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CASE # 3071

COURT OF GENERAL SESSIONS OF THE PEACE

City and County of New York, Part VI.

3654

THE PEOPLE OF THE STATE OF NEW YORK:

-against-

MEYER MILLER

:
: Before
:

HON. JOSEPH F. MULQUEEN,

Judge

: and a Jury.
:
:-----

New York, December 19, 1921.

The defendant is indicted for grand larceny in the
first degree and receiving in the first degree.

Indictment filed November 2,, 1921.

A p p e a r a n c e s:

For the People: ASSISTANT DISTRICT ATTORNEY PECORA.

For Defendant: A. YARCHOVER, ESQ. (Mr. McGrath, of Counsel.)

A jury is duly impanelled and sworn.

Mr. Pecora opens the case to the jury as follows:

MR. PECORA: May it please the Court, Mr. Foreman and gentlemen of the jury, you undoubtedly have in mind from the questions that were asked you by both Mr. McGrath and myself respecting your qualifications as jurors in this case, at least a general idea of this case.

The indictment against this defendant and his co-defendants was filed on November 2, 1921. This indictment charged this and the other defendants upon the first count

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with the crime of grand larceny in the first degree, alleged to have been committed on October 20, 1921, and upon the second count with the crime of criminally receiving stolen property in the first degree, alleged to have been committed at the same time or on the same day.

We will show you by competent proofs the facts underlying this indictment. Then outlining those facts, I will state briefly as follows: The property set forth in the indictment as the subject of the larceny and as having been criminally received by the defendant was a Ford sedan automobile of the value of about \$900, which on October 20, 1921, and for some time prior was owned by a man named J. Hendrick Noble, who resides in Yonkers. On the evening of that day Mr. Noble brought his car to a place on 59th Street, Borough of Manhattan, County of New York, and left it on the curb, or alongside of the curb, at a point on the street. On returning to the point where he had left his automobile a short while thereafter, the automobile was missing. He reported the matter to the police. That automobile was found the following day, October 21st, in the possession of the defendant Walter Vogelsang, who conducted a garage and transacted business in secondhand automobiles out in the Borough of Brooklyn, in the section known as East New York.

We will show you that that automobile of Mr. Noble's

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was sold to Vogelsang on that date, Friday, October 21st, by Meyer Miller, the defendant now on trial.

We will show you that before its delivery to Walter Vogelsang certain alterations were made in this car for the purpose of disguising its appearance, - that those alterations were made by Bennie Miller, a brother of this defendant, and by Andrew Schmitt, who was jointly indicted with this defendant, and at the direction of this defendant Meyer Miller, in a garage owned, controlled and operated by this defendant, Meyer Miller; that those alterations on Mr. Noble's car were made on the morning of Friday, October 21st, the morning following the larceny of the car from Mr. Noble. Those alterations consisted of the removal of the handles of the doors of this car, which had locks, and their replacement with other handles. Also by the removal of the so-called Decker wheel, a patented steering wheel that is usually found on Ford automobiles, and its replacement with another wheel. Also by the removal of the bumper and fenders on the car and their replacement with other bumpers and fenders.

We will show you that Andrew Schmitt, one of the defendants who helped in this work of altering the car and who has pleaded guilty to one of the indictments under the indictment, namely the count charging criminally receiving stolen property, and who will testify as a witness for the

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People, had known this defendant Meyer Miller for some time prior to October 21, 1921. That some time in the month of September, 1921 he had a conversation with the defendant Meyer Miller in the course of which the defendant asked Schmitt to go to work for him, Schmitt being a sort of mechanical operator; he was a mechanic and he knew something about automobiles. The arrangement that Schmitt made with Meyer Miller sometime in September, 1921, to work for him was somewhat as follows: Schmitt on each morning was to call up Meyer Miller at his home and ask him if there was any work for him to do. And if Meyer Miller said yes, Schmitt would go to the place or places indicated by Meyer Miller and do whatever work Meyer Miller asked him to do and would pay him for the work actually done. He was not a salaried employee but was paid on a piecework basis, it might be said.

We will show you that Meyer Miller controlled and conducted two so-called portable garages up on Lenox Avenue around 146th Street, I believe it was, these galvanized iron or tin garages that are easily transported and taken down.

We will show you that on the morning of Friday, October 31st, Andrew Schmitt, in pursuance to his general arrangement with Meyer Miller, called up Meyer Miller and asked him if there was any work for him to do that day, that Meyer Miller in reply told him to go to these garages

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at 146th Street and Lenox Avenue, these two portable garages, and there meeting the defendant's brother, Bennie Miller, and there do the work of making some alterations and changes to the car that he would find in one of those two garages, and to await him there. Andrew Schmitt went up to that place around 146th Street and Lenox Avenue and met Bennie Miller, the defendant's brother, and together they proceeded to these two garages and entered one of them and there for the first time Andrew Schmitt saw the car which we will prove to you was the car which had been stolen the night before from Mr. Noble on 59th Street. Andrew Schmitt on entering the garage then proceeded in that garage to make the changes to that car that I have already described and which consisted of the removal and replacement of the handles to the doors, the fenders and bumpers and the wheels.

We will show you that during the morning of October 21st the defendant Meyer Miller came along to that garage and shortly thereafter the defendant Walter Vogelsang came along from his place in Brooklyn, accompanied by a chauffeur named Walter Kabel. That pursuant to Meyer Miller's direction this automobile of Mr. Noble's was taken out of the garage at 146th Street and Lenox Avenue and brought down to 144th Street, where Vogelsang was waiting with Meyer Miller and where that car was turned over by Meyer

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Miller to Vogelsang and driven away to Vogelsang's garage in East New York by Walter Kabel, who was brought along by Vogelsang as a chauffeur. We will show you that it was found in Vogelsang's garage in East New York during the evening or late afternoon of the same day, Friday, October 21st by police officers Begley, Shields and Horan.

We will show you that on the same day, Friday, October 21st, Andrew SCHMITT, at the direction of Meyer Miller, took out another Ford sedan car which was found in the garage there and which was seen by Schmitt there for the first time on that day, -- that certain changes were made to that car.

MR. McGRATH: I object to that, - about another car not mentioned in this indictment.

THE COURT: How is that pertinent?

MR. PECORA: For the purpose of proving scienta. We will prove similar transactions as between the defendants here. There is a count in this indictment charging criminally receiving stolen property.

THE COURT: I will allow transactions with the same thief or same receiver, if that is what you wish to show.

MR. PECORA (Continuing): Well, I will amend my statement to the jury then and say this: We will show you that during the late afternoon or during the afternoon of that same day, Friday, October 21st, Andrew Schmitt, at the re-

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quest or direction of Meyer Miller, drove another Ford sedan car, --

MR. McGRATH: I object, and I ask that all reference to any other car but the one in the indictment be omitted from the opening.

MR. PECORA: I propose to show the circumstances under which the police at the time they arrested the defendants found them in Vogelsang's place in East New York.

MR. McGRATH: That is incompetent. The fact that they went there is sufficient, - not how they came to go there.

THE COURT: You can only prove one crime under this indictment.

MR. PECORA: It is merely the circumstances of their presence there.

MR. McGRATH: I object, if counsel persists in that.

MR. PECORA (Continuing): Well, we will show you that Schmitt, at the direction of the defendant Meyer Miller on the afternoon of October 21st, followed Meyer Miller over to this garage of Walter Vogelsang in East New York and he was told by Meyer Miller to stop about a block away from Vogelsang's garage with the car which Schmitt was driving, a Ford car. Miller went over with a Cadillac car which he was driving.

MR. McGRATH: I object to that again.

THE COURT: I have ruled plainly that you cannot prove

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any other crime. All this talk about driving other cars merely tends to prejudice the rights of the defendant, and I will have to dismiss this case if you persist. Anything that he did with the car in this transaction you may prove, but please omit any reference to any other car.

MR. PECORA: Well, we will prove that Meyer Miller on the afternoon of Friday, October 21st, went to Vogelsang's garage, that he was followed there by Andrew Schmitt, that Meyer Miller was in Vogelsang's garage with Vogelsang and that Officers Begley and Shields entered that garage and that while the officers were there Andrew Schmitt walked in, into the room where the defendant Vogelsang and the defendant Meyer Miller were located; that when Andrew Schmitt came in the room Meyer Miller made a motion like this to him, placing his finger on his lips and shaking his head (indicating). That Meyer Miller was asked by the police officers if he knew Schmitt. He denied knowing him. Schmitt was asked in the presence of Meyer Miller if he knew Meyer Miller and Vogelsang and he denied knowing them. The men were taken in custody, and upon the person of Meyer Miller were found a key which upon investigation was found to open the locks of these two garages at 146th Street and Lenox Avenue where knobs for the automobile doors were found that morning by Andrew Schmitt and upon which he did some work on the car, as I have described it to you, at the direction of this defendant.

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We will show you that the officers went up to that garage, and on the floor of the garage they found the handles which had been removed that morning from Mr. Noble's car. They found the other parts which had been removed that morning from Noble's car and which we will put in evidence here.

The automobile was found in Vogelsang's possession at the time the police got there on the afternoon or early evening of October 21st and it was identified by Mr. Noble as being the automobile which was stolen from him on the evening of Thursday, October 20th, from the place on 59th Street where he left it standing for a short while. He identified it in a manner which he will describe, despite the altered handles, fenders and other parts which I have mentioned, and we will show you that in the garage at the time the police also found certain apparatus which was used for the purpose of changing motor numbers.

MR. McGRATH: I object to this as a conclusion.

MR. PECORA: We will prove that it actually was used for that purpose.

THE COURT: Was it used on this particular car?

MR. PECORA: Not this particular apparatus.

MR. McGRATH: Then I move to strike it out.

THE COURT: Strike it out. You will have to confine your proof to this particular car.

MR. PECORA: Well, we will prove, then, under the Court's

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ruling only as to the finding in that garage of the parts which had been removed that morning from Mr. Noble's Ford sedan. We will prove these facts by proof that I am satisfied is strictly competent and legal, and I am further satisfied, gentlemen, that from the facts which I have outlined you will be convinced beyond a reasonable doubt that this car of Mr. Noble's was in the possession of the defendant Meyer Miller, and was disposed of by him to Vogelsang under circumstances justifying the inference either that he himself stole the car from Noble the night before, or that when it came into his possession it came into his possession under circumstances charging him with knowledge of the fact that it was a stolen car, and that he dealt with it as a stolen car, and we will ask you for a verdict of conviction upon either of these two counts after presenting our case to you.

MR. McGRATH: I move to dismiss the indictment upon the District Attorney's opening. It appears here by statements he has made that all these statements emanated from men under indictment for the same crime, coupled only with the finding of a few knobs at this garage, which is an article well known and patent to this car and can be bought in the open market. No identifying marks are alleged which would connect the finding of those particular knobs with this car. Every statement made throughout the

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entire opening is not that kind of corroboration which the law requires in a matter of grand larceny in the first degree, and I also move to dismiss on the prejudicial remarks made.

Motion denied. Exception.

THE COURT: I do not believe any prejudicial remarks were made. The Court has directed Mr. Pecora to confine his statements to proof as to this particular transaction and he will be held to that in presenting the People's case.

KENDRICK NOBLE, of 431 North Broadway, Yonkers, New York, a witness called on behalf of the People, having been duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. PECORA:

Q Mr. Nobel, where were you living on the 20th of October, 1921? A At the same address.

Q On that day were you in possession of an automobile?

A Yes sir.

Q Were you the owner of that automobile? A Yes sir.

Q When had you acquired it? A October 8th, the same year, 1921.

Q What kind of an automobile was it? A A Ford sedan.

Q Did you purchase it new or secondhand? A New.

Q From whom did you purchase it? A McMillan Motor Corporation, Yonkers.

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Q How much did you pay for it?

MR. McGRATH: I object; that is no evidence of the value of the car on the date named in the indictment.

Objection overruled. Exception.

A I am buying it on the instalment plan. It will amount to a little over \$900.

Q What was the cash price of it? A Approximately \$900.

