recognize this picture. What do you say there is

on that plate that is unusual? A. Well, the same —only more noticeable on that is the appearance of the background of the number. The frame number on this car was even more noticeably altered. I think it ended in 8.

Q. Well, keep on this particular number, if you will. A. All right, sir.

Q. You say it was because of the condition of what part of the plate—where the plate was fastened? A. No; the plate is sawed.

Q. I misunderstood you. A. The number I examined first was the serial number with which that motor was assembled.

Q. Is this the serial number? A. That is the motor number.

Q. We are referring to the motor number? A. Yes. You are asking me why I was suspicious?

Q. No; I am asking you what there was about this particular plate, a picture of which you have been shown as P-36 for identification. I have asked you what there was about that particular plate that aroused your suspicion in your mind? A. The character of the numbers, the plate itself.

Q. What was there with reference to the character of the numbers? A. They were not Buick regulation numbers.

Q. What do you mean by that, not Buick regulation numbers? A. They are not numbers as appeared on Buick cars.

Q. Do you mean with reference to their character or numerically? A. No, with reference to the character.

Q. With reference to their character. You were able to recognize that readily and easily through your experience? A. Seemed to be, yes.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. The various peculiarities and so forth which you have pointed out are apparent to anyone that looks at the numbers, aren't they?

Mr. Ward: I object. Counsel is both putting the question and testifying.

Q. Never mind. Let me ask you this one—no, that is all. That is all, Mr. Havens.

JOSEPH WEISS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live, Mr. Weiss? A. 622 West 113th, New York City.

Q. What is your business? A. Clerk.

Q. With what company? A. Bureau of Motor Vehicles, State of New York.

Q. Have you produced the registration or the application for registration of Buick car issued to Edith B. Chambers, motor number 1578422? A. I have.

Q. Have you it here? A. Yes, sir.

Q. This is the application, is it? A. Yes, sir.

Mr. Lane: I offer it.

(Paper marked Exhibit P-37.)

Mr. Lane: I ask that there be substituted for it a photostatic copy.

Mr. Ward: We have no objection to the substitution, but may I ask to see the orig-

inal, so we may see it? No objection.

(Paper marked Exhibit P-37.)

Q. Do you keep a copy of the certificate of registration? A. No, sir; the certificate goes to the applicant.

Q. Now, have you also produced the certificates of registration to Kenneth R. Perkins for a car, motor number 1537417—it is hard to see it here. A. It is 1537417 to Kenneth H. Perkins.

Mr. Lane: I offer that—the same photostatic copy.

Mr. Ward: No objection.

(Paper marked Exhibit P-38.)

Mr. Ward: No questions.

HERBERT HAUSER, recalled.

Direct-examination by Mr. Lane:

Q. Mr. Hauser, do you know anything about or have you produced the record of the sale of a car by the Buick Motor Company of New York City to either Edith Bishop Chambers or Edith Bishop, or whatever her name is? A. Chambers. I have some records here.

Q. Will you produce the records of the sale of that car? Now, what have you produced?

Mr. Ward: We object to what he has produced.

Mr. Lane: I do not suppose that you can object until we find out what he has produced.

Q. What have you produced?

Mr. Ward: We object. We object to any statement he may make as to what he has produced. It is a conclusion.

Mr. Lane: I press the question.

Q. What are these things that you produced? A. These are a factory shipment.

Mr. Ward: Your Honor rules he is to answer?

The Commissioner: Yes.

A. This here is a factory record.

Q. This here. The first paper that you have handed me is a factory record? A. That is a shipment from the factory to the Buick Motor Car of New York City.

Q. That is a part of your regular file of the Buick Motor Company, kept in the ordinary course of business? A. Yes.

Mr. Lane: I ask that it be marked for identification.

(Paper marked P-40-A for identification.)

Q. What next? A. These are the records of the cars taken from the freight car and checked out.

Q. These are the records of the receipt of the cars at the freight station? A. That is it.

Q. Bringing them into your warehouse and into P-40,—into this list? A. Yes, sir.

Q. P-40? A. Yes.

Mr. Lane: I will have that marked for identification.

(Paper marked P-40-B for identification.)

Q. Now, this paper. These sheets are what? A. The same as that, the same cars. They have been checked off the freight car and they go into our warehouse at 30th Street. As those cars come off the freight car they are sent to our warehouse.

Mr. Lane: Mark that.

(Paper marked P-40-C for identification.)

Q. Those refer to the next? A. Yes.

(Paper marked P-40-D for identification.)

A. These are a packing slip. That is a packing slip that is in the car when the car is shipped from Flint, Michigan.

Q. That is in the car itself? A. That little slip right there. That is a receipt for cars taken from the warehouse, so many cars. The numbers appear on the back of the cars we have taken from the warehouse.

Mr. Lane: We will mark that.

(Paper marked P-40-E for identification)

Q. Now, the next. A. This is a car record kept up in the Car Record Department of that particular car.

(Paper marked P-40-F for identification)

Q. Now, all of those papers which you have shown me, marked Exhibits P-40-A to F inclusive, are they a part of the commercial records of the corporation? A. Yes, sir.

Q. Kept in the ordinary course of business? A. Yes.

Q. Do they show the history of the car with the motor number 1578422 from the time it was re-

ceived in your warehouse until the time it was sold? A. Yes, sir.

Q. Those records show that that car with that motor number was sold to whom?

Mr. Ward: I object to that on the ground it is not the best evidence. He is endeavoring to get in the record something from the witness that perhaps might be admissible in another way, and to which I shall also object.

Mr. Lane: Then I will take it in the first way, even if it is objectionable, if you are going to object to the next one. I press the question and ask the witness what his record shows as to whom that car was sold to.

Mr. Ward: I object upon the ground that this witness has no right to testify, to give evidence which is gained from some record, the record not being offered in evidence.

Mr. Lane: I am going to offer the record in a minute and then you will object to that.

Mr. Ward: Yes, I will object to that.

The Commissioner: Proceed.

A. Well, judging by that the car was sold to Edith B. Chambers, 135 East 50th Street, New York City.

Mr. Lane: I offer now this record in evidence.

Mr. Ward: I object. I object to the record on the ground that it is incompetent and irrelevant and not properly proven.

Q. Now, have you the record here—

Mr. Ward: Does that go in?

The Commissioner: As I said before, it stands. Your objection is noted by the stenographer.

Mr. Ward: I am simply asking if it goes in. I want to know.

Q. Is there any other book in your company that shows this, to whom that car was sold, that you know of?

Mr. Ward: I object to that.

Q. Do you know of any other book? A. Well, that would be—

Mr. Ward: I would like to ask the witness a question, sir.

The Commissioner: Go ahead.

By Mr. Ward:

Q. You are not the bookkeeper of the concern, are you? A. No, sir.

Q. You are not familiar with all the books that are kept there? A. No, sir.

Q. That is all.

Mr. Ward: I object to the question.

Mr. Lane: I withdraw my question, because the head of the company is here. That is all.

AMBROSE McGOVERN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. 1379 Plimpton Avenue, New York City.

Q. What is your business? A. Insurance adjuster.

Q. For whom? A. For several insurance companies. I work independent.

Q. Did you adjust, or have you in your possession what purports to be an original bill of sale for a car sold by the Buick Motor Company to Edith Chambers or Edith Bishop Chambers? A. Yes.

Q. Will you produce it? A. (Witness produces paper.)

Q. How does this paper which you have handed me and which I ask to have marked for identification get to your possession?

(Paper marked Exhibit P-41 for identification.)

A. It was forwarded to me by Miss Chambers.

Q. About when? A. Sometime in July, I think.

Q. Of 1926? A. 1926.

Q. As a part of what?

Mr. Ward: I object to that.

Mr. Lane: I press it.

Mr. Ward: It is irrelevant and immaterial.

Q. As part of what? A. It was in connection with a stolen automobile that was reported to me for investigation and adjustment.

Q. Was there proof of loss filed? A. Yes, sir.

Q. Have you got that? A. Yes, sir.

Q. Produce it. A. (Witness produces paper.)

Q. This is the proof of loss? A. Signed by Miss Chambers.

Q. Signed by Miss Chambers.

Mr. Lane: I ask to have it marked for identification.

(Paper marked Exhibit P-42 for identification.)

Q. Purporting to be signed by some signature which looks like a woman's handwriting. Was that loss adjusted? A. Yes.

Q. For how much?

Mr. Ward: I object to it as irrelevant, incompetent, and immaterial.

Q. Do you know how much it was adjusted for? A. $1,800.

Mr. Ward: I object.

Q. Aside from this memorandum that is on here, do you know how much was paid on account of that loss? A. I made the recommendation. I adjusted the loss.

Q. Then, you do know? A. Yes.

Q. How much? A. $1,800.

Q. That is all.

Mr. Ward: No questions.

JOSEPH C. BELL, recalled.

Direct-examination by Mr. Lane:

Q. Mr. Bell, I show you Exhibit P-41 for identification and ask you whether that is a bill from your company to Miss Chambers which shows the sale of a car to her with motor and frame number, and whether that transaction did take place in

your establishment and that sale was made? A. Yes.

Mr. Ward: We object to that question, sir, on the ground that it does not seem to be possible for this gentleman to know this. I would like to have an opportunity to examine him.

Mr. Lane: Examine him.

Cross-examination by Mr. Ward:

Q. Mr. Bell, have you any knowledge of this particular sale? A. Yes.

Q. You have of this particular sale? A. Yes. I have a duplicate billing on that one.

Q. Have you any knowledge of the particular sale? In other words, did you come in contact with Miss Edith Chambers? A. No, I did not.

Q. Did you know anything about a sale, personally? A. Except that I made inquiries as to whether or not the sale had been made, also examining the records and talking with the sales manager of the company who delivered the car.

Q. So that you are now basing your conclusion upon something that the sales manager told you? A. And permanent records.

Q. And your records? A. Right.

Q. And it is from them that you feel you are in a position to answer this question? A. Yes.

Mr. Lane: We object to the question.

Redirect-examination by Mr. Lane:

Q. The permanent records which you examined in your corporation consisted of what? A. Appertaining to what? The sale?

Q. Yes, this particular sale? A. I have the duplicate bill of the original.

Q. You found that where? A. On the original contract signed by the lady. The original contract as it was signed by her and her signature and the entire transaction on it.

Q. And you have these papers which you have now produced, a part of your permanent files? A. Positively.

Q. And your permanent records, and you are what officer of that company? A. Vice-president.

Q. Do you have general supervision of the business? A. Positively.

Q. Are these records kept under your general supervision? A. Well, indirectly, yes.

Q. Your instructions? A. My instructions.

Q. You got this from your original files? A. Absolutely.

Q. Among them is a duplicate of this bill of sale which you have produced? A. Not that.

Q. Looking at this bill, P-41 for identification, from your experience in your business which has gone over how many years— A. Twenty-seven years.

Q. —can you tell me whether you can identify that as one of your bills? A. Absolutely, yes, I can.

Q. Now, let us get these papers together. A. I will have these returned, won't I?

Q. Certainly.

Mr. Lane: Now I offer in evidence from the records of the company the duplicate bill of sale produced from the records and the car contract produced from the records,

and I ask for leave to submit photostatic copies.

Mr. Ward: We are agreeable to that, but, Commissioner, we do not stand upon the fact they are not the original copies, but we do say that this evidence is incompetent, that there is nothing here to show or properly identify this particular contract or sale. The lady has not been produced. All the evidence is incompetent and irrelevant.

Mr. Lane: I ask that it be marked.

(Papers marked Exhibit P-43.)

Mr. Lane: I offer that which I offered for identification before. They were the original bill produced here and marked P-41 for identification.

Mr. Ward: I object to that.

Mr. Lane: I ask to have a photostatic copy marked instead.

Mr. Ward: We have no objection to the photostatic copy. That is introduced over our objections.

(Paper marked Exhibit P-44.)

Mr. Lane: Also offer in evidence the proof of loss to the insurance company and ask that a photostatic copy of that be substituted for the original.

Mr. Ward: We agree to the introduction of the copy; we do not stand upon that, but we do object to the offer of the papers, the original papers, if they were offered in evidence, on the ground that they are incompetent and the evidence is irrelevant and immaterial as well.

(Papers marked Exhibit P-45.)

Mr. Ward: May we have your Honor's ruling.

The Commissioner: He is getting what you are saying.

Mr. Ward: I want him to get what you are not saying.

The Commissioner: Proceed.

Mr. Lane: That is all.

JAMES J. FINN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Did you receive a report of the theft of a car from Mrs. Bishop or Mrs. Chambers? A. Miss Edith Chambers, yes.

Q. Motor number 1578422? A. Yes.

Q. When did you receive that report?

Mr. Ward: I object to that on the ground it is incompetent and irrelevant.

Q. Go ahead; when did you report it? A. About 7:50 p. m. on July 11 or July 12. Would you be kind enough to give me my memorandum on that case, so I can refresh my memory? It is right there on your desk.

Q. If you can find it. A. It is right here. About 7:45 p. m., July 12, 1926.

Q. Just give us everything that your record shows.

Mr. Ward: I object to that, to his giving what the record shows.

Mr. Lane: I press it.

Mr. Ward: We press our objection.
Mr. Lane: No, I press the question.
Mr. Ward: We press our objection.
The Commissioner: Proceed.

A. "Edith Chambers, 132 East 50th Street, reports that about between 4:30 p. m. and 7:30 p. m. on July 12 a Buick coupe, license number 7-C-2997 New York, motor number 15878422, blue color, a 1926, stolen from premises—in front of the premises 135 East 50th Street." It was reported to me at about 7:45 p. m. July 12, 1926. Upon her reporting the fact to me I requested her registration license. She gave me her registration license. I verified it with our Bureau of Information, and a check-back with the motor numbers and the license number, which car she reported stolen.

Q. That is all.

Mr. Ward: No questions.

ALBERT DENHART, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Denhart, what is your profession and where do you live? A. 107 Paulison Avenue, Passaic, New Jersey, commercial photographer.

Q. Did you take some photographs on the 15th day of November, 1927, of certain cars and parts of cars? A. I did.

Q. You took photographs of how many cars? A. Four.

Q. I show you two photographs and ask you

when you took them and of what they are. A. Took them the same day, November 18th, two Buicks—three Buick cars, one Cadillac, altogether.

Q. I am talking only of those two. What are those two photographs? What are they photographs of? A. Of a Buick car.

Q. With what motor number? A. With the motor number 1548247.

Q. Where were those photographs taken? A. In Passaic.

Q. Where in Passaic? A. On Howe Avenue, in a garage.

Mr. Lane: I ask that these be marked in evidence.

(Photograph marked Exhibit P-46.)

By Mr. Ward:

Q. May I ask: These numbers, were they cleaned up before you took them as shown on this one photograph? A. Yes, they were cleaned up.

Q. Cleaned up so you could photograph them? A. Yes.

Q. And that is the motor number as shown in 1548247? A. Yes. That is the car itself.

Q. And the other picture is merely of the car itself? A. Of the car.

(Two photographs marked Exhibits P-46 and P-47.)

By Mr. Lane:

Q. Now I show you two other photographs, one of which has been marked P-35 for identification, and ask you when they were taken and of what they are. A. They were taken November 15. They

were taken at Summit, New Jersey, of a Buick automobile.

Q. With what motor number? A. Motor number 1442628, as it appeared upon the plate.

Mr. Lane: Now I offer these.

By Mr. Ward:

Q. That number was cleaned up also, wasn't it? A. Yes.

Q. I am referring to number 1442628? A. Yes.

Q. So that it could be taken by you? A. They were.

By Mr. Lane:

Q. You are sure of the date that these pictures were taken, November 15, 1927, and that the number was in place as shown in the photo at that time? A. Yes, sir.

Q. As shown by Exhibit P-35? A. Yes, sir.

(Photographs marked Exhibit P-35 and Exhibit P-48.)

Q. I show you two more photographs and ask you if you took those and of what they are? A. I took those, same date, on the 18th of November.

Q. What are they? A. Buick car or Cadillac, I should say. Hold on, you have got those mixed. This is not the same one. You see, it is a different type car. That is a Buick interior, and that is a Cadillac.

Q. You think that is a Buick interior? A. Yes, sir, and that is a Cadillac. The Cadillac has more engine block. The Cadillac is that one.

Q. That is right. It is the Cadillac. That is right. Another photograph around here. Here it is. A. Those two go together.

Albert Denhart—Direct.

Q. Now I show you two photographs and ask you when you took those and of what they are. A. Both on the 18th of November, and they were a Cadillac car or sedan, taken on Howe Avenue, Passaic, New Jersey.

Q. What motor number? A. 63-J-2648.

By Mr. Ward:

Q. Before the photographs of this particular engine number was taken, the number was cleaned off? A. I just cleaned the oil and dirt off of it.

Q. Yes.

Mr. Lane: I offer that.

(Photographs marked Exhibit P-6 and Exhibit P-49.)

By Mr. Lane:

Q. I show you two other photographs and ask you when you took those and of what they are? A. November 18, 1927, taken on Main Avenue, Kriger Garage, photograph of a Buick. Motor number 6056585.

By Mr. Ward:

Q. And this number that is shown in this, Exhibit P-35 for identification, that number was cleaned off so that it might be taken? A. I did.

Q. That is all.

MICHAEL SUPKO, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Supko, where do you live? A. Passaic Y. M. C. A.

Q. You are on which paper? A. Passaic Daily News.

Q. I show you an article on November 2, 1927, Passaic Daily News, and ask you whether the information for that article at the point beginning, "The Chief's stolen car," down to the words "Zober" in the next column, was obtained by you?

Mr. Ward: I object.

A. Yes.

Q. From whom? A. From various sources. I don't remember from whom. I would have to look that up.

Q. What I am referring particularly to—read the article over yourself. What I am particularly referring to is the statement contained in that article with respect to how much the Chief paid for his own car.

Mr. Ward: Is it necessary for this witness? I object to the witness reading the paper. He looks to me to be an extremely intelligent person. I do not think it is necessary.

Mr. Lane: What I am attempting to get out is—

Mr. Ward: I will object to his being shown anything to read at this particular stage. I do not think it should be done, this article.

A. What is the question?

Q. The question is, from whom did you get the information upon which you based that statement in that article?

Mr. Ward: I object to it as irrelevant and immaterial.

Q. Wait until I get through. Upon which you based that statement in that article as to how much the Chief paid for his own car. A. I got it from himself.

Q. What? A. Did you refer to his statement?

Q. Yes. A. I got it from himself.

Q. What did he say to you with respect to the loss that he would suffer? A. Nothing at all.

Q. Well, read the article again, or is that a false statement in the newspaper? A. I do not believe he said anything at all. I don't quote him in any other place.

Q. I know, but you quoted him in that one place. Did you get the information from him? A. I said yes.

Q. What did he say? A. Well, I will have to read from the paper. I don't remember what he said. I will have to look at it.

Q. Can you refresh your recollection from what he said? A. Yes, after seeing this.

Q. Well, with your refreshed recollection, what did he say? A. Well, he said he was innocent.

Q. Yes, I see that. A. And then he continued that he said he was stuck $900.

Q. Yes. Now, when he said he was stuck $900, what else did he say with respect to that $900? A. I don't remember anything else. I don't think we printed anything else.

Q. Well, you printed something else, I think. A. Not from Chief Zober.

Mr. Ward: If your Honor please,—

Q. Where did you get the information from, "Chief," down to the word "Zober."

Mr. Ward: I object on the ground there

is nothing to make it appear he received any information of that character. He may have made notes from which he can refresh his recollection, but this is not the proper way to refresh his recollection, from some newspaper. My point is, he may refresh his recollection from something he himself has or has written as to what the Chief himself has said to him, and that is all.

The Commissioner: Well, I believe that is what he is simply trying to do, to refresh his memory.

Q. I suppose you wrote the article, didn't you? A. I did.

Q. If you wrote the article, I am trying to find out where you got the information upon which you based that statement. A. I said before from various sources. I don't remember just offhand where I got all the information.

Q. Where did you get the information that the Chief had paid $900 for that car, as you have stated in the article? A. From one source—from himself.

Q. That is the only source that I am interested in. You did get it from him, did you? A. I quoted him as saying that.

Q. That is all.

Mr. Ward: No questions.

CHARLES SCHLOSSER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Schlosser, where do you live? A. 206 West 60th Street, New York.

Q. What is your business? A. Work for the Glidden Buick Corporation.

Q. Did you work for the Glidden Buick Corporation in July of 1926? A. Yes, sir.

Q. Do you remember a car that was sold to a Miss Chambers? A. Well, I have not the motor and frame number, but we received the car.

Q. Have you a memorandum on that? A. Just that I received the car from the warehouse.

Q. When did you receive the car from the warehouse? A. The date is right on here.

Q. This memorandum that you have produced, who prepared the memorandum and when was it prepared and what is it? A. We have to take the motor and frame number and check it over and put it in the office so we can make a bill for selling the car and give the people the motor and frame number of the car that they are buying.

Q. Is this memorandum made by you at the time? A. This is my handwriting.

Q. Now, this memorandum which you have produced shows what?

Mr. Ward: We object to that.

Mr. Lane: I press it.

Mr. Ward: We object upon the ground that the witness has no right to tell what any memorandum shows. The memorandum will speak for itself.

Mr. Lane: All you can see is a lot of figures. That has nothing on it to indicate what they are.

Mr. Ward: We object upon that ground.

Q. What is it a memorandum of? A. Motor and frame.

Q. Motor and frame number of what? A. 2648 Buick.

Q. Just explain the memorandum. What does it indicate? A. Motor and frame of the car.

Q. What? A. Buick automobile. In fact, have to check all of them as you get them.

Q. How does this one check up with the car sold to Miss Chambers? A. Well, there is a tag number on, 6241.

Q. The tag number? A. Yes.

Q. Tag number 6241, what does it mean? A. That is the car that is assigned to that woman.

Q. Who gives the tag number? A. After we turn that list in there, the motor and frame, we issue a ticket on there.

Q. You issue a ticket? A. Yes, with the tag number.

Q. Then, who puts the tag number in ink? A. The man that takes it in after I give it to him.

Q. Does this, then, become part of the record? A. Yes, into the record and keeps right on going.

Q. The record keeps right on going? A. Through the company, yes.

Q. That tag number? A. That tag number stays on the car until the woman takes delivery of that car. The motor and frame is on that tag, which is on the front of the car, 6241.

Q. So this memorandum shows the motor number and the serial number or the frame number,

if that is the serial number—I don't know which. A. Serial.

Q. And connects it with the tag number, doesn't it? A. Yes.

Mr. Lane: I offer it, that line of it which refers to tag number 6241 and the motor number 1578422 and frame number 1548955.

Mr. Ward: I object on the ground that it is irrelevant and immaterial.

(Paper marked Exhibit P-50.)

Mr. Ward: No questions.

Mr. Lane: Have you any objection to reading this card? "Ajax Tires, 6241, 26-48-1578422-1548955."

C. WALLACE WILLIAMS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Williams, where do you live? A. 140 Brook Avenue, Passaic.

Q. Are you connected with the Passaic Daily Herald? A. Yes, as police reporter.

Q. Were you on November 2? A. Yes, sir.

Q. Are you the author of this article in the paper of November 2 which reads, "Zober promises full payment for stolen cars," and so forth? A. Yes, sir.

Q. I call your attention to that portion of the article which says—to which I point. A. Yes.

Q. And also that portion which is above it, and ask you where you got the information from as to how much was paid by the Chief for that car.

Mr. Ward: I object. The witness has not stated it is necessary for him to refresh his recollection from any memorandum which is made. It does not appear that it is necessary for him to so refresh his recollection, and I object to this method of examining.

The Commissioner: Proceed.

A. On the day in question I went to Chief Zober and he gave me this information in his office.

Q. Did he say how much he had paid for the car which he was then using for himself? A. His statement is here.

Q. Well, what did he say? A. "I am innocent and I guess I got stuck for $900 myself."

Q. Did you ask him what he meant by being stuck for $900 himself? A. No, sir.

Q. Did you know? A. It was very obvious.

Q. Well, was it obvious from what you were talking about there?

Mr. Ward: I object to that, whether it was obvious. This witness can tell what was said.

Q. All right, what was said?

Mr. Ward: He has stated what was said.

Mr. Lane: No; he said part of that was said. I don't suppose he ended his conversation in two sentences. At least, if he did he is the first reporter I know of who ever did.

A. I went to the Chief concerning a possibility of retaliation and paying the money which the men had paid for these cars, and he told the story which

is printed here, in which the price or the cost of the car to Mr. Labash and Officer Winters and Mr. Hipp is noted, and he said that that money—

Mr. Ward: Pardon my interrupting you. This is incompetent, sir. He is asked for a conversation. He tells a conversation, or he undertakes to tell, and he is telling, what purpose he had in mind.

A. That was the question.

Mr. Ward: I simply want—I concede what the witness can do is to tell what was said.

Mr. Lane: I am asking the witness to tell what he said.

Mr. Ward: He has not done it up to this time.

Mr. Lane: He will in a minute.

A. I was told that—

Q. By whom? A. By the Chief. The conversation was with the Chief. The Labash car, that he had received for it $2,100, for the Hipp car, I believe, $850, and Winters' car $1,200—I think those are the figures,—and that he would be, or that he would repay that money, and he finished his statement by saying that he was stuck $900, as he himself—meaning, I suppose, that that was the price that he paid for his own car, and which he lost or which was taken from him.

Q. That is all.

Mr. Ward: No questions.

Mr. Lane: Now I offer in evidence the letter written by the Director of Public Safety to the Chief of Police, dated October

28, 1927, or the copy of that letter in the possession of the Department of Police, and the reply of the Chief, dated October 28, 1927.

Mr. Ward: I object, if your Honor please, to proving any such letter in the manner counsel desires to prove it. I suppose that they could call you yourself.

Mr. Lane: I will do better than that. Chief Zober, take the stand.

RICHARD O. ZOBER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Chief, I show you a letter, what purports to be a letter, purporting to bear your signature, dated October 28, 1927, and ask you whether that bears your signature. A. Yes, sir.

Q. I show you a copy of a letter dated October 28, 1927, purporting to be addressed to Richard O. Zober, Chief of Police, and ask you whether or not you received the original of which that is a copy. A. Yes, sir, but I ain't sure it is October 28, 1927, is in my original. I ain't sure about this. This was put in later on (indicating).

Q. Well, you mean the words— A. October 28th.

Q. The typewritten October 28, 1927, that is in there, you are not positive about? A. No.

Q. I will omit that. A. Otherwise, it is all right.

Q. I will omit that part of the letter, October 28,

1927, because it is immaterial. I offer the two letters.

Mr. Ward: I object to the offer of the second letter especially on the ground that mere receipt on the part of Mr. Zober is no proof of it being sent or its origin or anything of that kind, or sufficient proof in the case to make it evidential.

(Papers marked Exhibits P-51 and P-52.)

Mr. Ward: I might add that counsel has not seen either one of these letters.

Mr. Weinberger: There is a copy of them.

Q. That is all.

Mr. Lane: That is the Chief's case.

MOTION TO DISMISS CHARGES.

Mr. Ward: At this time I suppose we might as well make any motions that are to be made. I do not suppose your Honor will go on after the motions are made.

The Commissioner: In reference to what?

Mr. Ward: With reference to these charges being dismissed.

The Commissioner: Well?

Mr. Ward: I would ask that the charges as they stand be dismissed, inasmuch as they have not been properly presented, inasmuch as they have not been properly proven, and inasmuch as the procedure taken in the endeavor to try Chief Zober has not been a proper one, and we would renew the motion upon the grounds stated in the challenge.

The Commissioner: Is that all?

Mr. Ward: Yes.

The Commissioner: Your request is denied.

Mr. Lane: Now, your Honor has no objection to an adjournment now?

The Commissioner: Not if you so desire.

(Adjourned to Friday, December 2, 1927, at ten-thirty o'clock a. m.)

Hearing resumed on Friday, December 2, 1927, at 10:30 o'clock in the forenoon, at Police Headquarters, Passaic, New Jersey.

WILLIAM B. DAVIDSON, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. You reside here in Passaic? A. Yes.

Q. Have for how long? A. About thirty-six years.

Q. Practicing lawyer? A. Yes, sir.

Q. Admitted when? A. 1899.

Q. And since then have you held any official position? A. Official position?

Q. Yes. A. Yes, I have been Freeholder, Assemblyman, I had the honor of being Judge of this court.

Q. I beg pardon? A. And I said I had the honor of being Judge of this Court.

Q. For how long? A. Two years permanently, and about three or four temporarily.

Q. When did your term terminate? A. June 22, 1927.

Q. How long had you known Chief Zober? A. Chief Zober about twenty-five years.

Q. Do you remember any incident when you went with him when he looked at the Cadillac car? A. I do.

Q. When was that? A. Why, sometime in the spring or summer of 1926.

Q. Who was with you? A. Officer McGill, Chief Zober, and myself.

Q. Where was it that Chief Zober saw this car? A. Over at a farm on the borderline between Woodridge and Wallington.

Q. Did you hear what conversation took place at the time? A. Yes.

Q. Now, beginning from the time that you drove up to this farm—first, I may ask you, whose farm was it? A. Brandenburg.

Q. Situated just where? A. Situated right across the street from the Felicitine Sisters' Home on the corner. At that time I thought it was in Wallington. I have since learned it was in Woodridge.

Q. What conversation took place after you arrived at this farm, and with whom and by whom? A. We went over there; I had never met Brandenburg, and Chief got out of the car, this man whom I have since learned was Henry Brandenburg was talking to the Chief and telling him about a man who could get cars, and the Chief said, "My car is all shot." That was a Paige car which we had driven over in. And he introduced this other man who wore overalls. He said, "Here"—he introduced this man to the Chief and the Chief introduced

him to me. McGill, I think, had nothing whatever to do with it.

Q. Who? A. Officer McGill. And this Brandenburg pointed at this car, which was a great big Cadillac, and he said, "There is a car now you can buy." Right away I said to the Chief, "You don't want that car, Chief." I said, "In the first place, it is too big for you, and in the second place if you drive that car around Passaic, why, the strikers will say Charley Johnson and the Botany Worsted Mills gave it to you." That is all I told him.

Q. Was the strike going on at that time? A. The strike was going on and the strike had been going on for a long time.

Q. The man in overalls, how was he introduced? A. He was introduced by Henry Brandenburg.

Q. As whom? A. I think it was Henry Brandenburg, but I recall now the name was Vordemeier. I never met him before or since.

Q. Then what happened? A. Then they discussed the price of the car. I recall them talking about $1,600. I said, "Where do you get cars?" He said, "I have a friend who gets them from the finance company in Jersey City."

Q. He said that? A. He said that to the Chief. I said, "Where do you get cars?"

Q. He made that reply? A. He said he had a friend that got them from a finance corporation in Jersey City.

Q. Just continue, please. What was done after that? A. After that—the Chief went there for green goods, and as I said, I had told the Chief the car was too big and I wouldn't buy it now, that is what I stated before, and we came away.

Now, I did not see that car again for some time after, once when the Chief and Officer McGill came up to my office and we had discussed it, and I said to the Chief that I would not take the car at any price, but otherwise if I did, was going to take it, have the car looked over, and they came into my office and we drove somewhere up Lexington Avenue. I thought the frame was cracked, and I said, "Have some man look it over." We went first to, I think, the Park Garage on Lexington Avenue in Clifton and a fellow came from there, and he said there was some little thing the matter with it. I didn't pay much attention to it; I don't know much about a car. We went from there down to another man, I believe it was the Cadillac place, and had him look it over. The Chief told him what he was going to pay for the car, and he said, "That is a good buy. I will give that money myself." That is all I know about it until afterwards, when Chief Zober brought me a bill of sale to examine some days afterwards.

Q. What about that? A. I looked the bill of sale over, and he wanted to know that the bill of sale was all right, and at this time I cannot recall just what was the matter, but there was something the matter with it, and I said, "You take this bill of sale back; tell them I want an original bill, manufacturer's bill of sale, together with all the assignments on it down to date," and he took it, and then some more days elapsed—I don't know how many.

Q. Well, with reference to this thing that you discovered was the matter with tne bill of sale, do you recall what it was, whether it was— A. I do not. At this time I could not tell you. The bill of sale was handed to me to pass upon.

Q. I see. A. There was something wrong with it, and whatever it was, I simply handed it back and said, "Go get me another bill of sale." I thought no more of it.

Q. Was it of very grave importance or a small matter? A. It must have been important enough when I refused to pass it.

Q. Then after that? A. Well, then, they finally brought another bill of sale to me and I looked that one over and finally, after looking it over, and to be frank, now, I have not seen it since; I think there was some little defect in that, as my recollection is now, but I said to him, "Chief, on its face this bill of sale looks all right to me. If you know the people it is all right. But on the face it looks all right.

Q. Have you that bill of sale?

(Paper produced by Mr. Merritt Lane.)

Q. Do you recall whether Exhibit P-7 is the bill of sale? Did you look at it the last time? A. (Witness examines paper.) Yes, I think that is the bill of sale.

Q. When you went up to the agency the first day, you say you first went to one place, where was that? A. It was up on Lexington Avenue in Clifton, on the right-hand side.

Q. Do you know what agency it was? A. I think it is the Park Garage, I am not sure; I think that is the name.

Q. And the second place to which you went, where was that? A. That was this side of it, a man that had a service station there for Cadillacs.

Q. Cadillac cars? A. Cadillac cars, yes.

Q. You say the matter was discussed there about the sale? A. Yes. I wanted to know whether

there was something wrong with the car, and I said, "Have it examined," and this man looked it over.

Cross-examination by Mr. Lane:

Q. What time was it that you first knew that you were going out to the farm with the Chief? A. I didn't know it until sometime around five o'clock in the evening, about time to close up office hours.

Q. How did the appointment—how was the appointment—how did that happen? A. I presume he telephoned. That is the way he always did, Mr. Lane.

Q. Have you any recollection? A. Well, I know that sometimes between four and five, I don't know anything about it.

Q. What did he say? A. Well, usually between four and five the Chief would give me a ring and ask me whether I wanted to go out, and this time he said he was going to take a drive out through the country.

Q. Tell you what for? A. No.

Q. When did you first know that you were going to the Brandenburg farm? A. Not until we got there. I did not know who Brandenburg was then.

Q. When did you know you were going to look at the car? A. I didn't know that until we got there. We did not go there to look at the car. We went there to get green goods, I believe.

Q. Went there for what? A. To get green goods, garden truck.

Q. Did the Chief say anything about any car before you got to the Brandenburg farm? A. No.

Q. Well, then, what brought the car out? What happened? A. The car was there. There was nothing happened on the way.

Q. No, I know, but when you got in the Brandenburg farm how did the question of this car come up? A. This man Brandenburg was the man that introduced the subject of cars.

Q. Well, how? How did he? A. Why, I think the way it was done was this: He first introduced this man with the overalls on and said to the Chief, "Here is a man, if you want a car any time, why, he will get you one cheap," and the Chief said, "Mine is shot. I need one now," and then this big car stood there.

Q. What part of the farm was it standing on? A. As you go in off the road there is three or four buildings inside, and there is a driveway running in from over near what I would suppose they call the market house—I don't know—there are three buildings there, three or four.

Q. Were there any other cars there? A. Yes. Dr. Brandenburg I met there that day; I had never met him before. He had a car there.

Q. I don't mean cars of other persons calling on the farm. I mean any other cars like this Cadillac that were for sale? A. Not as I know of. There were several cars there with a number of other people there.

Q. But this was the only car there that was spoken about as being for sale? A. That is the only one I heard. I was not in the market for a car.

Q. How did the introduction to Vordemeier take place? What brought that about? A. Just as I told you. Mr. Brandenburg introduced this man Vordemeier, whatever his name is, to the Chief and

to me, and stated, "Here is a man, if you want to get a car cheap, can get you one," and in response to that the Chief said, "Well, my car is shot."

Q. What kind of a man—what was Vordemeier doing before he was introduced? A. What was he doing? I don't know what he was doing, because we had not been there more than a minute or two.

Q. He was in overalls? A. Yes, as I recall now, I think he had blue overalls on, blue check. I know he had overalls on, anyway.

Q. What did he say? A. He said—Brandenburg, who did the talking, introduced Vordemeier and said, "If you want a car, here is a man who can get you a car cheap," and the Chief in response to that said, "Well, my car is shot, and I need one now."

Q. What did Vordemeier say? A. He says, "There is one," and pointing to this car, and when he said it I said, "Where do you get any cars from?"

Q. Why did you say that? A. Well, because if a man went to sell me a car I would ask him.

Q. Yes; and then what did he say? A. He said he had a friend who got them from a finance corporation.

Q. Ask him who his friend was? A. No. I wasn't interested in buying cars.

Q. Did the Chief ask him who his friend was in your presence? A. No, I don't think he did.

Q. Did you ask him what the name of the finance company was? A. I don't think there was any further conversation at that time, Mr. Lane. I was not interested.

Q. I know you were not interested, and I am

not indicating that you were. I am trying to get out what investigation was made there as to who Mr. Vordemier was or as to who his friedn was or as to who the finance company was, which I would assume would be logical questions to ask. A. All I said was, as I said afterwards, a short time ago, I said to the Chief, "If you know who these people are, it is all right." He knew Brandenburg. I didn't know any of them.

Q. Did Brandenburg tell you who Vordemeier was? A. Tell me? I didn't ask him, no.

Q. Did he tell the Chief who Vordemeier was, in your presence? A. I don't think he did.

Q. So nothing was said as to who this friend was? A. No.

Q. Nothing was said as to who the finance company was? A. No.

Q. Nothing was said as to how the cars were to be obtained, other than what you have here testified? A. That is all, because at that time I did not believe the Chief was going to buy that car. I told him not to. It was too big.

Q. Eh? A. It was too big.

Q. How did McGill come to go along on this trip, do you know? A. No, except during the strike the Chief and McGill went around considerably together, over around the strike district.

Q. Now, the next thing you heard of it was how long after? A. Oh, it must have been—well, now, it would only be a guess. I know it was some time intervening. I do not want to guess. It was some few days, as I know.

Q. Was that the time he brought you a bill of sale? A. No.

Q. That is the time you went out and had the

car— A. Time I went and had the car examined, when he discussed it with me here. I said, "I wouldn't take the car unless I had it looked over," and I again said to him, "The car is too big for you."

Q. Well, during that day was there any discussion as to who was the owner of the car or as to how the car was going to be obtained? A. No; they picked me up at the office and drove right straight up Lexington Avenue, out through Lexington Avenue into Clifton, found this man to look at the car, and what he said was the matter I don't recall, but it was something that did not amount to very much.

Q. Did you ask the Chief then whether he knew how the car had been obtained? A. How what?

Q. How the car had been obtained by Vordemeier? A. No, I did not.

Q. Was there any conversation as to the finance company or as to the friend whose name was not given? A. No; just whether or not it was a good buy. No.

Q. Was Vordemeier there at that time? A. There was no one there except Officer McGill and the Chief and myself.

Q. Nothing was said then as to making any investigation into the antecedents of the car? A. No; the only question then was whether or not it was advisable to buy it, and they didn't ask him anything further than that. I thought it was a pretty good buy if it was all right, as I said.

Q. Yes, it was a very good buy if it was all right, if the car was in good condition? A. I don't know. I wouldn't have it if they gave it to me.

Q. You told him that it was? A. I thought it

was for somebody who wanted it. One of those things if you don't want it is worth nothing.

Q. The car was in good condition, wasn't it? A. I would say so.

Q. Was the sales value of the car— A. I had no idea of the sales value.

Q. Wait. Was the sales value of the car as a new car discussed at all? A. No.

Q. Well, if you had no idea of the value of the car, how did you know it was a good buy? A. Well, I had common sense enough to know this, that—

Q. It looked very good? A. If somebody brought a Pierce Arrow car to me and I wanted it, that is, could use it, why, I would be inclined to buy it if I had the money, at that same price, and I know a Cadillac is a high-class car.

Q. Yes. It was being sold at a very low price, wasn't it? A. Well, $1,600 is not a low price for a second-hand car, I don't think.

Q. For a Cadillac? A. I don't know. I have never bought and sold second-hand cars.

Q. You would not buy the car unless you knew the people? A. I would not buy the car at all. It was too big.

Q. You would not buy a second-hand car under those conditions unless you knew the people who were selling it? A. That is what I say. I would have to know. I told the Chief it is all right if you know the people.

Q. Well, did the Chief say how well he knew these people? A. He said he knew the Brandenburgs. He said they were worth a hundred thousand dollars.

Q. Say how well he knew anybody in the transaction except Brandenburg? A. No.

Q. Did anybody suggest that Brandenburg might be imposed upon? A. I don't think they did.

Q. Did anybody suggest to look at the numbers on the car? A. I don't think they did, any further examination than was made up there at the Cadillac people when I wanted to know whether the car was all right.

Q. Did anybody think to ask the Cadillac man there to look at the numbers on the car? A. Anybody? I am only speaking for myself.

Q. Did you hear anything? You were there all the time, weren't you? A. Yes.

Q. Well, then, did you hear anything of that kind— A. No, sir; all I heard was to ask him to look that car over and see if it was all right.

Q. That is, for the mechanical part? A. I don't know what it was. If I took a car in a shop and said to look it over, I would mean just what I said, to look it over, to see if there was anything wrong with it.

Q. What did he do? What did the Cadillac man do? A. I am not an automobile mechanic. He lifted up the hood and he went scouting around there. I don't know what else he did.

Q. Nothing was said about the numbers? A. I wouldn't know anything about the numbers.

Q. Nothing was said about the numbers? A. I don't think there was.

Q. The next time you knew anything about this was when the Chief came to you with what purported to be a bill of sale? A. Yes.

Q. What was the instrument that was brought you? Can you recollect what was the matter with it? A. No, I can't. I can remember one name

which is on that bill of sale, the name Ducey, I can remember that and always could at all times, I don't know why.

Q. Then, afterwards he came back with this bill of sale? A. Came back with that one.

Q. Can you remember anything of the conversation that took place between you and the Chief at the time the first bill of sale was produced? A. No, I cannot, except, as I say, he brought the bill of sale to me and wanted to know was it all right.

Q. Well, was it a bill of sale in the form of P-7? A. Just the same as that, yes.

Q. Then he came back with P-7? A. Some little irregularity in that one, too, yes, as I said there was.

Q. Is that irregularity the fact— A. No.

Q. Now, wait. Is that irregularity the fact that James J. Crowl, secretary, did not sign the affidavit? A. That is the irregularity in that one, as I see it.

Q. Yes. A. I do not recall what it was in the otner one, Mr. Lane.

Q. Now, you read this bill of sale, of course, P-7? A. Yes, sir.

Q. You noticed that Vordemeier's name did not appear, didn't you? A. Oh, yes, I know that.

Q. You noticed that no finance company's name appeared? A. Yes, I know that.

Q. Did you make any inquiries with respect to whether or not—as to why that was, that the cars having come through a finance company, the name of the finance company did not appear anywhere? A. No, sir. I was asked as to whether the bill of sale was correct as to form. I was guaranteeing not persons.

Q. When you had had your previous conversa-

tion at the Brandenburg farm and Vordemeier said he had a friend and that friend had a way by which he could get cars cheap through a finance company, did it not arouse some suspicion that the name of the finance company did not appear upon this bill of sale at all? A. Didn't see anything strange in that at all.

Q. Did not? A. No, I would not yet.

Q. Well, you knew and you know that there is a great trade, not only in New Jersey but all over the United States, in stolen cars, don't you? A. I have learned that within the last six months or a year, yes.

Q. Didn't know it when you— A. We all know more about it now than we did then.

Q. You didn't know it when you were in this matter? A. No. I did not. I did not know that it was a systematized business, as I have since learned.

Q. You know now that it is a systematized business? A. I now know they have got it down to a science.

Q. Had you known it, the fact that this finance company from whom this friend of Vordemeier's, who was a friend of Brandenburg, could get cars cheap, it would have aroused your suspicions? A. If I had that same thing tomorrow I would mail it down to Trenton to see if it was all right.

Q. That is not giving an answer. If you had known that the business was systematized to the extent that you now learn it to be systematized, you would have had some suspicion when you saw this bill of sale did not contain any reference to any finance company, when the representation had been made to you that a friend of Brandenburg's

had gotten the car from a friend of his who had gotten the car from a finance company, wouldn't you?

Mr. Ward: I object to that. It is not accurate. The evidence is that Mr. Vordemeier had a friend in the finance company who got the cars in that way. I don't know, none of us know whether they were gotten through the finance company—from the finance company.

Mr. Lane: I withdraw the question and let the record speak for itself.

Q. Was any inquiry made as to who the Union Motor Sales Company was? A. No.

Q. Did the Chief tell you who had given him this bill of sale? A. No.

Q. Did you ask him? A. I did not.

Q. I don't suppose when you looked at this bill of sale you paid any attention at all to the signatures, did you? A. That was out of my hands for upwards of a year and a half or two years.

Q. I direct your attention—let me show you something first—I direct your attention to the—to what purports to be a signature of Edward Fay, John Reed, the witnesses to the signature of Crowl, the signature of Harry Carlson, and the signature of John Thissher, which purports to be the signatures of the witnesses to Howard E. Sutherland, and ask you whether at the time you looked at that bill of sale you observed those signatures. A. Why, I guess I observed the signatures, yes.

Q. Did they look genuine? A. What is that?

Q. Do they look genuine to you now? A. I haven't had this, I said, for a year and a half; it has been out of my possession.

Q. I am asking you now, do they look genuine to you now? A. Well, genuine signatures of somebody. I am not a handwriting expert.

Mr. Ward: I object to the question, as to what they look like now. The question should be directed as to the time when he had it in his hands and all the circumstances.

Q. Did you observe anything with respect to these signatures at the time you had it in your hands the first time? A. At this time?

Q. At the first time you had it in your hand. A. Why, no, I don't think I did.

Q. You do not see any similarity between the writings, do you, of what purports to be the signatures of different men? A. Well, perhaps if I had put it under a microscope I might say this, I might say yes, and I might just as honestly say no.

Q. Do you have to put it under a microscope? A. Well, there is John Thurber, let us see, and John Reed, those are surely not the same signatures. If they are, the *J* is not the same, if I am any judge of it. And this Harry Carlson may not be good writing, but I am not here to swear that it is bad, either.

Q. That is all.

Redirect-examination by Mr. Ward:

Q. You have never attempted to qualify or have never qualified as a handwriting expert, have you? A. No, far from it.

Q. That is all.

WILLIAM McGILL, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. Mr. McGill, you are connected with the Police Department of the City of Passaic? A. Yes, sir.

Q. Have been for how long? A. Eleven years and eleven months.

Q. Were you with Chief Zober on the occasion referred to by Judge Davidson? A. Yes.

Q. Remember going out to this farm? A. Yes.

Q. Will you describe its location? A. Why, it is over there, I thought it was Garfield, but it is over there in what they call Woodridge, over there by the Sister's Home, across the street from the Sisters' Home.

Q. In whose car did you go? A. Chief Zober's Paige.

Q. With whom? A. Chief Zober and Judge Davidson and myself.

Q. When you got there what happened? A. When we got there—

Q. As near as you recollect. A. When we got there and Chief and the Judge walked out, and they walked over to three or four or five men standing there, and they were talking and shaking hands and I stayed in the car.

Q. Did you hear any conversation that took place? A. No, sir.

Q. What was done by Chief Zober that you observed while Chief Zober was there? A. Why, after they got through talking for a few minutes they went over and looked at a Cadillac car, and then after they looked at it a little while I got out and walked and looked at it.

Q. Did you hear anything that was said then? A. No.

Q. Then what? A. Why, then after that we got back in the Paige and we came back up to Headquarters.

Q. Chief Zober? A. Chief Zober and Judge Davidson.

Q. And Judge Davidson and yourself? A. Yes.

Q. Did you hear any introduction take place there? A. No; I was still in the car.

Q. You were still in the car? A. Yes, sir.

Q. See the men shaking hands? A. Yes, sir.

Q. Later on did you see the car, that Cadillac car? A. Yes, I seen it two or three times.

Q. When did you first see it after you saw it at the farm? A. Why, I think it was the day after or two days after I seen it over in Donahue's yard; we were going from the Botany Mill over to the Gera Mill, and we went through the River Road.

Q. When did you next see it? A. Then I think it was three or four days, I am not sure, after we came away from the farm, it was out in front of Police Headquarters.

Q. Do you know anything that was done with it at that time? A. At Police Headquarters?

Q. Yes. A. Why, the Chief and I drove in from the Botany Mill about five or ten minutes after five and I came in the office and the Chief came in, and he says to me, "Billy, take off your uniform and put on your coat." I said, "All right," and I put it on, and we went out, and I got in this Cadillac car, and we drove over to Judge Davidson's office, and from there we went up to the Clifton—to a garage.

Q. Whereabouts in Clifton? A. On Lexington Avenue.

Q. Know what place it was, what kind of a place? A. It was a garage. And then from there we went down to the Cadillac people on Lexington Avenue.

Q. Whereabouts on Lexington Avenue? A. Oh, I guess it is a couple of blocks above Clifton Avenue, I don't know just what street.

Q. Cadillac people? A. Yes, they had a service station.

Q. Did you go inside? A. I went inside and asked for the mechanic, and one of the fellows crawled from under a car and came out and wanted to know what I wanted. I said I had a Cadillac car and wanted him to look it over, so he came out and he looked it over, and I told him, I introduced him to the Chief, I said, "This is the Chief of Police," I says, "and he expects to buy it"; so he said, "How much?" I told him $1,600. So he lift up the hood and looked it over and looked around it, and he said the only thing he could see wrong with it, the timing chain was noisy, and he said seven or eight dollars will fix that up.

Q. Is that all that was said then? A. The Chief offered to pay him, but he says no, he didn't want to take nothing for it.

Q. From there where did you go? A. We came back to Police Headquarters,

Q. After that you saw the car, did you? A. I drove it during the strike once in a while.

Q. One thing I neglected; when you saw the Cadillac car first in front of Police Headquarters, was there anyone in it? A. Anyone in it?

Q. Yes. A. Not when I first saw it. When we drove down there was two men standing out in front of Police Headquarters, on the side entrance, and when the Chief came out of the car he went

over and he spoke to them, and then he came into the office and he signed one of them yellow cards.

Q. These two men that you saw, were they any of them you had seen at the Brandenburg farm? A. One of them.

Q. One of them was? A. Yes.

Q. He didn't go with you to the Cadillac Agency? A. No.

Q. That is all.

Cross-examination by Mr. Lane:

Q. Mr. McGill, how was it that you came to go out to the Brandenburg farm? A. How was it?

Q. Yes. A. Why, the Chief says, "Come on and we will go over and see if we can get some green stuff." We used to go over there and get cauliflower or anything that was in season.

Q. Was anything said with respect to going over to the farm to look at a car? A. No, sir.

Q. You remember on the 29th of October, 1927, talking with Sergeant Cunningham, Detective Boyko, Officer Vanderbeck, and Captain Monks at Lamontville, New York? A. I do.

Q. Do you remember telling those four men that the Chief asked you to drive him over to Jimmy Donahue's place in Garfield, that they wanted to look over a Cadillac car? A. Yes. I had made a mistake. I had told Sergeant Monks about that later on.

Q. You made a mistake? A. Yes, and I got the time mixed up when I seen the car, the first time that I seen the car and the second time when I seen the car.

Q. You got the time mixed up? A. Yes—not the

time, but the different days, the different times of seeing the car.

Q. When was it that the Chief asked you to drive him and Judge Davidson over to Jimmy Donahue's place in Garfield?

Mr. Ward: I object to that. The witness has not stated that, sir.

Mr. Lane: Well, that is the inference of his testimony. He said he got the time mixed up.

Mr. Ward: I object to the question.

Mr. Lane: Withdraw it.

Q. Did you tell those four gentlemen that Chief Zober had asked you to drive him and Judge Davidson over to Jimmy Donahue's place in Garfield, that they wanted to look over a Cadillac car, at any time? A. I did tell them.

Q. You did tell them? A. Yes, sir.

Q. Was it true? A. No.

Q .It was false? A. Yes.

Q. You knew the purpose of the investigation? A. I did not then, no.

Q. You knew those four police officers were police officers of the Passaic Police Force? A. I did.

Q. And that you were a member of the force? A. I was.

Q. And that they were investigating something? A. Yes, sir.

Q. You deliberately lied? A. I did not deliberately lie. I made a mistake.

Q. Then, what is it? A. You want to remember, Mr. Lane, I was a sick man and I had been up there for over a year.

Q. I know that, but sick men— A. And he

jumped right out of the car and came in, "What do you know about this?" And you know you are likely to make a mistake.

Q. How did you make a mistake in stating to the Captain and the other officers that the Chief had asked you to drive him and Judge Davidson over to Jimmy Donahue's place in Garfield, that they wanted to look over a Cadillac car, if no such thing had ever taken place? Was it invention? A. (No answer).

Q. How did you come to make any such mistake? A. I don't know.

Q. You don't know. Did your sickness bring it into your mind when it had not had any basis in fact? A. (No answer).

Q. Which is true, the story you told then or the story you told here? A. The story I told under oath.

Q. Here? A. Yes.

Q. Well, you did not tell the true story to the Captain? A. (No answer).

Q. Can't you answer it? A. No.

Q. Did you deliberately lie? A. No, not deliberately.

Q. Did you lie? A. I did, yes.

Q. What for? A. (No answer).

Q. Why did you lie? A. Because I told you they came up there and they jumped right out of the car and the Captain asked me, he put questions to me right away, and I didn't know what I was up against.

Q. That meant, if you didn't know what you were up against, that would not give you a chance to think to lie, you would tell the truth, wouldn't you? A. I don't know.

Q. You don't know? Yet, although you were taken by surprise and you had no chance to prepare yourself, you invented a lie; is that right, instead of telling the truth? A. (No answer).

Q. Is that right? A. (No answer).

Q. Were you trying to protect anybody else? A. No, sir.

Q. Are you now? A. No, sir.

Q. These officers were with you quite some time, weren't they? A. Well, we had an investigation the same as we did with the Sergeant and Mr. Weinberger.

Q. They were with you some time? A. What do you mean?

Q. That day. A. Oh, up there?

Q. I am now keeping your mind back at this place where, for no rhyme or reason, you say you told the Captain what was not true? A. What was not true.

Mr. Ward: I object to that.

Mr. Lane: I withdraw it.

Q. I am confining your mind to the time when you had the conversation with these police officers up in Lamontville, I think it is, New York. They were there with you for some time, weren't they? A. Yes.

Q. How long? A. Well, about an hour, I should judge.

Q. How many times did they see you? A. Up there?

Q. Yes. A. Why, I was with the Captain all the time.

Q. Eh? A. I was with the Captain up there all

the time. All the while he was there I was with him.

Q. That was for an hour and a half, you say? A. About an hour.

Q. Did he see you again before he went away from Lamontville permanently? A. I was with him all the while he was up there.

Q. Well, they were investigating also a car which your wife had bought? A. I was with them at that time.

Q. Well, all during the time—that was a Buick coupe, wasn't it, a Buick car? A. Yes.

Q. All that talk took only an hour? A. Well, I should judge about an hour, maybe an hour and a half.

Q. Did you think before the Captain left, after you had time to reflect, to tell the Captain that the statement that you made to him that Chief Zober had asked you to drive him and Judge Davidson over to Jimmy Donahue's in Garfield, New Jersey, that they wanted to look over a Cadillac car, was a mistake? A. What was that?

Q. During all this time, after you had had time to reflect, did you think to tell the Captain that you had made a mistake when you told him the Chief had asked you to drive him and Judge Davidson over to Jimmy Donahue's place in Garfield for the purpose of looking over a Cadillac car? A. No, sir; I was more interested then in the car that my wife had got in trouble with.

Q. Now, when you got to the Brandenburg place, whom did you see? A. Why, I seen four or five fellows over there.

Q. Did you know any of them? A. Know any of them?

Q. Yes. A. I don't think I did.

Q. Did you know any of them by their first names? A. Well, there was one fellow there by the name of Bob.

Q. Did you know him? A. I knew him by sight.

Q. Where had you seen him before? A. Along the road; he used to sell frankfurters.

Q. Did you know what his last name was? A. No, sir.

Q. What was he doing on the Brandenburg farm? A. I don't know.

Q. Did he have anything to do with the car? A. I don't know; I wasn't talking to any of them.

Q. Did he have anything to do with the car? That is what I am asking you? A. What car?

Q. The Cadillac? A. I don't know.

Q. You never did know? A. No.

Q. You did not know when you talked to Captain Monks? A. Let's see. I am not sure.

Q. Well, now, has your memory failed you in the last year? A. I don't know.

Q. You don't know. Well, you told Captain Monks that you met a fellow whom you knew as Bob, and you also told him that Bob had a Cadillac sedan with him, didn't you? A. I don't remember telling that to Captain Monks.

Q. Eh? A. I don't remember telling that to Captain Monks.

Q. Now, don't you remember telling Captain Monks and these other three officers, all together, that you drove them over and that they met a fellow whom you only knew as Bob, whom you believe resided in Garfield or that vicinity, and that this Bob had a Cadillac sedan with him which the Chief and the Judge looked over? You remember

telling those four officers that thing? A. No, sir.

Q. In Lamontville? A. No, sir.

Q. Will you say you did not tell them? A. I don't remember whether I told them or not.

Q. Well, if you did tell them it was not true, was it? A. I don't remember telling them.

Q. It was not true? It is not a fact? You didn't know whether Bob had a Cadillac car with him or not, did you? A. No.

Q. You didn't know whether Bob had anything to do with a Cadillac car? A. No, I did not.

Q. And you never suggested to these four officers that Bob had a Cadillac car with him? A. I don't remember.

Q. If they say that you did, they must be just imagining it, because you did not tell them anything about Bob and the Cadillac car, did you?

Mr. Ward: I object on the ground that he says he does not remember.

Mr. Lane: Withdraw it. He says what?

Mr. Ward: He does not remember.

Mr. Lane: Yes.

Q. Now, did you tell Captain Monks and these other three officers that Bob wanted $1,200 for the car? A. No, sir.

Q. Are you sure of that? A. Yes, sir.

Q. That you did not tell them that? A. Yes, sir.

Q. No question about that? A. Yes, sir.

Q. You did not tell them anything about the price of the car? A. No, sir.

Q. Not a word? A. No, sir.

Q. So, as I understand your testimony, you did tell them that you were asked by Chief Zober to

drive him and Judge Davidson over to Jimmy Donahue's place in Garfield, New Jersey, that they wanted to look over a Cadillac car, and that that was false, and that you don't remember whether you told them whether or not you met a fellow whom you only knew as Bob, whom you believed resided in Garfield or its vicinity, and that Bob had a Cadillac sedan with him which the Chief and the Judge looked over, and that you know you did not tell them that he wanted $1,200 for the car; is that right? A. I might have told them about the price of the car after I found out what the car cost, but I didn't know what the price of the car was over there.