Q On the 20th of October last were you driving that car in the County of New York anywhere? A Yes sir.

Q Where did you last leave it on that day? A Central Park South.

Q At what point along Central Park South? A Between 7th Avenue and Broadway.

Q Did you leave the car unattended at that point?

A Why, I left it unattended, but as I left the car a man came up to me and asked me could he look after the car.

Q Do not tell what somebody told you; did you leave it unattended? A Yes sir.

Q Did anyone come up and talk to you before you left it unattended? A Yes.

Q Did you know who that was? A No sir.

Q Had you ever seen that person before? A No sir.

Q And have you seen him since? A No sir.

Q Where did you go when you left the car unattended on the street? A To the Al Jolson Theater.

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Q What hour was it when you left your automobile unattended on Central Park South? A About twenty-five minutes after eight in the evening.

Q When did you next return to the place where you had left your automobile? A About eleven o'clock.

Q Was that after a theatrical performance? A Yes sir.

Q Did you see your automobile then? A No sir.

Q Did you see it anywhere in sight? A No sir.

Q Had you given anybody permission to take it away anywhere? A No sir.

Q What kind of driving wheel was on this car at the time you left it on the street? A A special Decker wheel.

Q Will you tell the jury the characteristics of that Decker wheel; what is it used for? A The Decker wheel is a steering wheel that is supposed to be thief-proof; where they use a key. When you take the key out the wheel will turn around sharp, preventing the car from being driven off, because the wheel will not then steer the driving wheel.

Q Well, did you lock that wheel at the time you left the car unattended and went to the theater? A Yes.

Q Did you report the disappearance of the automobile to the police? A Yes sir.

Q When did you see it again after that, if at all? A On Monday next, October 23rd, --

Q You mean Monday, the 24th of October? A Yes sir, the 24th.

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Q Where did you see it? A In front of the West 128th Street police station, in the possession of the police.

Q Did you recognize your car as the car which you had left on Central Park South on the evening of October 20th?

A Yes sir.

Q How did you recognize it? A I had various identification marks. For instance, I left this car in front of a school in the Bronx and a child had scratched his name on the side of the car, so as to prove conclusively it was my car.

MR. McGRATH: I object to that last remark.

THE COURT: Strike it out.

Q Did you see that name as thus scratched in the body of your car when you saw it in the possession of the police?

A Yes.

Q That had been scratched in how long before October 20th?

A Approximately ten days.

Q And on what part of the car was it? A On the right front part.

Q Do you recall whether or not the doors to the body of the car had handles on them while the car was in your possession? A Yes, it did.

Q Do you know the kind of handles? A I could not tell you the make; they were special handles, that were supposed when they were locked, to prevent the car from being stolen.

Q Those handles had an arrangement for locking them? A Yes.

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Q When you saw the car the following Monday in the possession of the police did you see those same handles on the car?

A No sir.

Q What kind of handles were on the car then? A Ordinary Ford handles.

Q Do you recall the motor number of the car? A Yes sir, I have the license in my pocket. (After looking at paper.) 5,420, 280.

Q That was the motor number, was it? A Yes sir.

BY THE COURT:

Q What do you mean by motor number; explain that to the jury? A The number on the motor.

Q What part of the motor? A On the left front side, on the left side of the motor.

Q Was the motor aluminum, or what? A Presumably the motor is of iron. It has a stamp right in the iron, the left hand side, which was marked in with a metallic die.

BY MR. PECORA:

Q When you saw the car in the possession of the police on the Monday following October 20th last, did you see the motor number? A Yes sir.

Q Did it correspond to the number as it was on the engine? A No sir.

Q When it was in your possession last? A No sir.

Q Do you know what the changed number was? A Yes sir.

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Q What was it; what was the number you saw on the engine of that car? A 5,298,302.

BY THE COURT:

Q Where was that number? A That number was in exactly the same place as the other one.

Q How could that be? A Presumably one was filed off and the other one stamped in. The part behind it was a little brighter than the rest, evidently showing, --

MR. McGRATH: I object to that.

Q Please answer questions. A I am trying to.

Q And do not answer me back. When I ask a question or counsel asks a question, just answer it politely.

BY MR. PECORA:

Q Did you see any physical signs on the motor at the place where the number was, that you originally had on the engine, at the time you saw that car in the possession of the police on the Monday following October 20th? A It was slightly brighter than the rest of the motor.

Objected to. Objection overruled.

Q Was that automobile returned to you by the police at any time after that Monday?

BY THE COURT:

Q Were there any other marks on it by which you could tell it was yours? A Yes.

THE COURT: The identification must be established

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to my satisfaction. I do not regard that as any proof

of any change, - that is only his opinion.

BY MR. PECORA:

Q Were there any other marks of identification by which you recognized the car on that Monday when it was in the possession of the police? A It had the same type of speedometer and approximately the same number of miles when I left it. Then the right rear mudguard was slightly bent in. An automobile had hit me about a week before, bending in that mudguard.

Q Did you find the same indentation on the mudguard when you saw it that Monday? A Yes sir, and I had a special oil gauge on the right running board, which also was there, and the other equipment on the car, such as the little lamp on the dash was also there.

Q Anything else? A I do not recall anything right now.

Q What was the number on the car, on the body of the car; did you know the number on the body of the car when you bought it? A I do not think the Ford has any body number.

Q Do you know of any such number; you never saw any?

A No sir.

Q What was the number of the license plate borne by that car on October 20th? A 775,316.

Q What was the license plate number, if any, on the car on that Monday when it was in the possession of the police?

A A different one.

Q Do you know the number? A No sir.

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Q You recall it was different from the license number you had on the car? A Yes sir.

Q Was that car returned to your possession by the police at any time? A Yes.

Q When? A Approximately November 7th of this year.

Q And where is it now? A At my home; still in my possession.

Q I show you these two articles and ask you if you recognize them? A Yes sir.

Q What are they? A Handles of the door of the Ford sedan.

Q Do you recognize the handles? A They were the same type as I had on my car.

MR. MCGRATH: I move to strike it out, unless he can be sure they are the identical ones.

THE COURT: Strike it out.

Q Are you able to tell us whether or not those two handles which I have shown you, are the handles that were on the doors of your Ford sedan when you took it out on October 20th last, at the time you missed it?

A Yes.

Q How can you tell? A They are the same number as my key.

Q Have you the key in your possession now? A Yes sir.

Q And has it been in your possession ever since you bought the car? A Yes.

Q What is the number of the key to the handles; please fit the key to these handles and tell us if they open? A This

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has to be in a certain position before you can open the handle.

Q You have to be in a certain position? A Yes. This has to be up in line (indicating). These points have to be in line with the point there.

Q Do the numbers on those handles correspond with the number of your key? A Yes sir.

Q Give us the number? A 4687.

MR. PECORA: I offer the handles for identification.

(Handles marked People's Exhibit 1 for Identification.)

Q Will you produce the key that has been in your possession since you bought the automobile and which you say is the key to those handles? A Here it is.

MR. PECORA: I ask to have that marked for identification.

(Key to knobs marked People's Exhibit 2 for Identification.)

Q Now, you know this defendant Meyer Miller? A No sir.

Q Do you know anybody named Bennie Miller? A No sir.

Q Or Andrew Schmitt? A No sir.

Q Or Walter Vogelsang? A No sir.

Q Or Walter Kabel? A No sir.

Q Did you ever give any of those persons permission to take your automobile on October 20th last or at any other time? A No sir.

Q Did you give your car on that day to anybody? A No sir.

Q Or at any other time? A No sir.

MR. PECORA: That is all; you may examine.

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CROSS-EXAMINATION BY MR. McGRATH:

Q You say you paid \$900 for this car? A I will have.

Q How much did you pay for the car itself? A Already?

Q You made a contract of some kind; how much was that?

A Approximately \$900.

Q Do you mean to tell me that on October 8th the price of this car was \$900? A With the various additions.

Q Well, of the car alone, without the additions? A No sir, the car alone, f.o.b. Detroit, is \$660.

Q And you have added in the insurance, haven't you? A Yes.

Q And how much else have you added in, - interest on unpaid instalments? A No sir.

Q How much did your car cost? A It will cost me \$900.

Q The price of the car without any additions? A It amounts to \$727, including freight from Detroit to New York.

Q How much was it worth in Detroit, without freight, on that day? A \$660.

THE COURT: He is entitled to have the fair market value in New York. If the purchaser has to pay the freight that is to be added, of course.

Q Now how far did you run this car? A Approximately 500.

Q And you dumped one of the mudguards, you say? A Yes.

Q What else had you done to it? A I had not done anything.

Q In your opinion, do you know what the value of it was

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on October 20th? A Approximately the same price.

Q The fact that it had been run 500 miles and had been used for twelve days did not enter into your calculations?

A If you buy it secondhand you certainly will not pay the original price.

Q What would you pay, about \$400? A To me it was worth the same price as when I bought.

Q Did you ever try to buy any automobiles secondhand?

THE COURT: I will tell the jury it was worth under \$500 and more than \$50, so that will save you the time asking about that.

MR. McGRATH: Thank you.

Q Where did you buy these knobs, People's Exhibit 1 for Identification? A They came with the Ford. I bought it in addition to the Ford and it came at the same time I took the Ford.

Q Did you order this directly? A Yes sir.

Q But you knew they were on other Fords? A They probably have been put on other Fords.

Q You knew they were in use on Fords? A I don't know.

Q They are in use, a great number of them? A I never seen any others.

Q Don't you think you could duplicate them in the open market? A You could.

Q Exactly like that? A Yes sir.

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BY THE COURT:

Q With the same number? A No sir.

BY MR. McGRATH:

Q You never saw another pair? A No sir.

Q Then you don't know whether they have that number or any other number? A I asked about them at the time.

Q You asked about that particular lock? A Yes.

Q Where did you ask about it? A At the McMillan Motor Corporation.

Q And that is the place where you bought them? A Yes.

Q Did they tell you how they buy the keys for these particular locks? A No.

Q They did not tell you that they run in series? A Yes.

Q And in case of loss you can replace the key? A They did not say. You probably can replace the keys.

Q How do you replace them, by merely taking the number; they run in series? A Very likely.

Q The first hundred knobs take a certain number and the next hundred take another number, isn't that correct? A I don't know.

Q And then they alternate the keys after; that is, there is more than one lock that can be opened by the same key? A I don't think so.

Q Under the series? A I don't think so.

Q But you do not know? A No sir.

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Q Now, when you went to the police station to make your report did you tell them about the special locks that were on the car? A Yes.

Q And did you tell them about anything else? A I told them about the Decker wheel.

Q What else did you tell them? A I don't remember.

Q Just what other description did you make of that car outside of the knobs on the door, the wheel, the fender, --

A The oil gauge on the side.

Q Well, other Fords have oil gauges? A Yes.

Q What else did you tell them? A THE speedometer.

Q Nearly every Ford has a speedometer? A They do not all have the standard speedometer, the way I had.

Q The Standard speedometer is made by whom? A The Standard Speedometer Company.

Q This was the only one Standard made? A No sir.

Q You know that they can be bought in the open market?

A Yes.

Q What else did you describe? A They had approximately about the same mileage. They would not all have approximately 500 miles.

Q No other Ford can be run 500 miles, is that it?

A It could.

Q Not considering how much it may have been driven by whomever took it? A No. It was about some 40 miles more

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than when I was driving it.

Q Now what other description did you give of that car; you gave the motor number? A Yes.

Q And you did not give the body number? A No sir.

Q Did you give the license number? A Yes sir.

Q Now outside of that you did not give any other thing?

A I don't remember.

Q Have you given us a fuller description of it than you gave the police when you lost it? A I gave approximately the same.

Q When you saw that car who told you to look at the car?

A I saw it standing there.

Q What did you see? A I saw cars.

Q Several cars, and you went and looked at one; you went to 126th Street? A 128th Street police station.

Q When you went there did you immediately recognize that as your car? A No sir.

Q When did you realize it was your car? A When I went into the rear of the station and saw my handles and Decker wheel.