Q. You might have told them when? A. After the Chief bought it, but I never told them $1,200, because I knew the car cost $1,600.

Q. Then, you might have talked to the Chief and these officers about the price of the car? A. Yes, I might have spoke to them about the price of the car.

Q. Well, do you remember whether you did or not? A. No, I am not sure, but I know I didn't mention $1,200.

Q. How do you know that you didn't mention $1,200? A. Because I knew the car cost more than that.

Q. But you also knew you had not been asked by the Chief to drive him and Judge Davidson over to Jimmy Donahue's place in Garfield, that they wanted to look over a Cadillac car, and yet you told the officers that; so the mere fact you knew different doesn't seem to make much difference. Is there any other reason why you can say that you did not tell the Chief, or the Captain, and

these three officers that he wanted $1,200 for the car? A. No, sir.

Q. No other reason? A. No, sir.

Q. Now, do you remember telling Captain Monks and these other officers that they didn't do any business that day? A. Well, the car was not bought that day we went over to the farm.

Q. Well, but as I understand it—how do you know it was not? A. Because the Chief told me when he bought it three or four days after or something like a week after.

Q. Didn't the Chief say anything after he returned to his car, after he had this talk with Brandenburg and somebody else; didn't he say anything about it when he got back to the car? A. Yes, he said it was a good car, looked good.

Q. What else did he say? A. I don't remember just what he said.

Q. When did you next see this Bob? A. When did I next see him?

Q. Yes. A. I don't know just when I next seen him.

Q. Under what circumstances? A. Why, I bought frankfurters off him for the police outing.

Q. When was that? A. September, sometime in September.

Q. Of what year? A. 1926, I think it was. I don't know.

Q. Did you see him at all after you were up to the Brandenburg farm in connection with this car? A. Did I see him at all?

Q. Yes. A. Yes, I seen him out in front of headquarters, out there by the side door.

Q. On your direct examination I think you said he was present or around at one of the times the

car was being looked at? A. Yes, on the farm.

Q. On the farm? A. Yes.

Q. But not afterwards? A. I seen him out here.

Q. In connection with this Cadillac car, I mean. A. Well, that is in connection with the Cadillac car.

Q. Oh, I beg your pardon. You mean when the Chief had the car outside police headquarters? A. Yes.

Q. About how long after the car—you had gone out to the Brandenburg farm? A. I think it was a couple of days.

Q. Remember telling the Captain and the other officers that the time you saw the Brandenburg farm was the last time you saw him? A. No, sir; I seen him lots of times.

Q. I know you did, but that is not the question I asked you. I know you saw him, but that is not the question I asked you. I am asking you whether you did not tell the Captain and these other police officers that you had not seen him? A. I don't remember telling them that.

Q. You don't remember telling them? A. No, sir.

Q. Do you remember describing this man to the Captain? A. I think I did.

Q. You think you did? A. Yes.

Q. How did you describe him? A. Why, I think I said he was a fellow about fifty years old and about my build, only not quite as tall.

Q. Did you tell him about your build or about the build of Oye Cunningham? A. Yes, about as tall, but not as heavy.

Q. So you described him? A. Yes, sir.

Q. How did you come to describe him? A. How did I come to describe him?

Q. Yes. A. He asked me to describe him.

Q. Why, asked you to describe who? A. Bob.

Q. Well, they did not simply say, "Describe Bob." How did it come you happened to describe him? A. Well, they asked me if I could describe this fellow.

Q. Describe what fellow? A. The man that sold the Chief cars.

Q. How did you know the man sold the Chief a car? A. Well, I seen him with the car.

Q. You saw who with the car? A. This man that I described.

Q. Where? A. Saw him at Police Headquarters.

Q. That is the one time you saw him with the car? A. Well, he was over there on the farm with the car, but there was five or six men over there.

Q. You didn't know which one was connected to the car? A. Not over there, no, sir.

Q. You had known this man for how long? A. Oh, I didn't know him. I didn't know him at all, you might as well say, outside of just seeing him once in a while.

Q. You knew his business? A. Yes.

Q. Frankfurters? A. Yes.

Q. Selling frankfurters? Anything else? A. Well, he sold cars.

Q. When did he sell cars? A. He sold the Chief a car.

Q. Yes, he sold this car. That is not cars. A. Well, a car, then.

Q. All right; you knew him as a man in the frankfurter business? A. Yes.

Q. You told the Captain and the detectives that he looked like an automobile salesman, didn't you?

A. Well, he had overalls and he looked like an automobile man, too.

Q. But you knew he was in the frankfurter business? A. Certainly.

Q. And you knew, therefore, that his business was that of selling frankfurters, not selling automobiles, didn't you? A. I knew he was in the frankfurter business, but I found out he was in frankfurters after.

Q. Oh! Didn't know he was in the frankfurter business before? A. No, not then.

Q. On the Brandenburg farm? When you saw him on the Brandenburg farm you didn't know he had been in the frankfurter business? A. No, sir.

Q. What was the business you knew him? A. I didn't know then.

Q. Didn't know what it was? A. No.

Q. Do you remember telling the Captain and these other officers that the price of the car was $1,200 and that if the Chief did not buy it you would have? A. Not at that price. I remember telling them if the Chief had not bought it I would have tried to get it, yes.

Q. You didn't say anything about the twelve? A. Not twelve hundred.

Q. Didn't say anything about $1,200? A. No, sir.

Q. You remember when the Captain came up and spoke to you with these other officers, that he told you in the very beginning to be careful of what you said, because— A. He never told me at all.

Q. What? Just a minute. —to be careful of what you said, because what you did say you would have to testify to? A. No, sir, he didn't tell me.

Q. By the way, where is Jinmmy Donahue's place? A. Over in Garfield.

Q. What is it? A. Hotel.

Q. What kind of a hotel? A. I don't know.

Q. Around there? A. Yes.

Q. Quite often? A. Not quite often; occasionally.

Q. Yet you don't know what kind of a place it is? A. I said it is a hotel.

Q. Well, what kind of a hotel? Has it a saloon or bar?

Mr. Ward: I object to it as irrelevant and immaterial and not cross-examination. He simply said he saw this car and on direct-examination he said he saw it once at Donahue's place in Garfield.

Mr. Lane: I press the question.

Mr. Ward: I press the objection.

The Commissioner: Overrule Mr. Ward. Proceed.

(Question repeated by stenographer).

A. Yes.

Q. Have you been there with the Chief?

Mr. Ward: I object to that as not proper cross-examination.

Mr. Lane: I press the question.

Mr. Ward: I press for a ruling.

The Commissioner: All right. Proceed.

A. I refuse to answer.

Q. On what ground? A. All right, I will answer. I have been there with the Chief, yes.

Q. Just why did you refuse to answer a minute ago? A. Because I didn't think I should answer a question like that.

Q. Why not? A. I don't know why.

Q. You don't know why? Would it tend to incriminate you? A. It might.

Q. Might tend to incriminate you by answering a question as to whether you had been with Chief of Police of Passaic in Jimmy Donahue's place in Garfield, is that right? A. It might.

Q. Incriminate you in what?

Mr. Ward: We object to that. The witness is entitled to his immuity if he is claiming it. I don't know why he is, and your Honor and no one else has any right to compel him, now he has claimed his immunity, to depart from that line.

Q. After the speech of counsel, do you now claim your immunity? Do you want to refuse to answer upon the ground it might tend to incriminate you, or do you want to stick to what you first said, that you would answer the question? You have a right to claim immunity if it might tend to incriminate you, if you want to. Do you understand on the question?

Mr. Ward: He has answered that question.

Mr. Lane: He has not answered it.

Mr. Ward: Yes, he has.

Q. Yes, all right; do you want to claim immunity as to my question as to why it would incriminate you or why you thought it would incriminate you if you answered that first question.

Mr. Ward: This in itself involves the first question, your Honor, and no one has any

right to compel this man to answer under the circumstances.

Q. Now, I ask the witness whether he claimed immunity or not, and I want an answer to that.

Mr. Ward: He has claimed immunity.

Mr. Lane: He has not claimed it yet, and you have no right to claim it for him.

Mr. Ward: He has claimed immunity.

Mr. Lane: I say he has not.

Mr. Ward: You asked him why and he stated his ground in his own particular way; might have been different from the way you or I would have claimed it, but the same effect. We have no right to force this man on under the circumstances.

Mr. Lane: I press for an answer to my question as to why this witness claims immunity.

Mr. Ward: And we press for a ruling.

The Commissioner: Your objection is overruled, Mr. Ward, and the witness is expected to answer the question.

Q. Do you claim immunity upon the ground that it might tend to degrade or incriminate you? A. Yes.

Q. You do? I show you a check dated June 26, 1926, and ask you whether that is your signature on the back of it? A. Yes.

Q. How did you come to put it there? A. Why, the Chief gave it to me to cash for him.

Q. When? A. Oh, I don't know when.

Q. And that is exhibit, by the way, P-34. A. I don't remember just when.

Q. You know what time of day it was he gave you this check? A. No, I do not.

Q. Do you know what is was all about? A. I did not. No.

Q. Of course, you knew Mathias Winters? A. Yes.

Q. You knew he was a policeman? A. Yes. I don't think I even looked at the name on the check, because I used to cash checks for him.

Q. A thousand-dollar check drawn to the order of Mathias Winters, endorsed by Winters and given to you by the Chief to cash, and you did not even look at it? A. I don't remember if I did. I did not attach no stock to it.

Q. Do you remember, Mr. McGill, seeing Captain Monks a day or two ago? A. Yes.

Q. Where did you see him then? A. Up in the Detective Bureau.

Q. Remember having a conversation with him about this case then? A. Yes, sir.

Q. Do you remember telling him then that you would have to change your story? A. I told him I had made a mistake.

Q. Did you tell him you would have to change your story? A. Told him I had made a mistake in what I had told him.

Q. What exactly did you tell him? A. Well, that is as far as—

Q. As nearly as you can remember. A. That is as nearly as I can remember.

Q. How did you come to see him? A. I was subponaed.

Q. You were not subpoenaed to appear before Captain Monks, were you? A. Well—the letter he sent me up. I hadn't had any subpoena then. He sent me a letter he wanted to see me.

Q. You went up to see him? A. Yes.

Q. What happened? A. Why, he asked me, he says, "I suppose you want money?" I says, "No." So I said, "I want to see you." I said, "That story I told you," I says, "when you were up in the country," I says, "why, it ain't right."

Q. Go on. What else did you say? A. So he says to me, "What is wrong?" So I told him.

Q. What did you tell him was wrong, that is what I want to know? A. I told him, I says, "When I told you about going over to Donahue's," I said, "it was not." I says, "It was over on the farm where we were."

Q. Is that all that was wrong? A. That is all I remember.

Q. Did Captain Monks say to you, "How did you come to make that mistake?" A. No; he says to me, he says, "I understand the position you are in," he says, "I don't blame you," he says, "I wish you hadn't told me anything." I says, "Why didn't you tell me and I would have kept my mouth shut?"

Q. Go on. What else? A. That is all.

Q. Well, did you say, when Captain Monks he understood the position you were in—what did you understand the Captain meant when he said he understood the position you were in?

Mr. Ward: I object.

A. I don't know what he—

Mr. Ward: I object to that as absolutely improper and not cross-examination, the processes of this gentleman's mind, what he understood.

Mr. Lane: I press for a ruling.

The Commissioner: Objection overruled. Proceed.

Q. What did you understand the Captain to mean when he said that he understood the position you were in, that he didn't blame you? A. I don't know what he meant.

Q. You don't know what he meant? A. No.

Q. You were not in a position and there wasn't anything to blame you about, because all you were going to do was tell the truth, wasn't it?

Mr. Ward: I object.

A. I didn't say anything about any position.

Mr. Ward: I object to it as argumentative. It is not cross-examination.

Mr. Lane: I press the question.

Mr. Ward: Well, I seriously press this objection.

The Commissioner: Objection overruled. Proceed.

(Answer repeated by stenographer).

Q. You said Captain Monks had stated that he had understood your position and that he did not blame you? A. Yes.

Q. Blame you for what? A. I don't know.

Q. You don't know. You remember that you had told the Captain and these other officers that you had gone over to Jimmy Donahue's place, didn't you? A. Yes, sir.

Q. Did you tell Chief Zober that you had told the Captain and these other officers that you had gone over to Jimmy Donahue's place? A. No, sir, I don't think I did.

Q. What? A. I don't think I did.

Q. Had no talk with the Chief as to what you had told the Captain? A. No, sir.

Q. The Chief did not ask you? A. No.

Q. So that you went up and told Captain Monks that you had made a mistake, without talking to anybody about it? A. Yes, sir.

Q. I suppose you had carried this lie around with you for about how long was it?

Mr. Ward: I object to that characterization. It is improper.

Mr. Lane: It is not improper, because he said it was a lie himself.

Mr. McGinnis: He said it was a mistake.

Mr. Ward: He said it was a mistake. It has been held time and time again such characterization is improper.

The Commissioner: Proceed.

Q. Let me ask you another question before I put that. I understood we had already passed that point. At the time you told the Captain that you had gone to Jimmy Donahue's place you knew you had not; isn't that true? A. Yes; I told him I had made a mistake.

Q. No, no. A. Yes, I did.

Q. Let us get back to Lamontville again. When you told the Captain at that time that you had gone to Jimmy Donahue's place, you knew you had not, didn't you? A. Yes.

Q. So it was not a mistake, it was a deliberate falsehood? A. I would not say it was a deliberate falsehood.

Q. It was a falsehood that you knew to be a

falsehood when you told it; that is right, isn't it? Is that right? A. No.

Q. It is not right? And you thought it was true when you said it? A. I didn't think it was true, either, no; I didn't find out until later on after I got down to business and got thinking it over.

Q. How long did it take you to think it over before you found it out? A. I don't know.

Q. Well, about how long? A. I don't know.

Q. That day? A. I told you I didn't know.

Q. Are you still a member of the police force? A. Yes, sir.

Q. Did you ever buy a car from Chief Zober? A. No, sir.

Q. Do you know William Latham? A. Do I know William Latham?

Q. Yes. A. I know a Latham. I don't know what the first name is.

Q. Did you ever have a car that was sold to him? A. My car?

Q. Yes. A. No, sir. I never sold a car to Latham.

Q. Did you ever sell him a car? A. No.

Q. Then, as I understand, you never purchased a car from Zober? A. No.

Q. Did you have anything to do with the purchase of a car from Zober? A. No.

Q. Or through Zober? A. No, sir.

Q. Or for Zober? A. No, sir.

Q. And Zober never acted for you at your request in the purchase of a car? A. No.

Q. You never asked him to? A. Well, I asked him if he could get a car cheap, why, I would take it, but he never got none for me.

Q. That is all.

Redirect-examination by Mr. Ward:

Q. Now, Mr. McGill, you mentioned your illness. What do you mean by that? A. What is that?

Q. You mentioned your illness, you had been troubled some with illness. A. Yes, sir; I had been on sick leave since last October a year ago.

Q. What is the nature of your illness? A. Why, I don't know what the nature of it is. A nervous wreck, you might as well say.

Q. Nervous breakdown? A. Yes, and stomach trouble.

Q. That began when? A. Oh, about eight years ago; I have been operated on twice.

Q. When did your sick leave begin? A. A year ago October the 1st.

Q. During the time that the strike occurred in Passaic, however, were you on duty then? A. Yes, sir.

Q. In spite of your illness you were on duty? A. Yes, sir.

Q. You were driving around with Chief Zober, I believe, principally, were you not? A. Yes, sir.

Q. In this Paige car? A. Yes, sir—well, we had different cars.

Q. Now, first let me ask you this, that was touched upon in cross-examination: You did want a car, didn't you? A. Yes; I would take a car if I could get one.

Q. Then you found out you couldn't get a car? A. No; I went up to the country. I went up on sick leave.

Q. I mean with reference to the Latham-Hipp car. A. Oh, that car was too light. I did not like that car.

Q. So that car was gotten for you and you found out it was too light? A. Yes.

Q. And it was turned over to Hipp, and Latham is Hipp's father-in-law; is that correct? A. So they told me.

Q. Now, as I understand, you have given this matter considerable thought, have you not? A. Yes, sir, because my wife bought one of the cars.

Q. Beg pardon? A. Because my wife bought a car.

Q. But when you were taken up by Captain Monks, where were you taken? A. When I was taken up? What do you mean?

Q. When you were taken into this conference or interview. A. He drove up to the little farm I am on in Lamontville in New York State.

Q. A farm where you were? A. Yes, sir.

Q. Who was with him? A. Sergeant Monks, or Captain Monks, and Sergeant Cunningham, Boyko.

Q. Monks, by the way, has taken Commissioner Turner's office? A. Yes; Boyko and Officer Vanderbeck.

Q. Did you know about what they were going to talk, why they had come up to see you before they came there? A. No, not before they came.

Q. As a matter of fact, you had seen this Cadillac car at Donahue's place, hadn't you?

Mr. Lane: I object to it as leading. I object to this whole line as probably leading, as Mr. Ward testifies and not the witness.

Mr. Ward: It is mere reiteration, sir, and the rule—

Mr. Lane: Why reiterate? We remember all his testimony.

Mr. Ward: You have taken considerably

longer than I have on your cross-examination.

The Commissioner: That is in the record, Mr. Ward. What is the sense of repeating it?

Mr. Ward: To lead up to another thought, and it has been held where a witness has testified to a matter of that kind it is not leading.

The Commissioner: Well, go ahead. Proceed, Mr. Ward.

Mr. Ward: Your Honor has seen it. Your Honor saw that the other day. Your Honor sees what time it is now and how much time was taken up on cross-examination of this witness.

The Commissioner: Proceed.

(Question repeated by stenographer).

A. Yes.

Q. But you first saw it, didn't you, at the farm? A. Yes, sir.

Q. Brandenburg's farm? A. Yes, sir.

Q. You saw Bob there at that time; that is true, isn't it? A. Yes.

Q. Then later on you saw Bob with this Cadillac car in front of the police station, as I understand? A. On the side.

Q. At the side of the police station? A. Yes, sir.

Q. It was at that time that you went up or took the Chief up to the Cadillac Agency? A. Yes, sir.

Q. Or garage? A. Yes, sir.

Q. That is all.

ANDREW MOESER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. What is your business, Mr. Moeser? A. Used car business.

Q. Where conducted? A. In Paterson.

Q. How long have you been in that business? A. Well, I have been in the business ten years.

Q. Are you familiar with the price and values of used cars? A. Yes, sir.

Q. Can you tell us what would be the value of a Cadillac Imperial sedan car on March 26, 1926, if that car had been purchased in December, 1924? A. It was a 1925 model?

Q. 1925 model. A. And sold in 1926?

Q. Sold in 19— A. One year old?

Q. Yes, a year and three months old. A. Well, of course, the only way I could judge the value of an automobile would be the condition it was in and I would buy according to the price I thought it would sell for.

Q. Yes? A. And I would judge, since sitting here—I have heard the price mentioned, of course, but, of course, a car like that would be bought because the price of it was the object. That car was sold for about, just about what it ought to be sold for, I should judge, if that is what you want to know.

Q. $1,600? A. About $1,600.

Q. That would be a fair average price for a car such as you heard about? A. Well, I judge this way, that a car like that—

Q. No, I want to hasten on. A. If it brought $2,000 it would be a good resale price for it.

Q. Are you familiar with the sales value of second-hand Buick cars? A. Yes, sir.

Q. Can you tell us what the value of a Buick—have you got your bill of sale for the Ryder car there?

(Paper produced).

Mr. Ward: Have you the bill of sale for the Winters car?

The Commissioner: That is the same one.

Mr. Ward: I want to get the same one. It is the same car, yes.

Mr. Weinberger: Here is the Winters car.

Mr. Ward: This is not the one.

Mr. Weinberger: It is marked Winters on the back.

Q. Can you tell us what would have been the value on the 28th of June, 1926, of the Buick coach sold new on the 1st day of May, 1926? A. Sold when?

Q. Sold on the 1st of May, 1926. What its value would be on June 23, 1926? A. Well, that is so near the age of the car—it is only two months old. It would all depend on the mileage it has been and what deduction off of the first value it would have. You could only tell that by seeing the automobile. That is a car that sells for around, I imagine, seventeen hundred or eighteen hundred dollars.

Q. $1,628? A. I imagine that car ought to be bought for eight or nine hundred dollars.

Q. Can you tell us what, in your opinion, would be the value of a Buick coupe on the 14th day of October, 1926, if that Buick coupe had been sold on the 26th of February, 1926? A. What size Buick is it, a Master, Standard, or Light Six?

Q. A Master Six. A. About six months old?

Q. Yes. A. It is hard to appraise an automobile without seeing it. We appraise an automobile by the condition we see it in and the conditions and times and conditions that are selling under. I imagine that an automobile which sold for—it is a Master Six, 1926, sold in 1926. Six months old, is that? Sold for about seventeen hundred dollars. I judge that car ought to be bought for—

Q. Sold for $1,950. A. Well, it should sell, if it is in very good condition, for around $1,400, and we would expect to buy it for about twelve or twelve-fifty.

Q. About twelve-fifty. Can you tell us what, in your opinion, the value of a Buick coupe sold new March 11, 1926, for the sum of $1,374, if that same coupe were to be sold in July, 1926? A. That was sold the 1st of June?

Q. Sold first in March. A. Well, of course, that is figuring on average conditions. That is the small Six, sold for thirteen something. That is the Light Six?

Q. Yes, $1,374 complete, including all charges, Light Six. A. Well, that car ought to be bought between seven and eight hundred dollars.

Q. That is all.

Cross-examination by Mr. Lane:

Q. How long have you been in business in Paterson? A. In Paterson? I have been only in business in Paterson for eight months, but I have been in the business for ten years.

Q. Yes, I know. A. I bought most of my automobiles in New Jersey for my place of business in Newburgh.

Q. I am interested only in how long you have been in Paterson. A. I have been in Paterson two years, but in business for myself only eight months.

Q. With whom were you in business in Paterson for two years? A. Why, I was with, not in business, but working for Olaf Hansen and Dave Singer, used car men.

Q. Working for them as what? A. Both buyer and the salesman.

Q. Who are they? What business are they in? A. Used car dealers, both of them.

Q. What was your business in Newburgh? A. Used car business, for myself.

Q. How long have you been in the business, the used car business in Newburgh, for yourself? A. Well, from 1918 until 1925.

Q. How did you come to get out of the business in Newburgh and come to Paterson to work for these other two people? A. Well, I sold my business out and went to Florida in that year, and in the Spring of the next year Mr. Hansen sent for me to come with him, and said he had a very attractive proposition for me, and I came back not knowing just what he wanted and started with him, and I stayed with him.

Q. What is the used car business? A. Used car business?

Q. Yes. A. Well, it is buying—

Q. As conducted by you. A. Buying and selling of used cars for the purpose of making profits.

Q. Who are your customers? A. Why, the general public.

Q. To whom do you sell generally? A. What do you mean by that?

Q. You sell also to the general public? A. Why, to any buyer that comes looking for an automobile.

Q. You represent no agencies? A. No. It is a used car proposition, buying and selling from and to the public.

Q. Cars that are taken in—a great many cars that are taken in as junk? A. Well, cars that are sold to dealers, taken in by dealers in some cases; some cases people drive up to the door and sell a car.

Q. Now, most of the automobile concerns, and included in that most are the Cadillac and the Buick, maintain their own used car departments, don't they? A. Yes, but they also—

Q. Don't they? A. They do.

Q. In your experience as a used car dealer, the obvious thing for a person desiring to sell a Cadillac or a Buick car in A number 1 condition, had only been run for two months, would be to go to the Cadillac agency, wouldn't it? A. It would seem so.

Q. That is obvious, isn't it? A. Yes.

Q. If one wanted to determine what the value of a used Cadillac or Buick was, where they had been run only a short distance, dealing with the short periods we have been here dealing with, one would naturally go to the Used Car Department of these agencies for the particular car, wouldn't you? A. Yes, you would think so.

Q. I understand you to say that this Buick car which was sold originally for $1,628, which was two months old, that is, the Buick coach, you say it would be only worth between eight and nine hundred dollars. What would it be worth if it was six months old? A. Well, a car six months old sometimes is worth more in the general condition of it than one that is only used two months

under other conditions, but I judged that car according to the way that I feel a car will sell, and I feel that a thousand dollars would be the price that should be put on it if it is going to sell quickly, and I would want to buy under that price, and that is why I gave you that price.

Q. What would be the price you would sell at if it was six months old? A. Might sell for the same price. You get a car under the price, you know, that can be competed with, you can sell your car. That is the way every dealer judges when he is buying.

Q. Well, at what stage of the history of this car would its used car value get down to below eight or nine hundred dollars? A .Well, if it were a year old it might sell probably for a thousand dollars.

Q. Yes. A. If you take a car buyer, say, show him that you have a buy for him, you have got a '26 that you would sell him for a price that he would have to pay for a '25 car, he is going to buy your car. The buyer tries to buy so he can sell that way. There is no set value to a used car.

Q. There is no set value to a used car, but there is a pretty general rule with respect to approximating values of used cars by percentages, aren't there? A. Yes, sir, there is, there is a blue book and red book guide, of course, we used in a good many cases to decide.

Q. Now, these figures which you have given us as the value of these cars does not agree with the value in the blue book or the red book guide at all, do they? A. Why, I think they do. I have not looked at them. I have the red book guide, too, but I do not think they would be far off.

Q. What percentage is taken off of the value of a Buick coach two months old in A-1 condition? A. Well, in that case it would be pretty near fifty per cent., what I am saying it.

Q. Why? A. I am figuring on the buying.

Q. I am asking you what percentage would be taken off according to the rules in the blue book and the red book.

Mr. Ward: Buying, as I understand?

Mr. Lane: Selling.

A. He asked me what would be a fair price to pay for it.

Q. What would be a fair price to sell it for? A. Well, that Buick could bring $1,400, but it should be bought so you could sell it for less than what the other fellow can, if you are going to buy right, and that is the way the most dealers figure in their buying.

Q. I am not asking you for your own individual experience or your own expert knowledge; I am asking you what percentage is in the blue and red book to take off for a Buick coach two months old which sold originally for $1,628. A. I don't just know what their percentage figure. I guess it is figured about thirty per cent.

Q. You think so? Do you know? A. Not positively, no. In fact, I use the guide in my buying very little.

Q. What? A. I use it but very little.

Q. In your business you do not use those things? A. I use my judgment in most cases.

Q. Well, you buy as cheaply as you can? A. Absolutely.

Q. That is your rule? A. That is right.

Q. You get as much as you can? A. That is, of course, right, too.

Q. Some indication can be obtained as to the value of a used car by the amount that the insurance company will pay upon its loss? A. Yes.

Q. Can it not? A. Yes.

Q. The insurance company under its policy only pays actual value, no matter what you have them insured for; that is right, isn't it? A. I guess it is.

Q. Do you know what percentage, according to the red book or blue book, or whatever you call these books, is to be taken off for a Cadillac sedan —well, this car we have been talking about, the Cadillac—which sold for $5,300, a year old? A. Yes. My red book takes off almost seventy-five per cent; taking a '26 Cadillac, now, selling for four thousand and something, that is the factory price, shows about $1,535. The average price.

Q. Did that apply to the 1925 Cadillac? A. Well, I should think they would apply to 1925 sold in 1926.

Q. Which sold for $5,300? A. Well, that same car shows factory list at 44.

Q. You have never seen any of these cars, have you? A. No, sir.

Q. How did you come to be a witness here? A. Why, a friend of mine happened to walk by a place where I was getting my shoes shined last night, with Mr. Zober and Mr. Davidson, and I guess they had been looking for somebody that would give a fair valuation on these automobiles, and they had spoke to him, which was Lotsy Toot, and he said he only knew trucks, and he didn't know, and he just happened, he saw me, and he said, "There is

a man who is in the business, and he knows more about the value of a used car, pleasure car, than I do, and they asked me if I would come down here. I didn't even know that it was to testify for anyone or what it was for at the time.

Q. That is the way you came in? A. Yes, sir.

Q. Did you suggest that they might go to the Cadillac or the Buick used car department? A. No, sir. I didn't know what it was all about, except they wanted me to give an idea of the valuation of some automobiles. I didn't know what they were.

Q. By the way, what is a 26-40? A. 26-40, what do you mean?

Q. Buick? A. Well, the 40 is the Master Six, five-passenger sedan.

Q. 26-40, then, is a Master Six, five-passenger sedan? A. Yes, sir. The 50 is a seven.

Q. That is all.

WILLIAM C. MARCHESI, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. What is your business, Mr. Marchesi? A. Automobiles.

Q. How long have you been engaged in that business? A. About sixteen or seventeen years.

Q. During that time have you bought and sold used cars? A. Yes, we have traded in used cars.

Q. For how long a period of time have you bought or sold used cars? A. Why, have traded cars, we have been trading for about the past eight years.

Q. Have you been familiar with their values? A. Yes, as market valuations go.

Q. A Cadillac Imperial sedan, 1925 model, bought in December, 1924, for $5,200, what, in your opinion, would be its fair value, market value, in March, 1926? A. Why, with reference to the Cadillac, that is a much higher priced car than the type car I handle, and we very seldom take any of them in trade. I would not be able to give you exact valuation on it.

Q. Can you tell us what the value of a Buick coach would be, bought May 1, 1926, and sold June 23, 1926? A. Sold the same year, that is, and in operation about two months?

Q. Yes. A. I think that car sold in the neighborhood of sixteen hundred dollars. Well, I should judge after two months use, if the car is in fair condition, has not been into an accident or anything of that sort, why, it would bring approximately $1,300.

Q. What have you to say as to the value in the market of the Buick Master Six costing $1,950 new, on February 26, 1926, sold on June 16, 1926; what its value would be on July 16? A. That was '24, sold in what year.

Q. No, bought February 26, 1926, and sold July 16, 1926. A. That is about five months old?

Q. Yes. A. What was that, a Master Six?

Q. Yes. A. I think they sold for around $1,900, isn't it?

Mr. Lane: $1,950.

Q. $1,950 new. A. About five months old. Well, if the paint and so forth is in good condition, tires in good condition, and mechanically, general appearance where it did not need much expense

to it—of course, when a car is appraised we always figure the expense we have to put to it and then deduct that; but I figure a car is about five months old, that car should be in the neighborhood of anywheres from $1,175 to $1,250, all according to the conditions.

Q. Now, a Buick coupe, Light Six, bought May 11, 1926, for $1,374, what have you to say as to what its value will be in July, 1926? A. That is practically four months. The car sold for $1,600 and something.

Q. $1,374. A. That is the Small Six.

Q. The Light Six. A. Well, that car should bring, four months, figure about $900. That is, I am taking it for granted that the cars are in good condition, that is, tire, paint, and so forth. That is, if the cars needed paint, otherwise you deduct that from that price. That is the usual custom we use in trading in cars.

Cross-examination by Mr. Lane:

Q. Mr. Marchesi, in making these figures for the Master Six that you have stated anywhere between $1,175 and $1,250 on a resale, a car four months old, have you figured in that anything at all for reconditioning the car? A. Well, we usually do.

Q. Are you figuring that in your price? A. Well, I am figuring from the way we appraise cars. Whenever we give a figure we always figure $50 reconditioning. It costs $50 for an automobile to go through our plant, so we always leave a leeway of $50 on an automobile.

Q. Upon what basis do you say that the Light Six which was bought in March and sold in July,

operated for less than four months, which cost $1,374, would only have a resale value of $900, assuming, now, that that car was in as perfect condition when it was sold as it was when it came out of the factory?

Mr. Ward: We cannot assume that, in its perfect condition when sold as when it came out of the factory.

Q. Well, I will ask you that. That is what I am assuming. Whether we can or cannot, that is what I am assuming.

Mr. Ward: I object to the question.

Mr. Lane: I press it.

The Commissioner: Mr. Marchesi is qualified to answer. Proceed, Mr. Marchesi.

A. Well, if the car is run four months and it is in excellent condition, of course, it is very hard for a man to determine the value of a car not seeing it, and he is giving the approximate value, and naturally we are always playing safe just as we do when we trade a car in.

Q. But I am assuming in my question that the car is as the dealers say when it has been worked in. A. In a case of that kind you can figure on deducting freight and war tax and at most another hundred dollars. You cannot expect a man to buy a used car and pay war tax. You have to show that inducement, which is approximately a hundred dollars where the car is in very good condition the same year sale, or you have about four months operated.

Q. That would apply also to what you said with respect to the Master Six? A. Yes, if they are in

perfect condition, as you state, as you picture it to me.

Q. Yes. Well, there are cars that are sold that way. You have the agency of the Studebaker, haven't you? A. Yes.

Q. That is all.

Redirect-examination by Mr. Ward:

Q. You have testified upon cross-examination as to your figures if a car were in perfect condition. Now I ask you if, in giving your valuations upon direct-examination, you took into consideration the way a car is used usually. A. Yes, sir; we take into consideration the car is a year old or six months old, but there is usually some depreciation into it, as to whether the paint is all right, tires, all according to the mileage and so forth.

Q. That is all.

Recross-examination by Mr. Lane:

Q. Depends entirely on the individual user of the car? A. Yes.

Q. There is nothing unusual in finding a car that has been run for a year to be in perfect condition, is there? A. Well, if the man has run it practically five or six thousand miles, yes.

Q. If he is running it himself? A. Yes.

Q. And if he has kept it up? A. Yes, it is usually in good condition.

Q. I happen to know, because I have one myself.

ROMAN EGATZ, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. Mr. Egatz, what is your business? A. Used car business.

Q. How long have you been in that business? A. Since 1912.

Q. Were you in the business in the year 1926? A. Yes, sir.

Q. Were you familar with the value of used cars? A. Approximately.

Q. Can you tell me what would have been the value in March, 1926, of an Imperial Sedan Cadillac bought December, 1924, for the sum of $5,200? A. $5,020?

Q. $5,200, December, 1924, bought at that time; what, in your opinion, would be its fair market value of that car in March, 1926. A. All depends on how—in what condition the car is. You can make a mistake of three or four hundred or some hundreds. If the car is in good shape I should figure—it is two years old already.

Q. Sixteen months. A. Sixteen months—well, it is two years; it comes into two years old, within the second year. Well, that is, you can figure first a Cadillac loses about forty per cent. the first year, and after that it loses about thirty per cent., in two years seventy per cent. loss.

Q. Will you tell us what, in your opinion, would be the value, fair market value, of a Buick coach in June, 1926, that car having been bought new on May 1, 1926? A. Same year?

Q. Yes. A. Master Six?

Q. No. A. The Standard.

Q. Coupe. A. That is a Master Six?

Q. A Buick coach costing $1,300. A. Buick coach, 1926?

Q. 1926, bought in May, 1926, what its value would be on June 1, 1926. A. Bought in May, the same year, a month old.

Q. Yes, two months old. A. I figure—bought for $1,375, is that the price? That is delivered, $1,375? It is not listed that much at the factory. Well, I should figure it is worth about, oh, a thousand dollars—a thousand or eleven hundred dollars. Second-hand car. That is paying a big price.

Q. What would be, in your opinion, the fair market value of a Buick coupe Master Six bought new for the sum of $1,950 on February 26, 1926, and sold on July 16, 1926? A. Same year?

Q. Yes, six months old. A. Well, you see, the way I figure. We generally go in accordance with the book, and then we have to use our own judgment on it, how the car looks, the condition of the car. That is pretty hard to say it is worth so much, where it might be worth a hundred dollars more or less on any used car. It is hard to say. I should judge now a car so many months old, why, it should bring twenty per cent. less than the value, the actual value.

Q. What have you to say as to what, in your opinion, would be the market value of a Buick coach Light Six bought new? A. Standard Six, is it?

Q. Well, costing new $1,374, the Light Six. A. Light Six coupe?

Q. Yes. A. Well, that is worth about—

Q. Bought March 11, 1926, for the sum of $1,-

374; what, in your opinion, would it be worth in July, 1926? A. It is not for me to buy—it is selling. The price it should bring in on a selling price, is that the idea, that you want to know?

Q. The market value. A. Well, market value, there is no such thing as market value. Market value, it is not exactly the value that we can get for it. That you can judge for yourself.

Q. There is such a thing as market value? A. There is no such thing as market value. It is a book I have, but it has market value, but you have to use your own judgment when you look at a car.

Q. Well, in your judgment. A. Well, in my own judgment it is worth from $900 to $1,000.

Cross-examination by Mr. Lane:

Q. What do you base that judgment on? A. The looks of the car, the condition of the car mechanically.

Q. You have not seen it, have you? A. No, sir. I presume that if it is in good shape, and the price I give it I figure that it should be in good shape.

Q. Suppose they are in A number 1 shape? A. If they are A number 1 shape, I say a thousand dollars.

Q. Why? A. Because they would bring that much in, that is why.

Q. When did you sell one for a thousand dollars in A number 1 shape? A. Well, I sometimes sell them for more than that, I get more than that for them; sometimes less. It depends.

Q. You do get more? A. Sometimes I do and simetimes I don't; it all depends how I bought them.

Q. Up to what price do you get sometimes? A. Well, I got for American Standards—

Q. No, let us confine ourselves now to this last car you talked about, that you say was $1,000. Light Six. How much do you get for those cars second-hand, six months old? A. I have never sold that year in that month old.

Q. Then, with respect to that car you are not basing your judgment on any of these cars you bought or sold, have you? A. Well, in case anybody comes around I could get that price, I can sell them for that price.

Q. You had the Buick Master Six sold for $1,950, that, you say, was worth $1,400, only a couple of months old, six months old. What do you base your judgment as to that on? A. Judgment because of my experience. I have sold them. I know.

Q. Did you sell them for more than that, too? A. No, sir.

Q. Six months old cars? A. Yes, sir.

Q. When did you sell six months old, if you have? A. I don't say six months; I say nine or ten months.

Q. This is six months. It is only out of the factory three or four months. It is five months. A. And I figure on the selling them at that price about $1,400.

Q. Have you ever sold any so soon out of the factory? A. No, sir.

Q. Have you ever sold any car that has been out of the factory only a month? A. Yes.

Q. When? A. Just about a month ago.

Q. About a month ago. What make? A. Oakland coach.

Q. What is that car? A. I sold it for a thousand dollars.

Q. What does it cost? A. $1,275 delivered.

Q. $1,275? A. $1,275 delivered.

Q. You sold it for $1,000? A. Yes.

Q. That is just about the freight charges and war tax off, isn't it? A. Yes; it was only four weeks old.

Q. One of these cars is only about four weeks old when it was stolen—two days old when it was stolen. A. I don't know anything about that.

Q. What you got for that car was war tax and freight charges off, plus about $100, isn't it, or less than that—less than $100 off? A. That is what I got.

Q. Well, why shouldn't the same rule apply to a Buick that is only about four weeks old? A. You said four months old.

Q. Three or four weeks, now. A. You say four weeks old, it applies the same thing with a Buick.

Q. What is the difference between four weeks, which is one month, and four months? A. Why, there is a big difference.

Q. Why? A. Four months and four weeks is a difference. Four weeks it might be banged up on the paint.

Q. Sure, but I am talking about paint. A. How many miles he went.

Q. I am talking about a car that is in as good condition after it has run four months as after one month? A. It cannot be as good condition.

Q. You say as an expert automobilist that an automobile four months old cannot be in as good condition as it was when it left the factory? A. I say it can be nice looking. It has been run many more miles.

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Q. You have to run them a certain number of miles before you run them in? A. That is the way you have to figure on the mileage.

Q. Well, you have to run them a certain number of miles before you run them in? A. Run them in where?

Q. Break them in. A. Yes, sure.

Q. More cars are ruined in the breaking in process than any other process; is that right? A. I do not think it is.

Q. Do you know the necessity for breaking in a car? Do you know the reason why it is you have to run a car a certain number of miles to break it in? A. Yes, to loosen them up nice.

Q. To loosen them up? A. To get it worked in. so you won't have to have—to get their motor worked in right.

Q. Sure. You know what the engine is actually doing is machining the engine, isn't it? A. Yes.

Q. It is machining? A. Yes.

Q. Machining work? A. Yes.

Q. Now, you tell me that you don't know more cars are ruined by careless driving during that period than by any other way? A. You can ruin them before and after. It all depends if you take care of them.

Q. If the car has had its breaking in process and has come through in A-1 condition, do you mean to say that car, four months old, is any less valuable than one one month old? A. That is it.

Q. Eh? A. Right.

Q. You say it is? A. Yes.

Q. Less valuable? A. Less value than one month old.

Q. Yes? A. Because it is.

Q. Just because of the length of time? A. That

is not much difference in value, because this you have reference to is listed $1,975 for the factory, and you are getting $1,400 four months; I think you are getting a pretty good price.

Q. That is a great deal more than what you allowed on that Oakland. A. The Oaklands sell quicker, and this was one brand new, it only run 900 miles.

Q. How many Cadillacs have you sold in 1926? A. Very few Cadillacs I sold. I don't handle much of them big stuff.

Q. Ever sold any Cadillacs? A. Yes.

Q. When? A. Once in a while, not this year I haven't sold any. The year before I did.

Q. What do you base your value of this Cadillac Imperial sedan, $5,200 car, which is out of the class of cars you deal with? A. Yes, that is out of my class.

Q. What do you base that on? A. I base it on accordance to the market value I have bought. If anyone comes along to buy I can sell it right off the reel.

Q. According to your method of computation, the that car would not be worth anything after the end of the third year, would it? A. Well, them big four or five-thousand-dollar cars, they depreciate more than any other small car.

Q. According ti your method of computation, the car would be worthless at the end of three years, wouldn't it? A. No, it would not be worthless, because I figure the first year it is less forty per cent.

Q. Forty the first year, and the second year thirty per cent. That is seventy per cent. A. After that whatever you can get.

Q. Now, in the third year what would you estimate getting for it? A. Third year, would all depend on the condition, yes.

Q. Well, the second year depends on the condition, and the second year and six months depends upon the condition of the car, doesn't it? A. Yes, sure.

Q. That is all. A. Depreciate about ten more, finally you get down to nothing.

Q. You are getting down to nothing very quick? A. You get down to nothing quick with those big cars, and can't give them away.

(Recess to 1:45 o'clock, P. M.)

Afternoon Session.

PETER KOPCHAK, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. What is your business? A. Why, I worked for a garage.

Q. Whereabouts? A. E. A. Brown Oil Company.

Q. Whereabouts were you employed in March of 1926? A. Why, I was there working for E. A. Brown at that time.

Q. Whereabouts? A. Mechanic inside, in the shop.

Q. At what place? A. Lexington Avenue.

Q. That is the Cadillac Agency, is it? A. That is the Cadillac Agency, yes.

Q. Do you recall the afternoon when Chief Zober came to your place of business? A. Why, yes.

Q. What did you do when he got there? What happened? A. Well, Chief Zober came in with two more fellows and they came in the shop and they were asking for a mechanic, and I says, "I am right here," so they said, "I want you to come out side and look over the car and see if the car is in good condition."

Q. What did you do? A. I went outside and lift the hood up and started the motor. Why, everything was A-1 condition. The only thing was a little tightening up of the timing chains on the front, they were a little loose, but that don't run up to very big expense to fix it up, so they asked me what I thought of the car. I said, "Gee, the car looks good and runs good and everything." So they said, "Is it worth $1,600?" I said, "Why not? I give it right away if you want to sell it." And Mr. Zober, he said, "No, no, we don't want to sell it. We want to buy it."

Q. How long did you examine the car? A. I believe that was in May, in 1926.

Q. How long? What period of time did you examine? How many minutes? A. Well, I was around a good quarter of an hour, I was working to look over the car.

Q. You inspected it thoroughly, did you? A. Yes, sir.

Q. Then you assured the Chief it was all right? A. Yes, everything was all right.

Q. Excepting the timing? A. Timing chains on the front, they were making a little noise—not the timing chains, but the chains that drive the fan. The fan was a little bit wobbly.

Q. Was there anyone else in your place of business at this time outside of those that came with Chief Zober. A. No.

Q. Who was in charge of the agency at this time? I mean, at that actual time. Was there anyone else besides yourself who was in charge there? A. Why, yes, there was a Mr. Jennings, see, but he don't even see the case; he only passed by me and don't even pay any attention to the fellows outside there, Chief Zober and those other two fellows.

Q. They came in to you? A. They came in to me, yes.

Q. After you had examined the car and said it was all right, what happened then? A. Why, they asked me how much? I said, "No charge on it," so they went. That is all I know.

Q. That is the last you saw of them? A. Yes.

Cross-examination by Mr. Lane:

Q. All you did was to look over the car for its mechanical operation, didn't you? That is all? A. Yes, that is all.

Q. And that is all you were asked to do? A. Yes, sir.

Q. How old are you? A. Twenty-four, I mean twenty-five I am going to be in January.

Q. Were you born in this country? A. No.

Q. Where? A. In Czecho-Slovakia.

Q. That is all.

HENRY BRANDENBURG, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. What is your business, Mr. Brendenburg? A. Farmer.

Q. Whereabouts are you conducting it? A. Woodridge.

Q. How long have you been in Woodridge? A. Thirty-six years.

Q. Have you or did you have any place of business in Woodridge on the—of course, you did have your place of business in the year 1926, did you not? A. Yes, sir.

Q. Did you know Chief Zober? A. I did.

Q. How long had you known him? A. Why, I don't know exactly how long; it was three or four years, at least, maybe more.

Q. How had you become acquainted with him? A. Why, I think the first time I met him was in his brother's home.

Q. After that where did you meet him? A. Why, I met him occasionally, he came over to the farm to get fresh vegetables.

Q. Did you know Mr. Vordemeier? A. Yes.

Q. How long had you known him? A. Why, six or seven years, that is, maybe longer; I don't remember exactly how long, quite a long time.

Q. Do you recall any occasion when Chief Zober came over to your place of business when there was a Cadillac car there? A. Yes.

Q. Who brought that car there? A. Why, I don't know who brought the car. Vordemeier was in the car.

Q. Vordemeier was in the car at the time? A. Yes, sir.

Q. Do you recall Chief Zober coming there? A. I didn't see the car coming in. I was busy around there in the frames, the glass, a short distance away when they pulled in, and I didn't see who was there. I didn't know who was driving the car.

Q. But you recall— A. They found me there working, and then I just see Vordemeier at that time.

Q. You recollect Chief Zober coming there also, do you? A. He came a few minutes later.

Q. Do you remember what happened there on that occasion after Chief Zober came in? A. Why, I was talking to Vordemeier at the time Chief Zober drove in, and Chief and Judge Davidson got out of the car and came over; I don't know whether they came over together. The Chief came over first, and he wanted to get some fresh vegetables, and when they came over I introduced these fellows, Chief Zober, Mr. Vordemeier, and Judge Davidson was right behind, I guess—Judge Davidson, Mr. Vordemeier.

Q. What else was said by you at that time? A. Why, I don't remember whether anything else said at that time.

Q. Was there any discussion about this car? A. Well, at that time I don't know whether I said Vordemeier had a friend that could get him a car or whether Vordemeier said that himself, I don't recollect, but something was said to that effect, that Vordemeier had a friend.

Q. Give us your best recollection about that, please, I mean what was said. A. Well, that is about all.

Q. What was that? A. That Vordemeier had a friend, knew somebody that—I will tell you, I don't remember whether Vordemeier said this or whether I had the knowledge.

Q. How did the subject of the Cadillac come up, if you recall? A. I think Vordemeier said, "I have a car over here, which my friend has for sale," some words to that effect.

Q. What was done then? A. Why, I don't know. Why, the Chief and Vordemeier had a conversation I didn't hear. There was something said about a car, but somebody called me away at that time, they had finished their work and they wanted a new job; I was there on and off. I don't know just what transpired.

Q. Did you hear anything more said about the car? A. Not that I recollect.

Q. Do you remember anything else that was said by Chief Zober or by Vordemeier in your presence, I mean on that particular occasion? A. I think the Chief mentioned something about his car being pretty well worn out, that he was in the market for a car, and Vordemeier replied by saying that we had one, or—I heard something like that.

Q. That he had one? A. Yes, he had one right there, that these fellows came in, Vordemeier and the other man. I saw the man that was in that car at that time.

Q. Was that before or after you had introduced the Chief to Vordemeier or introduced Vordemeier to the Chief as Vordemeier being a man who had some connection with a friend who could get him a car? A. That was after.

Q. So the introduction came first; is that right? A. Yes. I introduced these men.

Q. The subject about him being able to get some car for the Chief came up first? A. Well, I don't know just what happened there, except that I said that—maybe I said it, maybe Vordemeier said it; I don't know which one said to the Chief that he had a friend that represented the finance company. Something was said to that effect. But Vordemeier may have said that to the Chief himself or I

may have said it. I probably knew at the time. I did, that such was the case.

Q. Then they went over, you say, and looked at the car? A. I did not look at the car. I was very busy.

Q. What became of them? A. Why—

Q. What became of Chief Zober and Vordemeier? A. They talked together for probably ten or fifteen minutes. I don't know what was going on, what was said.

Q. Did the Chief make any purchases before going away? A. Not as I know of.

Q. No; I mean of anything besides the car? A. Oh, yes, sure, some vegetables out of the frames, some fresh cauliflower and a few things, whatever was there at that time under glass.

Q. Then he went away? A. Yes.

Q. Is that correct? How long after he left did Vordemeier leave? A. Well, they left right away. I had talked to Vordemeier. He came there to find out about opening up—

Q. How long after the Chief left did Vordemeier go? A. Right away.

Q. Right away? A. Yes.

Q. Do you know anything about this car after that? A. No, I don't know anything about it.

Q. That is all.

Cross-examination by Mr. Lane:

Q. When you had a stolen car there yourself, didn't you? A. No.

Mr. Ward: I object to that.

A. No, I didn't.

Mr. Ward: Well, it is answered, and I withdraw the objection.

Q. There was a car taken away from you that was stolen, wasn't there?

Mr. Ward: I object to it. What place has that in this case?

Mr. Lane: I press it.

Mr. Ward: I say, it has no place in this case. It is not cross-examination. There is no charge in this case that the Chief knew anything about any car that this gentleman had. It had been confined strictly to what occurred on this occasion.

Mr. Lane: I press it. What is the question.

(Question repeated by stenographer.)

Mr. Ward: I object.

The Commissioner: Why, if there is anything we can learn from a police standpoint in reference to crime and stolen cars, I think it is part of our duty, Mr. Ward. At least, that goes. The witness has already answered, as I understand it. No, he said.

Mr. Ward: Then that was followed by another. It is that.

The Commissioner: I think that question is regular. It is proper.

Mr. Ward: Your Honor overrules the objection?

The Commissioner: Yes.

A. Yes.

Q. When? A. I don't remember. About three or four months ago, I guess.

Q. When did you buy that car?

Mr. Ward: I object on the ground it is irrelevant and immaterial.

Mr. Lane: I consent they may have an

objection to this entire line of cross-examination.

Mr. Ward: That is for your Honor to say. I am simply here to protect the interests of my client. It is very gracious, indeed, of Mr. Lane to make that statement, but I cannot—

The Commissioner: You see, we know what may develop in this. It is very interesting to know who has been dealing with stolen cars, and if the information can be gained in this manner, I think it is proper.

Mr. Ward: In this particular proceeding?

The Commissioner: Yes, to find out if there are other stolen cars. Proceed.

(Question repeated by stenographer.)

A. I don't remember.

Q. Well, tell me about. A. I can't even tell you about. It is over a year ago, I know.

Q. Yes, but it was a year ago and over that Chief Zober came to your farm, and you remember all that. Now, the purchase of a car that turned out to be stolen had something to do with you. Now, you remember when you purchased this car that turned out to be stolen? A. What do you mean, when Chief was over there?

Q. You have been just testifying— A. Oh, I say it was a certain time.

Q. About, I said. A. I can exactly remember when I bought it, yes.

Q. When was it you purchased the car that was taken away from you a short while ago as a stolen car? A. I think it was sometime in the summer, sometime in the late summer, maybe.

Q. Of what year? A. —'27—'26, I guess it was. '26.

Q. That is last year? A. Yes. Last December they issued new plates. Yes. Last year, '26.

Q. How long had you known Vordemeier? A. About six or seven years.

Q. What business was he in? A. He was in the provision business.

Q. Provision business? A. Provision business.

Q. Did you ever know him to be in any other business? A. No.

Q. When you made the introduction to Vordemeier, if you did introduce the Chief to Vordemeier, did you introduce him as a man who represented an automobile finance company from Jersey City? A. No.

Q. What? A. No.

Q. Did you— A. If I said anything. I don't know if I did. If I said anything about it, I said he had a friend who represented—he had a friend who was connected in some way.

Q. Do you know what the friend's name was? A. I do not.

Q. Do you remember whether you said anything about it? A. I did at that time.

Q. What? A. I did at that time.

Q. When did you? A. I only saw the man once —heard his name once. I am not a politician, I don't remember the name. I would know his face.

Q. When did you forget his name? A. Forgot it immediately. That is a very bad feature; I don't remember names. Have to be introduced three or four times before I really remember a name, or at least meet a man quite often.

Q. Did you ever hear Vordemeier say where he came from? A. Where Vordemeier came from?

Q. No, where this friend came from? A. No.

Q. Did you ask? A. I did not.

Q. Did either Vordemeier or this friend of Vordemeier's at any time say what finance company was involved? A. No.

Q. Did anybody ask? A. I don't know if anybody asked. I did not ask.

Q. You did not ask? A. It was no concern to me.

Q. You did not know? A. No.

Q. What did Vordemeier come to your farm for that day? A. He wanted to rent a part of the stand that I was selling vegetables on and open up a hot dog—he wanted to open up a hot dog stand on the corner; was going to put somebody in to run it for him.

Q. How long was he at the farm before the Chief came? A. I should imagine about ten or fifteen minutes, maybe less, because it took him about five minutes to locate me around the farm and then we walked back to the buildings. About ten or fifteen minutes, I should judge.

Q. Then the Chief and Vordemeier got to the farm each within a quarter of an hour of each other? A. Yes, about.

Q. And they both left— A. And they left at the same time, very nearly the same time.

Q. And Vordemeier came driving this Cadillac? A. I said I didn't see when they drove in.

Q. Well, did Vordemeier have any— A. I don't know who drove the car in.

Q. Did Vordemeier? A. Because Vordemeier came down to the farm where I was working to see me.

Q. Did Vordemeier drive out with the Cadillac?

A. I did not see him leave. That is, I didn't see who was driving going out.

Q. Did the Cadillac stay there after Vordemeier left? A. It did not.

Q. Well, then, whether Vordemeier was driving or somebody else was driving, did the car leave when Vordemeier left? A. Right.

Q. A car was not there when Vordemeier came? He brought the car; is that right? A. Yes.

Q. How long did you and the Chief and Vordemeier speak together? A. Did I answer that question before?

Q. I don't care whether you have answered it before or not. Answer it again. A. Well, I said a few minutes on and off. I had left a few times —people ran out of work.

Q. Well, about how long was it that the Chief was at the farm? A. Not long. I said fifteen or twenty minutes, maybe. Ten or fifteen minutes; I don't remember. It was a short time. The whole thing was—these cars came in. There were a lot of automobiles around there; other people I got talking to in the meantime. There was one—a couple of what you call them, peddlers, they came around to buy stuff.

Q. Tell me everything that was said in your presence about this car. A. I did.

Q. Well, tell me it again. A. Well, the only thing I heard was that he had this Cadillac for sale.

Q. Well, what was said? Give me as near as you can the language of the parties, who said it, what was said? A. Vordemeier said, "I have one right here." That is all I heard.

Q. What was said before he said, "I have one

right here"? A. Well, I didn't hear it; I didn't happen to be there at that time.

Q. So you just happened to get to the scene when you heard Vordemeier say, "I have one right here," but you did not hear what preceded it; is that right? A. Some things I heard that preceded it, not all.

Q. Well, did you hear what preceded the words, "I have one right here"? A. No.

Q. Well, go on. What things did you hear? A. That is all.

Q. Well, is that all you heard, "I have one right here"? A. Yes.

Q. Is that all you heard about the purchase of the car? A. Yes. I know nothing about the purchase of the car.

Q. Well, about looking at a car, then, about the sale of a car. Is that all you heard, "I have one right here"? A. Yes, sir.

Q. You didn't hear anything that Vordemeier said before that? I mean, you didn't hear anything that the Chief said before that? A. I don't quite understand the question.

Q. The question is quite simple. What I want to know is from you, is everything that you heard either the Chief say or Vordemeier say, and everything that you said yourself. A. I told you everything I said.

Q. Tell me it again. You told it when Mr. Ward asked you and suggested what it was. Now you tell me without suggestions.

Mr. Ward: That is improper and I ask that it be stricken from the record. There is no suggestion.

Mr. Lane: Notwithstanding the fact there

was suggestion on your part, I will withdraw the question.

Q. Tell me everytning that was said. A. What time?

Q. From the time the Chief of Police got to your farm until the time the Chief of Police left your farm. A. You mean the introduction and all?

Q. The whole business. A. The whole business?

Q. Yes. A. Well, as I came walking along with Vordemeier, and Chief and Judge Davidson got out of his car upon arriving, looking for me, too, and I was talking to Vordemeier—

Q. What were you talking about? A. About this concession.

Mr. Ward: I think the one question should be answered. He is asked to tell all that was said, at the time the Chief got there, and he is interrupting now.

Q. I press the question. What were you talking about to Vordemeier? A. About the hot dog concession that he wanted to put in there. He had some boy or a young fellow that he—

Q. Not about cars? A. Not about cars, no.

Q. Go ahead. Now, go ahead and tell me everything that was said from the time the Chief got there. A. Then when the Chief came over to see me I was with Vordemeier and I introduced them.

Q. What did you say? A. "Chief of Police—or Chief Zober, Passaic, Vordemeier; Judge Davidson, Vordemeier."

Q. Go on. A. And that is about all that was said. I don't know whether I said or whether Vordemeier said he had a car for sale, or some

friend of his—no, if he wanted a car that he had a friend was in a position to get good buys.

Q. What brought that about? Did you or Vordemeier happen to say that? A. Well, he had mentioned to me, probably a couple of weeks before, that—I might have been under that impression from some previous time.

Q. Who is he? A. Vordemeier. I saw him occasionally. He stopped quite often over there, tried to put in hot dogs.

Q. Yes? A. He may have said something to me at another time previous.

Q. Do you know whether or not he did or not? A. He did, yes.

Q. All right. What did he say? A. Well, he said he had a friend that was in a position—that was connected with some finance company, and he got a good buy once in a while of cars and wanted to know if I wanted one, and I told him I could not use one, could not afford to have one.

Q. Did he say what the position of his friend was? A. No; just mentioned he was connected in some way with the finance company.

Q. Didn't say in what way? A. No. I was not interested to find out what his friend was. I knew Vordemeier. Vordemeier told me these things. It was of no interest.

Q. Where is Vordemeier now? A. Vordemeier is dead.

Q. When did he die? A. I remember when he died, but I don't know the exact date.

Q. About when did he die? A. I imagine it is about six or seven or eight months, something like that, ago; I am not sure.

Q. Well, now, going back to the time when the Chief was there and you say that either you or

Vordemeier may have said that he was a man who had or had a friend who could get cheap cars, I want to know what led you to say that to the Chief of Police who had come over for green goods and not for automobiles. A. Well, now, didn't I say that the Chief said his car was shot?

Q. No; you said that afterwards. A. Yes, I said that.

Q. Yes, you said that afterwards. A. I may have said that before. I don't remember. There was something.

Q. Well, who introduced first the subject of cars? That is what I want to know. A. Vordemeier or myself, either one.

Q. Then, why did you introduce the subject of cars when the Chief had come for green vegetables? A. To the Chief?

Q. Yes, to the Chief. A. Everybody is a prospective customer.

Q. Everybody is a prospective customer? A. Sure.

Q. So that, you thought the Chief of Police—you thought the Chief of Police coming for green goods was a prospective customer for a car that Vordemeier might get? A. I didn't say I did.

Q. Mr. Vordemeier did, then? A. Probably. Anybody.

Q. You don't remember whether you did it or whether Vordemeier did it? A. No, I do not. I know something was said at that time.

Q. Then, what did the Chief say? A. I think he said he was in the market for a car—yes, he did.

Q. Yes. What else? What else was said? A. That he would look it over.

Q. Look what over? A. The big car.

Q. You haven't said anything about the car yet. A. Yes, I said the car was up there. Vordemeier said he had one right there. I said that.

Q. In response to what did Vordemeier say, "I have one right there"? A. Some conversation that they had. I was away and back.

Q. How long were you away? A. Just a couple of minutes, enough to put somebody to work and back.

Q. Then when you came back you heard Vordeceier say, "I have one right here"? A. Yes.

Q. What did the Chief say? A. The Chief said it was too big for him—it looked too big for him.

Q. Did Vordemeier say anything about how he happened to have the car right there which his friend could get cheaply from me—through some finance company, or his connection with some finance company? A. I don't know.

Q. You didn't hear anything of that kind? A. No.

Q. You say you met this friend of his once? A. That time—just introduced him, while he was there sitting in the car. This other man that was with him never got out of the car.

Q. With whom? A. Vordemeier.

Q. Was there another man with Vordemeier in the car? A. That is what I said. There was a man in the car. He never was with Vordemeier until we went out, as far as I know. Vordemeier was there and he came in with this man to see me, and Vordemeier came in to see me.

Q. Did Vordemeier say that that was the friend of his in the car? A. He did not. He introduced me to this man.

Q. What? A. He introduced me to this man.

Q. Well, what did he introduce you to this man as? A. Probably was his friend.

Q. Did he introduce you as the friend connected with the finance company? A. He did not.

Q. Then, what did you mean a few minutes ago when you said you only saw the friend once, and that was the time at the farm? A. I am drawing conclusions from that. He was driving the car and probably was not in.

Q. Nothing was said by Vordemeier that this man was the friend? A. No.

Q. Do nobody thought of asking that the friend come around and speak about his own business? A. Not that I know of. I didn't hear anything.

Q. Now, did you see this friend at any other time? A. No.

Q. You saw him at one other time, didn't you? You bought the car from him, didn't you, that was taken away from you later as a stolen car? A. No.

Q. Who did you buy that from?

Mr. Ward: If your Honor please, again I think that that has nothing to do with this case. Simply trying these issues that are in these charges, and that is all.

Mr. Lane: I press the question.

Mr. Ward: It is not your duty as Director of Public Safety or presiding as Judge on this trial to find out about other cars. You can call this man in—I don't care how many people you call in at other time—but I do not think this record should be made up of extraneous matters not material to the issues in these charges.

The Commissioner: Proceed.

(Question repeated by stenographer.)

A. I don't know the man's name. I don't know the man.

Q. You bought a car second-hand from a man whom you don't know? A. Yes. It is not the first one, either. I bought more cars.

Q. From men whom you don't know? A. Absolutely.

Q. So was this man introduced to you by Vordemeier? A. No; this man came around and said that Vordemeier sent him—Vordemeier sent him around.

Q. So he was not introduced to you by Vordemeier at all? A. No.

Q. And he was not the friend whom Vordemeier referred to when you had the talk with the Chief? A. I never saw that fellow before.

Q. You didn't see him afterwards, did you? A. I never saw him after, no.

Q. So he was not that man? A. No.

Q. Is that right? A. Correct.

Q. Do you remember speaking to Captain Monks, Detective Cunningham and Detective Boyko on the 8th day of November, 1927, less than a month ago, and being interrogated with respect to this matter? A. Do I remember?

Q. Yes. A. Do I remember what?

Q. Do you remember that such an interrogation took place? A. Yes.

Q. Do you remember being asked the question:

"Q. From whom did you buy the car? That is, referring to the stolen car. "A. From a man who was introduced to me by Bob Vordemeier." A. I don't remember. I don't remember what—

Q. Do you remember telling Captain Monks and

these other detectives that you bought this car from a man who was introduced by Bob Vordemeier? A. I don't remember what I told him.

Q. Well, that is only a month, less than a month ago, and you can't remember a month ago what you told the Captain with respect to this matter which vitally concerns you, but you can remember what happened in the spring of 1925, conversations with Vordemeier and the Chief of Police which did not concern you at all? A. I don't quite understand the question.

Mr. Ward: I object to the question on the ground it is characterizing the testimony not properly.

The Commissioner: He has already answered he does not remember, Mr. Ward.

Q. You now do not remember whether you told Captain Monks that you bought the car from a man who was introduced to you by Bob Vordemeier? You don't remember you told him that or not? A. (No answer.)

Q. Does it take you— A. What question did Mr. Monks ask me?

Q. He asked you, "From whom did you buy the car?" A. Are you sure he asked that question?

Q. I am sure that I have a memorandum that that is what he asked you and that is what he will say he asked you. A. Well, I don't remember, nor I didn't want to give him any information at all, knowing that they were bitter against the Chief; the Chief was my friend. I knew Vordemeier, but I knew the Chief. Any questions I answered were in that way.

Q. Were in what way? A. That I didn't want

to tell them anything that may reflect on either one of these gentlemen.

Q. Well, the truth cannot hurt, can it? Do you think the truth could hurt? You were not asked by Captain Monks to tell a lie, were you? A. I only told him what I knew, that is all.

Q. Well, now, I ask you whether you told him in response to the questions, "From whom did you buy the car," you answered, "It was from a man who was introduced to me by Bob Vordemeier"? A. No. I don't remember that question. The question was put to me different.

Q. How was the question put to you if it was put to you different? A. The only question was asked me was, "Did I buy a car from Vordemeier?"

Q. You remember being asked the question, "What is the man's name?" And your answer was, "I don't know." A. No, I don't remember.

Q. You didn't know, did you? A. I don't remember. I don't remember those questions in that way.

Q. You didn't know the man's name, as a matter of fact? A. No, I did not.

Q. Do you remember being asked the question: "Where did this man say that he came from?" And your answer was, "I don't know." A. Where?

Q. You were asked that by Captain Monks? A. I don't know what questions they asked me. They asked me quite a few.

Q. Do you remember being asked, "What did he look like?" And you answered, "I don't remember." A. No, I don't remember.

Q. You don't remember? A. No.

Q. Can you describe this man? A. No.

Q. Can you describe him in any way at all so we may find him if we can? A. Dark man.

Q. Yes, there are thousands. A. Well, looked like an Italian man, Italian extinction.

Q. How was he dressed? A. Well dressed.

Q. How did you pay him?

Mr. Ward: Of course, I object to this line of questioning again, on the ground that it has nothing to do with the issues that we are trying here, and I ask your Honor's ruling.

Mr. Lane: I press the question.

The Commissioner: Proceed.

Q. How did you pay him? A. Well, I decline to answer.

Q. Why? A. On advice of counsel.

Q. What counsel? A. (No answer.)

Q. What counsel? A. Do I have to answer that?

Q. Yes, you do. A. No counsel.

Q. No counsel. So you deliberately perjured yourself here a minute ago, didn't you? What did you mean, sir, under oath, in saying that you declined to answer on advice of counsel, and the next minute saying response to a question that you had no advice of counsel? Do you know what an oath is? A. I do.

Q. Well, then, what did you mean by perjuring yourself that way deliberately? A. Did I? Must I tell a man's name, Counsel?

Q. Well, I ask you which is true. You have told me you had no advice of counsel. Now you say, "Must I tell the name of counsel?" Which is true? A. I thought those were all my counsel.

Q. Those are all your counsel? I am not, at least. What is the name of counsel who advised

you not to answer? A. Why, I took that upon myself, advice.

Q. So you had no counsel? A. No.

Q. Well, then, I go back to the first question. Why did you deliberately perjure yourself a minute ago? A. I thought that was the customary saying.

Q. To lie on the stand? A. No, not to lie. I understood this, that if a man—

The Commissioner: Let the witness talk.

A. If a man said, "I decline to answer on advice of counsel," it is understood that he would get counsel or something—that I could get counsel before I answered the question. I did not mean to perjure myself or anything in that light. I was under the impression if I could not answer this question suitable that I could apply for counsel or something like that.

Q. So you were under the impression that if you did not want to answer a question all you had to say was you would refuse to answer on advice of counsel, whether you had any counsel or whether you didn't? A. Yes. Couldn't I get counsel?

Q. That is the way you understand the English language? A. I was under that impression, I could get counsel right away.

Q. Now, do you decline to answer as to how you paid him, and if you do, on what ground? A. No; I don't know why all these questions are asked me. I would like to know why.

Q. Well, I am not going to argue with you. You either answer or not. You have a privilege of declining to answer upon the ground it would tend to degrade or incriminate you, if you want to, and

that is the only privilege you have. If you want to assert that privilege I am quite content. A. Perfectly willing to answer the question.

Q. Then, answer it. Don't let us waste so much time over it. A. Paid cash.

Q. How much? A. Twelve hundred.

Q. Do you remember telling Captain Monks that you paid $1,150 by cash? A. No, I don't.

Q. You don't remember that? A. $1,150—it may have been 1,150.

Q. Did you ever see this man before you bought the car from him? A. No.

Q. Did you ever see him after you bought the car from him? A. No.

Q. Now, do you remember being asked by Captain Monks, "Are you positive that you never introduced Bob Vordemeier to Chief Zober as a man who represented an automobile finance company from Jersey City, from whom he could buy cars very cheap?" And your reply, "I am positively sure I never did." A. That is right.

Q. What? A. That is right. I remember, yes. That I remember.

Q. Now, do you remember being asked the question: "Do you remember ever seeing any men showing or selling any cars to Chief Zober at your stand at the farm? A. No, sir; there were no cars sold at the farm." Do you remember that? A. I didn't answer—I never sold a car sold at the farm. There was no cars sold at the farm. No, there wasn't any cars sold at the farm, to my knowledge.

Q. How well did you know Vordemeier? A. Well, I don't know how to answer that. I met him about six or seven years ago at one of his cus-

tomers in Washington Park, that is near Little Ferry, and that was the first time I met him. I didn't see him after that for two or three years, I guess, and then he—I saw him passing one day with his delivery wagon, and he stopped in. I was working on the tractor, and he stopped and talked to me, and occasionally after that, that was after I opened the stand, he stopped to sell hot dogs, and he wanted to put in hot dogs on the stand that I was running on that farm.

Q. Just a casual acquaintance? A. Yes. We talked together quite frequently.

Q. That is all.

DR. LEO W. BRANDENBURG, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. Dr. Brandenburg, you are a practicing physician and surgeon in this State? A. I am.

Q. Practicing how long? A. Since 1913.

Q. Practicing where? A. In Secaucus up until February the 1st, 1927.

Q. And then where? A. Then Union City.

Q. Do you know Chief Zober? A. I do.

Q. Do you remember any occasion when you were at the farm of your brother when Chief Zober was there, when a Cadillac car was discussed? A. I remember an occasion, yes.

Q. That was in March, 1926? A. 1926? I don't know whether it was March. It was early in the spring of 1926. This coming spring will be two years.

Q. Prior to that time had you known a man by the name of Vordemeier? A. I did.

Q. What was his first name? A. Robert.

Q. How long had you known him? A. To my recollection, I have known him upward of eight or ten years.

Q. To what extent had you known him and been in contact with him? A. I had known him, dealing with him, I had known him as a patient, and I had known him as a friend.

Q. Well, in dealing with him—in what respect had you dealt with him? A. Well, in dealing with him as a patient I had sent to the X-ray laboratory, I had prescribed for him, I had, I believe, on one or two occasions attended to one of the members of his family.

Q. Had you ever had any business transactions with him? A. I did.

Q. What? A. In 1918 or '19, I can't confine myself to the exact date or order of time, but about that time I was instrumental in selling him some Smith Tire stock, having been interested in the Smith Tire myself, and later on I believe I sold him several tires for a friend of mine who was selling the Smith Tire.

Q. I see. Any other business transactions that you recall? A. Well, offhand I don't recall. I don't recall, but these two incidents I remember distinctly, that I had done business with him.

Q. Now, on this occasion in March did you see Chief Zober and Judge Davidson at the farm of your brother? A. I believe I did, in the spring of 1926.

Q. Yes. A. In the spring of 1926 I saw Judge Davidson and the Chief.

Q. Whereabouts did you see them, Doctor? A.

Out around the buildings there where the vegetables are prepared for loading on the market trucks.

Q. Did you hear any conversation that took place between Mr. Vordemeier and Chief Zober with reference to any car? A. Why, yes, I did.

Q. Will you just tell us what it was that you heard? A. Why, Mr. Vordemeier stated that he had a connection or he had friends who were interested in a finance company and that they sold repossessed cars, cars which had been taken from people who were unable to pay for them or who had had some difficulty and they were obliged to return the cars. Now, Mr. Vordemeier said that he had the chance of making a couple of dollars and he had the connection where he could get cars for anybody desiring them.

Q. Whom did he tell that? A. Why, he told that to me, and he also said it to the Chief, who was there at the time.

Q. What else was said there, Doctor, at that time, if anything? A. Why, if I recall correctly, he said, "We have a car here now which I think can be bought, and which can be bought, and I think it can be bought at a reasonable price."

Q. What happened then? A. And he said, "Chief, there is a car over there that would be a good car for you and I think can be bought reasonable."

Q. What happened? A. And the Chief said, "Well, that is not the kind of car I would want. I would not care for such a big car, because it is not what I like. I want a smaller car. If I could get a smaller car I might be interested."

Q. Did the Chief do anything? A. Why, he didn't—he went and looked at the car and he gave it

a sort of cursory examination, and he said the car was too big for him, and that it might reflect on his having to do with the strike at the time, and it might—somebody might have occasion to say that the Botany or the Johnson people had presented him with a car, and he didn't want anything like that said.

Q. Was there anything else said about the car? A. Why,—

Q. By Vordemeier? A. Why, Vordemeier said that he better take it along and see if the car was all right; "if you like the car, all right; if you don't like the car, see if you can find somebody that will buy the car, because you are man who knows a lot of people and you will be in a position to get rid of the car."

Q. Was anything else said that you recollect, Doctor? A. Well, the Chief said that he didn't think the car would suit him and that he didn't want it at the time, and he asked what the price of it was.

Q. What else, if anything, did the Chief state that you can recall? A. Then Vordemeier said they want $1,600 for the car. "Now, if you can use the car; take it along. If you can find somebody who can use the car, you can have it for $1,600. That is what they want for it."

Q. Who drove away first? A. I don't recall that. I don't recall the particulars of it, but I remember where they met and just that there was a car there.

Q. Where was this conversation? A. Right at the farm.

Q. You saw the car standing there at that time, did you? A. I did.

Q. Or saw a car? A. I did. I saw a car there.

Q. Did you see the car after that? A. I don't believe so. I don't believe I seen the car since.

Q. That is all.

Cross-examination by Mr. Lane:

Q. There was a stolen car taken from your possession on the 15th of November, was there not? A. No, sir.

Mr. Ward: I object to that. I would like a ruling.

The Commissioner: Your objection is overruled.

Mr. Ward: I am entitled to the courtesy of a ruling.

The Commissioner: All right. All right, Mr. Ward.

Mr. Ward: I have practiced for many years, and I expect a ruling on these matters.

The Commissioner: All right.

(Question repeated by stenographer.)

A. No.

Q. Was there a stolen car taken from your possession at any time?

Mr. Ward: I object to the question as irrelevant and immaterial.

The Commissioner: Overruled.

Q. I press it. A. There was not.

Q. Was there a car taken from your possession at any time?

Mr. Ward: We will object to the line of questioning as irrelevant and immaterial.

The Commissioner: Proceed.

A. No.

Q. Did you have a car in your possession, a Cadillac Victoria model 63? A. I did not.

Q. Do you know Mr. Oakley and Detective Dennibaum of Police Headquarters, Newark? A. I do not.

Q. Is Mr. Luse in court? Stand up. Do you know that gentleman? A. I don't recall him.

Q. Do you remember that man? A. I do not.

Q. Do you remember having any conversation with a man representing the Newark Detective Bureau or the Underwriters' Automobile Underwriters? A. I do not.

Q. Did you have a car in October of 927?

Mr. Ward: I object to this line of questioning unless the subject matter is directed to the question of the four cars mentioned in the charges.

Mr. Lane: I press it.

Mr. Ward: I would ask for a ruling.

The Commissioner: Overruled. Proceed.

(Question repeated by stenographer.)

A. That is this year?

Q. This year. A. I did.

Q. Have you got the same car now? A. I have.

Q. Did you have any other car in your possession in October, 1927, than the one you have got now? A. I did not.

Q. Did you have a car in your possession in October of 1926? A. I did.

Q. Other than the one that you have now got? A. I did. Other than the one I have now. Yes.

Q. Was that car taken from your possession? A. It was not.

Q. Where is that car now? A. I don't know.

Q. When did you part with it? A. In March, 1927.

Q. How? A. Turned it in for the present car.

Q. Are you the Dr. Leo W. Brandenburg at 190 Paterson Plank Road, Secaucus? A. I am.

Q. Have you any knowledge being taken from those premises by the Underwriters or the Detective people in Newark? A. I decline to answer, Mr. Lane.

Q. Why do you decline? A. It might have a tendency to incriminate or degrade me.

The Commissioner: What is that?

The Witness: It might have a tendency—unless I could bring the whole facts of the case it would have a tendency to incriminate or degrade me.

Q. That is the ground upon which you decline to answer? A. It is.

Q. That particular car about which you have declined to answer as to how it left your possession, or, rather—I will withdraw that.

Did you purchase a car at any time from Vordemeier or from the friend of Vordemeier? A. I did not.

Q. Who showed the Cadillac car to the Chief on the day the Chief was at your brother's house? A. Nobody showed him any car at my brother's home.

Q. No person showed the car to the Chief at your brother's farm? A. You said at my brother's home.

Q. Farm. A. Well—

Q. You know what I mean. A. I know, but you told my brother he was perjuring himself on less than that.

Q. Yes. Did you? A. Please repeat the question?

(Question repeated by stenographer.)

A. Mr. Vordemeier.

Q. Did the friend of Mr. Vordemeier show the car to the Chief at that time? A. I don't know.

Q. At least, if he did you don't know it? A. Not that I know of.

Q. Did you ever introduce Mr. Vordemeier to the Chief as a man that represented an automobile finance company in Jersey City? A. I don't know whether you mean by represented, Mr. Lane, whether you mean he worked for them or whether he knew them. In an offhand way he said he was connected, and he was acquainted with people who had cars that had been repossessed. Now, whether he represented them as an official or an employe, I don't know.

Q. Did he mention the persons' names? A. No; he mentioned no one's names. He just said a finance company of Jersey.

Q. Did he name people he knew who were connected with that company? A. He did not.

Q. Did he talk about that before you? A. I don't believe so.

Q. Eh? A. I don't believe so.

Q. So that that was the first time that you knew that he had any connections with any friends who had connections with any finance company? A. Well, the time is kind of long for me to remember small details of that kind, but I don't believe that I knew it before I met them that day.

Q. Do you remember being interrogated by Captain Monks and Detective Meisse and Detective Boyko at your office at 2460 Hudson Boulevard on the 8th of November? A. I don't remember their names, in fact, I don't believe they told me what their names were.

Q. You remember that occasion? A. They may have introduced themselves. I remember the occasion.

Q. Remember this question being put to you and this answer being made by you: "Q. Did you ever introduce Vordemeier to Chief Zober as a man who represented an automobile finance company from Jersey City and from whom he could buy automobiles very cheap? A. No, sir, I did not, as Vordemeier never worked for any finance company that I knew of, but I do know that Vordemeier had two friends who sold automobiles, and he often used to talk about it." A. Well, he may have talked about it later. I don't remember.

Q. Do you remember his saying to Captain Monks that he had two friends— A. I don't remember what I said to Captain Monks or the other men.

Q. Did you? A. I don't know whether it was before that or after that.

Q. Do you know that Vordemeier had two friends who were connected with it? A. He said he had some friends, that is all; whether it was two or whether it was twenty, I don't know who they were or how many there were.

Q. Did you tell Captain Monks it was two friends? A. I don't remember whether it was two friends or—

Q. Did you tell Captain Monks it was two friends? I don't care what the fact is. A. I don't

know Captain Monks, and I don't remember what I said to him.

Q. Do you know whether or not you told Captain Monks, who sits right here, and who is the man who interviewed you with the others, that Vordemeier had two friends? A. I don't remember whether it was two friends or more or whether it was one.

Q. Did you tell Captain Monks that he had two friends? A. I don't remember.

Q. You don't remember. You remember being asked, "Who were the two men?" And the answer was, "I don't know." A. Very true. I didn't know any of them. All I knew was Bob Vordemeier; that is the only one I knew.

Q. Remember being asked, "What did they look like?" And you answered, "I don't remember." Remember that? A. I don't remember any of the conversation.

Q. Do you remember being asked, "Were you introduced to them by Vordemeier?" And you answered, "I think that I was." A. I don't remember.

Q. You don't remember. You remember being asked, "Well, what names did they use?" And your answer, "I don't remember." A. I don't remember what they asked me or what I answered them.

Q. Do you remember being asked, "Would you be able to identify these two men in the event you would see them again?" And your answer was, "I don't think so." A. I don't remember.

Q. Now, do you remember being asked this question: "Do you know if the Chief ever bought any cars from these two men?" And your answer was,

"I saw one of these men showing a big car to Chief Zober at my brother's farm in Woodridge. This was one day in the spring of 1926." Do you remember being asked that question and making that answer? A. Well, yes, that was the man that showed it to the Chief.

Q. You told me a few minutes ago that you didn't see anyone there but Vordemeier? A. No, that was Vordereier himself.

Q. Well, all right. Now, the question which Captain Monks was asking was directed to one of these men, or these men who were the friends of Vordemeier whom you could not identify, and you were asked, "Do you know if the Chief ever bought any cars from these two men—these two men?" And your answer was, in your own language, "I saw one of these men showing—one of these men showing a big car to Chief Zober at my brother's farm at Woodridge. This was one day in the spring of 1926." Did you make that answer? A. That is right. That was Vordemeier himself.

Q. So there were two? A. There were two of them in the car when I saw it.

Q. But you had already told— A. One in the car and Vordemeier himself, making two. That was two men.

Q. Yes, but you had already told the Captain that those two men were men whom you could not identify and whose names you did not know, who were the two friends of Vordemeier? A. No; Vordemeier was one of the men.

Q. You knew his name? A. Yes, certainly.

Q. Then, why didn't you say that Vordemeier was in the car instead of "one of these men"? A. That is. That was Vordemeier himself, was one of these men, and that is what I told Captain

Monks, one of these men, that was Vordemeier.

Q. Do you remember being asked this question: "Did the Chief buy the car?" And your answer, "I think he did." A. I think he did.

Q. At that time? A. Why, I didn't see any money passed, but I knew they were talking prices, that is all. I did not see any money passed. I don't remember, but I knew they were talking about the price of the car.

Q. Well, who was doing the selling? A. Vordemeier.

Q. Do you remember being asked the question: "Q. Do you know if Vordemeier ever sold any second-hand cars to anybody? A. No, sir, I do not." A. That was before this occasion, Mr. Lane.

Q. "Do you know if Vordemeier ever sold any second-hand cars to any person," was the question, and do you remember your answer was, "No, sir, I do not"? A. No.

Q. The word "ever" does not— A. That was before this occasion he was talking about. We were talking about the sale of a car in which Vordemeier was the one who was doing the selling. Now, anything previous to that I didn't know about.

Q. How did you happen to be at your brother's farm that day? A. I don't remember the circumstances of my going there, but I go there very frequently.

Q. That is all.

HERMAN ZOBER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. You are a member of the police force of the City of Passaic? A. Yes, sir.

Q. You are the son of Chief Zober? A. Yes, sir.

Q. You remember an occasion when you drove a Mr. Shedd to the home of your father? A. Yes, sir.

Q. When was that, Zober? A. What date?

Q. As nearly as you can recollect, yes. A. I can't tell you that.

Q. It was in October, wasn't it? A. Yes, around that.

Q. This year? A. It was in the afternoon.

Q. At that time, will you please tell us what happened? A. Well, I drove Mr. Shedd down in my car, in father's car, and when he was driving down Mr. Shedd said he wants to look at my car, so I says, "All right." So we went down there and he looked at my car, see? So he comes out and he says no, he wants 877; I says, "That is my father's car. That is the one out in front." So he got out in the front there, he had two other men with him; they looked around there and looking at the numbers, and one fellow had a screw driver and he took the number off, and as he took that plate off he was looking around for a rag, so I brought him a rag out of the seat up there, see, so I just happened to talk to Mr. Shedd and the other men talking together.

Q. There were two men with Shedd? A. Yes, two men. So he says, "We will have to use a tele-

phone," so my father said, "If you want to use a telephone, you can use mine," so Mr. Shedd said, "No, we can't use your telephone. We have to use the other telephone." So they went off.

Q. Who went off? A. The other two men that was with Mr. Shedd. So as we were standing there—

Q. Who was standing there? A. My father and Mr. Schwartz and mother and I, Mr. Shedd said—

Q. And Mr. Shedd? A. Yes. He said, "Chief, have you got the bill of sale yet," so my father says, "Well, I don't know if I have got it in the safe or I have got it upstairs;" so finally my father went to look and he went upstairs; around five minutes later he came down, see, and Mr. Shedd looked at the bill of sale and says, "This is not the right bill of sale," so my father says, "Well, if there is something wrong with this car I had bought three more cars from the same man, a Cadillac which I sold to John Labash, the undertaker in Monroe Street;" and with that nothing was said no more.

Q. Well, did Mr. Shedd go on or did he—did the men return or what? A. Well, Mr. Shedd said, "We can't do anything till the men come back from where—"

Q. Did they come back? A. They came back after awhile, yes.

Q. Then Mr. Shedd went away? A. Then they were talking to Mr. Shedd, and he said, "Well, I don't know yet what is the matter with the car. If they were stolen cars," he says, "we don't know." That was all.

Q. Then he went away? A. And I went in the garage and Mr. Shedd went in the garage.

Cross-examination by Mr. Lane:

Q. What time of day was this? A. Nice day.

Q. What time? A. Four o'clock in the afternoon.

Q. Did you just happen to be home? A. I drove up here to the Headquarters for my father.

Q. Now, what did they say when they came to look at the cars as to what they suspected was wrong? A. Well, I drove Mr. Shedd down, see, in my father's car from here. First he was going to look at it out here, so he says, "No, I don't want to look at it out here, but I would rather drive down to the house with you," and I said, "All right." Then he was always referring to my car, so I says, "My car is in the garage." That is why he insisted on going down there. So when we got down there he looked at the car.

Q. Did he say what he suspected to be wrong about it? A. He said, "I think there is something wrong with your car." He said he got a telephone call, he said, "There is something wrong with your car."

Q. Did he say what was wrong? A. No; he didn't say nothing was wrong. He said that he would just like to look at it, that is all.

Q. Now, I understand this conversation between your father and Shedd took place after the other men had left? A. Yes, that is right.

Q. And Shedd was alone there with whom? A. With my father, Mr. Schwartz and I and my mother.

Q. They all heard what your father said, I suppose? A. Yes. We were all right there.

Q. What was it your father said, everything? A. That is all my father said. He says, "Well,"

he says, "if something is wrong with this car I had bought three more cars from the same fellow."

Q. There must have been something more said than that. A. "And the Cadillac which I sold to John Labash, the undertaker from Monroe Street." That is all that was said.

Q. Oh, how long were you there waiting for these men to return? A. Well, how long was we there?

Q. Yes. A. Well, about twenty minutes, I guess.

Q. All there together? A. Yes.

Q. Then, something more was said certainly in that twenty minutes than what you told us, which only took about a half minute? A. Nothing was said no more, and Mr. Schwartz was talking to him, that is all. Mr. Schwartz started to talk to Mr. Shedd himself.

Q. That is all you heard? A. Yes.

Q. Where were you standing when you heard that all said? A. Right next to Mr. Shedd.

Q. Did Mr. Shedd say, "Who did you buy it from?" A. He didn't ask me that.

Q. Did he ask you? A. Not that I know of.

Q. You didn't hear it? A. No.

Q. Did your father suggest who he bought it from? A. No; he says, "If there is something wrong with this car, I bought three more from the same fellow."

Q. Did Mr. Shedd say, "Where are the three?" A. No, didn't say nothing.

Q. Did he say, "Well, you have told me about the Cadillac which you sold to Mr. Labash. To whom did you sell the other three or the other two?" A. No, as soon as he said about the Cadillac he right away says, "Well, we can't say any-

thing yet until my men report back to me."

Q. Made no inquiry as to where the other cars were? A. No.

Q. Or anything about them? A. No, not at that time, no.

Q. That is all.

SAMUEL SCHWARTZ, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. Where do you live, Mr. Schwartz? A. Clifton.

Q. Do you know Chief Zober? A. Very well.

Q. Do you remember an occasion in October last when Motor Vehicle Inspector Shedd, or Investigator Shedd, went to the home of Chief Zober? A. Yes.

Q. You saw Mr. Shedd on the stand? A. Yes, sir.

Q. Last Tuesday? A. Yes, sir.

Q. Were you present during the time that Chief Zober was there with Mr. Shedd? A. Up to his home?

Q. Yes. A. Yes, sir.

Q. Who arrived at the Zober home first? A. Mr. Shedd and Herman Zober and the other two men that were with Shedd.

Q. Yes? A. And Chief and I came up last.

Q. Now, what happened after you and Chief Zober arrived there? A. Why, when I got there I saw a fellow, he asked for a screw driver, and he crawled underneath the car.

Q. Who was this fellow that asked for the screw driver? A. Man that was with Mr. Shedd.

Q. Crawled underneath the car? A. Crawled underneath the car with the screw driver and he pried a plate loose, and when he came from under the car he asked for a rag so he could wipe the plate off and see the numbers that were on there.

Q. Who gave him the rag? A. I believe Herman Zober.

Q. Then what happened? A. Well, then he showed us the plate, and he showed us that the plate had been tampered with.

Q. Then what? A. And kept looking further, and they consulted each other and finally they said they wanted to use a 'phone, so the Chief says, "You can go inside and use my 'phone." He said, "No, it is not customary with us to use private 'phones. We are compelled to use public booths," and two of them went away.

Q. Which two? A. The two men that were with Shedd.

Q. Did Shedd stay there? A. Shedd stayed there.

Q. Was there any conversation had after these two men left, between Shedd and Zober? A. Why, yes.

Q. What was it? A. We asked Shedd, one of us asked Shedd what it was like, and Shedd said, "I couldn't say truthfully now whether it was a stolen car or not; it looks like it, but I will know more definitely when the boys come back;" so Chief said there, "If this one is bad, why, there are three others," and I distinctly remember him mentioning the Labash Cadillac.

Q. What did Shedd say to that? A. Shedd says,

"There is no use of us talking now until they come back. These cars may be all right, but the numbers look bad."

Q. How long were you there before these other two men came back? A. About twenty minutes, I should judge.

Q. After they came back was anything said to Zober? A. Why, when they came back they said it was too late for them to get the office that day now, and they wouldn't know until the following day.

Q. Until the following day? A. Yes.

Q. And they were—they left, did they? A. Why, there was some more talk of going on, and then there was some—

Q. Do you recall what was said? A. Why, no, I do not. I don't think so.

Q. Well, was the talk about cars or what? A. As I said before, the only thing that was said was said while the two men were away, but after they got back, they were there only a few minutes and they inquired where would be a good place to put this car, so I suggested they take the car to the Krieger Garage, and they did, and one of the men—I don't recall which one of them—rode up—no, Herman rode with me, I think, or somebody rode with me, and I followed them up, and I took Herman back again with my car.

Q. That was the last that you saw of the particular car? A. That is the last.

Mr. Lane: No questions.

CHARLES W. WINTER, being duly sworn by the Commissioner, was examined and testified as follows:

Directvexamination by Mr. Ward:

Q. Chief, you are the Chief of Police of Bogota? A. Yes.

Q. Were you the Chief of Police of Bogota in October last? A. Yes, sir.

Q. Do you recall any occasion when you received any telephone communication from Chief Zober? A. No. I couldn't say. Maybe my clerk did at the desk. It was in the evening or the day time?

Q. Well, did you have any communication from Chief Zober? A. No. All I know I ever had was a couple of detectives out there to see me from here.

Q. Did you have any inquiry with reference to a man named Vordemeier? A. Yes.

Q. When was that? A. Why, I should judge maybe a month ago or so.

Q. About a month ago? A. I would say maybe a month or two months.

Q. By whom was that made? A. Why, I think by one of the gentlemen that came out to see me one night—two men.

Q. Do you know who they were, who the man was? A. I think this one may sitting here.

Q. Which one? A. This stout fellow.

Mr. Weinberger: You don't mean me, do you?

The Witness: I don't know; you are pretty well fed, I should say. I know that.

Mr. Lane: Captain Monks, wasn't it?

The Witness: Monks was one.

Q. Captain Monks was one? A. Monks was one.

Q. He looks pretty well fed? A. It was in the evening, I know.

Q. That was in the evening, about a month ago? A. Yes, I judge maybe it was a month or six weeks ago.

Q. That is all.

Mr. Lane: You don't know anything about cars? That is all, Chief.

GUSTAV SCHMIDT, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Ward:

Q. Chief, you are the retired Chief of Police of the City of Passaic, I believe? A. Yes.

Q. You retired when? A. Three years ago last April.

Q. You were succeeded by whom? A. By Mr. Zober.

Q. Prior to your retirement who was the Captain of the Detective Bureau? A. Captain Turner.

Q. Will you please tell us how your department was organized? A. In what way, department.

Q. Well, I mean prior to your retirement, when Chief Zober became Chief. A. Well, we have had the Detective Bureau, a squad of traffic, and so on, whatever was necessary.

Q. And the Detective Bureau, what was that, a bureau that was operated by itself? A. Well, not quite. I was at the head of the Detective Bureau in a way.

Q. Who was the acting head? A. Captain Turner.

Q. I mean the active head? A. Yes, Captain Turner.

Q. Did that continue up to the time that you retired? A. He did.

Q. In the ordinary course, Chief, when cars were reported to you as stolen, what course was pursued with reference to such reports? A. Well, they were referred to the Detective Bureau.

Q. How many men did you have in your department, Chief, at the time, altogether? A. I think there was seventy-eight.

Q. How many men were in the Detective Bureau presided over by Captain Turner? A. Six, I think.

Q. Pardon? A. Six, I believe.

Mr. Ward: Cross-examine.

Mr. Lane: No cross-examination.

CHARLES W. WINTER (Recalled).

Direct-examination by Mr. Ward:

Q. Chief, you have, since leaving the stand, talked to Chief Zober, have you not? A. Yes.

The Commissioner: Put me in mind of something.

Q .Now I ask you, do you recall whether or not you had any conversation? A. Some man called me on the wire.

Mr. Lane: What is that?

A. The Chief called me on the wire and asked me if I knew a man named Robert Vordemeier.

Charles W. Winter—Recalled—Cross.

Q. When was this the Chief called you on the wire? A. I would say it was around about a month or six weeks ago, October, if I am not mistaken, and I says, "I don't know, but I will ask the clerk." You see, the clerk has all the poll books, and he asked me if it was a man worked on the Heights, on Palisade Avenue, Mr. Zober, and that is all there is to it, and he said he had a warrant for him on something or other and he would be over, and I think the same evening that two men came out.

Q. The same evening when the two well-fed looking men— A. Yes; I couldn't say they came out at night, but I know after that they did come out.

Q. It was after your conversation with Chief Zober that some well-fed gentleman came to see you? A. Yes.

Cross-examination by Mr. Lane:

Q. How do you know it was Chief Zober? A. I don't know, only what he told me over the wire.

Q. And he said he had a warrant for somebody? A. As near as I understand it he had a warrant for him.

Q. For Vordemeier? A. Yes. I asked the clerk, and the clerk said to me, and I asked him if he knew the man by that name, so when they told me I remember the man myself.

Q. Now, are you sure that the person who talked to you over the telephone introduced himself to you as Chief Zober on the telephone? A. I think so.

Q. Are you sure it was not Captain Monks? A. Not at that time. Captain may have talked to me over the 'phone, too. We get a lot of 'phone calls there, but I wouldn't say it was.

Q. Didn't Captain Monks come over with the

warrant? A. He certainly did, and I sent a man with him, which I have got the man in court here now.

Q. That is all.

RICHARD O. ZOBER, recalled in his own behalf.

Direct-examination by Mr. Ward:

Q. Chief, you are the Chief of Police of the City of Passaic, are you not? A. Yes, sir.

Q. You were appointed when? A. April the 15th, 1924.

Q. Prior to that time you had been a member of the Department? A. Yes.

Q. For how long? A. Fifteen years and a half.

Q. When you became a member of the Department you became a member of the Department in what capacity? A. Captain of Police.

Q. No; when you first went into the Police Department was it as a patrolman? A. Patrolman, yes, sir.

Q. Then you arose from patrolman to what position? A. Sergeant.

Q. Then from Sergeant to what position? A. Captain of Police.

Q. Then from Captain to what? A. Chief of Police.

Q. Were you ever connected with the Detective Bureau? A. No, sir.

Q. During the year 1926 was there any especial activity in the Police Department in the City of Passaic? A. Yes, sir.

Q. What was it? A. Big woolen strike.

Q. How long did that strike continue? A. I think fourteen months, if I ain't mistaken.

Q. For fourteen months, from when up till when, if you remember? A. It started January 25, 1926, and into the end of February, 1927, or the middle of March.

Q. Who had charge of the police force during that period of time? A. I did.

Q. What were your activities during that time, with reference to your duties as Chief of Police? A. I covered the whole city. I went out myself and done duty on factories.

Q. What were your hours, Chief? A. Night and day, you can say; sometimes we worked sixteen to twenty hours a day; on the average sixteen hours, at least.

Q. Now, during this period of time, in fact, from the time you became Chief of Police, did you ever receive reports of stolen automobiles? A. Yes, sir.

Q. And prior to the time you became Chief of Police you know about the receipt of reports of stolen automobiles? A. Well, yes, we got reports.

Q. What was done with those reports? A. Handed over to Detective Bureau.

Q. Who was in charge of the Detective Bureau at that time? A. Captain Turner.

Q. And he is now Commissioner Turner? A. Yes, sir.

Q. The gentleman who is presiding at this trial? A. Yes, sir.

Q. Aside from receiving these reports and aside from turning them over to the Detective Bureau, did you have anything to do with the reports of stolen automobiles or the investigation of stolen automobiles? A. No, sir.

Q. Who was it investigated the thefts of automobiles? A. It was in the hands of Captain of Detectives.

Q. Captain Turner? A. Yes, sir.

Q. When was it that you first knew anything about the Cadillac car that has been mentioned here? A. I think it was in April, 1926. One afternoon we came back from strike duty, Officer McGill, Judge Davidson, and myself —

Q. May I interrupt you for a moment, with the Commissioner's permission? You have stated that you worked night and day sometimes during the strike of the woolen industry in the City of Passaic and the outlying districts. I ask you if you know how many men or how many persons, rather, were involved in that strike? A. About twenty-five thousand.

Q. What was the character of the strike? By that I mean what was done by the strikers? A. Well, we had a lot of trouble. We had fights.

Q. In what respect? A. They were blowing up houses, bombed houses, and held people up on the street with blackjacks, stoned houses.

Q. Was there any rioting? A. Yes, sir.

Q. Any parades? A. Yes, sir.

Q. Anything else? Mass meetings? A. Mass meetings. We had a couple of meetings pretty near every night.

Q. Did you and your department cover all of this work? A. We did.

Q. Or attempt to? A. We did. Done the best we could.

Q. Was or was not your time very largely occupied during the period of time that you have mentioned, during which the strike was in progress? A. Absolutely.

Q. Now, I think you have mentioned in March, I think you said—I don't know whether you mentioned the date, I won't mention it—but you do recall, however, going to the Brandenburg farm? A. I do.

Q. Had you ever been there before this particular occasion? A. Yes, sir.

Q. How often? A. Oh, I guess about a year before.

Q. For what purpose? A. Oh, going and buying green stuff right off the farm.

Q. How long had you known Brandenburg? A. It is now about four years, four or five years, that is, that I—I knew him before, but that I was speaking to him, four or five years.

Q. In or upon the occasion when you first saw this automobile, what occurred or made you go, or why did you go to this farm? A. We went over there to get green stuff—I did, anyway.

Q. Who was with you? A. Officer McGill and Judge Davidson.

Q. And about what time of day was it? A. Between four and five. I think it must have been five o'clock, because we just came back from strike duty.

Q. What did you do when you got there? A. We got over to the farm, we drove all the way in, I stopped my car, I had a Paige car, and the first one that came towards me was Henry Brandenburg; he says "Hello, Chief," and "Hello"; and the first I know a man came over towards us and over towards Brandenburg, and Brandenburg says to me, "Chief, here is Bob Vordemeier," and introducing Bob Vordemeier, and "This is Judge Davidson," and we shook hands, and then he says,

"Whenever you are in need of a car"—now, I think he said that he has got a friend or he is connected with the New Jersey Finance Corporation. He said they are taking in cars cheap, and lots of times you get a good buy. I said, "My car is all shot to pieces, and you get a car some day I might do business." He says, "There is one"—

Q. Who said that? A. Vordemeier. "There is one now." It is only about ten feet away, and we looked at the car, and Judge Davidson says to me, "Dick, you don't want that car; that car is too big for you. The first thing they will say the Botany Mill of Charley F. Johnson bought the car for you." I said, "I think you are right." Well, I looked around, so he says, "What do you think of it?" I says, "It is all right, but it is not what I want. Get a smaller car and let me know." Well, he says, "Why don't you take it?" He says, "Buy it cheap." I said, "What is the price?" He says, "They want $1,600." I says, "The price is all right, if there is nothing wrong with the car." He says, "No." I thought it was in a smash-up. He says, "No, it is all right." He talked a lot more and finally I says, "No, it is too big. If you get a small car let me know," and I even gave him my telephone where he can get me. I said, "Always around five o'clock." So that was the last—we got our green stuff and went away. It might have been five days after he came back to the station house, and him and another man stood at the head-quarters when I came, and he said, "Hello, Chief." He says, "What do you say? I brought that car over here." I says, "No, I don't want that car." He says, "Go ahead and use it;" and he says, "I can't sell it now, and you use it and if I get a small one

I will take this one back, or you have a friend who can make use of it and you can make a little money on it." So I looked it over, and I says to Billy McGill, Officer McGill, I says, "What do you think?" And he looked at me and laughed; so he says, "What do you say?" I says, "All right, leave it here and I will let you know if I take it or not." So I took the car and went up to Judge Davidson's office and I invited him—

Q. What about the bill of sale? Was there anything said about a bill of sale? A. No. Yes, he did. He says he will bring me the bill of sale, but he didn't have it that day. So we drove up to the Cadillac Garage, the three of us, and we got the young fellow on it and told him to look that car over and see if there is anything wrong with it. He looked the car over and he says, "Well, I can't find nothing wrong; it is all right." I says, "Do you think it is worth $1,600?" He says, "Yes, I will buy it myself at that money." And we drove up Cedar Lawn, up that hill, to see if everything is all right, and we drove it back and left it in the Police Headquarters, in the garage.

Q. The Police Headquarters? A. Yes.

Q. That is right back here? A. Right back in here. Then we drove it during the strike, McGill drove it. I got sick three or four days and McGill used it every day. Then he brought me the bill of sale, and I brought the bill of sale up to Judge Davidson, and he says, "There is something wrong. I don't know. You better get a bill of sale." So I called that fellow up and he came over and I told him. "I says, "There is something wrong with the bill of sale." He says, "No." I said, "You better take it back," and he did, and in a few days after he brought another bill of sale, and I gave it

to Judge Davidson and he O. K'd it. I know I had that car about three weeks when Mr. Labash came up to my house and said if I wanted to sell the car, and I told him that I did, if you want to buy it. I told him what I want.

Q. Had you taken that car as your own? A. Yes.

Q. And bought it? A. Yes, about ten days after he brought it over first. Then I had the car, and Labash came to the house and said, "If you don't want that car," he says, "what do you want for it?" There was no extra tire, and I bought an extra tire and mirror and some more smaller items, and I sold the car for $2,100.

Q. To Labash? A. Yes. Labash gave me a check, and I cashed the check, and I went up to Donohue's, and I said, "If he comes in tell him to come over; I got the money." And he came over and I gave him $1,600 cash.

The second car, it was a week or so after, he called me up and said, "I have that car now what you want," and he brought that car over, and that is the one that Winters—

Q. That is Winters'? A. Yes; and I thought everything was O. K. I didn't bother with no bill of sale for the car, and he said it came from a finance corporation, and I paid for Winters' car, and I gave him $1,100, and I sold it to Winters for twelve.

Q. Before we finish with the Labash car, have you paid back what Labash paid you? A. No, not all of it. He allowed me a little.

Q. Now, Winters' car; you say that he brought a car over? A. Yes, sir.

Q. Who brought it over? A. Mr. Vordemeier.

Q. What did he say? A. He said, "I have got

a car here now, just what you want." But the car wasn't what I wanted. It was too light.

Q. What did you do with it? A. I sold it to Winters. He brought me two cars inside of two or three days. The other one I sold to him, and I always thought it was Mr. Latham, because Mr. Latham paid him for the car. And my own I got that four weeks after, and after then I didn't bother no more with it, I had the car what I wanted.

Q. Then, as you say, after the Cadillac car, within a few days he brought you two cars? A. Yes.

Q. Each car was not the kind of car that you wanted? A. No.

Q. In each instance you arranged to dispose of it; is that right? A. Yes. Well, Officer Winters asked me. If he wouldn't ask me I would have shipped it right back. I said I didn't want it, but Officer Winters asked me to get a car, and I sent it down to him and he liked it.

Q. So you turned it over to him? A. Yes.

Q. At a profit? A. I made $100 on it.

Q. Made $100 profit? A. Yes.

Q. Now, the other car, this third car that has been mentioned? A. That was a coupe, small coupe.

Q. What happened there? A. I couldn't use that car. That was too small. That is why I sold it to Latham. I got that through Sindaman; Sindaman came up to me and asked me if I would sell that car. Sindaman, he is a good friend, he knows Winters. He knows Winters bought one and he knows Labash, who bought one.

Q. From whom did you get the third car? A. I got them from all one man, Vordemeier.

Q. You sold this car to whom? A. Hipp.

Q. Then, how long after that was another car brought to you? A. It was about three weeks.

Q. About three weeks later? A. Yes.

Q. What kind of a car was that? A. That was the Master Six, the one that was taken away from me.

Q. When was that? A. I think about the middle of June when I got that car.

Q. 1926? A. 1926, yes.

Q. At that time, Chief, had you any idea at all that any of these cars had been stolen? A. Oh, by gum, no. If I knowed, I wouldn't do it.

Q. When you disposed of this car to Labash, this Cadillac car, was there any secrecy about your disposition of it? A. Absolutely not. I had it here in the station house. I had my own car in the station house night and day pretty near.

Q. I am speaking of the Cadillac car. A. No.

Q. And this car that you sold to Winters, was Winters a member of the police force of the City of Passaic? A. Yes, sir.

Q. Was the car used around and about here? A. Yes, sir.

Q. And the car that was sold, as you said you thought, to Latham—Hipp, rather, how did they happen to be sold to them? Will you tell us about that? A. Well—

Q. Was anyone else inquiring later on for a car? A. Yes; Sergeant Callahan asked me for one.

Q. What about McGill? A. McGill. That is is the car McGill was supposed to get, that McGill—

Q. When you got it— A. It was too light for McGill.

Q. Too light for McGill? A. Yes.

Q. That was the car that was sold to Latham? A. Yes.

Q. Or to Hipp? A. Hipp, yes.

Q. Then in June you got this car of your own? A. Yes, sir.

Q. From June, 1926, did you or not use this in and about the City of Passaic? A. Pretty near every day.

Q. Did you have it around the Police Station? A. Yes, sir. The police officers used the car during the strike.

Q. Any of the detectives ride in it? A. I would not be surprised if Charles Monks drove in it; I wouldn't swear to it, but pretty nearly everybody drove that car.

Q. Did you ever have any idea that that car was stolen? A. Absolutely none.

Q. Did you have any knowledge of numbers or where to find numbers on an automobile? A. Never bothered with that.

Q. Had you any book of any kind showing where secret numbers were? A. No, sir.

Q. Did you know where to look to see where the number of an axle or the rear or front axle was? A. I find them now, but I didn't.

Q. I guess we all will now. But before this? A. I did not.

Q. Or where the timing or where the generating —generator number was? A. I didn't know there was such a number. All I knew was the motor and—

Q. Did you have any exact knowledge or any knowledge of the exact value of these cars, second-hand cars? A. No, sir.

Q. When you got your car in June, I believe it was a Buick Master Six? A. Yes.

Q. Now, was that the car that satisfied you or not? A. Yes, sir.

Q. After that did you ever have any other dealings with any other car? A. No, sir.

Q. And you kept it until October? A. October 26th it was taken away from me.

Q. What was the first you knew that anything was wrong? A. Mr. Shedd came in my office.

Q. In the Police Headquarters here? A. Yes, sir.

Q. What was said to you? A. He came in and he says, "Chief, I would like to look over your son's car." "Well," I said, "my son is right out here now," and I says, "What is the matter?" "Well, I don't know," he says, "I got a telephone call and we got to look over the car." I says, "There he is," and I knocked on the window and my son Herman came in, and I says, "This gentleman wants to look over your car," and he says, "All right," and he walked out.

Q. Who walked out? A. Mr. Shedd and the two gentlemen and my son.

Q. What did you do? A. The first thing I seen them getting in the car and drive away. I was then ready to go home, and Mr. Schwartz, who was in my office at the time, said, "I will run you down," and we go down, and I got down to the house, where they had the hood open in my car, and Shedd said right away, he says, "Chief, I think there is something wrong with your car." I said, "It is?" He says he is taking off the plate now and we will see, and with that he came over with the dirty plate.

Q. Of your car? A. Of my car, yes. He had looked over the other car before, over Herman's.

Q. When you got down there he was looking at your car? A. Yes. He said, "Chief, I am afraid there is something wrong with that car." I says, "If there is, I bought three more from the same fellow, and one of them is a Cadillac I sold to undertaker Labash in Monroe Street, but I was sure —I had the car looked over, the bill of sale, so I don't—I thought everything was O. K."

Q. Let me see, Chief; Shedd went down with whom? A. I don't know—one of his men, Gardner, he is a State Police.

Q. He went down before you? A. He went down with my son, yes.

Q. How long after he left Headquarters did you go down? A. Oh, two minutes, not more than two minutes after.

Q. Do you know who the two men were that were with him, Mr. Shedd? A. One of the gentlemen—yes, there he is.

Q. Stand up, please. A. I think that is the gentleman.

Q. Is that one of the gentlemen? A. Yes.

Q. Mr. Havens is his name? A. That is right.

Q. During the time that you were at your home did any of these men go away? A. Yes, two gentlemen went away; Mr. Shedd stayed there.

Q. Who were the two that went away? A. This gentleman.

Q. This gentleman, Mr. Havens? A. He left and Mr. Gardner.

Q. Who stayed there? A. Mr. Shedd.

Q. Did you have any talk with Mr. Shedd? A. Yes. Well, that is all I said to him. I said, "If there is anything wrong with that car, I bought three more from the same man, and one of them

was a Cadillac which was sold to Mr. Labash on Monroe Street."

Q. You said that to Mr. Shedd? A. Yes.

Q. Who was present at the time you told him that? A. Mr. Schwartz, my wife, and my son, and myself.

Q. What did Mr. Shedd say? A. He asked me for the bill of sale. I says, "I don't know if I have got it here or if I have it in the safe or got it upstairs, and I will see." Of course, just at that time I was moving from my office downstairs, and I took my private stuff home. So I had the bill of sale and I brought it down to him, and he looked at the bill of sale, and he says, "Something wrong with it, Chief." I says, "I know just where they came from." After this Mr. Schwartz spoke to him. I don't know what happened.

Q. These two men, Mr. Havens and the other gentleman, return? A. Yes, sir.

Q. What happened? A. They did move the car away. My son drove the car away, and I don't know which one went with him, but the four of them left the house.

Q. Do you recall receiving any communication from the Director of Public Safety, Commissioner Turner? A. Yes, sir.

Q. When did you receive that? A. October 28th, I think it is.

Q. Have you got that with you? A. Yes,—I don't think I have.

Q. You don't think you have? Take your time, now. A. Yes (producing paper).

Q. Did you make any notation on that as to the time you actually received it? A. Yes, sir. October 28th, 3:15 p. m.

Q. At 3:15 p. m. I offer this in evidence.

(Paper marked D-1.)

Mr. Lane: Is that the one calling for a statement?

Mr. Ward: Yes.

Q. You say you received this communication at 3:15 p. m? A. Yes, sir.

Q. And this communication calls for a report from you by four p. m? A. Yes, sir.

Q. Did you make such report? A. Yes, sir.

Q. I show you Exhibit P-51 and ask you if that is the report that you made? A. Yes, sir.

Q. Now, in that report, Exhibit P-51, the fourth paragraph, you mention the Labash car, don't you? A. Yes, sir.

Q. And in the fifth paragraph you mention a Buick car; and the next paragraph you have mentioned, you say, "Officers Mathew Winters and William McGill told me that they would like to get cars"? A. Yes, sir.

Q. Is that true? Had they told you that? A. Yes, sir.

Q. You also say, "And I purchased for them from this same man at about the same time the two Buick cars which they took"? A. Well—

Q. Now, will you explain about the McGill incident with reference to that? A. The cars were bought for McGill and Winters; Winters took his, but the McGill car was too small and that is why Mr. Hipp got McGill's car.

Q. Was this report prepared more or less hastily by you in order to get it in by four o'clock? A. Absolutely. You can see after I marked in, "I believe" that the McGill car went to—

Q. From looking I notice you say, "I believe the McGill was sold to William Latham." A. I al-

ways thought it was Latham. It was Latham's son-in-law; it was Hipp.

Q. Chief, during the time that this matter came up before Commissioner Dill at the Armory, do you remember making a statement in which you said that you were out $900? A. Yes, sir.

Q. You made that in the presence of the newspaper representatives, I believe. Will you just explain what you meant by that? A. This is my loss, $900 on my car besides what I paid for the others.

Q. How did you figure that out at the time? A. Well, I paid $1,100 for that car and I got new tires on there and cost me $115, I bought a new battery; brings it up to $1,300, and I have got it a year and a half, so it is worth about $900, in fact, a fellow wanted to buy the car off of me for $900.

Q. And you figured that was your loss on that car? A. Yes, sir.

Q. $900? A. Yes, sir.

Q. Chief, upon the stand Mr. Shedd stated that you had never told him anything about a Labash car. Is that true or not? A. It is not so. I certainly did tell him.

Q. You told him about the Labash Cadillac car? A. Certainly. Before they took my car I told him right up there in front of my house, in front of my wife and my son and Mr. Schwartz, and the same thing was stated the following day down before Mr. Dill. I told him where the cars are.

Q. Each time that you sold any of these three cars, and I am now referring to the Cadillac car and the two Buick cars which were not suitable, as you thought, for you, whereabouts did you have

the bill of sale made out? A. You mean the change?

Q. Yes. A. Mr. Martin's office, Motor Vehicle Department.

Q. Who is Martin and where is his office? A. He is the agent of the Motor Vehicle Department here in town up in Prospect Street.

Q. Can you tell us, Chief, on an average, how many cars were reported to your Department as stolen, which reports in turn were turned over to the Captain of the Detective Bureau? A. Sometimes a hundred a day, reports coming in from Philadelphia and Newark and all over.

Q. And sometimes as few as how many? Sometimes none, I presume? A. Oh, no, come in pretty near every day.

Q. When you had the Cadillac car did you ever notice anything about the Cadillac car to arouse your suspicions in any respect? A. No, sir.

Q. Did you ever see any initials upon the side of the car? A. No, sir.

Q. That were partially obliterated or partially covered over by varnish? A. I did not.

Q. The mere fact of your having seen initials there, would that have been a suspicious circumstance, to your mind, inasmuch as it was a second-hand car that you were buying? A. It was a second-hand car. There would be nothing wrong.

Mr. Lane: Better take the stand, Mr. Ward.

Q. You say that each of those cars in each instance, that there was no suspicion ever aroused in your mind that there was anything wrong about them. Why so, Chief? A. Well, the first car I

had, I had the bill of sale looked over and I went to the garage people, I had all O. K'd, the first car, and I paid $1,600 for it; and another thing, I know the Brandenburgs over there, both of high standing, all I know, and I thought everything was O. K. After the first car was O. K. I never bothered about the others. I only paid $1,100, and one of them I paid $750. It was all right around here. The sale was all right. Martin O. K'd. that sale, and that is all.