Q Then it was simply by the handles you recognized the car? A No sir. I was looking for the handles and wheel on my car. That is the first proof I was looking for.

Q And you did not find them? A No sir.

Q But seeing these particular handles and wheel in the back of the station house, that convinced you that it was your

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car? A No sir; I then went and looked for my car more carefully. I looked for the oil gauge which was next seen and I saw the oil gauge on two of the cars and eliminated one because it did not have certain characteristics, and the other one which I saw had these various characteristics I have mentioned.

Q But the main point was that it was the handles that convinced you? A No sir.

Q Couldn't these handles have come off any of these Fords that happened to be around there? A Yes.

THE COURT: That is for the jury to determine.

Q Then the number was different? A Yes sir.

Q That is, the number on the car that you claim was yours, the motor number was different; in other words, none of those cars had your number? A No.

Q And every number was in there just as it comes from the factory? A I could not say. It looked very good.

Q Didn't you take the trouble to look under the cowl to see if there was any number there? A No.

Q Don't you know every Ford has a body number? A I did not know it.

Q You never knew that? A No sir.

Q Is this the first car you ever owned? A The first Ford.

Q And you are insured? A Yes sir.

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Q And have you received any allowance on account of the missing articles? A No.

Q Do you expect to receive any? A I hope so.

Q And you are anxious to establish the fact that this is your car and that it sustained these losses? A Yes.

Q Did you ever talk with Barney Dietsches about this case? A No.

Q Did you see any detective by the name of Barney Dietsches? A No sir.

Q Now, did you ever see this defendant in your life before? A No sir.

Q You did not see him anywheres around on the night the car was stolen? A No sir.

BY THE COURT:

Q In speaking to Mr. Pecora you said there was a name scratched on that car. In answer to Mr. McGrath as to the way you identified your car you did not mention that name at all. Did that weigh with you in identifying the car?

A Yes sir, that was very important.

Q Why did you not tell Mr. McGrath that when he asked you to tell him the ways in which you identified your car?

A I should have mentioned it, sir.

Q It did have some bearing on the matter? A Yes sir, very important.

Q What was the name? A It was a name quite illegible. It looked very much like Smith, but a child scrawled it while

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the car was in front of a school, and I mentioned this fact to the McMillan Motor Corporation previously because I wanted it painted over.

Q Did you tell it to the police when you went up there?

A Yes.

BY MR. McGRATH:

Q Did you tell the police that "Smith" was on your car at the time it was stolen? A I said a name had been scratched on.

Q Did you know at that time what the name was? A It was not very legible.

Q It did not happen that the police called your attention to it at first? A No sir.

Q Did they show you the Ford car there with that name on? A No sir; you could not read the name Smith.

Q The police did not make any marks on the car so that they could identify different cars? A No.

Q The fact that there was a defendant here named Smith had nothing to do with Smith being on there? A No sir, it was not plain. It was scratched on and you could not tell what name it was.

Q It looked like SMith to you? A Something of the same idea.

Q And you cannot tell us what it was? A No sir.

Q It was just a couple of scratches? A Not the way you describe it.

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BY MR. PECORA:

Q When you saw the car in the possession of the police did it have the same Decker wheel on it that it had when you missed it on the 20th of October last? A No sir.

Q What kind of a wheel was on it? A Ordinary Ford wheel.

Q Not the Decker wheel? A No sir.

BY THE COURT:

Q The Decker wheel is a common article, is it not?

A Yes sir.

Q There are thousands of them? A Yes sir.

Q Anyone can buy them? A Yes sir.

Q How did you distinguish your Decker wheel from all the other Decker wheels? A There is a number on that.

Q What was the number? A The number is 966.

Q Have you ever seen that since? A Yes sir.

Q You have seen the wheel where? A I got it from the police station. Here is the key for it (showing key).

BY MR. PECORA:

Q Have you the key of that Decker wheel still in your possession? A Yes sir.

Q Will you produce it, please? A Here it is (producing).

Q Does it bear the number 966? A Yes sir.

MR. PECORA: I ask to have it marked for identification.

(Key marked People's Exhibit 3 for Identification.)

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Q Is that Decker wheel in your possession now? A Yes.

Q Can you produce it? A It is mounted on the car.

Q You can produce the car, can you? A Yes sir.

MR. PECORA: That is all.

THE COURT: I think we will take a recess now. Gentlemen of the jury, the Court will excuse you now until 2.10 P.M. In the meanwhile remember that you must not discuss this case with any stranger nor talk about it among yourselves. This is not the time for you to form or to express any opinion. You must wait until you hear all the evidence on both sides and then if the Court submits the case to you then is the time to decide it and not before that. So please come back at 2.10 P.M.

R e c e s s .

A f t e r n o o n S e s s i o n .

Trial continued at 2.10 P.M.

ANDREW SCHMITT, of 922 Bryant Avenue, Bronx, a witness called on behalf of the People, having been duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. PECORA:

Q Are you the same man, Andrew Schmitt, who was jointly indicted with this defendant, Meyer Miller, and Walter Fogle-sang and Walter Kabel and one Bennie Miller, on November 2,

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1921? A Yes sir.

Q Did you plead guilty to that indictment this morning in this court on the charge of criminally receiving stolen property in the first degree? A Yes sir.

Q And you are now awaiting the disposition of your case under your plea, by this Court? A Yes sir.

Q Were any promises or inducements of any kind made or offered to you by anybody, in consideration of your plea?

A No sir.

Q And has anybody made you any promises or offers or inducements of any kind in consideration of your testifying in this case against the defendant Meyer Miller? A No sir.

Q You are testifying freely and voluntarily? A Yes sir.

Q Now Schmitt, how long have you known this defendant Meyer Miller? A About two years, I think; around two years.

Q Were you ever in his employ? A Yes sir.

Q When did you first commence to work for him? A A month before the arrest, about; probably a little longer. Probably five weeks before the arrest.

Q By the arrest, what date do you mean? A 21st of October, 1921.

Q That is the day you were arrested on this charge? A Yes.

Q And you first went to work for him about five weeks before that? A Yes.

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Q Sometime in September last? A Yes sir.

Q Did you have any conversation with the defendant at the time that you commenced working for him? A Yes sir.

Q State what that conversation was?

MR. McGRATH: I object, unless it refers to this transaction named in this indictment.

THE COURT: He must prove his case step by step. I will allow it.

MR. McGRATH: I take an exception.

A He asked me if I was doing anything. I said I was not doing much of anything. He said to me, "Do you want to do some work for me?" I said all right. I said, "Do what?" He said, "A little work on cars that I buy". I said, "What do you mean?" He said, "Whatever work has got to be done on them, changing fenders, or whatever work has got to be done on the cars". I said yes. He said, "All right; call me up". I think it was a day or two after I called him up. Then he told me to come to work that day.

Q Where did you report to him for work that day?

Objected to as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

A At his house.

Q Did you do any work at his house? A No.

Q Where did you work for him? A 158th Street, off Broadway there. He has a portable garage there.

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Q Is that the only place that you did any work for him? A No sir.

Q What other places did you work for him? A 146th Street and Lenox Avenue.

Q What kind of a place is that? A Two portable private garages.

Q Will you describe these garages very briefly. What were they made of? A Just a tin garage for one car to fit in. Two private garages.

Q Were these garages kept under lock and key? A Yes.

Q I am talking now about the portable garages on 146th Street and Lenox Avenue; what kind of work did you do for him up to the 21st of October, 1921?

Objected to. Objection sustained.

Q Do you remember the day of your arrest on October 21st last? A Yes sir.

Q On that day did you do any work for this defendant? A Yes.

Q Where?

MR. McGRATH: I object. In the opening your Honor struck out about all work except work on this car. Unless it refers to this car I object.

MR. PEORA: It refers to this car.

Q Where? A In the garage, 146th Street and Lenox Ave.

Q At what time did you go to that garage to do that work? A A little after nine o'clock in the morning.

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Q Before you went there did you talk to this defendant about that work? A I did.

Q What did you say to him and what did he say to you?
A I called him up about half past eight.

Q Had you before that time talked with this defendant over the telephone? A Yes.

Q And you knew his voice? A Yes sir.

Q Did you recognize the voice that you talked to or that talked to you on the 21st of October in the morning, as this defendant's voice? A Yes.

Q Give us the conversation? A I called up. I said, "Meyer, this is Andy". He said yes. He said, "Ain't you doing any work for me this morning?" I said, "I don't feel like doing anything this morning; my wife's grandmother died". She died at seven o'clock that morning. He said, "Yes, come down for a little while; I want you to change tires and fenders". When I got there, --

Q Where did you go? A Then he said to me, "I want you to change the tires and do some other work". I don't just remember what it was to be done. He said, "Bennie, my brother, will meet you in the restaurant".

Q Whom did you understand him to mean by his brother Bennie? A His brother Bennie Miller.

Q Is that all the conversation you had with him on that occasion? A He said, "Go and meet Bennie Miller; he

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will get whatever stuff you need, and you put it on".

Q Did he tell you where to meet his brother Bennie?

A Yes, 45th Street and Lenox Avenue, in a restaurant.

Q That is one block from this place? A It is on 145th Street.

Q After you had that talk with the defendant where did you go? A I went to meet his brother at 145th Street, right off Lenox Avenue, between Lenox Avenue and 7th.

Q Did you see his brother there? A Yes sir.

Q What did you do then? A I went to the garage and did some work on the Ford sedan.

Q Was the Ford sedan in the garage at the time you entered it? A Yes sir.

Q When before that morning had you last been in that garage?

Objected to as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

A The day before.

Q What hour the day before? A Around eight or half past eight.

Q In the morning or evening? A In the morning.

Q Did you see the automobile, this Ford sedan that you saw in the garage on the morning of Friday, October 21st, when you were in the garage the previous time the day before?

A Not that same car was in, a different car.

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THE COURT: Never mind about that other car. The answer is no.

BY THE COURT:

Q You did not see this car then? A No sir.

Q On which you say you worked on the 21st of October?

A No sir.

Q You had been there on the morning of the 20th and that car was not there? A No.

Q And you went there on the morning of the 21st and the car was there? A Yes.

BY MR. PECORA:

Q Now briefly describe the car you found there on the morning of the 21st of October? A It was a Ford sedan.

Q Of what model? A A new model car.

Q Did you do any work on that car? A I did.

Q Did anyone else do any work on that car in your presence that morning? A Yes sir.

Q Who? A Bennie Miller.

Q What did you and Bennie Miller do to the car? A I changed the tires on it and I think I took the bumper off it and I did some other little work. I took a mirror or something off it, and his brother put the handles on the door, changed the handles.

Q Handles to what? A Of the door knobs.

Q That is he took off the handles and put on other ones? A Yes.

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Q Did you see the handles that were taken off? A I did.

Q I show you People's Exhibit 1 for Identification, these two handles, and I ask you if you recognize them as the handles that were taken off that car? A Yes sir.

Q Do you recall whether or not there was anything else done to the car by either of you, either you or Bennie Miller, in your presence that morning? A Yes sir. The license plates were put on it.

Q And who had the license plates that were put on it? A Bennie Miller.

Q Do you know where he got them from? A I met Meyer Miller on 145th Street.

MR. McGRATH: I object to anything where Bennie Miller got them.

Objection overruled. Exception.

A I met Meyer Miller. Bennie Miller and myself met Meyer Miller at 7th Avenue and 145th Street.

Q How far is that from the garage where the car was? A About two blocks.

Q What took place when you and Bennie Miller met this defendant there? A Talking to Meyer Miller. Bennie Miller and I walked over.

Q What conversation did you have with Meyer Miller? A He said he was waiting for some buyer, somebody to come for the car. He said, "Wait here a few minutes". We waited

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there for him and this buyer came along.

Q Do you know who the buyer is? A Yes sir.

Q Who is that buyer that came along? A Vogelsang.

Objection. Overruled. Exception.

Q You know Vogelsang, do you not? A Yes sir.

Q He is the man known as Walter Vogelsang who is indicted with you and this defendant in this case? A Yes.