Q. Was there anything you failed to do that you had ever known to be done in the Department, aside from the Detective Bureau? A. No, sir.

Q. That is all.

Cross-examination by Mr. Lane:

Q. Chief, when you got these cars how were they delivered to you? A. Brought them over to the Station House.

Q. They delivered your registration in your name at the same time? A. Yes,—not the same time when I bought them. Always had the cars a couple of days. One I had three weeks before I bought it.

Q. They delivered your registration finally? A. Yes, sir.

Q. They delivered your plates? A. Yes, sir.

Q. In your name? A. Yes, sir.

Q. I show you P-8, P-15, and P-10, which purport to be applications for registration of three of these cars, and ask you whether your signature appears upon these applications. A. Them two. This one ain't.

Q. What? A. This one ain't. Them is mine. This one I didn't sign.

Q. This is yours? A. Yes, but I didn't sign that.

Q. You did not sign it? A. No, sir.

Mr. Ward: That is P-what?

Mr. Lane: That is P-8.

Q. Look at P-15 and P-10. Do you say those are yours? A. Yes, sir.

Q. Those are your signatures? A. Yes, sir.

Q. That is your signature? A. Yes, sir.

Q. I want you to be sure. Compare it with P-14, which is your application for a driver's license. A. Yes; I signed that.

Q. Yes, I know you signed that. You signed P-14. A. Yes, I signed that.

Q. Now, will you say that the signature on P-10, and P-15, or either of them— A. Most of the time I did not mark the O there, only late time—

Q. I didn't ask you to refer to any particular letter. I asked you to refer to the signature as a whole. This signature on P-14 is yours? A. Yes, sir.

Q. That is your handwriting? A. Yes, so is the other two.

Q. Now, your signature on P-10 and P-15, do you say those are yours? A. Yes, sir.

Q. You are sure of that? A. Yes, sir. This one ain't.

Q. Yes, I understand that that one is not. That is on P-8. That is the Cadillac car, isn't it? Eh? That is the Cadillac car? A. I don't know.

Q. Well, it is the Cadillac car. Now, you knew, did you not, that the automobile law required, before registration plates could be issued to any owner of a car, that an application had to be submitted to the Commissioner and under the oath of the

person making the application? A. Well, I was told—he says just—

Q. Didn't you know that?

Mr. Ward: Of course, if you can answer yes or no, Chief. If you cannot answer yes or no, do not answer.

Q. I am asking whether he knew the law. A. I did not know that.

Q. You have been Chief of Police of the City of Passaic for how many years? A. Since April 15, 1924.

Q. You have been on the police force of the City of Passaic how many years? A. Fifteen years and a half.

Q. You have owned how many cars? A. Four, I think.

Q. Is that all? A. Well, besides them.

Q. Four cars besides these, and that makes eight cars altogether; is that right? A. I guess so.

Q. When was it, what year was it you had your first car? A. 1914 or 15.

Q. You tell me that you did not know during all that period of time that under the law of the State of New Jersey it was necessary for a person getting a car registered in his own name to make a personal application and have an affidavit signed by him sworn to? A. Well, I was told he could get it from the finance corporation, they would straighten it all out, and that is how I got the cars.

Q. I didn't ask you that. I asked you whether you knew the law so provided. Did you or didn't you? A. I said before I did not.

Q. You didn't know it. Let me have his driver's license, his application for a driver's license. I

show you an application for a driver's license made by you, dated December, 1926. That is your signature, isn't it? A. Yes.

Mr. Lane: I will have it marked for identification.

(License card marked D-2 for identification.)

Q. You swore to that affidavit, didn't you? A. Yes, I did, before Mr. Rice here.

Q. You answered the question: "Have you read and are you thoroughly familiar with the provisions of the Motor Vehicle and Traffic Acts? Yes." Did you not? A. Yes, sir.

Q. But you did not know the provision of the Motor Vehicle or Traffic Act which requires that a personal application should be made for the purpose of getting a license in a man's name? A. Well, I understood that we got that from the finance corporation; they said they would straighten out everything, it was all right, second-hand cars from the company. That is why I done it.

Q. Did you know that the general provision of the law was and the general rule was that you had to make a personal application? I will come to the straightening out by somebody or not in a minute. Did you know that was the law? A. Yes, sir.

Q. You did know it was the law? A. Yes, sir.

Q. Can you tell me how you, as a Chief of Police or police officer, or how it was explained to you that a finance company or anybody else could do something in direct violation of the law? Can you explain that? A. Well, I done it because I was informed it was all right. That is why I done it.

Q. What was all right? A. I said—

Q. The violation of the law was all right; is that what you mean? I want you to tell me how you thought that a finance company could do something and could make things right in direct violation of the law as you knew it? A. I thought if I signed my name to it it was sufficient and it would be straightened out.

Q. You thought if they signed your name to it? A. I said if I signed my name it was sufficient.

Q. You did not sign your name, did you? A. I did.

Q. Did you sign your name to that one? A. No, sir, but I signed a card—I did not sign a card, but I signed one for the automobile. I signed one for every one, but I did not sign my name to this one.

Q. You signed one for every one? A. Yes.

Q. Why didn't you tell me that first off instead of having all this discussion about it? A. You didn't ask me.

Mr. Rosenstein: Oh, Mr. Lane!

Q. For whom did you sign one? A. I signed a card for every automobile I bought, and I bought four, but I did not sign this card.

Q. For whom did you sign it and when did you sign it? A. When I bought the cars.

Q. Where? A. Right here in the Station House when I bought the cars.

Q. To whom did you give it? A. To Mr. Vordemeier, the one that brought me the cars.

Q. You gave Vordemeier your application signed, then? A. Yes, sir.

Q. What did Vordemeier do with it? A. He brought me the car with the plates and all.

Q. What did Vordemeier do with the card that

you gave him? A. I don't know what he done.

Q. Where did you sign it? A. Right here.

Q. Then, just tell us a little about that. A. Well, that is all.

Q. Oh, there is going to be a great deal more about it. Take this Cadillac, for instance: Where did you sign the application for the Cadillac? A. Right here in the Captain's office, in front of Officer McGill.

Q. Who were present there? A. Officer McGill.

Q. Anybody else? A. Vordemeier and myself.

Q. Anybody else? A. No, sir.

Q. Then you handed the card to Vordemeier? A. Yes, sir.

Q. And Mr. Vordemeier took it away with him? A. Yes, sir.

Q. And the next thing you knew was when you got the plates; is that right? A. Right, yes.

Q. Who took your affidavit? A. I didn't take —sign no affidavit, just signed my name. That is what I said before.

Q. Do you know an affidavit when you see it? A. Of course, I do.

Q. You signed a card like this? A. Signed a plain card, yes.

Q. Like this? A. Yes.

Q. You were signing your name to an affidavit. weren't you? A. I didn't swear to no card.

Q. Why didn't you? A. Well, I didn't.

Q. Well, you knew you couldn't get a license, under the law, without swearing to it before somebody, didn't you? Didn't you? A. I didn't get your question.

Q. Didn't you know that you had to make an affidavit to your application before you could get your license? A. Same what I said before, they

told me they fixed it all up. I signed my name to it and that is all I done.

Q. That brings us right back to my first question, I was asking you when you told me for the first time that you had signed some card. How did you expect the finance company to fix up the law? (No answer.)

Q. Can't you answer that? A. What can I say? I signed it, that is all I did.

Q. Well, can't you answer the question, how you expected an individual or finance company or anybody else to do something directly contrary to the law and you take the advantage of that something while you were Chief of Police of the City of Passaic? How can you explain it? A. I cannot explain it.

Q. All right. That is what you told Commissioner Dill when he asked you about the applications which had been made and were not signed by you at the Armory, wasn't it? A. No. I says I made a mistake.

Q. You made a mistake? A. Yes, I did.

Q. What did you mean by saying you made a mistake? A. Well, for not looking over them cars, what I ought to have done, and I would have found out something wrong, and I would have never bought them.

Q. No. Did not the Commissioner of Motor Vehicles ask you how it was that certain of these cars had been licensed in your name without your having signed an application? A. No.

Q. That was not talked about at all? A. No.

Q. Were you here when the Commissioner testified? A. Yes.

Q. Did you hear him say so? A. I don't remember what he said.

Richard O. Zober—Recalled—Cross.

Q. Well, now, to refresh your recollection, to see whether it will refresh your recollection, the Commissioner of Motor Vehicles testified that at the Armory he, as he put it, arraigned you because you had had plates issued upon applications which were not signed by you.

Mr. Ward: I object to that.

Mr. Lane: Wait until I get through.

Mr. Ward: Pardon me.

Q. And he says that you said that you should have known better. A. I should have known better.

Q. Does that refresh your recollection? Does that refresh your recollection that there was some conversation between the Commissioner and yourself with respect to these applications?

Mr. Ward: I object to the question upon the ground that counsel has no right to compare the evidence of one witness with the evidence of another, even by way of refreshing his recollection.

The Commissioner: I overrule your objection. Proceed.

Q. Does it refresh your recollection that you had some conversation with the Commissioner? A. I do not.

Q. Chief, I show you an application for the registration of the Paige car made by you in December, 1926, and ask you whether that is your signature. A. Yes.

Mr. Lane: I offer it.

(Card marked Exhibit D-3.)

Richard O. Zober—Recalled—Cross.

Mr. Lane: This is only offered in evidence for the standard of handwriting.

Q. I want you to look carefully at these signatures. I show you an application by you also for registration of the Paige in December, 1925, and ask you to look at this signature. A. Yes, sir.

Mr. Lane: I offer it in evidence.
(Card marked Exhibit D-4.)
Mr. Ward: We object to their offer.
Mr. Lane: On what ground?
Mr. Ward: On the ground that they should not be offered at this time.

Q. I show you registration of the Paige for 1924.

Mr. Ward: They are admitted?
The Commissioner: They are.

Q. And ask you whether that is your signature. A. Yes, sir.

Mr. Lane: That is offered for the same purpose.
(Card marked Exhibit D-5.)

Q. I show you application for driver's license in 1925 and ask you whether that is your signature to your application. A. Yes, sir.

Mr. Lane: I offer it.
Mr. Ward: The same objection.
(Card marked Exhibit D-6.)

Q. I show you application for registration in 1924 for a driver's license, and ask you whether that is your signature on that. A. Yes, sir.

(Card marked Exhibit D-6a.

Richard O. Zober—Recalled—Cross.

Q. Now, once more, in order that there should be no mistake about it in the future, I again show you Exhibit P-10 and Exhibit P-15, and ask you whether the signatures "Richard Zober" on those two exhibits are yours? A. Yes, they are.

Q. You knew when you signed this card that was taken away by Vordemeier, the application for license, the affidavit attached to the application for license, that some officer was going to sign that and falsely represent that you had sworn to that statement before that officer, didn't you? A. I did not know.

Q. You did not? A. No.

Q. You know that an officer has to take an affidavit, don't you? A. I didn't know how they worked in finance corporations. They told me they would fix it all up, and that is how I got it, and what else can I say?

Q. Chief, did you believe at that time that where the law required certain things to be done, as you knew, there was some power that could fix it up? A. Well, I thought they could fix it up. I was told and I believed in it.

Q. Well, didn't you know with your experience as a police officer that that could not, or if it could, should not be done? A. Well, I know it now, it should not be done.

Q. Didn't you know then it should not be done? A. I done it, and I thought it was O. K.

Q. How many cars in all did you buy from Vordemeier? A. Four.

Q. How much did you pay him for the Cadillac? A. The Cadillac I paid him $1,600.

Q. How? A. Cash.

Q. When? A. About three weeks or four weeks after I got it from him.

Q. After you sold it? A. I paid him on May 13, the day after I got paid from Mr. Labash.

Q. Where? A. Where I paid him?

Q. Yes. A. At Headquarters.

Q. Who was present? A. I don't know if there was anybody up in my office then. I could not say.

Q. Where did you get the cash? A. I got the money, the check, from Mr. Labash and I sent over and got him cash.

Q. Where did you pay him for the second car? A. Headquarters.

Q. How much? A. Second car, $1,100.

Q. How? A. I paid all the cars in cash.

Q. How? A. In cash.

Q. Where did you get the money? A. I got $200 in cash and a check for a thousand dollars.

Q. That is Winters' check? A. Yes.

Q. Which you had cashed? A. Yes, sir.

Q. Who was present when you made that payment? A. Gee, I can't remember now who was there. There was always somebody in my office.

Q. When did you pay him for the third car? A. At the same place. I always called up and he came up here around five o'clock in my office.

Q. Who called up? A. I called up.

Q. Where? A. Called up Donohue's over there, where he comes every day. I had that car sold and I called him up and I said to tell him to stop at Headquarters, I got the cash for you; and he came over and I give him the money.

Q. So you reached him through Donohue's? A. Yes, sir.

Q. Is there a relative of yours who worked in Donohue's? A. Yes, sir.

Q. A brother? A. Yes, sir.

Q. As what? A. As a bartender. Used to be related to Donahue.

Q. Are you related to Donahue? A. No.

Q. When did you pay Vordemeier for the third car? A. That is the Hipp car?

Q. I don't know. A. Well, it is. Well, as soon as I sold it.

Q. Where did you get the money for the Hipp car? How did you get it? A. I got it by check.

Q. What did you do with the check? A. Cashed it.

Q. How much was it? A. 850.

Q. Whose check was it? A. Mr. Latham's.

Q. How much did you give Vordemeier? A. $750.

Q. Cash? A. Yes.

Q. In Police Headquarters? A. Yes, sir.

Q. Anyone present? A. I couldn't say if there was anybody here or not.

Q. When did you pay him for the fourth car? A. Fourth car I paid him over in Garfield—Brandenburg's farm. Not inside, but outside on the stand. That was my own.

Q. How long after you got the car? A. I guess about two weeks after, maybe less than two weeks.

Q. Cash? A. Yes.

Q. How much? A. $1,100.

Q. Where did you get it? A. Where did I get it?

Q. I asked you where you got the $1,100 cash. A. I always got it; I always got that amount of money with me. I always had five or six hundred dollars up in my safe.

Q. I am not talking about five or six hundred dollars. I am talking about $1,100. A. That is where I had.

Q. Where did you get the cash from? A. I didn't steal it. It was my own money.

Q. I asked you where you got it. A. I got the money all the time; I got a couple of hundred dollars laying home, and I had five or six hundred dollars, sometimes as high as a thousand dollars left in the safe.

Q. At any rate, it was all in cash? A. All in cash.

Q. Every check you got for these cars you cashed before you used the proceeds? A. Yes, sir.

Q. Why did you do that? A. Because I made a little money on the cars.

Q. All right, but why did you make them all cash transactions of that kind? A. My general business I do by cash.

Q. Have you any check account? A. Yes, sir.

Q. You have got a check account upon which you can draw money? A. Yes, sir, but I haven't much in there.

Q. But you can put cash in and draw it out? A. Yes, sir.

Q. You have got a checking account? A. Yes, sir.

Q. Yet each one of these transactions you put through on cash both ways? A. Yes—what do you mean, both ways?

Q. I mean both ways. I mean those that paid you, you cashed their checks and did not go through your account, and you paid Vordemeier each time in cash? A. Yes, I did.

Q. So that there is not in writing a single record of any one of these transactions, is there? A. Well, I didn't think anything wrong by doing this; I do it right along. I bought property, I bought lots and paid cash.

Q. Was there anyone suggescting that each one of those transactions were cash transactions? A. No.

Q. You knew that there was a well systematized business in selling and buying stolen automobiles, didn't you? A. No, it is new to me.

Q. New to you? A. I know it now, yes. I didn't know anything about that.

Q. Do you read the newspapers? A. Oh, well, you mean all over, all over the country?

Q. Yes, all over. A. Yes.

Q. Do you think that Passaic is immune? A. I never noticed anything wrong here.

Q. You thought Passaic was a little oasis in the desert, in the country, that did not have that kind of crime? A. Yes, I think Passaic is a clean city.

Q. I am talking about stolen automobiles now. A. Well, that goes with it.

Q. You knew that there was a well systematized business of selling and buying stolen automobiles throughout the country generally, didn't you? A. Yes, in bigger cities. Yes, sir.

Q. You knew that efforts were being made by not only the cities but by the national authorities to put a stop to it? A. Yes, sir.

Q. And you knew legislation was being adopted every year more stringent with respect to securing applications for licenses, with respect to bill of sale, and with respect to the registration of motor vehicles, didn't you? A. Yes, sir.

Q. You knew that if there was a trade or if there was a sale of a car, stolen car, the transactions would be all cash, didn't you? A. No, I didn't.

Q. You didn't know that? A. No.

Q. You thought thieves would deal in checks; is that right? A. No, I didn't think that.

Q. No. Honest men deal in checks, but not thieves, do they? That is so? You knew that, didn't you? A. No, I didn't.

Q. You didn't know it? You didn't know that stolen property is always transferred for cash, after your experience of a number of years? A. My check is good any time. I think it is as good as yours.

Mr. Ward: I object. It is an assumption on the part of counsel—always. "Didn't you know that cash is always" and so forth.

Mr. Lane: I will withdraw it.

Q. How long had you known Vordemeier? A. For the first time I met him over on the farm when he had the Cadillac there, the first time I met the man.

Q. And you bought this car from him, meeting him in that way? A. Yes, but not the first day.

Q. No, not the first day. Did you know him any better the second day or the day that you did buy the car? A. If it was not for Brandenburg—Dr. Brandenburg is a good friend of mine, I have known him so many years, and he is all right. That is how I got in.

Q. Did you ask Vordemeier who it was that he was getting these cars from? A. No, sir,—why, from the finance corporation.

Q. Did you ask him the name of the finance corporation? A. New Jersey Finance Corporation.

Q. Did you find out or have you found out whether there is any such corporation? A. I didn't have no time to look for it; I was busy during the time, and I took for granted everything was

O. K., on account of Dr. Brandenburg.

Q. Did you find out since whether there was any such concern as the New Jersey Finance Company? A. No; my head is full, I didn't bother with that.

Q. Did he tell you he had influence in getting good cars from the New Jersey Finance Comany? A. He says they take them in there for not paying up, and he says they are getting them in every day in the week, and he says, "I get them and I make a little profit."

Q. Did he tell you what his connection with it was? A. Well, I understand—I was informed he was connected with them somehow.

Q. Who informed you that he was connected with it? A. Brandenburg introduced me to him and told me.

Q. What did he tell you? A. He told me in case I want to make a buy of a cheap car, there is Mr. Vordemeier, he says, "He is connected with the New Jersey Finance Corporation, and if you want a car,"—and I said, "My car is all shot to pieces. If you have got anything, all right," and that is how he introduced me to that Cadillac car.

Q. Did he tell you where the New Jersey Finance Company was located? A. No.

Q. Did he tell you how a man whose business was dealing in frankfurters had a connection with the New Jersey Finance Company? A. I didn't know he was a frankfurter man.

Q. You were not told by Brandenburg and did not ascertain if he was? A. Oh, after I found out, yes, that he was. I thought he had a side line, that is what I thought.

Q. I didn't ask you what you thought. I asked

you what you were told by Brandenburg. A. That is all I was told. I was introduced to him.

Q. Were you told that he had some friends in the finance company? A. Yes, sir.

Q. Who might get the cars? A. I don't know just what was said, friends or if he was connected with them, I couldn't say just word for word what was said, but I was introduced by—just Judge Davidson was there and Officer McGill was there. He was quite a stranger at that time.

Q. Knowing there was this trade in stolen automobiles, you were willing to deal with a man whose business you did not know? A. Brandenburg was the one, a man I knew was pretty near a millionaire over there, a man of high standing, that told me; otherwise, I would never have bought a car off that man.

Q. Whose business you did not know? A. No.

Q. Whose finance company you did not know, and the method by which he secured the cars you did not know? A. Well, I was told he get them from the finance corporation, and on account of Brandenburg, I believed it.

Q. Did Brandenburg tell you how well he knew Vordemeier? A. Yes, sir.

Q. What did he tell you? A. Dr. Brandenburg said he was a client of his for years and he sold him a lot of stuff, and he knows him well.

Q. Who was it that showed you the car up at the farm? A. Vordemeier.

Q. Was there another man there with Vordemeier? A. There was three or four around there; I don't know.

Q. Was there a man in the car with Vordemeier? A. No, not when I was there; there was nobody in the car, pretty sure there was not.

Richard O. Zober—Recalled—Cross.

Q. Was there a man who was introduced as the friend of Vordemeier through whom Vordemeier dealt with or could deal with the finance company? A. Not to me.

Q. Not to you? A. No.

Q. So you never knew there was this friend whose name nobody knows? A. No, sir. The only one I had dealings with was Vordemeier.

Q. Now, when this bill of sale was put through and you took it to Judge Davidson, what was it that was wrong about the first one? A. I don't know.

Q. Well, what did Judge Davidson say? A. I don't remember just what he said. He brought it down—I brought it up to him and he came down the following morning with me and he said, "I think you better send that back and tell them to look it over. There is something wrong." What it was I don't know. Then I called him up and I gave him that and in a day or so he brought me the other bill of sale, and I gave that to Judge and he O. K'd. it.

Q. That is a bill of sale in Exhibit P-7. Another bill of sale? A. I don't know.

Q. You saw both of them? A. I did not read them. I left it to the Judge.

Q. Took a look at P-7? A. I couldn't say.

Q. Is that bill of sale the same bill of sale that you showed to Judge Davidson the first time, or is it another bill of sale? A. I couldn't say. I couldn't say.

Q. You couldn't say? A. No.

Q. You haven't any recollection what it was was the matter? A. No, sir, I have not.

Q. With the bill of sale? A. No, sir.

Richard O. Zober—Recalled—Cross.

Q. Well, didn't the fact that there was something the matter with the bill of sale make you somewhat suspicious? A. Not me.

Q. Not you? A. No; I am no lawyer.

Q. No, but you are a police chief? A. I am.

Q. And should be more suspicious than lawyers, I suppose. A. Well, I had another lawyer look it over; he couldn't find anything wrong, up in Mr. Davidson's office.

Q. I am asking you whether or not the fact there was something the matter with the first bill of sale as pointed out by Judge Davidson did not make you somewhat suspicious. A. No, it didn't amount to much.

Q. But you can't tell me what it was? A. No, I don't.

Q. Now, you were buying these cars from Vordemeier, weren't you? A. Yes, sir.

Q. Now, when you saw the bill of sale, Exhibit P-7, you found that Vordemeier's name did not appear in it at all, didn't you? A. No. I understood he taken them in the finance corporation and then simply hand them over.

Q. You also say the finance company's name— A. I say I didn't look over the bill of sale; I left it to the Judge.

Q. You were buying from Vordemeier? A. Yes.

Q. Did you ask Vordemeier how it was that it was William E. Ducey who was making the bill of sale? A. I did not.

Q. Did you notice that it was not Vordemeier at all, but William E. Ducey? A. No. I said before, I left it all to the Judge. He checked it off. I didn't.

Q. Did you think to call up the Union Motor Sales Company of Elizabeth? A. Why should I?

Q. To find out whether or not this was not a stolen automobile? A. I was not suspicious of anything. Why should I call up?

Q. You are not suspicious? A. No.

Q. As Police Chief you were not suspicious with a man whom you had never met before, introduced to you, has cars for sale, dealing in cash transactions; that does not arouse your—did not arouse your suspicion in any way at all? A. No.

Q. Eh? A. No.

Q. When this second car was bought did you submit the bill of sale for that car to Judge Davidson? A. No, sir, I did not.

Q. Then, you presumed to pass upon that bill of sale yourself, didn't you? A. Yes—after the first car was O. K. I thought the others were O. K.

Q. I show you Exhibit P-33, which is a bill of sale of the Buick Coach which you bought from Vordemeier. Did you notice that that bill of sale did not contain the name of Vordemeier nor the name of any finance company, either? A. No, sir, I did not look.

Q. You didn't look? A. This is a bill of sale, all right.

Q. What? A. That is the bill of sale, all right, but I did not look.

Q. You didn't look? A. No.

Q. When you got P-28, which is the bill of sale of the Buick coupe or coop or whatever they call it, did you notice that that bill of sale did not contain the name of Vordemeier or the finance company, either? A. No, sir, I did not.

Q. Now, you mean to say that the way this transaction was carried through, after receiving all those bills of sale, there was not a single suspicion in your mind? A. No, sir, there was not.

Q. Where is the bill of sale on the other car? A. Somebody got it.

Q. The car which you now own. A. I think Mr. Shedd got it. I give it to somebody. I don't own the car now.

Q. The car which you did own, which was taken away from you, where is the bill of sale on that car? A. I don't know.

Q. When did you last see that bill of sale? A. I think when I had it—I think Mr. Dill—

Q. Who? A. Mr. Commissioner Dill. I had it down there.

Q. Commissioner Dill? A. Yes, I showed it to him.

Q. I know you showed it to him, but do you know whether he kept it or whether you took it back? A. I don't know. No good to me no more.

Q. I know it, but we haven't got it, and I am trying to trace it. Are you sure that you gave it to Commissioner Dill? A. I am not sure. I don't know. Somebody got it.

Q. What? A. Somebody got it.

Q. Who else could you have given it to? A. I don't know.

Q. Do you remember who was put in that bill of sale as the name of the seller of the car? A. I don't know.

Q. Did you have an arrangement or did anybody ask you to buy that car for them, that last one? A. My own?

Q. Yes. A. No; I told them if he has a car for me, a Buick, and this was just the car I liked. If this car would not have been what I wanted I might have sold this one and bought another one, but this was the car I liked, and I never went near him. I was done.

Q. Did you receive any receipts for your money? A. No.

Q. From Vordemeier? A. Why should I? I got the car, and I didn't need no receipt. He trusted me long enough with the cars, sometimes I had them three weeks before I paid them.

Q. Did you give him any writing when you gave the car to him? A. No; he brought me a bill of sale and I signed him and gave him the money: that is all.

Q. So that he gave you a bill of sale on all of these cars? A. Yes.

Q. With the exception of the—he gave you a bill of sale of all of these cars? A. Yes, sir.

Q. Putting the title in your name? A. Yes, sir.

Q. Before he was paid? A. Well, one of them I only had two days. I sold it right away.

Q. Were you ever at Vordemeier's house? A. No, sir.

Q. Did you know where he lived? A. I was told in Bogota.

Q. You didn't know what his business was? A. No; not at that time.

Q. When did you find out what his business was? A. After I had the car for about a week or two.

Q. What did you find out his business to be? A. Well, he was on a provision route, that is what I was told, and he does that on a side line.

Q. What? A. He sells automobiles on the side, earned a little money on the side.

Q. Who told you he was selling automobiles on the side? A. Brandenburg.

Q. When did Brandenburg tell you he was selling automobiles on the side, that Vordemeier was

selling automobiles on the side? A. I bought them.

Q. When did Brandenburg tell you that? A. I couldn't tell you when that was.

Q. Before you bought the Cadillac? A. No. I said I did not know him before.

Q. After you bought the Cadillac? A. Yes, sir.

Q. What did Brandenburg say about him? A. He was telling me, then, he came over there and wanted to put a frankfurter stand,— I don't know just the conversation, what it was, but I met Brandenburg sometimes two or three times a month, and more than that when we went over to the farm. There was times he was not there and I bought off the old gent, going over there regularly.

Q. Now, when was it that you—after you bought this Cadillac, tell me how you negotiated the second sale. A. I told them I couldn't use that car and wanted a smaller car, and that is how he called me up. And then he said he had one, and he brought it over.

Q. He called you up on the telephone here at Police Headquarters? A. No.

Q. Where? A. I think he got me at the Botany Mill, if I ain't mistaken, when I was on strike duty down there.

Q. Yes. What did he say? A. Why, he said he had a car for me.

Q. What did you do? A. And he brought it over and I looked it over.

Q. Brought it over where? A. Over to Headquarters. I said that before.

Q. He drove the car himself? A. I don't know.

Q. Well, was there anybody else with him? A. I couldn't say that now.

Q. Do you remember whether there was any-

body? A. Must have been somebody with him, because sometimes—twice he left the car right here and he wouldn't walk back. He must have had another car.

Q. That is what I would like to know: Did he have two cars or what? A. I don't know. No doubt he had.

Q. What? A. Of course, I never brought him back.

Q. Well, altogether he came—just take your mind back to the second car you bought. A. I couldn't say he had another car with him. I couldn't say, I imagine somebody was with him.

Q. But you never met anybody with him? A. No. All my dealings was with him alone.

Q. Then, how did you happen to buy the third car? A. Same way.

Q. Well, I know the same, but give us a little more detail about it. A. When I bought the second car I told him, I said, "I sold that car," and he got me another one.

Q. How? Tell us how the transaction took place. What did you do? Did he telephone you or you telephone him or what? Give us a little picture of it. A. I couldn't just say how the telephone business was, but he came over here with them and looked them over. I had one out in the garage here for two or three days. That is the one that went down to Hipp. Then I had to take it out of here; there was something—I don't know what happened. I had no room and I took it to the garage for a couple of days, and from there my son took it down to Winters.

Q. Did he bring that car to the Police Headquarters in the same way? A. Yes, sir.

Q. How about the fourth car? A. The fourth car I got over in Garfield. That is my own.

Q. Tell us. Give us a picture of that, how it happened. A. He called up and I went over there.

Q. What did he say when you went up? A. I couldn't remember just what he said, but he says, "I have got a car," or he brought me a car, "which is just what you want," and I went over there and I got it. It was on the stand, it was waiting there, and we drove up and down the street; it was all right. He said, "What do you think of it?" I said, "That is all right. How much do you want?" He said, "I want $1,100." I said, "You will have to wait a week or so before I get the money." He said, "Go ahead."

Q. Did you take the car? A. Yes, sir.

Q. This was at Garfield? A. Yes—well, Garfield and Woodridge, they are outside of the farm of Brandenburg's.

Q. Do you know how it is that the applications for these change of license in three instances are made at the agency in Carlstadt? A. I have got no idea.

Q. Do you know George Zimmerman? A. No, sir. I knew the Zimmerman family, but I don't know the old gentlemen, through lodges, but the boys I don't think I know them.

Q. You have no idea why the applications to change the registration in your name were made in Carlstadt? A. I had no idea.

Q. Two in Carlstadt and one over in New York? A. I had no idea.

Q. When did you know that Vordemeier had died? A. The day after my car was taken away.

Q. Did you find out when he died? A. No.

Q. Do you know now when he died? A. No. The night my car was taken away from me I called up the Chief of Police in Bogota around six o'clock and I told him, I says, "Chief, I owned an automobile or cars and I understand there is something wrong with them. They took my car away a little while ago." I says, "Do you know him?" He says, "No, I don't, but wait a minute and I will speak to my clerk," and he spoke, and I said, "I will be over there tomorrow morning with a warrant." Finally I came up and spoke to Mr. Rice, I think, and then I found out that the man died. I never went over. The only man I went for in Bogota, I think it is an employe, the other day. I never went near the family or anything.

Q. As I understand it, within a period of six months you bought four cars from this man Vordemeier? A. Yes, sir.

Q. Then, the business suddenly stopped? A. I had the car I wanted. I could have got another one. Sergeant Callahan wanted one.

Q. You still went to Donahue's? A. Yes; I went over there with Captain Monks and Sergeant Cunningham. I don't deny it.

Q. Yes. I am not criticizing the fact of going to Donahue's. That is not the point of my question. You will see the point in a minute. And Vordemeier also went to Donahue's? That is where he called you up from? A. No, sir.

Q. I think you said that is where he reached you? A. I was never with Vordemeier in Donahue's.

Q. I think you said that is where you reached him, through Donahue's? A. Through telephone.

Q. Yes. That is what I say, telephone at Donahue's. A. Yes, he is there. He go there every

day in the week, but I never met him over there.

Q. You kept on going to the Brandenburg farm for green stuff? A. Yes.

Q. Kept right on going up there? A. Yes, sir.

Q. And Vordemeier was the man who had been introduced to you there, from whom you had carried on this rather extensive business? A. Yes.

Q. And nobody ever suggested as to why it was that Vordemeier had suddenly disappeared from the scene? A. I didn't know.

Q. And no longer telephoned you from Donahue's and did not come over at Brandenburg's? A. I didn't want no more cars, and I understood he died a couple of weeks ago.

Q. Nobody said anything about it? A. No, sir.

Q. Nobody said, "Did you meet Vordemeier at all"— A. No.

Q. Wait. "Did you meet Vordemeier at all after you bought this last car?" A. Yes. I think I seen him, yes. I think I seen him, yes.

Q. When was the last time you saw him? A. At least a year ago.

Q. What was it about? A. I don't know what it was about. I had no more dealings with him, not after that last car, my Buick car.

Q. As I understand it, you were going up to the farm to buy green stuff? A. Yes, sir.

Q. What? A. Well, he got everything over there.

Q. Just what were you going up there to buy at this time you went up to look at the Cadillac? A. At that time we got the cauliflower.

Q. Anything else? A. Spinach.

Q. Anything else? A. I can't remember just what else. Cauliflower, I know we had it, and

spinach, gave me a basketful of stuff. Sometimes he brought it right at the house.

Q. I am talking about the time you went up to buy green stuff at the Brandenburg farm, at the time that Cadillac was purchased? A. I bought cauliflowers there.

Q. Which was in the month of March? A. March or April.

Q. March? A. Well, March.

Q. Not much green stuff going around those diggings at this time? A. I bought cauliflowers and spinach.

Q. You went all the way up to the Brandenburg farm to get cauliflower and spinach? A. Yes, took the little wife.

Q. In March? A. Yes.

Q. That is all.

Mr. Ward: We rest.

REBUTTAL TESTIMONY.

MRS. VIRGINIA VORDEMEIER, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. In Rivervale, New Jersey.

Q. Are you the widow of Robert Vordemeier? A. I am.

Q. When did Robert Vordemeier die? A. On May 15, 1927.

Q. How long had you been married to him? A. It was thirteen years the 15th of November.

Q. You lived with him all during that time? A. All during them years.

Q. What was Mr. Vordemeier's business? A. Ever since I married him, in the provision business.

Q. Where? A. From Bogota and all the towns, Garfield, Passaic, and Hillsdale, Westwood, and all of them.

Q. Where did he have his principal place of business if he had such? A. Well, he just bought his provisions of Bogota—Mr. Strutt on Palisade Avenue.

Q. What kind of a house did you live in? A. Frame house.

Q. Was there a stable on that house? A. Yes; we had a garage, a barn you might as well say made into a garage.

Q. Did Mr. Vordemeier own a car? A. Yes.

Q. What kind of a car did he have? A. Ford truck.

Q. Did he own any other kind of car? A. No, not in the last four years. We had a Ford then, a Ford sedan.

Q. Where did he keep that truck? A. He kept it in our barn.

Q. Now, did you ever, during the time that Mr. Vordemeier was alive, see any other cars of any kind brought by him to that—

Mr. Ward: I object.

A. Never. Never. He had never had a car but a Ford car, the truck.

Mr. Ward: I object to it as irrelevant and immaterial.

Mr. Lane: I press it.

The Commissioner: Proceed, Mrs. Vordemeier.

A. And we only rode, we went out for pleasure, we went in this Ford truck.

Q. Did you ever know him to have any other car around? A. Never since I have been married thirteen years.

Q. Did you ever know him to have any connections with any other cars or any finance companies or any—

Mr. Ward: I object.

A. To the best of my knowledge, I don't know.

Mr. Ward: I object.

Mr. Lane: The question is not finished.

Mr. Ward: Pardon me.

(Question repeated by stenographer.)

Q. —or any dealings with new or second-hand cars? A. Never.

Mr. Ward: I object and ask that the answer be stricken out so I can interpose my objection.

The Commissioner: No, I think it is proper, Mr. Ward.

Mr. Ward: For her to answer before I have the opportunity to object?

The Commissioner: You may object.

Mr. Ward: I tried to be courteous to counsel and not interrupt.

The Commissioner: You objected and I ruled on it, and she can answer it. You are already in there with your objection.

Mr. Ward: I should like it to appear I

had no opportunity to object to her answer.

The Commissioner: Well, you may renew your objection, so he puts it on the record. Proceed.

Q. Now, do you know whether or not your husband could drive a shift car? A. No, he never drove a shift car.

Mr. Ward: I object. One moment. I think that should be answered yes or no, whether or not she knows.

A. No.

Q. Do you know, I said? A. I know that he has never drove a shift car, not since I have been married, and that is thirteen years.

Q. Do you know Chief Zober? A. No, I do not.

Q. Have you ever lived in Bogota? A. Yes; I lived there about twelve years ago, where the Bogota Provision is now.

Q. Have you ever lived in Bogota since? A. Never since.

Q. Did you ever go to Mr. Donahue's place in Garfield with your husband? A. Yes, but I never went in; I was outside in the car.

Q. Do you know whether or not Chief Zober met your husband there at any time? A. I guess he did. He went there.

Q. If he went there, you don't know anything about it yourself? A. I don't know anything about it.

Mr. Ward: No questions.

MRS. ELIZABETH BOCK, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mrs. Bock, where do you live? A. Rivervale, New Jersey.

Q. Did you know Mr. Vordemeier in his lifetime? A. Yes, sir, I did.

Q. Did you know his wife? A. Oh, yes.

Q. How long have you known them? A. I have known them between nine and ten years.

Q. Where did you live with reference to them? A. Well, they lived in my house for three years.

Q. What years did they live in your house? A. It is about ten years ago they lived there them three years. It was right after my husband was killed they rented the house.

Q. Where were they living with reference to where you were living in 1926? A. They were living in their own home, a little ways from my place.

Q. Did you see Mr. Vordemeier practically every day? A. Every day mostly I seen him pass my door.

Q. Did you visit her house? A. Yes, I did.

Q. Did you know that there was a stable or garage on that house? A. There was a small stable with no door on it; it was open.

Q. Were you intimately acquainted with them? A. I certainly was.

Q. Did you ever see Mr. Vordemeier driving any car excepting a Ford?

Mr. Ward: I object on the ground it is immaterial and irrelevant and not proper rebuttal.

Mr. Lane: I press the question.

The Commissioner: Overruled. Proceed.

A. I have never seen him drive anything but a Ford.

Q. Have you ever seen any other kind of car around his place? A. Never.

Q. You knew them intimately? A. I did.

Q. Do you know what his business was? A. He sold Bologna, bought it wholesale and retailed it, bologna and provisions.

Q. Did you know his reputation in that locality?

Mr. Ward: I object to that.

Mr. Lane: I press it. I want to observe here that the odium of this thing has been cast upon a dead man, and I want to clear his name if I can.

Mr. Ward: I object to that as not proper, as irrelevant and immaterial, and not rebuttal.

The Commissioner: At least somebody should be given a chance to defend a dead man.

Mr. Ward: The law of the land is to be preserved under the rules of evidence.

The Commissioner: I rule that she proceed.

(Question repeated by stenographer.)

A. I did.

Q. Was his reputation good or bad? A. Good, to my knowledge.

Q. As a law-abiding citizen? A. To my knowledge.

Q. You knew people who knew him? A. Oh, yes.

Q. That is all.

Mr. Ward: No questions.

CHARLES ARTZ, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Artz, where do you live? A. In Rivervale.

Q. Do you know or did you know Mr. Robert Vordemeier in his lifetime? A. Well, in his lifetime.

Q. How long a period of time did you know him? A. About fourteen years.

Q. Did you know his wife? A. I did, yes.

Q. Did you know his business? A. Yes.

Q. What was his business? A. Wholesale provision wagon.

Q. How often did you see Mr. Vordemeier? A. Well, I used at the beginning, when I first went out, seen him every day.

Q. What is your business, by the way? A. I am an electrician at the present time.

Q. How often did you see him in 1926? A. Well, practically every morning, used to see him start out in the morning and come home at night, sometimes I would meet him at night and talk to him.

Q. How close did you live to him? A. I judge about two blocks.

Q. Did you know the kind of a car that he drove? A. Ford truck.

Q. Did you ever see him drive any other car? A. No.

Mr. Ward: I object to it as irrelevant, immaterial, and not rebuttal.

Q. Did he have any other car around his place or anything of the kind? Ever see him with any other car?

Mr. Ward: I object to that.

The Commissioner: Mr. Kelley is making your notations.

Q. Do you know his general reputation in the community? A. Very good.

Mr. Ward: One minute. I object to that on the ground it is not rebuttal. It is not in this case, sir.

(Question repeated by stenographer.)

Q. —in which he resided? A. Very good.

The Commissioner: I will permit that.

Q. Did you know the people with whom he associated generally? A. Yes; all neighbors of the town.

Q. All the neighbors of the town. What was his general reputation in that community as a law-abiding citizen?

Mr. Ward: I object to that on the ground it is irrelevant and immaterial and not rebuttal.

The Commissioner: Overruled. Proceed.

A. Very good.

Q. That is all.

Mr. Ward: No questions.

FRANK A. GERMAN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. German, where do you live? A. Rivervale.

Q. Do you hold any official position in Rivervale? A. One of the judges of the town.

Q. What is your business? A. I am in the automobile accessory business.

Q. Do you know or did you know Robert Vordemeier in his lifetime? A. Yes, sir.

Q. How long a period of time had you known him? A. About three years.

Q. Did you know his family? A. Why, never to—I knew him better than his wife.

Q. You knew who he was? A. Yes; he used to stop at the place every day for gas and oil.

Q. And Rivervale is a small place? A. Yes, about four miles square.

Q. Well, I mean the inhabitants, I don't mean area. A. Oh, I guess it is about six hundred, I guess.

Q. Everybody knows everybody else? A. Everybody.

Q. Did you know the general reputation of Mr. Vordemeier in the community for law-abidedness?

Mr. Ward: I object on the ground that it is irrelevant, immaterial, and not rebuttal.

The Commissioner: Overruled. Proceed.

A. Very good. Always paid me.

Q. Do you know the car that he drove? A. Yes, he drove a truck, one of these Bogota provision wagons; that was a Ford truck.

Q. Did you ever know him to have any other kind of car?

Mr. Ward: We object again.

A. I never seen him.

Mr. Ward: We object to that.

The Commissioner: Objection overruled.

Q. That is all.

Mr. Ward: No questions.

RUDOLPH ZEISHANG, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Where do you live, Mr. Zieshang? A. Rivervale.

Q. Do you occupy any official position in Rivervale? A. Yes.

Q. What position? A. Police Department.

Q. What position in that department? A. Well, I am Chief of Police.

Q. Do you know or did you know Robert Vordemeier in his lifetime? A. Yes.

Q. How long did you know him? A. Oh, about three or four years.

Q. Did he belong to the Rivervale Fire Company with you? A. Yes, sir.

Q. You knew the people, then, with whom he associated in Rivervale and who knew him? A. Oh, yes, sure.

Q. Small community, isn't it? A. Yes, it is about a thousand people, that is all.

Q. Almost everybody knows everybody else's business, do they not, as usual in those towns? A. Yes, sir.

Q. Did you know the kind of a car that he drove? A. Yes, Ford truck.

Mr. Ward: One moment. Same objection, sir. I ask that it be interposed before the answer, as irrelevant and not rebuttal.

The Commissioner: Overruled, Mr. Ward. Proceed.

Q. Did you ever know him to have any other kind of car than a Ford truck? A. No, sir.

Q. Or to be driving or connected with any other car excepting a Ford truck? A. That is all.

Mr. Ward: Same objection.

The Commissioner: Mr. Kelley will note it.

Q. That is all.

Mr. Ward: No questions.

LEOPOLD HERMANN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Hermann, where do you live? A. Rivervale.

Q. What is your business? A. Painting.

Q. Did you know Robert Vordemeier in his lifetime? A. Yes.

Q. How long have you known him? A. Well, I know him about six years.

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

Q. What kind of a house he had? A. Yes, sir.

Q. How often did you see him? A. Well, I have seen him once or twice a week.

Q. Did you know the people with whom he associated in the town? A. Yes, he belonged to the Fire Department, which I was Chief of at that time.

Q. Do you know what his general reputation was in the community in which he resided as a law-abiding citizen? A. Everyone liked him.

Mr. Ward: I object to the question.

The Commissioner: It is noted, Mr. Ward.

Q. Did you ever know him to have any car other than a Ford car? A. No, sir.

Mr. Ward: I object to the question.

Q. Or to be driving in a car other than a Ford car? A. No, sir.

Mr. Ward: Same objection.

Q. That is all.

Mr. Ward: No questions.

GARRETT S. M. HOLDRUM, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Holdrum, where do you live? A. In Rivervale, New Jersey.

Q. In 1926 did you occupy any official position there? A. 1926 I was Chief of the Fire Department.

Q. Did you know Mr. Vordemeier? A. I did, yes, sir.

Q. How well did you know—how long and how well did you know him? A. Why, I knew Mr. Vordemeier about four years. I saw him possibly three or four times a week. I am in the ice business. I supplied him with ice.

Q. Was that your business? A. Yes, sir.

Q. Did you do business with him right up to the time of his death? A. Yes, sir.

Q. Did you know what his business was? A. Why, he was in the provision business for the Bogota Provision Company, distributor. He distributes, he had a route which had—Mondays certain places, Tuesday certain places, and Wednesday, and so on; each day of the week he had a different route, I understood him to say.

Q. Did you know where his house was, his home? A. Yes, sir.

Q. You knew his family? A. I did, yes, sir.

Q. Do you know what kind of a car he drove? A. He drove a Ford.

Q. Did you ever hear—did you ever see him drive any other kind of a car?

Mr. Ward: We object.

Q. Any other kind of a car or anything of that kind?

Mr. Ward: I object to it on the ground it is irrelevant and not rebuttal.

The Commissioner: Objection overruled.

A. No, I never did.

Q. Did you know the people with whom he associated, the people who knew him there? A. Yes, sir.

Q. Do you know his general reputation in the place in which he resided as a law-abiding citizen? A. It was good, yes, sir.

Q. What was that reputation?

Mr. Ward: Objected to on the ground it is irrelevant and not rebuttal.

Mr. Lane: I might say that a dead man can only be defended by proof of his reputation.

The Commissioner: Go ahead.

A. Why, he belonged to the Fire Department, and he was associated with most of the people of the town. Of course, there was hardly anybody in the town that didn't know him, and he appeared to be a good citizen in the town.

Q. Do you use a lot of cars yourself? A. I do, yes, sir.

Q. Are you in the market for the buying of cars generally? A. Why, not every year, but off and on. I always buy on the ice route, we have a little bad luck and I buy one car, possibly, to finish up the season, and like that; I often do.

Q. Did Mr. Vordemeier ever speak to you about selling any second-hand cars? A. No, sir .

Mr. Ward: I object on the ground it is irrelevant and not rebuttal and hearsay.

Q. Did he ever suggest to you that he had any way by which he could buy cars cheap or something of that kind?

Mr. Ward: Same objection.

Q. Or anything of that kind?

The Commissioner: All right, Mr. Ward.

A. No, he never did.

Q. That is all.

Mr. Ward: No questions.

CHARLES A. MONKS, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Captain, what is your position in the Police Department of the City of Passaic? A. In command of the Detective Bureau.

Q. On the 8th day of November, 1927, did you with Sergeant Cunningham and Detective Boyko see Mr. Henry Brandenburg at his home at 232 Hackensack Street, Woodridge, New Jersey? A. I did.

Q. Did you ask him whether he knew a man by the name of Robert Vordemeier, and did he reply, "Yes, I did"? A. Yes, sir.

Q. What? A. Yes, I did.

Q. After you had your information or had your talk with him did you make a memorandum of it? A. I did.

Q. Did you typewrite that memorandum? A. I did.

Q. How soon after the conversation took place? A. About fifteen minutes.

Q. Have you got that memorandum here? A. Yes, I have part of it.

Q. Now, I don't mean—I mean— A. This is the original memorandum that I have right in my hand here.

Q. Did you typewrite it? A. Yes.

Q. Now, will you refer to that memorandum for the purpose of refreshing your recollection?

Mr. Ward: Might I ask, is it necessary, Captain, for you to refer to that, or can you remember what occurred without referring to that memorandum?

The Witness: Well, there is a few questions there I don't think I can recall, but I can recall the most important part of it.

Mr. Ward: I object to his referring to the memorandum.

Mr. Lane: I won't ask him to refer to the memorandum until we get to the point.

Q. Did you ask him how long did he know Vordemeier, and was his reply, "Four or five years"? A. Yes, sir.

Q. Did you ask him what business Vordemeier was in, to which he answered, "Selling frankfurters. He tried to sell at my stand several times"? A. Yes.

Q. Did you ask him, "Do you know if he was in any other business than selling frankfurters?" And was his answer, "No sir." A. Yes, sir.

Q. Did you ask him, "Did you ever introduce Chief Zober to Vordemeier?" And was his answer, "I think that I introduced Chief Zober to Vordemeier in the early summer of 1925"? A. Yes, sir.

Q. And did you ask him, "When you made the introduction did you introduce Vordemeier as a

man who represented an automobile finance company from Jersey City, and from whom Chief Zober could buy cars very cheap?" And was his answer, "No, sir, absolutely not"? A. His answer was no.

Q. Did you interrogate him with respect to a car which was taken away from him as a stolen car? A. I did.

Q. Did you ask him from whom he bought the car and was his reply that he was introduced—that the man was introduced to him by Bob Vordemeier? A. Yes.

Q. And did you ask him, "What is the man's name?" And was his answer, "I don't know"? A. Yes, sir.

Q. Did you ask him, "Where did this man say he came from?" And was his answer, "I don't know"? A. That is right.

Q. Did you ask him, "What did he look like?" And was his answer, "I don't remember"? A. Yes, sir.

Q. Did you ask him, "What did you pay for the car?" And was his answer, "$1,150"? A. Yes, sir.

Q. Did you ask him, "Cash or check?" And was his answer, "Cash"? A. Yes, sir.

Q. And did you ask him, "Did you ever see this man before you bought the car from him?" And was his answer, "No, sir"? A. Yes, sir.

Q. And did you ask him, "Did you see him again before you bought the car from him?" And was his answer, "I never saw him again"? A. Yes, sir.

Q. Did you ask him, "Do you remember ever seeing any men showing or selling any cars to Chief Zober at your stand at the farm?" And was his answer, "No, sir, there was no cars sold at the farm"? A. Yes, sir.

Q. Did you ask him, "Are you positive that you never introduced Bob Vordemeier to Chief Zober as a man who represented an automobile finance company from Jersey City from whom he could buy cars very cheap?" And was the answer, "I am positively sure I never did"? A. Yes, sir.

Q. Did you, in company with Detective Boyko and Detective Meisse of Union City, on the 8th of November, interview Dr. Leo Brandenburg? A. I did.

Q. Did you ask him: "Q. Did you ever introduce Robert Vordemeier to Chief Zober?" And was his answer, "I think I did introduce him to the Chief at my brother's farm, but I am not sure about it"? A. That was his answer.

Q. Did you ask him, "Did you ever introduce Vordemeier to Chief Zober as a man who represented an automobile finance company from Jersey City and from he could buy automobiles very cheap?" And was his answer, "No, sir, I did not, as Vordemeier never worked for any finance company that I knew of, but I do know that Vordemeier had two friends who sold automobiles, and he often used to talk about it"? A. Yes, sir.

Q. Did you ask, "Who were the two men?" And he answer, "I don't know"? A. That was his answer.

Q. Was the next question, "What did they look like?" And his answer, "I don't remember"? A. That was his answer.

Q. Did you ask him, "Were you introduced to them by Vordemeier?" And was his answer, "I think I was." A. Yes, sir.

Q. Was the question: "Well, what names did they use?" And was his answer, "I don't remember"? A. Yes, sir.

Q. And did you ask him, "Would you be able to identify these two men in the event that you would see them again?" And was his answer, "I don't think so"? A. That is his answer.

Q. Did you ask him, "Do you know if the Chief ever bought any cars from these two men?" And was his answer, "I saw one of these men showing a big car to Chief Zober at my brother's farm in Woodridge, this was one day in the spring of 1926"? A. Yes, sir.

Q. Did you ask him, "Did the Chief buy the car?" And the answer, "I think he did"? A. Yes, sir.

Q. Did you say to him, "Now, Doctor, I am going to ask you again, 'Did you ever introduce Robert ordemeier to Chief Zober as a man who represented an automobile finance company from Jersey City from whom he could buy automobiles very cheap?'" And was his answer, "No, sir, I never did introduce Vordemeier as a man representing any finance company to anyone"? A. That was his answer.

Q. Did you ask him, "Do you know if Vordemeier ever sold any second-hand cars to any person?" And was his answer, "No, sir, I do not"? A. Yes, sir.

Q. Did you on October 29, 1927, in company with Sergeant Cunningham, Detective Boyko, and Officer Vanderbeck, interview Officer McGill at Lamontville? A. Yes, sir.

Q. Did he say to you at that time, "One day last spring during the strike Chief Zober had asked Officer—" Did he say at that time that one day during the strike Chief Zober had asked him to drive the Chief and Judge Davidson over to

Jimmy Donahue's place in Garfield, New Jersey, that they wanted to look over a Cadillac car? A. Yes, sir.

Q. Did you ask him, or did he tell you, that they drove over to Garfield where they met a fellow whom he only knew as Bob and that this Bob had a Cadillac sedan which the Chief and the Judge looked over and that Bob wanted $1,200 for the car? A. Yes, sir.

Q. Cross-examine.

Mr. Ward: No questions.

EDWARD BOYKO, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Are you a member of the Detective Force of the City of Passaic? A. I am.

Q. What is your position? A. Detective.

Q. Did you, in company with Captain Monks, on the 8th day of November, 1927, interview Henry Brandenburg at 232 Hackensack Street, Woodridge, New Jersey? A. I did.

Q. Did you at that time, or did Captain Monks at that time,—were you there during all the conversation that took place? A. Yes, sir.

Q. Did you at that time, or Captain Monks ask Mr. Henry Brandenburg whether he knew a man by the name of Vordemeier? A. I did.

Q. And his answer, "Yes, I did"? A. That is right.

Q. And did you hear him ask him, "How long

did you know him?" And did you hear Mr. Brandenburg answer, "Four or five years"? A. I did.

Q. Did you hear Captain Monks ask him, "What business Vordemeier was in," and did you hear Brandenburg reply, "Selling frankfurters. He tried to sell me franks to sell at the stand several times"? A. I did.

Q. Did you hear him ask, that is, Captain Monks ask Mr. Brandenburg, "Do you know if he had any other business than selling frankfurters?" And he answered, "No, sir"? A. I did.

Q. Now, did you hear Captain Monks ask Brandenburg whether he introduced Chief Zober to Vordemeier, and Brendenburg replied, "I think I did introduce Chief Zober to Vordemeier in the early summer of 1925"? A. Yes, sir. He said it was not the summer of 1926, it was 1925.

Q. You are sure of that? A. Positive.

Q. Did you hear Captain Monks ask Mr. Brandenburg the question: "When you made the introduction did you introduce Vordemeier as a man who represented an automobile finance company from Jersey City and from whom Chief Zober could buy cars very cheap?" And did you hear the answer, "No, sir, absolutely no"? A. I did.

Mr. Ward: When was this?

Mr. Lane: 25.

Mr. Ward: What was the date of the conversation?

Mr. Lane: November 8, 1927.

Q. Did you hear Captain Monks interrogating Mr. Brandenburg with respect to a car which had been taken from the possession of Mr. Brandenburg? A. I did.

Q. And did you hear Captain Monks ask him, "From whom did you buy the car?" And did you hear his answer, "From a man who was introduced to me by Bob Vordemeier"? A. That is right.

Q. Did you hear Captain Monks ask him, "What is the man's name?" And did you hear his answer, "I don't know"? A. I did.

Q. Did you hear Captain Monks ask, "Where did this man say that he came from?" And his answer, "I don't know"? A. That is right.

Q. Did you hear Captain Monks ask him, "What did he look like?" And his answer, "I don't remember"? A. That is right.

Q. Did you hear Captain Monks ask him, "What did you pay for the car?" And his answer, "$1150"? A. I did.

Q. Did you hear Captain Monks ask him, "Cash or check?" And his answer, "Cash"? A. I did.

Q. Did you hear him ask him, "Did you ever see this man before you bought the car from him?" And his answer, "No, sir." A. I did.

Q. Did you hear Captain Monks ask him, "Did you see him again after you bought the car from him?" And his answer, "Never saw him again"? A. I did.

Q. Did you hear Captain Monks ask him, "Do you remember ever seeing any men showing or selling any cars to Chief Zober at your stand at the farm?" And his answer, "No, sir, there was no cars sold at my farm"? A. I did.

Q. Did you hear the question, "Are you positive that you never introduced Bob Vordemeier to Chief Zober as a man who represented an automobile finance company of Jersey City from whom he could buy cars very cheap?" And his answer, "I

am positively sure that I never did"? A. That is right.

Q. Now, did you on the 8th day of November, 1927, with Captain Monks and Detective Meisse, interview Dr. Leo Brandenburg? A. Yes, I did.

Q. Now, did you hear Captain Monks ask Dr. Leo Brandenburg, "Did you ever introduce Robert Vordemeier to Chief Zober?" And his answer, "I think I did introduce him to the Chief at my brother's farm, but I am not sure about it"? A. Yes, I did.

Q. Did you hear Captain Monks ask him, "Did you ever introduce Vordemeier to Chief Zober as a man who represented an automobile finance company of Jersey City and from whom he could buy an automobile very cheap?" And his answer, "No, sir, I didn't"? A. Yes, sir.

Q. "As Vordemeier never worked for any finance company that I knew of, but I do know that Vordemeier had two friends who sold automobiles, and he often used to talk about it"? A. That is right.

Q. And did you hear, "Q. Who were the two men?" And the answer, "I don't know"? A. Yes, sir.

Q. "What did they look like?" And the answer, "I don't remember"? A. I do.

Q. Did you hear Captain Monks ask, "Were you introduced to them by Vordemeier?" And his answer, "I think that I was"? A. That is right.

Q. Did you hear Captain Monks ask him, "What names did they use?" And his answer, "I don't remember"? A. Yes, sir.

Q. Did you hear Captain Monks ask him, "Would you be able to identify these two men in the event that you would see them again?" And his answer, "I don't think so"? A. I do.

Q. Did you hear him ask—Captain Monks ask Brandenburg, "Do you know if the Chief ever bought any cars from these two men?" And his answer, "I saw one of these men showing a big car to Chief Zober at my brother's farm in Woodridge, this was one day in the spring of 1926"? A. That is right.