Q You knew him before that day? A Once before I met him.

Q You were telling us about where Bennie Miller got the license plates from that were put on the car that morning; complete your answer? A We were waiting for Vogelsang to come and he came along.

Q Who is he? A This Vogelsang. The three of us were sitting in the car so Meyer said, "Come down and get that sedan out", to Bennie Miller and myself. When we went down he said, "Wait a minute; here is a pair of license plates".

Q To whom did he say that? A To his brother. He handed them to his brother.

Q Did you see him hand them to him? A I don't know whether he handed them or Vogelsang handed them to him, the plates.

Q But Bennie Miller received the plates? A Yes sir.

Q Then did you and Bennie Miller leave 145th Street and 7th Avenue? A Yes sir.

Q Where did you go? A He said, "Go down and get the car"; he said, "Meet me on 143rd Street and 7th Avenue."

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We went down and got the car.

Q Who went with you? A Bennie Miller and myself.

Q Where did you get the car? A In the garage.

Q What car did you get? A The Ford sedan.

Q Was it the same car you saw in the garage that morning and upon which you did the work you have described? A Yes.

Q Did either you or Bennie Miller in your presence put the license plates on the car which the defendant Meyer Miller told you to put on? A Bennie Miller put them on.

Q Did you see him do it? A Yes sir.

Q Do you know where Bennie Miller is now? A No.

Q Have you seen him any time since October 21st last?

A No.

Q (At this time Vogelsang stands before the railing) Look at this man and tell us if he is the person you have referred to as Walter Vogelsang? A Yes sir.

(Vogelsang steps down.)

Q When you got to the garage what did you do and what did Bennie Miller do? A Bennie put the handles on the door and we took the spare shoe apart, the rim off it, took the shoe off the rim and put the handles and plates on the car and locked up the place and the two of us got in the car and I left Bennie Miller off at Lenox Avenue and 145th Street and I took the car up to 143rd Street and 7th Avenue to meet Meyer Miller.

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Q Did you meet Meyer Miller? A Yes sir.

Q Was he alone or was someone with him? A Someone with him. Vogelsang was with him.

Q Was anyone else there? A No sir.

Q When you returned to 143rd Street and 7th Avenue with this car what took place? A Meyer Miller said, "All right, get out of it now and give it to this man here".

Q Whom did he indicate by "this man"? A Vogelsang.

Q Did you see what Vogelsang did with the car? A Yes.

Q What? A He got in the car and turned around and went uptown to 144th Street and some fellow took the car there.

Q Did you see the fellow that took the car there? A I seen him but I did not see his face. I seen somebody take the car off him.

Q Had you ever seen that person before? A No.

Q Do you think you can identify that person now when you see him? A Not from seeing him at that time, no.

Q Have you seen that person since? A Yes sir.

Q Do you know from your own personal knowledge whether that person is the person who took the car from Vogelsang at 144th Street? A I could not say whether that was him or not.

Q After Vogelsang took the car at 143rd Street and 7th Avenue and went up to 144th Street and turned it over to this other person what did you do? A I walked up with Meyer Miller to his Cadillac.

Q Did you have any talk with him about that car? A No.

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Q Or about anything at all in connection with this case? A No sir.

Q Where did you go with him? A I went to 129th Street and Amsterdam Avenue, a garage.

Q What you did there, did that have anything to do with this car? A No sir.

Q How long were you in Meyer Miller's company after that, on that day, after you went to the garage at 129th Street with him; how long did you remain in his company?

A About half an hour. From there we went to have some dinner.

Q You mean lunch? A Lunch.

Q At what time did you leave him? A While we were having our lunch there Meyer said to me, "Will you run a car out for me to Brooklyn?" I said yes, and I did.

MR. McGRATH: I object, unless it was this car.

MR. PECORA: We are not contending it was.

A I said I ought to go home; my wife is home alone and there is a death there and I ought to go home. He said, "Will you go to Brooklyn?" I said, "I don't know Brooklyn in the first place". He said, "If you drive this car out for me I will bring you back home in my Cadillac". Then he took me to the garage, a tin garage on 146th Street.

Q Did you go to Brooklyn in the car? A Then he opened up the garage and we went in and took out this other car in the next garage. I pulled outside and he walked out with me.

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Then he said, "You follow me now", and I followed him all the way to Brooklyn.

Q How did he go there? A In his Cadillac.

Q And you followed behind in this car that was taken out of the garage? A Yes.

Q Where did you go in Brooklyn? A I don't know the street. I was never out there before.

Q Do you now know where it was? A No.

Q After driving to Brooklyn behind his Cadillac did you go to any particular place? A Yes.

Q Whose place was it? A Vogelsang's place.

Q What kind of a place was it? A Buying and selling cars.

Q What was it, a garage? A I don't know what it was. It was a little office there, outside.

Q Somewhere in Brooklyn; do you know the street? A No.

Q Did you go directly to that place of Vogelsang's?

A No sir.

Q Was that the first time you had been in that place?

A Yes sir.

Q How long after Meyer Miller asked you to go over there did you go into Vogelsang's place in Brooklyn? A When we pulled up there, I did not know where he was going. All of a sudden he said, "Turn around and stop". I stopped. "Turn around on the other side of the street and stay there".

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I waited there. He kept on going straight. I do not know where he went. I was waiting and it was pretty cold. I was waiting for him to come along. Then I seen the sedan down the street. I said I thought that was his car. I walked down to see if it was his Cadillac and I looked in the Cadillac and it was his Cadillac. So I walked back and I was put under arrest.

Q Did you go into Vogelsang's place? A Yes sir.

Q Was the Cadillac car that you recognized as this defendant's standing outside of Vogelsang's place? A Yes.

Q And did you see the defendant Meyer Miller in Vogelsang's place at that time? A Yes sir.

Q Whom else did you see there that you recognized?
A Vogelsang was in there and Walter Kabel.

Q Who else besides Vogelsang and Kabel and Meyer Miller?
A There was an old man there, and a detective and another Automobile Squad man, I think he is.

Q A detective? A Horan, I think it was.

Q When you went into the office of Vogelsang where was Meyer Miller? A Sitting at a desk.

Q Did he look at you? A He did.

Q Did he say anything to you or make any sign to you?
A He did.

Q What was it? A As I came into the door, --

MR. McGRATH: I object to that as incompetent, irrelevant and immaterial. This man says he was then

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under arrest and anything he may have said or done would not be binding on this defendant.

THE COURT: Anything that the defendant said or did may be introduced in evidence.

Q Tell us what this defendant Meyer Miller did when you entered Vogelsang's office? A He went like this (indicating).

MR. PECORA: May the record show the witness putting finger to his lips and shaking his head in the negative, and he made a sign, pointing to his breast?

A As I was going in the door I was asked if I knew him, when he did that.

Objected to. Objection overruled. Exception.

Q Who asked you if you knew the defendant? A Horan.

Q Was the defendant present when you were asked that?

A I was going in the door and he was sitting about ten feet away; when the question was asked me, I was facing him and he was facing me and he went like this to me (indicating).

MR. McGRATH: I object to that. That does not show that the defendant heard what this witness said.

THE COURT: I will allow it. The jury may know.

Q When you saw the defendant make the sign you have just indicated, what answer did you make to anybody's question whether you knew Meyer Miller? A I sputtered for a minute and then said I don't know him.

Q Did you see any automobile around Vogelsang's place that afternoon which you recognized as having seen before on

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that date? A There were four or five sedans there. I did not look them over or take notice of them.

MR. McGRATH: I move to strike that out as irrelevant.

Objection overruled. Exception.

Q Look at this young man and tell us if that is the young man whom you previously referred to as Walter Kabel (indicating Walter Kabel standing at the rail)? A Yes.

(Walter Kabel steps out.)

Q And as being one of the persons you saw in Vogelsang's garage office on that afternoon? A Yes sir.

Q On the occasion you were placed under arrest by police officers that were present in Vogelsang's office? A Yes.

Q Was anyone else placed under arrest at the same time? A I guess they all were under arrest, that were in there.

Q Who was placed under arrest? A Meyer Miller, Vogelsang, Kabel and myself.

Q Was Bennie Miller present on that occasion? A No.

Q After you were taken in custody where did you go or where were you taken to? A When we left there?

Q Yes. A I was told to bring the Ford sedan over to the station house on 126th Street.

Q Which Ford sedan was that? A I don't remember which one it was.

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Q Do you know whether it was the one that you had done some work on in the garage that morning?

Objected to as leading.

Objection overruled. Exception.

A I don't remember.

Q Who went with you? A A detective.

Q Where did you go? A To 126th Street station house.

Q And did you see the defendant Meyer Miller there too?

A Yes.

Q And were you and the other defendants, including Meyer Miller, placed in confinement there? A Yes sir.

Q Did you have any conversation with Meyer Miller about this case while you were in the station house?

Objected to as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

A Yes sir.

Q What was it? A He said, "Don't worry; everything will be all right. Just hold your mouth shut".

Q Anything else? A Not in the station house.

Q Did you have any conversation with him after that at any place other than the station house? A Yes.

Q Where? A In the Quilton, up in Harlem.

Q How long after your arrest did you have that talk with him; was it the same day or the next day, or when?

A It was two days after, I guess, or the day after.

Q What did he say to you then and what did you say to him?

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A "Keep still; as soon as I get out I will get you out. Whatever you do don't open up your mouth. I will get out first and I will then bail you out, too".

Q Do you know whether he had you bailed out after that?

MR. McGRATH: I object to that as calling for a conclusion, unless he was there and saw Meyer Miller sign any bail bond.

Objection overruled. Exception.

Q Did you have any other talk with the defendant about this case? A In the cell?

Q Any place? A No.

Q Up to the present time? A I did not speak to any one of them. Yes, I spoke to Vogelsang and I saw Meyer Miller.

Q Did you talk with him? A Yes sir.

Q What was said about this case? A I went over to his house the day after I was bailed out.

Q Where did he live? A New Haven Avenue, I think, 12. I went over there. I said, "How about that money I gave you; I need money". He said, "I haven't got any cash myself now, but here is ten dollars, anyway", and he said, "I will give you some more tomorrow". Then he said to me, he took me in the house and he said, "My God, if they ever walk into my house and see what I am tearing up".

MR. McGRATH: I object; he is relating conversations not affecting this indictment. The District Attorney is calling for conversations which in no wise relate

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to the indictment.

THE COURT: I will have to hear it first. Let him finish the answer.

A He had motor numbers and stuff and keys. He had a box of Ford keys and stuff.

MR. McGRATH: I move to strike it out as incompetent, irrelevant and immaterial.

THE COURT: Strike that out and the jury will disregard that.

Q What was the money that you had reference to in your talk with the defendant at that time? A The money that I gave him.

Q When? A I gave ^{him} ~~some~~ down in the cell.

Q On the night of your arrest? A Let me see, now. The night of the arrest, - no, it was the next day, I believe it was.

Q Under what circumstances did you give him that money? A His lawyer came down and he was saying, "I am going to get an awful write-up in the paper". He said, "I haven't got much cash; I will have to get hold of the reporter and fix him up so as I have my name changed, and your name changed, so that it will not be in the paper".

Q What is what Meyer Miller said to you? A Yes, and his name and address was changed, and ours was all in the same, our right addresses.

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Q How much money did you give Meyer Miller at that time? A \$100.

Q As a loan? A Yes sir.

Q Is that the money you had reference to when you asked him for the money? A Yes.

Q How much did you receive from this defendant for the work that you did in that car at the garage at 146th Street on the morning of October 21st last? A I did not receive anything for it.

Q Were you a salaried employee of this defendant during the time that you went to work for him? A I was, and I was not.

Q How were you paid by him? A According to the work he had; if he had a good day's work he would give me \$8 or \$7. If he did not have much work all week, he would give me \$30 or \$40 at the end of the week.

Q You were paid in accordance with the amount of work you actually did for him? A Yes.

Q How were you paid; by cash or check? A I was paid by cash.

Q Have you ever received any money from him other than money for work which you have done? A I gave him some cash at times, cashing checks for him, like that.