Q. Did you hear him ask, "Did the Chief buy the car?" And his answer, "I think he did"? A. I did.

Q. Did you hear Captain Monks ask him, "Now, Doctor, I am going to ask you again, 'Did you ever introduce Robert Vordemeier to Chief Zober as a man who represented an automobile finance company from Jersey City from whom he could buy automobiles very cheap?' And he answered, "No, sir, I never did introduce Vordemeier as a man representing any finance company to anyone"? A. That is right.

Q. Did you hear Captain Monks ask him, "Do you know if Vordemeier ever sold any second-hand cars to any person?" And his answer, "No, sir, I do not"? A. That is right.

Cross-examination by Mr. Ward:

Q. Did you make notes? A. Captain Monks made notes.

Q. Did you make any notes of your own? A. No, sir.

Q. When did this conversation take place with Henry Brandenburg? A. Oh, I think it was around 7:30 on November 8, I think it was Election Day, because I know we went to the Municipal Hall there to get the Chief of Police, he was busy electioneering, I guess.

Q. Now, what else was said to Henry? A. What do you mean, what was said to Henry?

Q. What was said to Henry and what you said on that occasion. A. Just what I testified to.

Q. The Chief told him— A. Out of my mind?

Q. Yes. A. Why, we came in there and Captain Monks asked him if he had knew Vordemeier; he said, yes, he did; for how long; I think he said six or seven years. But the main question I paid attention to mostly was the question, "Had he ever introduced Vordemeier to Chief Zober as a man who represented a finance company from Jersey City from whom he could buy automobiles right cheap," and he said absolutely no.

Q. That is all you remember? A. Why, everything else that took place.

Q. I am asking you what else took place? A. There was a whole lot that took place. I would have to look at the memorandum also.

Q. You did not take a memorandum? A. I did not, no, sir.

Q. Have you looked at it since? A. Did I look at it since?

Q. Yes. A. I might have. I don't know.

Q. Then, how do you know whether or not it is correct? A. If you recall it to me and I am taking a note to it, I could tell if there was anything wrong, and I would say so.

Q. Now, tell us just what you yourself recollect, if you recollect anything else that was said to Henry. A. Why, the question about his car also.

Q. What? A. About his automobile.

Q. What was said to him? A. Captain Monks asked him if there was a stolen car taken from him, and he said yes. He asked him who he bought the

car from, and he said the fellow he bought the car from was introduced to him by Bob Vordemeier. Captain Monks asked him who was the fellow? I don't know. "Did you see him before you bought the car," he said. "No, sir." "Did you ever see him after you bought the car?" He said, "No, sir." "What did he look like?" "I don't remember."

Q. Is that all? A. Well, there is a lot more.

Q. Is that all that you recollect now? A. No, I could recollect more.

Q. What else do you recollect? A. I know when we were going out he asked him if he ever remembered any cars being sold on his farm, and he also said, "No, sir, there was no cars sold on the farm." The last question, we were leaving, he said, "I ask you again, Brandenburg, did you ever introduce Bob Vordemeier to Chief Zober as a man who represented a finance company over in Jersey City from whom he could buy automobiles from cheap?" And he said, "Absolutely no."

Q. How long did this conversation take? A. Oh, I think we were in there for about fifteen or twenty minutes.

Q. How long after that was it that you saw Dr. Brandenburg? A. Seen the Doctor first.

Q. You saw the Doctor first? A. That is right.

Q. Do you remember what was said to the Doctor? A. About the same thing.

Q. About the same thing? A. The same questions.

Q. Well, now, you were asked certain questions and you were asked certain things, whether or not certain things had been said, and you replied, "Yes, that is right." A. I replied that they were asked.

Q. Word for word? A. That is right.

Q. So that as it was read to you from that pa-

per by Mr. Lane, the counsellor, that is as you recall it word for word? A. That is right.

Q. That is all. Just a moment. When did you have the conversation with Dr. Brandenburg? A. 6:30 p. m.

Q. The same night? A. Yes.

Q. Where? A. At his office, Hudson Boulevard.

Q. How long did that take? A. Also about fifteen or twenty minutes.

Q. How long did it take to get from the Doctor's to Henry's? A. Oh, about twenty or twenty-five minutes, and we lost ten minutes looking for the Chief of Police.

Q. Did I understand you to say that you saw the memorandum that was made? A. I saw it since then?

Q. Yes. A. I saw it the night when Captain Monks made it out after we got through interviewing Henry Brandenburg; we came to the office.

Q. And made it out that night? A. I seen him making it out.

Q. Did you read it over? A. I think I did.

Q. Do you know whether you did? A. We done so much work, I don't remember everything. I might have.

Q. That is the point. Do you recollect whether or not you read it? A. I think I did.

Q. You are not sure of that? A. I am almost positive.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. After you had these conversations you and Captain Monks went back to the Police Headquarters, didn't you? A. That is right.

Q. There Captain Monks wrote out these statements? A. That is right.

Mr. Lane: By the way, those statements are subject to the inspection of counsel if counsel wants them. Let that appear upon the record. You may cross-examine on them or examine them to your heart's content.

Mr. Ward: Let it appear on the record also they have not been subject to us up to this time.

Mr. Lane: Well, here, do you want them now?

Mr. Ward: Not now. It is now ten minutes of six o'clock.

Mr. Lane: I don't care if it is ten minutes to twelve.

Mr. Ward: I do. I don't care to have them.

Mr. Lane: They are offered to you now.

Mr. Ward: Thank you very much.

Mr. Lane: You won't have them?

Mr. Ward: Counsel for the defendant does not care to have them.

Q. One question I omitted to ask you: You were also present with Captain Monks on October 29, 1927, at Lamontville? A. I was.

Q. When you saw Mr. McGill? A. Yes.

Q. Do you remember his saying that they drove over to Donahue's where they met a fellow whom he only knew as Bob whom he believed resided in Garfield or its vicinity, and Bob had a Cadillac sedan which the Chief and the Judge looked over, and that Bob wanted $1,200 for the said car? A. Yes, sir, I did.

Q. That is all.

Recross-examination by Mr. Ward:

Q. Were those McGill's exact words also? A. Yes, sir.

Q. Word for word? A. That is right.

Q. That is all.

ROBERT P. DENENBAUM, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. You are a member of the Detective Force of what department? A. Auto Theft Bureau, Police Headquarters, Newark, New Jersey.

Q. Did you on the 9th of October, 1926, at Secaucus, New Jersey, see Dr. Leo Brandenburg? A. I believe it was on the 10th. I can refer to my records.

Q. Either the 9th or—refer to the record. A. Yes, around that.

Q. Where did you see him? A. In his office.

Q. Where? A. Secaucus, New Jersey, opposite Town Hall. I don't know what street it is on.

Q. Did you take from his possession at that time an automobile as a stolen car? A. I did.

Mr. Ward: I object to that as irrelevant and not rebuttal.

The Commissioner: Proceed. Objection overruled.

Q. Did you? A. Yes, I did.

Q. What kind of a car was it? A. Cadillac touring coupe.

Q. To whom did you deliver that car?

Mr. Ward: I object to that as irrelevant and not rebuttal.

A. To its owner.

The Commissioner: Proceed.

Q. That is all.

Mr. Ward: No questions.

HARRY J. LUSE, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Luse, where do you live? A. Sunnyside Gardens, Long Island.

Q. What is your business? A. Investigator.

Q. For whom? A. Automobile Underwriters' Detective Bureau of New York.

Q. Did you on or about the 9th or 10th of October, 1926, see Dr. Leo W. Brandenburg at 1190 Paterson Plank Road, Secaucus, New Jersey? A. I did, on October 9, 1926.

Q. Did you at that time take from the possession of Dr. Brandenburg an automobile said to have been stolen?

Mr. Ward: I object to that as not rebuttal and not material and irrelevant.

The Commissioner: All right; proceed.

A. No; the car was not taken on that day.

Q. When was the car taken? A. The car was released on October 15.

Q. Take it on October 15? A. It was turned over to the owner—the adjuster for the company.

Mr. Ward: Of course, our objection goes to all this.

A. And Detective Denenbaum of the Newark Police Department.

Q. Were you in the court-room at the time Dr. Leo Brandenburg testified today? A. I was.

Q. Did you recognize him as the gentleman? A. I did.

Q. That is all.

Mr. Ward: No questions.

MOTION TO AMEND CHARGES.

Mr. Lane: The City is through on the particular charges or the particular specifications which are now before the Commissioner.

I desire to say this, that in the course of the examination it has transpired that at least one of these cars was registered in the name of Chief Zober upon any application which was not signed by or sworn to by Chief Zober, or, even if we take the story of the Chief as true, that he signed a card, it was obtained upon an application which was not sworn to by the Chief, with knowledge on the Chief's part that that was a violation of the law, upon his belief that some finance company should or was able to fix it up. Now, if the fact is that the application or the license was obtained upon an application which was known by the Chief to have been signed by somebody else and sworn to by somebody else as the Chief, that is not only a

violation of the Automobile Act, but it comes pretty close to being subornation of perjury. If registration was obtained upon an application which was signed by the Chief, or if the Chief thought it was going to be obtained upon an application which, signed by him, he never swore to, then the Chief knew that some officer authorized to administer oaths was going to falsely represent that he had taken the oath of the Chief. All of that is a violation of law.

Now, because there was no knowledge on the part of the representatives of the City at the time these charges and specifications were prepared, that specific thing is not in any specification. Now, I suggest that either one of two courses be adopted, because I consider that that is a serious matter,—that either one of two courses be adopted; either it be consented by the Chief that these specifications now before the Commissioner be amended to include that charge, or, that charges be framed against the Chief upon that ground, and that the Commissioner entertain those charges and set them down for hearing and reserve determination of this case until that hearing shall take place.

The Commissioner: What do you say to that, Mr. Ward?

Mr. Ward: I could not consent, of course, to having charges embodying any modification such as suggested by counsel—and we have come here and have been as expeditious as possible in trying the charges set forth in the complaint or in the charges served upon the Chief; and I do not feel that I would be at liberty to consent to any such thing as that.

If you will permit us to confer with him confer among ourselves, some conclusion may be ar-

rived at. Personally, I cannot take that responsibility.

The Commissioner: We will take a recess of three to five minutes for that purpose.

(Recess.)

Mr. Ward: If your Honor please, after conference here at the table, counsel have concluded they could not consent to that, sir.

Mr. Lane: Then, so far as this particular charge before the Commissioner is concerned, the City rests.

Mr. Rosenstein: You have rested as to all of them?

Mr. Lane: I have rested on my *prima facie* case. Now, what is the attitude of the defense? Are you through?

Mr. Ward: We are through.

Mr. Lane: Now, I move the determination of this charge be carried over, and the argument, if there be an argument, until such time as the Director may determine, and in the meantime charges be formulated against the Chief upon the other charge.

The Commissioner: City Counsel, have you anything to say on that matter?

Mr. Weinberger: I might say I think your Honor should follow the suggestion of Mr. Lane. He is special counsel in the matter, that you reserve decision until charges are formulated in accordance with Mr. Lane's suggestion. So that you will reserve your decision indefinitely until such time as a reasonable opportunity is afforded Chief Zober to prepare himself on the additional charge. which is to be based on the falsification of the ap-

plication or failure to have the affidavit in proper form.

Mr. Ward: The only thing I can say, of course, is we agreed to get through today, and we have tried to get through today, and done everything within our power, and I do not see that—

Mr. Lane: Except one thing, and that is to consent that this charge be amended on the testimony that is already in of your own client. I don't know what he can say in response.

Mr. Ward: Counsel cannot agree to do that.

The Commissioner: Cannot agree? Then, in view of that fact, I feel that I would be lax in my duty if I did not do as it has been suggested by the counsel for the City, and therefore I will do as it has been stated here; we will hold this matter in abeyance and reserve decision until such time as I may announce later.

Mr. Lane: Now, may I ask the Commissioner, while we are all here, so that we can accommodate ourselves as best we can to the wishes of everybody, if the Commissioner will fix a day for the trial of the further charge to be formulated, and formally adjourn the argument of this matter, if counsel desire to argue it, until that day. That is really a matter of convenience to counsel, as long as we are here. Of course, we can formulate the charges and serve you with the citation and everything, anyhow.

The Commissioner: As I understand it, Mr. Lane, you want a date set?

Mr. Lane: To try the new charge and to argue this charge and dispose of it.

Mr. Ward: Your Honor cannot try the new charges until they are served on us.

Mr. Lane: They are going to be served.

Mr. Ward: You are anticipating. How can you possibly set a date to try a charge which we have not even been served with?

The Commissioner: Then, for that matter I can set a date to continue this case.

Mr. Lane: Exactly, and we will have the charges and bring them here on the other charge at that date.

The Commissioner: I want to be fair to all you gentlemen in reference to your own convenience. I might suggest that you suggest the date. Let both sides suggest dates, and I will judge accordingly.

Mr. Ward: We have been holding up quite a number of cases in the circuit in Passaic County, and we have a Federal Court case, and I know Mr. Lane's engagements are numerous.

Mr. Lane: Yes, my suggestion is the 19th of December. I want to give you ten days, if I can, to answer this charge, which will require no testimony on our part except the offer of the Chief's own testimony.

Mr. Ward: I presume it might be agreeable to us.

The Commissioner: That being agreeable, I will adjourn this case until the 19th day of December at ten-thirty A. M.

Mr. Lane: The record will show that both sides have rested in this case, Mr. Kelley.

(Adjourned to Monday, December 19, 1927, at ten-thirty o'clock A. M.)

THIRD SESSION.

DEPARTMENT OF PUBLIC SAFETY.

In the Matter
of the
Hearing of Charges made by Acting Chief of Police Lambert De Groot,

against

RICHARD O. ZOBER, Chief of Police of the City of Passaic.

Police Headquarters, Passaic, N. J.,
December 19, 1927.

Before City Commissioner BENJAMIN F. TURNER, Director of Public Safety.

APPEARANCES:

For the City of Passaic: JOSEPH J. WEINBERGER, ESQ., and MERRITT LANE, ESQ.
For Chief Zober: FILBERT ROSENSTEIN, ESQ., FREDERICK S. RANZENHOFER, ESQ., and MESSRS. WARD & MCGINNIS.

Mr. Lane: Mr. Commissioner, I move the hearing on the charges which were filed December 8, 1927, and which were served upon the Chief. I suppose the Chief of Police is not guilty?

Mr. Ward: Yes.

Mr. Lane: Counsel have stipulated that certain of the testimony used in the other hearing should

be used here without formal proof by the attendance of the witnesses. I offer that stipulation for filing.

(Stipulation marked Exhibit P-53.)

Mr. Lane: Now, Mr. Ward, do you want me to offer the testimony upon which we rely upon these charges, or do you want to consolidate the hearing?

Mr. Ward: I understood that the evidence which was had upon these charges was to be offered and be admitted subject to the same objections that were made.

Mr. Lane: Certainly. What I want to know is whether you wanted me to offer the specific testimony upon which I rely, or whether you preferred to consolidate the hearing on all the charges, so that all the testimony is in?

Mr. Ward: We will consolidate the hearings.

Mr. Lane: I think that would be the easier way.

Mr. Ward: I think it will facilitate it.

Mr. Lane: It is considered, then, that the hearings upon both of the sets of charges are consolidated, and that we now proceed.

Mr. Ward: Of course, all preliminary motions that were made apply just as well on this additional charge.

Mr. Lane: The result is as if these charges had been filed at the time we opened this hearing.

Mr. Ward: Yes.

CITY'S TESTIMONY ON ADDED CHARGES.

JOHN VREELAND HERRING, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Herring, where do you live? A. 114 Park Avenue, Newark, New Jersey.

Q. What is your profession? A. Examiner of questioned documents, handwriting, and typewriting.

Q. Won't you tell us generally what your experience has been? A. For nearly forty years I have been engaged in the handwriting business. During the last fifteen years I have testified in court regarding questioned handwriting. I also made facsimile signatures and facsimile writings, and I have testified in various states, New York, New Jersey, Pennsylvania, West Virginia, and prepared for testifying in cases in Texas, Illinois, Connecticut, Massachusetts, and other states; I have testified in Federal Courts, criminal and civil cases, and in various courts in these jurisdictions.

Q. Tell me some of the cases in which you appeared, in this State within a recent time? A. In the Hall-Mills murder case. I had three murder cases since then in New Jersey, one at Newton, the Van Sickle case, and last week I appeared in New York State in the Legislative Committee, in the Industrial Survey Commission. I don't just recall at the moment any other cases, but they have been numerous.

Mr. Lane: You may cross-examine as to his qualifications, Mr. Ward, if you desire.

Mr. Ward: I will reserve that, Mr. Lane, until the cross-examination, with the Commissioner's permission, of course.

The Commissioner: Yes, sir.

Q. Mr. Herring, I show you three cars which have been marked in evidence in this case as Exhibits P-10, P-8 and P-15. I also show you cards which have been marked in evidence—those three cards which I just referred to I will call the disputed signatures or containing disputed signatures, although the one marked P-8 is admittedly not in Mr. Zober's handwriting. I also show you Exhibit D-4, Defendant 5, Defendant 6-A, and another Defendant 6-B, P-14, and D-4, which are admittedly signed by Richard O. Zober, which are used as a basis of comparison, and ask you whether you have any opinion as to whether or not these disputed signatures were written by the same person who wrote the admitted signatures. A. I examined these before on two different occasions at great length, and in my opinion the three which you have denoted as being the questioned or disputed were not written by the person who wrote these other standards, which you have so-called standards.

Q. Will you tell us upon what you based your conclusion, as shortly as you can? A. On these so-called standards we have not that connecting link between the *B* and the following letter *E* in the name Zober; makes a dip down toward the base line in a very positive and definite manner, while on the questioned ones the points of connection at the same place are in an entirely different manner, making a horizontal line from the finishing of the *B* to the entering of the *E*, and being all three of them alike, that is, the three disputed ones in that respect. In that respect they differed from the formation of the connecting link be-

tween the *B* and *E* on the standards. Then, another point of difference which is automatic—belonging to the writer automatically—is that in the *Z*, capital letter *Z* in Zober; on all the standards there is a little increase of pressure, as we descend to the lower part of the loop of the finishing of the *Z*. While on the questioned ones that does not stop in that way, it is not emphasized at all. I will put a glass on to see them. If you take the glass and look at it— (The Commissioner examines.)

The point I have called your attention to, you will see that the shading is at the top of that loop where the loop begins to descend.

Now, we will take the *Z* on the standard, and we see that the shading, although it is miscroscopic, that the pen pressure increases as it descends towards the base.

Mr. Ward: Is this something aside from the *Z* now? You have referred to the *E* and the *Z*. Are you referring to something else now?

A. I am still speaking of the shading of the *Z*—the emphasis on the *Z*.

Mr. Ward: Yes.

A. Those are the two principal things that differentiate these signatures, the writing of the signatures. The Richard is connected in the questioned ones, while I find a disconnection on the standards. In one of the questioned ones, Exhibit P-10, there is a disconnection between the *R* and the *I*, but in a different manner from that on the standard. Those are the outstanding features that differentiate these signatures.

Q. Is there anything with respect to the general appearance of the signature, Mr. Herring? A. The general appearance is different.

Cross-examination by Mr. Ward:

Q. Mr. Herring, you say you have testified at a number of cases in New Jersey? A. I have.

Q. Your evidence, of course, is merely opinion evidence? A. That is all.

Q. In other words, you are giving your opinion as to what you think with reference to this matter? A. After careful study and analysis on the facts present on the signature.

Q. Be what it may, whether it be after carful study or not, finally it comes down to a question of your opinion, doesn't it? A. Yes, sir. I did not see the person write.

Q. And in the experience that you have had you also know, do you know, that there have been a great number of cases in which you have appeared as handwriting expert where other handwriting experts have appeared who have had diametrically opposed views to yours? A. Relatively speaking, no.

Q. Do you remember the DeMott case in Bergen County? A. I remember that.

Q. You remember that. You remember that was a case in which you appeared for the State? A. I do.

Q. That was a case in which you gave your opinion that Mrs. DeMott had written certain letters? A. I don't recall the name, but the defendant had written those letters, according to my opinion.

Q. Do you remember in that case Mr. Osborne of New York appeared for the defense? A. I do.

Q. Do you remember he gave a contrary opinion to you? A. I do.

Q. Reremember that Mrs. DeMott was acquitted? A. I do.

Q. In other words, your opinion was not accepted? That is true? A. I should judge that was the case.

Q. That was true of a great number of cases, Mr. Herring, was it not? A. As to what?

Q. As to the fact that handwriting experts who are recognized as handwriting experts differ in their opinions as to their conclusions? A. Very rare.

Q. Very rare? A. Very rare.

Q. Now, in the comparison between the standards that have been shown to you and the disputed, or what has been termed the disputed cards, you have found two outstanding features? A. Yes.

Q. And only two outstanding features? A. Yes.

Q. One of the outstanding features is the difference in the line between the *E* and the *R* in Zober? A. The *B* and the *E* in Zober.

Q. Will you indicate that to me, please? A. On the standard you will find that there is a dip from the finishing part on the *B*, the lobe part of the *B*, down to the base line, directly down toward the base line; while on the so-called questioned ones that does not appear on any of the three in question.

Q. I show you Exhibit D-6. Is there such a dip there as indicated by you or as testified by you? A. There is, very pronounced.

Mr. Ranzenhofer: That is 6-A or 6-B?

Q. Now, show me 6-B and show me the dip you mean. Suppose we have this marked 6-A, to avoid confusion.

(Card marked D-6-A.)

A. I am placing the glass over that at the same point.

(Mr. Ward examines through glass.)

Q. Is there not a very marked similarity between P-10 in the dip of the *B* and the other standards that have been examined by you? A. There is not.

Q. You notice, do you not, under the glass, that the loop on the *B* comes back? A. That is a matter that I have been describing. It does not come back down to the base line, nor is it directed toward the base line. It is directed laterally toward the right.

Q. In none of them do they come back but the same way? A. In direction, yes.

Q. In direction, but not exactly in the same way? A. No.

Q. Where did you examine these cards? A. At Trenton, at the Department.

Q. When else? A. Where else? This morning in the building here.

Q. Whereabouts? A. In the office of Mr. Monk —I believe it is his office. I examined them twice at Trenton, on two occasions.

Q. The other principal feature that you mentioned is the increased pressure? A. Yes.

Q. On the *Z*? A. Yes.

Q. Now, isn't it true that many things cause a pressure of pen—a difference in the pressure of the pen? A. Yes.

Q. Passion and emotion; that is true? A. Yes. I examined, though—

Q. Excitement? Just answer the question, please. Excitement? A. Yes, those things could.

Q. One who was in a nervous condition? A. Yes, those things could.

Q. Or has been in a condition of strain or stress? A. Such a thing could.

Q. Yes; and that is equally true of any of the particular features, with reference to the feature, the principal feature in the letter *B* or the pressure on the letter *Z*. Is that true or not, Mr. Herring? A. I would say that the combination would not occur three times in each questioned signature; it would be very rare, either one of those. The loop of the *B* and the *E* would be exceedingly rare.

Q. One moment; you have answered. A. I have not completed my answer.

Q. You have completed your answer. A. Not—

Q. You said it would not, in your opinion? A. Then it is not my answer.

Q. Taking them apart, however, you will admit, won't you, that there are many things which might cause a difference in the pressure of a pen upon a particular letter? A. Yes.

Q. Or change a particular pressure upon that particular letter? A. Yes. I can see how it could be.

Q. That is equally true on the loop that you have mentioned in the letter *B* in the word Zober? A. Yes, that is possible.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Mr. Herring, is there any indication in any

one of these disputed signatures of any strain or stress? A. No.

Q. If that signature or those differences had been caused by strain or stress, would you expect to find some indication of it in the signature as a whole? A. I would expect to find some indication of difficulty.

Q. That you do not find? A. I do not find. I feel that I ought to state that I examined 35 or so other standard signatures, endorsements on the checks, and the principle involved—the feature that separates the standards from the questioned ones here is also present on every one of those signatures which I have examined.

Mr. Ward: I ask that that last part be stricken out. Those are not in evidence, sir. We have no way of ascertaining what those standards were—so-called standards, the 35 that he examined.

Mr. Lane: I will consent that it be stricken out.

Q. I show you Exhibit P-28, P-33, and P-7, upon which exhibits admittedly—I suppose it would be admittedly when they were offered in evidence —the signature of Richard Zober appears.

(Mr. Ward examines papers.)

Mr. Ward: I do not just recall what he testified to, Mr. Lane.

Mr. Lane: There are three of them.

Mr. Ward: Yes.

Q. Which are admittedly in the writing, the signature, of Mr. Zober, is admittedly in the writing of Mr. Zober. I ask you whether you did make

your examination and also consider those as standards? A. I did.

Q. Do those signatures bear the indications or the differences that you have already pointed out with respect to the standards which you have referred to? A. They do.

Q. Now, what can you say, or can you say anything, with respect to the manner in which the signatures have been produced, as to whether there is a different method used in the one case and in the other case? A. The standards?

Q. Yes. A. Among themselves?

Mr. Ward: The last three.

Q. No, not among themselves. As between the standards and the disputed. A. The standards have the characteristics which I have spoken of definitely and positively presented in each signature. The questioned ones are without those characteristics.

Q. I think that is all.

Recross-examination by Mr. Ward:

Q. There is marked difference between these last three standards, isn't there? A. With respect to what I testified to, no.

Q. In other respects, however, there is? A. Yes.

Q. For instance, we find in the first standard which is marked Exhibit P-28 that the *R* in that signature is entirely different from the *R* in the second standard, Exhibit P-33? A. Both of them being capital letters *R* you referred to?

Q. Yes. A. Yes, it is so.

Q. In Exhibit P— A. In the matter of form.

Q. In the matter of form. Well, one of the marked characteristics or features of difference is the fact that the capital letter *R* in Exhibit P-28 does not come down to the line of the other letters, does it? A. What part of the *R*?

Q. The first part of the *R*. A. It does not descend to the base line.

Q. And in the other standards it does, doesn't it? A. That also it is directed—this one.

Q. Does it or not in the other standards? A. I did not finish my answer on the first, P-28. It is directed down toward the base line, but it does not reach it. On the other standards it is also directed to the base line and reaches it.

Q. That is, the first part of the capital letter *R*? A. Yes, sir. There is a bigger loop.

Q. Now, please don't volunteer anything. Let me examine you. In Exhibit P-28 the second part of the letter *R* does not come down to the line, either, does it? A. It does not reach down to the line, no.

Q. And the whole letter *R* is above the letters in the name Richard; that is true, isn't it? A. The whole word, the name Richard is away from the base line and the name is directed down toward the base line and does not reach it.

Q. The whole of the capital *R* is above the other letters in the name Richard in Exhibit P-28? A. Yes.

Q. That is true, isn't it? A. Yes.

Q. Now, that is a very, very marked feature or characteristic, isn't it? A. Of what?

Q. Of a difference? A. Real difference?

Q. Of a real difference, yes. A. Absolutely no.

Q. Isn't it as much of a feature of a real difference as the loop in the *B* on the three disputed

cards? A. No connection whatever, no resemblance to the characteristics—or the importance of the characteristics.

Q. In Exhibit P-33 the first letter, the capital letter of the name Richard, both parts of that letter come down to what would be the line of the signature; that is correct, isn't it? A. Yes.

Q. And we find all the lower parts of the letter upon the line of that signature? A. Generally speaking, yes. It is an imaginary base line. There is no printed line there.

Q. That is not true in Exhibit P-7, is it? A. There is a little more irregularity in the base line on the signature P-7.

Q. In the first place, you find the beginning stroke of the letter *R* entirely different in P-7 from that in P-33, don't you? A. Yes.

Q. And you find the last part of the capital letter *R* in P-7 not reaching down to the line of the other letters, don't you? A. That is right. It is directed down, but does not reach the imaginary base line.

Q. That is a similar feature to the feature that you indicated in Exhibit P-8, P-10, and P-15; in other words, one letter or part of one letter not reaching to the base line? A. They are entirely different.

Q. Different letters? A. No resemblance in the testimony I gave to what you are saying at all.

Q. But in the disputed signatures that you have mentioned, P-8, 10, and 15, you testified that certain parts of a letter did not reach the base line; that is true, isn't it? A. No. I said that they did not— they were not directed toward the base line. That is only partially true.

Q. You indicated, however, there was a peculiarity with reference to the loop, didn t'you? A. Well, in the small letter *B*, yes.

Q. Now, isn't there a very marked peculiarity in this letter *R* in Exhibit P-7? A. In what respect?

Q. From the fact that the last part of the particular letter *R* does not reach the base line? A. No, it is directed there; and we never write our signature twice alike. That is to say,—

Q. That is just it, isn't it, Mr. Herring? There are very marked characteristics of difference in writing our signatures? That is true, isn't it? A. A signature written by the same person has typical resemblances.

Q. Yes, marked differences? A. Typical resemblances of each other.

Q. But marked differences. I have not finished my answer.

Q. You have answered it, as far as I am concerned.

Mr. Lane: He has not finished it. I object.

Mr. Ward: He has.

Mr. Lane: I ask the Commissioner to direct him to answer.

The Commissioner: Let the witness finish his answer.

A. The second of the finishing downstroke of this letter *R* is directed to the base line, whether it reaches the base line or whether it does not reach it, or whether it goes beyond the base line, is not significant. We see it on the Exhibit right immediately alongside, Exhibit P-33, where the *R*

which you have described as being entirely different from the *R* on the exhibit—

Q. Did you understand my question?

Mr. Lane: You are interrupting again.

Mr. Ward: Yes or no, I asked.

Mr. Lane: I ask that the Commissioner direct Mr. Ward not to interrupt until the witness has finished.

Mr. Ward: I am within my right to interrupt when the witness does not answer the question. He is holding a dissertation.

Q. I asked you if it is not true that there are marked differences—marked characteristics or differences in each signature of a person? Will you answer that yes or no?

Mr. Lane: I object to that question on the ground it is not intelligible.

Mr. Ward: Then the witness should say so.

Mr. Lane: I say so. I do not understand it. Do you mean characteristic differences?

Q. Can you answer that yes or no, Mr. Herring, or are you going to take the assistance directed to you by counsel? A. No; I will be independent and answer it yes and no.

Q. All right; you can answer that yes and no, can you? A. Yes.

Mr. Lane: I don't believe he could answer that question.

Q. You understand what the question is, do you not? A. Yes.

Q. In other words, each signature is different,

isn't it? A. Absolutely, always, cannot be alike.

Q. I think that is all. A. Except in principle.

Redirect-examination by Mr. Lane:

Q. Now, Mr. Herring, is each signature characteristic—

Mr. Ward: Pardon me one moment, Mr. Lane. That is all.

Q. Now, Mr. Herring, is each signature written by the same man characteristically unlike? A. No, they are characteristically alike and typical of each other.

Q. The differences which have been brought to your attention by counsel on this cross-examination, are they characteristic differences? A. No; they are not real differences. As among themselves these standards are not real differences. There may be a variation as to size, as to pen pressure, but whether the pressure be heavy or whether it be light, they are typical of one and the other and located in the respective places.

Q. That is all.

Recross-examination by Mr. Ward:

Q. In P-7—just hand me P-7, if you will, Mr. Herring—is there not a marked difference in the first or capital letter of the name Richard between the other standards? A. In what way?

Q. The beginning of the letter? A. The beginning of the *R*?

Q. Yes. A. It has—I should not say so.

Q. Didn't you say so a moment ago? A. No.

Q. Which one did you say showed marked differ-

ences? A. That is on the other exhibit.

Q. Which other one? We have them right here. Either of them? A. I was looking, when I answered that first question, at this other exhibit. Between this exhibit P-33 and P-7 there is a marked difference in the shape and formation of the capital letter *R*.

Q. There is a marked difference in all three, is there not, in the shape and form of the capital letter *R*? A. Between two exhibits—

Q. No; between Exhibit P-7, P-33, and P-28? A. P-28 and P-7 are typical one and the other.

Q. P-7 now—let us see P-7. A. I will have to answer the question. P-33, a different formed *R* has been adopted.

Q. Now, you have stated there was a marked difference between the capital letter in P-33 and P-28 and P-7. That is true? A. That is true as to the form of the letter adopted, yes.

Q. I asked you whether there is not a marked difference between P-28 and P-7 in the form of the initial letter *R*. A. No.

Q. You would say that that is similar? A. Same principle involved, but different proportions.

Q. It has a different appearance? A. Not to me.

Q. Well, the top of it has, hasn't it? A. There is different proportions, yes.

Q. Yes, and a different appearance as a result? A. Of course, it has pictorially a little difference, but they are typical one and the other.

Q. But the top, even to you, does appear different? A. In principle, no. It is a horizontal loop at the top, extending each side of the staff.

Q. Is there any loop which is directly above the

letter *I* upon which the dot of the letter *I* is, as shown in Exhibit P-7—is there any such loop as that in P-28? A. Where the *I* dot rests upon the line?

Q. Yes. A. The *I* dot does not rest upon the line in P-28.

Q. It does in P-7? A. It does.

Q. You see a particular loop there, don't you, where it comes down, I might say where it is the third line or third stroke—is that the proper expression? A. Yes.

Q. The third stroke from the top? A. I can fix this by stating that the bottom of the loop of the top part of the peak comes half way down to the base line on Exhibit P-7, and on P-28 it is more flat loop.

Q. Well, now, in P-28 you find a loop, do you not, as part of the top of the letter *R*? A. I do.

Q. That loop is composed of three particular and distinct lines, isn't it? A. 28?

Q. I beg your pardon. In P-28 it is composed of two, isn't it? A. Yes, it is composed, but the top and bottom lines of the loop—

Q. In P-7 it is composed of three, isn't it? A. No, but the loop is cut in half.

Q. Well, there is the top line, the top of the loop. A. And the bottom of the loop.

Q. Then there is the middle line or the beginning of the loop? A. I don't rely on the beginning of the loop.

Q. Doesn't it come out this way? Doesn't it come from the right to the left? A. There is a middle line which divides the loop in half on Exhibit 7.

Q. Yes? A. And it does not do so on Exhibit 28.

Q. There is no such line there in Exhibit P-28, is there? A. No, not on that place.

Q. That is all.

AUGUST HARTKORN, being duly sworn by the Commissioner, was examined and testified as follows:

Direct-examination by Mr. Lane:

Q. Mr. Hartkorn, where do you live? A. 922 Hudson Street, Hoboken, New Jersey.

Q. What is your prefession? A. Examiner in questioned documents.

Q. Will you tell me briefly your experience? A. For upwards of forty years I have been a professional penman, making a special study of individuality in writing and in the manner of its production. I have taught thousands of students in all phases of penmanship. During that time my services have been enlisted in hundreds of cases where handwriting has been questioned. I collaborated and associated with the late David N. Calvalho, the dean of handwriting experts; made many laboratory experiments with him. I have testified in the different courts, in civil and criminal cases, in this State and other states; in this State in the United States versus Thompson at Trenton, Kulp versus Herron Company at Trenton; Hall-Mills murder case, Somerville; Truitt versus Redgrave, Jersey City; the Eisenbetel versus Lorillard Estate at Hackensack; Hoffman versus Rightmuller at Trenton; Baker against Baker at Newark, Beer versus Jefferson Trust Company, Jersey City; Bose will contest, Rudy will contest, Richter will contest, and other cases I cannot just recall to mind.

Mr. Lane: Want to cross-examine the witness, Mr. Ward?

Mr. Ward: We will reserve the cross-examination until the general examination.

Q. Mr. Hartkorn, have you examined Exhibits P-15, P-10, and P-8, which have been called the questioned or disputed signatures, and the standards, D-2, D-6-2, D-6, D-5, D-4, D-14, D-3, P-7, P-28, and P-33, which admittedly contain the signature of Richard O. Zober, and have you reached a conclusion as to whether the disputed signatures were written by the same hand which wrote the standards? A. I have.

Q. What is your conclusion? A. My conclusion is that the hand that wrote the standards enumerated is not the same hand that wrote the questioned signatures.

Q. Upon what do you base your conclusion? A. That conclusion is based upon the—particularly upon the production of the signatures of the standards, but also the formation of some of the letters, the manner of the movement employed in producing those signatures, the general style emanating from a system such as is of German character. I have made a special study of German writing and write it myself, and this shows me, the standards, that the outcome of practicing of such a system. The questioned signatures are produced with an entirely different movement, a different pen pressure. They are produced by a movement that is typical of American formation of letters, by sort of a combination finger and wrist motion emanating mainly from the muscles of the forearm, where in those of the standards we find more of the finger

movement, what we call more spasmodic movement, where the upstroke is light and the downstroke is shaded, such as German script is made, and these are modifications of the German script which are called the Latin letters; they are usually taught and practiced in the way, with the same finger movement, more like when we, as we term, embossing the engraver's script, where the pen is usually, as a rule, after certain downstrokes, lifted at the base line and then put back again and released, where in the other writing we have a continuous motion, such as we learn here in our schools. We are taught with a muscular movement or a forearm movement; we continue the stroke from one letter to another. Now, there are typical characteristics, what we term individual characteristics in these standard writings. I find that in the combination of the letters as a rule the writing of the c-h combination seems to stand out, separating a part from the rest in Richard, where the pen is lifted; then in the formation of the small letter *B* in Zober the stroke, where it follows after, coming downward in the main staff of the letter, making the curve upward and forming either a loop or a blind loop, in other words, it is based on either a retracing or a looping of that lower portion of that letter, directing in other words a stroke downward before rising again to combine with the next letter *E*. That is a typical formation of the Chief's letters, and particularly under that movement in production, the location of the emphasis in some of these letters, whether a fine point pen or a blunt point pen is used. There is a shading in a certain part of the letter. That is the location of that shading with a fine or flexible

point, we find the shading heavier at that point, and with a blunt pen, of course, it would not be so heavy at that point. Now, in that respect these signatures or standards differ from the questioned signatures, in that they do not present a production of the same muscular construction. It is true that the human mechanism is not a perfect writing machine and therefore cannot produce signatures in stereotyped form. That is utterly impossible. But there are those typical individual characteristics that are injected or so-called idiosyncracies that will always tell the tale when thoroughly analyzed and studied. Those are the principle reasons upon which I arrive at this conclusion that these standards—that the questioned signatures are not written by the hand that wrote the standards.

Cross-examination by Mr. Ward:

Q. You would say, therefore, there could not be a forgery that would fool one? A. I don't quite get that question.

Q. Would you say that a signature could not be so imitated as to fool another person? A. Not—no, could not, not when thoroughly analyzed microscopically.

Q. How many people write English? A. Quite a number.

Q. Have you any idea how many? A. No, I couldn't tell you that.

Q. How many people write their names according to the general system that has been taught, as you say, as the Exhibits P-8, P-10, and 15, were written? A. How many?

Q. Yes. A. I cannot say.

Q. Have no idea? A. Have an idea a great many.

Q. Well, any more adequate idea than that? A. No.

Q. How many signatures have you examined? A. In my experience?

Q. Yes. A. Well, they run up in the very many thousands.

Q. Can't give us any idea? A. I do not tabulate all I examine, no.

Q. Can't give us any idea what number of signatures you have examined as compared with signatures that were actually written? A. Well, if based on my experience, say, of forty years, that I am doing nothing else but this kind of work, and I do not put in very short hours, either, many, many thousands.

Q. You do not care— A. I could not. How can I? There are many thousands.

Q. Many thousands? A. Yes.

Q. You remember the Molineaux case, don't you? A. Yes, very well.

Q. Who were the experts engaged in that case? A. David M. Cavalho, William J. Kinsley, I examined the case myself, and Benjamin J. Kelly, Toleman, William B. Hay, Lewis, Osborne.

The Commissioner: Were you for the State or defense, Mr. Hartkorn?

The Witness: The State.

Q. How many of those experts appeared for the People? A. All of them but David M. Cavalho.

Q. And he appeared for the defense? A. Yes.

Q. He was considered dean of handwriting experts at the time, wasn't he? A. Yes, sir.

Q. The best of them all? A. Yes.

Q. And his view was diametrically opposed to the view of the other handwriting experts given at the time of this trial, wasn't it? A. Yes.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. He did not testify, did he? A. No.

Q. Do you remember? A. I believe not.

Q. That is all.

Mr. Lane: The City rests.

Mr. Ward: Just for the purpose of the record, may I ask Mr. Hartkorn to return?

Recross-examination by Mr. Ward:

Q. One of the turning points in the Molineaux case was a question whether or not the writing upon the wrapped within which was a container which was sent to the person who died after having taken the contents of the container, was Molineaux's writing or not, wasn't it? A. That was not it. There was not anything sent to the person who died. It was sent to Cornish, the athletic instructor.

Q. He died, didn't he? A. I don't know whether he died since.

Q. It was sent to some person and taken thereafter by some other person who died? A. Yes, to Mrs. Adams.

Q. And the big question in that case was whether or not the handwriting upon that wrapper was the handwriting of Molineaux, wasn't it? A. That was one of the questions, yes.

Q. And Molineaux was afterwards acquitted, wasn't he? A. He was, yes.

Q. That is all.

Redirect-examination by Mr. Lane:

Q. Mr. Hartkorn, the question in that case, or there was involved in that case a matter of disguised handwriting, wasn't there? A. There was.

Q. There is not involved in this case any disguised handwriting, is there? A. No, sir.

Q. And it raises quite a different situation when a person tries or attempts to disguise his handwriting or tries or attempts to imitate another's handwriting, does it not? A. Yes.

Q. It makes it a great deal more difficult for handwriting experts to determine whether it is a disguised handwriting or who wrote it? A. Yes, a great deal more study.

Q. That is not in this case, is it? A. No.

Q. That is all.

Recross-examination by Mr. Ward:

Q. It still brings one back to the question, does it not, Mr. Hartkorn, that it is a question of opinion? Doesn't it? A. Based upon facts observed, yes.

Q. You are giving your opinion here today? A. Yes, sir, under a careful analysis, yes, after careful analysis.

Q. That is all.

Mr. Lane: The City rests.

Mr. Ward: We rest.

Mr. Lane: All sides rest, then. I am ready to argue it now.

The Commissioner: Would you gentlemen rather argue now or would you want a recess?

Mr. Lane: No; I would rather argue it and you can dispose of it while it is fresh in our minds.

Mr. Ward: It is almost twelve-thirty now.

The Commissioner: If you gentlemen so wish it, we will adjourn until one-thirty.

(Recess to one-thirty o'clock p. m.)

Afternoon Session.

Mr. Weinberger: We are ready.

The Commissioner: Ready, gentlemen?

Mr. Ward: Yes, sir.

SUMMATION ON BEHALF OF CHIEF ZOBER.

Mr. Rosenstein: Mr. Commissioner, at the outset of this trial Chief Zober presented to you, Mr. Commissioner, a challenge as to your right to preside over this trial, based upon the bias which, if proved, would have been sufficient to disqualify you, as we respectfully contend, from presiding at this trial. Upon objection by Mr. Lane, our challenge, as well as our offer to substantiate it with testimony, was overruled. The trial itself followed, and in the course of that trial Mr. Ward for our side offered some 122 objections that were uniformly overruled, so that appearently we were not even once correct.

The Commissioner: I think I can correct you. I

think there was 147 or 149 objections by Mr. Ward.

Mr. Rosenstein: Still more. Not once in 149 times, apparently, were we correct. Well, we came here on that first day of the trial ready to meet these five charges and their many specifications, making perhaps thirty or more charges altogether, covering some nine typewritten pages. The testimony was taken from eleven in the morning until a quarter of seven that night.

The Commissioner: I might interrupt you to say that I know some of them are absolutely untrue.

Mr. Rosenstein: Some of the charges?

The Commissioner: Yes.

Mr. Rosenstein: Well, I was going to say that that—at the end I was going to ask you, Mr. Commissioner, in making your findings of fact, to specify which charges you find and which you do not find.

Then counsel for the City, apparently afraid at the end of that day that in spite of all these elaborate charges they had made, in spite of the great volume of proof and the detail with which they had come here prepared to meet it, afraid that still there might be left open some loophole by which Chief Zober might escape, drafted this new set of resolutions, this new set of charges, and brought us here today ready to face these twelve typewritten pages, four more charges with their specifications constituting at least twenty additional charges. Now, we say this, Mr. Commissioner, that in all those nine charges there are two that should never have been heard here at all, two of them that relate to criminal offenses. We say that the criminal courts are still open prepared to try criminal charges, and that that is the uniform practice with

every police department. I can recall in Paterson, where a police officer, not so long ago, was indicted by the Federal Grand Jury and was only suspended by our Board of Police Commissioners and the suspension hung for two years because the Federal authorities let him go that long without trying his case, and then he was acquitted before a Federal jury, and our Police Commissioners reinstated him. What a farce it would have been if they had proceeded at once to try him on the criminal charge, convicted him and dismissed him from the force, and then a Federal jury, presided over by a Federal jurist skilled in the law and holding the balance impartially between the Government and the defendant, had acquitted him! And that is what I say should have been done here as to the first charge in the old set charging the Chief partially with the crime of receiving stolen goods and knowing they were stolen, and the first charge in the second set which charges him with subornation of perjury or conspiracy or some other charge.

From those observations, general in themselves, I want to pass on briefly to the case made out here for the prosecution. The first day of the hearing was devoted entirely to their side of the case. It was a long case, crowded with testimony that in any court-room would ordinarily take two days to hear; there was a regular parade of witnesses to the chair, some thirty-five witnesses at least, from Newark and Summit and Brooklyn and New York and Irvington and far away Detroit, and there was a regular Niagara of testimony poured out upon the record. But when it was all through, what did it have to do with Chief Zober? That testi-

mony established in the four channels of evidence, four distinct automobiles had been stolen. Their history was traced from the time they left the factory, through dealers, through purchasers, through Chief Zober, through the last holder, till they were recovered. But still what did it all have to do with Chief Zober? If this had been a trial against an insurance company on a policy of recovery against stolen automobiles, their case would have been an air-tight one; no one would have denied cars were stolen; but where was the evidence that linked it up with the Chief?

This is a serious case. Chief Zober holds a high office in this City, an office that he had gained after years of intense and diligent service, and it means much to him, to his reputation in this community in which he must live his life. On such a slim case as that no jury in the world, I contend, would convict a man with the unblemished record of the Chief behind him; and the Chief might well have taken the position that he was not called to defense by any such case as that, but Chief Zober did not want to take advantage of any technicality. He was ready, yes, he was anxious that he might tell you how these cars had come into his possession, and to conceal nothing.

What was the story that Chief Zober told? He said that in March, toward the end of March of 1926, or the early part of April, one day he had come in after being on strike duty—it was after five o'clock, and he invited his friend Judge Davidson to go out for a spin with him. He was going over to the farm of a friend of his, Henry Brandenburg, to buy some green stuff. He knew Henry Brandenburg for at least four or five years

before that, and for a year before, at least, he had been buying green stuff there. So they got over to the farm and the Chief made his selection, and when he had completed it a stranger, unknown to him before that time, came over, and Henry Brandenburg introduced them—"Chief Zober, meet Bob Vordemeier; Judge Davidson, meet Bob Vordemeier"; and in the course of that introduction Henry Brandenburg added, "This man has got a friend in a finance company; if you ever need a car, Chief, he can get it for you." That was perfectly natural. My friend Mr. Ward here, I myself have heard him introduced many times to people, and I have heard the introducer add, "If you ever need a good lawyer, take Mr. Ward." The thing which stands out about the person introduced is usually the thing mentioned. And the Chief at once made the natural rejoinder, "Why, I would like a used car myself; my Paige car there is shot to pieces; been doing duty night and day during the strike."

And then we have the still more natural rejoinder on the part of Vordemeier, "Why, here, there is a Cadillac car right there that you can have." So the Chief and the Judge went over and inspected it, and the Judge made the first comment about it, "Why, Chief, don't take that car; it is too big for you. They might say the Botany Worsted people gave it to you as a bribe. The strikers will insinuate that." So we have the Chief warned by the Judge. But warned as to what? Not that there was anything suspicious about the car, not that there was anything wrong with the car, but simply that the strikers might insinuate something. And the Chief agreed—the car is too big—but he asked the price and he was told $1,600, and he left the matter indefinite. He was inter-

ested, but he said he would rather have a small car, as he had indicated at first. He was interested to the extent that he told Vordemeier that if he did have a smaller car to let him know, and he handed him his card and gave him his telephone number and told him where he could reach him, after five o'clock any day at Police Headquarters. And a few days later, the Chief coming to Headquarters after five o'clock, finds Vordemeier there with the Cadillac car, and again the Chief demurs about the car, he wanted a smaller one and Vordemeier says, "I haven't any other customer. Take it. Try it out. See how you like it, and in the meantime I will be looking around for a smaller car. If you don't want this I will take it back when I get the smaller one, or you may even find a friend of yours who is willing to buy it." And the Chief says, "All right," and he goes around to his friend Judge Davidson and takes him down with him in the car and together they go over to the Cadillac Agency here in Passaic or in Clifton, I don't recall which, and they bring out the young man of the Cadillac people, experienced, we may take it, in Cadillac machines, to examine it, and that young man spends twenty minutes overlooking it, raises the hood, goes through the motor, and at the end of that thorough examination he says, it is all right excepting something on the timing gear, a little matter that is loose there, and the Chief says, "I am paying $1,600 for it. What do you think of that?" And the young man answers, "I would buy it myself." The Chief says, "No, I am buying it for myself."

Now, I have recited the testimony as to how the Chief bought that car in some detail, because it is

of great significance and is of great importance. Of all the charges that have been made, the only outstanding one is the charge of buying stolen goods knowing they were stolen. We must ask ourselves whether the Chief, when he bought that Cadillac car, had any reason to suspect that that car had been stolen and was not the proper property of the man offering to sell it. We cannot look at it in the light of what we know today. Hindsight is always better than foresight. You cannot take an object and put it under a microscope and know it thoroughly and then say that somebody else, who never had his attention focused in the same way on that object, should know it as you know it after looking through the microscope. We must go back to the time when the Chief bought the car and examine the circumstances. The first and the most important thing is that he took that car under circumstances that would lull the average man from any suspicion whatever. He knew Brandenburg; he had known him for four or five years; a man going on to forty years of age, prosperous looking, the proprietor of a large farm, and not far away from here. He had heard Brandenburg's reputation and it was good. He knew Brandenburg's brother, a professional man, a physician, even longer, some nine years. Under all those circumstances, Chief Zober was justified in believing that Henry Brandenburg was an honorable, a reputable, a responsible, a reliable man; the Henry Brandenburg whom Chief Zober met that day over on the farm, and not the Henry Brandenburg that was a witness on the stand here. Henry Brandenburg we do not vouch for. We don't know who he is or what he is now. But we say this, there was nothing against him at the

time of the purchase of that Cadillac car, and when Henry Brandenburg introduced Vordemeier, Chief Zober had a right to believe that Vordemeier was an honorable and a reputable and a reliable man, because in this world we go about picking our friends and our acquaintances on the strength of the fact that they come to us vouched for by people upon whom we rely.

Now, there was some effort made here by the prosecutors to try to insinuate that Vordemeier had sold these cars to the Chief. The testimony consisted principally of two branches, the one the good reputation of Bob Vordemeier, and the other that neighbors had not seen him riding in any other car than a Ford car. The testimony as to his good reputation was entirely unnecessary, because no one accuses Bob Vordemeier of having done anything wrong. We are the last to say that. If Vordemeier were living today and could take the stand, undoubtedly he would show what his connection was with those cars, just as Chief Zober has shown how he came to get the cars, and undoubtedly he would show that he, too, had been fooled about those cars just as the Chief was fooled about those cars. As far as the testimony goes that he never drove any other car, that is beside the mark, because we don't know how long he was connected or had his friendship with this man who was connected with the finance company. It may have been for a very short period. There may have been a very few cars, so that nobody else ever paid any particular attention to the fact. But be that as it may, against that negative testimony that Vordemeier did not deal in other cars, we have this positive, absolute testimony as to the oc-

currence of a fact. Judge Davidson says that he went with Chief Zober to the farm; he was there when Bob Vordemeier was introduced as having a friend dealing in these cars, and he heard Vordemeier offer this Cadillac car to the Chief at the price which the Chief paid for that car. I have the highest regard for Judge Davidson, an honorable member of the bar of this State. I am sure that the people of Passaic in whose midst he has lived his whole life have, if possible, an even higher regard for the Judge than I have myself, and I know that Judge Davidson is telling the truth.

There is not a thing on which the Judge would shade his testimony. He says that he warned the Chief the car was large and the strikers might insinuate that he had gotten that from the Botany Worsted Mill. When it comes to the bill of sale, he testifies that he found the first bill of sale incorrect; he gave it back to the Chief to get another, and the Chief got another, and he found fault with that. If Judge Davidson were lying he would have lied all the way through. He would have shaded his testimony on those two points to help out the Chief. So the fact stands as a fact that Bob Vordemeier did handle these cars and was the man through whose mediation they came into the hands of Chief Zober.

Now, let us see. There was nothing in the circumstances under which the Chief bought these cars to arouse his attention or attract his mind to the fact that they may have been stolen. The prosecution seemed to intimate that the price paid was low, and that that was evidence of stolen cars which should have put the Chief on notice. Now, let us see. In the case of the Cadillac their expert,

Mr. Brogan, testified that its fair value was $2,600. But experts differ among themselves, as we all know, and we had the usual experience in this case. Our Mr. Moeser said the fair price was $1,650. Our Mr. Egatz thinks its fair value was $1,500. And the Chief paid $1,600.

When it came to the first Buick car their Mr. Montgomery said its fair value was thirteen to fourteen hundred dollars; our Mr. Moeser said it was eight to nine hundred dollars; our Mr. Egatz $1,000 to $1,100; our Mr. Marchesi, $1,300; and the Chief paid $1,100. No striking discrepancy there.

As to the second Buick car, our Mr. Moeser put its value at $1,200, our Mr. Egatz at $1,550, our Mr. Marchesi at $1175 to $1,250; and the Chief paid $1,100. No striking discrepancy there.

On the last car, the third Buick, our Mr. Moeser put its value at seven to eight hundred dollars, our Mr. Marchesi at $900, our Mr. Egatz at $1,000; and the Chief paid $750. No great discrepancy there.

But if we assume that the prices paid by Chief Zober for these cars were perhaps a little bit below the fair market value at the time he bought them, there was nothing about that which would arouse him. He was told that the cars were being gotten through a friend of Vordemeier, a friend who was in a finance company, a New Jersey Finance Corporation. The very explanation, the source from which it came, would throw you off your guard. A finance company repossesses machines for unpaid balances. The unpaid balance may be comparatively small as compared with the value of the car. The company is interested

in getting their money out of it. They would sell it for that comparatively small amount. The price would seem entirely reasonable.

And then consider this: What did Chief Zober do about that car? He took it directly to the Cadillac people, and when the young man was looking it over he asked him, "Is $1,600 too much for this car?" The Chief did not know values. He was checking up to find out the price. If he had thought that that was a stolen car and that he was getting away with it because thieves could sell it far below the price, would he disclose a suspiciously low price to anyone, something that would set the world on notice, that would pass around quickly from mouth to mouth, "Why, Chief Zober has gotten a car at dirt price"? No, he acted in good faith; he checked up, he asked is it worth that, and he was told it was.

Now, follow the conduct of the Chief after he got that Cadillac car. A day or so later he got the bill of sale. He did not conceal it because he was afraid it was a stolen car. He took it to his counsel, Judge Davidson, as anyone would do on buying legitimately and submitted it. He was told by the Judge there was an error in that, told to get another bill of sale. He did get another bill of sale, submitted it again, and was told by the Judge that there was another defect, still some small defect in it—it must have been very trivial because Judge Davidson could not even recall what it was. And the Judge said, "That is all right if you know the people from whom he got it," and he did know the people from whom he got it; he knew he had got it from Vordemeier, a man who came to him vouched for by Brandenburg, who at that

time had all the appearances of being a reputable, honorable, substantial man, well spoken of in his community. When the Chief got that car he did not conceal it, he did not paint it another color, he did not try to take it to some far away community where he was not known and dispose of it there to make a profit, a big profit, as a man might do with stolen goods. He kept it around here, Passaic; he kept it in the garage of Police Headquarters; he ran it through the main streets of Passaic. There was no effort at concealment there. He was acting honorably about it. He took it right down to the Cadillac people, had their own man look over it.

Something has been said here in the course of this trial that the numbers were mutilated on the car, that he could have told by the mutilated numbers that he was getting a stolen car. Who testified here as to the mutilation of numbers. Mr. Shedd, the expert, with sixteen years of experience specializing on mutilated numbers. With that vast experience Mr. Shedd could find that of the six numbers on the car two were mutilated, and one he admitted was a good job. What about that young man of the Cadillac Agency? Presumably very familiar with Cadillac motors and Cadillac numbers, who made that twenty-minute inspection of the car before the Chief would take it, he didn't find anything wrong. It did not strike his attention. He did not bring it to the Chief's attention and say anything. Yet the Chief, who is not an expert in machines, who has not had the wonderful experience of the Cadillac man, Mr. Shedd or Mr. Havens,—yet the Chief, we are told, should have known that they were mutilated num-

bers and should have found them. They pointed to another thing which they said should have shown him the car was stolen. There were initials on the Cadillac which had been obliterated and painted over. I don't know how plain that was to the eye, because I have never seen it. But I say there was nothing at all about that which was suspicious. The young man who testified about the initials was the chauffeur who had driven that car for its owner around Newark. He knew that on that Cadillac car there were initials. He knew where they had been. So when he was brought here in the effort to identify this car his mind was directed on just what to look for and he found it. But if Chief Zober noticed those obliterated initials at all, their presence was entirely natural. He was buying a used car, and he thought someone else had had it, and upon which the original owner would undoubtedly put initials. The Chief was buying a car that the finance company had taken back for want of payment, and a very natural thing would be for the finance company to obliterate the letters of the first owner and paint over it in order to make it saleable again. When Chief Zober sold that Cadillac car, after driving it for three weeks publicly through the streets of Passaic, to John Labash, Labash shows that he acted openly about the sale and concealed nothing. Everything was regular in its appearance, and the Chief took John Labash to the Motor Vehicle Department himself and had Mr. Martin pass on the bill of sale, and there Mr. Labash asked the question, "Is everything all right," and was answered by Mr. Martin, "It is."