Q I mean did you ever receive any money from him, either for services or for any other consideration except the money that you were paid by him for the work that was done by you?

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A For the work I actually done I got paid for.

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Q That was all? A Yes sir.

Q And he has not paid you for the work you did on the car that Friday morning, October 21st? A No sir.

BY THE COURT:

Q When you took the car to 126th Street what happened?

A I did not take the car to 126th Street.

MR. PECORA: It was turned over to Vogelsang at 143rd Street and Vogelsang turned it over to somebody else at 144th Street.

THE WITNESS: There was three cars given to him.

Q There were three cars given to Vogelsang that morning?

A Two in the morning and one in the afternoon, the one I took out.

BY MR. PECORA:

Q What make cars were they? A Ford sedans.

Q Of the same make and kind that you worked on in the morning? A Yes.

Q What was your business or occupation before you went to work for this defendant in September last? A I was trucking for the Atlantic & Pacific and business was slack down there and I got laid off and I sold my truck and then I went to Edgewater camp. I had a few hundred dollars and I built a bungalow. I was working there a few months with this bungalow as a sort of investment.

Q Were you a mechanic? A Yes, and I was working on

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cars and I had my own shop.

Q How many times before October 21st had you been to these portable garages on 146th Street and Lenox Avenue before the arrest; that is, with this defendant Meyer Miller?

A He would come almost every day; he would be there.

BY THE COURT:

Q How many times? A Every day for about five weeks, as long as I was working for him.

Q Were you working every day? A Not Sundays.

Q That would be about thirty times you went to that garage with him? A In both garages, yes.

BY MR. PECORA:

Q Did you do any work in those garages at the instruction or direction of anybody other than this defendant Meyer Miller? A No sir.

BY THE COURT:

Q Did you see anyone else do work on this car? A His brother did work on it.

Q What work? A He changed the handles and changed the plates on it.

Q Anything else? A Not that I know of.

Q Did you see anyone work on the motor? A No, I did not.

BY MR. PECORA:

Q Did you see any work done with regard to the steering wheel of that car that morning? A Yes, there was a plain

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wheel put on it.

Q In place of what kind of a wheel? A When I came in there was no wheel on it. I put the wheel on myself.

Q A plain wheel was put on? A Yes sir.

Q Do you know what a Decker wheel is? A Yes.

Q Was it a plain steering wheel you put on or a wheel called a Decker wheel? A No sir, plain.

Q Have you ever been convicted of any crime? A Never.

MR. PECORA: That is all; you may examine.

BY THE COURT:

Q You say there was no wheel on when you went there?

A No sir, I put the wheel on.

CROSS-EXAMINATION BY MR. McGRATH:

Q You were permitted to plead guilty to one count in the indictment to cover two indictments? A What is that; I don't get you.

Q You were permitted to plead to the count of criminally receiving stolen property this morning? A Yes.

Q To cover both indictments? A I made a plea of guilty to one indictment.

BY THE COURT:

Q Well, that was to take in both indictments? A Yes.
BY MR. McGRATH:

Q Now, in consideration of your testimony here, don't you expect to receive a consideration? A I do not. I expect a square deal.

Q You do expect some consideration, don't you? A Yes sir.

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Q You don't expect to get the limit? A No, I expect to get a square deal.

BY THE COURT:

Q Well, what do you mean by a square deal. You were indicted on two counts? A Yes sir.

Q One charging grand larceny in the first degree and you could get from two and a half to five years on that, and the same on the other. Now the most you can get under your plea is from two and a half years to five years on this one that you pleaded guilty to; do you understand that? A Yes.

Q Do you expect or hope to receive even less than the limit on this indictment on account of the testimony you are giving? A Yes.

Q But you don't know whether you will or not? A No.

Q That is in the bosom of the Court alone; nobody knows that, but he has a right to find out your attitude. It is nothing unusual to take a plea of guilty to one indictment, to cover two or three indictments. I had a case this morning where a man took a plea of guilty to one indictment to cover two or three, and yet he got the limit of five years, and I understand he is to testify for the People.

BY MR. McGRATH:

Q When you were first arrested you did not say that Meyer Miller had anything to do with this, did you. You never mentioned his name? A I did.

Q You did not mention it in Vogelsang's place, did you?

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A I did.

Q Did you say that he was the one that gave you the car? A When I was outside in the car, --

Q Yes or no?

THE COURT: Let him answer, please.

Q When I was outside, Horan, the detective, or whatever he is, he came out and he said, "Are you looking for Meyer Miller?" I said yes, -- for the minute, -- and as he took me in the door I said no, I did not know him.

MR. McGRATH: I move to strike that out as not responsive.

Q When did you first say that Meyer Miller gave you this car in question under the indictment? A At the station house.

Q That was how long after your arrest at Vogelsang's? A About six hours, I guess.

Q Was that the first time you said Meyer Miller gave it to you? A I was not asked until then.

Q No one asked you what your connection with it was until six hours later at the station house; is that what you want the Court to understand? A I don't understand you.

Q Your connection with the car was not asked of you until six hours afterwards, is that correct? A Which car?

Q The car mentioned in this indictment?

MR. PECORA: That is indefinite.

MR. McGRATH: I will withdraw the question.

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Q Now, did you ever know a man named Jack Mays? A I did.

Q You do know such a person? A Yes sir.

Q Where does he live? A 43rd Street, I think.

Q Where? A Right off Broadway.

Q Whereabouts off Broadway and 43rd Street does he live? A I don't know just where.

Q Were you ever to his house? A No sir.

Q What is his business? A Buying and selling cars.

Q Didn't you say Jack Mays gave you the car, at one time? A No sir.

Q You never said that? A No sir.

Q Are you sure of that? A Yes sir.

Q Now, had you seen your father-in-law before you accused Meyer Miller? A No sir.

Q Didn't you tell them in the station house that your father-in-law was a firstgrade detective? A No sir.

Q When did you first tell them that? A I asked if I could phone over there.

Q But no one else was allowed to phone up to that time?
A Let me see. Over in Vogelsang's place I asked if I could phone, -- that I had a death in the family and they said, "Who do you want to phone to?" I said I want to call up my father-in-law; I had an appointment for three o'clock.

Q Who is your father-in-law? A Barney Dietsch.

Q A firstgrade detective? A Yes sir.

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Q And he came to the station house? A No sir.

Q Weren't you taken into a separate room with him and the other detectives? A No sir.

Q Did you have a conversation with him about this case?
A After I was out on bail I did.

Q Was that the first time you had any conversation with him? A No, I believe he came to see me once while I was in prison.

Q Did you tell him at that time that Miller was the one that had given you the car? A I did.

Q What did he tell you? A He said, "For God's sake, I am surprised at you, in a thing like this".

Q You know very well you were taken up alone with Dietsch, weren't you, and the other detectives, into a room?
A No sir.

Q Didn't your father-in-law come to the station house that night? A No.

Q But you were allowed to telephone? A I could not telephone. They would not allow me to.

Q Didn't you say you telephoned at three o'clock?
A I was supposed to call up; they asked me who I want to telephone to, but I did not telephone.

Q How soon after that did you see Dietsch? A The third day I think I seen him; the last day before I got bailed out.

Q You did not see him before that; you were down here

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every day, weren't you? A Yes.

Q You were at the court room with him? A Yes.

Q And he was standing outside with the various detectives? A Yes.

Q And haven't you been told that you were going to be helped if you can put this thing on Miller? A The only thing was told me, - my father-in-law said to me, "The only thing you could do, the best is to tell the truth and nothing else but telling the truth and you will get more out of it than lying".

Q He told you the man they wanted to get was Miller?

A No sir.

Q They did not say they wanted you to testify against Miller? A No sir.

Q They did not question you at all; you did not know whom you would testify against? A I was told to tell the truth and I am telling the truth.

Q Have you always told the truth? A I guess I lied already.

Q You would not tell a lie if you thought it would get you out of this? A No.

Q Wouldn't you tell a lie if you thought it would help you on the stand? A No, I would not.

Q You would not tell a lie? A No sir.

Q If you thought it would take two years off your sentence? A No sir.

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Q You would steal a car, however, wouldn't you?

A No sir.

Q Did you hear Meyer Miller state, when he went over there, what he was over in Vogelsang's for? A I don't remember.

Q Didn't he state that he came over to collect a payment on a Cadillac car that he had sold to Vogelsang? A I don't remember.

Q Did you hear that? A No sir.

Q As a matter of fact, don't you know he had sold the Cadillac car to Vogelsang? A I believe he did.

Q The police seized the car he had sold to Vogelsang over there? A Yes, they did.

Q And they also seized the car that he was riding over in? A Yes.

Q And you know that those cars had been returned? A I don't know.

THE COURT:

Q/ That has not anything to do with this car at all.

MR. McGRATH: We will show that he was there at Vogelsang's place, and that he had title in that car.

Q Now you said you had seen Miller around that place nearly every day? A Yes sir.

Q Every day for five weeks you saw him in that garage? A I did not say every day.

Q How often had you seen him over there? A He came there pretty near every day.

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Q What do you mean by pretty near? A He might come to-day and tomorrow and might not come the next day, and then he would come again next day and stay away one day and come the next. He was there mostly every time I was there and I was there almost every day.

Q But you did not mean that when you said every day, before?

MR. PECORA: He said pretty nearly every day.

THE COURT: The jury have the testimony before them.

Q You said before that you told them at the station house that Miller was connected with you in the larceny of this car, mentioned in this indictment? A What?

Q You told them that Miller had fixed the car and had given you the car? A Yes.

Q And two days after that you went up there and asked him for money at his house? A Yes, I did.

Q Did you tell him that you told the police that he had taken it? A Taken what?

Q Taken any car? A I don't understand.

Q At the station house that night did you state that Miller had taken any car, or the car mentioned in the indictment? A What do you mean by taken?

Q That he had anything to do with the stolen car mentioned in this indictment? A Certainly it was his car.

Q You told them that that night? A Yes sir.

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Q And two days afterwards you went to Miller's house and asked him for money? A The next day.

Q Did you tell him what you told the police? A He told me that everything would be all right, not to worry. He did not ask what I told them. He told me to keep my mouth closed.

Q After stating that he was the one that stole this car you went up to his house? A I did not say he stole it.

Q Well, that he had something to do with the stolen car? A It was his car.

Q How much did you ask him for? A For what he could give me. I asked for all the money he owed me first. He said he did not have it. I said, "Give me whatever you can, I need the money".

Q You did not go there and demand a sum of money, did you, or you might implicate him in some way? A No.

Q No such thought suggested itself to your mind? A No; I wanted to get what he owed me.

Q And you did not tell him a thing about what occurred prior to that time with the police in which you mentioned his name in any way? A No sir.

MR. McGRATH: I think that is all.

REDIRECT EXAMINATION BY MR. PECORA:

Q You testified before the Grand Jury for the People in this case? A Yes.

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Q The same Grand Jury that indicted you and this defendant? A Yes.

Q And you did not get any immunity as a condition of your testifying there?

MR. McGRATH: Objected to as incompetent, incompetent and immaterial. The conditions were not the same there as here.

MR. PECORA: He testified before the Grand Jury under similar conditions.

THE COURT: You have a right to plead guilty. Any defendant has a right to plead guilty to one indictment to cover two or three indictments.

MR. McGRATH: I except to that.

THE COURT: These jurors have seen us take pleas on one indictment to cover two or three indictments, and you, as a former Assistant District Attorney, know that that is sometimes done.

MR. McGRATH: But the condition of his mind is material.

THE COURT: You had the right to inquire into the condition of his mind.

MR. McGRATH: He has taken his plea this morning and his condition of mind was not the same as before the Grand Jury.

THE COURT: He is simply asked whether he received any immunity, and he said no, as I understand.

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MR. PECORA: I don't think he answered as yet.

Q Have you received any immunity for testifying before the Grand Jury in this case?

Objected to. Objection overruled. Exception.

THE COURT: What is the use of going into that?

I think that has been fully explained.