We have this further fact that on the day, Oc-

tober 26th or 27th, when this same Mr. Shedd came to Chief Zober and was taken to his house to examine the car, and Mr. Shedd said that there was something apparently wrong with the number, it was the Chief himself who made the first remark, "If this car is wrong, then there are three other cars that also must be wrong, because I bought them all from the same man." It is true Mr. Shedd has denied that, but the Chief says it is so and he is corroborated by his son and by a disinterested witness in this case, Mr. Schwartz, who was there and heard that conversation take place.

Now, I don't know what Mr. Shedd's motive may be. He may be entirely honest in what he says. The human memory has a way of playing tricks that are unexplainable. I want to give him the benefit of the doubt and to credit him with the best motives. It may be, on the other hand, that in his eagerness and anxiety to make a record for himself with his company he is going a step too far and is forgetting something which did take place and which he did hear.

Now, passing on from the Cadillac car, we come to the other three cars. The Chief had indicated he wanted a small car. So when he sold the first car Vordemeier brought him another, a Buick, and again it was somewhat too large. It was taken temporarily under the same arrangement, disposed of by the Chief. And the third car was brought there and was also too large, and under the same arrangement disposed of by the Chief. It is finally the last, the fourth, which was the third of the Buick cars, and that car the Chief retained because that car exactly fulfilled the requirements. He wanted a small car, and

thereafter we find no more sales of cars by Vordemeier to him. We find no more sales of cars by the Chief to anyone else. In those three cars there was no occasion for the Chief to be suspicious, because, having taken the first car and found it regular, as far as he was concerned, from a source that was proper, for a price that was fairly reasonable, from his open conduct, everything all right; there was nothing to put him on notice or to bring it to him that those cars were not proper property of the man who was selling them to him.

There is something else in this case that is of great significance on this point of whether the Chief should have been on notice, as well as bearing on every other charge in these two complaints, and that is this: During the period embraced by these dealings in cars, extending somewhere from March or April, 1926, to July of the same year, in that period there was occurring a strike down here in Passaic. I need hardly say before a Passaic audience how serious a catastrophy that was; a strike which took out of employment some twenty-five thousand people, many of them foreigners and of volatile temperament, that it would take only the slightest spark to explode a great conflagration. It was a social cataclysm. The eyes of the whole nation were directed upon this City. Congress was being petitioned to intervene and take action. There were daily parades, there were nightly mass meetings, there was bombings of houses, stoning of houses, people were being beaten up, and there was rioting going on. In all that time of fourteen months Chief Zober stood there with that tremendously nerve racking and wearing burden upon his mind and shoulders, taxing every ounce of physical strength and every bit of mental

and nervous energy. He took personal charge of the situation, was out with the whole department working day and night, from sixteen to twenty hours as an average. And in that situation I say this: It is no wonder, Mr. Commissioner, if under those circumstances his vigilance was somewhat relaxed. Under that great strain he may not have been quite as careful as we can say now knowing what an ideal person would have done. But we have to measure him by his situation. Here was a case where a riot might be precipitated at any moment, it might cost any number of lives, might do millions of dollars worth of damage, and we are told that in that situation, where that was his primary duty in looking out for the law and order and safety of a whole city—we are told as against that that an automobile of $1,600 or $2,000 of value should have had his whole attention and his whole consideration. The proposition is absurd.

Passing for a moment to the charge of the mutilation of the numbers on the cars. Those cars were around the Police Headquarters for more than a year. They were not concealed, and they were in that garage, they were open to inspection. The Chief of Police runs the whole department. There is another bureau, however, to which the matter of stolen cars is referred, because stolen cars today is a specialty, a specialty like finger printing, a specialty like trapping. That is the Detective Bureau. I respectfully ask, where in the world was the Detective Bureau of the City of Passaic during all that long interval that these stolen cars were here and were not discovered? The Chief had nothing to do with running down stolen cars, and had no familiarity or acquaintance

with mutilated numbers. It was not within his province. There were daily reports coming in, not only from Passaic but from Newark, from New York, from nearby communities, perhaps as many as a hundred stolen cars broadcasted a day, and all that was turned over to the Detective Bureau, not for the Chief to work upon, and I venture to say, Mr. Commissioner, that you yourself, with all your vast experience at the head of the Detective Bureau of this City, must undoubtedly have had cases where you were in contact with stolen automobiles and undoubtedly failed to observe that the numbers were mutilated. It is a natural thing. There is nothing out of the way about that. Now, in the second series of charges it is alleged that the Chief committed the crime of subornation of perjury or amounting to subornation of perjury. There can be no subornation of perjury unless somebody has committed perjury. That is elementary. There is no testimony in this record of anyone committing perjury. Nobody took the stand and testified that he administered an oath to somebody and that that somebody committed false testimony, and that the Chief put that somebody up to give that false testimony. And as for the conspiracy to suborn perjury, it likewise falls by its own weight, because the most that has been shown is that Chief Zober signed one or more application cards and did not swear to them. But that does not mean that he authorized anybody else to swear to them. That was not proved. That was not done. Not a bit of evidence on that score.

The other charges that are here grow practially out of the same thing. The transactions with reference to procuring the registrations for the four automobiles.

I take the second one of the second series of charges, that the statute of the State was violated because the Chief got registration without having sworn to his application. There was no crime committed by that act. There is no penalty in that statute for doing that. So the Chief is not up on a criminal charge. How, then, is it wrong? And the Chief said that he didn't know what the law was. Even my friend does not know what all the law is, nor do the judges of the Court of Errors and Appeals.

Now he knows what the law is. Now it has been brought out to him. Now he knows better. But he didn't know then what the law was. His explanation is a natural one. The same man on whom he had a right to rely—and if he had a right to rely on him in one thing he had a right to rely on him in everything—he said, explained to him in the case of a finance company handling the deal it was not necessary to make a personal application or to swear to the card. Now, the Chief had had no dealings with finance companies. The Chief had had personal dealings with buying his own car or of buying used cars from somebody else, and I do not think he had had so many cars before this particular transaction. But Vordemeier was the man who had been through this experience before, according to his introduction. He was the man who had a friend in the finance company, and his friend brought him these cheap cars and he had disposed of them to the others, and this man who had had finance company experience was telling the Chief in the case of a finance company transaction this is not necessary. Wasn't it natural to believe that there might be something, some provision in the law, for special cases, and

that this man who had had experience in such special cases knew of that provision in the law and was to be relied on and to be believed?

Now, it is said that the Chief should have known that no finance company could fix things up for a violation of the law. The Chief has not said that finance company was to fix anything up, and if he used that word "fix" he did not use it in the sinister sense that counsel would ascribe to it. We often use the word fix, daily, as doing anything, and that is all that the Chief says that Vordemeier told him. The finance company would arrange the details of it. That was all. And they could arrange the details. That was what he was to do for the Chief, and the Chief took his word and believed him, that there was some such provision in the law.

Now, these charges also make the point that the Chief did not sign an application—these four applications. Chief Zober says he signed them all. One which was shown to him he said was not his signature, was a substituted card. The other three he said were his. Who should know better his own signature than the man who made it? Who should know better whether that is his own signature better than the man whose signature it purports to be? The Chief says as to three cards it was his, and the only evidence against him is that of these handwriting experts. You have them in every case, Mr. Commissioner. You must have been present yourself in many a trial and you see them take the stand both ways. You can get them easily enough for a fee. I believe if we had wanted we could have brought experts here to contradict what these experts said. But we did not need

them. We do not want them. We were testifying to the facts, to the act, and we did not want these men who dispute among themselves. This first expert, for example, he said, "Oh, no, other experts have not frequently testified divergently opposite to him." Why, we know as a matter of fact from our own common knowledge, from our reading in the newspapers, that that is not so, that the experts do differ among themselves, and juries bring in verdicts for one side or the other, showing sometimes they believe these men, and very often, and I think rightly, too, they do not believe them.

Why should the Chief lie about these cards? He could have lied about all four, if lying was what he was after. But he says as to one, "While I signed it, this is not my signature. This is a substituted card." So we must believe him as to the other cards, that he was telling the truth. What motive would the Chief have had for doing differently? What was there for him to gain? The cards were there. They were easy to sign. He can sign them in the office. They were presented to him. Why should he have somebody else sign them? What was there for him to gain by having somebody else sign them? This is not a suit on a forged instrument. This is not a suit where the will is brought here which was not signed by the testator who purports to have signed it, that it is a forgery. The Chief's signature was the thing upon which the registration would be granted. There was no motive for him to put a wrong signature on it.

Then, as to these last charges, that the Chief has done acts to the prejudice of the good order and discipline of the department, and such acts are the acts of getting the registrations on these cards.

There is nothing at all about that that has injured the discipline of the department, about that particular. The Chief brought credit to the department by his conduct and by his handling of it during the great strike. This particular thing, we maintain, is that he did sign those particular cards, and he signed them under circumstances where he was told the oath was unnecessary and he was led to believe it. He acted in good faith. How in the world can anyone say that his good faith has brought any discredit upon the Police Department of the City of Passaic?

Now, just going back for a moment to the first charges that were brought. It is charged on the part of the Chief, in charge 4, that his conduct was subversive to the good order and discipline of the force, and under that they set forth as their first indictment that he sold a car to Mr. Winter. What in the world is wrong with that? Why is that subversive to good order and discipline? The Chief had the car, he did not want it, he did not like it, he had taken it over as a tempory thing on the thought he would return it if they got a smaller car, but he might find a friend who wanted it. This friend happened to be a member of the force, Mr. Winter. Is it wrong for the Chief to do a favor for a man on the force? The man on the force was not doing him any favor. He could have returned that car. He was doing a favor to let this man have it at that reduced price. Anything wrong in that? Then, there was the second indictment under that charge, that when the Chief was called on for a written statement with respect to the stolen cars he falsely in writing represented that one of the cars had been sold to McGill. Now, we submit respectfully that that is

not the fact, that Chief did not report that he had sold the car to McGill. That report was called for by the Commissioner of Public Safety here for four o'clock in the afternoon of the day it was sent to the Chief. The Chief got the demand at quarter past three, and at four o'clock he was bound to have the written report submitted. Not much time for consideration, not much time for preparation, prepared hurriedly. But in spite of that hurry, what did the Chief say? He said that he had gotten the McGill car and sold it to Latham. That is the language of the report. He doesn't say he sold the car to McGill. He calls it the McGill car. What is his explanation? That McGill had wanted a car, and in his mind he had appropriated this car thinking it was a good car for McGill, and in that way came to call it the McGill car, but he did not sell it to McGill. He did not say he sold it to McGill. He said he sold it to Latham, and the testimony shows that it was Latham's check that paid for it.

The third indictment under that charge, that when the Chief was called on for the same report he falsely and in writing represented that he had purchased the cars from Vordemeier. And we still say that is the fact, that he did buy the cars from Vordemeier or from a friend of Vordemeier's who was in the finance company. The Chief thought all along he was dealing with Vordemeier. He went to Brandenburg's, and the introduction was to Vordemeier. Brandenburg said he was introducing him to Vordemeier as having a friend in the finance company. But the Chief reported the facts as he knew them.

Their last charge is that his conduct was pre-

judicial to the good order and discipline of the department because he retained cars with mutilated numbers and disposed of them by sale still with mutilated numbers—buying and selling stolen cars. In heaven's name, how is the retaining of a car with mutilated numbers anything that brings discredit upon the department? If you buy cars from a source that looks reputable and responsible and you have no motive to suspect that there has been anything wrong, nothing to put you on your notice or your guard to make an examination of the numbers, and you do not awaken to the fact that the numbers are mutilated, where is the discredit that is brought upon the department?

And then there are other subdivisions of the charges. See how carefully all this was drafted and all these traps laid hoping that somewhere on this long fishing expedition of two days' trial that have amounted to practically a week of testimony, somewhere some scintilla of evidence might be found to hold the Chief. I say the last two subdivisions of that charge reiterate the subdivisions on the other charges, that he falsely represented in writing that he had sold the car to McGill, and that he has falsely represented that he had bought the cars from Vordemeier. As to those charges it is not necessary for me to say another word. They also say that he did not report to the Commissioner of Motor Vehicles within ten days that the cars had mutilated numbers. That statute, we respectfully submit, applies only to those who have knowledge that the numbers of their cars are mutilated. Here was a man on the stand, one of the prosecutor's own witnesses, who had gotten this stolen car back—the man from Summit, I believe he was.

Much more than ten days have elapsed since he got that car back, and he knows it has mutilated numbers, but he has not reported it to the Commissioner of Motor Vehicles. How much less should the Chief be called upon to make any such report as that? When he did not know that those were mutilated?

Now, I want to say just one word more and I am through. I do not know how many more years I may have to practice at the bar of this State of New Jersey, but be it ever so many, I do not think I shall ever witness a spectacle such as we see here today. This is most unusual. The defendant holds a high and important position in this City, that of Chief of Police. An honorable position, one that he has gained by many years of faithful effort. I know for myself that he holds the good will of this community. I have been surprised upon my visits to Passaic in the last few weeks at the many expressions of good will that have come to me from people who were total strangers to myself. I know what it means to the Chief. It is not a mere question of livelihood. There is something more in life than money. The dearest thing a man can carry, and the dearest thing he carries to his heart is his reputation, and the Chief's reputation has been put under fire in this case and his wife and children suffer under the strain, and here he is now on trial, the defendant at a trial presided over by his one time subordinate and rival and his present superior, and I say here that through it all, if I were appealing to a jury that were taken at random as our jurors are, I would not have much doubt or hesitancy about the outcome of this trial. Sir, not only the Chief of Police is on trial

here, but I may say respectfully, Mr. Commissioner, you as well. You have a great opportunity here. The people of Passaic will know whether you are a big man by your action today. If you can put any personal feeling outside of the case and acquit the Chief the answer will have been yes, otherwise no. That answer, sir, rests with you and with you alone.

SUMMATION ON BEHALF OF THE CITY OF PASSAIC.

Mr. Lane: Mr. Commissioner, unfortunately the law casts upon you the duty of trying and determining this case, and I have no doubt but that if there was any provision of law by which you could have avoided the necessity of trying it yourself you would have taken advantage of that provision of law, but so far as I know there is no such provision. And the law casts upon you that burden. And the law casts upon you a duty, first, to protect the City of Passaic. And you have no more right, I respectfully submit, to yield to any plea on the ground of emotion than you have to yield to any feeling on your own part of vengeance, if there were any such feeling. I have no pleasure in prosecuting this suit. I have no more pleasure than you have in hearing it. And if I did not believe that the Chief is guilty and guilty of every single charge that has been made against him, I should not say so. For my role is not usually that of prosecutor; it is usually that of defendants' counsel.

Let me say in the beginning that however arduous the duties of the Chief may have been during

the strike of 1926 and however much time he may have had to spend in that strike, his duty was not so arduous and his time was not so fully occupied as that he could not purchase second-hand automobiles and resell them at a profit. And the plea that he favored the inferior members of the force or those under him by permitting them to get cars at cheap rates or at cheap prices must be taken in connection with the fact that every car he so turned over he turned over at a profit. And it seems to me that it does not come with very good grace from the Chief or from his counsel to say that he was so busy with the affairs of the City of Passaic that he could not, and is to be excused for not taking the ordinary precautions which would be taken by ordinary men in the purchase of second-hand cars, when he had the time to purchase those second-hand cars and turn them over at a profit.

Now, one other thing before I refer to the testimony. Whatever the Chief's reputation may have been, we cannot overlook the fact that the burden of this thing, to which I will next refer, is being cast upon a dead man. And whatever counsel may now say as to their intent not to attack the reputation of Vordemeier, the facts speak for themselves. If the Chief's statement with respect to the purchase of the cars from Vordemeier be correct, no matter what counsel may say, the reputation of Vordemeier has been ruined. And Vordemeier is entitled, dead as he may be, to as much protection as is the Chief.

Now, I may have had some doubt, Mr. Commissioner, but before I go to that let me say this: Counsel in opening said that he had taken one solid day here in introducing a Niagara of testimony to prove nothing which connected up the

Chief, but to prove that the cars which were dealt with by the Chief were stolen cars. Counsel by a word could have saved that day's testimony by admitting the thing that was obvious, that those cars were stolen cars. Instead of doing that, and when they did not do it, the burden was cast on us to prove beyond question that the cars were stolen cars. They put that burden upon us. And they wasted hour after hour on cross-examination upon matters which were perfectly obvious. And now they say that all that time was taken up in introducing testimony to prove that the cars were stolen. Why didn't they frankly admit, as they knew in the beginning of this thing, that those cars were stolen cars, and that the only real question in this case was, upon the first branch of charges, whether or not the Chief knew the cars was stolen or had reason to believe that they were stolen?

I may have had some doubt—as I was going to say a moment ago—as to whether or not the Chief was guilty of knowingly dealing in stolen cars until the Chief took the stand and was examined. But I submit that from his own testimony and from the testimony of those witnesses whom he produced to support him, it appears beyond a reasonable doubt that he, the Chief, knew these cars were stolen and therefore deliberately dealt in stolen cars or else he deliberately closed his eyes to an investigation which might have developed the fact that they were stolen, which investigation he did not want to make because of a fear if he made it he would find they were stolen, which would deprive him of the opportunity of buying the cars and reselling them at a profit. One or

the other of those two statements, I think, is proven beyond a reasonable doubt. And if he is guilty of either one or the other, he certainly is not fit to remain Chief of the City of Passaic's Police.

Now, in examining this testimony there are certain facts which are not the subject of dispute, and the one fact is that knowingly or unknowingly, wittingly or unwittingly, the Chief of Police of the City of Passaic, whose duty it is to suppress crime, has been made the medium for the distribution of stolen property. There is no doubt about that. He has been wittingly or unwittingly put in the position of a fence. Let us look at some dates.

The Cadillac car was stolen on the 29th of January, 1926. It was sold to the Chief of Police on the 27th day of March, 1926, and resold by the Chief of Police on May 12, 1926.

The Buick, Chambers car, was stolen on the 12th of July, 1926, was sold to the Chief of Police on July 16, 1926, four days after it was stolen. The Ryder car, a Buick, was stolen on the 10th of June, 1926, was sold to the Chief of Police on the 23rd day of June, 1926, or thirteen days after it was stolen, and was resold on the same day by the Chief to Winters, a member of the Police Department.

Wittingly or unwittingly the Chief was making his subordinates receivers of stolen property. The Perkins car was purchased on the 9th day of July, 1926, sold to the Chief on July 10, 1926, within twenty-four hours after it was stolen, and resold to Hipp by the Chief of Police on the 14th of October, 1926.

Now, that is a beautiful spectacle for the City

of Passaic, that its Chief law officer of the enforcement division has on four separate and distinct instances within a period of but a few months been even unwittingly made the instrument of the distribution of stolen automobiles. And I say that some reasonable explanation must be made of that. Some explanation that goes somewhat deeper than mere words. There are two principles of law with respect to dealing with evidence which are easily understood and which are peculiarly applicable in this case. The one is that the trier of facts does not have to believe everything that he is told under oath. He has a right to test what he is told in the light of human experience. For, one of our greatest judges has said, "It is only in the light of human experience that we can test the truth," or "by our knowledge of our human experience that we can test the truth of the thing he has told us."

And judges are not obliged to believe miraculous things. There is always to be applied to a man's story what is the reasonable thing? Is it a reasonable story under all the circumstances of the case?

The second principle is this: that circumstantial evidence, if it is of the right kind, is of greater weight than direct evidence. Because circumstances ordinarily do not lie. Whereas witnesses under oath often lie. As you have had occasion to observe right here upon the stand during the course of this trial.

We have no direct evidence in this case that when the Chief purchased these cars he knew them to be stolen. But let us look for one moment at the circumstances. The first circumstance we must take into consideration in testing everything that

happened is this: We know, the Chief knew or should have known, that the business of disposing of stolen automobiles—of stealing automobiles and disposing of them—has become a systematized business. And we know and the Chief knew, for he so swears, that all of the authorities engaged in suppressing crime have been doing their utmost to put a stop to that business, or, as the Chief says, he knew the National Government was doing it through the control of interstate commerce. He knew that the purpose of these Acts requiring reports on mutilated numbers, requiring personal applications, forbidding the sale of cars with mutilated or obliterated numbers—the purpose of all of those acts, as he says, was to prevent traffic in stolen automobiles. Now, this business which was being carried on somewhere, was a part of the business of disposing of stolen automobiles. Thieves were stealing those cars and thieves apparently knew where to dispose of them. Do you think that a combination of thieves, qualified as they were to steal these cars and get away with it, would have thought to use the Chief of Police as a means for disposing of that stolen property if they did not know they were safe? Think of it. A gang of thieves, deliberately place themselves within the power of the chief law officer of this City. One of two things must have been true. Either they knew they were safe in doing it because they knew that the Chief of Police knew, or they knew that they were safe in doing it because they knew that the Chief of Police was so incompetent that he never discovered it. Do you think for a moment that a gang of thieves would take their chance upon and assume knowledge on their

part of the incompetency of the Chief of Police? I say no. It is not human to believe that this gang of thieves would have used the Chief of Police as a fence unless they knew that they were safe. They could only be safe if they knew that the Chief knew. That is the first circumstance to be taken into consideration in weighing all of this testimony and the explanation made by the Chief.

Now, let us turn to his explanation for a minute. He says that during this strike, when he was so busy protecting the people of the City of Passaic, he with Judge Davidson went up to the Brandenburg farm and there he was introduced to a man named Vordemeier whom he never heard of before as a man who had a friend—he doesn't say that. He says as a man that was was connected with some finance company. The Brandenburgs say as a man who had a friend connected with some finance company. "Did you ask who the friend was?" "No." "Did you ever know who the friend was?" "No." "Do you know the name of the finance company?" The Chief says New Jersey Finance Company; but Brandenburg says, "Was the name of the finance company mentioned?" "No." Dr. Brandenburg says, "Was the name of the finance company mentioned?" "No." "Were the names of the friends mentioned?" "No." "Did you ever know the names of the friends?" "No."

Then the Chief is asked, "Did you call up the New Jersey Finance Company to find out whether there is such a concern?" "No."

Is that conduct the conduct of one who desired to find out whether these cars might not be stolen cars? Knowing that if stolen cars are to be dis-

posed of they would have to be disposed of in just that way? "Who is your friend," would be the first question. "What position has he got," would be the second. No ordinary man would neglect that precaution, knowing that the business of selling and disposing of stolen cars was a systematized business, and if you ever expected to have cars disposed of you would expect to have them disposed of in just that way.

Beautiful indefiniteness about this visit to the Brandenburg farm. About who was there. Your Honor will recollect that one of the witnesses, I have forgotten which—their stories are not alike—one of the witnesses says he believes the friend was the man who was in the car at the time Vordemeier was there at the Brandenburg farm. Another of the witness says—I think it was the Chief—that the friend was not there at all. He never had seen the friend, did not know the friend. No knowledge of who the friend was.

Is that conduct reasonable conduct under the circumstances of this case? When you are dealing not with someone who does not know anything about crime, but when you are dealing with the Chief of Police, who, even if he be not at the head of the detective force, nevertheless is assumed to know something about how crime is committed. And the cars are brought down to Police Headquarters. Think of it. This gang of thieves sending those cars down to Police Headquarters in the City of Passaic without knowing that they were safe!

And counsel says it was the duty of the detective force to investigate. Well, of course the detective force, I assume, under ordinary circumstances, would not investigate the car of the Chief.

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By doing as he did he put the stamp of approval on these cars. No one would imagine for a minute that the Chief of Police was selling a stolen car or having a stolen car driven up to Police Headquarters. His position protected him, and his position made it easy for him to dispose of these stolen cars, and the gang of thieves knew that, and they used him. But is it possible that they used him without knowing that they were safe?

Now, let us see what happened to those stolen cars. Three of them were turned over, one to a policeman, at a profit, and the Chief did not pay for the cars until the Chief had the money from the person to whom he sold the car in his pocket. This was no case—as counsel says, mind you—he bought a car, it was too big for him, and he kept it a little while and he sold it. He bought another car and it was too big for him or too little for him, I have forgotten which, and he kept it a little while and he sold it. And he bought a third car and it was too small for him or too big for him, as the case may be, and he sold it. There was no case of that kind at all. For he did not pay for a single one of these cars until he had the money from the person to whom he had sold it in his pocket. Pure, unadulterated business of acting as agent for the disposal of this stolen property. And the only question is whether he did it wittingly or unwittingly. And I am trying to argue that circumstances in this case point so clearly to wittingly that it is impossible to escape that conclusion, no matter how much you, for the honor of Passaic, might be glad to escape it. Cash transactions! He buys and he pays cash. He sells and he receives cash. Even when he is given a check he

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sends McGill to get the check cashed. So that he may deal in cash.

Now, he says that he doesn't know that when thieves deal they deal in cash. Well, if he doesn't know, he is incompetent to be the Chief of Police of Passaic. For everybody else knows it.

That fact, of course, standing alone proves nothing. Sometimes we all deal in cash. That standing alone is not sufficient to convict a person. But it does not stand alone here. It is one of those things which are the natural concomitant with the commission of crime or dealing with thieves, along with the other things which are also here. If he had dealt in checks I would say he would be innocent. Absolutely. If he had done or had acted in any single circumstance consistent with that of an honest man, I should say the other circumstances lie. But here we have no circumstances speaking of innocence. We have all of the circumstances speaking of guilt. And one of those circumstances is the fact that all of these transactions were in cash, as they would be if it was a dealing with thieves. Not a single piece of paper to indicate that his story is true. With respect to the amounts he paid for these cars: Not a receipt, nothing in writing. Just exactly what you would expect if he knew they were stolen cars. And that he was dealing with a gang of thieves.

He goes to Judge Davidson with a bill of sale for the first car, the Cadillac, and Judge Davidson raises some question with respect to the bill of sale. And counsel says it must have been a very trivial question. Judge Davidson said it was important enough, that it was not a trivial question, and that it was important enough for him to reject that bill of sale.

Now, it is a significant thing that not only does Judge Davidson but the Chief forgets everything with respect to what that defect was. It was an important defect, since Judge Davidson rejected the bill of sale. Not the least idea of what it was. And he says that the bill of sale—and then he goes back and gets a new bill of sale or gets another bill of sale or does something. It is impossible for us to determine what he does do. For Judge Davidson says, or the Chief says—I have forgotten which—that this bill of sale which is in evidence as Exhibit P-7 is the same bill of sale, which had initially this defect. Well, now, that bill of sale itself is defective. As you will observe, there was what purports to be the signature of Fred J. McAvoy a notary public where the signature of the secretary of the supposed Buick Motor Sales Company should be. And I wish the Commissioner would, as he undoubtedly will, look at these bills of sale. And then put yourself in the position, looking at these bills of sale—no one of them is an original manufacturer's bill of sale—put yourself in the position of the Chief buying a car and paying $1,600 for it. Cheap? All of this testimony with respect to the cheapness of the cars, very little of it is of very much importance in this case, because the Chief himself says that his incentive in dealing with Vordemeier was to get the cars cheap. And he took advantage of that thing to get the cars and resell the cars at a profit. And he was dealing with Vordemeier. He was dealing with a finance company. And yet after the first bill of sale was defective,—you look at these bills of sale and you will find that Vordemeier's signature does not appear anywhere. Vordemeier's name does not appear any-

where. No finance company's name appears anywhere. One little telephone message to the Buick Motor Sales Company of Asbury Park or to the Union Motor Sales Company of Elizabeth would have demonstrated that all of these bills of sales were fakes. But the telephone message is not sent. What would be the reasonable thing to do under the circumstances? Did the Chief act as a reasonable man would act if he desired to know the truth? Having paid several thousand dollars upon the word of a man in overalls. Whom he didn't know. Introduced to him on a farm. By Brandenburg. Had some friends whom he didn't name. In a finance company he did not name. Getting cars cheaply. No one suggested that some natural inquiry should be made. That if that natural inquiry had been made the truth would have developed at once and this unfortunate spectacle would not have been presented.

I do not charge the Chief with being able by looking at this bill of sale to at least reach a guess that they are fakes. I think that it is no more—no more is needed than just to look at them. To indicate that there is something phoney. Something fishy about each and every one of them.

It is said that he took this car down to the Cadillac Agency and got this young man, 26 years old, I think, who knew nothing except mechanics, to look over the car, and that that is a thing which he would not have done if he had been dealing with or knew he had been dealing with stolen property. If he had asked that man to look at the numbers on that car that would have been one thing. But he did not do that. He did not go to the Cadillac Company to find out whether that car had been

stolen or not. He asked the Cadillac man to look at the mechanical operation of the car. And that is all the Cadillac man did. He knew the law which forbid—the laws of 1919—which forbid the sale of cars with mutilated or obliterated numbers. He knew that a business was being conducted in stolen cars as a systematized business. He had that car at the Cadillac plant. And he could have thought to ask, "Won't you look and see if these numbers are correct?" And he never investigated. It would be quite a different thing if he had come here to you and said, "Why, of course, I knew the law. Of course, I knew that the cars were being stolen and disposed of. And I looked at these numbers. I am not an expert. To me it appeared that these numbers were perfectly all right." That would have been one thing. But he never even looked. And he never asked anybody to look. At the very place where he knew, as a police officer, a theft would appear, if the car was a stolen car. He did not dare say that he looked, because the mutilation of the numbers on some of these cars is so obvious that anybody looks at them they can determine in a second that something has been done to them. So that he did not dare say that he looked. Now, your Honor will recollect that to corroborate him he called the witness McGill. And the witness McGill on examination said—on direct examination—that he had gone to the Brandenburg farm with Judge Davidson for the purpose of looking at this Cadillac car. Now, here is another little circumstance when we are dealing with circumstantial evidence. Small straws point the way to the truth. Your Honor will remember that Judge Davidson and the Chief both say that they

went to the Brandenburg farm for the purpose of buying green stuff. And that this meeting with Vordemeier at the farm was but a coincidence. McGill told Captain Monks, when he was up at Lamontville, that they went up to Jimmy Donahue's to look at a Cadillac car. I don't know anything about Judge Davidson's recollection. It may be that Judge Davidson, as far as he knew, did not know that they were going up to the Brandenburg farm or wherever they did go for the purpose of looking at a Cadillac car. I make no charges with respect to him. He probably testified as he recollected it. And he may not know. But what explains the statement of McGill, made to Monks, that they went up to look at the car? Now, on examination before your Honor McGill says that he was mistaken when he says that to Monks in Lamontville. That they did not go to Jimmy Donahue's, as he had told Monks, that they did not go to purchase a car or to look at a car as he told Monks, but they went up to Brandenburg's for the purpose of buying green stuff. In the month of March. That is the reason why they went.

"Did you tell Monks in Lamontville that you had gone up to Jimmy Donahue's for the purpose of looking at a Cadillac?" "Yes." "Well, why did you tell him it?" "I made a mistake." "But you knew when you told it that it was not true?" "Yes." "Well, why did you tell him it then?" "Well, I was nervous and excited." Well, now your Honor knows that if a man is nervous and excited and sick and taken unexpectedly he is likely to tell the truth, for he hasn't time to invent the lie. What possible object did McGill have in tell-

ing Monks at Lamontville that they had gone to Jimmy Donahue's lo look at a Cadillac if it was not so? And then just before this hearing comes on he goes to Captain Monks and he says, "I am sorry I have made a mistake." And Monks says—so he says, and I take this story now—Monks says, "Well, I don't blame you. I know the position you are in." Why would Monks say that? If it was not understood between both of them then? Mind you, McGill raised no question. He is the one who said that Monks said that. McGill did not come back and say, "Well, it is not any position I am in," or anything of that kind. "I just made a mistake; I am telling the truth now." No; but he says that Monks said, "I don't blame you." Don't blame you for what? Why, McGill knew, if Monks said that, that what Monks was in effect saying to him was, "I don't blame you for changing your story. I don't blame you for lying, because I know the position you are in." That is what those words implied. He did not resent that in any manner, shape, or form. Why is it necessary? The difficulty is, and your Honor will also recollect that McGill told Monks at Lamontville that they had paid $1,200 for the Cadillac car, and Monks is supported by two or three witnesses, two, I think, one at least. Why, if they paid more than $1,200 for the car should McGill lie about it? He would not lie by making the price of the car lower than it was. There was no object in that. Because the more the Chief paid for the car the more bonafide the transaction would appear. Where did the figure 12 spring into McGill's mind? Did he invent it, and if he did, for what purpose? No. The reason why McGill changed his story was that after this thing had sim-

mered down and they knew where they were at, or thought they did, it became necessary, in order to give some bonafide look to this transaction, to put the blame on the dead man whom they met up at the Brandenburg farm and to make the price of that Cadillac $1,600 instead of $1,200, because $1,200 would be so perfectly ridiculous that nobody could sustain it in any manner, shape, or form, and McGill told the truth when he talked to Monks, sick and taken unexpectedly, and he lied here upon the stand, so as to make his story coincide with the story which the Chief thought it necessary to tell, in order to unload this despicable business upon the dead Vordemeier.

Now, Brandenburg is produced. This man whom the Chief knew for years. You heard him testify. Did you ever hear testimony with respect to the purchasing and sale of cars so beautifully indefinite? "I went away for a second. I came back and I heard Vordemeier say, 'I have a car for you.' What was said before that I don't know." "Who was the man in the car?" "I don't know." "Do you know anything about it? Do you know the name of the finance company?" "I don't know." "Did you ever know?" "I don't know." "Stolen car was taken from you, wasn't it?" "I refuse to answer on advice of counsel." "What counsel?" "No counsel." "Yes; a stolen car was taken from me." "Did you get it from Vordemeier?" "No." "Did you tell Captain Monks that you had?" "No."

And Monks said he did.

Dr. Brandenburg is produced. Compare the testimony of Dr. Brandenburg and the testimony of Henry Brendenburg as to what took place on the Brandenburg farm. Dr. Brandenburg enlarges

upon the story to some extent. He enlarges too much. Because he says that the car was sold there that day, and the Chief and Henry Brandenburg say it is not. Who is telling the truth? Read that testimony of the two Brandenburgs and the Chief as to what took place on the Brandenburg farm. Test it by the usual rule as to what would be reasonable to expect under the circumstances, and then say whether or not that story is a reasonable story. And if it is not a reasonable story, it speaks of guilt, because innocence needs no law to sustain it. If you find that any part of the Chief's story, or his witnesses, is untrue you have a right to say, as a trier of facts, his whole story is untrue. For if he has invented in any one particular when there is no reason to do it, it can only be because of a sense of guilt.

Now, Dr. Brandenburg. "Was a stolen car taken from you?" "No." I had what appeared to be a record of October, 1927. A few more questions along this line, and then it suddenly dawned upon me that I was asking about October, 1927, and not October, 1926, and I changed the question to October, 1926. "I decline to answer." "Upon what ground?" "Upon the ground that it would tend to degrade me and incriminate me." Upon that class of testimony the Chief wants you to believe that he committed every one of these acts, the details of the commission of which are consistent with knowledge upon his part of the stolen cars, but that he did it unwittingly.

I say to you that, hard as it may be, as a trier of fact, you cannot reach a conclusion that is not that of guilt.

Now, let us see and go on with a moment with respect to these registrations. These cases have

been consolidated. You have a right to consider all of the testimony with respect to all of the charges.

The Chief knew, for he says he knew, that the law required that there be a personal application for a license. He first said he did not. I should say if he did not he was incompetent to be Chief of Police or a member of the police force. But after he said that he did not I directed his attention to the fact that on these license applications, the diver's license, he had sworn that he had read the automobile law and knew its contents. And he then said that he did know. That the law required that he should sign a personal application. And I showed him three of these applications and he said that one of them he had not signed, that for the Cadillac. But that the other two which I questioned he had signed. Where are these? The other two that he had signed? Well, I pressed him rather hard as to what he meant, by taking license plates and registrations which he knew had been obtained in violation of the law. And he said that he was informed by Vordemeier—again poor Vordemeier—the finance company could fix it up. Now, it may be that the word "fix" is used in a sense that my friend has indicated. I think that the words "fix it up" are quite clear as used in the sense that the Chief used them. What he meant was that the finance company in some way or another could violate the law. Because that is the only way by which these registrations could be obtained without a personal application. And he was pressed a little more, and finally he had a happy thought—and I believe that that thought occurred to him on the stand. I do not think when

he went on the stand he had any such idea in his mind. But he had a happy thought. And he says, "Yes, it is true that I did not sign this one, but I signed another one like it. This is a substitution." His thought was his undoing. Because I then asked him who was present when he signed it, and he said, "McGill." I asked him if anybody else was present and he said Vordemeier. I asked him whether anybody else was present and he said no. I asked him what he did with this thing when he signed it, and he said he had given it to Vordemeier. "And what did Vordemeier do with it?" "He took it away with him." And then I asked him whether he didn't know an affidavit when he saw it, and he said he did. I asked him who he expected to take his affidavit without personal appearance before him, and he said, "I cannot answer." Now, he knew by his own confession, assuming, now, his story to be true, he knew—and it is false—but assuming it to be true, he knew that when he signed that blank card and that affidavit that some officer would be obliged to falsely certify that the Chief of Police of the City of Passaic had appeared before him and sworn he had made that application. "And what do you mean by doing a thing like that?" "Why, I can't answer except that the finance company was to fix it up. The finance company would fix it up."

If his story is true, knowing as he must be assumed to know, and as he says he knew, that when he signed that affidavit somebody would have to falsely certify—if he believed that some finance company could fix it up—I do submit that he has demonstrated his incompetence to fill the position which he has filled.

A Chief of Police, frankly confessing that this

law which he knew had been adopted for the purpose, so he says, of preventing thefts or the disposal of stolen automobiles—one of its purposes—if he thought that a finance company could not only fix up the law but could in some way or another permit a man to take an affidavit or an officer to take an affidavit without the person appearing before him—he has a type of mind which indicates that he is not fit to remain Chief of this Department. For doing that thing men are disbarred from the practice of law. It is not a little thing. It is not a thing to be overlooked. It is more important than the mere false affidavit. His statement that he thought the finance company would fix it up is more important than the fact that he did the thing.

Now, he did not—and all this was led about—all that he let himself in for because of this happy thought that he had on the stand that he might in some way get from under his obtaining his plates and registration without an affidavit by saying he had signed one, forgetting, as those who perjure themselves sometimes do, that there was not any officer present to take his affidavit.

Now, I say further that he deliberately perjured himself when he said he signed these two other applications; and that fact is to be taken into consideration, not only upon the second series of charges which are pending before you, but also taken into consideration bearing upon his conduct throughout this entire case.

In the first place, counsel is mistaken if they intended to indicate, which I think they did not, that the mere fact that Zober said that he signed these papers requires you to take that story as true.

Also let me say that with respect to handwriting, you are not bound either by the testimony of the person whose writing it is supposed to be, nor are you bound by the testimony of handwriting experts. You have a right to exercise your own judgment, such judgment as you have, fortified by opinion evidence of handwriting experts. Now, in this inquiry as to whether or not he did sign these papers—and it is important, I submit, not only as I say upon these last charges, but upon the whole case—if he has perjured himself in one thing he is to be assumed or he may be assumed by you to have perjured himself in others—look at the standards themselves and look at those which are said to be disputed, and I say that it does not need handwriting experts. But to a man of ordinary observation it appears that those signatures which are on the disputed were not written by the same hand that wrote those which are on the standard. Neither you nor I could say why they were not. But they do not look the same to us. We cannot say that that distinction or those differences are because a *B* here is in one form, or *C* there, or what-not; but what we can say is those signatures to us pictorially do not look alike. Look at them and you will find they do not. Two experts were here who testified that they were not written by the same person who wrote—that is, the standards and the disputed were not written by the same person. They say they did not call experts. Why? Why, they say because they did not need them. Well, then, I do submit that if they think they did not need them, it is their lookout. They could have called experts. They did not choose, for some reason of their own, to call them. And the result

is they left this go to you without the testimony of those two experts being met in any manner, shape, or form.

But there are other things which they might have done. Mr. Zober might have gone upon that stand in rebuttal and he might have duplicated the signature on those papers which were disputed. He could have taken the stand and said, "Why, of course, it is my signature. I can write it just like this now," and he could have written it. Did he do it?

There is another way by which he could have shown that these signatures were written by him. Each one of them is sworn to before some officer, by somebody. He could have produced the officer before whom those affidavits were taken to testify that it was he, Zober, who made the affidavits.

No one of those three things do they do. Instead of that they rest upon the statement of Zober that he made the signatures, when his interests required that he should so testify, and one of those things which you are to take into consideration in hearing testimony is the interest of the witness. It was up to Zober, or so he thought, to say that he had made those signatures. That was his interest. He does not attempt to corroborate it. He lets the testimony of the handriting experts stand. He lets the inference which is to be gathered from your own observation of the papers stand. When he could remove that inference by going upon the stand and writing something, writing what is on the disputed handwritings. He lets those inferences stand without calling the person whom the paper shows the affidavit was sworn to before. Why? If he is honest? They say they

do not need to. But why not? Here is a man whom counsel has said is on trial for his reputation. Here is a man who has everything to lose. But he lets that testimony go by when it would have been so easy to meet it. Men do not let things go by like that if they can meet them. If he is honest, if he had signed those papers, the first thing he would have done would have been to go over to the person who took them and say, "I am charged with not having made these signatures. For God's sake come and testify to what happened before you." Instead of that he lets it go by. And counsel says he lets it go by because they do not need to call the witnesses. Although this man has a reputation in the City of Passaic which, if your Honor's judgment be against him, is ruined. Stands to lose all. And yet does not defend himself in the manner in which he could.

Now, that all has reference again to the main case. Because here again, if your Honor is convinced that the Chief for the purposes of his case lied when he signed these two papers, why did he lie? As I said before, innocence does not require lies to sustain it. He must have had a motive. He must have had an object. And all of these papers, again, were turned over to him—registrations were turned over to him in the manner in which registrations would be turned over to him if cars were stolen. He makes no personal application for this registration. The registration is turned over to him by Vordemeier.

Now, let me say one thing with respect to Vordemeier. It seems to me—before I go to that let me say that wholly aside from anything else in this case but upon the Chief's own testimony with respect to this one application, assuming now for

the sake of argument that his story with respect to signing the card is true, that testimony alone is sufficient to indicate that he is incompetent to remain Chief of Police of the City of Passaic. For no man who really believes, as he seemed to believe —no man who really believes that there is any power in a private individual to fix up a law is competent to be the chief law enforcement officer in the active service of any municipality.

Now, it seems to me that I should not close without saying one word about Vordemeier. And I think it is one of the most despicable things I have ever in my experience encountered. This deliberate conspiracy, I should call it, to foist the guilt of this thing upon a man who cannot speak for himself. Brandenburg "Oh, it is Vordemeier." "I bought a stolen car, but I didn't buy it from Vordemeier." Dr. Brandenburg: "It is Vordemeier." The Chief: "It is Vordemeier." Dead! There is only one way by which a dead man can defend himself, and that is by proof of his reputation. And I think, your Honor, that it is wholly inconceivable that Vordemeier should be trading in stolen cars, as he must have been, either wittingly or unwittingly. They say it was not Vordemeier's fault; he had been imposed upon by these beautifully indefinite unknown persons, nameless friends, nameless finance company. It is the most ridiculous performance I have ever come in contact with! It is impossible that Vordemeier should have been engaged in this business, driving these big cars around Bergen County, without some of the persons in the community, this little, small community, where, as it was practically admitted by Chief of Police and the Chief of the Fire Depart-

ment and so on, that everybody knows everybody else's business; it would have been impossible for him to have done that thing without somebody, at least, at some time or another, seeing him with at least one other car than a little Ford. Now, mind you, we have Vordemeier driving the car to and from the friend to the Brandenburg farm. We have Vordemeier driving the car down to Police Headquarters. We have Vordemeier sailing through the country with these stolen cars. We have Vordemeier in the little country village, some six hundred inhabitants, having a house with a barn on it where he could keep cars if he wanted to. Where does he drive his car? They never saw him at his house; they never saw him in that community, and although he has these cars to sell to the Chief of Police, he drives around, when he drove out for pleasure with his wife, in a Ford truck. And everybody who is produced here, and there were several testified, says that Vordemeier was a man of good reputation. I say to your Honor that perhaps there is nothing that so stamps the conduct of this Chief of Police as the fact that when he is in a hole he throws the blame on a man who is in the grave.

He is here under four charges, violating a criminal law or any penal ordinance. That does not say conviction of crime. It says violating any penal law or ordinance. He violated three. He violated four. He dealt, I say, knowingly in stolen property. That is a violation of the law. Secondly, he had these cars with mutilated numbers, and he filed no report, and if he did not know that the numbers were mutilated it was because he deliberately closed his eyes and did not look.

Third, he violated the law admittedly when he got these license plates and registrations without making a personal application.

Fourth, he violated the law admittedly when he permitted this affidavit to be taken and signed by him when he knew that some officer would have to falsely state that he, the Chief, had appeared before him and sworn to it.

There is no rule that requires that he should be tried before a Judge and jury before he is tried here. No such question has been raised. This is a matter of internal discipline in the Department. I say to your Honor that I am quite willing, however, and indeed urge that so far as these criminal charges are concerned, your Honor apply the rule of the criminal law and your Honor say that I will acquit unless I am convinced beyond a reasonable doubt. But I say also to your Honor that when considering the testimony remember that under the law you do not need direct testimony, but that circumstances sometimes speak more strongly than direct testimony, because circumstances do not lie. And that you are not obliged to believe the story told by a witness when that story cannot be reconciled with the ordinary ideas of what would be natural under a given set of circumstances. And although a number of circumstances may lie—there may be some circumstances pointing toward guilt —if there is innocence, however, you will always find at least one circumstance pointing toward innocence. But in this case you cannot find one. Not one.

The next is incompetency and incapacity. I should say that if the Chief of Police of Passaic was so inert, so unsophisticated as that he could

be fooled in the manner in which he was fooled, his failure to make any investigation, his childishness of being led by the hand by this gang of thieves, demonstrates beyond peradventure that he is incompetent to be Chief of Police of Passaic.

For conduct subversive of good order and the discipline of the force, although not mentioned in the rules of conduct to the prejudice of good order and the discipline of the department, the fact is—which cannot be overlooked—that the Chief of Police of Passaic has permitted himself to be the agent of a gang of automobile thieves, has permitted himself to sell one of those cars to a subordinate member of the Department, relying upon his word, has engaged in the business of buying second-hand automobiles and reselling them at a profit while, according to the statements of his own counsel, he was so engrossed with the business of the City of Passaic as that he did not have time to take ordinary precautions of a person who buys second-hand cars.

I say conduct of that kind, of buying and selling cars under those circumstances, taking cars on commission, for that is what it was, without the knowledge of his superiors, without permission from anybody, the carrying on of that business is the carrying on of a business incompatible with his position of Chief of the Police Department, even assuming that he did not know that the cars were stolen cars, and that that incompatability is of such a nature that he should not remain head of the Department.

I have nothing further to say. I thank your Honor for the time and attention that you have given this case. I would not say one word that

I have said if I thought that upon this record I could avoid saying it, for it is no pleasure to me and it is no pleasure to you and it is no pleasure to anybody in the City of Passaic to observe the spectacle of the head of this Department being made a disposer of stolen property on commission, for that is what it amounts to.

The Commissioner: I will say at this time, gentlemen involved in this case, that there is nobody in the City of Passaic, notwithstanding what has been said about me in reference to this trial, who more fully realizes and knows the meaning of the outcome of this case, and I want to assure all concerned that the way I will judge this case will be by my conscience only, and I will defer action further in this matter until my conscience is thoroughly satisfied.

Notice of Appeal from Judgment of Supreme Court of Certiorari.

NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER, Prosecutor-Appellant, vs. BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., Respondent-Appellee.	Notice of Appeal from Judgment of Supreme Court on Certiorari.

To JOSEPH J. WEINBERGER, and MERRITT LANE, ESQS.,
Attorneys of Respondent-Appellee:

Take Notice, that the Prosecutor appeals to the Court of Errors and Appeals in the last resort in all causes in New Jersey, from the whole of the judgment entered in the above stated cause.

FILBERT L. ROSENSTEIN,
FREDERICK S. RANZENHOFER,
Attorneys for and of Counsel with Appellant.

Grounds of Appeal from Judgment of Supreme Court on Certiorari.

NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER, Prosecutor-Appellant, vs. BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., Respondent-Appellee.	Grounds of Appeal from Judgment of Supreme Court on Certiorari.

The prosecutor-appellant appeals to the Court of Errors and Appeals in the last resort in all causes in New Jersey, from the whole of the judgment entered in the above stated cause, on the following grounds:

1. That the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, although there was error in doing so.

2. Because the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, although such judgment was illegal and in violation of P. L. 1917, Chapter 152, page 360.

3. Because the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Pas-

saic, New Jersey, although such judgment was illegal and in violation of the following provision of the Manual of the Police Department of the City of Passaic, "The officers and men employed in the Police Department may be removed from their respective offices and places in said Police Department—only after written charges and a fair and impartial hearing upon such charges."

4. Because the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, although it was shown that the said Benjamin F. Turner was so biased and prejudiced, that, as a result, prosecutor-appellant did not receive a fair trial to which he is entitled, before he can be dismissed, according to P. L. 1917, Chapter 152, page 360, and the Manual of the Police Department of the City of Passaic.

5. Because the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, although such judgment dismisses the prosecutor-appellant from the Police Department of Passaic, without his having had a fair trial upon the charges made against him.

6 Because the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, although such judgment dismisses the prosecutor-appellant without his having had a fair and impartial hearing upon the charges made against him.

Grounds of Appeal from Judgment of Supreme Court on Certiorari.

7. Because the Supreme Court affirmed the judgment of Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, although said Benjamin F. Turner, Director of the Department of Public Safety of the City of Passaic, New Jersey, was disqualified from trying the said Richard O. Zober, on the aforesaid charges, and from rendering judgment thereon, for the reason that the said Benjamin F. Turner was so prejudiced and biased against said Richard O. Zober, as to foreclose him, the said Richard O. Zober, from a fair and impartial hearing or a fair trial upon said charges.

FILBERT L. ROSENSTEIN,
FREDERICK S. RANZENHOFER,
Attorneys and of Counsel with Appellant.

Rule.

204 January Term, 1929.

NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER, Prosecutor, vs. BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, New Jersey, Respondent.	On Certiorari. Rule.

This case having been argued at the January Term, 1929, by Filbert L. Rosenstein, of counsel for Prosecutor, and Merritt Lane, of counsel for respondent, and the Court having considered the judgment sent up with the writ of Certiorari, and the proceedings before Benjamin F. Turner, Director of the Department of Public Safety, City of Passaic, New Jersey, including the testimony taken before him and also the testimony taken upon the writ of certiorari and also the testimony taken by leave of Court after the allowance of the writ of certiorari and the arguments of counsel, and being of the opinion that the judgment and proceedings sent up by the writ of certiorari should be affirmed;

It is ORDERED, that the judgment of the said Benjamin F. Turner, Director of the Department of Public Safety, City of Passaic, New Jersey, dis-

missing the Prosecutor Richard O. Zober, as Chief of Police of the City of Passaic be, and the same is in all things affirmed.

Rule actually entered this 9th day of February, 1929.

On motion of
JOSEPH WEINBERGER,
Attorney for Respondent.

A true copy
FRED L. BLOODGOOD,
Clerk.

Opinion of Supreme Court.

204 January Term, 1929.

NEW JERSEY SUPREME COURT.

RICHARD O. ZOBER,
Prosecutor,

vs.

BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, New Jersey,
Respondent.

On writ of certiorari.

Argued January Term, 1929; decided January Term, 1929.

FILBERT L. ROSENSTEIN,
FREDERICK S. RANZENHOFER,
WARD & MCGINNIS,
Attorneys for Prosecutor.

JOSEPH J. WEINBERGER,
MERRITT LANE,
Attorneys for Respondent.

Argued before MINTURN, BLACK and CAMPBELL, *JJ.*

Per Curiam:

The writ of certiorari sued out in this case by Richard O. Zober, is designed to review the proceedings taken against him before Benjamin F. Turner, Director of the Department of Public Safe-

ty in the City of Passaic, which proceedings resulted in a judgment dismissing the prosecutor from his office as Chief of Police of said City.

The facts in the case substantially are that charges were preferred against the Chief of Police, Zober, on November 16, 1927, upon which he was directed to appear for trial on November 29, 1927, before Benjamin F. Turner, as Director of the Department of Public Safety of the said City of Passaic.

The complaint was quite extensive in character, but stated in effect five charges against the prosecutor, which were again subdivided into twenty-five charges. He was tried upon these charges, and as a result of testimony thereon adduced, further charges were preferred against him, directing him to appear before Commissioner Turner for trial thereon. The additional complaint was made up of four charges, subdivided into twenty-four charges.

The prosecutor at the outset of the trial challenged the right of the commissioner to try him, on the ground that the said Turner was so prejudiced against him that he could not give him a fair and impartial trial, which could constitute the only basis for his dismissal from the police department. The prosecutor offered to give testimony in substantiation of this challenge, but the offer was rejected, and the challenge overruled.

Depositions were taken under the writ, by the prosecutor, which tended to show the relationship existing between the commissioner and the prosecutor. Turner and Zober are both members of the police department, Turner having entered the service in 1900, and Zober having become a member twelve years thereafter. In due time he be-

came Chief of the Department, during which period of time Turner held the rank of Captain of the Detective Bureau of Passaic.

In April, 1924, after Zober had been captain of police for two years, the then chief resigned, and the Commissioner, Mr. Preiskel, was called upon to fill the vacancy. Both Captain Turner and Captain Zober were rival candidates for the office, Zober becoming the Chief of Police.

A great deal of testimony has been taken under the rule and before the Commissioner, showing that the relations which existed between these two men were anything but friendly, Turner having repeatedly referred to the prosecutor in uncomplimentary terms, and on many occasions having refused to hold friendly intercourse with him, with mutual friends, at public dinners and elsewhere.

It may be conceded, therefore, as a result of this testimony, that the two men were not friendly, and it may be conceded that for reasons of his own, which he considered satisfactory, Turner refused to assume that general friendly intercourse which should have existed between two men performing a substantially similar public service. Both the letters and the orders of Turner, as well as his language when speaking of Zober, indicate that condition of mind.

Under these circumstances the prosecutor was tried before Turner, as Director of the Department of Public Safety, with the result that the prosecutor was dismissed from his office as Chief of Police by the respondent, Turner.

The prosecutor now insists that because the Commissioner of Public Safety was biassed and prejudiced, the prosecutor did not have a fair trial,

and for that reason alone the dismissal should be set aside and the prosecutor reinstated as Chief of Police. He at the same time concedes that if Commissioner Turner could not try these charges leveled against the prosecutor, there would be no other tribunal to try them, and the discipline required of the Police Department of the City of Passaic under such circumstances would be without any means of vindication.

In the language of the respondent's brief, if the Director of the Department of Public Safety be disqualified from trying a case against "a chief of police whom the evidence demonstrates has been guilty of knowingly acting as a 'fence' for the disposal of automobiles stolen by a gang of automobile thieves, one of which stolen cars was sold by the chief to one of his subordinates in the police department," then the city and the department are without any recourse for the purpose of vindicating discipline in the police department.

This vindication of the action of the Director of the Department of Public Safety in dismissing the prosecutor from the police force, may be stated, in his own language, as follows:

"On or about the 29th day of January, 1926, a Cadillac car was stolen in Newark, New Jersey. This car is known as the Kaufman car. On or about March 27, 1926, Chief Zober purchased that car for what he says was the sum of $1600; and on or about May 12, 1926 he sold that car to one John J. Labash for $2,000.

"On or about April 12, 1926, a Buick car, a Master Six, known as the Chambers car, was stolen in New York City, and on or about the 16th day of July, 1926, Chief Zober purchased that car

for $1,000, as he says, and that car was in his possession, and taken out of his possession on the 25th day of October, 1927.

On or about June 10, 1926, a Buick car was stolen in Summit, New Jersey, known as the Rider car; and on or about June 23, 1926, Chief Zober purchased that car for what he says was $1100. and on or about the 28th day of June, 1926, he sold that car to one Matthias Winter, a patrolman in the police department for $1200.

"On or about July 9, 1926 a car which is known as the Perkins car was stolen in New York City, and on or about July 10, 1926 that car was purchased by Chief Zober for what he says was $750.00 on or about the 14th day of October, 1926, that car was sold by the chief to one Carroll D. Hipp for $850.

"Each of these cars had either mutilated or changed motor serial numbers."

It might properly be contended, as it is argued in the brief by counsel, that the business of buying and selling cars, irrespective of the knowledge of the Chief of Police that they were stolen, was a practice incompatible with the duties of the prosecutor as Chief of Police; and to further demonstrate the culpability of the Chief of Police in the matter, it is also shown by the evidence that he obtained licenses for the cars in his own name, and in some instances without signing applications therefor, and in other instances signing applications without having sworn thereto, in violation of the provisions of the motor vehicle act; and it is insisted that in this practice, and for the purpose of carrying on this business, he deliberately perjured himself before the Commissioner.

It is also insisted that he had in his possession automobiles with mutilated numbers, in violation of the provisions of the motor vehicle act, which act makes the mere possession of an automobile having numbers which indicate mutilation, without giving notice thereof to the Department of Motor Vehicles, a criminal act, the statute in question being intended to impose the burden upon the possessor of the automobile of ascertaining the fact, at the time of the purchase, whether the numbers have been tampered with, with an intent to evade the provisions of the statute. State vs. Lee, 100 N. J. L. 203.

The Chief of Police must be charged with a knowledge of the law regarding these practices. The explanation of the Chief of Police that he did not know the law, or that he thought the matter could be fixed up, is not enough to relieve him of official responsibility in such matters, particularly in view of his long experience in the police department, in which it must be assumed he had obtained a varied knowledge of such practices. Our reading of the testimony indicates that he was aware of the illegal practices which were thus carried on, and that fact alone would be enough to sustain the charge made against him in this respect; and it is no answer to the sufficiency of such charges to allege that the trial court, or the Director in this instance, entertained prejudices against him, or to concede, as the prosecutor alleges in this instance, that upon the testimony no fairminded man could have done otherwise than to dismiss him.

The prosecutor in this case entered 150 objections to the admission of testimony against him,

and to the exclusion of testimony offered for him, and these rulings he makes a basis of his objection, because the testimony was overruled, or excluded, on the ground that such action by the director left him without any basis for an appeal; although the prosecutor in insisting upon this fact as indicative of the prejudice of the commissioner, specifies no legal ground upon which may be rested an objection to the procedure of action of the commissioner, except in the case of the witness Shadd, which we have examined and have not found to be material to the question propounded to the witness.

The theory upon which the prosecutor presents his case is that rulings of this nature are not appealable. With this manifestly we cannot agree, since this court, as the appellate tribunal under the circumstances, will examine the testimony and pass upon its admissibility and relevancy, and if the evidence did not support the charges would necessarily, under the cases heretofore decided by this court, reverse the conviction, if legal error of a material nature were committed. If it were conceded that the director, from the testimony in the case, was shown to be absolutely prejudiced and disqualified by reason of bias, as is contended by the prosecutor, it would not follow that the duty imposed upon him by law of trying the defendant upon the charges submitted could be evaded or avoided, for as was held by the learned Chancellor in In re Hague, 6 N. J. Adv. Rep. 717, "The interest which disqualifies a judge is a direct pecuniary one, or one which involves some individual right or prejudice in the subject matters of the litigation." And further, "A prejudice growing out of business, political or social relations is not suffici-

ent to disqualify a judge". 33 C. J. 1001. And "prejudice against the cause or defense of a party is not a disqualifying prejudice." And in the same case it was stated that "erroneous rulings against a litigant, even when numerous and continuous, form no ground for a charge of bias or prejudice, especially when they are subject to review; nor are a judge's expressions of opinion, uttered in what he conceives to be the discharge of a judicial duty, evidence of bias or prejudice."

The cases generally upon this subject are to the same effect, following the statement contained in 33 C. J. 998, that "while there are dicta to the effect that at common law a judge may be disqualified on the round of his bias or prejudice, it is generally held, in the absence of statutory provisions, that bias or prejudice on the part of a judge, which is not based on interest, does not disqualify him."

The prosecutor in any event, both under the rules of the common law and under the rules and regulations of the police department, quoted in his brief, is entitled to a fair and impartial hearing; and whether he has had such a fair and impartial hearing, upon the entire evidence, after a review by the commissioner, may be dealt with by this court as the reviewing tribunal in the light of all the testimony and the circumstances produced at the trial.

The Home Rule Act, (C. S. of N. J. 1911-1924) concedes to the defendant protection against removal for political reasons, or "for any other cause than incapacity, misconduct or disobedience of just rules and regulations, established or which may be established for the police force in such mu-

nicipality." Crane vs. The Mayor and Aldermen of Jersey City, 90 N. J. L. 109; affirmed 92 N. J. L. 248; also Reimer vs. Freeholders of Essex, 96 N. J. L. 371; Mannion vs. Schwarzkopf, 100 N. J. L. 22. In the latter case Justice Trenchard, speaking for this court, stated, "The mere fact that the superintendent, following a preliminary and informal investigation of the altercation, and before the formal charge of insubordination was made against the corporal, requested the latter's resignation; did not disqualify the superintendent to sit as judge at the formal hearing of the charge, he being otherwise qualified to sit, as required by the State Police Act."

These decisions emphasize the fact, as stated in Crane vs. Jersey City, that no such bias or prejudice as is here alleged can be said to have existed so as to bar or disqualify the trial tribunal from hearing charges against an employee where that tribunal is the only one authorized by statute to hear the charges. In Ayers vs. Newark, 49 N. J. L. 170, it was observed that "A policeman under charge is not regarded by the statute as a criminal, but a public agent or servant whose efficiency and fitness for the discharge of his duties may be questioned at any time in the interest of the public, and no mere forms tending to chicanery and delay, rather than substantial justice, should be regarded. The purpose of the law is to secure the service of reliable men to preserve the public peace, not to keep inefficient and litigious men in office until all the forms of criminal cases are observed and every ingenious objection answered. "And, the effect of the finding of such a tribunal under the circumstances, where the testimony is

sufficient to warrant the finding and to justify the result before an appellant tribunal, is, as was stated in the Crane case, (ubi supra.) where the admission of debatable testimony was considered, as follows: "The admission of illegal testimony in cases tried by a special tribunal, like the one whose proceedings we are now considering, will not have the effect to invalidate the finding of the tribunal, so long as it appears that there is competent evidence in the case to support such finding."

The rule of this court has been consistently stated since the decisions of Reilly vs. Jersey City, 64 N. J. L. 508, as follows: "In reviewing the action of a Board of Police Commissioners this court will not weigh the evidence taken before them for the purpose of reaching an independent conclusion on the question of the guilt or innocence of the prosecutor."

While the testimony in this case is very voluminous, we have given it full and due consideration, keeping in mind that, as the reviewing tribunal, the question before us really is not whether the director was blessed, but whether upon the whole case there was testimony sufficient to justify his conclusion in removing the prosecutor. It is not within our province, under the decisions already referred to and others that might be cited, to review the entire evidence with a view of ascertaining whether or not we might reach a different conclusion from that reached by the directors, but, as was observed in another case, the rule is well settled as follows: "If the court were not circumscribed and limited in its duty in this instance by the well-settled rule of law applicable to cases of this character, it might properly be urged to

weigh the testimony and, if possible, reach a conclusion different from that which has been reached by the trial tribunal. But the settled rule of law is that if there be evidence upon which the trial tribunal may reasonably be found its conclusion of guilt or innocence, this court will not reverse the judgment by weighing the testimony for the purpose of forming an independent judgment. If the judgment of the trial court can be fairly supported by the record, the duty of this court is at an end so far as further investigation is concerned." Martin vs. Smith, 125 Atl. Rep. 142; citing Reilly vs. Jersey City, and Crane vs. Jersey City, ubi supra.

It is doubtful if we can conclude the opinion in the case at bar with a statement more applicable than that contained in the case of Martin vs. Smith, as follows: "The police department of our cities however, is built upon a plane of public efficiency which has ordinary truth and morality as its base; and when these essential elements of public probity be lost, the department shall have lost not only the confidence of the community but the fundamental mainstay and support which is necessary to its effective and satisfactory operation."

Invoking this reiteration as to the finality of the rule of law we conclude that there is testimony in the case at bar sufficient to warrant the judgment of the director, and for that reason his judgment should be affirmed.

11 MAY.1.1929

New Jersey Court of Errors and Appeals

RICHARD O. ZOBER, Prosecutor-Appellant, vs. BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., Respondent-Appellee.	On Appeal from Judgment of Supreme Court. On Certiorari.

BRIEF OF PROSECUTOR-APPELLANT.

Statement of Facts.

This is an appeal from a judgment of the Supreme Court, dismissing a writ of certiorari. The writ had been sued out by RICHARD O. ZOBER, Chief of Police of Passaic, New Jersey, to review proceedings before BENJAMIN F. TURNER, Director of the Department of Public Safety of Passaic, which proceedings resulted in a judgment by said Turner dismissing the said Zober from his office as Chief of Police.

At the outset of the trial before Commissioner Turner, the appellant challenged the right of the said Commissioner to try him, on the ground that said Turner was so prejudiced against him that he could not give him a fair and impartial trial, without which the law said Chief Zober could not be dismissed from the Police Department. The appellant offered to give testimony in substantiation

of his challenge, but the offer was rejected and the challenge overruled.

Under leave granted by Mr. Justice Black, at the time of the allowing of the writ, depositions were taken by the appellant Chief Zober, bearing mainly on the relations between him and Commissioner Turner, who presided at the hearing and who pronounced the judgment of dismissal against the Chief of Police.

Mr. Turner and Mr. Zober are both members of the Police Department of Passaic. Mr. Turner entered the service in 1900. Mr. Zober became a member twelve years later and had a brilliant career, one promotion following the other, in rapid order, until now he is Chief of the Department. In December, 1918, he became a sergeant, and about three and one-half years later, he was made Captain of Police. At that time, Mr. Turner held similar rank in the Detective Bureau of Passaic.

In April, 1924, after Mr. Zober had been Captain of Police for two years, the then Chief resigned. Both Captain Turner and Captain Zober were rival candidates for the office of Chief of Police, and although Turner had been in the service twice as long as Zober, the latter was named Chief of Police of Passaic.

Captain Turner did not take his defeat lightly. After the appellant was named Chief of Police, all of the members of the Police Department shook hands with him, with the exception of Captain Turner (page 53, State of Case, lines 13-20; page 71, State of Case, lines 20-40).

To Lieutenant Howard who asked him, "Why don't you go down and shake hands with him?" he said, "I won't do anything of the kind." (Page 71, State of Case, lines 36-40).

To Thomas A. Hopkins, who, prior to Mr. Turner's election in 1927, was very much interested in

the latter's election, he said, the day following his election, that if he never did anything else he was going to get this Dutch, no-good son-of-a bitch. (Page 79, State of Case, lines 21-40).

On numerous occasions, both before and after his election as Commissioner, Captain Turner referred to his Chief as "that Dutch son-of-a-bitch." (Page 89, State of Case, line 30; page 90, line 9).

Not only did Captain Turner refuse to shake hands with Chief Zober, but he also refused to attend a dinner given in his honor. (Page 53, State of Case, line 20; page 54, line 18). A mutual friend, Samuel Schwartz, sought to patch up the differences between them, and Turner suspiciously asked him, "Did that Dutch son-of-a-bitch send you up here?" And, although he was told "no", answered, "You go down and tell that son-of-a-bitch that *if it is the last thing I do in this world, I am going to break him and I will get him right.*" Turner called the Chief "everything that is rotten. He called him a Dutch bastard and a drunken bum, a son-of-a-bitch, and lots of other words like it." Turner himself disclosed the cause of his bitterness against Zober, when he said, "Why couldn't he have refused to accept the job as Chief in my favor? I have only got a short time to go here and I will be eligible to a pension, and then I would have stepped aside for him—I needed the difference of the money better than he did. He could easily have done it—The only one I will get even on is that Dutch bum." (Pages 81-83, State of Case, line 30—line 15).

Captain Turner refused to co-operate with the new Chief. "They had always been at odds. Turner would duck him, he wouldn't go—never faced him, never said hello to him; if they came in the Police Station at all he would come in

through the garage way so as to dodge seeing the Chief." (Page 83, State of Case, lines 18-23).

On December 26, 1924, Lieutenant Howard told Chief Zober they were going out that night to raid gambling houses. The Chief said he would go along. Later, when Mr. Howard told this to Capt. Turner, who had also indicated a desire to go along, Turner asked, "What the hell kind of a game is this? You are going to take that bum along with you?" Lieutenant Howard replied, "He is Chief of the Police Department, he is entitled to come, if he wants to." Mr. Turner then said, "Well, I won't work with him, that is all. If you want to work with him you can work with him but I will not." As a matter of fact, Chief Zober went out with the raiding party that night, but not Captain Turner. (Page 72, State of Case, lines 10-39).

At an election for City Commissioners, held in May, 1927, Captain Turner was elected a Commissioner, and thus became the superior of his erstwhile superior, Chief Zober. The first act of Commissioner Turner was to grant himself, as Captain of Police, a leave of absence.

Upon his election, Commissioner Turner refused the congratulations of appellant's son, by saying, "Never mind; I don't want you and I don't need you." (Page 86, State of Case, lines 12-21; Page 87, line 20; Page 87, line 35; Page 88, line 19). He referred to appellant as a son-of-a-bitch. As Commissioner, he took occasion to criticize Chief Zober in the public press for not commending a police officer for an arrest, when, in reality, the Chief had actually furnished the said officer with the necessary information to affect the arrest. On the other hand, at about the same time, the Commissioner refrained from commending the appel-

lant for personally capturing two payroll bandits after these bandits had held up a woman employee of a factory on Tenth Street, Passaic, which capture the appellant affected within a few hours after the said hold-up. (Page 55, State of Case, line 6; page 57, line 2; page 88, line 36; page 89, line 30).

Immediately after the election of said Turner to the office of Director of Public Safety, namely, on May 17, 1927, his hour of triumph having come, he could now have his revenge, and he thereupon issued a series of orders, whereby he systematically humiliated the said Richard O. Zober and stripped him of every vestige of authority. These orders which are hereinafter set forth in full, forbade Chief Zober to leave the City of Passaic without the consent of the said Turner, (Page 60, State of Case, lines 1-35), and required the Chief to wear his uniform at all times in Police Headquarters and the public streets (Page 59, State of Case, lines 1-19). The Chief was commanded to turn over to the Detective Bureau immediately the communication of news of every crime. (Page 61, State of Case, line 10; page 62, line 18). Commissioner Turner placed three lieutenants in charge of the desk in Police Headquarters, with authority to assume full command of the said desk and all business at Police Headquarters, and to perform all the functions that the Chief of Police theretofore had to perform. (Page 62, State of Case, line 30; page 63, line 28; page 64, line 1).

Chief Zober was required to vacate his office and remove his records to the office of the Captain of Police. (Page 65, State of Case, lines 1-25). The Chief was compelled to enter his name and the time of his arrival and departure from Police Headquarters. (Page 65, State of Case, line 29;

page 66, line 30). Only a month after Director Turner's election, namely in June, 1927, a great number of Police officers were shifted about in their assignments by Commissioner Turner, without consulting or notifying Chief Zober. (Page 66, State of Case, line 30; page 69, line 10; page 70, lines 29-39; page 83, line 39; page 84, line 40). The combination on the vaults in the Chief's office was changed, so that Chief Zober no longer had access to his records. The only persons who had access to the records were the three desk men, not even the Captain of Police knew the combination. (Page 69, State of Case, lines 10-25). Commissioner Turner also deprived Chief Zober of the assignment sheets and of the time book of the department, functions that belonged to the office of Chief of Police, according to the Police Manual of Passaic (Page 69, State of Case, line 27; page 70, line 28).

The following are the series of systematic orders and letters which speak for themselves:

"City of Passaic, N. J.
Office of the
Chief of Police.

Passaic, N. J., July 20, 1927.

To the Commanding Officer or Officer in
Charge of the Desk.
Police Headquarters,
Passaic, N. J.

From this date (July 20th, 1927) on you are herewith instructed to permit no person who is not a member of the Police Department to be in the business office at Police Headquarters when Officers of the department are receiving instructions and orders from their superiors.

You are also instructed and ordered to see

the doors of the said business office are closed when each detail of Officers are there to receive orders, instructions and any other Police Business that it to be transacted.

You are also instructed to prevent and not allow any person or police officer who is not detailed to do duty behind the desk or in either of the rooms adjoining the said desk, unless he or they have been assigned by the proper superior officer to do duty there.

Any violation of this order will be considered a violation of the Rules of this Department and the Officer so violating this rule will be treated accordingly.

By the order

BENJAMIN F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety

August 22, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.

Sir:

From this date (August 22nd, 1927) on, you are herewith instructed by me to wear your uniform at all times both in Police Headquarters and on the public streets.

BENJ. F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety

August 22, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.

Sir:

I have received information that Police Officers, members of this department are in the habit of leaving this city without first having permission to do so.

In view of this condition arising and existing, I herewith this date, August 22nd, 1927, create the following rule and regulation; that from this date on, any member of the Police Department of the City of Passaic, shall not leave this city without first having received the consent and permission of the Director of Public Safety. This rule will apply to the Chief of Police and every member of this department.

BENJ. F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety

September 2, 1927.

Richard O. Zober,
Chief of Police,
Passaic, N. J.

Sir:

On June the 28th, 1927, in your absence

while you were away on your vacation, I issued an order as follows:

June 28, 1927.

Commanding Officer or Officers,
the officer doing Desk Duty
or in charge of Telephone Switchboard.

From this date June 28, 1927, on will immediately upon receiving a telephone call, in reference to Crimes being committed from citizens and complainants will immediately notify the Commanding Officer of the Detective Bureau of this Department.

Failure for not doing so will be considered a violation of the Police Department rules.

Signed: Director of Public Safety.

I herewith instruct you to comply with the same rule and that in the future when information is received at Police Headquarters from any person in reference to a crime being committed or a violation of the laws of the State of New Jersey being violated. Federal Laws and City Ordinances or where an investigation is necessary; you will notify the Commanding Officer of the Detective Bureau or who ever may be in charge of the Detective Bureau; or in other words, I want the members of the Detective Bureau to be made aware of all matters of a police nature.

Failure to comply with this order will be considered a violation of the Police Department rules.

BENJ. F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety

September 9, 1927.

To Whom This May Concern:

Be it known that at twelve (12) o'clock

noon September 12, 1927; Lieutenant Vander Hoven, Lieutenant of Police, John Freeland and Patrick J. McCarthy in their respective tours and hours of duty shall take charge of the desk in Police Headquarters and shall assume full command of the said desk and all business that shall be transacted at the said desk and in the business office of Police Headquarters.

It shall be their duty to receive all Police information, complaints and assign all business to its proper channels. They shall inspect and assign and detail all the members of the Police Department in uniform and civilian clothes to their various duties. They shall have charge of turning out the various police individuals, squads and platoons when they are to go out on their duties and receive the said officers when they are reporting off duty and they are to report to and shall at various times answer and report to the Director of Public Safety.

They shall also arrange the assignment of posts and special details and shall take charge of the time book and all other books at the desk.

No member of this Police Department, shall go behind the said desk without receiving the consent and permission of either of the above said Lieutenants.

BENJ. F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety

September 12, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.

Sir:

From and after the 12th day of September, 1927, at six (6) P. M. take notice that I require of you, that all written communications relative to Police Department matters together with written complaints of any kind or character, shall be forwith delivered to my office as Director of Public Safety. It shall then be my duty to assign and distribute the action to be taken in each particular instant.

I desire that this procedure be followed out until further notice.

BENJ. F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety

October 13, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.

Sir:

You are hereby instructed by me to vacate the present office that you are using now and transfer your office to what is known as room eleven (11) or in other words known as the Captain of Police Office, on the main floor adjoining the main business office of this department. The furniture which is in your

present office shall remain there and you shall keep your office open all hours of the day and night for the transaction of official business.

This order shall be effective dating from twelve (12) o'clock noon, October 14, 1927.

By order of:

BENJ. F. TURNER,
Director of Public Safety."

"City of Passaic, New Jersey
Office of
Director of Public Safety,

October 14, 1927.

Richard O. Zober,
Chief of Police,
Passaic, New Jersey.

Sir:

Beginning at twelve (12) noon, October 15th, there will be established on the desk in the business office of Police Headquarters a book known as a blotter book.

You are herewith instructed that upon your arrival at Police Headquarters and departure, you shall enter your name and the time of your arrival on the above said book and also when you depart from Police Headquarters you shall enter your name and the time.

This rule shall apply at all hours of the day and night.

By order of

BENJ. F. TURNER,
Director of Public Safety."

All of these drastic orders and changes directed against Chief Zober were made by Commissioner Turner within the short space of less than five months after his election and declaration that he was going to get Chief Zober.

During the course of the trial of Chief Zober, reference to the same was made by Commissioner Turner as "my trial". Special counsel was hired to try the case against Chief Zober, and the special counsel was no less than that one time distinguished member of the judiciary, former Vice-Chancellor Lane, and the judgment of dismissal, though signed by Commissioner Turner seems, in its twenty pages of legal phraseology and reasoning, to be in the best turned style of a certain former Vice-Chancellor's opinions, reported in Volume 99 to 108 of the Atlantic Reporter. It is the hand of Essau, but the voice of Jacob.

During the course of the trial of Chief Zober, he made approximately one hundred and fifty objections, either to the admission of testimony against him, or to the exclusion of testimony offered by him; and every single objection made on his behalf, without one exception. was overruled by Commissioner Turner. The latter soon took an attitude of omitting to rule on Chief Zober's objections, and, when, pressed for a ruling, would say, "When I say proceed, that means overruled." On the other hand, every objection by Mr. Lane, prosecuting Chief Zober, was sustained.

All this testimony as to the bitter bias and prejudice of Commissioner Turner, sitting in trial over Chief Zober, must be taken as true, because, although at the taking of depositions, leave was reserved for Mr. Lane to have one month in which to cross-examine the witnesses testifying as to bias, no such cross-examination was attempted,

neither were any witnesses offered to contradict the witnesses on bias, or deny their testimony or show Commissioner Turner's ability to sit in fair and impartial trial over the man he hated, Chief Zober.

Preliminary.

The Supreme Court erred in affirming the judgment of Commissioner Turner. That judgment violated P. L. 1917, Ch. 152, p. 360, because it dismissed appellant as Chief of Police without a fair trial. A fair trial means trial by one who is unprejudiced, impartial and indifferent between the parties. But Turner was not impartial. The undisputed testimony shows that he did not merely refuse to hold friendly intercourse with appellant or that he was merely not friendly to appellant, as the Supreme Court said, but that he was bitterly hostile to appellant and determined upon revenge; and that he did not merely refer to the appellant in uncomplimentary terms, as the Supreme Court says, but referred to him in language, bitter and vile, and such as was unbecoming an officer and gentleman.

The Supreme Court disposed of appellant's contention as follows:

(1) The bias, which it admitted existed in the present case, was not such as to disqualify the Commissioner.

(2) Because there was some evidence in the case to support the charges.

If the judgment of the Supreme Court is not reversed, the guarantee of a fair trial becomes an empty form, since a man's personal enemy may sit in judgment against him. This weighing of the evidence in loaded scales, constitutes, under the

Supreme Court's ruling in this case, a substantial and sufficient compliance with the statutory requirements of a fair trial. Appellant does not contend that he is entitled to all the rights of a defendant in a criminal court; but neither is he attempting by empty form, to keep an unworthy public servant in office. Appellant's contention is that the statutory guarantee of a fair trial is a substantial right, and that, when his personal enemy sits in judgment, he has not had a fair trial. We contend that such hearing is not "'a mere form to precede a pre-determined removal', but must be fair in all respects, based upon an impartial review of evidence, to the exclusion of knowledge possessed by the trier of fact, and free from prejudicial errors of law."

Packwood vs. *Reilley*, 232 N. Y. 283; 133 N. E. 892.

In this argument, we shall show that both conclusions of the Supreme Court were erroneous, and that, consequently, its own judgment was erroneous, in affirming the judgment of the Director of Public Safety.

ARGUMENT.

POINT I.

Appellant is guaranteed by law a fair and impartial trial, as a condition precedent to his dismissal from the police force.

The Manual of the Police Department of the City of Passaic provides:

"The officers and men employed in the Police Department may be removed from their respective offices and places in said Police Department—only after written charges and a fair and impartial hearing upon such charges."

P. L. 1917, Chapter 152, page 360, provides:

"No person, whether officer or employee in any such police department, shall be removed from office or employment therein, except after just cause, as hereinabove provided, and then only after written charge or charges of the cause or causes of complaint shall have been preferred against such officer or employee signed by the person or persons making such charge or charges and filed in the office of the municipal officer, officers or board having charge of the department, in which the complaint arises, and after the charge or charges shall have been publicly examined into by the appropriate board or authority upon reasonable notice to the person charged; *it being the intent of this act to give every person against whom a charge or charges for any cause may be preferred under this act, a fair trial upon said charge or charges.*"

Thus, it is clear that both city ordinance and State Statute have placed a very definite limita-

tion upon the power of the Commissioner of Public Safety of Passaic to dismiss the Chief of Police, the one providing that no dismissal shall occur after a fair and impartial hearing, and the other providing that no dismissal shall occur except after a fair trial. Conversely, it is undeniable that, if the Chief of Police of the City of Passaic has been dismissed without a fair trial, or without a fair and impartial hearing, (and the Supreme Court, in its findings, has conceded that the Director was prejudiced), then the judgment of dismissal is invalid. For the fair trial and the fair and impartial hearing are expressly made a condition precedent to dismissal from the police force.

POINT II.

"Fair Trial" and "Fair and Impartial Hearing" defined.

The gist of a fair trial, or a fair and impartial hearing, is that the person by whom the case is to be tried, whether judge, or jury, or commissioner, shall be indifferent between the parties.

In construing the very act of 1917, guaranteeing Prosecutor against dismissal without a fair trial, the Supreme Court of New Jersey, in *Eisberg* vs. *The Mayor and Council of the Borough of Cliffside Park*, 92 N. J. L., 321; 105 Atl. 716, said:

> "A fair trial in the generic lanquage of Mr. Webster in the Dartmouth College Case (4 Wheat. 579), 'is a proceeding which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial'. Specifically, it is held to be that a hearing shall be accorded to the alleged de-

linquent by an impartial and disinterested tribunal."

Thus, the Supreme Court construing the Statute of 1917, says that it means the defendant shall have a fair trial, and that a *fair trial is a hearing by an impartial and disinterested tribunal..*

"Impartial" defined.

Impartiality means absence of bias in favor of one party or against the other; indifference, want of prejudice or interest; freedom from personal bias.

"Impartial" means not partial; not favoring one party more than another; unprejudiced; disinterested, equitable, just.

Randle v. *State,* 28 S. W. 953, 954, 34, Tex Cr. R. 43 (citing Webst. Dic.);
Curry v. *State,* 5 Neb. 412, 413;
Thompson v. *Beacon Valley Rubber Co.,* 56 Conn. 493, 498, 16 Atl. 554;
Cole v. *Curtis,* 16 Minn. 182, 194, (Gil. 161).

"The term 'impartial jury' as used in the Constitution, guaranteeing to the accused 'a speedy public trial by an impartial jury', means that the jurors shall stand indifferent between the parties. It is essential that every juryman should be wholly free even from the suspicion of bias."

Coughlin v. *People,* 144 Ill. 140, 163, 33 N. E. 1, 8.

"A 'fair trial' before an impartial jury means one where the jurors are entirely indifferent between the parties."

Omaha & R. V. R. Co. v. *Cook,* 37, Neb. 435, 445; 55 N. W. 943.

"An 'impartial jury' is a jury that must be composed of twelve impartial men. If one of such jurors is incompetent because of actual bias entertained by him against the accused, and conceals such incompetency on his voir dire, the jury as a whole is vitiated."

State v. *Mott,* 74 Pac. 728, 730; 29 Mont. 292.

Woods v. *State,* 41 S. W. 811, 812; 99 Tenn. 182.

"The tribunal should be disinterested and impartial."

Municipal Corporations, 43 C. J. 664.

"The principle of impartiality, disinterestedness, and fairness on the part of the judge is as old as the history of courts; in fact, the administration of justice through the mediation of courts is based upon this principle. It is a fundamental idea, running through and pervading the whole system of judicature, and it is the popular acknowledgement of the inviolability of this principle which gives credit, or even toleration, to decrees of judicial tribunals. Actions of courts which disregard this safe-guard to litigants would more appropriately be termed the administration of injustice and their proceedings would be as shocking to our private sense of justice as they would be injurious to the public interest. The learned and observant Lord Bacon well said that the virtue of a judge is seen in making inequality equal, that he may plant his judgment as upon even ground. Caesar demanded that his wife should not only be virtuous, but beyond suspicion; and the state should not be

any less exacting with its judicial officers, in whose keeping are placed not only the financial interests, but the honor, the liberty and the lives of its citizens, and it should see to it that the scales in which the rights of the citizens are weighed should be nicely balanced."

State v. *Seattle Bd. of Education,* (supra).

"Every litigant is entitled to nothing less than the cold neutrality of an impartial judge, who must possess the disinterestedness of a total stranger to the interests of the parties involved in the litigation, whether that interest is revealed by an inspection of the record or developed by evidence aliunde the record." Yazoo, etc., R. Co. v. Kirk, 102 Miss. 41, 54, 58 S. 710, 834, 42 L. R. A. (NS) 1172, Ann Cas 1914 C 968 (quot Barnard v. Judge Grand Rapids Super Co., 191 Mich. 567, 158 NW 202, 204).

Judges, 33 C. J., 988.

"According to the definition of our standard lexicographer, a man who is impartial is one who is not biased in favor of one party more than another; who is indifferent, unprejudiced, disinterested; as an impartial judge or arbitrator. The primary idea contained in this definition is freedom from personal bias, indifference between the parties as persons; not prejudiced against one or the other; disinterested as between them."

Eason v. *State,* 65 Tenn. (6 Baxt.) 466, 469.

"The term 'impartial juror' means an impartial man; 'one who extends to his fellowmen the humane presumptions of the law, and keeps his mind in such condition with reference to the accused that guilt must be

affirmatively and conclusively shown before he is willing to convict.' "

State v. *Beatty,* 25 Pac. 899, 902, 45 Kan. 492.

"A fair trial means a trial before an impartial judge, an honest jury, and in an atmosphere of judicial calm."

State v. *Gossett,* (S. C.) 108 S. E. 290; 16 A. L. R. 1299, at page 1302.

"The rule of law is that the juror must stand indifferent as he stands unsworn."

Coke Ltt. 155b.

"One of the fundamental maxims of the law is, that no man can be a judge in his own cause."

Winans et al v. *Crane,* 36 N. J. L. 397.

"By force of constitutional or statutory provisions, his (the judge's) bias or prejudice may be the ground for his disqualification, in criminal as well as civil cases."

Judges, 33 C. J. 999.

In *State* v. *Bolitho,* 136 Atl. 164, it was said that a challenge to a judge, upon the ground of interest and bias, would be proper by reason of a declaration of opinion, by such judge, which implies maiice or ill-will against the prisoner, thereby showing that the person challenged does not stand indifferent between the State and him.

POINT III.

Examples of want of fair trial.

The failure to grant a "fair trial" may be shown in various ways.

(1) It may be shown *by the Commissioner's personal bias.*

Thus, it was held, in *People* v. *Roosevelt,* 23 N. Y. App. Div. 533; 48 N. Y. Supp. 578, that where trial is had before a board and there are a sufficient number of impartial commissioners to pass upon the case, but one of them is absent, and his place is filled by a Commissioner who has a personal grievance against accused inseparably connected with the charge under consideration, the action of the board in dismissing accused is irregular and will be annulled.

In the case at bar, no one, upon reading the testimony of the witnesses upon the question of bias, can say, that Commissioner Turner did not have a personal grievance against the prosecutor-appellant, inseparably connected with the charges under consideration.

(2) It may be shown by the commissioner who tried the case, deciding it on matters not put into evidence.

Thus, it was held, *in re Greenbaum,* 201 N. Y., 343; 94 N. E. 853, that a member of a police force of New York City charged with violating a rule forbidding maltreatment, etc. did not have a "fair trial", where the deputy commissioner, while the trial was in progress, announced, basing his statement on what he said was the most reliable infor-

mation, but not stating the source of it or naming or calling as a witness his informant, that a witness for accused, who had sworn that he was present, when the occurrence took place, and that the facts were substantially as accused claimed, was not present and did not see the event at all.

(3) Or it may be shown by a state of mind on the part of the commissioner trying the officer, showing that he has prejudged him.

Thus, it was held in *People* v. *Cropsey,* 178 N. Y. App. Div. 180; 165 N. Y. S. 143 affd. 224 N. Y. 564; 120 N. E. 873, that, where a police commissioner told a policeman that any untruthful statement would break him, that he had information contrary to the policeman's statement and that if the policeman denied it, he would suffer the penalty, there was a denial of the hearing contemplated by the law when he afterward tried the charges.

In the case at bar, the Director's conduct evidenced a state of mind, showing that he had prejudged appellant.

There was a persistent overruling of all objections, and his statement that, "I am going to rule this way, Mr. Ward, that I am going to allow everything to go in. Then if there is any question, you know as a well learned attorney, where to seek redress. And you understand that this is not an iron-bound trial. It is an investigation, and I am going to permit everything to go in." (Page 109, State of Case, lines 13-20, Page 120, State of Case, lines 13-25). From this statement, it is easy to see that the Director was going to decide against the Chief.

There were also the Director's rulings on defendant's objections, indicating, by his manner of ruling, an intention to rule adversely to every motion of defendant.

> "The Commissioner: Proceed.
> Mr. Ward: That is overruled, as I understand it?
> The Commissioner: When I say "Proceed," Mr. Ward, that is understood. You understand that."

In *Packwood* v. *Riley,* 232 N. Y. 283, 133 N. E. 892, the Chief of Police was tried and dismissed by the Commissioner of Public Safety under a statute affording the Chief tenure of office. The Commissioner was an appointee of the Mayor, who was the complaining witness. For several years, the Mayor had been attacking the Chief. Before and during the election campaign, the Mayor made attacks on the Chief through the columns of the press and by distribution of pamphlets which contained utterances in part as follows:

> "They know I want Packwood's (the Chief) scalp." "I promise faithfully to remove from the public service such men as Chief of Police Packwood; if I am elected, Packwood must go." "Come to Amsterdam Theater the night before election. I will publicly agree to give $1000 to any charitable institution you suggest if I fail to remove Chief of Police Packwood from office unless he resigns."

The commissioner (appointed after the election) distributed some of these pamphlets.

Before the trial, the commissioner changed the rules of the department, so that the offense for which the Chief was dismissed, and which was otherwise outlawed, could be tried by him.

The Court said of the *hearing to be accorded the Chief, under the Civil Service Law, that such hearing is not "'a mere form to precede a predetermined removal', but must be fair in all respects, based*

upon an impartial review of evidence to the exclusion of knowledge possessed by the trier of fact and free from prejudicial errors of law." (Italics are ours).

The Court found that the commissioner acted in concert with the Mayor, and predetermined the result which would follow the hearing, and reversed the judgment of dismissal.

In the present case, we have an almost parallel situation. The Chief of Police and the Captain of Detectives bitter enemies. The Captain of Detectives is running for office and openly declares he would get rid of the Chief if he never did anything else. (Page 79, State of Case, lines 33-40).

The appellee may attempt to whittle away the effect of the Packwood case by saying, "whatever the Court may have said in the course of its deliverance, the proceedings were reversed for trial error." A reading of that case will show that the court overruled the Commissioner, for not granting the Chief of Police a fair trial, as well as for trial errors. And one of the trial errors, for which such reversal was made, was very similar to an error complained of in the case at bar. To quote from the opinion itself, "To each of said questions objection was made by counsel for complainant and each objection sustained and exception noted to the rulings. The questions asked of the witness were competent and material as bearing upon the credibility of the witness and proper subject for cross-examination. The refusal of respondent to permit them to be answered was prejudicial to the relator."

Similar trial error was committed in the case at bar, in connection with the witness Shadd, as to whom, questions were put on cross-examination by the appellant, and overruled by the respondent,

which questions, in the language of the Packwood case, "were competent and material as bearing upon the credibility of the witness, and proper subject of cross-examination." This cross-examination is discussed more fully on page 27 of this brief.

POINT IV.

Incidents of trial indicating Commissioner Turner's unfairness.

Appellee contends that there was no argument by appellant that the trial, in its conduct, was unfair. And, also, that there was no charge of any frame-up on the part of the Director. However, this is no answer to the charge that appellant did not have a fair trial, due to the Director's prejudice. As already shown, that prejudice of mind is sufficient to disqualify the Director. Indeed, a Director, revengeful and intending to break the Chief of Police, could deliberately so conduct himself during the trial, that there would be no apparent ground for complaint about his conduct.

Nevertheless, as careful as Commissioner Turner was, once he had been challenged for bias, not to give open evidence of it during the trial, certain incidents do stand out in the trial, that indicate his prejudice.

(a) Chief Zober raised some hundred and fifty objections during the course of the trial, and every one was, without exception, overruled. Every lawyer, every judge knows, that out of so many objections, the judge will occasionally, perhaps erroneously, rule in favor of the objector, and that, also, some of the objections must have been correct.

By accident or by mistake, even Chief Zober's counsel must have been correct occasionally when they raised so many objections. And yet Commissioner Turner found all without merit. On the other hand, objections raised by the adversary of appellant were all sustained.

Thus, among the witnesses against Chief Zober was one Harry M. Shadd, an investigator for the Underwriter's Insurance Bureau. He had made an investigation, and was testifying as to the results. Upon cross-examination, he was asked the source of his information. Surely, he should have been compelled to answer, as a matter of credibility. Shadd said, he did not like to disclose it, as it was secret information. Commissioner Turner, attempting to appear fair, ruled that, because of his being a layman, he would let the witness use his own discretion, and the witness thereupon refused to answer unless compelled to. Counsel for Chief Zober pressed the point, that the Commissioner direct the witness to answer, and the Commissioner turned for relief to his own counsel, and when Mr. Lane, also, told him he was empowered to direct the witness to answer, the now enlightened commissioner again ruled that he would leave it to the witness' discretion, whether he cared to answer, (State of Case, p. 151, l. 20; p. 153, l. 21).

We have already explained the error in the above ruling, *Packwood* v. *Riley,* (Supra). But, even if there was no reversible error, the ruling is highly significant as showing Director Turner's eagerness to see the case against Chief Zober established, and to avoid weakening that case, by embarrassing in any manner, those who were building it up against him.

Another witness, Harry M. Shadd, Jr., produced records showing that a proof of loss had been filed for one of the cars in question, the insurance poli-

cy covering the car, the amount of the adjustment for the loss of the car, and a key for the car. This evidence, although objected to, as immaterial and irrelevant, was admitted over the objection. How this testimony was material or relevant to the issue before the Commissioner, we fail to see. The testimony referred to, may be found on pages 195, 196 and 197, State of Case.

Another witness, Charles B. Crawford, who testified against Chief Zober, represented the Sales Department of the Buick Motor Car Campany, of Flint, Michigan. He testified as to certain numbers on automobiles shipped from the Buick factory, in Flint, Michigan, which testimony was admitted over the objection of counsel for the appellant. This testimony may be found on pages 216 and 217, State of Case.

Ambrose McGovern, an insurance adjuster, was permitted to testify over objection to the receipt of a bill of sale and a proof of loss from a Miss Chambers, and that he adjusted the loss with her. Here again, we fail to see how this testimony was relevant or material to the issue. This testimony may be found on pages 262 and 263 of the State of Case.

Throughout the record, hearsay evidence, immaterial, incompetent and irreleveant testimony was admitted over strenuous objection of the appellant.

As to these one hundred and fifty rulings, which all went uniformly against the appellant, the Supreme Court said, in its opinion, page 558 of the State of Case, "these rulings he makes a basis of his objection, because the testimony was overruled or excluded, on the ground that such action by the Director left him without any basis for an appeal; although the Prosecutor, in insisting upon this fact as indicative of the prejudice of the Commissioner,

specifies no legal ground upon which may be rested an objection to the procedure of action by the Commissioner, except in the case of the witness, Shadd, which we have examined, and have not found to be material to the question propounded to the witness."

The Supreme Court misunderstood our position. We did not complain of the overruling or exclusion of testimony, on the ground that such action by the Director left us without any basis for an appeal. He cited the action of the Director in uniformly overruling us one hundred and fifty times, as evidence of the prejudice in his mind.

The Supreme Court said, "The theory upon which the Prosecutor presents his case is that rulings of this nature are not appealable." This was not our theory. We recognize that a ruling, in and by itself erreneous, may be held not to be prejudicial in law, because there is other evidence on the same point; and that, therefore, the ruling complained of is not appealable, because, although technically, the subject of an appeal, it would not result in a reversal. That is what we mean when we state the one hundred fifty rulings were not appealable. But, although, not the subject of reversal, when taken individually or even collectively, they are striking evidence on the heading of bias or prejudice, and, together with the other factors in the case, should be considered under that heading, as ground for reversal.

(b) The fact, that, after the trial, but before pronouncing judgment, Director Turner took up the record with adverse counsel, and permitted him to draft the judgment, which is nominally the Director's discussing and weighing the evidence and reasoning it out to the conclusion for which Mr. Lane had fought. Appellee says there is no evi-

dence of such conduct, but a mere reading of the judgment, which is nominally Director Turner's, would satisfy this Court that it was written by Mr. Lane.

In *People* v. *Sturges,* 91 N. Y. App. Div. 226, 86 N. Y. S. 687; it was held that, after a hearing by the Fire Commissioner of charges against a subordinate, it was improper for him to take up the record, in consultation with the corporation counsel and his assistants, and conducting the prosecution, to determine what evidence was competent and might be considered in disposing of the case.

(c) At the outset of summation by Chief Zober's counsel, Commissioner Turner announced that he knew that some of the charges against the Chief were absolutely untrue, (Page 495, lines 13-16, State of Case). Yet, when he pronounced judgment a few weeks later, he convicted him of all the charges. Why the change? Had he realized in the interim, that, if he acquitted Chief Zober on some charges, and convicted him on others, that the judgment of dismissal might not stand, because perhaps, not justified by the charges on which he had convicted Chief Zober, although it might have been justified by some of the charges on which he had acquitted him? Was his change of mind not due to the fact that he wanted to make as absolutely sure as he could that his conviction of Chief Zober would stand?

POINT V.

Bias, as ground of disqualification, is not confined to pecuniary interest, but also includes malice.

The Supreme Court erred when it held that, although Commissioner Turner was prejudiced against appellant, the prejudice was not of a kind sufficient to disqualify him.

The case of *Crane* v. *The Mayor and Aldermen of Jersey City,* 90 N. J. L. 109, 103 Atl. 678, is no authority for holding that Commissioner Turner was not disqualified by his bias. In that case, the entire claim that the Director was disqualified to sit in judgment, rested upon a letter, which read, in part, as follows:

> " 'This man is constantly reporting sick, and I am convinced that his ailments are only imaginary, with the purpose of shirking his duties. I have stated before in a communication to you that I am determined to drive such men as these out of the department and I only regret that I have not sufficient evidence to place Crane (the prosecutor) before the commissioners on charges, and recommend his dismissal.' "

As the Court pointed out, the Commissioner's letter, showed a public official, attempting to eradicate an evil that had grown up in the police department, and actuated by a desire to protect the public against imposition; but did not show that the director was actuated by personal malice against the prosecutor, and there was no evidence of bias or oppressive conduct on the part of the director in trying Crane. In the case at bar, how-

ever, there is overwhelming testimony of the Director's personal malice against the appellant, to which he gave expression, first, when he was defeated by Zober for Chief of Police, when he declared his intention "to break him and get him right", and again, when he was elected Commissioner, "that if he never did anything else he was going to get this Dutch, no good son-of-a-bitch."

Furthermore, the Court said in the Crane case that it could not discover any evidence of bias or oppressive conduct on the part of the Director in the trial of Crane. In the case at bar, however, there is such evidence, as has been explained under the last preceding point.

Appellee tries to bring this case within the Crane case, but it is a forced effort. He says, "The most that can be said of the Director of Public Safety is that he did not like appellant, and that prior to his becoming Director of Public Safety, he was a rival of appellant for the position of Chief of Police, and that he applied terms to appellant which were not at all polite." The truth is that the terms he applied were bitter and vile. He did not merely dislike appellant, but made life miserable for him, as soon as he became Director of Public Safety. As soon as appellant became Chief of Police, Turner expressed an intention to break him, and this intention he repeated the day after his election as Commissioner.

In order to minimize these expressions of revenge, appellee says that they indicate that in the view of the Director of Public Safety, the appellant was not an efficient policeman, and that "while the language may be different, the effect * * * is no different from what was said by the Director of Public Safety" in the Crane case. We contend that there is all the difference in the world be-

tween these two expressions. In the case at bar, the language of Turner shows the presence of that personal malice, which was lacking in the Crane case, and negatives the idea that the Director was actuated by a proper spirit of public service, such as was present in the Crane case.

Neither is the case of *In re Hague,* 6 Advance Reports, 1770, authority for holding that Commissioner Turner was not disqualified by bias. That case said, "That bias or prejudice on the part of the judge, which is not based on interest, does not disqualify." The kind of interest that would disqualify, was held by that case to be a pecuniary interest. It was said that prejudice against the cause or defense of a party is not a disqualifying prejudice. From this, the Supreme Court, in the case at bar, concluded that personal enmity was not a sufficient prejudice to disqualify a judge.

But, in this State, interest, sufficient to disqualify, exists not merely when there is a pecuniary interest on the part of the trier, but also when the Commissioner or Judge holds malice towards the accused. It was so stated in the well-considered case of *State* vs. *Bolitho,* 136 Atl., page 164, (Kalisch and Campbell, *J. J.* and Gummere, *C. J.*).

In that case, the Court first quoted with approval the language of Chief Justice Hornblower, in *State* vs. *Spencer,* 21 N. J. Law, 196, page 199, as follows:

> 'A declaration of opinion to disqualify a juror, therefore, must be such a one as implies malice or ill will against the prisoner, thereby showing that the person challenged does not stand indifferent between the state and him. This is the uniform language of the books and cases which are of authority under our constitution, as well as of the English courts up to the present time.' "

The Court then continued:

> 'This legal rule had become firmly imbedded in the law of this state. The salutoriness of the rule is luminously dealt with by Green, Chief Justice, in State v. Fex, 25 N. J. Law, commencing at page 596. We cannot conjure up any good reason why the legal principle enunciated is not equally applicable to a challenge to a judge upon the ground of interest and bias. We think it is.' "

From the foregoing, it follows, that the prejudice of Commissioner Turner, being a prejudice arising out of personal enmity, was sufficient to disqualify.

Moreover, it is significant that the rule in the Hague case was based, in part, on the decision of McEwan vs. Occidential Life Insurance Co., 172 Cal. 6. Nevertheless, in that very jurisdiction, it has been held that malice on the part of the Judge towards the defendant is sufficient to disqualify him.

> "An affidavit by defendant alleging that before the action affiant and the Judge had a personal quarrel, in which much ill feeling entered, and it became an angry quarrel on both sides, and they parted in a very unfriendly manner, and unfriendly feeling still exists, on the part of the judge, and affiant believes, and states the fact to be, that he cannot have an impartial trial was sufficient in the absence of counter affidavits."
>
> *Morehouse* v. *Morehouse,* 69 P. 976, 133 Cal. 332.

But, even if we apply the rule of the Hague case to the case at bar, we find the doctrine of that case expressly limited to judges, and not applying to the case at bar, where a Commissioner sat. The

Hague case, although declaring "that bias or prejudice on the part of the Judge, which is not based on interest does not disqualify," expressly limited the rule to cases, "*in the absence of statutory provisions.*"

The reason why the rule of the Hague case does not apply here, is that *there is a statutory provision in this case.* That statutory provision, unlike the statute applying to judges, which disqualifies only for relationship to the parties, interest in the event of the action, or a prior capacity as counsel in the cause, provides the broader ground of disqualification, that accused shall have a fair trial. And we have already shown that fair trial means trial by one, who is not merely disinterested in a pecuniary sense, but by one who is disinterested and impartial. *Eisberg* v. *Mayor etc. Cliffside Park* (*supra*).

And impartial, as we have already shown, means one who is indifferent, and without prejudice or bias, one who does not favor one side to the litigation more than the other. It means one who stands indifferent between the parties, one who is without malice towards defendant.

In *People* vs. *Roosevelt* (*supra*) the Commissioner, as in the case at bar, had a personal bias against the defendant, but did not have an interest in the case in a pecuniary sense, and yet it was held that the defendant had not had a fair trial.

In *People* v. *Sturges,* (*supra*) the Commissioner, like Commissioner Turner, took up the record in consultation with those who had conducted the prosecution, but he did not have an interest in the case in a pecuniary sense, and yet it was held that the defendant had not had a fair trial.

In *Packwood* v. *Riley,* (*supra*) the Commission-

er acted in concert with the Mayor, who, like Commissioner Turner, before and after his election, had declared he wanted the scalp of the Chief of Police, whom he promised to remove, and yet, although he did not have an interest in the case in a pecuniary sense, it was held that defendant had not had a fair trial.

It is no answer to the foregoing to say that whereas, it implies that a Commissioner shall be less free from bias than a judge, that, in fact, the converse is true, namely, that the Director of the Department of Public Safety, having direct control of the administration of the department, could not be expected to be impartial in the sense that a judge in an ordinary action at law, having no connection whatever with the transaction or with the parties, might be expected to be impartial.

In the first place, such an argument is mere conjecture, and such conjecture should not be permitted to whittle away the substantial right granted to the police by the Legislature when it guaranteed them against dismissal without a fair trial.

And, in the second place, the very fact that the judge has no connection with the transaction or with the parties before him, and the commissioner does have contact with the men under him, is the reason why the Legislature gave the police officer a substantial right, when it said he should not be removed without a fair trial, and required a greater freedom from bias on the part of the Commissioner. The judge is a non-political officer, and unlikely to have connection with the transaction or with the parties before him. Consequently, it was enough to limit the disqualifying bias in the case of a judge to relationship, interest in the cause, or former connection with the parties as

their attorney. But the commissioner is a political officer, and does have relations with the men under him, and, therefore, for that very reason, the Legislature expressly required a greater freedom from bias.

The cases of *Reimer* v. *Freeholders of Essex,* 96 N. J. L., page 371, *Manyon* v. *Schwarzkopf,* 100 N. J. L. 22, page 26, *Crawford* v. *Hendee,* 95 N. J. L. 372, and *Ayers* v. *Newark,* 49 N. J. L. 170, cited in the Brief of appellee, have no application to this case, because none of them are cases involving bias resulting from personal malice.

In *Reimer* v. *Freeholders of Essex,* (supra), the only argument for disqualifying two members of the committee was, that they had made a preliminary investigation on behalf of the board, and reported charges. In such a case, it is properly held that they are not so biased as to be disqualified.

Manyon vs. *Schwarzkopf* was similar to that. The superior officer, following a preliminary and informal investigation, requested the accuser's resignation. Anything that was said in *Crawford* vs. *Hendee,* is simply dicta, and was not necessary to the decision of the case.

These cases cited by the appellee, might have some application to the present case, if appellant were complaining that appellee had made or directed to be made, the charges upon which he was tried. Inasmuch as no such objection was being urged in this case, the cases are inapplicable and not in point.

POINT VI.

The Supreme Court erred in its consideration of the evidence in this case.

The Supreme Court affirmed the judgment of Commissioner Turner on the ground that it found some evidence in the case sufficient to sustain the charges. Ordinarily, on certiorari, this is proper. In the case at bar, it was error.

The question of what evidence was adduced before the lower tribunal is immaterial, when the issue is whether defendant has had a fair trial, and when the want of a fair trial is shown to be due to the malice, personal bias and desire for revenge of the trier of the case.

The reason why the ordinary rule on certiorari, permitting the Supreme Court to affirm the judgment of the lower tribunal, if there is evidence to sustain the charges, should not apply in such case as this, is, that defendant did not have a fair trial. The poisoned mind of the trier is present throughout the case. If a trier should decide a case on evidence not adduced during the trial, and so not subject to cross-examination and review, that one feature would make the entire trial invalid and not fair. How much more so is it an unfair trial, if the state of mind of the trier, present throughout the trial, makes him accept only such evidence as fits in with his own desire for revenge.

In the ordinary case, the mind of the trier is free of bias and the only question is, if his conclusion is justified. But if the judgment of the Commissioner in the present case is allowed to stand, it means that, in any case, the personal enemy of the accused can sit in trial upon him

and his judgment would be sustained, except in the miraculous case where there was not a scintilla of evidence to support the charges. Such a conclusion is shocking to the most elementary sense of justice.

In *People* v. *Elmendorf,* 51 N. Y. App. Div. 173, 64 N. Y. S. 775, which was certiorari to review proceedings before a mayor to remove a policeman, the Court found "that the policeman had not had a fair trial, and ordered him reinstated, *though a careful reading of the record evidence might show a preponderance in favor of his guilt.*"

In *Tumey* v. *Ohio,* 273 U. S. 510; 47 U. S. Sup. Ct. Rep. 437; 71 Law Ed. 749, the question raised was the want of a fair trial for the defendant, owing to the bias of the trial judge, and in answer, it was contended that the evidence was such that the judgment of conviction was justified. The Supreme Court of the United States, speaking through Mr. Chief Justice Taft, said, "*No matter what the evidence was against him, he had the right to have an impartial judge.*"

But it is urged by the appellee, that the appellant did have a means available to secure a fair trial to himself, and that he chose not to avail himself of it. The appellee refers us to Chapter 47 of the Laws of 1907, page 95, as amended by P. L. 1914, Chapter 208, page 419. Under this Statute, he says that the Supreme Court, on certiorari, in a case such as the present, has the right to determine the facts, and that the appellant could have had a fair trial, before the Supreme Court. We fear that counsel on the other side do but mock us, when they make this suggestion.

In the first place, the Supreme Court itself did not agree with this contention. That Court said, (page 561, 562, State of the Case):

"While the testimony in this case is very voluminous, we have given it full and due consideration, keeping in mind that, *as the reviewing tribunal, the question before us really is not whether the director was biased, but whether upon the whole case there was testimony, sufficient to justify his conclusion in removing the prosecutor.* It is not within our province, under the decisions already referred to and others that might be cited, to review the entire evidence with a view of ascertaining whether or not we might reach a different conclusion from that reached by the director, but, as was observed in another case, the rule is well settled as follows:

'If the court were not circumscribed and limited in its duty in this instance by the well-settled rule of law applicable to cases of this character, it might properly be urged to weigh the testimony and, if possible, reach a conclusion different from that which has been reached by the trial tribunal. But the settled rule of law is that if there be evidence upon which the trial tribunal may reasonably be found its conclusion of guilt or innocence, this court will not reverse the judgment by weighing the testimony for the purpose of forming an independent judgment. If the judgment of the trial court can be fairly supported by the record, the duty of this court is at an end so far as further investigation is concerned.'

And, to the same effect, is *Martin* v. *Smith,* 125 Atl. 142.

In the second place, even if the Supreme Court would look over the record of the trial before the Commissioner of Public Safety, and determine disputed questions of fact, the accused would not be given a fair trial. In such a review, the Court would simply be weighing the testimony of the

witnesses, as it appears in cold type. But the Supreme Court would not have before it the witnesses themselves, and would have no opportunity to observe demeanor or behavior or responsiveness of the witnesses during examination and cross-examination. It is elementary that mere number of witnesses does not govern, but that demeanor and behavior of the witnesses by themselves, becomes a very essential part of the evidence upon which a judgment may be predicated. If, then, for the first time, the appellant is to secure his fair trial, in the Supreme Court, he is at a handicap in this most important respect.

In the third place, even if the Supreme Court could determine disputed questions of fact, appellant would not thereby be secured in the fair trial, which the Statute guarantees to him. All that the Supreme Court could do, would be, on the facts, to either affirm or reverse, and, if it affirm the Director of Public Safety, his judgment dismissing the appellant would stand. Nevertheless, it is elementary that the penalty or punishment imposed, is as much an essential part of a trial as is the judgment of guilt; and, in this case, the penalty to which the appellant was subject, was not a sole penalty of dismissal, but was, according to the Police Manual of Passaic, either dismissal, fine, suspension or demotion to a lower rank. A fair-minded Commissioner, even if he did conclude that the appellant was guilty of some of the charges made against him, might feel that the discipline of the Police force was vindicated if the Police Chief was demoted to the rank of Police Captain. But, if the suggestion of the appellee is followed, that the Supreme Court should have been permitted to weigh the testimony in this cause, and determine disputed questions of fact, and that there-

by the appellant would have a fair trial, nevertheless, appellant would be deprived of this most essential element of a fair trial, to wit, not merely to have disputed questions of fact determined, but to have the grade of punishment measured.

In line with the authorities first quoted under this point, the Supreme Court should not even have considered the testimony adduced on the charges at the trial before Commissioner Turner. Even if it had power to weigh the evidence, and determine disputed questions of fact, which appellee urged that it had and which it decided it did not have, the Supreme Court should not have weighed the testimony, to see if it justified a judgment of dismissal, for on such an issue as the present, all such considerations are beside the mark.

The Supreme Court said that appellant conceded that no fair-minded man could do otherwise upon the evidence, than to dismiss the prosecutor. We did nothing of the kind. We said that such an argument could not be made; that, indeed, it is immaterial what evidence was adduced against him. And we still urge that this is so, because such consideration in the Supreme Court, would not give appellant the fair trial, to which he was entitled, for the reasons above stated.

Chief Zober, under the guarantee of a fair and impartial hearing and a fair trial, given to him by State Statute and City Ordinance, had the right to have whatever evidence was adduced against him considered by an impartial judge—a judge, standing indifferent between him and his accuser. He did not have an impartial judge. Commissioner Turner was his defeated and embittered rival. A trial judge, who has no other name for defendant, than son-of-a-bitch, who refuses to co-operate with his new superior, refuses to make up with

him, and announces that he will get him, and in a candidacy for Commissioner announces that he will break the Chief, and then, after his election as Commissioner, strips him of every vestige of official authority, hinders and hampers him in every way long before he suspends him from office on the charges on which he finally dismisses him, is not an impartial judge.

A fair trial is a substantial right, which the Statute has guaranteed to the appellant. It is not complied with, when loaded scales are used by the Commissioner to weigh the evidence, and, having weighed it, to dismiss the defendant according to his pre-determined judgment.

Hence, Chief Zober did not have a fair and impartial hearing or a fair trial, and he has been dismissed without the observance of what the law makes a condition precedent to dismissal, and so, the judgment of dismissal is invalid and should be reversed.

POINT VII.

Only imperative necessity would justify affirming the judgment of Commissioner Turner, and no such imperative necessity exists in this case.

The Supreme Court justified the dismissal of appellant, on the ground that, otherwise, the discipline required of the Police Department of the City of Passaic, would be without any means of vindication. This, however, is only begging the question, because a judgment rendered by a bitter enemy, is not a vindication of discipline at all. It is a consummation of revenge.

The Supreme Court quoted with approval, the reference in the respondent's brief to appellant, "A

Chief of Police, whom the evidence demonstrates has been guilty of knowingly acting as a fence for the disposal of automobiles stolen by a gang of automobile thieves, one of which stolen cars was sold by the Chief of one of his subordinates in the Police Department." This was assuming the guilt of the Chief, which has never yet been proved. The most that can be said is that there was some testimony supporting such a charge, but the very purpose of the trial is to establish whether the Chief was guilty, and, in the case at bar, the trial never served that purpose, for the trial was a mere formality ending in a judgment of dismissal, which was the very object that the Commissioner, three years, and again, six months, before even the first charge was raised against the appellant in this case, had declared himself determined to accomplish.

The Supreme Court took into account *the Commissioner's own statement* of facts that the appellant had bought four separate cars, which he had sold thereafter, and that these four cars, as it developed, had been stolen and had mutilated or changed motor serial numbers.

If the evidence is to be gone into at all, then it should be gone into more fully. No mention is made of the fact that the price which the appellant paid, in these cases, for the motor cars, was shown by experts to be so close to the market price as to repel any suspicion that the cars were stolen; that the cars were later sold by the Chief at a price only slightly above what they cost; that the cars were bought under circumstances, and from a man, whose standing in the community was such, that it might well keep anyone from suspicion that they were stolen; that the dealings of the appellant were not daily transactions, but were limited to only

four cars, which covered a period of four months, that is, from March to July, 1926; that he consulted his counsel, former Police Judge Davidson, as to the bill of sale, and that, when his counsel once objected to one of the bills of sale, a new bill of sale was given, and that his counsel passed all the transactions; that he handled the cars openly over a period of months in the City of Passaic, taking one of them to a dealer in that make of cars, to find out if he had paid a fair price for it, to have it examined, and that that dealer, expert though he was, did not discover any mutilation about the numbers on the car; that the mutilation or change of motor serial numbers were detected by the witness, Shadd, who was, however, an expert as to mutilated numbers, by reason of a vast experience covering sixteen years, (See p. 495-510), State of Case, for argument of counsel for Chief Zober).