Q Were you present on any occasion after your arrest when this Mr. Noble, this gentleman here (indicating) identified the car?

MR. McGRATH: Objected to. That is not proper redirect examination.

Objection overruled. Exception.

A Yes.

Q Where did that identification take place?

MR. McGRATH: I object to that as calling for the conclusion of the witness, the word identification.

THE COURT: I will allow it The jury understand what is meant by that.

A I seen him the day I was up before the Grand Jury.

Q Did you see the car then? A That day, you mean?

Q Yes, the day when you saw Mr. Noble? A I believe I went out that afternoon with Detective Begley, out to the Property Clerk's office in Brooklyn.

Q Did you see the Ford sedan there? A Yes sir.

Q Was it the Ford sedan that you worked on Friday morning, October 21st last? A The car I worked on was out

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there, yes.

MR. PECORA: That is all for this witness.

WALTER KABEL, of 8540 123rd Street, Richmond Hill, Long Island, called as a witness on behalf of the People, having been duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. PECORA:

Q How old are you, Kabel? A Twenty-three years old.

Q Are you under indictment in this case jointly with this defendant, Meyer Miller, Walter Vogelsang and Andrew and another man not yet arrested? A Yes sir.

Q Did you of your own volition express a desire to me last Friday to testify in this case as a witness for the People? A Yes sir.

Q Was any promise or offer or consideration of any kind made to you as a condition for your giving such testimony?

A No sir.

Q You were brought to my office by your own lawyer?

A Yes sir.

Q Who is your lawyer? A Mr. Sloman.

Q Now, do you know Walter Vogelsang? A Yes sir.

Q Do you know this defendant, Meyer Miller? A No sir.

Q Did you ever see him before to-day? A Yes sir.

Q When for the first time did you see him? A The time I was arrested, on the 21st of October last.

Q Where were you arrested that day? A In Vogelsang's office.

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Q Where was that located? A 8 Arlington Avenue.

Q When you were arrested who was present besides you, in that office? A Myself and Miller.

Q You mean this defendant, Meyer Miller? A Yes, and Andrew Schmitt.

Q The last witness, Schmitt? A Yes sir, and Mr. Vogelsang.

Q By whom were you employed at that time? A Mr. Vogelsang.

Q When had you entered his employ? A On the 16th of October.

Q That was the month preceding the day of your arrest? A Yes sir.

Q What kind of work did you do for him? A I polished cars and cleaned windows, and if anyone came along and wanted a price on the cars and the cars were exposed in the street I would tell him the price of the cars.

Q You had been doing that work for four or five days before you were arrested? A Yes.

Q Do you remember this day of your arrest? A Yes sir.

Q Did you see this defendant Meyer Miller that day at any place other than Vogelsang's office at the time of your arrest? A No sir.

Q Did you go anywhere on that day before you were arrested with Mr. Vogelsang? A Yes sir.

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Q Where did you go? A To 144th Street and 7th Ave.

Q Borough of Manhattan, was that? A Yes sir.

Q About what hour was that? A About eleven o'clock.

Q How did you come up? A With Mr. Vogelsang's touring car.

Q When you got over to 144th Street and 7th Avenue what did you do? A He told me to wait and watch the car.

Q Did he leave you then? A Yes sir.

Q Did you see where Vogelsang went? A He went up towards 145th Street.

Q Did you see what he did then? A No sir.

Q Where did you remain? A I remained in the car.

Q How long did you remain there at 144th Street before something happened? A About thirty minutes.

Q And then what happened? A Mr. Vogelsang came with a car and he said, "Why, I just purchased a car; drive it home".

Q What kind of a car was it? A A Ford sedan.

Q Do you recall anything about the car other than the fact that it was a Ford sedan? A No sir; I did not look the car over; he just said, pointed to the car, - the motor was running; he said "Take it down to the place of business".

Q Where did you go with that car? A To 8 Arlington Avenue.

Q Is that where Vogelsang kept his cars in Brooklyn?

A Yes sir.

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Q Did you go alone? A Yes sir.

Q Where did you leave the car? A In front of the door in Brooklyn.

Q Was it there at the time you were arrested? A Yes.

Q Was it there when Meyer Miller arrived there that afternoon? A Yes sir.

Q Did you overhear any conversation or have any conversation with Meyer Miller in regard to that car? A No sir.

Q Is that the only occasion when you came to New York with Vogelsang and drove back a Ford sedan? A Yes sir.

Q At no other time did you do that for Vogelsang or anybody else? A No sir.

Q Did you receive any special pay for that particular work? A I was getting three dollars a day.

Q That was your regular salary from Vogelsang? A Yes.

Q You had been getting that for four or five days?
A Yes.

Q Had you ever worked for Vogelsang before that week?
A No sir.

Q Did you see that car again after you were arrested?
A No sir.

BY THE COURT:

Q Did you see what was done with the car? A The detectives took it over to the police station at 126th Street.

Q The detectives drove it away? A Yes sir.

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Q Did you drive it for them? A I drove one, and the detective took a car to 126th Street and Lexington Avenue.

Q How many cars in all did they drive there? A I drove one with Detective Begley and Mr. Vogelsang drove one, but I do not know about this man here, if he drove any. There were about six cars that the detectives told us to get in and drive and they were with us.

Q All up to 126th Street station house, in Manhattan?

A Yes.

Q That is between what avenues? A Lexington and 3rd Avenue.

BY MR. PECORA:

Q Among these cars was the one car that you drove over from 144th Street and 7th Avenue, New York, that morning?

A Yes sir.

Q Is that all you know about that car? A Yes sir.

MR. PECORA: I think that is all; you may examine.

CROSS-EXAMINATION BY MR. McGRATH:

Q You expect to be helped somewhat by your testimony here? A Surely.

MR. PECORA: I will say in fairness to the defense in this case, --

MR. McGRATH: I do not want anything in fairness.

MR. PECORA: Well, I will say for the information of the Court, that after having investigated into all the

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facts involved in this case surrounding this defendant here, Kabel, I propose to make a recommendation to the Court for the dismissal of the indictment against ^{this witness} Kabel, because I do not consider there is a shred of evidence to justify his indictment.

Q You did not see Meyer Miller at any time at 143rd Street? A No.

Q You did not see him come in that car in your company with Mr. Vogelsang? A No sir.

THE COURT: I will grant the motion to dismiss the indictment against this last witness Kabel.

(Whereupon Kabel is discharged.)

WILLIAM J. BEGLEY, Shield No. 356, an officer of the 43rd Precinct Detective Bureau, called as a witness on behalf of the People, having been duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. PECORA:

Q Are you connected with the Police force of this city?

A I am.

Q How long have you been a member of it? A Over ten years.

Q What is your rank or grade? A Acting detective sergeant.

Q With what precinct were you connected on the 21st of October last? A 43rd Precinct Detective Bureau, East 126th

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Street, between Lexington and 3rd Avenue.

Q Were you one of the arresting officers in this case?

A Yes sir.

Q Who else was associated with you in the arrest?

A Thomas Horan.

Q Where did you place this defendant Meyer Miller under arrest? A 8 Arlington Avenue, Brooklyn.

Q Whose place was that? A The Arlington Auto Sales & Supply Company, which was under the management of Walter Vogelsang.

Q Is that one of the other defendants in this case, Walter Vogelsang? A Yes.

Q Who else did you arrest at the same time? A Andrew Schmitt and Walter Kabel.

Q And Walter Vogelsang? A Yes sir.

Q And this defendant here? A Yes sir.

BY THE COURT:

Q You took everybody on the premises, is that it? A I did not take everybody; Vogelsang's father was there. We did not take him.

Q Anyone else? A No sir.

BY MR. PECORA:

Q Now, did you have any conversation with this defendant with regard to this case at any time after you placed him under arrest, or even before? A I did.

Q Well, was it before or after? A I had a conversation

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with him before he was placed under arrest and after.

Q Where? A 8 Arlington Avenue.

Q When was that conversation? A I had a conversation first with Walter Vogelsang.

Q Was Meyer Miller present? A No. As a result of that conversation I remained on the premises for about an hour after I had placed Vogelsang and Walter Kabel under arrest. At the end of about an hour or forty-five minutes, the defendant Meyer Miller appeared on the scene. He came towards the door leading into the premises 8 Arlington Avenue. As the result of a remark that Walter Vogelsang made I saw Meyer Miller turn around and walk rapidly away. I came out of the premises and went after defendant and took him back into the premises 8 Arlington Avenue. I asked him what he was doing there. He said, "I am out to buy cars; -- I am an automobile dealer". I said, "Did you come out here to buy the car?" He said yes. I asked him how he came to go out there. He said he answered an advertisement in the newspaper. I asked him if he had the newspaper with him to show the ad. He said "No; I am out looking for cars and anywhere that I see a car I try to buy, and so I have seen a couple of cars out here". I asked him if he knew Walter Vogelsang and he said no, he never saw him before and he never met him.

Q Did you ask him anything about Andrew Schmitt?

A Andrew SCHMITT came along about half an hour after I had placed the defendant Meyer Miller under arrest. I questioned Schmitt.

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Q In the presence of the defendant? A Yes sir.

Q What was said? A He said he did not know anybody there. I asked him if he knew Vogelsang or Kabel or this defendant Meyer Miller and he said no.

Q DID this defendant then say whether or not he knew Andrew Schmitt? A He said he did not know Schmitt.

Q Where did you take the defendants to after their arrest?
A To the 43rd Precinct station house, 148 East 126th Street.

Q Did you take anything else there? A I did.

Q What? A I took five automobiles.

Q What kind? A Four sedan Fords and one Ford coupe.

Q After that or at any subsequent day did you see Mr. Noble, this gentleman here? A I did.

Q Where? A At the 43rd Precinct station house.

Q Were there any automobiles that you had taken there on October 21st in or about the station house when you saw Mr. Noble there? A Yes, they were on the street in front of the station house.

Q Did you see whether or not Noble examined any of those automobiles? A I did.

Q Did he identify any one of them? A He did.

Q Do you recall the one he identified? A Yes.

Q Which one was it? A He recalled a Ford sedan, or he identified the Ford sedan that was taken from the premises, 8 Arlington Avenue on the day before that.

Q Did you find anything in the possession of this defend-

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ant Miller at any time after you arrested him? A Yes.

Q What? A I found a set of keys, and a check book.

Q What did you do, if anything, with regard to the keys?

A I took the keys away from the defendant at the time, Detective Shields and myself and I went to a garage at 146th Street, east of Lenox Avenue.

Q What kind of a garage? A There are a number of individual portable garages there made of sheet iron.

Q Did you enter any of those garages? A Yes sir.

Q With the keys that you found on the person of the defendant? A Yes sir.

Q Have you got those keys here now? A Yes sir (Producing keys.)

Q Are these the keys in question? A Yes sir.

Q And when did you go to the garages with these keys?

A On the night of October 21st, around twelve o'clock.

Q That was the night of the arrest of this and the other defendant? A Yes.

Q Did these keys open the garage? A Two locks, yes.

Q Did you remove the locks from those garages? A Yes.

Q I show you two locks and ask you if they are respectively the two locks from those garages? A Yes sir.

Q What, if anything, did you find in the garages, or either one of them? A A Decker wheel, -- two DECKER wheels. I found there handles for an automobile.

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Q I show you People's Exhibit 1 for Identification, consisting of two handles, and I ask you if they are the handles you just referred to? Yes sir.

Q Did you put any mark of identification on those handles?

A I did.

Q Can you see it? A Yes.

MR. PECORA: I offer them in evidence now.

MR. McGRATH: That is objected to. It has not been shown that the defendant had the exclusive control or operation of that garage, and it has not been conclusively shown that they came from this particular automobile mentioned in this indictment.

THE COURT: That is a question for the jury to determine. The owner says he has no doubt about it, and he gave his reasons.

MR. McGRATH: It has not been shown that each key belonged exclusively to a particular lot.

THE COURT: I will allow them in evidence.

Exception.

(The knobs are marked People's Exhibit 1 in evidence.)

MR. PECORA: I offer in evidence the locks removed from those garages and produced by the witness.