Thus it will be seen that there was a debatable question, upon which, as part of that fair trial, which the Statute guaranteed to him, the appellant had a right to expect a fair-minded man, and not a biased enemy, to pass. It will be seen, consequently, that to assume the guilt of the appellant, and make that a reason for overruling the disqualification of the Commissioner, is to violate the spirit of the Statute.

In *People* v. *Elmendorf*, 51 N. Y. App. Div. 173, an almost parallel situation occurred. That case was on certiorari to review proceedings before a mayor to remove a policeman, and the policeman was ordered reinstated, because he had not had a fair trial, *and this was ordered, though there was no other court in which he could be tried.* The Court said, "The relator has not had his day in Court, nor any trial worthy of the name. It may be that there is no other Court in which the relator can be tried, but that fact does not create such

a grave necessity as to warrant a condemnation without a trial."

Any departure from the broad and salutary general rule that one prejudiced as to the outcome of a trial, shall not sit in judgment therein, is extremely rare and is hedged about with the utmost safeguards.

1. It must be a case of imperative necessity, so as to prevent a failure of justice.

2. It must be a cause in which the interest of the trier is only minute.

Re Ryers (1878) 72 N. Y. 1, cited by appellee in the Supreme Court, is no authority to the contrary of these propositions, but rather, is authority for them.

In *People ex rel. Pond* v. *Saratoga Springs* (1896) 4 N. Y. App. Div. 399, 39 N. Y. Supp. 607, the court, referring to the rule established in the case of Re Ryers (1878) 72 N. Y. 1, 28 Am. Rep. 88, said: "It will be seen that that is very far from establishing the principle that a member of a court composed of several persons can be permitted to act in a proceeding before it to which he is a party in interest. It will be observed that the court is very guarded in limiting cases where one interested in the result may act. It confines it to those cases where he has exclusive jurisdiction, and even then limits it, in addition, to those cases *where the result need not necessarily affect him to his pecuniary loss or gain, and, still further, that his interest must be only minute;* and, when all these conditions are complied with, he can only act so far in the matter as to prevent a failure of justice."

In *Metsker* v. *Whitesell,* 181 Ind. 126; 103 N. E. 1078, it was said: "But the exception is not recognized, except in cases of imperative necessity; and,

in determining such necessity, the greatest of care must be exercised."

In *State of Alabama ex rel Miller v. Aldridge,* 212 Ala. 660, 39 A. L. R. 1474, 1475, the Supreme Court of Alabama said, "The policy of the rule of disqualification is of paramount importance, and if it is to yield in any case, it is only when there exists therefor a very great necessity to prevent a failure of justice. Such a situation is not, in our opinion, here presented. To the appellant a fair and impartial hearing of the petition for cancellation of his certificate is shown to be of very great importance. Upon it hinges the deprivation, *vel non,* of a valuable property right, and some of the charges involve matters of personal reflection upon his character."

The case at bar comes within the general rule, that Commissioner Turner was so biased against Chief Zober that he was disqualified to try him, because he could not give him that fair trial which the law guaranteed him. Nor has the case at bar been brought within the foregoing exceptions to the general rule.

(a) *No imperative necessity, to prevent a failure of justice, exists here, to justify sustaining Commissioner Turner's judgment of dismissal.*

The charges against appellant can be divided into three groups:

(1) Those having to do with the buying and selling of automobiles by the Chief of Police, without respect to knowledge of their theft.

(2) Those having to do with non-compliance with the Motor Vehicle Law by appellant in obtaining his automobile licenses.

(3) Those dealing with the receiving of stolen automobiles by appellant.

As to the first two groups of charges, no argument is needed to convince that no imperative necessity, to prevent a failure of justice, exists, which would justify waiving Commissioner Turner's disqualifications.

Moreover, even if the first two groups of charges were true, judgment of dismissal of the Chief of Police is, in this case, a violation of the Statute granting him the right to a fair trial. For these charges are not of criminal acts. Appellee contends that, even if the Chief did not know that the cars were stolen, when he bought them, and even if he committed no criminal act thereby, nevertheless, his buying and selling cars, or his violating the motor vehicle act, show that the Chief of Police was guilty of incompetence for that office.

But, even if this were true, it did not mean he had to be dismissed from the police force. As heretofore pointed out, a necessary element of a trial, and certainly of a fair trial, is the penalty imposed, and this penalty was one of four, discretionary with the Commissioner, to wit, a severe one of dismissal from the Police force, the lesser one of demotion to a lower rank, and then, a still lower one of suspension from duty or fine. In other words, a man incompetent to be Chief of Police, might well be capable of being a Captain of Police, or a Sergeant of Police. Perhaps he should never have been promoted from Captain or Sergeant of Police, to Chief of Police. A fair minded man would consider this in imposing sentence. A fair minded man would take into consideration the fact that appellant in this case, had been brave enough to capture, almost single-handed, two payroll bandits. He would also consider that the Chief of Police had excellently handled a situation imposing tremendous strain, over a period of fourteen months, when a great strike raged in the city, upon

which the eyes of the nation were focused. A fair minded man would consider that the transactions complained of against the Chief, occurred during this period, and that such strain, under which the Chief labored, could well explain conduct that otherwise might label a Chief of Police incompetent.

That is why the Supreme Court erred, when it said that it is "no answer to the sufficiency of such charges, to allege that the trial court, or the Director in this instance, entertained prejudices against him." The prejudice of the Director is an answer even if such charges were true, because such prejudice deprived the appellant of the right to the exercise of that discretion, which a fair minded man would have exercised in imposing a penalty, and to such exercise of such discretion he was entitled as a part of any trial, and certainly, of a fair trial.

Likewise, as to the third group of charges, no imperative necessity, to prevent a failure of justice, exists, which would justify waiving Commissioner Turner's disqualification. As to those charges, there is another tribunal, which can try them and so, avert a failure of justice. For, if there was anything criminal in the conduct of appellant, the criminal courts, where that conduct could be passed upon, are still functioning. At the trial on the charges, over a year and a quarter ago, when the oldest offense alleged was less than two years old, and some of the others were only a year old, so that no question of the Statute of Limitations could have been raised, appellant made the point that the Commissioner should first await the action of the criminal courts on these criminal charges against him. And yet, although more than a year and a half has elapsed since the charges were made against appellant, no indictment has been brought

against him, no criminal complaint has been entered against him, and he has not even been arrested. Summer has followed winter since the trial of prosecutor, and winter has come again and passed, and the criminal law has not been invoked. And yet, shall it be said, indeed, how can it be urged, in the face of this inactivity, that an imperative necessity to prevent failure of justice forced the Supreme Court to sustain Commissioner Turner's judgment of dismissal? For that was the only ground for affirmance of the judgment pronounced by one of such startling and shocking bias as Commissioner Turner.

But the appellee says, if the foregoing contention is true, that even if the criminal courts were to convict the appellant, that still the appellant, being entitled to a fair trial, would have to be tried by Commissioner Turner, and that he could still object to Commissioner Turner. Consequently, he says, that even if convicted in the criminal courts, appellant could never be tried or removed, if our contention is correct. Our answer to this is twofold:

(1) That the conviction of the appellant by the criminal courts, would establish such an imperative necessity for action, that then the case would come within the rule permitting Commissioner Turner to try him.

(2) If the appellant is convicted in a criminal court, then, trial before the Commissioner is truly a mere matter of form, because the Manual or the Regulations of the Police Department of Passaic, (No. 14, page 58) provides as a ground for removal, the violating of any criminal law or penal ordinance. If the appellant were first convicted by the criminal courts, then it would be necessary

only to introduce the record of his conviction in the criminal courts, to establish his guilt, and a fair trial would then necessitate no element of independent judgment on the part of the Commissioner, either as to the conclusion upon the facts, or as to degree of punishment.

Moreover, the Legislature can readily remedy the situation, existing in cases of the kind at bar, by providing that the charges shall be determined by the other City Commissioners. On the other hand, if Commissioner Turner's judgment is unreversed, the prospect of legislative action is slight, and the like situation will arise again and again and men will have to stand trial, before a Commissioner, bitterly hostile, prejudiced and biased. The reversal of Commissioner Turner's judgment of dismissal, even though no other tribunal exists which can try the charges, is likely to focus legislative attention upon the situation and to afford relief by providing that other commissioners in the alternative shall try such charges as in the case at bar.

To this, appellee replies that the Legislature has already provided relief, i. e., by the provision in the Certiorari Act, whereby the Supreme Court may settle disputed questions of fact. And to this reply our answer is that, as already shown, our Supreme Court still rules that it cannot settle disputed questions of fact, but will affirm, if there is evidence in support of the charges. And, further, we repeat what we have said before, that, even if the Supreme Court could weigh the evidence, that would not grant defendant a fair trial.

The Legislature created Commissioner Turner a tribunal to try members of the Police Department. The Legislature said that no member of the Police Department should be removed from office

except after a fair trial. It should be left to the Legislature to provide another tribunal for the trial of police officers, where, as in the case at bar, the Commissioner is biased and unable to grant a fair trial.

Where, as in this case, both the criminal courts and the Legislature are open to afford relief, how can it be urged that imperative necessity compels this Court to affirm the Supreme Court's affirmance of Commissioner Turner's ruling, in order to prevent a failure of justice? The truth of the matter is, that permitting a man as biased as Turner is shown to be, to sit in judgment, itself causes a failure of justice.

As was said in *State of Alabama ex rel. Miller* vs. *Aldridge,* (supra), "To the appellant a fair and impartial hearing * * * is shown to be of very great importance. Upon it hinges the deprivation, vel non, of a valuable property right, and some of the charges involve matters of personal reflection upon his character."

To appellant, a fair and impartial hearing is shown to be of very great importance. Upon it hinges the deprivation of a high office, for which he had striven hard and which he had won by a series of brilliant advances. And, more important than all, there is involved here not merely personal reflections upon his character, but direct, criminal charges.

In *Washington Insurance Co.* v. *Price,* Hopkins 2, Chancellor Sandford said, on the question of his sitting as Chancellor, when he was a stockholder in the company, that a failure of justice may take place if he should not act, as it also may occur if he should decide his own cause.

This statement is quoted with approval in *Winans et al* v. *Crane,* 36 N. J. L. 397, at p. 399, in

which it was said, "To justify a violation of the maxim, there should be an imperative reason for it, in order to prevent a failure of justice, and, in determining that, the greatest care should be exercised." And, at p. 400, Bedle, *J.*, says, "No case can, I think, be found where there has not been a very peculiar and emergent necessity to justify an exception to the rule."

To sustain Commissioner Turner's judgment dismissing Chief Zober, merely because no other tribunal, beside Commissioner Turner, can try the charges, would in itself, inflict a failure of justice —it would result in a dismissal of Chief Zober without affording *him his day* in Court.

Because the reason for making an exception allowing a biased judge to sit, is imperative necessity to prevent a failure of justice, it is sought to circumscribe the exception with a safeguard, so that in the effort to prevent one failure of justice, there shall not occur another different failure of justice, i. e. to defendant—who is convicted without his day in court. This result is accomplished by insisting that the judge's interest must be minute.

People ex rel, Pond v. *Saratoga Springs*, (supra).

It is felt that a biased judge will in a case of imperative necessity to prevent a failure of justice, put his bias aside, if his interest is only minute.

An example of a minute interest in a cause, is where a Judge presides in a suit to recover money for a county, of which he is an inhabitant, afreeholder and taxpayer, although it took a statute to remove the disability, even in such cases, under which the Judge was held to be, prior to the pass-

ing by the Legislature, in 1849, of the act set out in the Revised Statutes, p. 889, Sec. 264.

See *Winans* v. *Crane,* 36 N. J. L. 394, at p. 397.

Indeed, it is doubtful whether an act of the Legislature would be valid, where it expressly provided that a Commissioner or Judge, who was the only one authorized to render judgment in a given case, could render a valid judgment, in spite of his bias. In *Winans et al.* v. *Crane* (supra), this Court said:

> "The maxim under consideration has always been regarded in English jurisprudence, as elementary and fundamental in judicial action, (Coke Lit., Sec. 212, Broom 109), and, I think, can no more be materially invaded by the legislature than it could pass an act that a judge might decide according to lot, or for a party who should give him the most money. The Chief Justice, in Schroeder v. Ehlers, says, 'that a person cannot be a judge in his own case, has ever been regarded as one of the fundamental maxims of the law of nature;' also, that the injustice of allowing it, is intuitive in the human mind. In my judgment the Legislature is impotent to break down this great barrier to tyranny and fraud. The power of the legislature has been seriously questioned even in removing disabilities for a common interest, and the fair implication of the cases is, considering the ground upon which it is sustained, the remoteness and smallness of the interest, that it does not reach beyond interests of a general nature. (See cases referred to.) The maxim is inherent in, and a part of the nature of judicial action, and although in many matters the legislature may provide for the exercise of judicial functions, and designate the persons who shall exercise them, yet it cannot, in so doing, lose sight

> of the essential character of judicial action, and authorize or sanction a judgment through instrumentalities contrary to the innate and universally recognized sense of natural justice. In such a case, the power conferred would not be judicial, it would be tyrannical."

(b) *But Commissioner Turner's interest in this cause is not minute.*

Commissioner Turner's is a deep interest, profound, and personal. Revenge is an intensely human and powerful motive. Revenge is sweet.

Seldom is it given to a human being to sit in judgment upon his enemy. Yet that is the spectacle presented by the trial of Chief Zober. Appellant had been fortunate enough to be made Chief of Police over his rival, Captain Turner, although the latter was twice as long in the service as he. But it was an unfortunate advance for appellant, for a day was to come when Captain Turner was to be elected Commissioner, and so be made the superior of Chief Zober. And, in the interim, Captain Turner was brooding upon his humiliation. He refused to shake hands with Chief Zober or attend a dinner in his honor after appointment. He refused to cooperate with him. He ignored him, over and over again, referred to him as a son-of-a-bitch. He refused to make up with Chief Zober, and gave the reason for his bitterness that Mr. Zober had accepted the appointment as Chief, when he could have stepped aside in favor of Turner, who needed the money more, and who would hold the position only a short while, until he retired on pension, and then Zober could have it. He threatened revenge then on appellant, and he threatened it again both before and after his election as Commissioner, in May, 1927. And, as

soon as elected, he practically suspended Chief Zober, because, by a series of the curtest orders, to be effective almost immediately when issued, he stripped appellant of all his functions as Chief of Police. Captain Turner has dismissed Chief Zober, and before that he suspended him on charges. But, long before any charges came, he took from him practically all his functions as Chief.

Thus, it has been shown that there are absent from the case at bar, the two features which alone might justify an affirmance of Commissioner Turner's judgment, where he is the only tribunal to try appellant. These two elements are (1) minuteness of interest on the part of Turner as to whom it has been shown that he had a deep personal motive of revenge and malice towards appellant; and (2) an imperative necessity to prevent a failure of justice, as to which it has been shown that the criminal courts and the legislature are open to do justice to the public.

For the foregoing reasons, it is respectfully urged that the judgment of the Supreme Court, affirming the judgment of Commissioner Turner, should be reversed.

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Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

RICHARD O. ZOBER, *Prosecutor-Appellant,* *vs.* BENJAMIN F. TURNER, Director of the Department of Public Safety, City of Passaic, N. J., *Respondent-Appellee.*	*On Appeal from Judgment of Supreme Court Affirming Judgment of Respondent-Appellee Dismissing Prosecutor-Appellant as Chief of Police of Passaic, Affirming on Certiorari.*

Sat below MINTURN, BLACK, CAMPBELL, *J.J.*

(Italics, etc., mine, except where otherwise noted.)

BRIEF OF RESPONDENT-APPELLEE.

Preliminary.

Under his Point 6 (p. 38) appellant argues that the Supreme Court erred in its consideration of the evidence. It is true that the Supreme Court (pp. 555, 561) considered the evidence, and it is likewise true that it stated (p. 561):

> "While the testimony in this case is very voluminous, *we have given it full and due consideration,* keeping in mind that, as the reviewing tribunal, the question before us really is not whether the director was

> biased, but whether upon the whole case *there was testimony sufficient to justify his conclusion in removing the prosecutor.* It is not within our province, under the decisions already referred to and others that might be cited, to review the entire evidence with a view of ascertaining whether or not we might reach a different conclusion from that reached by the director, but, as was observed in another case, the rule is well settled as follows: 'If the court were not circumscribed and limited in its duty in this instance by the well-settled rule of law applicable to cases of this character, it might properly be urged to weigh the testimony and, if possible, reach a conclusion different from that which has been reached by the trial tribunal. But the settled rule of law is that if there be evidence upon which the trial tribunal may reasonably be found its conclusion of guilt or innocence, this court will not reverse the judgment by weighing the testimony for the purpose of forming an independent judgment. If the judgment of the trial court can be fairly supported by the record, the duty of this court is at an end so far as further investigation is concerned.'' Martin *v.* Smith, 125 Atl. Rep. 142; citing Reilly *v.* Jersey City and Crane *v.* Jersey City, *ubi supra.''*

and, in that statement, as to the scope of the inquiry in the Supreme Court, it may have erred for, although the Supreme Court early took the position in *Reilly* v. *Jersey City,* 64 N. J. L. 508, that, in reviewing an action of a Board of Police Commissioners, the court would not weigh the evidence taken before them for the purpose of reaching an independent conclusion on the guilt or innocence of the prosecutor, in 1907, the certiorari act was amended, Chapter 47 of the Laws of 1907, p. 95, 1 C. S. of N. J. 405, sec. 11, so as to provide that questions of fact *should* be reviewed by that

court upon certiorari in cases involving "suspension, dismissal, retirement or reduction in rank of any person holding an office or position * * * municipal, from which he is removable only for cause and after trial," and P. L. 1914, Chapter 208, p. 419, 1 Cum. Supp. 1911, 1924, sec. 32-15A was passed which permits the record before the trial official to be returned to and considered by the Supreme Court and since that statute, the Supreme Court *has* reviewed the facts.

Kelly v. *Board of Police Commissioners of Jersey City,* 85 N. J. L. 373;

Dubelbeiss v. *West Hoboken,* 81 N. J. L. 98; 82 N. J. L. 683, in which case it was held that "The Supreme Court has power, by its constitutional jurisdiction, to consider such matters of fact."

And see the decision of this Court in Kelley vs. Cornish at the present term 7 N.J.A.R. 799.

But the error in the opinion of the Supreme Court, if such there be, cannot be urged by appellant. In the Supreme Court he confined himself to the matter of the claimed disqualification of appellee as a trial tribunal and omitted to allege as a reason that the judgment of the appellee was against the weight of the evidence. He not only did that but he *declined to argue the matter of the weight of the evidence* and said (p. 30 of his brief in the Supreme Court):

> "In line with this authority, this court will not weigh the testimony adduced on the charges at the trial before Commissioner Turner. It will not even consider it. Certainly, this court will not read it, and say that, in its opinion, the testimony justified the judgment of dismissal. All such considerations are beside the mark. The evidence at the hearing before the Commissioner may be such that the preponderance of it is against Chief Zober, but that is immaterial.

> Nor can it be argued, in an effort to justify Chief Zober's dismissal, that the testimony is such, that no fair-minded man could have done otherwise upon it, than to dismiss prosecutor. Indeed, it is immaterial *what* evidence was adduced against him."

Now, having failed in the Supreme Court upon the one point which he made in that court, he complains because that court did not go further in its investigation of the testimony although all that it did in that line it did *ex gratia.*

He now argues here that the ordinary rule on certiorari—permitting the Supreme Court to affirm the judgment of the lower tribunal, if there is evidence to sustain the charges—should not apply in such case as this, because the "defendant did not have a fair trial." But he expressly declined to ask the Supreme Court to consider the evidence. He cannot complain here that the Supreme Court did more than he asked it to.

This court will not reverse the judgment of the Supreme Court, I submit, because that court has *ex gratia,* done something more than appellant asked it to, and this court will, under no circumstances, consider the weight of the evidence.

Appellant refused to take advantage of the statutes which permitted him to go to the Supreme Court on the weight of the evidence and contented himself with the insistence that, because the Commissioner of Public Safety was biased and prejudiced and that, therefore, appellant did not have a fair trial, and for that reason alone, the dismissal should be set aside and appellant reinstated as Chief of Police.

Appellant concedes that no power or authority other than the Commissioner who heard the case can hear it, and the result is, if appellant's contention be sustained, that the City of Passaic must continue to have a Chief of Police whom the evidence demonstrates has been guilty of *knowingly acting as a fence for the disposal of automobiles stolen by a gang of automobile thieves,* one of which stolen cars was sold by the Chief *to one of his subordinates in the Police Department.*

There are certain facts, which cannot be denied, summarized by the Commissioner of Public Safety in his judgment on page 30 and by the the Supreme Court on page 555 of the record as follows:

> "On or about the 29th day of January, 1926, a Cadillac car was stolen in Newark, New Jersey, this car is known as the Kaufman car; on or about March 27th, 1926, Chief Zober purchased that car for what he says was the sum of $1,600; and on or about May 12, 1926, he sold that car to one John J. Labash for $2,000; on or about April 12, 1926 a Buick car, a Master Six, known as the Chambers car, was stolen in New York City and on or about the 16th day of July, 1926, Chief Zober purchased that car for $1,000. as he says, and that car was in his possession and taken out of his possession on the 25th day of October, 1927; on or about June 10th, 1926, a Buick car was stolen in Summit, New Jersey, known as the Rider car, and on or about June 23, 1926, Chief Zober purchased that car for what he says was $1,100; and on or about the 28th day of June, 1926, he sold that car to one Mathias Winter, a patrolman in the Police Department, for $1,200; on or about July 9, 1926, a car, which is known as the Perkins car, was stolen in New York City and on or about July 10, 1926 that car was pur-

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> chased by Chief Zober for what he says was $750.; on or about the 14th day of October, 1926 that car was sold by the Chief to one Carroll D. Hipp, for $850. Each of these cars had either mutilated or changed motor serial numbers."

Mere possession of an automobile which has recently been stolen may be prima facie evidence of guilt.

> *Huddy on Automobiles,* 6th Ed.;
> *State* v. *Davis* (Iowa), 179 N. W. 514;
> *People* v. *Sirrace* (Ill.), 129 N. E. 504,

in which case the fourth headnote is:

> "When not explained in a manner sufficient to raise a reasonable doubt of guilt, the possession of property recently stolen is prima facie evidence of guilt."
> *State* v. *Bratcher*, 105 Kans. 593, 185 Pac. 734;
> *State* v. *Thompson* (Mo.), 222 S. W. 789;
> *State* v. *Weiss* (Mo. App.), 219 S. W. 368;
> *Berry* v. *State* (Tex. Cr.), 223 S. W. 212;
> *Hunt* v. *State* (Tex. Cr.), 229 S. W. 869.

There was, in the case at bar, much more than mere possession by the Chief almost immediately after the thefts, and his explanation is wholly unsatisfactory as indicated in the resume of the testimony in the judgment of the Director of Public Safety (p. 32), *and appellant declined to permit the Supreme Court to consider the reasonableness of his explanation.*

This business of buying and selling cars, irrespective of the knowledge of the Chief that they were stolen, was one wholly inconsistent with his duties as Chief of Police.

The evidence likewise demonstrates that the Chief of Police obtained licenses for these cars in his own name, without, in some instances,

signing the applications and admittedly, in one instance, without having sworn to the application—a deliberate violation of the Motor Vehicle Act, and that, in an attempt to escape responsibility for what he did, he deliberately perjured himself before the Commissioner.

That appellant had in his possession automobiles with mutilated numbers and that he did not comply with the provisions of chapter 114 of the laws of 1919 (1 Cum. Supp. to C. S. of N. J., 1911-1924, p. 868, sec. 52-212 L., etc.) is conceded.

That statute makes *mere possession* of an automobile, having numbers which have been tampered with, unless the provision of the statute as to giving notice to the Department of Motor Vehicles is complied with, a crime, or, in other words, it throws upon the possessor the duty of ascertaining, at the time of the purchase, whether the numbers have been tampered with or no, and the statute is constitutional.

State v. *Lee*, 100 N. J. L. 201, at p. 203;

Berry on Automobiles, Third Edition, sec. 55;

People v. *Johnson*, 288 Ill. 442, 123 N. E. 543;

People v. *Fernow*, 286 Ill. 627, 122 N. E. 155.

Scienter is not required. No hardship is imposed upon a *chief of police* by an assumption that he knows the law, particularly with respect to motor vehicles, when he knew that there was a well systematized business of selling and buying stolen automobiles throughout the country generally and knew that efforts were being made not only by the states but by the national authorities to put a stop to it, and knew that legis-

lation was being adopted every year more stringent with respect to securing applications and licenses, with respect to bills of sale and with respect to the registration of motor vehicles (p. 420). Notwithstanding his knowledge of the circumstances under which these cars were purchased, if his own story be believed, he did not look to see if the numbers were mutilated. Had he looked he must have discovered that they *were* mutilated, for the mutilations were obvious. His lack of intelligence, to say the best for him, is indicated by the testimony as summarized in the argument of counsel for the City of Passaic (p. 530 of the record).

Appellant suggests that he should be excused because some of these transactions occurred during the time when he was suffering from a tremendous strain because a great strike raged in the City upon which the eyes of the nation were focused. Notwithstanding the great strain under which this Chief suffered and the fact that his time was taken up in his official capacity, he did not let the opportunity escape, if his own story be believed, of dealing in second-hand automobiles. It would seem that, in this time of great crisis, the City of Passaic was entitled to the undivided attention of its Chief of Police. The statement of appellant is itself a confession of either incompetency or such lack of attention at that time as warrants dismissal. If a Chief of Police must give such attention to his personal affairs as that, because of the great strain of his public position, he is to be excused from the consequences of his acts, it inevitably follows that the City is not getting what it paid for.

The incompetence of the Chief, if nothing more, is demonstrated by what he said on page

409 of the record to the effect that he did not know that the law required, for the registration of a motor vehicle, a personal application and an affidavit sworn to by the applicant, and that he thought a finance company could *fix it up* (p. 412), and that, notwithstanding his police experience, he did not know that thieves, in disposing of stolen property, deal in cash (p. 420), and that, notwithstanding the methods by which the sales were made, the irregularities in the bills of sale, etc., "there was not a single suspicion in your mind" (p. 426).

To indicate that no judgment could have been arrived at save that of guilt, and no sentence imposed save that of dismissal, it is only necessary to read the testimony of appellant himself (direct p. 391, and cross p. 407).

The nature of the charges against the Chief and of the testimony against him is indicated by the judgment of the Commissioner (p. 28, etc. of the record) and also in the summing up of counsel for the City (p. 518 of the record).

Appellant gratuitously suggests that the judgment, while the voice of Jacob, is from the hands of Esau, and, he assumes the method by which the judgment was prepared. There is no evidence upon the subject.

In his brief appellant says: "* * * but before pronouncing judgment, Director Turner took up the record with adverse counsel, and permitted him to draft the judgment, which is nominally the Director's, discussing and weighing the evidence and reasoning it out to the conclusion for which Mr. Lane had fought. Appellee says there is no evidence of such conduct, but a mere reading of the judgment, which is nominally Director Turner's, would satisfy this

court that it was written by Mr. Lane" (p. 29). The only *evidence* upon which appellant relies to sustain this suggestion is that, by comparing the opinions of Lane, *V.-C.* in volumes 99 to 108 of the Atlantic Reporter, it will appear that the judgment of the Commissioner is written "in the best turned style" of that former Vice-Chancelor (p. 13). We do not suppose that the Supreme Court could fairly be asked to assume the burden of finding and reading these opinions for the purpose of determining the fact.

Appellant omits to inform the court that the summing up of counsel for the City was taken stenographically, transcribed and was before the Commissioner at the time of the preparation of his judgment (p. 518).

It would have appealed more to one's sense of the fitness of things if appellant, instead of declining to discuss the evidence in the Supreme Court had *suggested* that there was *some* evidence indicating the innocence of appellant.

The fact is that the testimony *is* such "that no fair-minded man could have done otherwise upon it, than to dismiss prosecutor."

Appellant bitterly complains and points to the fact as an evidence of bias, that, throughout the trial, counsel for appellant "made approximately 150 objections, either to the admission of testimony against him, or to the exclusion of testimony offered by him, and every single objection made on his behalf, without one exception, was overruled by Commissioner Turner" (p. 13). And, again on page 26 appellant refers to the fact that the Commissioner overruled so many objections as evidence of bias. "In the case at bar, however, there is such evidence (of bias) and that exists in the more than one hun-

dred and fifty rulings on points raised by the prosecutor, *all of which were resolved against him,* ~~and more~~ * * * And, again—"Every lawyer, every judge knows, that out of so many objections * * * some must have been correct. By accident or by mistake, even Chief Zober's counsel must have been correct occasionally when they raised so many objections. And yet Commissioner Turner found all without merit" (p. 27). It would have been more to the point, we submit, had appellant instead of contenting himself with generalizations, pointed out in the Supreme Court one error of law on the part of the Commissioner. The only specific objection referred to is, on page 27 of appellant's brief, with reference to the testimony of the witness Shadd. An examination of the state of the case (p. 151) will indicate that the course taken by the Commissioner was proper, and for the reasons stated in the objection of counsel for the City at page 152. The question propounded was wholly immaterial. And see the objection repeated on page 168.

But appellant cannot complain here of this action of the Commissioner because he assigned no reason in the Supreme Court based on it, or on any other trial error (p. 48).

Appellant argued in the Supreme Court that trial error, consisting in the acceptance or exclusion of evidence was not reviewable. Of course, as the Supreme Court stated in its opinion, appellant was wrong (p. 558). In this court he says that he did not mean that trial error might not be reviewed upon certiorari (p. 29), and "The Supreme Court misunderstood our position. We did not complain of the overruling or exclusion of testimony, on the ground that such action by the Director left

us without any basis for an appeal. We cited the action of the Director in uniformly overruling us one hundred and fifty times, as evidence of the prejudice in his mind." Perhaps the Supreme Court *was* mistaken. But here is what appellant said in his brief in the Supreme Court (p. 25)—"In the case at bar, however, there is such evidence and that exists in the more than one hundred and fifty rulings on points raised by the prosecutor, all of which were resolved against him, *and none of which are appealable.*"

Appellant apparently argues now that the overruling of objections by a trial judge which are not appealable *because not erroneous,* is evidence of bias. We do not follow appellant.

ARGUMENT.

We do not intend to attempt to answer item by item the brief filed by appellant.

Appellant assumes (p. 35) that there is a greater degree of impartiality required in the trial tribunal and that a less degree of bias is required to disqualify the trial tribunal than would be the case in a cause pending in court, and, by implication at least, at the same page concedes that if we had here to deal with a trial in court, the Commissioner as a judge would not be disqualified, the nature of the bias, etc. not being such as is required to disqualify in such a case, and he attempts to distinguish *In re Hague,* 6 N. J. Advance Reports 1771, in which case the Chancellor, summarizing the law upon the matter of disqualification, said, at page 1775—

> "But prejudice growing out of business, political or social relations is not sufficient

to disqualify a judge. 33 C. J. 1001. And prejudice against the cause or defense of a party is not a disqualifying prejudice * * *

Again, the interest which disqualifies a judge is a direct pecuniary one, or one which involves some individual right or prejudice in the subject matter of the litigation. 33 C. J. 992. * * *

In McEwan *v.* Occidential Life Insurance Co., 172 Cal. 6, it was held (at p. 11) "that erroneous rulings against a litigant, even when numerous and continuous, form no ground for a charge of bias or prejudice, especially when they are subject to review. Nor are a judge's expressions of opinion, uttered in what he conceives to be a discharge of his judicial duty, evidence of bias or prejudice."

And the Chancellor, following the opinion of the Supreme Court in *Curtis* v. *Joyce,* 90 N. J. L. 47, applied section 224 of Com. Statutes, p. 4121, by analogy to the Court of Chancery. That statute provides—

"That no judge of any court who shall be related in the third degree to any of the parties, * * * or interested in the event of the action, or have been attorney of record or counsel in the cause, shall * * * sit * * *."

And the Chancellor said—

"I am free to say that I give effect to this law in the court of chancery, and hold by analogy that it applies here, and have several times refused to consider a vice-chancellor disqualified from reference to hear a cause who did not fall directly within the provisions of the statutory rule."

In 33 Corpus Juris, title "Judges," sec. 150, p. 998, the statement is made—

"While there are dicta to the effect that at common law a judge may be disqualified

> on the ground of his bias or prejudice, it is generally held, in the absence of statutory provision, that bias or prejudice on the part of a judge, which is not based on interest, does not disqualify him."

Appellant at two places in his brief (pp. 21, 33) refers to *State* v. *Bolitho,* 136 Atl. p. 164, 103 N. J. L. 246. The result of that case was that the judgment of conviction was affirmed and appellant omits to quote that portion of the opinion reading as follows:

> "We may safely assume that every law-abiding citizen is naturally at war with violators of the law and hence is more or less interested in the suppression of crime, which interest springs, not only from a sense of self-protection but also from a duty to protect the community as well, against unlawful acts of its members, and therefore it is quite obvious that, in order to entertain the notion stressed in the brief of counsel of plaintiff in error, we would be driven to the ludicrous declaration that such an interest, as above indicated, disqualifies a judge or juror from sitting in judgment, impartially between the state and the accused. Such a course would deal a disastrous blow to our judicial system."

Far from the statute, 2 C. S. of New Jersey, p. 2467, sec. 537-541, and 2 Cum. Supp. to C. S. of N. J. 1911-1924, sec. 136-1603, sec. 136-1605 (the Home Rule Act), requiring any greater degree of freedom from bias in the trial tribunal than would be required in an ordinary action at law, it is apparent that a *greater* degree of "bias" must, in the nature of things, be permitted.

The provision of the manual of the Police Department of Passaic, referred to page 16 of appellant's brief, can add nothing to the statute so far as this case is concerned, for the rules and

regulations of the Police Department are promulgated by the Commissioner, and the power that promulgates may suspend, and, in any event, the language "fair and impartial hearing," used in the manual of the Police Department, are no broader than the language used in the statute which requires a "fair trial."

The words "fair" and "impartial" must be construed in the light of what is dealt with.

Under ordinary circumstances, policemen, etc. would be entitled to no specific tenure of office; they might be dismissed for any reason, or for no reason by the employing power; in the administration of the affairs of a Police Department it is *essential* that the employing authorities have power to dismiss. The purpose of the statutes, heretofore referred to, is indicated by section 1 of the act of 1885, 2 C. S. of N. J., p. 2467, sec. 537 and sec. 136-1603 of the Home Rule Act, 2 Cum. Supp. to C. S. of N. J. 1911-1924, p. 2153, *i. e.*—"and no person shall be removed from office or employment in any such police department or from the police force of any such municipality *for political reasons,* or for any other cause than incapacity, misconduct, non-residence or disobedience of just rules and regulations established or which may be established for the police force in such municipality."

While it is true that the requisite of a trial upon charges before dismissal imports into the matter a quasi-judicial function, the trial tribunal, established by the statute, which is the authority having the right to hire and to discharge, is, throughout, exercising an *administrative or executive power.* That power, having direct control of the administration of the department and charged with the duty of keep-

ing up the efficiency of the force, which requires that power; to promulgate orders, rules and regulations; to see to it that these orders, rules and regulations are complied with by the members of the force; to institute investigations as to violations; to make charges, if necessary, in case of violations; to see to it that the charges are prosecuted; *could not be expected to be "impartial"* in the sense that a judge in an ordinary action at law, having no connection whatever with the transaction or with the parties, might well be expected to be impartial, and so it was held by the Supreme Court in *Crane* v. *Mayor and Aldermen of Jersey City,* 90 N. J. L. 109, affirmed 92 N. J. L. 248, that where the Commissioner of Public Safety of Jersey City had, in a letter, prior to the trial of the policeman, stated: "This man is constantly reporting sick, and I am convinced that his ailments are only imaginary, with the purpose of shirking his duties. I have stated before in a communication to you that I am determined to drive such men as these out of the department and I only regret that I have not sufficient evidence to place Crane (the prosecutor) before the commissioners on charges, and recommend his dismissal," was not sufficient to disqualify the trial tribunal established by the statute.

And in *Reimer* v. *Freeholders of Essex,* 96 N. J. L., p. 371 and affirmed on the opinion of the Supreme Court, 97 N. J. L. 575, that court said, at page 373—

> "The first and important question to be decided is were the two members of the committee disqualified, under these circumstances, to sit as judges of the facts and law applicable, they having no personal, financial or other interest in the result. *They are not disqualified by the statute,* for

that confers on them as members of the board the right to hear and determine charges of this nature and to dismiss an officer, after hearing upon proof to their satisfaction, sustaining the charges, *so, if they are disqualified, it must be upon the ground that no man can be a judge in his own case.* It cannot be properly said that either of the persons sought to be disqualified were judges in their own case, for they had no personal interest in the result, and would not lose or gain anything because of the result of their action in the premises. The opinion expressed in their report was based on facts ascertained by them which might be changed by the evidence to be taken on a formal hearing, and, as they had no interest but the public welfare, we must assume that such considerations would influence them on final hearing. Most, if not all, of our cases holding voidable any action by a public body because not impartially constituted *rests upon the fact that the participating judge had an interest in the result.* It is not an uncommon proceeding for a public body to refer charges of this character to a committee to ascertain the facts and report, on the coming in of which the whole body may take action, but such a report is not a judicial finding and has no finality. To disqualify every member of a committee serving to ascertain facts for the board which appoints it would seriously interfere with the administration of its public duties. That a superior officer who has expressed dissatisfaction with the conduct of an inferior may sit as his judge on the trial of charges against him, *there being no statutory prohibition,* was held in Crane *v.* Jersey City, 90 N. J. L. 109; affirmed by the Court of Errors and Appeals, 92 N. J. L. 248, and the reasons there given are applicable to this case.''

In *Manyon* v. *Schwarzkopf,* 100 N. J. L. 22, p. 26, the Supreme Court through Trenchard, *J.,* said:

> "But the mere fact that the superintendent, following a preliminary and informal investigation of the altercation, and before the formal charge of insubordination was made against the corporal, *requested the latter's resignation,* did not disqualify the superintendent to sit as judge at the formal hearing of the charge, he being otherwise qualified to sit, as required by the State Police act. Such is the effect of our decision in Reimer *v.* Freeholders of Essex, 96 N. J. L. 371; affirmed 97 N. J. L. 575."

And the Supreme Court in *Crawford* v. *Hendee,* 95 N. J. L. 372 (Parker and Black, *JJ.*), said:

> "It may not be amiss, however, for us to say on the merits that it was proper and legal for the mayor and director to make and file written charges before himself, to fix a day for the hearing, to take testimony of witnesses in support of the charges, but we fail to see how he can legally be a witness before himself sitting as a judge to hear the charges. This principle is conceded by the defendant, but its application is denied. We think the principle announced by this court, viz, a party cannot call a judge as a witness in a cause where the court is held by a single judge and thus destroy the court (State *v.* De Maio, 69 N. J. L. 590; affirmed 70 N. J. L. 220), is a sound one, and it is applicable to the facts as disclosed by the record in this case."

These cases emphasize what the Supreme Court (Swayze, Minturn and Kalisch, *JJ.*) had said in *Crane* v. *Jersey City,* 90 N. J. L. 109, affirmed 92 N. J. L. 248, and clearly, we submit, indicate that no such bias or prejudice as is said to have existed in the case at bar disqualifies a trial tribunal to hear charges against an em-

ployee where that trial tribunal *is the only one authorized by statute to hear the charges.*

The Supreme Court (Scudder and Magie, *JJ.*) said, within a year after the adoption of the statute of 1885, in *Ayers* v. *Newark,* 49 N. J. L. 170, that there was no objection to the Chief of Police making the charges at the direction of the Commissioners, the trial tribunal; and at page 173—

> "A fair trial does not mean that all the formalities shall be observed that are used in the trial of criminals for minor offences in courts or by magistrates. The policeman under charges is not regarded by this statute as a criminal, but a public agent or servant whose efficiency and fitness for the discharge of his duties may be questioned at any time in the interest of the public, and no mere forms tending to chicanery and delay, rather than substantial justice, should be regarded. The purpose of the law is to secure the service of reliable men to preserve the public peace, not to keep inefficient and litigious men in office until all the forms of criminal cases are observed, and every ingenious objection answered."

And the Supreme Court (Trenchard, Kalisch and Katzenbach, *JJ.*) said the same thing in *Reichstein* v. *Turner,* 6 N. J. Misc. 382.

And the Supreme Court also in the Crane case said (90 N. J. L. at p. 113)—

> "The admission of illegal testimony, in cases tried by a special tribunal like the one whose proceedings we are considering, will not have the effect to invalidate the finding of the tribunal, so long as it appears that there is competent testimony in the case to support such finding."

The Supreme Court early took the position that it would not reverse a conviction if the tes-

timony adduced at the hearing offered a rational basis for the judgment (*Reilly* v. *Jersey City,* 64 N. J. L. 508, heard before Gummere, Dixon and Ludlow, *JJ.*), and said—

> "In reviewing the action of a board of police commissioners this court will not weigh the evidence taken before them, for the purpose of reaching an independent conclusion on the question of the guilt or innocence of the prosecutor."

The legislature, fully realizing that the trial tribunal which it had set up for the trial of policemen, being, in effect, the employer of the policemen, could not, in the nature of things, in all cases, be assumed to be without prejudice or bias and to be wholly impartial, and further realizing that, in such a case, a policeman might not receive justice and that he had no remedy because of the position taken by the Supreme Court in the Reilly case, proceeded in 1907 *to give a remedy* by providing that, upon any proceeding in the Supreme Court to review such action, that court shall determine disputed questions of fact, as well as of law and that the testimony taken before the trial tribunal might be returned and be considered (1 Com. Statutes of New Jersey, title "Certiorari," section 11, p. 406), and, since the amendment of the certiorari act, the Supreme Court *has* considered the facts as well as the law.

> *Kelly* v. *Board of Police Commissioners of Jersey City,* 85 N. J. L. 373.

In *Dubelbeiss* v. *West Hoboken,* 81 N. J. L. 98 and 82 N. J. L. 683, Mr. Justice Swayze, sitting for the Supreme Court upon review under this statute, considered the facts and set aside the judgment of conviction and reinstated the prosecutor, and in this court, Mr. Justice Voorhees,

delivering the opinion, 82 N. J. L. 683, at p. 685, held that, irrespective of the amendment of the certiorari act,

> "* * * this court has determined that when the investigation of questions of fact is required for the proper review of ordinances or other municipal proceedings, *the Supreme Court has power by its constitutional jurisdiction to consider such matters of fact,* and that the statute is not the source of the existence of that power."

This, then, is the remedy prescribed by the legislature to correct any errors of judgment which may have been committed by the trial tribunal because of any claimed bias or prejudice, and it is, of course, efficient, for the Supreme Court will, undoubtedly, if properly asked, which it was not in this case, and if satisfied that there has been an opportunity in the trial tribunal for the play of bias or prejudice, examine with great care the evidence sent up and determine, as by the statute it is directed, whether, in fact, a prosecutor has been justly convicted.

This remedy appellant declined to avail himself of.

The matter is wholly within the legislative control. Appellant has no common law right *to any tenure of office.* If the legislature has assumed that all of the substantial rights of a policeman under the statute will be protected by providing for a review by the Supreme Court upon the facts, appellant can ask no more.

Appellant answers this (p. 36) by the assertion that it is a mere conjecture. Whatever it may be, it is based, not upon imagination or guesswork, but upon a consideration of the statutes which we find the legislature has adopted bearing upon the subject. The legislature is assumed

to have knowledge of ordinary human emotions. If we assume *that,* what appellant calls "conjecture" becomes a certainty.

Appellant repeats (p. 36) that, because a commissioner does have connection with the transactions and the parties who would come before him, the legislature intended that there should be a *greater freedom from bias,* than in the case of a judge. If we assume that this was the intent of the legislature, then we must assume that the legislature either had no knowledge of, or deliberately ignored, human emotions.

The legislature, undoubtedly, desired to secure a fair trial for a policeman, but it also desired to leave the discharge of policemen with the appointing and directing authority. It knew that, if it left that power to try upon charges with the employing and directing authority, there were bound to be cases in which the trial tribunal could not be wholly "indifferent." To secure an "indifferent authority," it would be necessary to create a trial tribunal other than the appointing or directing authority. Rather than do this it took the alternative of providing for a review upon the facts by the Supreme Court.

Appellant suggests (p. 52) that it is doubtful whether an act of the legislature would be valid if it were to expressly provide that the commissioner, who was the only one to render judgment in a given case, could render a valid judgment in spite of his bias. Appellant utterly ignores the fact that whatever protection in his office or position appellant has, is a gift of the legislature. Were it not for the tenure of office act, he might be discharged for any reason, or for no reason, and it would be quite immaterial, whether the

discharging power was actuated by bias or improper motives.

Cases from other jurisdictions can have little application here and we will not refer to the many cited and quoted from by the appellant. Many are inapplicable, irrespective of the difference in procedure, as *Packwood* v. *Riley,* 133 N. E. 892.

From a reading of appellant's brief in the Supreme Court, it would appear that the proceedings before the trial tribunal were reversed for bias and prejudice. The fact is that, whatever the court may have said in the course of its deliverance, the proceedings were reversed for trial error.

Packwood v. *Riley,* 133 N. E. 892.

We have already pointed out that the matter alleged for disqualification in the instant case would not be sufficient to disqualify a judge in an ordinary case at law.

In re Hague, 6 N. J. Advance Reports 1771.

33 *Corpus Juris,* title "Judges," p. 998, sec. 150.

15 Ruling Case Law, title "Judges," sec. 18, p. 530.

The most that can be said of the Director of Public Safety is that he did not like appellant, and that, prior to his becoming Director of Public Safety, he was a rival of appellant for the position of Chief of Police, and that he applied terms to appellant which were not at all polite. It is said that he stated that he would "get the prosecutor," but when that statement is taken in connection with the terms which he applied to appellant, impolite as they may be, it is clear

that the view of the Director of Public Safety was that the Chief was not an efficient policeman, and, while the language may be different, the effect of what the Director of Public Safety said is no different from what was said by the Director of Public Safety who tried Crane in *Crane* v. *Jersey City,* 90 N. J. L. 109, affirmed 92 N. J. L. 248.

There is no charge here of any frame-up on the part of the Director of Public Safety or of any bias with respect to the specific charges upon which appellant was tried. With respect to *those* matters the Director of Public Safety had nothing to do and expressed no opinion. His previous knowledge of appellant and of the general conduct of appellant as Chief of Police could not disqualify him—else no director of public safety could ever try any policeman, for, if the Director of Public Safety performs his duty, he *must* have knowledge of the conduct of his officers. It is said that he was actuated by revenge, going back to the time that appellant was appointed Chief of Police, when the Director of Public Safety was a rival candidate. But there is no proof that he was actuated by revenge, and, if there were, it would not disqualify him. Even a judge who has been libelled may sit in a proceeding to punish a contempt based on that libel.

15 Ruling Case Law, title "Judges," sec. 18, p. 531.

Even where a judge is *unquestionably disqualified because of an actual interest* in the subject matter of a cause, nevertheless, he *may sit if there is no other tribunal qualified to hear the case.*

33 Corpus Juris, sec. 130, title "Judges," p. 989.

15 Ruling Case Law, title "Judges," sec. 29, p. 541 and cases cited.

McCoy v. *Handlin,* S. D., 153 N. W. 361, 1915E, L. R. A. 858, in which case the court said (p. 867)—

> "We cannot better close this part of our decision than by quoting the following from the great case of *State ex rel. Cook* v. *Houser,* 122 Wis. 534, 100 N. W. 964, decided in the year 1904. That court said: 'But, going further, and conceding for the moment that the proposition last discussed could, in any event, be resolved in favor of the position of counsel for the plaintiff, we meet at once *the stern rule of necessity, which puts aside all the ground for judicial disqualification,* when otherwise there would be no tribunal whatever to administer any remedy for the grievance waiting for redress. The courts, in treating that rule, will be found generally to have restricted it to the precise case in hand, and yet viewed it broadly enough to fully suffice therefor.' "

Se also *in re Ryers,* 72 N. Y. 1, 28 American Reports 88.

Stahl v. *Board of Supervisors of Ringgold County,* 187 Iowa 1342, 175 N. W. 772, 11 A. L. R. 185.

The Supreme Court recognized the existence of the rule in *Winans* v. *Crane,* 36 N. J. L. 394, and conceded that, in case of necessity, *a man might even be judge in his own case.* It refused to apply the rule in that case upon the ground that there was no imperative necessity. It held that there were three members of the board forming a majority who could act without the interested member. It then *obiter* said that, in

any event, there would be no imperative necessity because the building of the road might well wait "until the legislature provided for the difficulty, or until the disability was removed." What that court said upon this phase of the case was purely *obiter* and the effect of what it held, *i. e.,* that, although a majority of the disinterested commissioners joined in the report, the fact that one interested commissioner likewise joined voided the award, was removed by statute. *Wilson* v. *City of Trenton,* 55 N. J. L. 220 at p. 225.

It is significant that the Supreme Court was dealing with a disqualification due to *interest* and was likewise dealing with a situation where property was being taken as the result of the judgment of the board, in the taking of which the land owners were protected by the due process clause of the *constitution,* whereas, in the case with which we are dealing, there is no interest involved and the appellant is *not* entitled, by any common law right, to hold his office for one minute.

Appellant argues that, in the case at bar, there is no pressing necessity because upon one branch of the charges, to wit, those dealing with the receiving of stolen automobiles, he might be indicted and tried. That is no answer for assuming, for the moment, that the City of Passaic should be compelled to bear with a chief of police, guilty of the conduct of appellant with respect to these stolen automobiles, until he is indicted and tried and convicted, still, after such trial and conviction, he would be entitled, under the tenure of office acts, to a trial before the Director of Public Safety, and, if appellant's contention be correct, he could not even then be dismissed.

Appellant answers this by the suggestion (p. 50) that the conviction of appellant by the criminal courts would establish such an imperative necessity for action that the case would then come within the rule permitting the Commissioner to try him, and that the trial then would be a mere matter of form, because the manual of the Police Department provides, as a ground for removal, "the violating of any criminal law or penal statute."

But appellant argued in the Supreme Court, and at certain stages in his brief argues here, that it is wholly immaterial what kind of evidence there was before the Commissioner. He said in the Supreme Court that it was wholly immaterial "what evidence was adduced against him" (p. 30 of his brief) and he repeats that assertion here (p. 38).

But if it is immaterial upon *this* issue what evidence was before the Commissioner it would seem to be likewise immaterial if, on a future trial, there should be produced a certified copy of a record of conviction of a crime.

While it is true that the manual makes the violation of a criminal law a ground of removal, we can imagine a case of *conviction* of a crime and the Commissioner of Public Safety taking a different view from the judge and jury in the criminal case.

It is further suggested that (p. 48) that the Supreme Court, on certiorari, could only review the judgment of conviction and either affirm it or set it aside but could not review the penalty imposed and that even if appellant was guilty of offenses against the Motor Vehicle Act, still the nature of the offense might be considered and

guilt of that crime would not necessarily mean dismissal from the force.

But in arguing against the suggestion that, if his contention be correct, no matter what crime appellant may be convicted of, he could not be tried before the Commissioner or before anyone else, appellant says that, if he had been convicted, he *might* be tried before the Commissioner because the trial would be but a matter of form "and a fair trial would then necessitate no element of independent judgment on the part of the Commissioner, either as to the conclusion upon the facts or as to degree of punishment" (p. 50).

We cannot understand the argument. In one breath appellant says that, in the instant case, if, on the facts, he is guilty of a violation of the Motor Vehicle Act, which is a crime, the Commissioner need not dismiss him, and, therefore, although guilty of that crime, he is entitled to a fair, impartial trial, and in the other breath, he says that if he had been *convicted* of *a* crime, which might include *this* crime, then the biased Commissioner might try him, because he could not exercise any independent judgment either upon the facts or the degree of punishment.

It is conceded that there is no other tribunal which can try the matter of appellant's compliance or non-compliance with the Motor Vehicle Law, but it is said, "no argument is needed to convince that no imperative necessity, to prevent a failure of justice, exists, which would justify waiving Commissioner Turner's disqualifications" (p. 48).

This means that, because of the supposed lack of a tribunal qualified to try the Chief of Police, the City of Passaic must bear with a chief of po-

lice sworn to enforce the law, who has resorted to obtaining licenses for his cars by permitting the presentation of applications apparently, but not in fact, signed and sworn to by him, a chief who, if his own story be correct, signed applications without swearing to them, knowing that they were to be taken to an officer who would certify that they *had* been sworn to before him, when, in fact, they had not. For his conduct see the judgment of the Commissioner, p. 41, etc., and the charges and specifications having to do with the violation of the Motor Vehicle Act, p. 14, etc.

Appellant does not refer to his admitted conduct in, while occupying the office of chief of police, purchasing automobiles and re-selling them, one at least to one of his subordinates, all at a profit, and all being stolen cars.

Appellant suggests that there is no imperative necessity because (p. 51) "* * * if Commissioner Turner's judgment is unreversed the prospect of legislative action is slight, and the like situation will arise again and again and men will have to stand trial, before a Commissioner, bitterly hostile, prejudiced and biased. The reversal of Commissioner Turner's judgment of dismissal, even though no other tribunal exists which can try the charges, is likely to focus legislative attention upon the situation and to afford relief by providing that other commissioners in the alternative shall try such charges as in the case at bar."

Prospective legislative action is no answer to the rule of necessity but, if it were, it appears from the history of the legislation upon the subject of tenure of office of policemen that the legislature *had* in mind the fact that there might be cases where the trial tribunal, which it had set

up, would be bitterly hostile, prejudiced and biased. It must be assumed to have known of that likelihood when it created as the trying tribunal the appointing and directing authority. *The legislature has already provided a remedy for that situation by the amendment to the certiorari act which authorizes the Supreme Court to review both the facts and the law.*

Nor is it the function of the court to act in a particular matter so as to *force* legislative action. Suppose after the court spoke, the legislature still did nothing. What would the court do with the next case which came up?

The words "fair trial," as used in the statute, must, in the light of the facts with which the legislature had to deal, be construed to mean a trial which, in its conduct, is fair and no argument is made that the trial, as such, was unfair. It is true that appellant complains because all 150 of his objections were overruled, but he does not point out one erroneously overruled nor did appellant suggest in the Supreme Court that he was not properly convicted upon the evidence in the case.

A similar charge of bias was made in *Reichstein* v. *Turner*, 6 N. J. Misc. 382 (the same Director of Public Safety), (Trenchard, Kalisch and Katzenbach, *JJ.*) and the Supreme Court said (p. 383)—

> "The first point made by the accused is that the director of public safety conducted an investigation, and not a trial, as required by the statute, and that he allowed incompetent evidence to be introduced and showed bias and prejudice, and that the prosecutor did not receive a fair trial.
>
> "But the fact that the director, during the course of the proceeding, referred to it casually as an 'investigation' is of no moment."

And it then quoted the definition of a fair trial in cases of this kind as stated in *Ayres* v. *Newark,* 49 N. J. L. 170. It considered the testimony and held that the conviction was warranted.

The record in the Reichstein case indicates what that court did *not* treat evidence of bias or prejudice. Among other things, during the trial Commissioner Turner interrupted to explain that he had instructed Captain Monks—

> "To investigate this matter and interview these witnesses, and that is how the matter came to a head, and which I, as Director of Public Safety had a perfect right to do (S. S. p. 45, ll. 5-12)."

And he also said during the course of the trial to counsel for the policeman:

> "We are not conducting a trial; we are conducting an investigation in the police department and I refuse your request. The record will stand (S. C. p. 45, ll. 16-20)."

And, again:

> "Commissioner Turner: I told you before, what matter does it make; we are here conducting this as an investigation, but in order to satisfy you, I will overrule the objection.
>
> "Mr. Unger: This man is entitled to a legal trial, and if you allow everything, I might as well step out of the case.
>
> "Commissioner Turner: I told you I overrule your objection."

And, again:

> "Mr. Unger: I object to questions being asked by the Commissioner. I should say that at this stage of the proceeding that any question which is propounded to him (interruption)—
>
> Commissioner Turner: You opened the door for it, and as long as you opened the door, I have a right to come in as well as you. I told you I wanted all the facts in this case."

And, again:

> Commissioner Turner: From the Director of Public Safety standpoint, you say it has no bearing?
>
> Mr. Unger: It has no legal bearing.
>
> Commissioner: How am I to judge, if I don't know about these things?
>
> Mr. Unger: I have not been apprised of any other charge except the two contained in the complaint.
>
> Commissioner Turner: Strike it from the evidence, but I know it just the same."

And, again:

> "Exercising my judicial power, I will strike the objectionable matter to satisfy you as counsel for the prosecutor, but it is in my mind just the same and will be considered in arriving at my decision."

And, again:

> "Commissioner Turner: With all that you have said in this matter, I am going to admit it. I could just as easily refuse, but I am going to admit it. What difference does it make whether this man was convicted of keeping a disorderly house?
>
> Mr. Unger: I understand this conviction of him having conducted a disorderly house is admitted?
>
> Commissioner Turner: Yes, if you want it, let it in."

This occurred during the course of the trial and yet the Supreme Court declined to treat it as indicating bias or prejudice sufficient to disqualify the Director of Public Safety.

CONCLUSION.

The matter of bias is one, perhaps, of mixed fact and law. This court will not review the judgment of the Supreme Court on the facts with respect to the merits or bias. The Supreme Court, in the instant case, on the facts, has found that there was no bias sufficient to disqualify and that appellant has had a fair and impartial trial within the meaning of the statute and it, *ex gratia,* examined the testimony for the purpose of determining whether there was evidence justifying conviction and it found that there was.

It is respectfully submitted that the judgment of the Supreme Court should be affirmed and that the City of Passaic should not be put in the position of being obliged to have its Police Department headed by a chief such as appellant, even if he be guilty only of so much of the incriminatory matter alleged against him as, on his cross examination, he conceded (p. 407, etc.), for that is what a reversal would mean, for there is no other tribunal who could try appellant.

Respectfully submitted,

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