(Locks marked in evidence People's Exhibit 4.)

MR. PECORA: I also offer the keys to these locks, in evidence.

(Keys to the locks marked in evidence People's Exhibit 5.)

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MR. McGRATH: Of course my objection goes to the keys and locks, when I objected to the handles.

MR. PECORA: I offer those keys in evidence. They are marked for identification Exhibits 2 and 3.

Objected to. Objection overruled. Exception.

(Keys marked Exhibits 2 and 3 for Identification are now marked in evidence People's Exhibits 2 and 3 respectively.)

Q What else did you find in the garage? A I found a number of steel dies.

MR. McGRATH: I move to strike that out.

THE COURT: Strike it out.

Q What did you do with the Decker wheel, one of the two Decker wheels you found there? A I took both Decker wheels to the 43rd Precinct station house.

Q Was anything done with either one of them afterwards?

A One of those wheels was identified by Mr. Noble.

Q And was it turned over to him? A Yes sir.

Q That was one of the wheels that you found in a garage that you opened with a key found on the defendant? A Yes.

Q Have you told us all the conversation you had with the defendant about this case? A I asked the defendant when we first went up there that night, I asked him if these keys would open the locks in any garage up there and he said no. He laughed at me. He said, "I never had a key for any of those garages".

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I took him over first to a number of garages west of Lenox Avenue and came back to the garages east of Lenox Avenue and he said, "I have no key for any of these garages; never had a garage up there". I took him over there and we opened the door of both garages and went inside and defendant was with us at the time. I had found the keys in his possession.

Q That was the time you found the handles that have been offered in evidence, and the Decker wheel you referred to?

A Yes. Then I said, "How do you account for having those keys in your possession?" He said, "Those keys were given to me by a man named Rosen who lived at 118 West 72nd Street". He later told me that Rosen lived in 54th Street. After making a thorough search of the garage I again had a conversation with him in the presence of Detective Shields and the defendant said, "Yes, I had those keys for the garages and I had cars in them". I asked him what kind of cars; he said Ford cars. I said, "How many?" He said, "A couple; I don't know how many; I am a dealer".

Q Is that substantially all the conversation you had with the defendant about this case? A "With the exception of conversations in the 43rd Precinct station house.

Q Did they relate to this case? A Yes.

Q Give us that? A I asked the defendant if he knew the defendant Schmitt and Vogelsang and he said, "No, I never had any dealings with them". I said, "Didn't you sell a car to

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Vogelsang, a Cadillac touring car", and he said, "Yes, I did". I said, "Didn't you sell him Ford cars?" He said no. While Vogelsang was there Vogelsang said, "I have been in business for about a month at 8 Arlington Avenue.

MR. McGRATH: I object to that.

Q Was this in the presence and hearing of the defendant?

A Yes sir.

THE COURT: I will allow it.

MR. McGRATH: Exception.

A (Continued) I asked him how many cars he bought from Meyer Miller and he said, "Every car I bought for the month of September, for the whole month I was in business at 8 Arlington Avenue, I bought from Meyer Miller and I got a bill of sale for each and every one of those cars". I said, "How about the five cars in front of the station house?" He said, "Those cars I bought from Meyer Miller".

Q What did Meyer Miller state? A He said he denied knowing Vogelsang. He said the only dealings with Vogelsang were the sale to him of a Cadillac touring car.

MR. PECORA: That is all; you may examine.

CROSS-EXAMINATION BY MR. McGRATH:

Q He denied he knew him; he said he did not know Vogelsang first, when you first arrested him? A Yes.

Q And you said that he said he did not know him in the station house? A He did.

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Q That is, he said, "I don't know Vogelsang"? A He said, "I never met him. I don't know him".

Q And you said that he said, "We had a dealing with regard to the Cadillac car"? A He subsequently made that statement. When I asked him if he sold the Cadillac car Vogelsang said yes.

Q It was your duty to find out if any cars were stolen?
A Yes.

Q And you investigated that Cadillac car? A Yes.

Q And you found he did sell that car to Vogelsang?
A That he had it in the possession of Vogelsang. I investigated that car.

Q You investigated the Cadillac car that he said he sold to Vogelsang?

Objected to. Objection sustained. Exception.

MR. McGRATH: The circumstance of this man being over there is very material to this case, and our defense is going to be that he sold a Cadillac car on time payments and he was over there then.

THE COURT: You may make any defense you please.

MR. McGRATH: I am anticipating my defense on cross-examination.

Q Now, you also seized another car belonging to Mr. Miller, didn't you, at Vogelsang's place, a Cadillac car, the car he rode over in, you took? A I did.

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Q Wasn't the number of the car he rode over in 59-E-7?

A I could not tell you the number.

Q You investigated the cars and you never took the motor number? A I never accused him of stealing that car.

Q But didn't you take the motor number to see something about it?

Objected to. Objection sustained.

Q When you went up there to the garage did you go to the man who rented those garages? A I did not.

Q You knew it was very important to find out who rented the garage? A What do you mean?

THE COURT: Do you mean the landlord or the tenant of the garage?

Q Did you see the landlord of the garages? A I did.

Q Whom did he tell you he rented them to? A To a man named Rosen.

MR. PECORA: I object to that as hearsay and move to strike it out.

THE COURT: Strike it out.

Q Did you afterwards bring anyone in there to look at Meyer Miller, over to the station house, -- I mean anyone in authority for the landlord or representing the landlord?

Objected to. Objection sustained. Exception.

THE COURT: If you have any witness that knows anything about that, he may state that on the stand under oath.

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Q Do you know Barney Deitsch? A I do.

Q He is a fellow officer in the Department with you?

A He is a detective sergeant attached to the 29th Precinct.

Q Did you ever speak to him about this case? A I meet Barney Deitsch quite regularly.

Q Did you ever speak to him about this case? A I did speak to him.

Q What was the circumstance of your meeting with Barney Deitsch?

Objected to. Objection overruled.

A I met Barney Deitsch in the District Attorney's office.

Q And Schmitt was there at the time? A Yes sir.

Q And Deitsch told you that Schmitt could be helped out if he told something about the case? A No.

Q Did you discuss the fact that he might testify, Schmitt?

A I discussed it in the District Attorney's office.

Q With Deitsch? A No sir; with District Attorney Hastings.

Q And you did not say anything to Deitsch, "If we can only get Miller we can get everybody else out"? A No.

Q You had no idea of helping Deitsch in the slightest, have you? A It is not up to me to help him. It is not in my power to help in any way.

Q If you could, you would, wouldn't you?

MR. PECORA: I object to that.

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THE COURT: Allowed; you may always prove a motive.

A If he were guilty of a crime I think he should be punished the same as anybody else.

Q But you would help Deitsch if you could? A Deitsch is no more a friend of mine than any other police officer or citizen that I know.

Q As a police officer you would not help a brother police officer? A It all depends in what way. If he was in trouble with a criminal I would help him. That is my duty.

MR. McGRATH: It is close to four o'clock and I would like to continue this cross-examination tomorrow morning. There are a few things I would like to go over that are material and that I may have for cross-examination. I do not feel I can do full justice to my client until I have gone over the minutes.

THE COURT: Very well. We will take a recess until tomorrow morning at half past ten. Meanwhile, gentlemen of the jury, remember you must not form nor express any opinion on the question of the guilt or the innocence of the defendant until you hear all the evidence on both sides. You must not talk about it with any stranger nor discuss it among yourselves. You must remember there are two sides to every question and you must wait till you hear both sides before you decide it. Please come back at half past ten tomorrow.

L. LUTZ,
Official Stenographer.

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COURT OF GENERAL SESSIONS OF THE PEACE

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City and County of New York, Part VI.

THE PEOPLE OF THE STATE OF NEW YORK:

AGAINST

MEYER MILLER

: Before

: HON. JOSEPH F. MULQUEEN,
: Judge

: and a Jury.
:

New York, December 20, 1921.

Trial continued pursuant to adjournment.

Same appearances as before.

WILLIAM J. BEGLEY resumes the stand.

CROSS-EXAMINATION CONTINUED BY MR. McGRATH:

Q Officer, will you tell me the exact hour and day that you went to those garages at 146th Street? A It was about midnight that night; about twelve o'clock on the 21st of October.

Q Well, it was the night of the arrest, the 21st of October?

A Yes sir.

Q And after you found that the keys fitted that lock, did you make any attempt to ascertain who was the owner? A I did.

Q Whom did you ask? A I asked the defendant.

Q And you were satisfied with his answer? A Well, I was not satisfied. I had to be satisfied.

Q Of course you did not make any other inquiry? A I did. He told me he got the keys that he had, from a man named Rosen, and he told me Rosen lived at 118 West 72nd Street.

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Q And did you go there? A I did.

Q What did you find out? A I made inquiries there and I was informed. --

THE COURT: That is all hearsay. I will exclude that.

Q Did you go to the owner of those garages?

THE COURT: How does he know who the owner of the garages was? I sustain the objection to these questions.

MR. PECORA: I object.

Objection sustained. Exception.

THE COURT: If you have any defense to offer along that line, produce your witnesses.

Q Did you attempt to find out who was the owner of those garages?

Objected to. Objection sustained.

THE COURT: The policeman is not on trial for neglect of duty. If he were on trial those questions might be pertinent.

Q Did you make any inquiry whether there was any other key or keys for this garage?

Objected to. Objection sustained. Exception.

MR. McGRATH: I think that is all.

MR. PECORA: No questions.

JOHN SHIELDS, Shield No. 428, an officer of the 43rd Precinct, called as a witness on behalf of the People, having been duly sworn, testifies as follows:

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DIRECT EXAMINATION BY MR. PECORA:

Q Are you connected with the New York City Police Department?

A I am.

Q What is your rank or grade? A Acting detective sergeant.

Q How long have you been a member of the force? A Eight years.

Q With what precinct are you connected? A 43rd Precinct Detectives.

Q Were you associated with the preceding witness, Officer Begley, in the arrest of this defendant and other co-defendants?

A I was.

Q Where was the arrest made? A 8 Arlington Place, Brooklyn, East New York.

Q Following the arrest of the defendant at that place where did you take him to, - you and your brother officers?

A Took him to the 43rd Precinct Detectives office, 148 East 126th Street.

Q Did you have any conversation with him there, or were you present at any conversation between him and anyone else that you overheard with regard to this case? A Yes sir.

Q Tell us what the conversation was and who took part in it? A I took the defendant Meyer Miller into a room in the 43rd Precinct detective office where a man named Andrew Schmitt and Walter Vogelsang were present. I asked this defendant if he knew these two men. He said, "No, I do not; I never saw them

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before in my life". I asked Vogelsang if he knew him and he said, "Yes, I know him". Then he said to Meyer Miller, "Meyer, what is the use of your denying you know me; you know I bought twenty-five cars off you in the last month".

MR. McGRATH: I object. It does not appear yet what answer Miller made to any of these questions; no proper foundation laid.

THE COURT: I will allow it.

MR. McGRATH: I take an exception, please.

A Miller said he did not know these men.

MR. McGRATH: It does not appear yet that Miller made any answer to these questions or statements made by Vogelsang.

THE COURT: He can bring that out one step at a time.

MR. McGRATH: But the damage is done then. I take an exception.

Andrew Schmitt if he knew

A I asked this defendant, Meyer Miller, and he said he did.

Meyer Miller said he never saw either of these men in his life.

He said, "I never saw you in my life before".

Q What did Meyer Miller say when the other man said he had had dealings with them? A Meyer Miller said, "No, I never did. I don't know the men". Meyer Miller then said he sold a touring Cadillac to Vogelsang. We found keys in defendant Meyer Miller's possession. I asked him what those keys are for and he said they were for his home.

Q I show you this bunch of keys, People's Exhibit 5 in evidence, and I ask you if those are the keys you just referred

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to? A Yes sir.

Q State what conversation you had with the defendant about these keys, if any? A I asked him if he owned any garages and he said he did not. We then took the defendant, with Officer Begley and myself and Thomas Horan, to 146th Street, west of Lenox Avenue.

Q At what kind of a place? A They are portable garages located on the south side of 146th Street between Lenox and 7th Avenue.

Q What happened? A We went to this garage location and asked the defendant if he had any garages there and he said no. We then took the defendant to the garages east of Lenox Avenue and we asked the defendant then if he owned any garages there or if he had had any garages there and he said, "No, I did not". We then took the keys and opened those locks.

Q By those locks do you refer to the two locks marked People's Exhibit 4 in evidence? A Yes sir.

Q Were those locks on the garage doors? A Yes sir.

Q And with what keys did you open those locks? A With those keys here.

Q The keys marked People's Exhibit 5 in evidence? A Yes sir.

Q Did you enter the garage with the defendant? A We did.

Q What took place there? A When we opened the garage doors we took Miller into the garage and he said to Begley and I, "I have these garages; I got them from a man named Rosen, who gave

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me them keys".

BY THE COURT:

Q This defendant said that? A Yes sir. I said, "Where does this Rosen man belong?" He says, "He lives at 118 West 72nd Street". A little while later he says he lives in 54th Street. We asked him if he had any automobiles, any cars in there? A He said he did have Ford cars in there. I asked him where he got them. He said, "I am an automobile dealer; I don't know where I got them". I said, "Where are they now?" He said, "I don't know". We found in that garage handles of automobiles.
BY MR. PEGORA:

Q I show you these articles marked People's Exhibit 1 consisting of two handles; were those the handles you just referred to? A Yes.

Q Whereabouts in the garage did you find them? A On the floor.

Q What else did you find there? A Found Decker wheels and ordinary wheels.

Q What was done with the Decker wheel? A The Decker wheel was taken and put in the property clerk's office. The latter belonged to the owner, Mr. Noble and he identified it as his wheel, on his car at the time it was stolen.

Q Anything else? A That is about all.

Q Did you have any other conversation with the defendant about this case? A No, not that I can recall.

Q Did you find any Mr. Rosen referred to by the defendant?

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A We did not.

Q Did you go to the two addresses the defendant mentioned? A We did.

MR. McGRATH: I move to strike out all the testimony relating to the finding of the Decker wheel and also to the handles on the ground that it has not been shown by the People that this defendant had exclusive control of that garage at all of the times mentioned.

Motion denied. Exception.

CROSS-EXAMINATION BY MR. McGRATH:

Q How many different locks did you try before you came to this second tier of garages on Lenox Avenue side, as you call it?

A On the east side of Lenox Avenue?

Q Yes. A No locks, only these two.

Q Before, what did you say, -- you walked around the first number of garages? A On the west side of Lenox Avenue.

Q You walked along the west side? A Yes sir.

Q Looking at various garages? A Yes sir.

Q But you did not do anything with regard to those garages?

A The keys would not open the door.

Q Did you try any of them? A Yes sir.

Q You just told me you walked straight to these two?

A Yes sir, later. After we left the west side. These garages I am talking about first I located on 146th Street west of Lenox Avenue, between 7th and Lenox Avenue. ^Q These garages where you

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found the locks that fitted the keys were on the east side of Lenox Avenue. Did you try every lock on the west side? A No.

Q How many did you try on the west side? A Two or three.

Q You just picked them out at random; why didn't you try them all? A Because we had information that there were numbers on the garages.

Q Did you look and see the numbers before you tried the garages? A Yes.

Q What numbers were you looking for? A 39 and 40.

Q But those numbers were not on the doors you tried on the west side? A They were.

Q Then there was 39 and 40 on the west side? A Yes.

Q Then you went over to the other side? A Yes.

Q Did you tell the defendant you were looking for No. 39 and 40? A I told him I was looking for two garages that he had, and he said, "I never had a garage in my life, only one, on the west side, and I gave it up to-day or yesterday".

Q Then he did admit that he had one and he gave it up to-day or yesterday? A Yes.

Q Where did he tell you that? A On 146th Street. He said, "I never had a garage here in my life, them keys won't open any garages".

Q But he told you he did have one that he gave up that day or yesterday? A On the west side.

Q Didn't you think, if you had intimation that the cars had been stored there you would want to investigate that garage?

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A We did investigate.

Q Which one did you find out he owned on the west side?

A 180th Street near Riverside Drive.

Q We are talking about 146th Street; were you up to 180th Street also? A Later.

Q But we are talking about before you came to the two on the west side, or east side, where you tried those two keys?

A Very well.

Q What were you looking for on the west side of 146th Street? A Looking for any stolen property that we could find in any garage that this defendant owned.

Q But you went up there pursuant to information? A Yes.

Q And the information was that this defendant had two garages there, what numbers? A 39 and 40.

Q Did you go direct to 39 and 40? A Yes; on the west side of the avenue first.

Q And did you try two garages on the west side of that number? A Yes.

Q And the keys did not fit? A Yes sir.

Q He told you that he had given up one on the west side that day or the day before; didn't you try for that? A That was later he told me that.

Q When did he tell you that? A After we had discovered these two garages.

Q Then he said, "I have another one; I want you to look

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at that. I gave that up to-day or yesterday"? A No, he did not say that, that he wanted us to look. He told us after we discovered the two garages where he had keys, and admitted he got it from Rosen. I asked him if he had any other garages. He said, "Yes, I had one in 180th Street, west side", and we went over there to verify his statement.

Q Who gave you this information that he had Nos. 39 and 40?

A It is confidential information.

Q Confidential from Schmitt, isn't it, or did you get it from Barney Deitsch? A It is confidential.

THE COURT: Nothing is confidential.

Q Whom did you get it from? A Well, does your Honor ask me to answer?

THE COURT: You must answer.

A A man named Schmitt.

Q Why is there anything confidential, --

THE COURT: I think that is immaterial, the reason.

MR. McGRATH: If he says anything from any defendant is confidential, and other statements not, I can find out his motives.

Q Why was it confidential?

Objected to. Objection sustained. Exception.

MR. McGRATH: Well, I am allowed to find out the motive behind this officer's refusal to answer and calling it confidential.

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THE COURT: Please do not comment on my rulings. I have ruled. Now please proceed with the trial.

Q When you talked at the station house you say Miller denied that he had ever known or had ever seen Vogelsang or Schmitt before? A Yes sir.

Q What time was that, that he denied that? A He denied it right along, from the time he was arrested up to the time we discovered them.

Q Up to what time? A Up to any time. He has not yet admitted to me he knows any of these men.

Q Are you sure about that? A I am positive as far as I am concerned.

Q You are trying to give this Court and jury a clear picture of what transpired? A I am trying to tell the truth.

Q Do you recall telling me a moment ago that Miller said he had sold a car to Vogelsang, a Cadillac car? A Yes.

Q And you say that he has not admitted to this time that he ever knew Vogelsang? A That is what he told me, he did not know him. He said he sold him a car but did not know him.

Q He said he sold him a car but did not know him? A He said, "I don't know either of them two men."

Q Did he say he sold him a car personally? A This was later.

Q When was it? A In the office of the 43rd Precinct detectives.

Q On the night of the arrest? A Yes sir.

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Q And at that time you had a Ford car in the possession of the Police Department which he had sold to Vogelsang, didn't you? A A Cadillac touring car?

Q Yes. A Yes sir.

Q Letters EE? A We had several cars in our possession.

Q You had 57 double letter; you had in your possession the car that was sold, and this man said, "I sold a car to this man whom I did not know"; is that your answer? A Yes.

Q Did you ask him whether he had sold it to him personally? A I did not.

Q From your investigation, or any investigation made by you are you able to state positively, or as the result of any investigation, that Meyer Miller had the exclusive control of this garage?

Objected to. Objection sustained. Exception.

Q Have you ever discussed this case with Deitsch? A Deitsch was present when the District Attorney examined witnesses.

Q Wasn't Deitsch to the station also at the 43rd Precinct? A When?

Q At the 43rd Precinct? A He has been at that station.

Q After the arrest? A He was up at the Harlem court, --

Q He was up at the Harlem court?

THE COURT: Just let him finish his answer, please.

A I saw Barney Deitsch several times at the 43rd Precinct.

Q Did you ever discuss this case? A Never in my life

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other than about the arrest.

MR. McGRATH: I think that is all.

THOMAS J. HORAN, called as a witness on behalf of the People, having been duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. PECORA:

Q Were you present on the 21st of October, 1921, on the occasion when this defendant and others were placed under arrest in this case? A I was.

Q Where was that arrest made? A At 3 Arlington Avenue, Brooklyn.

Q Are you sure of that number; is it 3 or 8? A I am pretty sure it was 3.

Q Well, what was the place? A It was Arlington Avenue, Jamaica.

Q What kind of a place was it? A Why, it was, you might say a garage, with a small store at the entrance.

Q Maintained by whom? A By a man named Vogelsang.

Q He was one of the men that was placed under arrest there? A Yes sir.

Q Following the arrest where were the defendants taken? A To the 43rd Precinct.

Q Did you accompany them there? A I did.

Q Did you have any conversation with this defendant at any time after he was taken into custody? A Why, I did, yes.

Q Where? A Arlington Avenue.

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Q State what the conversation was, please? A I asked him what he was doing over there and he said he saw an advertisement in the paper and he came over to buy a car.

Q Anything else? A Well, that is all the conversation I had with him.

Q Did you have any conversation with him subsequently anywhere? A No, I did not.

Q Did you accompany Officers Shields and Begley late at night October 21st last with the defendant Meyer Miller to garages on 146th Street and Lenox Avenue? A I did.

Q What took place there? A Why, either Begley or Shields, I don't know which, took from Meyer Miller's pocket some keys and they opened up two garages, No. 39 and 40.

Q On which side of the street? A East of Lenox Avenue.

Q Did you enter the garage with the defendant and the two officers? A I did.

Q Will you state what was found in there, if anything?

A There was some license plates, --

MR. McGRATH: I take the same exception as to Officer Begley's testimony.

Objection overruled. Exception.

A There were some license plates.

Q I mean only the property which relates to this case?

A I don't know what case you mean.

Q Look at People's Exhibit 1; do you recall these articles having been seen there. Did you ever see them before? A Yes,

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there was a pair of these picked up on the floor in one of the garages.

Q Do you recall finding any steering wheels? A Yes, there were three steering wheels found.

Q What kind? A One was a Decker steering wheel and the other one, --

THE COURT: We are not concerned about the others.

Q Do you know what was done with the Decker steering wheel? A It was taken to the station house.

Q What was done with it subsequently? A I don't know.

Q You did not have anything to do with it after it was taken to the station house? A No sir.

MR. PECORA: That is all; you may cross-examine.

CROSS-EXAMINATION BY MR. McGRATH:

Q Were you the first one over there at Arlington Place that saw Miller? A Yes.

Q And did you call to Miller and take him inside? A No, I did not.

Q Did you speak to him at all? A After he was brought in, yes.

Q Who brought him in? A Begley.

Q When he came in there did you ask him what he was doing over there? A I did.

Q Who asked the question what he was doing there, you, Begley or Shields? A It was me. Shields was not there.

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Q Was the other man there? A What other man?

Q The other officer? A Begley was the only officer was there.

Q Shields was not there? A Not at that time.

Q How long afterwards did Shields arrive? A Oh, possibly an hour. More than an hour.

Q Shields did not hear any of the conversations over there?
A That I could not testify to.

Q How long did you remain at Vogelsang's place? A Oh, I should say from possibly noontime until six o'clock.

Q You were there six hours? A Well, five hours, anyhow.

Q You were there all the time, weren't you? A Yes sir.

Q You heard all the conversations? A I did not.

Q Did you hear Meyer Miller say there that he answered an advertisement? A The reason I asked him the question, I knew him, --

THE COURT: Never mind what your reason was. What did he say?

A He said he came over there to see an ad in the paper.

Q Didn't you hear him at any time state that he sold Vogelsang a car? A I did, yes.

Q When did you hear him state that? A Over there.

Q Over there in Arlington Place? A Yes sir.

Q Did you look at the number of the car that he said he sold him? A No, I did not.

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